

Home Rule Charter of the Municipality of Ketchikan

Table of Contents

Preamble	1
Article I Name, Type and Class of Government, Boundaries, and Powers	2
Section 1.01 Name.....	2
Section 1.02 Type and Class of Government.	2
Section 1.03 Boundaries.....	2
Section 1.04 Powers.	2
Article II The Assembly.....	3
Section 2.01 Legislative Powers.	3
Section 2.02 Terms and Representation.	3
Section 2.03 Qualifications.	4
Section 2.04 Vacancies and Forfeiture of Office.....	4
Section 2.05 Organization and Officers.....	5
Section 2.06 Salaries and Compensation.	5
Section 2.07 Meetings.	5
Section 2.08 Rules and Record.	5
Section 2.09 Voting.	5
Section 2.10 Prohibitions.	6
Section 2.11 Investigations.....	7
Section 2.12 Municipal Clerk.....	7
Section 2.13 Municipal Attorney.....	7
Section 2.14 Special Advisors.....	7
Section 2.15 Boards and Commissions.....	7
Article III Legislation.....	8
Section 3.01 Action Required By Ordinance.....	8
Section 3.02 Ordinances - General.....	9
Section 3.03 Ordinances - Emergency.....	9
Section 3.04 Ordinances - Adoption by Reference.....	9
Section 3.05 Ordinances - Codification.	10
Article IV Municipal Manager and Administrative Departments	11
Section 4.01 Municipal Manager: Appointment, Term, Qualifications, and Removal.	11
Section 4.02 Municipal Manager: Powers and Duties.....	11
Article V Elections.....	13
Section 5.01 General Requirements.....	13
Article VI Initiative, Referendum, and Recall.....	14
Section 6.01 Initiative and Referendum.....	14
Section 6.02 Application for Petition.	14
Section 6.03 Contents of Petition.....	14
Section 6.04 Signature Requirements.....	15
Section 6.05 Sufficiency of Petition.....	16
Section 6.06 Protest.....	16
Section 6.07 New Petition.....	16
Section 6.08 Initiative Election.	16
Section 6.09 Referendum Election.	17
Section 6.10 Effect.	17
Section 6.11 Further Regulation by Ordinance.....	18
Section 6.12 Recall.	18
Article VII Planning.....	19
Section 7.01 Planning Commission.	19
Article VIII Municipal Utilities.....	20
Section 8.01 Municipal Utilities.....	20

Home Rule Charter of the Municipality of Ketchikan

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|               |                                                                                                     |    |
|---------------|-----------------------------------------------------------------------------------------------------|----|
| Section 8.02  | Management.....                                                                                     | 20 |
| Section 8.03  | Utility Budgets, Rates, and Borrowing.....                                                          | 21 |
| Article IX    | Education.....                                                                                      | 23 |
| Section 9.01  | Public School System.....                                                                           | 23 |
| Section 9.02  | Membership, Qualification, and Term.....                                                            | 23 |
| Section 9.03  | Powers and Duties of the School Board.....                                                          | 23 |
| Section 9.04  | Joint Meetings.....                                                                                 | 23 |
| Section 9.05  | Budget and Six-Year Plan.....                                                                       | 24 |
| Article X     | Finance.....                                                                                        | 25 |
| Section 10.01 | Fiscal Year.....                                                                                    | 25 |
| Section 10.02 | Budget.....                                                                                         | 25 |
| Section 10.03 | Supplemental and Emergency Appropriations.....                                                      | 25 |
| Section 10.04 | Taxation: Powers.....                                                                               | 26 |
| Section 10.05 | Taxation: Sales and Use Taxes.....                                                                  | 26 |
| Section 10.06 | Taxation: Assessment, Levy and Collection of Property Taxes -- Exemptions.....                      | 26 |
| Section 10.07 | Property Tax Limit.....                                                                             | 26 |
| Section 10.08 | Requirement to Raise Taxes.....                                                                     | 27 |
| Section 10.09 | Taxation: Private Interests in Public Property and Payments in Lieu of Taxation.....                | 27 |
| Section 10.10 | Taxation: Assessment -- Equalization.....                                                           | 27 |
| Section 10.11 | Taxation: Lien on Real Property.....                                                                | 28 |
| Section 10.12 | Taxation: Protection of Lien on Property.....                                                       | 28 |
| Section 10.13 | Disbursements: Authority - Method.....                                                              | 28 |
| Section 10.14 | Lapse of Appropriations.....                                                                        | 28 |
| Section 10.15 | Annual Audit.....                                                                                   | 28 |
| Section 10.16 | Deposit and Investments of Funds.....                                                               | 29 |
| Section 10.17 | Purchases and Sales.....                                                                            | 29 |
| Section 10.18 | Public Improvements.....                                                                            | 29 |
| Article XI    | Borrowing.....                                                                                      | 30 |
| Section 11.01 | General-Obligation Bonds, and Revenue Bonds.....                                                    | 30 |
| Section 11.02 | Notice of Bond Indebtedness.....                                                                    | 31 |
| Section 11.03 | Borrowing to Meet Appropriations.....                                                               | 31 |
| Section 11.04 | Revenue Bonds and Borrowing.....                                                                    | 32 |
| Section 11.05 | Non-Recourse Bond Financing.....                                                                    | 32 |
| Section 11.06 | Unexpended and Unencumbered Balances.....                                                           | 32 |
| Section 11.07 | Voiding Authorization of Bonds.....                                                                 | 33 |
| Section 11.08 | Assembly to Have Power to Regulate.....                                                             | 33 |
| Section 11.09 | Challenges to Bond Authorizations.....                                                              | 33 |
| Article XII   | Areawide, Nonareawide, and Service Area Powers.....                                                 | 34 |
| Section 12.01 | Areawide, Nonareawide, and Service Area Powers.....                                                 | 34 |
| Section 12.02 | Mandatory Areawide Powers.....                                                                      | 34 |
| Section 12.03 | Services Provided by Service Area.....                                                              | 35 |
| Section 12.04 | Creation, Expansion, Reduction, Consolidation, Alteration, and<br>Termination of Service Areas..... | 35 |
| Section 12.05 | Criteria for Establishing Service Areas.....                                                        | 37 |
| Section 12.06 | Financing and Management.....                                                                       | 37 |
| Article XIII  | City of Saxman.....                                                                                 | 39 |
| Section 13.01 | City of Saxman.....                                                                                 | 39 |
| Article XIV   | Local Improvement and Service Districts.....                                                        | 40 |
| Section 14.01 | Purpose.....                                                                                        | 40 |
| Section 14.02 | Local Improvement Procedure.....                                                                    | 40 |
| Section 14.03 | Lien for Special Assessments.....                                                                   | 40 |
| Section 14.04 | All Real Property Liable for Special Assessments.....                                               | 40 |
| Article XV    | Charter Amendment.....                                                                              | 41 |
| Section 15.01 | Proposal.....                                                                                       | 41 |
| Section 15.02 | Election.....                                                                                       | 41 |

# Home Rule Charter of the Municipality of Ketchikan

~~~~~

Section 15.03	Effective Date.....	41
Section 15.04	New Charter.....	41
Article XVI	General Provisions.....	42
Section 16.01	Personal Financial Interest; Nepotism.....	42
Section 16.02	Surety Bonds.....	43
Section 16.03	Oath of Office.....	43
Section 16.04	Municipal Proceedings.....	43
Section 16.05	Ordinances and Resolutions.....	43
Section 16.06	Pre-Consolidation Assets, Liabilities, Sales Taxes, Reserves and Franchises, and Collective Bargaining Rights.....	43
Section 16.07	Continuance of Actions.....	44
Section 16.08	Intergovernmental Relations.....	45
Section 16.09	Transition Plan.....	45
Section 16.10	Penalties.....	45
Section 16.11	Separability Clause.....	45
Section 16.12	Effective Date.....	45
Section 16.13	Words and Phrases; Meaning of "Including.".....	45
Section 16.14	Tense, Number, and Gender.....	46



Article I

Name, Type and Class of Government, Boundaries, and Powers

Section 1.01 Name.

The municipal corporation is known as the "Municipality of Ketchikan." Whenever it considers it in the public interest to do so, the Municipality of Ketchikan may use the name "Municipality."

Section 1.02 Type and Class of Government.

The Municipality is a home rule borough and operates under an assembly/manager form of government.

Section 1.03 Boundaries.

The boundaries of the Municipality are the same as the boundaries of the Ketchikan Gateway Borough as they exist on the date of ratification of this Charter. The boundaries of the Municipality may be changed in the manner provided by law.

Section 1.04 Powers.

The Municipality may exercise all powers of a home rule borough not prohibited by law or this Charter. All powers of the Municipality shall be exercised in the manner prescribed by this Charter or applicable laws; or, if the manner is not thus prescribed, in such a manner as the Assembly or other authority may prescribe.



Article II

The Assembly

Section 2.01 Legislative Powers.

The legislative power of the Municipality is vested in the Assembly.

Section 2.02 Terms and Representation.

(a) Composition of Assembly. The Assembly, elected by the qualified voters of the Municipality, is composed of seven Assembly Members.

