



HOME RULE CHARTER of the CITY AND BOROUGH OF SITKA

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ARTICLE IV ADMINISTRATOR – EXECUTIVE

Section 4.01 Appointment, Qualifications, Compensation

The assembly shall appoint a municipal administrator for an indefinite term and fix his compensation. The administrator shall serve at the pleasure of the assembly and be appointed solely on the basis of his executive and administrative qualifications. He/she need not be a resident of the municipality or state at the time of his/her appointment

Section 4.02 Removal; Suspension

The assembly may remove the administrator from office in accordance with the following procedures:

(a) **Preliminary Resolution.** The assembly shall adopt by affirmative vote of a majority of its members a preliminary resolution which must state the reasons for removal; and may suspend the administrator for a period of not to exceed 30 days. A copy of the resolution shall be delivered promptly to the administrator.

(b) **Public Hearing.** Within five days after a copy of the resolution is delivered, the administrator may file with the assembly a written request for a public hearing. The hearing shall be held at an assembly meeting not earlier than 10 days or later than 20 days after the request is filed. The administrator may file with the assembly a written reply not later than five days before the hearing.

(c) **Final Resolution.** If the administrator has not filed a request for public hearing, the assembly may adopt a final resolution of removal, which may be made effective immediately, by an affirmative vote of a majority of its members, at any time after five days from the date when a copy of the preliminary resolution was delivered to the Administrator. If a public hearing is requested, final resolution may be adopted any time thereafter.

(d) **Continuation of Salary.** The administrator shall continue to receive his/her salary until the effective date of a final resolution of removal. The action of the assembly shall not be subject to review by any court or agency.

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Section 17.01 Personal Financial Interest

(a) **Prohibition.** No elected official may vote on any question on which he or she has a substantial financial interest. Any municipal officer, employee, or assembly member who has a substantial financial interest in any contract with the municipality or in the sale of any land, material, supplies or services to the municipality or to a contractor supplying the municipality shall make known that interest and shall refrain from participating in his capacity as a municipal officer, employee, or assembly member in the making of such sale or in the making or performance of such contract.

(b) **Punishment.** Any municipal officer, employee or assembly member who conceals such financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office and shall forfeit his/her office or employment. Violation of this section with the knowledge expressed or implied of the person contracting with or making a sale to the municipality shall render the contract or sale to the municipality voidable by the administrator or the assembly.

(c) **Additional Rules.** The assembly by ordinance may prescribe additional rules and penalties to prevent conflicts of interest.

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SITKA GENERAL CODE

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1.04.080 Conflict of interest.

A. No member of the assembly, elected or appointed official, municipal employee or official may participate in official action in which the assembly person, elected official, employee or official has a substantial financial interest.

B. If a member of the assembly or other municipal board or commission has a substantial interest in an official action, that member shall declare the substantial financial interest and ask to be excused from the vote on the matter.

C. Upon a request made under subsection B of this section, the following procedure shall be followed:

1. The presiding officer shall rule on the request by a member to be excused from the vote.

2. The assembly, board or commission may override the decision of the presiding officer on the request to be excused by a majority vote.

D. As used in this section, "substantial financial interest" means an expectation of receiving a non-trivial pecuniary or material benefit. A substantial financial interest of a person includes any substantial financial interest of that person's immediate family. A person has a substantial financial interest in an organization in which that person has an ownership interest, or is a director, officer, or employee. A person has a substantial financial interest in a decision if a substantial financial interest of that person will vary with the outcome of the decision. A substantial financial interest does not include the following: a personal or financial interest which is not of the magnitude that would exert an influence on an average, reasonable person; a personal or financial interest of a type which is generally possessed by the public or a large class of persons to which that official or employee belongs; or an action or influence which would have an insignificant or conjectural effect on the matter in question.

E. As used in this section, "immediate family" of a person means anyone related to that person by blood, marriage, or adoption or who lives in that person's household.

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Chapter 2.10

DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES

Sections:

- 2.10.010 Definitions.
- 2.10.020 Defense and indemnification.
- 2.10.030 Exclusions – Determination to defend and indemnify.
- 2.10.040 Conditions of defense and indemnification.
- 2.10.050 Disqualification.
- 2.10.060 Conflict with provisions of insurance policies.
- 2.10.070 Pending claims.
- 2.10.080 Union contracts.
- 2.10.090 Volunteer workers.

