



City of Homer

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Office of the City Manager

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Memorandum

TO: Mayor Zak and Homer City Council
FROM: Katie Koester, City Manager
DATE: September
SUBJECT: September 11 City Manager's Report

Community Jail Contract Update

Department of Corrections Commissioner Williams followed up with the attached correspondence regarding community jails. You recall Mayor Zak, Chief Robl and I met with Commissioner Williams some time ago regarding proposals for continuing the partnership of the Department and the Homer Jail. The City has many unanswered questions regarding what the pretrial services mentioned in Commissioner William's letter would look like and what our ability is to absorb additional duties and responsibilities is. It is likely that taking on additional pretrial duties would require additional staff to bring our jail back to full staffing, and we would ask for additional compensation from the state for such expenses. Details matter and we have reached out to the Department with questions. Nevertheless, the City of Homer is open to continuing the conversation with the Department of Corrections and hopefully we can explore new partnerships that are mutually beneficial.

Meeting with Alaska Mental Health Trust Authority (AMHTA) Trust Land Office (TLO)

August 30 Port and Harbor Director Hawkins, myself and the City Attorney met with TLO representatives to discuss ongoing negotiations regarding land around the mouth of the Harbor, including Lot 42, a lot owned by the Department of Natural Resources/AMHTA which we have expressed an interested in purchasing. I believe significant headway was made by clearing up a misunderstanding regarding Lot 42. The City will continue to engage with TLO in hopes of establishing a purchase price that is defensible to bring to City Council for approval by ordinance.

Home Rule

Discussion came up at the last council meeting regarding Home Rule status. I have attached a helpful booklet from the Local Boundary Commission on Home Rule. Though some of the information is dated (2000) it provides a lot of useful information regarding how to become Home Rule and the powers granted Home Rule municipalities in the constitution. The Alaska constitution was constructed to give maximum local self-government to the people of Alaska and Home Rule cities have the maximum amount of local control over governance. The process for becoming Home Rule is initiated by a petition and the election of a 7-member charter commission. If elected, the commission is responsible for drafting a charter for the municipalities that must be approved by the voters. The City of Soldotna recently went Home Rule, a move initiated by and carried out by their sitting City Council.

Wells Fargo

The City of Homer uses Wells Fargo for daily banking. Wells Fargo has changed their management structure for municipalities and instead of dealing directly with the local branch we are now part of a regional municipal group of bankers with our principal contact out of Kenai. The transition has had a few bumps, but for the most part I think they will be able to deliver a service that is more focused on the unique nature of municipal banking and I am looking forward to taking advantage of potential new opportunities. Along those lines, we have been in conversation with Wells Fargo about refinancing the loan that the City has with the Borough for the construction of the Natural Gas line. There are many details that have yet to be worked out, but if Wells Fargo could get a more competitive rate than the current 4% the savings could be significant. Any savings will help offset interest payments on the loan from when interest started accruing at construction and the City started collecting interest with finalization of the special assessment district (approximately 1 year later), in addition to after the fact exemptions and deferments that have been granted by Council. It is important to recognize that the Borough provided a great service to the City of Homer and its residents by thinking outside the box with government to government lending. At the time the gas line was constructed, the interest rate from Wells Fargo and other private banks was not competitive and the Borough stepped up to the plate with a reasonable alternative.

November Alaska Municipal League (AML) Meeting

The Council/Mayor budget has enough funds remaining in 2017 for 2-3 members (in addition to Mayor and 2 newly elected officials) to attend AML Winter meeting November 13-17. Please start thinking about if you would like to attend and let Melissa know so she can prepare the travel approval memo.

Comprehensive Opioid Abuse Site-Based Program (CARA)

At the last Council meeting, questions came up regarding CARA, the US Dept of Justice Program's *Comprehensive Opioid Abuse Site-Based Program* grant. Below is a synopsis of the program from Special Projects Coordinator Carrol and a summation of how City of Homer might be a part of future CARA solicitations.

The purpose of CARA to provide financial and technical assistance to states, local and tribal governments to plan, develop, and implement comprehensive diversion and alternatives to incarceration programs that expand outreach, treatment, and recovery efforts to individuals who come into contact with justice system.

Grant Deadline is Past: April 25th, 2017.

Eligibility: Units of local government and State agencies. Regional applications were encouraged and applications would involve two or more entities, including treatment providers and non-profit organizations that would carry out the funded federal award activities.

City of Homer would not apply as a single entity. However, it could be the eligible entity to apply as part of a multi-disciplinary team. The other agency(s) would be proposed as sub-recipient(s).

Request Categories and Funding Limits: Grant funding was divided into five categories. Local gov'ts could apply in two categories, of which only one, Overdose Outreach Projects would apply to a city unit.

