

# Draft POW Borough Charter

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## **PREAMBLE**

We, the people of the Prince of Wales Area Borough, exercising the powers of Home Rule granted by the Constitution of the State of Alaska, in order to provide for borough government responsive to the will and values of the people and to the continuing needs of the communities within the borough, hereby establish this Home Rule Charter.

## **ARTICLE I NAME, BOUNDARIES AND POWERS**

### Section 1.01 Name

The borough shall be a municipal corporation known as the Prince of Wales Area Borough. Whenever it deems it in the public interest to do so, the borough may use the name, Prince of Wales Area Home Rule Borough.

### Section 1.02 Boundaries

The boundaries of the borough shall be the same as the boundaries of the Prince of Wales Area Borough as they exist on the date of ratification of this Charter and as those boundaries thereafter are legally modified.

### Section 1.03 Powers

The borough may exercise, by ordinance, all powers not prohibited by law or this Charter.

### Section 1.04 Intergovernmental Relations

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

## **ARTICLE II THE ASSEMBLY**

### Section 2.01 Powers

The governing body of the borough shall be the Assembly. Except as otherwise provided by law or this Charter, the Assembly shall exercise all powers of the borough and shall provide for the performance of all duties and obligations of the borough.

### Section 2.02 Composition

1. The Assembly elected by the qualified voters of the borough shall consist of eight Assembly members.
2. The borough shall be composed of two election districts. District 1 includes all communities within the borough boundaries north of latitude N 55°31'30". District 2 includes all communities within the borough boundaries south of latitude N 55°31'30".
3. Four Assembly members shall be residents of Election District 1. Four Assembly members shall be residents of Election District 2. Each Assembly member shall be elected at-large by the qualified voters of the borough and shall be a resident of the district to which the seat they seek is assigned. Such elected Assembly member represents all the voters of the borough.

4. The Assembly will make provision for nonvoting representatives from communities with no resident Assembly member to speak at all regular Assembly meetings.

Section 2.03                      Terms and election of Assembly members

1. Term. Each Assembly member shall be elected to three year staggered terms.
2. Election. Each Assembly member shall be elected at-large by the qualified voters of the borough and shall be a resident of the district to which the seat they seek is assigned. An Assembly member so elected represents all the voters of the borough.
3. The Assembly may, by ordinance, adopt additional procedures pertaining to the nominations and election of Assembly members.

Section 2.04                      Qualifications

1. Only a qualified voter of the borough, who has been a resident of the borough for at least three years immediately preceding his or her election or appointment to office, shall be qualified for elective borough office.
3. An Assembly member shall be a resident of the district to which the member's seat is assigned at the time of the member's election or appointment.
4. An Assembly member who ceases to be a resident of the district to which the member's seat is assigned immediately forfeits his or her office.
5. The Assembly by ordinance shall provide the procedures for candidates and write ins filing for an Assembly seat.

Section 2.05                      Vacancies and forfeiture of office

1. The office of an elected borough official shall become vacant upon death, resignation, removal from office in any manner authorized by law or by this Charter, or by forfeiture of his or her office.
2. An elected borough official shall forfeit his or her office if he or she:
  - A. fails to comply with all qualifications prescribed by this Charter;
  - B. fails to qualify and take the oath of office within 30 days after election or appointment;
  - C. fails to attend three consecutive regular meetings of the Assembly without being excused by the Assembly;
  - D. is physically absent from the borough for 90 consecutive days unless excused by the governing body;
  - E. resigns and the resignation is accepted;
  - F. is physically or mentally unable to perform the duties of office as determined by a two-thirds vote of the governing body;
  - G. is convicted of a felony or of an offense involving a violation of the oath of office;
  - H. is convicted of a violation of AS 15.13 State Election Campaigns;
  - I. no longer physically resides in the borough or election district: or
  - J. violates public trust.
  - (1) proceedings for removal of an elected official for breach of the public trust may be initiated by a majority of the members of the Assembly. In addition, proceedings for removal may be initiated by any duly constituted ethics board. The Assembly by ordinance shall establish procedures for removal of elected officials for breach of public trust, including provisions for notice, a complete statement of the charge, a public hearing conducted by an impartial hearing officer, and judicial review.

Removal must be approved by two-thirds of the authorized membership of the Assembly.

3. The Assembly shall by ordinance provide the procedures for filling of vacancies.

Section 2.06                    Organization and rules of Assembly

1. The Assembly shall meet immediately following certification of the election.
2. 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 2.07                    Compensation

The Assembly, by ordinance, shall provide for compensation of the Assembly members. An increase in compensation shall not take effect until the Assembly meeting following the regular election after the ordinance has been adopted.