(b) Mayor. The Mayor shall be elected by the qualified voters of the Municipality.

(c) Terms. The term of the office of all Assembly Members elected after the first election under this Charter and the term of the office of the Mayor is three years and until a successor qualifies.

(d) Terms of Assembly Members and Mayor Elected at First Election. At the first election under this Charter, the two Assembly Member candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor qualifies. The three candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor qualifies. The two candidates receiving the next highest number of votes at large shall be elected for one-year terms and until a successor qualifies. At the first election under this Charter, the Mayor shall be elected for a three-year term and until a successor qualifies. For purposes of computing the length of the first term for persons elected at the first election, the period between that first election and the first Tuesday of October immediately following that first election will not be considered. The first regular election provided for in Section 5.01(a) will occur no earlier than twelve months after the effective date of this Charter.

(e) Representation at Subsequent Elections. At all subsequent regular elections, the election to fill the offices of Assembly Members and the Mayor shall be at large by the qualified voters of the Municipality for three-year terms except as provided in Section 2.04(c) of this Charter.

(f) Term of Office The term of office of the Mayor and each Assembly Member begins upon certification of the results of the election at which the Mayor or Assembly Member was duly elected.

(g) Term Limits. The Assembly, subject to voter approval, may adopt term limitations

Home Rule Charter of the Municipality of Ketchikan

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for the offices of Mayor and Assembly Members. Term limitations may not prohibit persons from serving at least two consecutive three-year terms.

## **Section 2.03      Qualifications.**

(a)    **Residency.** Except as may be otherwise provided by law, only a qualified voter of the Municipality who has been a resident of the Municipality for at least one year immediately preceding election or appointment to office is qualified for elective municipal office.

(b)    **Determination of Qualifications and Forfeiture.** The Assembly is the judge of the election and qualifications of its members and of grounds for forfeiture of office and for that purpose has the power to subpoena witnesses, administer oaths, and require production of evidence. An Assembly Member charged with conduct constituting grounds for forfeiture of office is entitled to a public hearing on demand.

## **Section 2.04      Vacancies and Forfeiture of Office.**

(a)    **Creation of Vacancies.** The office of an elected municipal official becomes vacant upon death, resignation, or removal from office in any manner authorized by law this Charter, other law, or forfeiture of office.

(b)    **Forfeiture of Office.** An elected municipal official shall forfeit office if the official:

- (1)    is convicted of a felony;
- (2)    fails to comply with all qualifications prescribed by this Charter or applicable law;
- (3)    knowingly violates any prohibitions of this Charter;
- (4)    fails to attend three consecutive regular meetings of the Assembly without being excused by the Assembly;
- (5)    fails to take office within thirty days after election or appointment;
- (6)    ceases to be a qualified voter residing in the Municipality; or
- (7)    commits an act punishable under Subsection 16.01(b) of this Charter.

(c)    **Filling of Vacancies.** The Assembly shall, by ordinance, establish procedures for filling of vacancies in the office of Assembly Member and Mayor. The Assembly shall appoint a qualified person as an Assembly Member to serve until the next regular election when a qualified successor is elected at large and certified to fill the remainder of the unexpired term. If a vacancy occurs in the office of mayor, the vice mayor shall act as mayor until the Assembly appoints a qualified person to serve as Mayor until the next regular election when a qualified successor is elected at large and certified to fill the remainder of the unexpired term.

# Home Rule Charter of the Municipality of Ketchikan

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Section 2.05 Organization and Officers.

(a) **Mayor.** The Mayor shall preside at meetings of the Assembly and is recognized as head of the municipal government for all ceremonial purposes and by the Governor for purposes of martial law. The Mayor has no administrative duties except that the Assembly may authorize the Mayor to sign written obligations of the Municipality and perform other occasional duties on behalf of the Assembly.

(b) **Vice Mayor.** Not later than the first regular meeting of the Assembly in November each year, the Assembly shall elect from its membership a Vice Mayor who shall act as Mayor during the absence or disability of the Mayor or as provided in Section 2.04(c) above. The Vice Mayor shall vote as an Assembly Member but shall never have the power to veto.

Section 2.06 Salaries and Compensation.

The Assembly, by ordinance, shall determine the salary of the Mayor and Assembly Members. An increase in salary may not take effect until the Assembly meeting following the regular election after the ordinance has been adopted. The Assembly may, by ordinance, provide for expense accounts and other payments to the Mayor and Assembly Members for expenses incurred in their official duties.

Section 2.07 Meetings.

The Assembly shall meet regularly and at the times and places as prescribed by ordinance. Special meetings must be held at the call of the Mayor or of four or more Assembly Members. Whenever practicable, reasonable notice of all regular and special meetings of the Assembly must be given. All meetings of the Assembly must comply with the Alaska Open Meetings law and other applicable laws regarding those meetings.

Section 2.08 Rules and Record.

The Assembly shall, by ordinance, determine its own rules and order of business and shall maintain a journal of its proceedings as a permanent public record.

Section 2.09 Voting.

(a) **Quorum and Voting.** Requirements. Four Assembly Members constitute a quorum. No Assembly action is valid or binding unless adopted by an affirmative vote of four or more Assembly Members. All Assembly Members present are required to vote subject to Section 16.01 of this Charter.

(b) **Mayor's Vote and Veto.** The Mayor does not have a vote except in the case of a

Home Rule Charter of the Municipality of Ketchikan

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tie. The Mayor shall vote in the case of a tie subject to Section 16.01 of this Charter. The Mayor has the power to veto actions of the Assembly except the confirmation or rejection of appointees and except those actions described in AS 29.20.270(c) and (e). The veto may be exercised at any time prior to the beginning of the next regular meeting of the Assembly provided, however, that the subject of the veto has not passed out of the control of the Assembly prior to the exercise of the veto. The Mayor shall advise the Assembly in writing no later than the beginning of the next regular meeting of the reasons for vetoing an action. At that meeting, the Assembly may finally pass an action, ordinance, or resolution over the veto of the Mayor, whether or not the Mayor submits the reasons for the veto. An affirmative vote of at least two-thirds of the total membership of the Assembly is required to pass an action, ordinance, or resolution that has been vetoed by the Mayor, and the vote must be by yeas and nays and must be entered in the journal.

(c) **Roll Calls.** A roll call vote must be taken whenever required by law or whenever requested by any member of the Assembly. Roll call votes must be entered in the journal. A roll call vote must be taken on appropriations for the expenditure of funds and on the passage of ordinances.

## **Section 2.10 Prohibitions.**

### (a) **Other Public Offices, Employment, or Contracts.**

- (1) An elected municipal official may not be hired or appointed to any compensated municipal office or municipal employment for a period of one year after vacating office, other than membership on a board or commission.
- (2) The relationship of independent contractor for goods and services does not constitute employment for the purposes of this Section. Subject to any further limitations established by ordinance, an elected municipal official may enter into contracts with the Municipality and may buy from, exchange with, or sell to the Municipality provided that: A) the contract, purchase, exchange, or sale is awarded through an outcry public auction or through a competitive bidding process in which sealed bids are submitted and the bid most advantageous to the Municipality is selected; B) the contract, purchase, exchange, or sale is approved by the Assembly; or C) the goods or services contracted for, purchased, exchanged, or sold at an amount to be set by ordinance or regulation.

(b) **Relationship with Employees.** The Assembly may not recommend or direct the appointment or removal of any officer or employee of the Municipality's administration, except as provided by this Charter. Subordinates of the Municipal Manager report to and obtain direction from the Municipal Manager and not from the Assembly, the Mayor, or individual Assembly Members.



(c) **Representation of Client.** An Assembly Member may not represent any client before any department, agency, the School District, or utility of the Municipality.

**Section 2.11 Investigations.**

The Assembly may conduct hearings and may make investigations into matters affecting the Municipality and matters concerning the conduct of any municipal department, office, or agency. The Assembly may subpoena witnesses, administer oaths, take testimony, and require production of evidence. A person who fails or refuses to obey a subpoena or a lawful order issued in the exercise of these powers by the Assembly is guilty of a misdemeanor.

**Section 2.12 Municipal Clerk.**

There shall be a Municipal Clerk who is an officer of the Municipality appointed by the Assembly and who serves at the pleasure of the Assembly. The Assembly may suspend or remove the Municipal Clerk at any time by vote of the Assembly.

**Section 2.13 Municipal Attorney.**

There shall be a Municipal Attorney appointed by the Assembly who serves at the pleasure of the Assembly. The Assembly may suspend or remove the Municipal Attorney at any time by vote of the Assembly.

**Section 2.14 Special Advisors.**

The Assembly may appoint special legal and financial advisors for bond issues or other matters and retain legal counsel as it requires.

**Section 2.15 Boards and Commissions.**

(a) The Assembly may establish boards and commissions and shall prescribe their duties, purpose, and functions. The Assembly shall prescribe the qualifications and conditions of service of members appointed to boards and commissions. Members of boards and commissions shall be appointed by the Mayor, subject to confirmation by the Assembly. A quorum of any board or commission and the number of members required to approve an action shall be a majority of its membership, unless otherwise determined by the Assembly.

