

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO G-1

MEETING OF March 19, 2004

ITEM TITLE Review and acceptance of the Article XII, Service Areas & Areawide of the City of Ketchikan's Charter of 2001 in the first reading SUBMITTED BY John Harrington

SUMMARY STATEMENT

Attached is Article XII, Service Areas and Areawide of the Ketchikan 2001 Charter document and alternatives from Sitka, Juneau and Haines for review and approval.

RECOMMENDED ACTION:

"I move to approve Article XII, Service Areas & Areawide, of the Ketchikan 2004 DRAFT Charter in the first reading of three."

ARTICLE XII SERVICE AREAS AND AREAWIDE POWERS

Section 12.01 Areawide and Non-areawide Powers.

Except as otherwise required by this Charter or by applicable state law, all powers of the municipality may be exercised on an areawide, non-areawide, or service area basis.

Section 12.02 Mandatory Areawide Powers.

In addition to all other powers that the municipality may exercise on an areawide basis, the following powers shall be exercised on an areawide basis:

- (a) The power to dispose of solid waste, whether through recycling, landfilling, shipping, or any other means, and the power to operate, maintain, monitor, remediate, repair, or remove landfills, including those previously owned or operated by the City of Ketchikan, whether or not such landfills were in operation or were closed on the effective date of this Charter;
- (b) The power to provide public libraries, civic centers, museums, and associated services;
- (c) The power to provide for hospital and public health services, including, but not limited to, those services formerly provided by the City of Ketchikan's Gateway Center for Human Services. The power to provide emergency medical services shall be exercised as provided in Section 12.07;
- (d) The power to provide public parks and recreation facilities and to provide recreational activities;
- (e) The power to provide port and harbor facilities and services;
- (f) The power to provide cemetery and mausoleum services;
- (g) The power to provide 911 emergency dispatch services;
- (h) The power to provide public transportation systems, including, but not limited to, airports (including airport police), air-taxi, and public mass transit;
- (i) The power to provide animal control; and
- (j) The power to provide economic development.

Section 12.03 Services Provided by Service Area

- (a) The following powers shall be exercised only through service areas:
 - (1) The establishment and operation of police departments, the hiring of

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- police officers, or the contracting for the services of police officers;
- (2) The establishment and operation of fire departments, the hiring of firefighters, and the contracting for fire fighting services;
- (3) The collection, but not disposal, of solid waste.

Nothing in this Charter, except Section 12.02, prohibits the municipality from exercising any other power on a non-areawide basis or through service areas. No areawide power shall be interpreted to include or authorize any of the powers described in (1) through (3) above. Dispatching services for fire and law enforcement may, however, be provided areawide and shall be provided areawide for emergency 911 dispatching.

(b) Until otherwise changed, that area described in the consolidation petition as the Ketchikan Service Area shall be a service area for each and all of the powers described in (a)(1)-(3) above and for the power to build, operate, maintain, and replace roads, bridges, sidewalks, culverts, storm sewers, and drainage ways, and other public works. Except for the Shoreline Service Area, all other service areas in existence on the date this Charter becomes effective shall continue in effect until such time as changed as provided in this Article and the municipality shall exercise the same powers within those service areas as were exercised by the former Ketchikan Gateway Borough. A new Shoreline Service Area with such territory, taxation, and services as are described in the consolidation petition shall be created on the date this Charter becomes effective and shall continue in existence until such time as changed as provided in this Article. By consolidation petition is meant that petition filed by the City of Ketchikan for the consolidation of the City of Ketchikan and the Ketchikan Gateway Borough with all exhibits and amendments.

Section 12.04 Creation, Expansion, Reduction, Consolidation, Alteration, and Termination of Service Areas.

(a) **Creation of Service Areas.** The Assembly may create new service areas only by an ordinance which describes the boundaries of the service area and the powers to be exercised therein and which is either:

- (1) Approved by a majority of the voters residing within the proposed new service area; or
- (2) Consented to in writing by all of the owners of real property within the boundaries of the proposed service area if no voters reside in the proposed service area.

If, within the previous two (2) years, any part of the service area to be created was part of a service area which provided similar services, the vote to approve creation of the new service area will require the approval of both a majority of the voters in that area which previously received the services and in that area which did not.

(b) **Expansions or Reductions of Service Areas.** The boundaries of a service area may only be expanded or reduced by an ordinance adopted by the Assembly which describes the proposed new boundaries of the service area and the powers to be

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exercised therein and which is approved by both:

- (1) A majority of the voters residing within the boundaries of the existing service area or, in the case of a reduction, a majority of the voters who will remain within the boundaries of the service area after the reduction; and
- (2) A majority of the voters residing in the area which will be added to or subtracted from the existing service area or, if no voters reside within that area, by written consent of all owners of real property within the area which will be added to or subtracted from the existing service area.

(c) **Consolidation of Service Areas.** Service areas may be consolidated for any or all of the services provided by each service area. Such consolidation shall be by an ordinance adopted by the Assembly and approved by a majority of the voters residing in each of the service areas to be consolidated.

(d) **Expansion or Reduction of Powers.** When a service area has been established for the exercise of one or more powers, the municipality may exercise additional service area powers in that service area or reduce the service area powers exercised in that service area only by an ordinance adopted by the Assembly and approved by a majority of the voters residing within the service area. But any power other than those listed in Section 12.02 which was previously exercised by the City of Ketchikan may, without approval of the voters, be exercised by the municipality on a non-areawide basis within the Ketchikan Service Area.