Section 2.08                    Meetings

1. The Assembly shall hold at least one regular meeting every month at such time and place as it may prescribe, unless otherwise provided by ordinance.
2. The Mayor or any three Assembly members may call a special meeting of the Assembly if a majority of the Assembly members are given at least 24 hours oral or written notice and reasonable efforts are made to notify all members. A special meeting may be conducted with less than 24 hours notice if all Assembly members are present or if reasonable efforts made to contact absent members are unsuccessful. ~~if all absent members have waived in writing the required notice. Waiver of notice can be made before or after the special meeting is held. A waiver of notice shall be made a part of the journal for the meeting.~~
3. All meetings of the Assembly shall be public and the public shall have reasonable opportunity to be heard. Closed or executive sessions shall be held pursuant to law. The mere discussion of persons or finances shall not be cause for any executive session.
4. Assembly members may attend meetings of the assembly in person or by teleconference. A majority of the membership of the assembly authorized by this charter shall constitute a quorum. A member disqualified from voting on a question may be considered present for purposes of constituting a quorum. In the absence of a quorum any number less than a quorum may recess or adjourn the meeting to a later time or date.
5. Actions of the Assembly are adopted by a majority of the total membership of the body. The final vote of each member on each ordinance, resolution, or substantive motion shall be recorded "yes" or "no" except that if the vote is unanimous it may be recorded unanimous.
6. Each Assembly member in attendance at an assembly meeting shall vote on all questions presented at the meeting, unless prohibited from doing so by this Charter.

Section 2.09                    Prohibitions

1. No elected official of the borough shall hold any other elective public office, or any other borough office, or borough employment, during his or her term as an elected official of the borough. No elected official of the borough shall hold any compensated appointive borough office, other than membership on a board or commission, for a period of one year after vacating his or her elective office. No assembly member may hold any elected partisan political office while serving on the Assembly, unless otherwise provided by an ordinance ratified by the voters of the borough.

2. The Assembly shall not recommend or direct the appointment or removal of any officer or employee of the borough administration except as otherwise provided by this Charter. Except for the purpose of inquiry, neither the Assembly nor an individual Assembly person may give either publicly or privately orders on administrative matters to a subordinate of the Mayor.
3. No Assembly person may represent any client before any borough department or agency.

Section 2.10                      Investigation

1. The Assembly may make investigations into the affairs of the borough and the conduct of any borough department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Assembly shall be guilty of a misdemeanor.
2. The Assembly may by ordinance create boards and commissions pursuant to this section for the purpose of inquiries and investigations. The members of such board and commissions shall be appointed by the Assembly.

Section 2.11                      Clerk and special advisors

1. There shall be a Borough Clerk appointed by the Mayor and confirmed by the Assembly. The clerk shall attend all Assembly meetings, unless excused, keep a journal of its proceedings, give notice of Assembly meetings to the members and the public and perform such other duties as may be assigned.
2. The Assembly may appoint special legal and financial advisors for bond issues and shall retain legal counsel as it requires.
3. There shall be a Borough Attorney appointed by the Mayor and be subject to confirmation by the Assembly.

**ARTICLE III  
LEGISLATION**

Section 3.01                      Ordinance form and content

1. All ordinances enacted by the Assembly shall be in substantially the following form:
  - A. the proposed ordinances shall have a heading and number.
  - B. title: a short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.
  - C. enacting clause: the enacting clause shall read: "BE IT ENACTED BY THE ASSEMBLY OF THE PRINCE OF WALES AREA BOROUGH;
  - D. substantive part of the ordinance: the provisions of the ordinance will follow the enacting clause.
  - E. signatures: appropriate places shall be provided for the signatures of the mayor and the clerk.
  - F. attestation: the enactment and passage date of the ordinance shall be attested by the clerk.
2. Every ordinance shall be confined to one subject unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations

shall be confined to appropriations. The subject of each ordinance shall be expressed in the title.

Section 3.02                      Acts required to be by ordinance

In addition to other actions required by law to be by ordinance the Assembly shall use ordinances to:

- A. establish, alter, or abolish borough departments;
- B. fix the compensation of members of the Assembly, boards, commissions and committees;
- C. provide for a fine or other penalty, or establish rules or regulations for violations of which a fine or other penalty is imposed;
- D. provide for levying of taxes;
- E. make appropriations and supplemental appropriations or transfer appropriations;
- F. grant, renew, or extend a franchise;
- G. regulate the rate charged by a borough utility;
- H. adopt, modify, or repeal the comprehensive plan, zoning and subdivision ordinances, building and housing codes, and the official map;
- I. establish a formal procedure for acquisition from private, state or federal government of land or rights in land and disposal of those lands or rights in land;
- J. provide for a comprehensive personnel system, including, but not limited to, regulating all appointments, promotions, demotions, suspensions, and removal of borough officers and employees on the basis of merit; and
- K. create or designate itself to be a board of review, adjustment, equalization, or canvassing board.

Section 3.03                      Ordinance procedure

1. An ordinance may be presented for consideration by a member or committee of the Assembly or by the Mayor at any regular or special meeting of the Assembly. Upon presentation of an ordinance copies shall be furnished to each Assembly member and to the Mayor. Upon presentation, an ordinance shall be rejected, deferred, referred to committee, or accepted as being introduced. Promptly after introduction the Assembly shall publish the ordinance and a notice setting out the time and place for a public hearing on the ordinance. The public hearing of an ordinance shall follow publication by at least ten days; it may be held at a regular or special Assembly meeting. At the public hearing copies of the ordinance shall be distributed to all persons present who request them or, in the alternative, the ordinance shall be read in full. All interested persons shall have an opportunity to be heard. If the ordinance is amended after the hearing so substantially as to change its basic character, the ordinance shall be treated as a newly introduced ordinance. After the hearing, the Assembly shall consider the ordinance and may adopt it with or without amendment.
2. Ordinances take effect upon adoption or at a later date specified in the ordinance.
3. As used in this section, "publish" shall mean mailing to each city or community administrator and publication by such other media as the Assembly shall designate by ordinance, at least ten days before the public hearing.

