

Chapter 10. Home Rule Municipalities.

Article

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2. Home Rule Limitations (§ 29.10.200)

Article 1. Charters.

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Sec. 29.10.010. Municipal charter adoption.

(a) A general law borough or first class city may adopt a charter for its own government.

(b) *[Repealed, § 31 ch 58 SLA 1994.]*

(c) At an incorporation, merger, or consolidation election a municipality may adopt a charter for its own government and incorporate, merge, or consolidate as a home rule city, borough, or unified municipality.

(d) A home rule municipality may adopt a new charter.

(e) A proposed charter for an existing municipality is prepared by a charter commission of seven elected members. A charter commission election is called by filing a petition with the governing body or by resolution of the governing body. The petition shall be signed by a number of voters equal to 15 percent of the votes cast in the last regular election in the municipality. The petition shall be prepared by the municipal clerk upon receipt of an application meeting the requirements of AS 29.26.110 except that instead of containing an ordinance or resolution the application shall request a charter commission election. The petition shall be prepared in accordance with AS 29.26.120, except material required under AS 29.26.120(a)(1) and (2) shall be replaced with the question of whether a charter commission shall be formed. The signature requirements of AS 29.26.130(a), (c), and (d) apply to the petition. The completed petition shall be submitted to the clerk who shall deliver it to the governing body with a report of a number of valid signatures determined by the clerk to be on the petition.

(f) The proposed charter for a home rule municipality to be formed by incorporation, merger, or consolidation shall be prepared by the petitioners and filed with the petition to incorporate, merge, or consolidate a home rule city, borough, or unified municipality. (§ 6 ch 74 SLA 1985; am § 3 ch 80 SLA 1989; am §§ 23, 24, 31 ch 58 SLA 1994)

Effect of amendments. — The 1994 amendment, effective August 22, 1994, repealed subsection (b), relating to second class city charter adoptions and rewrote subsections (c) and

(f). The 1989 amendment, effective August 30, 1989, added the last four sentences in subsection (e).

Sec. 29.10.020. Model charters.

The department shall prepare at least one model home rule charter for a city, borough, and unified municipality. The model charters shall be made available to persons interested in filing a petition to form a home rule municipality under AS 29.05.060 or AS 29.06.090. (§ 6 ch 74 SLA 1985; am § 25 ch 58 SLA 1994)

Effect of amendments. — The 1994 amendment, effective August 22, 1994, substituted “for a city, borough, and unified municipality” for “for a borough” in the first sentence, and, in the second sentence, substituted “charters” for “charter,” “form” for “incorporate,” and “municipality” for “borough” and added a section reference.

Sec. 29.10.030. Initiative and referendum.

(a) A home rule charter shall provide procedures for initiative and referendum.

(b) A charter may not require an initiative or referendum petition to have a number of signatures greater than 25 percent of the total votes cast in the municipality at the last regular election.

(c) A charter may not permit the initiative and referendum to be used for a purpose prohibited by art. XI, § 7 of the state constitution. (§ 6 ch 74 SLA 1985)

Sec. 29.10.040. Charter commission candidates.

(a) A candidate for a charter commission of an existing municipality shall have been qualified to vote in municipality for at least one year immediately preceding the charter commission election.

(b) A charter commission candidate is nominated by a petition signed by at least 50 voters or the number of voters equal to 10 percent of the number of votes cast in the municipality during the last regular election, whichever is less. A nomination petition shall be filed with the municipal clerk on or before a date fixed by the governing body.

(c) If at least seven nominations for qualified charter commission candidates are not filed, the petition or resolution calling for a charter commission is void and an election on the question may not be held. (§ 6 ch 74 SLA 1985; am § 43 ch 37 SLA 1986)

Sec. 29.10.050. Charter commission election.

At a charter commission election the voters of an existing municipality shall consider the question "Shall a charter commission be elected to prepare a proposed charter?" and shall elect the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes immediately organize as a charter commission. (§ 6 ch 74 SLA 1985)

Sec. 29.10.060. Preparation of charter by charter commission.

