

by a city or service area for the exercise of the power.

(b) The assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by a city or service area for exercising an areawide power acquired by the borough. When a city or service area had previously incurred bonded indebtedness, all property that was in the city or service area at the time the bonds were issued remains subject to taxation to pay the principal of and interest on the bonds.

(c) On acquisition of an additional areawide power the first or second class borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties, and other matters related to acquisition of the areawide powers.

(d) This section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

#### **Sec. 29.35.350. Definition.**

In AS 29.35.200 – 29.35.350, "power" means the provision of a public facility or service, or the exercise of a regulatory power. (§ 10 ch 74 SLA 1985)

### **Article 6. Construction of Powers.**

#### **Section**

400. General construction

410. Extent of powers

420. Enumeration of powers

#### **Sec. 29.35.400. General construction.**

A liberal construction shall be given to all powers and functions of a municipality conferred in this title. (§ 10 ch 74 SLA 1985)

#### **Sec. 29.35.410. Extent of powers.**

Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title. (§ 10 ch 74 SLA 1985)

#### **Sec. 29.35.420. Enumeration of powers.**

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. (§ 10 ch 74 SLA 1985)

### **Article 7. Service Areas.**

#### **Section**

450. Service areas

460. Service area boards

470. Financing

480. Service areas in first class boroughs

490. Service areas in second and third class boroughs

#### **Sec. 29.35.450. Service areas.**

(a) A service area to provide special services in a borough or unified municipality may be established, operated, altered, or abolished by ordinance, subject to (c) of this section. Special services include services not provided by the unified municipality or a higher or different level of

services. Special services include services not provided by a borough on an areawide or nonareawide basis in the borough or a higher or different level of services than that provided on an areawide or nonareawide basis. A borough may include a city in a service area if

- (1) the city agrees by ordinance; or
  - (2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city.
- (b) A new service area may not be established if, consistent with the purposes of art. X of the state constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.
- (c) If voters reside within a service area that provides road, fire protection, or parks and recreation services, abolishment of the service area is subject to approval by the majority of the voters residing in the service area who vote on the question. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be abolished and replaced by a larger service area unless that proposal is approved, separately, by a majority of the voters who vote on the question residing in the existing service area and by a majority of the voters who vote on the question residing in the area proposed to be included within the new service area but outside of the existing service area. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be altered or combined with another service area unless that proposal is approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in the area outside of service areas that is affected by the proposal. This subsection does not apply
- (1) to a proposed change to a service area that provides fire protection services
    - (A) that would result in increasing the number of parcels of land in the service area or successor service area if the increase is not more than six percent and would add not more than 1,000 residents;
    - (B) in a second class borough that would result in
      - (i) decreasing the number of parcels of land in the service area or successor service area if the owner of the property to be removed from the area requests removal and the removal meets criteria adopted by ordinance; or
      - (ii) increasing or decreasing the number of parcels of land in the service area or successor service area if the parcel is transferred to a service area that provides more accessible fire protection services to the transferred parcel;
    - (C) in a second class borough to abolishment of a road service area or consolidation of two or more road service areas if taxes have not been levied in the service area for road maintenance or construction during the last 12 months and there is no balance in any account available to pay for these road services for the service area;
    - (D) during the last 12 months, the service area board has not met with a quorum present and in accordance with law; or
    - (E) there are no road maintenance contracts in effect for the service area or the existing road maintenance contracts fail to provide for minimum road standards required by law that are necessary to protect the borough from civil liability;
  - (2) to require approval by the voters residing in a subdivision or parcel proposed to be added to a road service area if roads maintained by the service area provide the only access to the subdivision or parcel or provide access to the subdivision or parcel that is required by the subdivision plat or by other regulation or ordinance;

(3) to a change in the boundaries of a road service area to exclude a subdivision or parcel that does not rely on the use of roads maintained by the service area for the subdivision's or parcel's only access or for access that is required by the subdivision plat or by other regulation or ordinance;

(4) to a change in the boundaries of a road service area to include or exclude a parcel that is located in more than one service area so that the parcel is only located in one road service area;

(5) to a change in the boundaries of a road service area to include a parcel that is partially located in the road service area if roads maintained by the service area provide the only access to the parcel.