Section 3.04                      Emergency ordinance

1. To meet a public emergency the Assembly may adopt ordinances effective upon adoption. Every emergency ordinance must contain a finding by the Assembly that an emergency exists and a statement of the facts upon which the finding is based. An emergency ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three fourths of the total membership authorized in this Charter, whichever is less, is required for adoption. The Assembly must print and make available copies of adopted emergency ordinances.
2. An emergency ordinance may not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.
3. Emergency ordinances are effective for sixty days.

Section 3.05                      Codes of regulation

The Assembly may adopt any standard code of regulations, or any provisions of the statutes of the State of Alaska, by reference thereto in an adopting ordinance. Materials adopted by reference under this section need not be distributed to the public or read at a public hearing, but at least five copies of the materials shall be made available for public inspection for at least fifteen (15) days before the hearing for the adopting ordinance. Only the adopting ordinance need be printed after adoption. The Assembly shall provide for the adopted code to be sold to the public.

Section 3.06                      Formal acts by resolution

1. Formal acts by the Assembly not required by law to be enacted by ordinance and not being acts of a general and permanent nature may be adopted by resolution. A resolution shall have:
  - A. the heading "Prince of Wales Area Borough, Alaska";
  - B. the space for a number to be assigned "Resolution ",
  - C. a short and concise title descriptive of its subject and purpose;
  - D. short premises or whereas clauses descriptive of the reasons for the resolution, if necessary;
  - E. the resolving clause. "BE IT RESOLVED":
  - F. provision for signatures after the date, and designated lines for the signatures of the mayor and the clerk: and
  - G. an attestation.
2. Resolutions shall not be included in any municipal code of ordinances.

Section 3.07                      Resolutions: reading, hearing, final passage, posting

1. Every resolution shall be introduced in writing and its title shall be orally read before any vote for passage thereof is taken.
2. On any vote for passage of the resolution, all persons interested who appear shall be given an opportunity to be heard. After such hearing, the Assembly may finally pass such resolution, with or without amendments. First reading of any resolution shall be final.
3. After final passage, every resolution shall be posted in full on the borough bulletin board. Every resolution, unless it shall specify a later date, shall become effective following final passage, or, if the resolution be submitted at a referendum election when state law or borough charter so requires, then upon certification of a favorable vote of the requisite number of those voting thereon.

Section 3.08                      Rules and regulations

Any rule or regulation made by any administrative officer or board or commission shall be published at least fifteen (15) days prior to its adoption in a newspaper of general circulation in the borough and by posting on the borough bulletin board in the borough offices.

**ARTICLE IV**  
**THE EXECUTIVE**

Section 4.01                      Mayor as executive

1. The executive power in the borough is vested in the mayor. The mayor shall perform all duties required by this Charter or the Assembly. The mayor is head of the borough for ceremonial purposes and executes official documents upon the authorization of the Assembly.
2. The administrative power in the borough is vested in the mayor. The borough mayor, as the chief administrative officer, is responsible for the proper administration of all borough affairs. The mayor shall:
  - A. preside at all meetings of the Borough Assembly;
  - B. appoint borough employees and administrative officers except as provided in this Charter and by law: he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department:
  - C. suspend or remove by written order borough employees and administrative officers, except as otherwise provided in this Charter:
  - D. supervise enforcement of borough law:
  - E. prepare the annual budget and capital improvement program for the Assembly:
  - F. execute the budget and capital program as adopted:
  - F. make monthly financial reports to the Assembly on borough finances and operations:
  - H. report to the Assembly at the end of each fiscal year on the finances and administrative activities of the borough;
  - I. prepare and make available for public distribution an annual report on borough affairs;
  - J. serve as borough personnel officer unless the Assembly authorizes him to appoint a personnel officer;
  - K. execute other powers and duties specified by state law or lawfully prescribed by the Assembly;
  - L. direct and supervise the business of the borough to assure that all ordinances and resolutions are executed:
  - M. sign the special assessment rolls, if any:
  - N. act as Ex-officio chairman of the Board of Adjustment for matters of building and zoning regulations of the borough; and
  - O. act as Ex-officio chairman of the Board of Equalization for matters of taxation and special assessments.

Section 4.02                      Veto



The mayor may veto any ordinance, resolution, motion, or other action of the Assembly and may, by veto, strike or reduce items in appropriation ordinances. He shall submit to the Assembly at its next regular meeting a written statement advising of his veto and giving his reasons. A veto is overridden by the vote of two-thirds of the authorized membership of the Assembly within 21 days following exercise of the veto or at the next regular meeting, whichever is later. The veto does not extend to appropriation items in school budget ordinance; actions of the governing body sitting as the Board of Equalization or the Board of Adjustments; or adoption or repeal of a manager plan of government.

Section 4.03 Election and term of mayor

1. A voter of the borough who has been a resident of the borough for three (3) years is eligible to hold the office of the mayor.
2. The mayor is nominated and elected at-large for a term of two (3) years and until a successor is elected and has qualified.
3. The mayor's regular term begins on the first Monday following the election, which is held on the first Tuesday of October.