(b) By ordinance, the Assembly may create or designate itself to be a board of review, adjustment, or equalization.



**Article III**

**Legislation**

**Section 3.01 Action Required By Ordinance.**

In addition to other acts required by this Charter or other law to be done by ordinance, acts of the Assembly that must be done by ordinance are those that:

- (a) adopt or amend an administrative code;
- (b) provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed;
- (c) levy taxes, except the Assembly may, by resolution or ordinance, establish the mill levy on which property taxes shall be collected;
- (d) grant, renew, or extend a franchise;
- (e) establish the rates charged by the municipal utilities, except as provided in paragraph 8.02(c)(2);
- (f) authorize the borrowing of money;
- (g) establish procedures for the conveyance, disposition, or lease of real and personal property of the Municipality;
- (h) propose amendments to this Charter;
- (i) adopt, with or without amendment, ordinances proposed under initiative powers;
- (j) fix the wages and benefits of members of the Assembly;
- (k) adopt, modify, or reject the comprehensive plan, land use or subdivision regulations, building and housing codes, and the official zoning map;
- (l) amend or repeal any ordinance previously adopted except as otherwise provided in Article VI of this Charter with respect to repeal of ordinances reconsidered under the referendum power;
- (m) establish a formal procedure for acquisition of State land or rights in State land and disposal of that land or rights in that land; and

# Home Rule Charter of the Municipality of Ketchikan

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(n) authorize a contract, other than a contract for the purchase, sale, conveyance, disposition, or lease of real property, which by its terms will not be fully executed within five years and which cannot be terminated by the Municipality without penalty upon notice of thirty days or less.

Section 3.02 Ordinances - General.

Except as otherwise provided in this Charter, the following procedure governs the enactment of all ordinances:

(a) **Enacting Clause.** The enacting clause of all ordinances passed by the Assembly is, "Be it ordained by the Assembly of the Municipality of Ketchikan," or similar words to that effect, and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the Municipality of Ketchikan," or similar words to that effect.

(b) **Readings.** A proposed non-emergency ordinance must be read in full or by title only, and an affirmative vote of a majority of the Assembly is required for advancing to public hearing and second reading. A non-emergency ordinance in which amendments are made in first reading which materially change the subject of the ordinance require an additional reading before passing to second reading. Notice of the public hearing containing a summary of the ordinance and the time and place for the hearing must be published not less than five days prior to the date of the public hearing. Before a vote on final passage, a proposed non-emergency ordinance must be read by title or in full and an affirmative vote of a majority of the Assembly is required for its final passage;

(c) **Passage, Publication, and Effective Date.** Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations go into effect immediately upon final passage unless they specify a later time. All other ordinances go into effect the day following the next regular meeting after the adoption of the ordinance unless the ordinance specifies otherwise.

Section 3.03 Ordinances - Emergency.

An emergency ordinance is an ordinance that, in the judgment of the Assembly, is necessary to meet a public emergency. An emergency ordinance becomes effective immediately without a second reading. That ordinance must contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, must declare the emergency. An affirmative vote of at least two-thirds of the members of the Assembly is required for the final passage of an emergency ordinance.

Section 3.04 Ordinances - Adoption by Reference.

The Assembly, by ordinance, may adopt by reference codes, ordinances, standards, and

Home Rule Charter of the Municipality of Ketchikan

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regulations relating to matters that it has power to regulate. The codes, ordinances, standards, and regulations so adopted need not be enrolled in the book of ordinances; but a copy must be filed and kept in the office of the Municipal Clerk. The Municipal Clerk shall keep copies of those codes, ordinances, standards, and regulations in force for distribution or sale at their approximate cost.

## **Section 3.05 Ordinances - Codification.**

The ordinances must be codified and the Municipal Code must be made available to the public in electronic and printed form. Procedures for codification must be set forth in ordinances adopted by the Assembly.



**Article IV**

**Municipal Manager and Administrative Departments**

**Section 4.01      Municipal Manager: Appointment, Term, Qualifications, and Removal.**

There shall be a Municipal Manager appointed by the Assembly who serves at the pleasure of the Assembly. At the time of appointment, the Municipal Manager need not be a resident of the Municipality, but during the Municipal Manager's tenure of office, the Municipal Manager shall reside within the Municipality. Neither the Mayor nor any Assembly Member may be appointed Municipal Manager during the period of not less than one year after vacating office. The Assembly may suspend or remove the Municipal Manager at any time by a vote of the Assembly.

**Section 4.02      Municipal Manager: Powers and Duties.**

The Municipal Manager is the chief administrative officer and head of the administrative branch of the Municipality. The Municipal Manager shall execute the laws, including municipal ordinances, and administer the government of the Municipality. The Municipal Manager shall perform the duties outlined below.

- (a) **Hire and Remove Employees.** Appoint, lay-off, suspend, demote, or remove all directors or heads of administrative departments and all other officers and employees of the Municipality, except personnel in the Department of Law, Municipal Clerk's office, School District, and employees appointed by the Assembly or their subordinates. The Municipal Manager may delegate this power and duty to directors or heads of departments and other administrative officers.
- (b) **Supervise Departments.** Supervise and control all administrative departments, agencies, officers, and employees appointed by the Municipal Manager or by agencies and officers subordinate to the Municipal Manager.
- (c) **Prepare Budgets.** Prepare budgets annually as required by the Assembly and submit them to the Assembly for approval. Be responsible for the administration of the required budgets after they go into effect, and recommend to the Assembly any changes in the budgets that the Municipal Manager considers to be desirable.
- (d) **Report.** Submit to the Assembly a report as of the end of the fiscal year on the finances and administrative activities of the Municipality for the preceding year.
- (e) **Make Recommendations.** Keep the Assembly advised of the financial condition and future needs of the Municipality and make recommendations on policy and other

# Home Rule Charter of the Municipality of Ketchikan

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matters.

(f) **Perform Other Duties.** Perform other powers, duties, and functions as the Charter may prescribe and powers, duties, and functions consistent with this Charter as the Assembly may prescribe.



Article V

Elections

Section 5.01 General Requirements.

- (a) **Regular Elections.** A regular election shall be held on the first Tuesday in October of every year.
- (b) **Special Elections.** The Assembly, by ordinance or resolution, may call special elections.
- (c) **Questions Submitted at Elections.** The Assembly, by ordinance or resolution, may submit questions to the voters at a special election or at a regular election.
- (d) **Notice of Elections.** At least 30 days' published notice must be given of a regular or special election.
- (e) **Canvassing Returns - Certificates of Election.** The Assembly shall canvass the returns of all municipal elections, regular and special, and shall ascertain and declare the results thereof, provided that the Assembly may delegate this function to a board created by ordinance. The Municipal Clerk shall promptly prepare, sign, and issue certificates of election, sealed with the seal of the Municipality, to all persons elected to office.
- (f) **Laws Governing Elections.** The provisions of State law applicable to municipal elections shall govern elections of the Municipality insofar as they are not superseded by this Charter or ordinance.
- (g) **Nominations.** Candidates for elective office shall be nominated by a petition signed by at least twenty qualified voters of the Municipality. A nominating petition may not be accepted unless accompanied by a signed acceptance of the nomination.



Article VI

Initiative, Referendum, and Recall

Section 6.01 Initiative and Referendum.

The powers of initiative and referendum concerning laws and resolutions of the Municipality are reserved to the voters of the Municipality. The powers of initiative and referendum shall not apply to administrative matters, matters unenforceable by law, or matters restricted by art. XI, sec. 7, Constitution of the State of Alaska.

Section 6.02 Application for Petition.

(a) An initiative or a referendum is proposed by filing an application with the Municipal Clerk containing the ordinance or resolution to be initiated or referred. Each application may include only a single subject. The application must contain the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. An application must be signed by at least ten residents of the Municipality at least 18 years of age who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the Municipal Clerk. Within twenty days of the filing, the Municipal Clerk shall certify the application if the Municipal Clerk finds that it is in proper form and complies with Section 6.01 of this Charter and this Section.

(b) A decision by the Municipal Clerk on an application for petition is subject to judicial review.

Section 6.03 Contents of Petition.

(a) Within two weeks after certification of an application for an initiative or a referendum petition, a petition must be prepared by the Municipal Clerk. Each copy of the petition must contain:

- (1) a summary of the ordinance or resolution to be initiated or referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
- (3) the date on which the petition is issued by the Municipal Clerk;
- (4) notice that signatures must be secured within ninety days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, the residence and mailing addresses of each signer; and an identifier consisting of date of birth, voter identification number, or last four digits of the signer's social security number;

Home Rule Charter of the Municipality of Ketchikan

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- (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and
  - (7) space for indicating the total number of signatures on the petition.
- (b) If a petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or referred.
  - (c) The Municipal Clerk shall notify the contact person and alternate in writing by certified mail when the petition is available. The contact person or alternate shall notify sponsors. A copy of the petition must be provided by the Municipal Clerk to each sponsor who appears in the Municipal Clerk's office and requests a petition, and the Municipal Clerk shall mail the petition to each sponsor who requests that the petition be mailed.