The charter commission shall, within one year, prepare a proposed home rule charter for an existing municipality. The proposed charter shall be signed by a majority of the members of the commission and filed in the office of the municipal clerk. Within 15 days, the clerk shall have the proposed charter published and make copies available. The commission shall give published notice of and hold at least one public hearing on the proposed charter before the signing and filing of the charter. (§ 6 ch 74 SLA 1985)

Sec. 29.10.070. Charter election.

The proposed home rule charter for an existing municipality shall be submitted to the voters at an election held not less than 30 days or more than 90 days after the proposed charter is published. The proposed home rule charter for a home rule municipality to be formed by incorporation, merger, or consolidation shall be submitted to the voters at an election held under AS 29.05.110 or AS 29.06.140. (§ 6 ch 74 SLA 1985; am § 26 ch 58 SLA 1994)

Effect of amendments. — The 1994 amendment, effective August 22, 1994, in the second sentence, substituted “a home rule municipality to be formed by incorporation, merger, or consolidation” for “an area in the unorganized borough,” deleted “incorporation” preceding “election,” and added a section reference at the end.

Sec. 29.10.080. Charter adoption.

(a) If a majority of those voting in an existing municipality favor the proposed charter or if a majority of those voting to form a home rule municipality by incorporation, merger, or consolidation favor incorporation, merger, or consolidation, the proposed charter becomes the organic law of the municipality effective on the date the election is certified. Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall file the indicated number of copies of the charter with

- (1) the lieutenant governor - two copies;
- (2) the department - two copies;
- (3) the district recorder - one copy;
- (4) the municipal clerk - one copy.

(b) At the time of voting on the proposed charter in a third class borough, voters shall vote also on whether the borough shall, on adoption of the charter, retain a combined assembly and school board or elect a separate assembly and board as otherwise provided for home rule boroughs. If a combined assembly and school board are approved at the charter election, the assembly serving at the time of the election continues to serve as the assembly and board on voter approval of the charter and until terms of assembly members expire as provided before adoption of the charter. If a separate board and assembly are approved at the charter election, a school board shall be elected in conformity with AS 14.12.030 — 14.12.100 at the next regular election, if it occurs within 90 days of the date of the charter election, or otherwise at a special election within 90 days of the date of the charter election. Expiration dates of terms of school board members elected at a special election shall coincide with the date of the regular election.

Until a board is elected and qualified, the assembly continues to serve as the board. (§ 6 ch 74 SLA 1985; am § 27 ch 58 SLA 1994)

Effect of amendments. — The 1994 amendment, effective August 22, 1994, in subsection (a), in the first sentence of the introductory language, substituted “to form a home rule municipality by incorporation, merger, or consolidation” for “in an area in the unorganized borough” and “, merger, or consolidation” for “of a home rule borough.”

Sec. 29.10.090. Charter rejection.

(a) If a proposed charter for an existing municipality is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at an election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of adoption of a charter shall be treated as if it had never been proposed or approved.

(b) If incorporation, merger, or consolidation of a home rule municipality is rejected by the voters, the proposed charter is rejected. (§ 6 ch 74 SLA 1985; am § 28 ch 58 SLA 1994)

Effect of amendments. — The 1994 amendment, effective August 22, 1994, in subsection (b), inserted “, merger, or consolidation,” substituted “municipality” for “borough,” and deleted “in an area in the unorganized borough” following “rejected by the voters.”

Sec. 29.10.100. Charter amendment.

(a) A home rule charter may be amended as provided in the charter, except that no amendment is effective unless ratified by the voters.

(b) If a charter is amended, the municipality shall file the indicated number of copies of the revised charter with

- (1) the lieutenant governor — two copies;
- (2) the department — two copies;
- (3) the district recorder — one copy;
- (4) the municipal clerk — one copy.

(c) This section applies to home rule municipalities. (§ 6 ch 74 SLA 1985; am § 29 ch 58 SLA 1994)

Revisor’s notes. — Subsection (b) was enacted as (c). Relettered in 1994, at which time former (b) was relettered as (c).

Effect of amendments. — The 1994 amendment, effective August 22, 1994, added present subsection (b).