Section 4.04 Filling a vacancy

A vacancy in the office of the mayor shall be filled by the Assembly. The person designated shall serve until the next regular election and until a successor is elected and has qualified. If an Assembly person is chosen, he/she shall resign his/her Assembly seat. The appointed person will serve until the next regular election and until a successor is elected and has qualified.

Section 4.05 Mayor pro tempore

Should the existing mayor become disabled or unable to act, the Assembly may appoint a Mayor Pro Tempore, to serve until the mayor resumes his/her official duties or until a new mayor is qualified.

Section 4.06 Successor to office of the mayor and mayor pro tempore

Should the office of the mayor and mayor pro tempore become vacant or should both the mayor and mayor pro tempore be absent or unable to perform the duties of the office of the mayor, the Assembly shall elect one of their members who shall assume the office of the mayor pro tempore.

Section 4.07 Salary of mayor

1. The office of the mayor of the borough shall be filled on a part-time basis. However, if the mayor is the incumbent, having served immediately preceding in that status, his salary shall not be set at a sum less than that rate the mayor was paid on the last day of his preceding term.
2. The borough assembly may, at any time during the mayor's term in office, raise the salary of the mayor. The salary of the Mayor shall be an amount the borough Assembly determines to be commensurate with the duties and responsibilities of the office of the mayor.

**ARTICLE V**

## **NOMINATIONS & ELECTIONS**

### **Section 5.01            General requirements**

1. Regular elections. A regular election shall be held annually on the first Tuesday in October.
2. Special Election. The Assembly shall provide by ordinance for special election.
3. Notice of Election. At least 30 days published notice shall be given of a regular or special election. The notice shall state the purpose of the election.
4. Qualifications of Voters. A person may vote in any borough election only if the person:
  - A. is qualified to vote in the State of Alaska; and
  - B. is a resident of the borough for thirty (30) days immediately preceding the election.
5. Nominations. Candidates for elective office shall be nominated by a petition signed by at least 25 qualified voters of the borough. All nomination papers comprising a petition shall be assembled and filed in person with the clerk during office hours as one instrument not earlier than 120 days nor later than 45 days before the election. No nominating petition may be accepted unless accompanied by a signed acceptance of the nomination by the candidate.
6. Election procedure. All elections shall be non-partisan. The Assembly by ordinance shall prescribe rules for the conduct of borough elections.
7. Determination of election results. The candidate for an office that receives the greatest number of votes is elected to the office. In case of a tie, the election shall be determined by lot from among the candidates tying.

## **ARTICLE VI**

### **INITIATIVE, REFERENDUM AND RECALL**

#### **Section 6.01            Initiative and referendum**

The powers and rights of the initiative and referendum are reserved to the people of the borough as prescribed by law. The Assembly by ordinance shall regulate the procedure for their exercise.

#### **Section 6.02            Recall**

An official who is elected or appointed to an elective borough office may be recalled by the voters of the borough as provided by law.

## **ARTICLE VII**

### **PLANNING**

#### **Section 7.01            Planning Commission**

There shall be a Planning Commission consisting of seven members appointed by the Mayor and confirmed by the Assembly. The powers and duties of the Planning Commission, and the terms, qualifications, and compensation of its members shall be provided by ordinance.

#### **Section 7.02            Comprehensive plan**

The Assembly by ordinance shall adopt and implement, and from time to time modify, a comprehensive plan setting forth goals, objectives, and policies governing the future development of the borough.

#### **Section 7.03            Platting regulation and subdivision regulation**

There shall be a platting authority constituted as provided for by ordinance. The Assembly by ordinance shall provide for the regulation of the subdivision of land within the borough.

## **ARTICLE VIII EDUCATION**

### Section 8.01                    Public School System

There shall be a system of public education for the borough, conducted in the manner provided by law. The system of public education shall be operated by a school board of nine (9) members.

### Section 8.02                    School Board

1. Qualifications. A school board member shall be a qualified borough voter and a resident of the borough. No school board member may hold any compensated school district employment while serving on the school board.
2. Term. Each school board member shall be elected to three year staggered terms.
3. Election. Each School Board member shall be elected at-large by the qualified voters of the borough and shall be residents of the district to which the seat they seek is assigned pursuant to Section 2.02 of this Charter, except that one school board seat is elected at large between the election districts. Such elected School Board member represents all the voters of the borough.
4. The Assembly may, by ordinance, adopt additional procedures pertaining to the nominations and election of School Board members.
5. Vacancies. The office of school board member shall become vacant upon death, resignation, or removal from office in any manner authorized by law or by this Charter, or by forfeiture of office as prescribed for Assembly members in section 2.05 of this Charter. Vacancies shall be filled in a manner prescribed by law.

### Section 8.03                    Budget

The superintendent of schools shall submit an annual budget which shall first be approved by the School Board at such time as the board may direct, but in no case at a date later than that prescribed by State law. The proposed school budget shall be a public record available from the time of its submission to the board for public inspection and distribution. The board shall hold public hearings on the budget before approval and submission to the Assembly for final action.