## **Section 6.04 Signature Requirements.**

- (a) The signatures on an initiative or a referendum petition must be secured within ninety days after the date of mailing of the notice under Section 6.03(c) of this Charter that the petition is available. The statement provided under Section 6.03(a)(6) of this Charter must be signed and dated by the sponsor. Signatures must be in ink or indelible pencil.
- (b) The Municipal Clerk shall determine the number of signatures required on a petition and inform the contact person and alternate in writing. Except as provided in (e) of this Section, a petition must be signed by a number of qualified voters equal to at least twenty percent of the votes cast at the last regular election held before the date written notice is given to the contact person and alternate that the petition is available.
- (c) Illegible signatures must be rejected by the Municipal Clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address must be rejected.
- (d) A petition signer may withdraw the signer's signature on written application to the Municipal Clerk before certification of the petition.
- (e) If the ordinance or resolution that is the subject of an initiative or a referendum petition affects only an area that is less than the entire area of the Municipality, only qualified voters residing in that affected area may sign the petition. The petition must be signed by a number of qualified voters equal to at least twenty percent of

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the votes cast in that area at the last regular election held before the date written notice is given to the contract person and alternate that the petition is available.

Section 6.05 Sufficiency of Petition.

(a) All copies of an initiative or a referendum petition must be assembled and filed as a single instrument, subject to (b) of this Section. Within ten days after the date the petition is filed, the Municipal Clerk shall:

- (1) certify on the petition whether it is sufficient; and
- (2) if the petition is insufficient, identify the insufficiency and notify the contact person and alternate by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the eleventh day after the date of mailing of the notice of insufficiency and rejection of the petition.

(c) A petition that is insufficient must be rejected and filed as a public record unless it is supplemented under (b) of this Section. Within ten days after a supplementary filing, the Municipal Clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Section 6.06 Protest.

If the Municipal Clerk certifies that an initiative or a referendum petition is insufficient, a signer of the petition may file a protest with the Mayor within seven days after the certification. The Mayor shall present the protest at the next regular meeting of the Assembly. The Assembly shall hear and decide the protest.

Section 6.07 New Petition.

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, an application for a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

Section 6.08 Initiative Election.

(a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the Municipal Clerk shall submit the matter to the voters at the next regular or special election occurring no sooner than sixty days after certification of the petition. If no regular election is scheduled within seventy-five days after the certification of a petition, the Assembly may call a special election not sooner than sixty days after certification.

Home Rule Charter of the Municipality of Ketchikan

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(b) If the Assembly adopts substantially the same measure, the petition is void, and the ordinance or resolution initiated may not be placed before the voters.

(c) The ordinance or resolution initiated must be published in full in the notice of election, but may be summarized on the ballot to indicate clearly the proposal submitted. The ballot summary must be stated in the affirmative so that a yes vote approves the ballot summary and a no vote disapproves the ballot summary.

(d) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.

## **Section 6.09 Referendum Election.**

(a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote, the Municipal Clerk shall submit the ordinance or resolution to the voters at the next regular or special election occurring no sooner than sixty days after certification of the petition. If no regular election is scheduled to occur within seventy-five days of certification of a petition, the Assembly may call a special election not sooner than sixty days after certification.

(b) The ordinance or resolution against which the petition is filed must be suspended pending certification of the referendum vote if either: 1) a petition is certified before the effective date of the ordinance or resolution referred; or 2) the petition is certified after the effective date of the ordinance or resolution referred, but the Assembly does not place the issue before the voters at a regular or special election within seventy-five days of certification of a petition. During the period of suspension, the Assembly may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the Assembly repeals the ordinance or resolution before the referendum election, the petition is void; and the ordinance or resolution referred may not be placed before the voters.

(d) If a majority vote favors the repeal of the ordinance or resolution referred, it is repealed. Otherwise, the ordinance or resolution referred remains in effect; or, if it has been suspended, becomes effective on certification of the election.

## **Section 6.10 Effect.**

(a) The Assembly may not, within two years after the effective date, repeal an ordinance or resolution that has been adopted in an initiative election or adopted after a petition that contains substantially the same measure has been filed, but may at any time pass by a two-thirds vote an ordinance or resolution amending it.

# Home Rule Charter of the Municipality of Ketchikan



(b) If an ordinance or resolution is repealed in a referendum election or by the Assembly after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the Assembly for a period of two years.

(c) If an initiative or a referendum measure fails to receive voter approval, a new application for petition for substantially the same measure may not be filed sooner than six months after the election results are certified.

(d) If two or more initiated or referred ordinances that have conflicting provisions are enacted or approved at the same election, the one receiving the largest affirmative vote prevails.

## **Section 6.11 Further Regulation by Ordinance.**

The Assembly, by ordinance, may further regulate the procedures for initiative and referendum.

## **Section 6.12 Recall.**

All incumbents of elective offices of the Municipality, including persons chosen to fill vacancies in those offices, are subject to recall from office by the qualified voters of the Municipality. Procedures and grounds for recall must be prescribed by law. The Assembly, by ordinance, may further regulate the recall insofar as regulation is not in conflict with the Constitution of the State of Alaska or other State law.



**Article VII**

**Planning**

**Section 7.01 Planning Commission.**

(a) **Membership and Term.** There shall be a Planning Commission consisting of seven members who shall be appointed by the Assembly from among the qualified voters of the Municipality and who shall serve for terms of three years unless removed by the Assembly for cause. A Planning Commission Member may not hold other municipal office.

(b) **Powers and Duties.** The powers and duties of the Planning Commission shall be established by an ordinance approved by the Assembly.



**Article VIII**

**Municipal Utilities**

**Section 8.01 Municipal Utilities.**

The electric, telephone, and water services previously owned and operated by the City of Ketchikan d/b/a Ketchikan Public Utilities are municipal utilities and must be operated in a business-like manner in accordance with this Article and other applicable provisions of this Charter provided, however, that the Assembly may, by ordinance, remove water service from the municipal utilities governed under this Article. Except as limited by this Charter or by other applicable law, the Assembly may designate other utilities as municipal utilities to be operated in the same manner as the electric, telephone, and water utilities. Water services provided by the Municipality through service areas may not be considered to be municipal utilities under this Article unless the service area is terminated as provided for in Section 12.04(e) of this Charter and the service is designated by the Assembly as a municipal utility. The Assembly may, under Section 12.06(b) of this Charter, delegate to the municipal utility the supervision of water service areas.

**Section 8.02 Management.**

(a) **Powers.** The Assembly shall exercise all powers necessary or convenient for the management, operation, regulation, and use of the municipal utilities unless, by ordinance, it creates a municipal utility board appointed by the Mayor and confirmed by the Assembly and delegates to that board some or all the powers except those powers designated in (c) below.

(b) **General Manager.** The Assembly or municipal utility board may appoint a general manager who shall serve at the Assembly or board's pleasure. The general manager may be delegated duties and responsibilities for the municipal utilities as the Assembly or board may determine.

(c) **Acts Requiring Assembly Approval.** The following acts may not be delegated by the Assembly and may not become effective until approved by the Assembly:

- (1) the adoption of capital and annual budgets in accordance with Section 8.03 of this Charter;
- (2) the establishment and adjustment of utility rates and charges to customers, unless those rates and charges have been approved by or determined by a State or federal agency having jurisdiction. However, the Assembly may, by ordinance, authorize the general manager or a municipal utility board to establish and adjust rates and charges for goods and services for which a local competitive market exists; and to establish interim rates and charges to

# Home Rule Charter of the Municipality of Ketchikan

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- be effective until approved or rejected by the Assembly;
- (3) the issuance of bonds, notes, or other evidence of indebtedness, any encumbrance of utility property, or the creation of any indebtedness; and
- (4) the establishment and adjustment of salaries and benefits for utility board members and for employees of the utility who are not represented by a union.

The Assembly may, by ordinance, prescribe that some functions of the municipal utilities, such as finance, personnel, and legal, be provided in part or in whole by municipal departments or be otherwise shared. The municipal utilities shall pay the reasonable cost of such services.

Section 8.03 Utility Budgets, Rates, and Borrowing.

(a) **Utility Budgets.** The municipal utilities' fiscal year runs concurrently with the Municipality's fiscal year. Not later than May 1 of each year, each utility must submit to the Assembly a budget for the next fiscal year. The budget must include a program of capital expenditures for the year. The budget must contain detailed estimates of anticipated revenues and proposed expenditures for the year and must be in the form and have the contents as the Assembly may require. Each utility division (electric, telephone, and water) must be financially described as a separate business entity prior to preparation of a consolidated financial statement. Each accounting transfer to other utility divisions or subsidiaries must be specifically noted. Proposed expenditures may not exceed total estimated revenues, including bond proceeds and reserves. Revenues, other than restricted bond proceeds, from any one of the municipal utilities may be used to pay the expenses of any other municipal utility. In the event that the Assembly does not approve a budget by the beginning of the fiscal year, the Assembly must adopt an interim budget that maintains rates, expenditures, and appropriations at the same levels as provided in the previous year's budget. The interim budget remains in effect until an annual budget has been approved by the Assembly.