Category 1: Overdose Outreach Projects - \$300,000 limit for project period up to 36 months. Initiatives must carry out specific mandatory project components using law enforcement, in partnership with peer recovery coaches or treatment providers, to connect overdose survivors with services in the

days that follow a non-fatal overdose. A project coordinator would manage the day-to-day operations and a researcher would help design, analyze data and evaluate throughout.

Priority for funding is given to applicants disproportionately impacted by the illegal opioid epidemic (high rates of primary treatment admissions for heroin and other opioids; high rates of overdose deaths from heroin and other opioids) and/or a lack of accessibility to treatment providers and facilities or to emergency medical services.

In this category, the City of Homer would most likely respond to a program proposal put forth by a consortium of local service providers to be the eligible entity to apply and manage the grant. Our law enforcement and emergency responders would be partners in the consortium.

Category 3: System-level Diversion and Alternatives to Incarceration -\$400,000 limit for project period up to 36 months.

The focus of Category 3 is on developing county-based approaches to diversion and alternatives to incarceration following a specific conceptual model. City of Homer would probably not be the lead on a Category 3 initiative, but may be asked to be a partner in a Borough initiative.

Number of awards: A total of 45 awards were anticipated, which I imagine makes it a fairly competitive grant.

Enc:

Future of Community Jail Contracts Letter from Commissioner Williams

Home Rule Maximum Local Self-Government

Homer Foundation Fund Report

September Employee Anniversaries



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Corrections
Commissioners Office

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August 24, 2017

Mayor Bryan Zak
2525 Sterling Hwy
Homer, AK 99603

City Manager Katie Koester
491 E Pioneer Ave
Homer, AK 99603

Police Chief Mark Robl
4060 Heath St
Homer, AK 99603

Re: Future of Community Jail Contracts

Dear Community Jail Contractor and Partner,

I wanted to send off a letter to all of you at the same time to update you on the future of the community jail contracts. It's all good news I think so relax and please read carefully.

I have been able to make personal contact with most of you within the last year, but I realize there are a few of you that I haven't been able to get to so please excuse that if you are one of those I missed. In prior visits or communications I have expressed my desire to collaborate more fully with each of you and to express the importance I see in our community jail contracts. Hopefully you heard that I wanted more opportunities for you to handle local justice issues whenever possible. With little exception I was met with an overwhelming positive response.

In prior conversations I discussed the start of the pretrial effort that is set to launch January, 2018. We discussed opportunities for how you might be involved (i.e. pretrial assessments, electronic monitoring, supervision of pretrial defendants) and how the Department was brainstorming ways to financially support your participation in the new vision (and now law) of the pretrial effort. Please understand that your interest and partnering in this new effort is your call and your decision. I do believe there are a variety of reasons that will make the partnership appealing to you, which does include some increase in your community jail contracts. The amount of increase varies from different communities and I'll be able to articulate the increase amounts if/when we meet.

Let me reinforce to you that I have been keenly aware of the angst many of you have had over the jail contracts. This new opportunity is not an attempt to bait and switch by putting more on you and expecting nothing in return. Real partnership between the State and local government requires real

conversation and mutual concern. I hope you know that I see your role as critical to the overall health of the justice system. I think there is a real opportunity to move beyond simple “jail contracts” and to have local communities own more of the criminal justice continuum without, repeat, without creating a heavy burden that is uncompensated.

We are preparing addendums to our current community jail contracts that we would like to propose with each of you over the next few months. I’m planning to attend the southeast conference in September and hope I can touch base with all of you in that region to discuss the addendums. For others who will not be at the southeast conference, I will arrange time to meet with you as soon as possible. I realize I’m a bit light on details at the moment, as I anticipate you may have questions that may require detailed conversations.

You can expect to see the draft addendums in the coming weeks. We have provided several options for you to consider should you wish to engage in this new criminal justice initiative. I understand you may have questions regarding the technical aspects of each of the available options once you receive the addendums, so I encourage you to reach out to the Pretrial Director, Geri Miller-Fox for the technical aspects of this program.

Gerri Miller-Fox
Division of Pretrial Director
550 W 7th Ave, Ste 1800
Anchorage, AK 99501
Office Phone: (907) 269-7405
Mobile Phone: (907) 891-2211
Email: geri.fox@alask.gov

I want to again repeat that I see our contracts with you as important component of our state’s justice system. I want these contracts to take on even more significance as we explore our roles in the new pretrial effort. Thanks for all that you do.

Respectfully,



Dean Williams, Commissioner

Home Rule

Maximum Local Self-Government



Home Rule Municipalities in Alaska

ABRIDGED VERSION — DOES NOT INCLUDE APPENDICES



Prepared by the Local Boundary Commission Staff, Alaska Department of Community and Economic Development, February 2000.