Article 2. Home Rule Limitations.

Section

200. Limitation of home rule powers

Sec. 29.10.200. Limitation of home rule powers.

Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. These provisions supersede existing and prohibit future home rule enactments that provide otherwise:

- (1) AS 29.05.140 (transition);
- (2) AS 29.06.010 (change of municipal name);
- (3) AS 29.06.040 — 29.06.060 (annexation and detachment);
- (4) AS 29.06.090 — 29.06.170 (merger and consolidation);
- (5) AS 29.06.190 — 29.06.420 (unification of municipalities);
- (6) AS 29.06.450 — 29.06.530 (dissolution);
- (7) AS 29.10.100 (charter amendment);
- (8) AS 29.20.010 (conflict of interest);
- (9) AS 29.20.020 (meetings public);
- (10) AS 29.20.050 (legislative power);
- (11) AS 29.20.060 — 29.20.120 (assembly composition and apportionment);
- (12) AS 29.20.140 (qualifications of members of governing bodies);
- (13) AS 29.20.150 (term of office);
- (14) AS 29.20.220 (executive power);
- (15) AS 29.20.270(e) (ordinance veto by mayor);
- (16) AS 29.20.630 (prohibited discrimination);
- (17) AS 29.20.640 (reports);
- (18) AS 29.25.010(a)(10) (municipal exemption on contractor bond requirements);
- (19) AS 29.25.050 (codification);
- (20) AS 29.25.060 (resolutions);
- (21) AS 29.25.070(e) (notices of certain civil actions);
- (22) AS 29.25.074 (surcharge);
- (23) AS 29.25.080 (breast-feeding);
- (24) AS 29.26.030 (notice of elections);
- (25) AS 29.26.050 (voter qualification);
- (26) AS 29.26.250 — 29.26.360 (recall);
- (27) AS 29.35.020 (extraterritorial jurisdiction);
- (28) AS 29.35.030 (eminent domain);
- (29) AS 29.35.050 (garbage and solid waste services);
- (30) AS 29.35.055 (local air quality control program);
- (31) AS 29.35.060 (franchises and permits);
- (32) AS 29.35.070 (public utilities);
- (33) AS 29.35.080 (alcoholic beverages);
- (34) AS 29.35.090(b) (certain vacations of rights-of-way prohibited);
- (35) AS 29.35.120 (post audit);

- (36) AS 29.35.125 (fees for police protection services);
 - (37) AS 29.35.131 – 29.35.137 (enhanced 911 system);
 - (38) AS 29.35.141 (regulation of radio antennas).
 - (39) AS 29.35.145 (regulation of firearms);
 - (40) AS 29.35.160 (education);
 - (41) AS 29.35.170(b) (assessment and collection of taxes);
 - (42) AS 29.35.180(b) (land use regulation);
 - (43) AS 29.35.250 (cities inside boroughs);
 - (44) AS 29.35.260 (cities outside boroughs);
 - (45) AS 29.35.340 (acquisition of areawide power);
 - (46) AS 29.35.450 (voter approval of alteration or abolishment of service areas).
 - (47) AS 29.35.500 — 29.35.590 (hazardous materials and wastes);
 - (48) AS 29.40.160(a) — (c) (title to vacated areas);
 - (49) AS 29.40.200 (subdivisions of state land);
 - (50) AS 29.45.010 — 29.45.570 (property taxes);
 - (51) AS 29.45.650(c), (d), (e), [and] (f), (i), (j), and (k) (sales and use tax);
 - (52) AS 29.45.700(d) (e), and (g) (sales and use tax);
 - (53) AS 29.45.750 (taxation of mobile telecommunications)
 - (54) AS 29.45.810 (exemption from municipal taxation);
 - (55) AS 29.46.010(b) (exemption from municipal assessment);
 - (56) AS 29.47.200(b) (security for bonds);
 - (57) AS 29.47.260 (construction);
 - (58) AS 29.47.470 (air carriers);
 - (59) AS 29.60.050(a) (limitation on computation and use of payment);
 - (60) AS 29.60.120(a) and (c) (priority revenue sharing for health facilities and hospitals);
 - (61) AS 29.65 (general grant land);
 - (62) AS 29.71.040 (procurement preference for state agricultural and fisheries products);
 - (63) AS 29.71.050 (procurement preference for recycled Alaska products);
- (§ 6 ch 74 SLA 1985; am §§ 1, 2 ch 38 SLA 1986; am § 6 ch 70 SLA 1986; am § 12 ch 80 SLA 1986; am § 3 ch 108 SLA 1986; am § 49 ch 14 SLA 1987; am § 1 ch 30 SLA 1988; am § 2 ch 63 SLA 1988; am § 1 ch 64 SLA 1988; am § 3 ch 57 SLA 1993; am § 5 ch 74 SLA 1993; am § 1 ch 29 SLA 1994; am § 1 ch 75 SLA 1997; am § 7 ch 56 SLA 1998; am § 3 ch 78 SLA 1998; am § 4 ch 104 SLA 1998; am § 1 ch 107 SLA 1998; am § 2 ch 94 SLA 1999; am § 1 ch 19 SLA 2001; am § 1 ch 31 SLA 2001; am § 1 ch 111 SLA 2002; am § 5 ch 100 SLA 2002; am §§ 1, 2 Ch 117 SLA 2003; am §§ 1, 2 ch 80 SLA 2005; am § 1 ch 55 SLA 2005)