(b) **Use of Utility Assets.** Except as provided in this Article, none of the assets, income, or property of the municipal utilities may be placed in the Municipality's general fund or used for any purpose other than for the municipal utilities unless reasonable compensation is received by the municipal utilities.

(c) **Lapse of Appropriations.** At the close of the fiscal year, an unencumbered appropriation lapse into the fund from which appropriated. An appropriation for capital improvements, or in connection with requirements of federal and State grants, does not lapse until the purpose of the appropriation has been accomplished or abandoned.

(d) **Borrowing.** Except as otherwise provided in this Subsection, the municipal utilities may borrow money and issue bonds or other evidences of indebtedness in the manner

Home Rule Charter of the Municipality of Ketchikan

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provided by Article XI. No borrowing and no issuance of bonds or other evidence of indebtedness for the municipal utilities may occur unless approved by the Assembly and, to the extent required under Article XI of this Charter, a majority of the qualified voters of the Municipality who vote on the question of approving the borrowing, bonds, or other evidences of indebtedness.

(e) **Payment in Lieu of Taxes.** The Assembly may require the municipal utilities to pay annually to the Municipality as determined by the Assembly an amount reasonably estimated to be not more than the amount that the utilities would pay in areawide, nonareawide, and service area taxes, assessments, or charges if subject to those taxes, assessments, or charges.

(f) **Audit.** An annual independent audit of all municipal utility accounts must be performed as required by Section 10.15 of this Charter.

(g) **Sale of Municipal Utility.** The municipally owned electric, telephone, or water utilities may not be substantially sold or leased except by authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the Municipality who vote on the question of approving the ordinance.



**Article IX**

**Education**

**Section 9.01 Public School System.**

There shall be a system of public education for the Municipality as prescribed by Alaska Statutes. It shall be operated by a School Board of seven persons elected at large.

**Section 9.02 Membership, Qualification, and Term.**

A candidate for School Board must be a qualified municipal voter and reside in the Municipality. The term of a School Board Member is three years, and the terms must be staggered to allow for the uninterrupted continuation of School Board functions. School Board terms expire in the same sequence as those of the Ketchikan Gateway Borough School Board in office at the time of consolidation. Board members in office at the time of consolidation may continue to hold office until expiration of the term for which they were elected.

The Assembly may, in a manner consistent with applicable State law, provide that ordinances generally applicable to municipal officials, including provisions regarding open meetings, public records, and conflicts of interest apply to School Board Member. The provisions of this Charter applicable to elected municipal officials apply to School Board Members to the extent permitted by State law.

**Section 9.03 Powers and Duties of the School Board.**

The School Board has all the powers and duties provided by AS 14, including the powers to:

- (a) formulate policy for the operation of the schools;
- (b) appoint, promote, demote, suspend, remove all school personnel, including the School District Superintendent; and
- (c) generally supervise School District fiscal affairs, including preparation and submission of the annual budget and six-year plan.

**Section 9.04 Joint Meetings.**

The Assembly and School Board must meet at least once yearly in public session to discuss and coordinate financial planning, capital improvement needs, comprehensive plans for education, and other matters of concern.



**Section 9.05      Budget and Six-Year Plan.**

(a)    The School District Superintendent shall submit to the School Board at the time as the School Board directs a proposed budget for the next fiscal year and a proposed six-year program for capital improvements and fiscal policies. The board must hold at least two public hearings on the proposed budget before it is submitted to the Assembly, and at least one public hearing after Assembly action if the total amount is different. The proposed budget and program must be approved and submitted to the Assembly by May 1 or as otherwise required by law.

(b)    The Assembly may increase or decrease the budget of the School District only as to total amount. The School District may not spend or encumber any monies based on initial State foundation allocations or initial Assembly allocations without prior Assembly approval. The School District must submit any changes to its budget due to grant award monies biennially to the Assembly.

(c)    The Assembly will determine the total amount of the budget of the School District and appropriate the necessary funds before May 31 or other deadline as required by law. If the Assembly fails to determine the total amount of the School District budget and make the necessary appropriation within the time stated, the budget proposal becomes the budget and appropriation for the fiscal year of the School District without further Assembly action.

(d)    The School Board must make recommendations to the Assembly concerning the necessity for school construction and other capital improvements, site selection, employment of architects, and building plans. Decisions by the Assembly are final in matters concerning school construction and other capital improvements, site selection, employment of architects, and building plans.



**Article X**

**Finance**

**Section 10.01 Fiscal Year.**

The fiscal year of the Municipality begins on July 1 and ends on June 30, unless otherwise provided by ordinance.

**Section 10.02 Budget.**

(a) At least 60 days before the beginning of the fiscal year, the Municipal Manager shall prepare and submit to the Assembly a proposed budget for the next fiscal year that contains detailed estimates of anticipated revenues and proposed expenditures for the year. That budget must include a program of capital expenditures for the year. The total of those proposed expenditures may not exceed the total of anticipated revenues, including bond proceeds, and reserves. The budget must be in the form and have contents as the Assembly may require. The budget must be approved as provided for in this Charter. The Assembly may adopt, by ordinance, a two-year budget.

(b) The budget and any budget message accompanying it are public records in the office of the Municipal Clerk and open to the public. Sufficient copies of the budget and any budget message must be made for distribution to persons on request.

(c) The Assembly must hold a public hearing on the proposed budget at least one week after notice of the time of the hearing has been published; and any interested person shall have an opportunity to be heard for or against the estimates or any item thereof. The Assembly may continue the hearing at later meetings.

(d) The Assembly may amend the budget and must approve the budget, by ordinance or resolution, not later than the third day before the beginning of the fiscal year. If the Assembly fails to adopt the budget and make the appropriations on or before that day, the budget as submitted or as amended goes into effect and is considered to be adopted by the Assembly; and the expenditures become the appropriations for the next fiscal year. The appropriations, when made by the Assembly by resolution or ordinance separate from the budget document, need not be as detailed as the proposed expenditures in the budget.

(e) The budget must include budgets for the general fund, and for other funds that are considered to require formal budgeting.

**Section 10.03 Supplemental and Emergency Appropriations.**

(a) If during any fiscal year there are available revenues received from sources not

# Home Rule Charter of the Municipality of Ketchikan

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anticipated in the budget for that year or revenues received in excess of budget estimates, the Assembly by ordinance may make supplemental appropriations for the year up to the amount of the additional revenues.

(b) Upon declaration by the Assembly that a public emergency exists and describing the emergency in clear and specific terms, the Assembly may make emergency appropriations. Those appropriations may be made by resolution and must be approved by a unanimous vote of all Assembly Members present at a meeting attended by a quorum of Assembly Members. If there are no available funds to meet those appropriations, the Assembly by resolution may authorize the issuance of emergency notes. These notes must be paid not later than the last day of the fiscal year following that in which the emergency appropriation was made.

Section 10.04 Taxation: Powers.

The Municipality has all powers of taxation that home rule boroughs have under the Constitution of the State of Alaska and other law.

Section 10.05 Taxation: Sales and Use Taxes.

(a) The Municipality may, by ordinance, levy sales or use taxes on an areawide basis, nonareawide basis, or service area basis.

Section 10.06 Taxation: Assessment, Levy and Collection of Property Taxes -- Exemptions.

The Municipality shall provide for the annual assessment, levy, and collection of taxes on property. No exemptions from taxation except those expressly provided by law, including municipal ordinances, are allowed.

Section 10.07 Property Tax Limit.

(a) Except as otherwise provided in this Article, an increase in the areawide property tax levy from one year to the next may not exceed two mills.

(b) An increase in the areawide property tax levy from one year to the next may exceed two mills if the increase is:

- (1) approved by at least two-thirds of the total membership of the Assembly at a second meeting regarding the proposed increase, the first of which meetings must have been advertised for at least 30 days; or
- (2) approved by a majority of the voters voting on the question at a special or regular election.



(c) The property tax levy during a year may not exceed 30 mills, except that no limitation applies to property taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default.

Section 10.08 Requirement to Raise Taxes.

An ordinance or resolution that will increase the rate of levy of a sales tax, use tax, or property tax on an areawide, nonareawide or service area basis requires the affirmative vote of at least two-thirds of the total membership of the Assembly or a majority of the qualified voters who vote on the ordinance or resolution at a regular or special election. If the increase in the rate of levy of the sales tax, use tax, or property tax is limited to a service area or is nonareawide, the vote is limited to those qualified to vote in that area.

Section 10.09 Taxation: Private Interests in Public Property and Payments in Lieu of Taxation.

(a) **Taxation of Private Interests.** Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State, or its political subdivisions are taxable to the extent of the private interests.

(b) **Payments in Lieu of Taxation.** The Assembly may require the municipally owned enterprise funds to pay annually to the Municipality a payment in lieu of taxes of not more than the amount that the enterprise funds would pay in areawide, nonareawide, and service area taxes, assessments or charges if subject to those taxes, assessments or charges.