- Section 1** **Types and Numbers of Municipal Governments in Alaska**
- Section 2** **Interesting Facts About Home Rule Municipal Governments in Alaska**
- Section 3** **Nature of Home Rule Cities in Alaska**
- Section 4** **Procedures for Adoption of a Home Rule Charter by an Existing Municipality**
- Appendix A** **Sections of 1999 Alaska Statutes that Expressly Relate to Home Rule Municipal Governments**
- Appendix B** **Jefferson v. State, 527 P.2d 37 (Alaska, 1974)**
- Appendix C** **Sharp, Home Rule in Alaska: A Clash Between the Constitution and the Court, 3 U.C.L.A. — Alaska L.R. 1 (1973)**
- Appendix D** **Duvall, Delineation of the Powers of the Alaska Home Rule City: The Need for a Beginning, 8 Alaska Law Journal 232, 239 (1970)**
- Appendix E:** **AS 29.10.010 — 29.10.090, Procedures for Adoption of a Home Rule Charter by an Existing Municipal Government**

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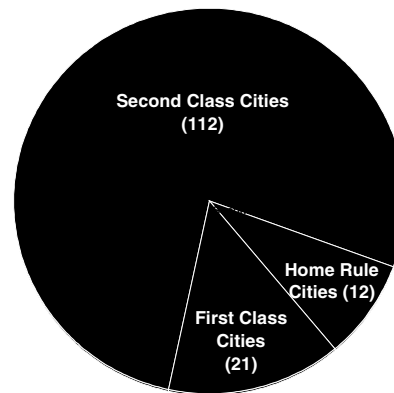
Page Layout: Jennie Morrison, Publication Technician

Section 1 • Types and Numbers of Municipal Governments in Alaska

There are two types of local governments in Alaska, cities and organized boroughs.

A. Cities

There are 145 city governments in Alaska; 12 are home rule and the remaining 133 are general law. Of the 133 general law cities, 21 are first class cities and 112 are second class cities.



B. Boroughs

There are 16 organized boroughs in Alaska; 8 are home rule and 8 are general law. Of the 8 home rule boroughs, 3 are unified municipalities and the remainder are not. Of the 8 general law boroughs, 7 are second class boroughs and 1 is a third class borough. There are no first class boroughs.



Section 2 • Interesting Facts About Home Rule Municipal Governments in Alaska

A. Popularity of Home Rule Municipal Governments

Home rule is the most accepted form of municipal government in Alaska. Nearly twice as many Alaskans live in home rule municipal governments as

- ☑ All but two of the current home rule cities had initially adopted charters by 1965.
- ☑ The last city to adopt a home rule charter did so 18 years ago (City of Nenana).

Nearly twice as many Alaskans live in home rule municipal governments as compared to general law municipal governments.

compared to general law municipal governments. Specifically, 392,541 people (63% of Alaskans) live within a home rule city or home rule borough. This is compared to 211,048 Alaskans (34%) who live only in a general law city or general law borough. The remaining 18,411 Alaskans (3%) live outside any municipal government.

- ☑ There are 12 home rule cities and 133 general law cities in Alaska.
- ☑ Although only 8% of the city governments in Alaska are home rule, they account

B. Home Rule Cities

- ☑ The option of home rule first became available to cities in Alaska in 1959 when Alaska became a state.

The following lists the home rule cities in Alaska:

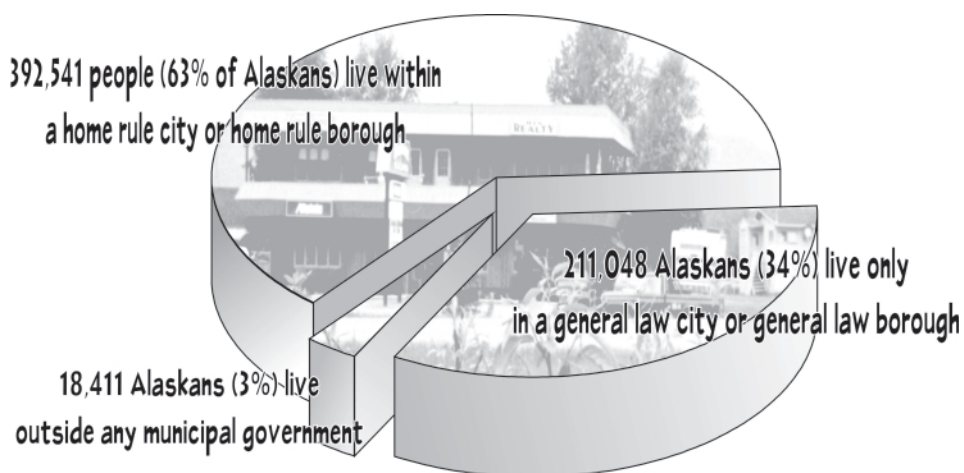
Cities	1999 Population	Charter Adopted
City of Cordova	2,435	1960
City of Fairbanks	31,697	1960
City of Kenai	7,005	1963
City of Ketchikan	8,320	1960
City of Kodiak	6,893	1965
City of Nenana	348	1982
City of North Pole	1,616	1970
City of Palmer	4,151	1962
City of Petersburg	3,415	1960
City of Seward	3,010	1960
City of Valdez	4,164	1961
City of Wrangell	2,549	1960

for 48% of the population within city governments in Alaska.