(e) **Termination.** Any service area may be terminated only by an ordinance adopted by the Assembly which describes the boundaries of the service area and the services to be terminated and which is either:

- (1) Approved by a majority of the voters residing within the service area to be terminated; or
- (2) Consented to in writing by all of the owners of real property within the boundaries of the service area to be terminated, if no voters reside in the service area.

Except for terminations under 12.04(f), the ordinance shall provide for the disposition of the service area's assets and shall provide for payment of the service area's indebtedness and ongoing operational and maintenance expenses from revenues obtained from the service area.

(f) **Sanitary Sewage Service Areas.** The provisions of this Section 12.04 and Subsection 12.06(c) shall not apply to sanitary sewage services. The Assembly may by ordinance and without voter approval exercise sanitary sewage service powers on an areawide basis, service area basis, or a non-areawide basis in such manner as it determines. The ordinance may designate sanitary sewage services as municipal utilities under Section 8.01. The term sanitary sewage services means any collection, transport, treatment, or disposal of human waste.

(g) **Majority of Voters.** For purposes of this section the term "majority of the voters" shall mean a majority of the qualified voters casting a ballot on the proposition at a general or special election.

Section 12.05 Criteria for Establishing Service Areas.

Service areas shall be established according to criteria of need and economic operating efficiency and shall comprise the area to which the services shall be provided. A new service area shall be established only after Assembly determination that such services cannot be reasonably provided by an existing service area or by alteration of an existing service area. Nothing in this section will be interpreted to permit the establishment of a service area in any other manner than as provided for elsewhere in this Charter.

Section 12.06 Financing and Management.

(a) **Service Area Taxes.** The Assembly may levy taxes, assessments, payments in lieu of taxes, and other charges within a service area to pay for costs of that service area. Sales taxes on the sale of goods and services may be levied for service area purposes to the fullest extent allowed by law.

(b) **Supervision of Service Areas.** The Assembly may provide for an appointed or elected board to supervise the furnishing of services in a service area or may exercise such supervision by itself. The Assembly or board shall determine the cost and levels of service, the means, methods, and facilities for providing the service and all requirements for receiving the service.

(c) **Use of Property and Assets of a Service Area.** Except as provided in this subsection, funds raised by service area taxes, assessments, and charges shall not be used for any purpose other than to pay for costs of the service area. Unless a service area is terminated or consolidated, the revenues, equipment, property, personnel, and assets acquired or employed for that service area shall not be used to provide services outside of the service area. With the approval of the Assembly, any service area may participate in joint ventures, sharing of revenues, equipment, property, personnel, and assets, mutual assistance, and other cooperative arrangements provided that such service area is reasonably compensated in proportion to the revenues, equipment, property, personnel, and assets it contributes. Reasonable compensation may be in the form of services, money, future obligations, or other forms determined by the Assembly.

Section 12.07 Emergency Medical Services

The emergency medical services previously provided by the City of Ketchikan will be provided to such areas as designated by the Assembly where no other adequate emergency medical service exists. Unless the Ketchikan Service Area is compensated for the resulting increase in its service area costs, emergency medical services shall be provided through the Ketchikan Service Area but funded by the entire area being

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served. The provisions of Sections 12.04 and 12.06(c) shall not apply to service areas for the providing of emergency medical services. This section shall not require the municipality to extend emergency medical services to remote locations or to areas where the extension of such service is not deemed practicable by the Assembly. Until otherwise changed as provided by this section, emergency medical services shall be provided by the service area established under the transition plan described in Section 16.09.

[Sitka Alternative] No separate article

[Haines Alternative] ARTICLE VI POWERS

The Haines Borough may exercise all powers available to a home rule borough, not prohibited by law or this charter

Section 6.01 Areawide Powers

The Haines Borough shall exercise areawide the powers to provide for tax assessment and levy; planning, platting, zoning; and education.

In addition, the borough may exercise on an areawide basis, by ratification of this charter, the powers to provide for the following services:

- (1) control of hazardous substances,*
- (2) emergency medical services and other medical services,*
- (3) emergency dispatch,*
- (4) ports and harbors facilities,*
- (5) financing capital improvement projects,*
- (6) public parks and recreational facilities,*
- (7) public libraries,*
- (8) museums,*
- (9) cemeteries,*
- (10) economic development (including tourism promotion),*
- (11) disaster planning and emergency response,*
- (12) solid waste management.*

In addition to the powers to provide the services listed, the borough may exercise on an areawide basis all other powers of a home rule borough consistent with state law and this charter, upon ratification by borough voters at a regular or special election.

Section 6.02 Powers for Service Areas

(A) Available powers. *Unless restricted otherwise by this charter, Alaska Statute, or borough code, any borough power not exercised areawide may be exercised on a service area basis. If already exercised areawide, the power may be exercised within a service area to provide a higher level of service.*

(B) Reserved powers. *The following powers are reserved for exercise in service areas only:*

- 1. the establishment and operation of police departments (exclusive of related dispatch communication services);*
- (2) the establishment and operation of fire departments, the hiring of firefighters and the contracting for fire services;*
- (3) animal control.*

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*[Juneau Alternative had an expanded article II, but does not rely on service areas] ARTICLE II — POWERS*

*Section 2.1. POWERS. The municipality may exercise all powers not prohibited to home rule cities or boroughs by law or by this Charter.*

*Section 2.2. CONSTRUCTION. The powers of the municipality shall be liberally construed. The specific enumeration of a particular power in this Charter shall not be construed as limiting the powers of the municipality.*

*Section 2.3. INTERGOVERNMENTAL RELATIONS. The municipality may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one or more local governments, the State, or the United States, or any agency or instrumentality of these governments.*