Section 10.10 Taxation: Assessment -- Equalization.

The taxable status of property is, for purposes of property taxes, determined as of January 1, or other date as may hereafter be prescribed by law, which is called the assessment day. Values on the assessment rolls are determined by the full and true value according to the facts existing on the assessment day for the year for which the assessment is made, and no change in the status of property after that day will be considered in determining its value. In determining those values, any standards of appraisal established by law, including municipal ordinances, must be followed. The Assembly, acting as the Board of Equalization, must equalize valuations of property assessed; provided that the Assembly, by ordinance, may delegate this power to a board created by ordinance when not prohibited by law.

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**Section 10.11 Taxation: Lien on Real Property.**

The Municipality has a first lien on all real property and personal property against which municipal taxes are levied, for the taxes and any collection charges, penalties, and interest that may accumulate thereto; and the lien continues until the taxes and any charges, penalties, and interest are paid.

**Section 10.12 Taxation: Protection of Lien on Property.**

The Municipality may protect its lien for taxes on real property by sale at tax sale, or by purchasing the real property at any tax sale or other public sale, by direct negotiation with the owner, or in any other legal manner. That procedure is considered to be for a public purpose. When the Municipality has acquired an interest in real property to protect a tax lien thereon, the owner of any interest in that real property may, within the time provided by law, redeem the same by paying the delinquent municipal taxes and all accrued charges, penalties, and interest thereon, as provided by law, including municipal ordinances. After the Municipality has held any tax-delinquent real property for the time required by law, it may hold the same for public use or may sell it as provided by State law.

Municipal taxes on personal property are a debt to the Municipality from the persons against whom they are levied. If any person against whom those taxes are levied fails or refuses to pay the taxes, the taxes and accrued charges, penalties, and interest may be collected by a personal action in a court of competent jurisdiction in the name of the Municipality versus the person against whom the taxes are levied, or by distraint and sale of any personal property of the person against whom the taxes are levied. Neither of the remedies herein given are exclusive of the other or of any remedy provided by law.

**Section 10.13 Disbursements: Authority - Method.**

Disbursements of municipal funds may be made only in accordance with appropriations made as provided in this Charter, or, in case of funds that are not formally appropriated, then by authority granted by the Assembly or by the qualified voters of the Municipality. The Assembly must prescribe the method or methods of disbursing municipal funds.

**Section 10.14 Lapse of Appropriations.**

At the close of the fiscal year, an unencumbered appropriation lapses into the fund from which appropriated. An appropriation for capital improvements, or in connection with requirements of federal or State grants, does not lapse until the purpose of the appropriation has been accomplished or abandoned.

**Section 10.15 Annual Audit.**

# Home Rule Charter of the Municipality of Ketchikan

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The Assembly must provide for an annual independent audit of all accounts of the Municipality, including municipal utility accounts. The audit must be performed by a certified public accountant designated by the Assembly and must be completed within 180 days following the close of the fiscal year.

Section 10.16 Deposit and Investments of Funds.

The Assembly must regulate the deposit and investment of municipal funds and determine what funds of the Municipality may be invested. Municipal funds may be invested only in the following: general-obligation bonds and other general-obligation evidences of indebtedness of the United States, State of Alaska, other states of the United States, the Municipality, and other municipalities of Alaska; and other securities as may be authorized by ordinance.

Section 10.17 Purchases and Sales.

The Assembly must, by ordinance, establish procedures for purchases and sales. Those procedures may include procedures for competitive bidding to the extent and subject to exceptions established by the Assembly.

Section 10.18 Public Improvements.

Public improvements, including local improvements, may be made by the Municipality itself or by contract. Except as provided in Section 8.02(a) or as otherwise provided by law, the Assembly must award all contracts for the improvements; provided that the Assembly may, by ordinance, authorize the Municipal Manager or other authority to award the contracts not exceeding an amount to be determined by the Assembly and subject to those regulations as the Assembly may, by ordinance, prescribe. The Assembly may, by ordinance, establish regulations and procedures for competitive bidding or solicitations of quotations and awards of contracts and providing for rejection of all bids, bid protests, and project claims.



Article XI

Borrowing

Section 11.01 General-Obligation Bonds, and Revenue Bonds.

(a) **Power to Borrow.** The Municipality has the power to borrow money and issue general-obligation bonds, revenue bonds, or other evidences of indebtedness therefor, but only when authorized by the Assembly for capital improvements and ratified at an election by a majority of those qualified to vote and voting on the question.

(b) **Areawide, Nonareawide, and Service Area Indebtedness.** The Municipality may incur indebtedness:

- (1) on an areawide basis when exercising powers on an areawide basis;
- (2) on a service area basis when exercising powers through a service area; or
- (3) on a nonareawide basis when exercising powers on a nonareawide basis.

Indebtedness incurred on a service area basis must be repaid from revenues and taxes received from the service area and indebtedness incurred on a nonareawide basis must be repaid from revenues and taxes received from the nonareawide portion of the Municipality.

The full faith and credit of the Municipality may, however, be pledged to guarantee repayment of indebtedness incurred on a service area basis or on nonareawide basis if the indebtedness has been approved as required by this Subsection. If the indebtedness is incurred for the exercise of areawide powers, the election approving the indebtedness must be areawide. If the indebtedness is incurred on a service area basis and is to be repaid solely from revenues and taxes received from the service area, the election approving the indebtedness must be among the voters of the service area. If the indebtedness is incurred on a nonareawide basis and is to be repaid solely from revenues and taxes received from the affected area, the election approving the indebtedness must be among the voters of the affected area. If the full faith and credit of the entire Municipality is pledged for the payment of indebtedness incurred on a service area or nonareawide basis, then the indebtedness must be approved on an areawide and on a service area or nonareawide basis.

(c) General-obligation evidences of indebtedness may also be secured by revenues from a revenue-producing utility or enterprise when they are issued for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, or equipment of the utility or enterprise, or by other designated funds or revenues specifically pledged for payment of principal and interest thereon. Capital improvements as used hereinabove may also include a part of all of the Municipality's share of the cost of public improvement of which a part is to be paid by benefited property. Bond anticipation notes may be issued following bond issue approval, and pending sale of the bonds.



(d) The requirement for ratification does not apply to borrowing money to meet appropriations for a particular fiscal year, to indebtedness to be paid from special assessments to be made on benefited property, or to refunding indebtedness.

Section 11.02 Notice of Bond Indebtedness.

(a) Before holding any election required by this Article, the Assembly must cause a notice of bond indebtedness to be published once a week for three consecutive weeks in a newspaper of general circulation in the Municipality. The first publication must be at least twenty days prior to the date of election. For elections approving the issuance of general-obligation bonds or revenue bonds the notice must contain the following information:

- (1) the amount of the bonds, purposes of issuance, and length of time within which the bonds will mature;
- (2) the amount of the estimated annual debt service on the proposed bonds based upon an estimate of the anticipated interest rate;
- (3) the amount of the current total general obligation indebtedness of the Municipality including authorized but unsold bonds;
- (4) the amount of the current year's debt service on the outstanding bonds of the Municipality; and
- (5) the current total assessed valuation within the Municipality.

(b) For bonds secured by a pledge of taxes to be levied in a service area or on a nonareawide basis, the notice must also contain the information required in Section 11.02(a)(3), (4), and (5) of this Charter relative to the service area or other area. Instead of the information required in Section 11.02(a)(3) and (4), and (5) of this Charter for revenue bonds that are not also secured by a general obligation pledge, the notice must contain the amount of current indebtedness secured by the applicable revenues, including authorized, but unsold, bonds, and the amount of the current year's debt service on outstanding bonds of the Municipality secured by a pledge of the applicable revenue.

(c) Omissions or errors regarding information required by Section 11.02(a)(2), (3), and (4), and (5) of this Charter may not invalidate any election.

Section 11.03 Borrowing to Meet Appropriations.

The Municipality may borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year, when authorized by the Assembly, and without submitting the question to the voters. The total of that indebtedness may never exceed twenty-five percent of anticipated revenues of that year. All debts so contracted must be paid before the end of the next fiscal year.



Section 11.04 Revenue Bonds and Borrowing.

The Municipality may borrow money and issue revenue bonds or other evidences of indebtedness therefor, the principal and interest of which are payable solely out of, and the only security of which is, the revenues of a revenue-producing municipal utility or enterprise; but only when authorized by the Assembly and ratified by the voters for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, or equipment of that utility or enterprise. Bond anticipation notes may be issued following the ratification of a bond issue and pending sale of the bonds.

Section 11.05 Non-Recourse Bond Financing.

The Municipality may enact ordinances authorizing the issuance of non-recourse revenue bonds or other non-recourse revenue obligations and the application of the proceeds thereof, subject to the limitations in (a) and (b) of this Section:

- (a) Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant to this Section must be secured and payable from any source except revenues, including tax revenue, of the Municipality.
- (b) Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant this Section are not be payable from, or secured by, any municipal assets, tax funds, or governmental revenue, or by all or part of the faith and credit of the Municipality.