Revisor's notes. — Reorganized in 1986, 1988, and 2001 to retain numerical order of the referenced provisions. Paragraph (53) was enacted as (49) and renumbered as (50) in 1988; (52) in 1993 and again in 1994. Paragraphs (27) and (32) were each enacted as (51) and renumbered in 1993. Paragraph (48) was enacted as (53) and renumbered in 1994. Paragraphs (21), (22), and (49) were all enacted as (54); (23) was enacted as (21); and (50) was enacted as (55). Renumbered in 1998, at which time former (21)-(45), respectively, and former (46)-(53) were renumbered as (51)-(58), respectively. The reference to “AS 29.25.074” in paragraph

(22) was substituted for “AS 29.25.072” in 1998 to reflect the 1998 renumbering of that section. Paragraph (34) was enacted as (59). Renumbered in 1999, at which time former paragraphs (34)-(58) were renumbered as (35)-(59).

Effect of amendments. —The first 2005 amendment added subsection (k) to paragraph 51 and subsection (g) to paragraph 52, effective July 20, 2005. The second 2005 amendment added AS 29.35.137 to paragraph 37, effective September 22, 2005. The 2003 amendment added subsection (i) and (j) to paragraph 51 and subsection (e) to paragraph 52, effective September 16, 2003. The first 2002 amendment added paragraph (53) “29.45.750 (taxation of mobile telecommunication)”. The act also provides that this law is subject to repeal upon a court’s determination of the merit of the federal law (4 U.S.C. 116-126) upon which this statute is based and provides an effective date based on the running of the court deadline for appeal of such determination. The second 2002 amendment, effective September 29, 2002, added paragraph “(36)” AS 29.35.125 (fees for police protection services)”. The first 2001 amendment, effective July 26, 2001, added paragraph (37). The second 2001 amendment, effective August 22, 2001, added paragraph (45). The first 1998 amendment, effective August 27, 1998, added paragraph (22). The second 1998 amendment, effective September 6, 1998, added paragraph (23) and renumbered the subsequent paragraphs accordingly. The third 1998 amendment, effective June 18, 1998, added paragraphs (49) and (50). The fourth 1998 amendment, effective July 1, 1998, added paragraph (21). The 1999 amendment, effective, July 10, 1999, added paragraph (34). The 1997 amendment, effective July 1, 1997, substituted “priority revenue sharing” for “state air” in paragraph (50). The first 1993 amendment, effective June 9, 1993, added paragraph (32). The second 1993 amendment, effective June 26, 1993, added paragraph (27). The 1994 amendment, effective May 8, 1994, added present paragraph (48).

Editor's Note — The 1987 amendment is retroactive to October 1, 1986, under § 53, ch. 14, SLA 1987.