(d) This section applies to a home rule or general law municipality. (§ 10 ch 74 SLA 1985; am §§ 2, 3 ch 31 SLA 2001; §§ 1, 2 ch 29 SLA 2005; am § 1 ch 21 SLA 2007; am § 2 ch 84 SLA 14; am § 1, ch 14 SLA 15 )

**Effect of amendments.** The 2014 amendment amends subsection (c) by adding paragraphs (5) and (6) providing new exemptions from the provision of subsection (c). The 2014 amendment provided further clarification to section (c). The 2007 amendment, effective September 4, 2007, made stylistic changes to Section 1(c) by indenting and labeling items (1) and (2) which formerly ran within the text and added new subsections (3) and (4). Further, under (c)(2), items formerly identified as (1), (2), (3) are now labeled (A), (B), and (C). The 2005 amendment, effective May 27, 2005, made stylistic changes and amended subsection (c) to provide for consolidating or abolishing certain road service areas in certain second class boroughs; and providing for an effective date. The 2005 amendment, in subsection (c) added the last sentence in the introductory language, added paragraphs (1) – (3), and made stylistic changes. The 2001 amendment, effective August 22, 2001, made substantial changes to subsection (a) and added subsections and (d).

#### **Sec. 29.35.460. Service area boards.**

The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area. (§ 10 ch 74 SLA 1985)

#### **Sec. 29.35.470. Financing.**

(a) The assembly may levy or authorize the levying of taxes, charges, or assessments in a service area to finance the special services. If the assembly authorizes the levying of taxes, charges, or assessments, the rate of taxation and the issuance of bonds are subject to assembly approval.

(b) The assembly may by ordinance establish, alter, and abolish differential tax zones within a service area to provide and levy property taxes for a different level of services than that provided generally in the service area. Taxes levied within a differential tax zone that exceed the amount that would have otherwise been levied may only be used for the services provided in that zone. (§ 10 ch 74 SLA 1985; am § 4 ch 31 SLA 2001)

**Effect of amendments.** The 2001 amendment, effective August 22, 2001, added subsection (b).

#### **Sec. 29.35.480. Service areas in first class boroughs.**

In a first class borough, the assembly may exercise in a service area any power granted a first class city by law. The assembly may exercise in a service area any nonareawide power that may be exercised by a first class borough. (§ 10 ch 74 SLA 1985)

#### **Sec. 29.35.490. Service areas in second and third class boroughs.**

(a) A second class borough may exercise in a service area any power granted a first class city by law or a nonareawide power that may be exercised by a first class borough if

- (1) the exercise of the power is approved by a majority of the voters residing in the service area; or
  - (2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area.
- (b) If the exercise of the power is approved by a majority of the voters residing in the service area, a third class borough may exercise in a service area any power not otherwise prohibited by law.
- (c) A second or third class borough may establish a service area that includes only vacant, unappropriated, and unreserved land owned by the borough. A second or third class borough may establish a service area, with the concurrence of the commissioner of natural resources, that includes only vacant, unappropriated, and unreserved land owned by the state and classified for disposal to individuals. By ordinance a second or third class borough may provide the services in a service area established under this subsection necessary to develop state or municipal land as required by the planning, platting, and land use regulations of the borough.
- A second class borough may establish a service area for the provision of emergency services within a state highway corridor if no voters reside in the service area. A second class borough may provide emergency services in a service area established under this subsection by ordinance. Notwithstanding any other provision of law, a second class borough may not authorize or levy a property tax for the provision of emergency services in a service area established under this subsection. The boundaries of a service area established under this subsection may only include the highway corridor and publicly owned property adjacent to the highway corridor necessary to house emergency response equipment and personnel for the service area. (§ 10 ch 74 SLA 1985; am § 4, ch 9 SLA 2017)

**Effect of amendments.** The 2017 amendment, effective June 13, 2017, added subsection (d).

## **Article 8. Hazardous Chemicals, Materials, and Wastes.**

### **Section**

500. Reporting	540. Public access to information
510. Inspections; penalties	550. Application
520. Fees	560. Municipal liability
530. Duties of municipalities; powers of other agencies.	590. Definitions

### **Sec. 29.35.500. Reporting.**

(a) If a municipality establishes a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes, then the municipality shall require a business or a government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes to submit to a designated person or office of the municipality, on a form approved by the Alaska State Emergency Response Commission, an inventory of the hazardous chemicals, hazardous materials, and hazardous wastes the business or government agency handles. Notwithstanding other provisions of this title, a municipality that establishes a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes may not

- (1) use a form other than the one required under this section or use a form in addition to the one required under this section;
- (2) require a business or government agency to submit an inventory of hazardous chemicals, hazardous materials, and hazardous wastes unless the business or government agency is required to do so by the Alaska State Emergency Response Commission;
- (3) require reporting under this section of a substance not listed in (c) of this section unless it is added by the commission under (c) of this section;