### Section 8.04                    Joint Conference

The Assembly and Board may meet jointly at public meetings to deliberate upon matters of mutual interest.

## **ARTICLE IX FINANCE**

### Section 9.01                    Fiscal year

The fiscal year of the borough shall begin on July 1 and end on June 30 of the following calendar year.

### Section 9.02                    Submission of budget, capital improvements program, and message

Not later than 60 days before the end of the current fiscal year, the mayor shall submit to the Assembly a budget for the following fiscal year, a capital improvements program, and an accompanying explanation message of both. The Assembly may grant an extension of not to exceed 30 days if compelling reasons exist.

Section 9.03                      Scope of budget

1. Complete financial plan. The budget shall be a complete financial plan for all the operations of the borough showing all reserves, all estimated revenues from all sources, and all proposed expenditures for all purposes.
2. Form. The budget shall contain at least the following:
  - A. a comparative statement of actual expenditures and actual revenues for the preceding fiscal year.
  - B. estimated expenditures and estimated revenues for the current fiscal year.
  - C. planned expenditures and revenues for the following fiscal year.
3. Balanced budget. Proposed expenditures shall not exceed total estimated revenues and reserves.

Section 9.04                      Scope of capital improvements program

1. The capital improvement program shall be a plan for capital improvements proposed for the following six (6) fiscal years, together with the estimated cost of each improvement and the proposed method of financing it. The program shall contain at least the following:
  - A. a summary of current capital improvements which are unfinished;
  - B. a simple, clear summary of the detailed contents of the program;
  - C. capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.
2. Capital improvements to be financed in the following fiscal year shall be included in the budget as well as in the capital improvements program.

Section 9.05                      Scope of message

The mayor's message shall contain an explanation of the budget both in fiscal terms and in terms of work to be done, a description of the important features of the budget, an outline of the proposed financial policy of the borough for the following fiscal year, and an explanation of each capital improvement to be undertaken within the following six fiscal years.

Section 9.06                      Hearing

1. By June 15, a public hearing shall be held on the budget and capital improvements program. All persons interested shall have an opportunity to be heard. At least seven days prior to the hearing, the Assembly shall:
  - A. publish a summary of the budget and capital improvements program and a notice setting out the time and place of the public hearing; and
  - B. deliver copies of the notice and summary of the budget and capital improvements program and the mayor's message to newspapers of general circulation in the borough and to radio and television stations operating in the borough, and by posting in three public places in each community.
2. Publish shall have the same meaning as provided for in Section 3.03.3 of this Charter.

Section 9.07 Assembly action on budget

The Assembly, by ordinance, shall adopt a budget not later than June 23. If it fails to do so, the budget submitted by the mayor shall be deemed adopted by the Assembly as the budget for the following year.

Section 9.08 Assembly action on capital improvement program

The Assembly, by ordinance, shall adopt a capital improvements program not later than June 23 each year. If it fails to do so, the capital improvements program submitted by the mayor shall be deemed adopted by the Assembly.

Section 9.09 Certification and distribution

The budget and capital improvements program as adopted shall be certified by the mayor and borough clerk, and shall be a public record and shall be made available at the borough clerk's office for distribution to the public at no more than cost.

Section 9.10 Supplemental and emergency appropriations

1. If during any fiscal year there are available revenues not anticipated in the budget estimates, the Assembly, by ordinance, may make supplemental appropriations for the year up to the amount of the additional revenues.
2. 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. Such appropriations may be made by emergency ordinance.

Section 9.11 Reduction and transfer of appropriations

If during the fiscal year it appears that revenues available will be insufficient to meet the amount appropriated, the mayor shall report to the Assembly without delay. The Assembly, by ordinance, may reduce any appropriation, except for debt service. No appropriation may be reduced by more than the amount of the unencumbered balance.

Section 9.12 Lapse of appropriations and surpluses

At the end of the fiscal year, an unencumbered appropriation shall lapse into the fund from which appropriated; provided that an appropriation for a capital improvement, or in connection with requirements of federal or state grants, shall not lapse until its purpose has been accomplished or abandoned.

Section 9.13 Administration of budget

1. No payment may be made and no obligation incurred against the borough except in accordance with appropriations duly made. No payment may be made and no obligation incurred against any appropriation unless the mayor ascertains that there is a sufficient unencumbered balance in the appropriation and that sufficient funds are or will be available to cover the obligation.
2. Every obligation incurred and every authorization of payment in violation of this Charter shall be void. Every payment made in violation of the provisions of this charter shall be illegal. All officers or employees of the borough who knowingly authorize or make such payment shall be jointly and severally liable to the borough for the full amount so paid.

3. The Assembly by ordinance may authorize a contract, lease, or obligation requiring funds from future appropriations, including appropriations in future fiscal years, subject to the annual appropriation of funds for that purpose.
4. The Borough Assembly may by ordinance require that all school money be deposited in a centralized treasury with all other borough money. The borough administrator shall have the custody of, invest, and manage all money in the centralized treasury. However, the Borough Assembly, with the consent of the Borough School Board, may by ordinance delegate to the Borough School Board the responsibility of a centralized treasury for school district revenues and expenses.
5. When the borough school board by resolution consents, the borough Assembly may by ordinance provide a centralized accounting system for school and all other borough operations. The system shall be operated in accordance with accepted principles of governmental accounting. However, the Assembly, with the consent of the borough school board, may by ordinance delegate to the borough school board the responsibilities of the accounting system.