2.10.010 Definitions.

For the purpose of this chapter, the following words shall have the following meanings unless the context indicates otherwise:

- A. "Claim" means a claim or lawsuit.
- B. "Employee" means any person who is or has been employed in the service of the city and borough.
- C. "Official" means any person who is serving or has served as an elected official of the city and borough and any person who is serving or has served as an appointed member of any board, commission, agency, or committee of the city and borough.
- D. "Official duties" includes conduct, acts, and omissions done by an official or employee in the course and scope of their service to the city and borough.

2.10.020 Defense and indemnification.

Subject to the conditions and requirements of this chapter, the city and borough shall provide to an official or employee legal defense and indemnification, including protection from any expenses connected with the defense, settlement, or payment of monetary damages, related to any claim filed against the official or employee, arising out of the good faith performance, purported performance, or failure of performance of official duties. This defense and indemnification shall be a condition of employment with the city and borough and shall be provided by the municipal attorney or the municipal attorney's designee or through such insurance policy or self-insurance or similar program as the city and borough may establish.

2.10.030 Exclusions – Determination to defend and indemnify.

A. The obligation of the city and borough to provide defense and indemnification shall not apply to any act taken in bad faith or any act outside the scope of service or employment, or to any claim brought by or on behalf of the city and borough. The following are examples of acts which will normally be deemed to have been taken in bad faith:

- 1. An act committed with the willful intention of causing injury or harm, or which was reckless or malicious in nature.
- 2. An act committed in willful violation of law.
- 3. An act committed while under the influence of alcohol or a controlled substance.

B. The municipal attorney shall determine whether an official or employee was performing official duties in good faith, and whether an official or employee committed any act in bad faith. The municipal administrator shall make this determination regarding a claim against the municipal attorney.

C. If, at the time the claim is initiated, the known facts are insufficient to allow for the determination under subsection B of this section, the city and borough may elect initially to provide defense only, reserving any final determination until such time as sufficient facts are available.

D. The official or employee may appeal to the assembly an adverse determination under subsection B of this section.

2.10.040 Conditions of defense and indemnification.

The continued obligation of the city and borough to provide defense and indemnification shall be subject to the following conditions:

A. The official or employee shall cooperate fully with the city and borough and its counsel in handling or resisting the claim, including:

1. Providing the municipal attorney, as soon as practicable after receiving notice of a claim: written notice of the claim, specifying the names of the officials or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses;
2. Cooperating with the city and borough and its counsel in making settlements of any lawsuits, and in enforcing any claim for subrogation against any persons or organizations that may be liable to the city and borough because of any damages or losses arising from the incident or conduct; and
3. Attending interviews, depositions, hearings, and trials as requested, and assisting in securing and giving evidence and obtaining the attendance of witnesses.

B. The city and borough reserves the sole right to control the defense of the claim and to compromise, settle, or defend the matter.

2.10.050 Disqualification.

If any official or employee fails or refuses to meet the requirements of this chapter or elects to provide his or her own representation on any claim, this chapter shall be inapplicable and of no force and effect with respect to that claim.

2.10.060 Conflict with provisions of insurance policies.

Nothing contained in this chapter shall be construed to modify or amend any provision of an insurance policy or any coverage through a self-insurance or joint insurance program. If there is a conflict between this chapter and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control.

2.10.070 Pending claims.

This chapter shall apply to any pending claim against an official or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim.

2.10.080 Union contracts.

If a collective bargaining unit contract covers any of the terms and conditions of this chapter, all employees under the contract shall be governed by the provisions of the contract. If there is a conflict between the provisions of such contract and this chapter, the provisions of the contract shall control.

2.10.090 Volunteer workers.

The city and borough shall provide defense and indemnification to volunteer workers performing services on its behalf; provided, that such defense and indemnification:

- A. Shall be provided only to volunteer workers authorized in writing by the head of a municipal department to perform a particular scope of services to the city and borough;
- B. Shall cover only conduct, acts, and omissions undertaken in the course and scope of such authorized services; and
- C. Shall be subject to all other conditions and requirements of this chapter in the same manner as they apply to officials and employees.