The restrictions of Articles VIII, X, and XI of this Charter may not be construed as limitations upon the authority granted by this Section. Non-recourse bonds and other non-recourse revenue obligations may be issued pursuant to this Section without ratification at an election.

Section 11.06 Unexpended and Unencumbered Balances.

Every bond or other evidence of indebtedness must contain a statement of the purpose for which it is issued, and the proceeds thereof may not be used for any other purpose, except that, whenever any proceeds of an issue remain unexpended and unencumbered for the purpose for which issued, the Assembly must authorize the use of the unexpended and unencumbered funds only for the following purposes, which are listed in descending order of priority:

- (a) for the retirement of the issue;
- (b) if the issue has been fully retired, then for the retirement of other bonds or obligations issued on the same areawide, service area, or nonareawide basis; and



(c) if there are no other bonds or obligations of the Assembly outstanding, then for any purpose related to the same areawide, service area, or nonareawide purpose.

Section 11.07 Voiding Authorization of Bonds.

The Assembly, by resolution or ordinance, may void the authorization of any unsold bonds or other evidences of indebtedness at any time. Every obligation must be sold within the ten years following the adoption of the ordinance authorizing its issuance or the ratification of the issuance by the qualified voters of the Municipality, whichever is later, except when the sale has been delayed by an action to determine the validity of the proceedings authorizing the issuance of the obligations, in which case the period of the delay may be added to the ten years. Authorization of obligations not sold within the time limits provided lapses unless otherwise voided at an earlier date by the Assembly.

Section 11.08 Assembly to Have Power to Regulate.

The Assembly may regulate the indebtedness of the Municipality and issuance of bonds and other evidences of indebtedness, regardless of type or purpose, including general-obligation, revenue, special-assessment, refunding, and other, subject only to the limitations imposed by the Constitution of the State of Alaska, other State law, or this Charter.

Section 11.09 Challenges to Bond Authorizations.

Notwithstanding any provision of this Charter to the contrary, no action challenging the authority or proceedings for or the validity of, the issuance of any bonds (or other obligations), a bond ratification election, or the authorization of taxes to pay any bond (or other obligation), may be commenced or maintained unless instituted within thirty days from the date of certification of the results of a bond ratification election or from the date of passage of the ordinance or resolution authorizing the issuance of any bonds (or other obligations) when a bond ratification election has been obtained or is not required.



Article XII

Areawide, Nonareawide, and Service Area Powers

Section 12.01 Areawide, Nonareawide, and Service Area Powers.

Except as otherwise required by this Charter or by applicable State law, all powers of the Municipality may be exercised on an areawide, nonareawide, service area basis, or other basis.

Section 12.02 Mandatory Areawide Powers.

In addition to all other powers that the Municipality may exercise on an areawide basis, the powers in (a) – (k) of this Section must be exercised on an areawide basis:

- (a) the power to dispose of solid waste, including the power to operate, maintain, monitor, remediate, repair, or remove landfills, including those previously owned or operated by the City of Ketchikan;
- (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 substance abuse and mental health; (the power to provide emergency medical services must be exercised as provided in Section 12.03);
- (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 airports (as well as airport police, firefighting, and other auxiliary services), and public mass transit;
- (i) the power to provide animal control;
- (j) the power to provide economic development; and
- (k) the power to provide disaster planning, emergency communications and emergency

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response.

**Section 12.03 Services Provided by Service Area.**

- (a) The following powers may be exercised only through service areas:
  - (1) the establishment and operation of police departments, the hiring of police officers, or the contracting for the services of police officers;
  - (2) the establishment and operation of fire and emergency medical services departments;
  - (3) the collection, but not disposal, of solid waste;
  - (4) water service;
  - (5) street construction and maintenance; and
  - (6) building code enforcement.

However, nothing in this Charter prohibits the Municipality from providing police, firefighting, solid waste collection, or other auxiliary functions in the exercise of an authorized areawide power at areawide expense when necessary to operate facilities used for areawide services; or to respond to a disaster as defined by State law.

Nothing in this Charter, except Section 12.02, prohibits the Municipality from exercising any other power on a nonareawide basis or through service areas.

- (b) Until otherwise changed, that area described in the consolidation petition as the Gateway Service Area is a service area for each and all of the powers described in Section 12.03(a)(1)-(6) of this Charter. All service areas in existence on the date this Charter becomes effective continue in effect until changed as provided in this Article, and the Municipality must exercise the same powers within those service areas as were exercised by the former Ketchikan Gateway Borough. "Consolidation petition" means that petition, including all exhibits and amendments, filed with the Local Boundary Commission by the Ketchikan Gateway Borough on September 30, 2004, for the consolidation of the City of Ketchikan and the Ketchikan Gateway Borough.

**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 that describes the boundaries of the service area and the powers to be exercised therein and, if voters reside in the service area, 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

# Home Rule Charter of the Municipality of Ketchikan

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boundaries of the proposed service area if no voters reside in the proposed service area.

Provided, however, that the Assembly by ordinance may establish a process to provide for de minimis exemptions to boundary changes that need not be approved as provided in Subsections (1) and (2) above.

If, within the previous two years, any part of the service area to be created was part of a service area that provided similar services, the vote to approve creation of the new service area requires the approval of both a majority of the voters in that area that previously received the services and in that area that 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 that describes the proposed new boundaries of the service area and the powers to be 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 that 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 that 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. The consolidation must 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 of this Charter, that was previously exercised by the City of Ketchikan may, without approval of the voters, be exercised by the Municipality on a service area basis within the Gateway Service Area.

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

Home Rule Charter of the Municipality of Ketchikan

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- (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 Section 12.04(f) of this Charter, 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 Section 12.04 and Subsection 12.06(c) of this Charter do 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 nonareawide basis in the 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" means a majority of the qualified voters casting a ballot on the proposition at a regular or special election.

## **Section 12.05 Criteria for Establishing Service Areas.**

Service areas may be established according to criteria of need and economic operating efficiency and comprise the area to which the services are to be provided. A new service area may be established only after Assembly determination that the services cannot be reasonably provided by an existing service area or by alteration of an existing service area.

Nothing in this Section may be interpreted to permit the establishment of a service area in a manner other 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 the supervision itself. The Assembly or board must determine the cost and levels of service, the means, methods, and facilities for providing the service and all requirements for



# Home Rule Charter of the Municipality of Ketchikan

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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 may 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 may not be used to provide services outside of the service area. With the approval of the Assembly, a service area may participate in joint ventures, sharing of revenues, equipment, property, personnel, and assets, mutual assistance, and other cooperative arrangements provided that the 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.



Article XIII

City of Saxman

Section 13.01 City of Saxman.

The Municipality may take no action to initiate or support the dissolution, merger, or consolidation of the City of Saxman. Within its boundaries as of the date of consolidation the City of Saxman may, to the extent permitted by law, exercise those powers that it exercised prior to consolidation, even though the Municipality exercises those same powers. Until otherwise provided by law, the City of Saxman will continue to receive the areawide municipal services it previously received from the Ketchikan Gateway Borough and services under this Charter or authorized by the Assembly pursuant to law. This Article does not exempt persons living within the corporate boundaries of the City of Saxman from taxes or charges levied to provide areawide services.



Article XIV

Local Improvement and Service Districts

Section 14.01 Purpose.

Subject to this Charter's limitations on the exercise of areawide and service area powers, the Municipality has the power to make public improvements, including local improvements and to provide local services, within the Municipality.

To the extent otherwise permitted by this Charter and other law, the cost of a public improvement and local services may be paid wholly by the Municipality, or partly by the Municipality and partly by benefited property, or wholly by benefited property, as the Assembly may determine. The cost or part thereof to be borne by benefited property may be assessed by special assessment upon the benefited property.

Section 14.02 Local Improvement Procedure.

The Assembly may begin procedures for local improvements either by resolution or upon receipt of a petition. Procedures for local services may begin only upon petition of the owners of a majority of the property, or a majority of the property owners that will be assessed for the local service. The Assembly must prescribe, by ordinance, special assessment procedures, including re-assessment procedures, for local improvements and local services and for agreements for furnishing local services, capital improvements, and the extension thereof in lieu of assessment.

Section 14.03 Lien for Special Assessments.

The Municipality has a first lien upon all real property against which special assessments are assessed, for the special assessments and any collection charges, penalties, and interest that may accumulate thereto; and the lien is of the same character, effect, and duration, and enforceable in the same manner, as the lien for municipal taxes.

Section 14.04 All Real Property Liable for Special Assessments.

All real property, including that which is exempt from taxation in accordance with law, is liable for the cost of local improvements and local services assessed in accordance with this Article unless specifically exempted from special assessments by law. If Municipality property is benefited by the local improvement or local services, the Assembly may make payments in lieu of the amount that would otherwise be assessed against the property.



Article XV

Charter Amendment

Section 15.01 Proposal.

An amendment to this Charter may be proposed by:

- (a) an ordinance of the Assembly containing the full text of the proposed amendment;
- (b) report of an elected charter commission created by Assembly ordinance or by initiative ordinance; or
- (c) initiative petition.