Section 9.14 Purchasing; contract approval

1. The Assembly by ordinance shall provide for competitive bidding for purchase of goods and services by the borough and sales of surplus borough property, and for any exceptions thereto.
2. The Assembly by ordinance shall establish provisions for Assembly approval of borough contracts and exceptions thereto.

Section 9.15 Enterprise funds

Revenues from a borough enterprise whether established before or after ratification of this Charter shall be first used for debt retirement, construction, acquisition, operation, maintenance, repair and capital improvement of the enterprise. Other uses of such revenues shall be only as authorized by ordinance.

Section 9.16 Independent audit

The Assembly shall provide for an annual audit of all borough accounts by an independent certified public accountant, and may require additional duties that it deems necessary.

Section 9.17 Prince of Wales Area Borough Investment Fund

An investment fund is hereby created from appropriations to be made by the Assembly by ordinance. The investment fund shall be maintained separate and apart from all other funds and accounts of the borough. The principal of the fund shall be invested in such types of income producing investments as are hereafter specifically designated by ordinance. All income from the investment fund shall be deposited in the General Fund.

Section 9.18 Return of Funds to Communities

The Borough Assembly, within three months from the date of incorporation of the borough, shall establish, by ordinance, procedures by which all funds generated in the organized and unorganized communities by programs including but not limited to revenue sharing/municipal assistance, Liquor Revenue Sharing, Raw Fish Tax, Shared Fisheries Tax, and the roads portion of the Secure Rural Schools program shall be returned to those communities, provided however

that the borough may retain not more than two percent of the returned funds. This section shall be construed broadly in favor of those municipalities and homeowners associations in existence at the time of the incorporation of the Prince of Wales Area Borough.

## **ARTICLE X BORROWING**

### Section 10.01 Authority

The borough may borrow money and issue such evidence thereof, herein called obligations, as the Assembly may determine necessary.

### Section 10.02 Restrictions on borrowing

1. General obligations of the borough for capital improvements. No general obligation or bonded indebtedness for capital improvements may be incurred unless authorized by the Assembly and ratified by a majority vote of those in the borough voting on the question.
2. General obligations of service areas. No obligation secured by a pledge of taxes to be levied in a service area may be issued unless authorized for capital improvements by the Assembly and ratified by a majority of the qualified voters in the service area voting on the question. In a service area where there are no qualified voters to vote on the question, voter ratification shall not be required.

### Section 10.03 Notice of bond election

1. In calling any election required by this article, the Assembly shall cause a notice to be published at least 30 days prior to the election in a newspaper of general circulation in each community of the borough, or other public notice procedures as described in 3.03.3 of this Charter. The notice shall contain the following information:
  - A. the maximum amount of the bonds, purpose of their issuance, and maximum length of time within which the bonds shall mature;
  - B. the estimated annual debt service on the proposed bonds and its estimated effect per \$100,000 dollars of assessed valuation;
  - C. the current total general obligation indebtedness of the borough, including authorized but unsold general obligation bonds and its estimated effect per \$100,000 dollars of assessed valuation;
  - D. the current year's debt service on the outstanding general obligation bonds of the borough and its estimated effect per \$100,000 dollars of assessed valuation: and
  - E. the current assessed valuation within the borough.
2. For bonds secured by a pledge of taxes to be levied in a service area the notice shall also contain the information required in subsection 1 above. C. D and E relative to the service area.
3. Errors contained in information required in subsection 1 above B. C. D. and E. with regard to the borough or a service area shall not invalidate any election unless such errors are material. Actions challenging the sufficiency of any notice of election must be brought within the time provided in Section 10.06 of this Charter.

Section 10.04            Manner of sale

General obligation bonds and bonds secured by a pledge of taxes to be levied in the service area may be sold in such manner as the Assembly shall provide.

Section 10.05            Sale to financial consultant prohibited

No person retained by the borough to perform services relating to financial programming or the issuance and sale of obligations may bid on such obligations, directly or indirectly. In the event any such person violates this provision, his or her contract for such services shall be null and void and he or she shall not be entitled to payment for any services rendered; and, in addition, he or she shall be liable for any damages sustained by the borough in connection with such purchases and sale. Violation of the provisions of this section shall not invalidate the obligations.

Section 10.06            Actions challenging the validity of obligations

No action challenging the validity of any obligations may be maintained unless instituted within 30 days from the effective date of certification of the results of the election ratifying the issuance of such obligation or 30 days from the effective date of the ordinance authorizing the issuance of such obligation when ratification is not required.

Section 10.07            General obligations not requiring ratification

The Assembly may authorize general obligation bonds or notes without ratification of the qualified voters for disaster bonds or notes to be issued only in case of calamity which has caused great loss. In this instance, obligations are to be used for the preservation, rehabilitation or reconstruction of borough capital improvements.

Section 10.08            Interest and profits from investments

All interests and profits derived from the investment of the proceeds from the sale of any obligation shall be used solely for the purpose for which such obligations were issued, or for their retirement.