- ☑ The average population of Alaska's 12 home rule cities is 6,300.

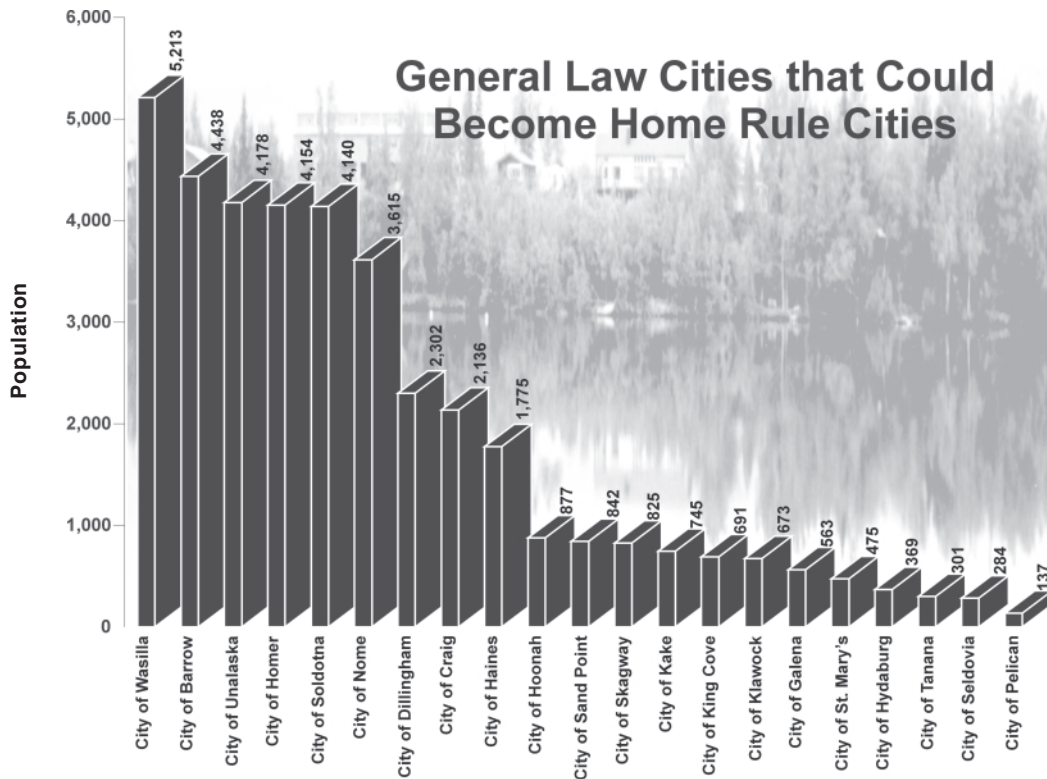
- ☑ The City of Fairbanks is the most populous home rule city (31,697 residents).
- ☑ The City of Nenana is the least populous home rule city (348 residents).

- ☑ The median population of Alaska's 12 home rule cities is 3,783.



C. General Law Cities that Could Become Home Rule Cities.

Under current State law [AS 29.10.010(a)] first class cities — but not second class cities — may adopt home rule charters. The chart below lists the 21 existing first class cities in Alaska ranked in descending order of population.



D. Home Rule Boroughs

- ☑ There are 8 home rule boroughs in Alaska.
- ☑ 50% of the borough governments in Alaska are home rule, they account for 59% of the population within organized boroughs.
- ☑ Anchorage is the most populous home rule borough (259,391 residents).
- ☑ Yakutat is the least populous home rule borough (729 residents).
- ☑ The average population of Alaska’s 8 home rule boroughs is 39,617.
- ☑ The median population of Alaska’s 8 home rule boroughs is 7,143.
- ☑ The last borough to adopt a home rule charter did so 8 years ago (Yakutat).
- ☑ Four of the last five boroughs to form are home rule boroughs.

Boroughs	1999 Population	Charter Adopted
Municipality of Anchorage	259,391	1975
Denali Borough	1,871	1990
City and Borough of Juneau	30,189	1970
Lake and Peninsula Borough	1,791	1989
North Slope Borough	7,413	1974
Northwest Arctic Borough	6,873	1987
City and Borough of Sitka	8,681	1971
City and Borough of Yakutat	729	1992

Section 3 • Nature of Home Rule Cities in Alaska

Article X of Alaska's Constitution deals with local government. Section 1 of the local government article states the following with respect to the purpose and construction of the constitutional provisions regarding local government:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. **A liberal construction shall be given to the powers of local government units.** (emphasis added)

All local governments in Alaska – general law cities, home rule cities, general law boroughs, and home rule boroughs – enjoy broad powers. Twenty-two years ago, the Alaska Supreme Court ruled as follows with regard to the provisions for a liberal construction of the powers of local government in the second sentence of Article X, Section 1:

The constitutional rule of liberal construction was intended to make explicit the framers' intention to overrule a

common law rule of interpretation which required a narrow reading of local government powers.¹ Liberati v. Bristol Bay Borough, 584 P.2d 1115, 1120 (Alaska 1978)

The principles of liberal construction of local government powers

and broad local power were carried forward by the legislature as evidenced by the following provisions in current law:

☑ "A liberal construction shall be given to all powers and functions of a mu-

nicipality conferred in this title."
(AS 29.35.400)

☑ "Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident

¹ The rule, called Dillon's rule states:

[a] municipal corporation possesses and can exercise the following powers and not others. First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable.

Merriam v. Moody's Executors, 25 Iowa 163, 170 (1868). The minutes of the constitutional convention reveal that the liberal construction clause of Article X, Section 1 was intended to assure that general law municipalities, as well as those having home rule powers, would not be governed by this rule, but would have their powers liberally interpreted. The following colloquy between delegates Hellenenthal and Victor Fischer is illustrative:

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past, courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called "Dillon's Rule", or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

...

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home rule, cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home rule authority by the legislature and it may not want to adopt a home rule charter. Alaska Constitutional Convention Proceedings, Part 4, 2690 – 96.

to the purpose of all powers and functions conferred in this title.” (AS 29.35.410)

☑ “Specific examples in an enumerated power or function conferred upon a municipality in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.” (AS 29.35.420)

☑ “A city inside a borough may exercise any power not otherwise prohibited by law.” (AS 29.35.250(a))

☑ “A city outside a borough may exercise a power not otherwise prohibited by law. A provision that is incorporated by reference to laws governing boroughs applies to home rule cities outside boroughs only if the provision is made

applicable to home rule boroughs.” (AS 29.35.260(a))

☑ “A first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law.” (AS 29.35.200(a))

☑ “In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.” (AS 29.35.200(c))

☑ In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the



Local Government Committee meeting, Alaska Constitutional Convention, 1956, Steve McCutcheon photographer

power has been approved at an election by a majority of voters living in the borough but outside all cities in the borough.” (AS 29.35.210(c))

☑ “In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.” (AS 29.35.210(d))

☑ “A third class borough may acquire any power not otherwise prohibited by law, except the power may only be exercised within a service area.” (AS 29.35.220(d))

While general law local governments in Alaska have broad powers, home rule local government have even more so. It is noteworthy that the very first phrase of Alaska’s constitutional provisions concerning local government deal with promoting “maximum local self-government.” Adoption of a home rule charter promotes maximum local self-government to the greatest extent possible. Tom Morehouse and Vic Fischer, recognized experts in Alaska local government, wrote the following account of the views of the constitutional convention delegates with regard to this matter:

An oft-repeated theme of the [Alaska constitutional] convention, and one of the stated purposes

“... one of the stated purposes of the local government article, was provision of maximum local self-government to the people of Alaska...”

Thomas A. Morehouse and Victor Fischer,
Borough Government in Alaska, 56 (1971)

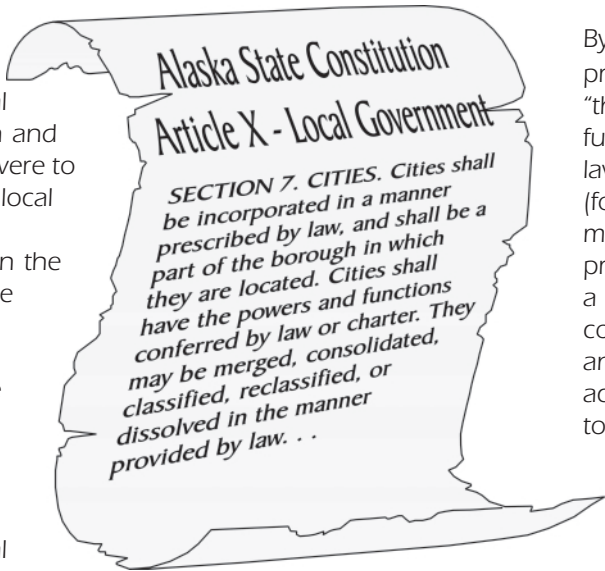
of the local government article, was provision of maximum local self-government to the people of Alaska. . . . Home rule was held to be the vehicle for strengthening both state and local governments by permitting the people to deal with local problems at the local level. It was also to be the means for promoting local government adaptation in a state with great variations in geographic, economic, social, and political conditions.

This home rule philosophy was not believed to be inconsistent with a strong state role in local affairs. As the above discussion indicates, the exercise of state authority was considered essential in matters of incorporation and boundaries, i.e., the creation of local governments and their areas of jurisdiction were felt to be matters ultimately of state responsibility. When properly established, however, their internal organization and operations were to be primarily local concerns, particularly in the case of home rule units. Moreover, a "strong state role" also meant that the state would support local

governments with financial aid and technical assistance.

Before Alaska became a state, there was little self-determination either at territorial or local levels. Federal law prescribed the powers of the territorial legislature, severely limiting the scope and types of local government that could be established and restricting the powers that could be exercised by incorporated cities. Throughout its deliberations, therefore, the Local Government Committee emphasized the need for effective constitutional provisions for home rule. Thomas A. Morehouse and Victor Fischer, Borough Government in Alaska, 56 (1971)

Home rule cities shall have the powers and functions conferred by charter. Article X, Section 7, of the Constitution of the State of Alaska provides as follows:



2 Article XII, Section 11, Alaska Constitution states: "As used in this constitution, the terms "by law" and "by the legislature," or variations of these terms, are used interchangeably when related to law-making powers. . . ." Linda H. Duvall notes that "Law, of course, includes the United States Constitution since it operates to restrain state power as well. Law also includes the provisions of the state constitution. Beyond this, law is defined by the general provisions of the Alaska Constitution to mean the acts of the legislature. (see Appendix D, page 237-238)

Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. **Cities shall have the powers and functions conferred by law or charter.** ² They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law. (emphasis and footnote added)

In 1963, the Alaska Supreme Court interpreted the provisions of Article X, Section 7 as follows:

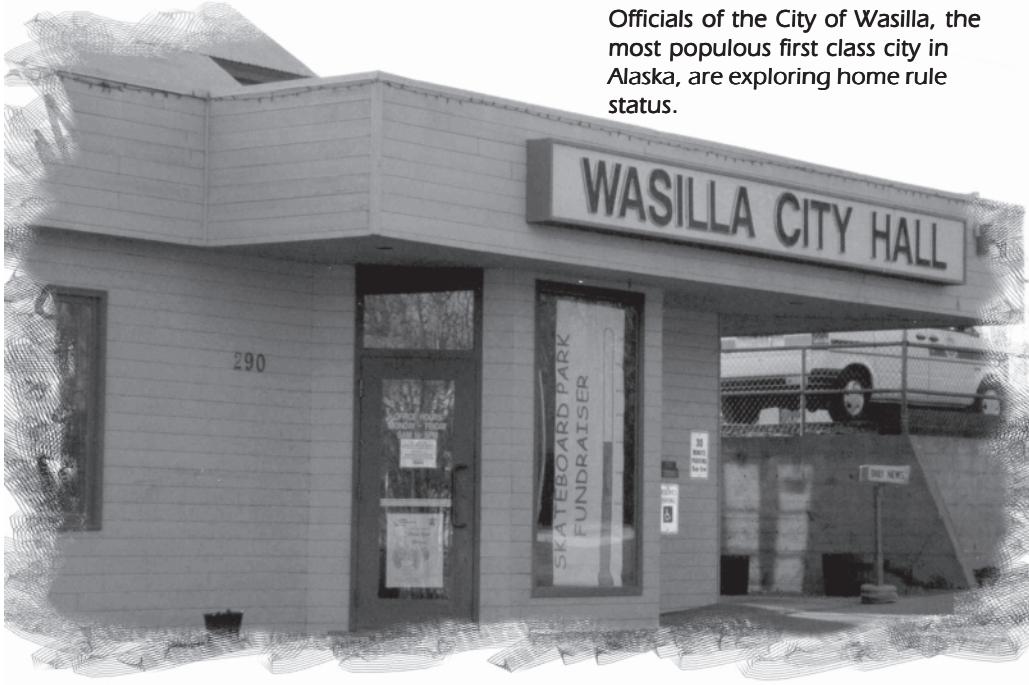
By constitutional provision cities have "the powers and functions conferred by law or charter." (footnote omitted) The meaning of this provision is that where a home rule city is concerned the charter, and not a legislative act, is looked to in order to determine whether a particular power has been conferred upon the city. It

would be incongruous to recognize the constitutional provisions stating that a home rule city "may exercise all legislative powers not prohibited by law or by charter" and then to say that the power of a home rule city is measured by a legislative act." Lien v. City of Ketchikan, 383 P.2d 721, 723 (Alaska 1963)

Given the provisions of Article X, Section 7 and the interpretation in Lien, home rule city charters invariably confer broad powers to the respective home rule cities. For example, the home rule charter of the City of Ketchikan provides as follows:

The City of Ketchikan, Alaska, shall have all the powers, functions, rights, privileges, franchises and immunities of every name and nature whatever, which a home rule city may have under the

Officials of the City of Wasilla, the most populous first class city in Alaska, are exploring home rule status.



constitution and laws of the State of Alaska. The city may exercise all legislative powers not prohibited by law or by this charter. (Section 1 - 4)

The provision of the City of Ketchikan's home rule charter conferring powers to the City takes maximum advantage of Article X, Section 11 of Alaska's Constitution which provides as follows:

A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

In 1974, the Alaska Supreme Court ruled that the prohibitions referred to in Article X, Section 11 can be either in express or

implied terms. Specifically, the Court stated:

The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded with weight of law. Jefferson v. State, 527 P.2d 37, 43 (Alaska, 1974)

Appendix A provides an index of the 135 sections of the current Alaska Statutes that specifically refer to home rule cities and/or home rule boroughs. Most of those (102) are found in Title 29 of the Alaska Statutes dealing with municipal government. The remaining 33 are scattered in 19 other titles of the Alaska Statutes.

Many of the 135 sections of the Alaska Statutes listed in Appendix A are express prohibitions on legislative powers of home rule municipalities. However, as noted above, the Alaska Supreme Court has ruled in Jefferson that prohibitions may also be implied. In a separate concurring opinion, Justice Connor explained:

The state legislature has expressly prohibited the exercise of total local power in such areas as taxation, utilities regulation, security for bonds, municipal elections, and other matters of general state concern.³ It is naïve, however, to expect that these prohibitions contemplate each and every matter in which the legislature would properly wish to restrict local power. A

home rule concept which relies only on express prohibition to define the scope of local power presupposes a degree of legislative foresight and draftsmanship ability which is completely unrealistic. See Duvall, *Delineation of the Powers of the Alaska Home Rule City: The Need for a Beginning*, 8 Alaska Law Journal 232, 239 (1970).

For example, the Uniform Commercial Code, AS 45.05.002 et seq., and the Insurance Code, AS 21.03.010 et seq., enacted by the legislature, no doubt were meant to operate upon a statewide basis, though nothing in those codes expressly prohibits municipal legislation in the field of commercial law or insurance law. Yet to say that a home rule city could alter the operation of such comprehensive statutory systems would be intolerable. Transactions whose reliability is vital to a functioning economy would become unsettled, to the detriment of the business community and the citizenry of the state. A conflict between the city and the state could not be ignored in this type of situation despite the absence of an express prohibition. Id., 45

It is observed that the Insurance Code, AS 21.03.010 et seq., is a poor example to argue that it is naïve to expect that the express prohibitions contemplate each and every matter in which the legislature would properly wish to restrict local power. Eight years before the decision in Jefferson, the 1966 Alaska Legislature had, in fact, pre-empted regulation of “insurers and their managing general agents, insurance producers, and representatives.” The 1966 Legislature also provided in the same law that, “All political subdivisions of the state, including home rule boroughs or cities, are prohibited from requiring of an insurer, managing general agent, insurance producer, or representative regulated under this title an authorization, permit, or registration of any kind for conducting transactions lawful under the authority granted by the state under this title.” (AS 21.03.060)

Notwithstanding, Justice Connor emphasized the use of the “local activities rule” as a realistic tool by which to interpret whether a municipal home rule

law or State law is superior. Specifically, Justice Connor stated as follows:

One test we have used in determining whether the ordinance or the statute must yield, is the “local activities rule.” This test, applied in Chugach Electric Association v. City of Anchorage, 476 P.2d 115 (Alaska 1970), and Macauley v. Hildebrand, 491 P.2d 120 (Alaska 1971), should not be regarded, as it has been by one commentator,⁴ as the rule the framers of the constitution rejected in establishing a broad home rule policy. Rather, it should be recognized as a realistic tool by which to interpret this policy. The “local activities rule” requires the court to focus upon whether the particular subject under consideration is of such statewide concern that the exercise of municipal power is inconsistent with the effectuation of statewide policy, as expressed by statute. Some matters are obviously of statewide concern, some less so.

Some matters are so traditionally and readily classified as matters of local government that there will be no difficulty in finding that they are within municipal competence. Here, too, the municipal code adopted by the legislature is of great help in delineating the areas of permissible local action. Id., 45.

Jefferson provides more details about the Court’s interpretation of the nature of home rule cities in

Alaska. A copy of the decision in that case is included as Appendix B (see, in particular, pages 41 – 46). Appendix C consists of a copy of Sharp, Home Rule in Alaska: A Clash Between the Constitution and the Court, 3 U.C.L.A. – Alaska L.R. 1 (1973). Appendix D is comprised of a copy of Appendix D: Duvall, Delineation of the Powers of the Alaska Home Rule City: The Need for a Beginning, 8 Alaska Law Journal 232, 239 (1970).

4 See, Sharp, Home Rule in Alaska: A Clash Between the Constitution and the Court, 3 UCLA Alaska Law Review 1, 53 (1973)

HOME RULE IN ALASKA: A CLASH BETWEEN THE CONSTITUTION AND THE COURT

Gerald L. Sharp*

INTRODUCTION

A home rule borough or city may exercise all legislative powers not prohibited by law or charter.¹

With this simple and what appears to be alarmingly broad grant of power to home rule municipalities, the constitution of the State of Alaska launched what its drafters must have hoped was a new approach to home rule, an approach unencumbered by the ambiguities of home rule grants which in other states have caused the courts endless problems of interpretation. Grants of home rule have produced not just different but opposite judicial conclusions from state to state; such grants have produced various tests to determine what is and is not within, or protected by, a home rule grant, and, because the courts have been unable to flesh out these tests with any standards, their application often produced inconsistent results.

The two most recent decisions² of the Alaska Supreme Court interpreting the home rule section of the Alaska constitution cast serious doubt on whether that court will be able to steer clear of the judicial tangle in which its sister state courts have become enmeshed. These decisions also cast doubt on whether the Alaska court is as sympathetic to the concept of a constitutional grant of broad home rule power as were the drafters of the local government article.

To determine the probable intent of the drafters of the home rule section and of the convention which adopted it in 1956 as a part of the then proposed state constitution, the background and circumstances surrounding its drafting and adoption must be examined. At the time the constitution was written Alaska was still a territory. The local government structure under territorial status did not include home rule for cities.³ In drafting the local govern-

* B.A., University of Washington, 1970; J.D., University of Washington, 1973; Member of the Washington State Bar Association, Assistant to the Attorney for the City and Borough of Juneau, Alaska; Member of the Assembly for the Greater Juneau Borough, 1965-1967. The earliest version of this article was prepared under the supervision of Professor William R. Anderson while the author was a student at the School of Law at the University of Washington.

¹ ALASKA CONST. art. X, § 11.
² Macauley v. Hildebrand, 491 P.2d 120 (Alaska 1971); Chugach Elec. Ass'n v. City of Anchorage, 476 P.2d 115 (Alaska 1970).

³ R. CLARK & J. SAROFF, THE METROPOLITAN EXPERIMENT IN ALASKA: A STUDY OF BOROUGH GOVERNMENT 2-3 (1968) [hereinafter cited as CLARK & SAROFF].

Section 4 • Procedures for Adoption of a Home Rule Charter by an Existing Municipality

The following summarizes the procedures and other provisions set out in AS 29.10.010 – 29.10.090 for adoption of a home rule charter by an existing municipality. A copy of the AS 29.10.010 – 29.10.090 is included as Appendix E.

A. Election of Charter Commission.

A election for a seven member charter commission is called by filing a petition with the governing body in accordance with AS 29.10.010(e) or by resolution of the governing body.

A candidate for a charter commission must have been qualified to vote in the municipality for at least one year immediately preceding the charter commission election. A charter commission candidate is nominated in the

manner set out in AS 29.10.040(b).

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.

If voters approve the creation of a charter commission, the seven candidates receiving the highest number of votes must immediately organize as a charter commission.

B. Preparation of Charter.

The charter commission must prepare a proposed home rule charter within one year.

The commission must hold at least one public hearing on the proposed charter before approving and filing the charter with the municipal clerk. Within 15 days of the filing, the clerk must publish the proposed charter and make copies available.

organic law of the municipality effective on the date the election is certified. Copies of the charter are filed with agencies specified in the law

If a proposed charter is rejected, the charter commission must prepare another proposed charter to be



In 1998, the Haines Charter Commission (pictured above) drafted a petition for consolidation of the first class city of Haines and third class Haines Borough into a single home rule government.

C. Charter Election.

The proposed home rule charter must 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.

If a majority of voters favor the proposed charter, the proposed charter becomes the

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 is dissolved and the question of adoption of a charter is treated as if it had never been proposed or approved.

HOMER FOUNDATION
Quarterly Report to Fund Holders
April - Jun 2017

Fund Holder City of Homer
Fund **City of Homer Fund**

Fund Type: Field of Interest
Fund Code: 1305

PORTFOLIO SHARE (Corpus)

Beginning Balance	195,620.66
Contributions - portion of 2017 allocation directed to corpus	5,988.00
Withdrawals	-
Portfolio Market Change	(4,088.05)
Ending Balance	197,520.61

AVAILABLE FOR DISTRIBUTION (Earnings)

Beginning Balance	28,821.76
Earnings Allocation	1,059.53
Grants Awarded:	
<i>Earnings as of 6/30/2016 awarded</i>	-
<i>through City of Homer Grants program</i>	16,108.00
	-
Grants Total	(16,108.00)
Ending Balance	13,773.29



City of Homer

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(f) 907-235-3148

Memorandum

TO: MAYOR ZAK AND CITY COUNCIL
FROM: Katie Koester
DATE: September 11, 2017
SUBJECT: September Employee Anniversaries

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

Aaron Glidden,	Port	13	Years
Holly Brennan,	Library	9	Years
Ryan Browning,	Police	7	Years
Mike Lowe,	Port	6	Years
Nick Poolos,	Admin	6	Years
Tracie Whitaker,	Police	3	Years
Lisa Linegar,	Police	2	Years
Mia Solomon,	Public Works	2	Years
Tamara Fletcher,	Port	1	Year