Section 15.02 Election.

Proposed amendments must be submitted to the qualified voters of the Municipality at the next regular or special election occurring more than seventy days after the adoption of the ordinance, the final report of the charter commission, or certification of the initiative petition. A notice containing the full text of each proposed amendment must be published.

Section 15.03 Effective Date.

If a majority of the qualified voters voting on a proposed amendment approve the amendment, it becomes effective at the time fixed therein, or if no time is so fixed, thirty days after the certification of the election. If more than one amendment is proposed, all of them except those which are so interrelated that they must be approved or rejected together, must be submitted in the manner that the voters may vote on them separately.

Section 15.04 New Charter.

A new charter may be proposed and approved in lieu of this Charter in the same manner as an amendment to this Charter may be proposed and approved, except that the full text of the proposed charter need not be published.



Article XVI

General Provisions

Section 16.01 Personal Financial Interest; Nepotism.

(a) **Prohibition.** An elected municipal officer may not participate in any official action in which the officer or a member of the officer's household has a substantial financial interest unless, after disclosure of the interest, the officer's participation is approved in public meeting by a majority of the Assembly. Municipal officials shall publicly disclose their substantial financial interests as required by law. The Assembly, by ordinance, must adopt procedures dealing with conflicts of interest on the part of municipal employees.

(b) **Punishment.** Any municipal officer, employee, or elected official who conceals a financial interest or willfully violates the requirements of this Section is guilty of malfeasance in office and shall forfeit his office or employment. Violation of this Section with the knowledge, express or implied, of the person contracting with or making a sale to the Municipality renders the contract or sale to the Municipality void-able by the Municipal Manager or the Assembly.

(c) Except when chosen solely on the basis of competitive examination administered and graded by persons not employed by the Municipality, the Municipal Manager, the Mayor, the Assembly, and their subordinates or appointees may not appoint or hire any person to any employment or office who is related to the Municipal Manager, the Mayor, or any Assembly Member or to the spouse of the Municipal Manager, the Mayor, or any Assembly Member. Except when chosen solely on the basis of competitive examination administered and graded by persons not employed by the municipal utilities, the utilities general manager, the municipal utility board, and their subordinates or appointees may not appoint or hire to any employment or office any person who is related to the utilities general manager or to any municipal utility board member or to the spouse of the general manager or of any municipal utility board member. For purposes of this Subsection a person is considered related to an official or the official's spouse if the person is a parent, spouse, child, sibling, half-sibling, grandparent, grandchild, great grandparent, great grandchild, aunt, uncle, niece, nephew, or is a spouse of any of the above. This Subsection does not prohibit an officer or employee from continuing employment which the officer or employee held prior to becoming a relative or prior to the relative's term of office. This Subsection does not prohibit an officer or employee from being promoted, under applicable personnel rules, from a position held by the officer or employee prior to becoming a relative or prior to the relative's term of office. This Subsection does not apply if the relative is an independent contractor for goods and services provided that the contract has been awarded or approved as provided in Section 2.10(a)(2) of this Charter.



Section 16.02 Surety Bonds.

The Municipal Manager, the Municipal Clerk, the finance officer, and other officers and employees as the Assembly may designate before entering upon their duties must be bonded by individual or group bonds for the faithful performance of their respective duties payable to the Municipality in the form and in the amounts as the Assembly may prescribe with a surety company authorized to operate within the state. The Municipality must pay the premiums on the bonds.

Section 16.03 Oath of Office.

Each officer of the Municipality before entering upon the officer's duties shall take the oath or affirmation required by art. XII, sec. 5, Constitution of the State of Alaska. The Assembly may require designated employees to take that oath before entering upon their employment. Oaths of office must be filed with the Municipal Clerk.

Section 16.04 Municipal Proceedings.

The Assembly, by ordinance, must establish procedures governing administrative proceedings in which the legal rights, duties, privileges, or penalties of persons are to be determined; provide for fair and equal treatment of all persons involved in those proceedings; and provide for the conduct of the proceedings in an orderly and uniform manner.

Section 16.05 Ordinances and Resolutions.

Except as otherwise provided by this Charter or by the transition plan, the ordinances and resolutions of local governments to be dissolved continue in full force and effect in their respective jurisdictions until expressly reaffirmed, revised, or repealed by the Assembly.

Section 16.06 Pre-Consolidation Assets, Liabilities, Sales Taxes, Reserves and Franchises, and Collective Bargaining Rights

(a) **Assets and Liabilities.** The Municipality succeeds to all the assets and liabilities of the former City of Ketchikan and of the former Ketchikan Gateway Borough. Bonded indebtedness incurred before consolidation remains the obligation of the area that was subject to the debt unless the asset for which the bonded indebtedness was incurred is used for an areawide purpose or is used for the benefit of a larger area, in which case the obligation becomes the obligation of the area benefited by the asset's use. The obligation to repay revenue bonds issued by the City of Ketchikan d/b/a Ketchikan Public Utilities is not be affected by this Charter.

Home Rule Charter of the Municipality of Ketchikan

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(b) **Sales and Use Taxes.** All sales and use taxes levied within the former City of Ketchikan and the former Ketchikan Gateway Borough remain in effect until changed as provided in this Charter. Within one year from the first election under this Charter, the Assembly must apply the levy of the former City of Ketchikan's one percent Hospital and other purposes sales tax on an areawide basis throughout the Municipality, with the revenues from the areawide levy being appropriated for the Municipality. The ratification requirement of Section 10.05(b) does not apply to this initial one percent areawide levy.

The two-and-one-half percent former City of Ketchikan's sales tax must be appropriated for the Gateway Service Area. Sales tax levies required by this Section remain in effect until changed as provided in this Charter.

(c) **Reserves.** Any pledged reserve accounts of the prior local governments remain committed to the purposes for which they were originally dedicated.

(d) **Franchises.** All existing franchises of the governments to be consolidated continue after ratification of this Charter until they expire, are extended, renewed, or revoked by the Assembly.

(e) **Salaries.** Until changed as provided in Section 2.06, the salaries and expenses of the Mayor and Assembly Members are the same as paid to the Mayor and Council Members of the former City of Ketchikan.

(f) **Collective Bargaining.** If the Municipality opts out of AS 23.40.070 – 23.40.260 (Public Employment Relations Act), the Assembly must adopt and may thereafter amend an employment relations ordinance that will extend to eligible municipal employees the right to bargain collectively on wages, hours, and terms and conditions of employment as are permitted by ordinance. The ordinance must provide for the recognition and decertification of collective bargaining units and must define the scope and nature of collective bargaining. Those collective bargaining units and their representatives that were previously recognized by the Ketchikan Gateway Borough or the City of Ketchikan will, unless decertified or modified by vote of the represented employees, continue to be recognized by the Municipality for the purpose of collective bargaining under the ordinance.

## **Section 16.07      Continuance of Actions.**

The adoption of this Charter may not abate or otherwise affect any action, claim, or proceeding, civil or criminal, by or against, a local government to be consolidated and which had accrued at the time of the effective date of this Charter. All applications, petitions, hearings, and other proceedings pending on the effective date before a local government to be consolidated will be continued before the Municipality.

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Section 16.08 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 of Alaska, or the United States, or any agency or instrumentality of those governments.

Section 16.09 Transition Plan.

Other provisions concerning the transition are governed by the transition plan as approved by the Local Boundary Commission and any changes made thereto by the Assembly.

Section 16.10 Penalties.

Within six months after adoption of this Charter, the Assembly, by ordinance, must prescribe penalties for violations of this Charter if no penalty is prescribed by this Charter.

Section 16.11 Separability Clause.

If a court of competent jurisdiction should hold any section or part of this Charter invalid, that holding will not affect the remainder of this Charter nor the context in which the section or part held invalid may appear, except to the extent that another part of the Charter may be inseparably connected in meaning and effect with that section or part.

If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the Constitution of the State of Alaska or other State law renders a part of this Charter invalid or inapplicable, the Assembly, by ordinance, may take appropriate action that enable the municipal government to function properly.

Section 16.12 Effective Date.

If, at an election ordered pursuant to AS 29.06.140(a) and (b), the voters approve the consolidation of the City of Ketchikan and the Ketchikan Gateway Borough, this Charter becomes effective on the date the consolidation becomes effective.

Section 16.13 Words and Phrases; Meaning of "Including."

(a) Words and phrases will be construed according to the rules of grammar and according to their common and approved usage. Technical words and phrases and those that have acquired a peculiar and appropriate meaning, whether by legislative definition or otherwise, are construed according to the peculiar and appropriate meaning.

Home Rule Charter of the Municipality of Ketchikan

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(b) When the words "includes" or "including" are used in this Charter, they are construed as though followed by the phrase "but not limited to."

## **Section 16.14 Tense, Number, and Gender.**

(a) Words in the present tense include the past and future tenses, and words in the future tense include the present tense.

(b) Words in the singular number include the plural, and words in the plural number include the singular.

(c) Words of any gender may, when the sense so indicates, refer to any other gender.