**ARTICLE XI**  
**TAXATION**

Section 11.01            Tax Procedures

1. The Assembly shall, by ordinance, prescribe the procedures for tax assessment and collection.
  - A. Property assessment. Such procedures shall provide for the assessment of property at its full and true value and for notice of assessment, administrative appeal and judicial review.
  - B. Property tax first lien. Any property tax together with collection charges, penalties and interest is a first lien upon property.
  - C. Sales and use tax. Any sales or use tax or change in rate thereof shall be initiated by ordinance and ratified by a majority of the qualified voters voting on the question.
2. No lien authorized by this charter or by law precludes the borough from exercising any other lawful remedy for the collections of taxes.



Section 11.02            Private interests taxable

Private leaseholds, contracts, or interests in land or property owned or held by the United States, the State or other political subdivisions shall be taxable to the extent of the fair market value of the private interests.

Section 11.03            Property tax

1. Property tax shall not go into effect prior to a popular vote in which the majority of voters approve the property tax, except that this provision shall not apply either to taxes to pay or secure payment of principal and interest on bonded indebtedness as per A.S. 29.45.100 and actions taken pursuant to Section 10.07 of this Charter.
2. Property taxes to pay or secure bonded indebtedness shall be enacted by Assembly ordinance.

**ARTICLE XII  
SERVICE AREAS**

Section 12.01            Purpose

Service areas may be established to provide services not provided on an area wide basis or to provide a higher level of service than that provided on an area wide basis.

Section 12.02            Establishment

1. By Ordinance. The Assembly by ordinance may establish, alter, consolidate, or abolish service areas. The Assembly by ordinance may add or eliminate services to a service area. The ordinance shall contain the following:
  - A. boundaries and area to be included;
  - B. service to be provided or be eliminated; and
  - C. other provisions the Assembly includes.
2. By Petition. Procedures for the establishment by petition of a service area shall be in accordance with Section 6.01 of this Charter as it would apply to the area in question.

Section 12.03            Criteria

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

Section 12.04            Financing

The Assembly may levy taxes, assessments or other charges within a service area to finance the services, and funds thereby raised shall not be used for any purpose outside of the service area.

**ARTICLE XIII  
LOCAL IMPROVEMENT DISTRICTS**

Section 13.01            Purpose

Local improvement districts may be established in a limited and determinable area to confer the special benefits of any borough improvement. All or any part of the costs of the improvement may be paid out of the proceeds of special assessments levied against the benefited property.

Section 13.02            Local improvement procedure

The Assembly by ordinance shall prescribe procedures for establishment of local improvement districts and for agreements for furnishing capital improvements and the extension thereof in lieu of assessments.

Section 13.03            Assessment in proportion to benefit

The Assembly by ordinance shall establish the method of apportioning and assessing the cost of improvements upon real property specially benefited in proportion to the benefits.

Section 13.04            Lien

A special assessment, together with collection and interest charges, is a lien on the property assessed second in priority only to property taxes and prior special assessments. The assessment lien shall be enforceable in the same manner as a lien for borough taxes.

Section 13.05            Protests

If protests as to the necessity for any local improvements are made within the time allowed by ordinance by the owners of real property that will bear at least fifty percent of the estimated cost to be borne by the benefited property, the improvement shall not proceed until the protests have been reduced below fifty percent.

Section 13.06            Limitation on actions

No special assessment procedure may be contested by an action at law or in equity unless commenced within sixty days after the confirmation of the special assessment roll.

Section 13.07            Property liable

Except as otherwise provided by law all real property, including property exempt from taxation as provided by law, shall be liable for the cost of local improvements unless specifically exempted by ordinance of general application.

Section 13.08            Receipts

Accounts for local improvement districts shall be kept separate from other borough accounts. Revenues from a special assessment shall be used solely to pay the cost of the improvements or the principal and interest on indebtedness incurred for the improvements.

**ARTICLE XIV**  
**CHARTER AMENDMENT**

Section 14.01            Proposal

1. Amendments to this Charter may be proposed:
  - A. by ordinance of the Assembly containing the full text of the proposed amendment, or
  - B. by report of an elected Charter Commission created by Assembly ordinance or by initiative ordinance, or
  - C. by initiative petition.

Section 14.02            Election

Proposed amendments shall be submitted to the qualified voters of the borough at the next regular or special election occurring more than forty-five days after 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 shall be published.

Section 14.03                      Effective date

If a majority of the qualified voters voting on a proposed amendment approve the amendment shall become effective at the time fixed therein or, if no time is so fixed, thirty days after certification of the election.

**ARTICLE XV**  
**GENERAL PROVISIONS**

Section 15.01                      Personal financial interest

1. Prohibition. No elected official may vote on any question on which he/she has a substantial financial interest. Any borough officer, employee, or Assembly member who has a substantial financial interest in any contract with the borough, or in the sale of land, material, supplies, or services to the borough or to a contractor supplying the borough shall make known that interest and shall refrain from participating in his/her capacity as a borough officer, employee, or Assembly member in the making of such sale or in the making or performance of such contract.
2. Punishment. Any borough officer, employee or Assembly member who violates the requirements of this section shall forfeit his/her office or employment. Violation of this section with the knowledge, express or implied, of the person contracting with or making a sale to the borough shall render the contract or sale to the borough voidable by the administrator or the Assembly.
3. Additional rules. The Assembly by ordinance may prescribe additional rules and penalties to prevent conflicts of interest.

Section 15.02                      Prohibitions

1. Discrimination. No person shall be discriminated against in any borough appointment, employment, or promotion because of race, sex, color, political, or religious affiliation, or national origin.
2. Personnel regulations. No person shall willfully falsify any test, certification, or appointment under the personnel regulations, or in any manner commit or attempt to commit any fraud to prevent the impartial execution of such regulations.
3. Undue influence. No person shall offer, give or receive any money, service, or other valuable thing to influence or attempt to influence any action of an officer or employee in the performance of his/her municipal duties.
4. Solicitation. No Assembly person, borough officer, or administrative employee shall directly or indirectly solicit a contribution for any political party or purpose from any person holding a compensated borough position.
5. Campaigning. No borough officer or Assembly person shall campaign while on official business.

Section 15.03                      Surety bonds

The borough administrator, the borough clerk, or such other officers and employees as the Assembly may designate, before entering upon their duties, shall be bonded, by individual or group bonds, for the faithful performance of their respective duties. Bonds shall be payable to

the borough in such form and in such amounts as the Assembly may prescribe with a surety company authorized to operate within the state. The borough shall pay the premiums on such bonds.

Section 15.04            Oath of office

Every officer of the borough, before entering upon his duties, shall take the oath or affirmation required by Section 5 of Article XII, Constitution of the State of Alaska. The Assembly may require designated employees to take such oath before entering upon their employment. Oaths of office shall be filed with the borough clerk.

Section 15.05            Continued office

Every officer who is elected or appointed for a term ending at a definite time shall continue to serve until his successor qualifies and takes office, except in the case of death, resignation, or termination by law or this Charter.

Section 15.06            Borough proceedings

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

Section 15.07            Records to be public

All records of the borough shall be public except as otherwise provided by law. Records shall be available at borough offices for public inspection and for distribution at such reasonable cost set by the Assembly. Copies certified by the clerk shall be prima facie evidence of their contents.

Section 15.08            Notice of lien

When any lien other than for ad valorem taxes or special assessments is placed by the borough on any real property, notification of the lien shall be sent by registered or other special mail to the person whose name appears as owner of the property on the most recent tax assessment roll, if any.

Section 15.09            Dedication of borough property

Dedication of streets, right-of-ways, easements, or other areas for public use by the Assembly may not be construed to require the borough to maintain, improve, or provide for borough services in the area dedicated, and the dedication does not impose any liability on the borough for the condition of the area dedicated.

Section 15.10            Definitions

Words used in this Charter shall have their ordinary dictionary meanings, except where defined otherwise in this Charter or in Title 29 of the Alaska *Statutes*.

Section 15.11            Severability

If any provision of this Charter is held invalid, other provisions shall not be affected. If the application of this charter or any of its provisions to a person or circumstance is held invalid, the

application of this Charter or any of its provisions to other persons or circumstances shall not be affected.

**ARTICLE XVI**  
**TRANSITIONAL PROVISIONS**

Section 16.01            Effective date

This Charter shall be effective immediately on ratification.

Section 16.02            Composition of Assembly upon adoption of this Charter

The initial Borough Assembly shall be elected as provided in AS 29.05.110 and AS 29.05.120, and as provided in the articles of this charter.

Section 16.03            Organization of Assembly

The Assembly shall meet no later than thirty days following the certification of the election of Assembly members..

Section 16.04            Transitional provisions for borough mayor

The Mayor shall take office at the first Assembly meeting following certification of the election results for Assembly and Mayor.

Section 16.05            Transitional provisions for school board

The school board shall meet no later than thirty days following the certification of the election of school board members.

Section 16.06            Transitional provision for borough administrator

The initially elected Assembly may appoint an interim borough administrator until such time that an administrator is appointed. No person may serve as interim borough administrator for more than 180 days.

Section 16.07            Assets and Liabilities of School Districts

The assets and liabilities of the school districts on Prince of Wales Island on the date this charter is approved become the property of the Prince of Wales Area Borough School District. The buildings, fixtures, and other assets used by municipal school districts but owned by the first class cities in the borough remain the property of those cities.

Section 16.08            Budget

Following adoption of this Charter, the borough shall operate under the budget of the borough proposed in the incorporating petition unless or until amended by the Assembly.

Section 16.09            Continuance of actions

The adoption of this Charter shall not abate or otherwise affect any action, cause of action, claim, proceeding, civil or criminal, by or against the Craig City School District, Hydaburg City School District, Klawock City School District, or Southeast Island School District, and which had accrued at the time of the effective date of this Charter. The applications, petitions, hearings, and other proceedings pending on the effective date before the borough shall be continued.

**CERTIFICATE**

We, the undersigned members of the Prince of Wales Area Borough Charter Commission, duly elected in accordance with Title 29, Alaska Statutes, state that the Charter Commission has prepared the above charter of the Prince of Wales Area Home Rule Borough, and do hereby adopt this Charter and direct that this Charter be submitted to the qualified voters of the Prince of Wales Area Borough at a regular election which shall be held for approval or rejection in accordance with law.

In witness whereof, we hereunto subscribe our names on this \_\_\_\_\_. Signed by: