

CS SENATE BILL NO. 101

TITLE 29. MUNICIPAL GOVERNMENT

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Original Sponsor: Rules Committee
By Request of the Legislative Council

1 IN THE SENATE BY THE LOCAL GOVERNMENT COMMITTEE

2 CS FOR SENATE BILL NO. 101

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to revise and codify the law relat-
7 ing to cities and boroughs."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29 and 7 are repealed and re-enacted to read:

10 TITLE 29. MUNICIPAL GOVERNMENT

11 CHAPTER 3. THE UNORGANIZED BOROUGH

12 Sec. 29.03.010. ESTABLISHMENT. Areas of the state
13 which are not within the boundaries of an organized borough
14 constitute a single unorganized borough.

15 Sec. 29.03.020. SERVICE AREAS. Allowing for maximum
16 local participation, the legislature may establish, alter,
17 or abolish service areas within the unorganized borough to
18 provide special services, which may include but are not
19 limited to schools, utilities, land use regulations, and fire
20 protection. A new service area shall not be established if
21 the new service can be provided by an existing service area,
22 by incorporation as a city, or by annexation to a city.

23 CHAPTER 8. CLASSIFICATION OF MUNICIPALITIES

24 Sec. 29.08.010. HOME RULE. A "home rule municipality"
25 is a borough of the first class or city of the first class
26 which has adopted a home rule charter. It has all legisla-
27 tive powers not prohibited by law or charter.

28 Sec. 29.08.020. GENERAL LAW. A "general law munici-
29 pality" is an unchartered borough or city. It has legislative

1 powers authorized by law.

2 Sec. 29.08.030. CLASSES OF GENERAL LAW. General law
3 municipalities are of four classes:

- 4 (1) first class boroughs,
5 (2) second class boroughs,
6 (3) first class cities,
7 (4) second class cities,

8 Sec. 29.08.040. RECLASSIFICATION. (a) A second class
9 city outside an organized borough is reclassified as a first
10 class city under AS 29.18.130 when its population reaches 400
11 permanent residents. A second class city within an organized
12 borough may be reclassified as a first class city in the
13 manner provided in (b) of this section for the reclassifica-
14 tion of boroughs if the Local Affairs Agency determines from
15 the best figures available that the population of the city
16 has reached 400 permanent residents.

17 (b) A second class borough may reclassify as a first
18 class borough in the manner provided by this title for the
19 addition of powers by boroughs. Instead of requesting the
20 addition of powers, the petition requests reclassification.

21 Sec. 29.08.050. CITIES NOT FITTING NEW CLASSIFICATION.
22 The Local Boundary Commission shall, within two years of the
23 effective date of this chapter, hold a public hearing in
24 each city which was first, second, or third class on the
25 effective date of this chapter and whose population is under
26 400 permanent residents. The commission shall determine in
27 each case whether the city should be classified as first or
28 second class under the new classification. The commission
29 decision must be published at least once in a newspaper with

1 general circulation in the city. If no objection is filed
2 by a resident of the city within 60 days, the classification
3 recommended by the commission becomes effective on the 61st
4 day. If an objection is filed by a resident of the city,
5 the commission shall submit its recommendation to the legis-
6 lature under sec. 12, art. 10, of the state constitution.

7 CHAPTER 13. HOME RULE MUNICIPALITIES

8 ARTICLE 1. CHARTERS

9 Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first
10 class municipality may adopt a charter for its own government.
11 A home rule municipality may amend its charter or adopt a
12 new one. A charter is framed by a charter commission of
13 seven members chosen by the municipal voters at a regular or
14 special election. A candidate for the commission must be a
15 voter of the municipality. A charter commission election is
16 called by filing a petition with the borough assembly or
17 the city council. The petition must be signed by a number
18 of municipal voters equal to 10 per cent of the votes cast
19 in the last regular election.

20 Sec. 29.13.020. NOMINATION. Charter commission candi-
21 dates are nominated by petitions signed by 50 voters or a
22 number of municipal voters equal to 10 per cent of the
23 number of votes cast in the last regular election.

24 Sec. 29.13.030. ELECTION. At the charter commission
25 election, the voters consider the question "Shall a charter
26 commission be elected to frame a proposed new charter?" and
27 select the members of the commission. If the question is
28 approved, the seven candidates receiving the highest number
29 of votes shall immediately organize as a charter commission.

1 Sec. 29.13.040. PREPARATION OF CHARTER. The charter
2 commission shall, within one year, prepare a municipal
3 charter. The proposed charter must be signed by a majority
4 of the charter commissioners and filed in the office of the
5 municipal clerk. Within 15 days, the borough assembly or
6 city council shall have the charter published once in a
7 newspaper of general circulation. The clerk shall post
8 copies of the proposed charter in at least three public
9 places and make copies available at the office of the clerk.

10 Sec. 29.13.050. INITIATIVE AND REFERENDUM. (a) Muni-
11 cipal charters shall provide for the initiative and refer-
12 endum, subject to the restrictions of sec. 7, art. XI, of
13 the state constitution.

14 (b) A charter shall not require an initiative or
15 referendum petition to have a number of signatures greater
16 than 25 per cent of the total votes cast at the last regular
17 or special municipal election.

18 Sec. 29.13.060. CHARTER ELECTION. The charter is sub-
19 mitted to the municipal voters at a regular or special
20 election held not less than 30 days nor more than 90 days
21 from the publication of the charter.

22 Sec. 29.13.070. CHARTER ADOPTION. If a majority of
23 those voting on the question favor the proposed charter, it
24 becomes the organic law of the municipality. Thereafter the
25 court shall take judicial notice of the charter. The muni-
26 cipality shall file the indicated number of copies of the
27 charter with the

28 (1) secretary of state - two copies,

29 (2) Local Affairs Agency - two copies,

- 1 (3) district recorder - one copy,
2 (4) municipal clerk - one copy.

3 Sec. 29.13.080. CHARTER AMENDMENT. A municipal charter
4 is amended as provided in the charter or by initiative as
5 provided in AS 29.28.100.

6 ARTICLE 2. HOME RULE LIMITATIONS

7 Sec. 29.13.100. LIMITATION OF HOME RULE POWERS. The
8 following provisions apply as indicated in the provisions to
9 home rule municipalities, which are prohibited from acting
10 otherwise than as provided. They supersede existing and
11 prohibit future home rule enactments which provide otherwise:

- 12 (1) AS 29.13.010 - 29.13.080 (borough and city
13 charters)
14 (2) AS 29.23.020 (apportionment of borough
15 assembly)
16 (3) AS 29.23.030 - 29.23.050 (election, term, and
17 qualifications of assemblymen)
18 (4) AS 29.23.060(f) (assembly voting on areawide
19 functions)
20 (5) AS 29.23.090 (assembly reapportionment)
21 (6) AS 29.23.130 - 29.23.140 (borough executive)
22 (7) AS 29.23.200 (city council composition and
23 eligibility, election, and term of council members)
24 (8) AS 29.23.250(a) (eligibility for mayor)
25 (9) AS 29.23.310 (school board composition and
26 eligibility, election, and term of board members)
27 (10) AS 29.23.540 (prohibitions respecting appoint-
28 ment and removal of personnel)
29 (11) AS 29.23.560 (municipal reports)

- 1 (12) AS 29.28.020(a) (municipal election dates)
2 (13) AS 29.28.030 (voter qualification)
3 (14) AS 29.28.130 - 29.28.250 (recall)
4 (15) AS 29.33.010 - 29.33.070 (areawide borough
5 powers)
6 (16) AS 29.48.210 (expenditure of borough revenue)
7 (17) AS 29.53.010 - 29.53.400 (borough and city
8 property tax)
9 (18) AS 29.53.440 - 29.53.450 (sales and use taxes
10 of cities within boroughs)
11 (19) AS 29.53.160 (vote on general obligation bond
12 issues)
13 (20) AS 29.58.180(b) (exclusion of certain bonds
14 from municipal debt limit)
15 (21) AS 29.58.340 (areawide and nonareawide borough
16 indebtedness)
17 (22) AS 29.63.090 (borough service areas)
18 (23) AS 29.68.010 - 29.68.210 (municipal annexa-
19 tion and exclusion)
20 (24) AS 29.73.010 - 29.73.030 (actionable claims,
21 eminent domain, and adverse possession)

22 CHAPTER 18. INCORPORATION

23 ARTICLE 1. REQUIREMENTS

24 Sec. 29.18.010. FIRST CLASS CITIES. (a) A community
25 having 400 or more permanent residents and lying outside an
26 organized borough shall be incorporated as a first class city.

27 (b) A community having 400 or more permanent residents
28 and lying within an organized borough may petition for incor-
29 poration.

1 Sec. 29.18.020. SECOND CLASS CITIES. A community hav-
2 ing at least 50 permanent residents may incorporate as a
3 second class city.

4 Sec. 29.18.030. ORGANIZED BOROUGHES. An area may incor-
5 porate as an organized borough if it conforms to the follow-
6 ing standards.

7 (1) The population of the area is interrelated
8 and integrated as to its social, cultural, and economic
9 activities, and is large and stable enough to support organ-
10 ized borough government.

11 (2) The boundaries of the proposed borough conform
12 generally to natural geography and include all areas neces-
13 sary for full development of local services.

14 (3) The economy encompasses a trading area with
15 human and financial resources capable of providing local
16 services. Evaluation of an area's economy includes land use,
17 property valuations, total economic base, total personal
18 income, resource and commercial development, anticipated
19 functions, expenses, and income of the proposed borough.

20 (4) Land, water, and air transportation facilities
21 allow the communication and exchange necessary for the
22 development of integrated local government.

23 ARTICLE 2. PROCEDURES

24 Sec. 29.18.050. PETITION. Municipal incorporation is
25 proposed by filing a petition with the Local Affairs Agency.
26 The petition includes the following information about the
27 proposed municipality:

28 (1) class,

29 (2) name,

- 1 (3) boundaries,
- 2 (4) composition and apportionment of the borough
- 3 assembly or city council,
- 4 (5) for a first class borough, a designation of
- 5 areawide powers to be exercised,
- 6 (6) for a second class borough, a designation of
- 7 areawide powers to be exercised and of powers to be exercised
- 8 in the area outside cities only,
- 9 (7) maps, documents, and other information requir-
- 10 ed by the Local Affairs Agency to show that the proposed
- 11 municipality meets the standards for incorporation,
- 12 (8) for first class city incorporation, the
- 13 signature and resident address of 50 voters,
- 14 (9) for second class city incorporation, the
- 15 signature and resident address of 10 voters,
- 16 (10) for borough incorporation, the signature and
- 17 resident address of 15 per cent of voters in each first
- 18 class city and 15 per cent of voters in the area outside
- 19 first class cities based on the number who voted in the area
- 20 in the last general election.

21 Sec. 29.18.060. REVIEW. The Local Affairs Agency shall
22 review petitions for content and signatures and shall return
23 deficient petitions for correction or completion.

24 Sec. 29.18.070. INVESTIGATION. (a) If the petition
25 contains the required information and signatures, the Local
26 Affairs Agency shall investigate the proposal. It may use
27 U. S. Census Bureau Reports or any method necessary to
28 determine most accurately the population of the proposed
29 municipality.

1 (b) The agency may combine petitions for incorporation
2 from the same general area.

3 Sec. 29.18.080. REPORT AND HEARING. (a) The Local
4 Affairs Agency shall report its findings to the Local
5 Boundary Commission with its recommendations regarding the
6 incorporation.

7 (b) The Local Boundary Commission shall hold at least
8 one public hearing in the area proposed to be incorporated
9 for the purpose of gauging public sentiment on the incorpor-
10 ation proposal.

11 Sec. 29.18.090. DECISION ON BOROUGH INCORPORATION. If
12 the Local Boundary Commission determines that a proposed
13 borough fails to meet the standards for incorporation, it
14 shall reject the petition. If the commission determines
15 that the proposed borough meets the standards, it shall
16 accept the petition. If the commission determines that the
17 proposed boundaries can be altered to meet the standards, it
18 may change the boundaries and accept the petition. The
19 commission may add to the areawide powers of a proposed
20 borough. The decision may be appealed under the Administra-
21 tive Procedure Act (AS 44.62).

22 Sec. 29.18.100. DECISION ON CITY INCORPORATION. (a)
23 If the Local Boundary Commission determines that proposed
24 city boundaries are too restrictive or too expensive for
25 efficient local government, it may alter the boundaries and
26 accept the petition.

27 (b) The commission may reject a petition for incorpor-
28 ation of a city lying within a borough if it determines that
29 desired municipal services can be more practically and

1 economically provided by the borough or by annexation to an
2 existing city.

3 (c) Commission decisions under this section may be
4 appealed under the Administrative Procedure Act (AS 44.62).

5 Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local
6 Boundary Commission shall immediately notify the secretary
7 of state of its acceptance of an incorporation petition.
8 Within 30 days after notification, the secretary of state
9 shall order an election in the proposed municipality to
10 determine whether the voters desire incorporation. The elec-
11 tion is held not less than 30 nor more than 90 days after
12 the date of the election order. The election order must
13 specify the dates during which nomination petitions may be
14 filed.

15 (b) An Alaska voter who is a resident of the area
16 within the proposed municipality may vote.

17 (c) Areawide borough powers recommended by the Local
18 Boundary Commission are placed on the ballot so that each is
19 voted on separately. The adoption of an added areawide power
20 requires a majority of the votes cast on the question. Area-
21 wide powers included in the incorporation petition are
22 considered to be part of the incorporation question. In an
23 election for the incorporation of a second class borough,
24 each power to be exercised outside cities only is placed
25 separately on the ballot. Adoption of the power requires a
26 majority of the votes cast on the question, and the vote is
27 limited to the voters residing outside cities.

28 (d) The secretary of state shall supervise the election
29 in the general manner prescribed by the Alaska Election Code

1 (AS 15.05 - 15.60). The state shall pay all election costs
2 under this section.

3 Sec. 29.18.120. ELECTION OF OFFICERS. (a) If incor-
4 poration is approved, the secretary of state shall, within
5 10 days of certification, order an election to choose an
6 initial slate of officers. The election is held not less
7 than 60 nor more than 90 days after the date of the election
8 order.

9 (b) Nominations for office are made by petition. The
10 petition is in the form prescribed by the secretary of state
11 and includes the name and address of the nominee and a state-
12 ment of the nominee that he is qualified under the provisions
13 of this title for the office that he seeks. A person may
14 file for and occupy more than one office, but he may not serve
15 simultaneously as borough chairman and as a member of the
16 borough assembly. Petitions to nominate borough assemblymen
17 must include the signature and resident address of 50 voters
18 who are residents of the proposed borough in the area outside
19 first class cities. Petitions to nominate officers of a
20 second class city must include the signature of 10 city
21 voters. Petitions to nominate borough chairmen, borough
22 school board members, and officers of a first class city
23 must include the signature of 50 municipal voters.

24 (c) The secretary of state shall supervise the election
25 in the general manner prescribed by the Alaska Election Code
26 (AS 15.05 - 15.60). The municipality shall not be required
27 to reimburse the state for the election costs.

28 (d) Elected municipal officials take office on the
29 first Monday following certification of their election.

1 Borough assembly members representing first class cities are
2 appointed by the city council and serve until the first
3 Tuesday of the following October. All other elected municipi-
4 pal officials serve until the first regular election occur-
5 ring after they have served two years in office.

6 Sec. 29.18.130. MANDATORY INCORPORATION. If the Local
7 Affairs Agency considers that a community lying outside an
8 organized borough has a population of 400 or more permanent
9 residents, but the community has failed to petition for in-
10 corporation as a first class city, the agency shall determine
11 as accurately as possible the actual population. If the
12 population is 400 or more permanent residents, the agency
13 shall notify the Local Boundary Commission, which shall hold
14 a public hearing in the community to consider boundaries.
15 When the commission has defined boundaries, it shall notify
16 the secretary of state, who shall within 10 days order an
17 election under sec. 120 of this chapter. The incorporation
18 becomes effective on the day the election of officers is
19 certified.

20 Sec. 29.18.140. INTEGRATION OF SPECIAL DISTRICTS AND
21 SERVICE AREAS. Special service districts and service areas
22 in a newly incorporated borough or city shall be integrated
23 into the borough or city within two years after the date of
24 incorporation. On integration, the borough or city succeeds
25 to all the rights, powers, duties, assets and liabilities of
26 the districts and service areas. After integration, the
27 borough assembly or city council may levy and collect special
28 charges, taxes, or assessments to amortize bonded indebted-
29 ness incurred by a special district or service area. No less

1 than all property in the district or service area at the
2 time the bonds were issued remains subject to taxation to
3 pay the principal of and interest on the bonds.

4 Sec. 29.18.150. TRANSITION. (a) The powers and
5 functions exercised by cities, service areas, and special
6 districts which are succeeded to by a newly incorporated
7 borough or city are exercised by them until the new munici-
8 pality assumes the powers and functions, which may not exceed
9 two years after the date of incorporation. Ordinances, rules,
10 resolutions, procedures, and orders in effect before the
11 transfer remain in effect until superseded by the action of
12 the new borough or city.

13 (b) The borough or city shall give written notice of
14 its assumption of the powers, duties, and other items enumer-
15 ated in secs. 140 - 150 of this chapter, to the city, service
16 area, or special district concerned before the assumption.
17 Borough or city officials shall consult with the officials of
18 the city, service area, or special district concerned and
19 arrange an orderly transfer.

20 (c) After the incorporation of a new borough or city,
21 no service area or special district within it may assume new
22 bonded indebtedness, make any contract, or transfer any
23 assets without the consent of the assembly or council.

24 Sec. 29.18.160. CHALLENGE OF LEGALITY. No person may
25 on any grounds challenge in court or before an administrative
26 agency the legality of formation of a municipality except
27 within six months of the date of incorporation of the muni-
28 cipality.

29 ARTICLE 3. BOROUGH TRANSITIONAL ASSISTANCE

1 Sec. 29.18.180. ORGANIZATION GRANTS. (a) For the
2 purpose of defraying the cost of transition to borough
3 government and in order to provide for development and
4 interim governmental operations, each organized borough is
5 entitled to an organization grant equal to \$10 for every voter
6 in the borough who voted in the last general election. How-
7 ever, each borough is entitled to at least \$25,000.

8 (b) The Local Affairs Agency shall determine, within
9 30 days after the date of incorporation of a borough, the
10 number of voters in the borough who voted in the last general
11 election.

12 (c) Within 30 days after the completion of its findings,
13 or as soon thereafter as money is appropriated to it for the
14 purpose, the Local Affairs Agency shall transmit to the
15 borough the total amount of money to which the borough is
16 entitled.

17 Sec. 29.18.190. STATE LANDS. A borough may select 10
18 per cent of the vacant, unappropriated, unreserved state
19 lands located within its boundaries within five years after
20 the date of availability of state lands in the borough.
21 Nothing in this section affects a valid existing claim, loca-
22 tion, or entry under the laws of the state or the United
23 States whether for homestead, mineral, right-of-way or other
24 purpose or affects the rights of an owner, claimant, locator,
25 or entryman to the full use and enjoyment of the land so
26 occupied.

27 Sec. 29.18.200. SELECTION PROCEDURE. (a) All selec-
28 tions must be made in reasonably compact tracts, taking into
29 account the situation and potential uses of the lands involved.

1 The authority to make selections may not be alienated or
2 bargained away, in whole or in part, by the borough.

3 (b) If lands desired by the borough are unsurveyed at
4 the time of their selection, the Department of Natural
5 Resources shall survey the exterior boundaries of the area
6 requested without interior subdivision and shall issue a
7 patent for the selected area in terms of the exterior boundary
8 survey. The cost of survey is borne by the borough. If
9 lands desired by the borough have been surveyed at the time
10 of their selection, the boundaries of the areas requested
11 must conform to the public land subdivisions established by
12 the approval of the survey. Lands selected by the borough
13 under this chapter are patented to the borough by the
14 Department of Natural Resources.

15 (c) After the selection of the lands by the borough but
16 before the issuance of final patent, the borough may execute
17 conditional leases and make conditional sales of selected
18 lands.

19 CHAPTER 23. MUNICIPAL OFFICERS AND EMPLOYEES

20 ARTICLE 1. BOROUGH ASSEMBLY

21 Sec. 29.23.010. GENERAL POWER. The legislative power
22 of a borough is vested in the assembly.

23 Sec. 29.23.020. STANDARDS FOR COMPOSITION AND APPORTION-
24 MENT. (a) The assembly of a home rule or a general law
25 borough is composed according to the following standards.

26 (1) If there is no first class city within the
27 borough, the assembly is composed of the number of seats
28 shown on the following table:

29 Population Assembly Seats

1	under 6,000	5
2	6,000-12,000	7
3	12,001-30,000	9
4	over 30,000	11

5 (2) If there is one first class city in the
6 borough, the assembly is composed of at least two assemblymen
7 from the first class city and at least three assemblymen from
8 the area outside the first class city within the borough.

9 (3) If there is more than one first class city in
10 the borough, the assembly is composed of at least one
11 assemblyman from each first class city and at least three
12 assemblymen from the area outside first class cities within
13 the borough.

14 (b) The assembly seats are apportioned as follows:
15 Except as provided in (a)(2) of this section, each first
16 class city has the number of seats designated in the follow-
17 ing table, unless a lesser number is approved by a resolution
18 of the council of the city concerned:

19	Population	Assembly Seats
20	under 2,000	1
21	2,000-6,000	2
22	6,001-12,000	3
23	12,001-30,000	4
24	over 30,000	5

25 (c) The area outside first class cities within the
26 borough has a number of assemblymen equal to one more than
27 the total number of all assemblymen who represent first class
28 cities.

29 Sec. 29.23.030. ELECTION. Assemblymen representing a

1 first class city are directly elected by city voters to dual
2 council-assembly seats. The council shall designate by
3 ordinance those council seats which are to be dual council-
4 assembly seats. The designation shall be clearly indicated
5 on the ballot. Assemblymen representing the area outside
6 first class cities are elected from and by the voters resid-
7 ing outside the first class cities. The present terms of
8 city councilmen serving on borough assemblies are not affect-
9 ed by this section. This section applies to home rule and
10 general law municipalities.

11 Sec. 29.23.040. TERM OF OFFICE. In home rule and
12 general law boroughs an election is held every year on the
13 first Tuesday of October to choose assemblymen for staggered
14 two-year terms. The regular term begins on the first Monday
15 following the regular borough election. The assembly may
16 provide for different terms by ordinance, but they must be
17 staggered and none may exceed four years.

18 Sec. 29.23.050. QUALIFICATIONS. A resident of a home
19 rule or general law borough is eligible to be an assemblyman
20 if he is a borough voter. An assemblyman who ceases to be a
21 borough voter immediately forfeits his office. If an
22 assemblyman elected from an area outside first class cities
23 becomes a resident of a first class city, he may continue to
24 serve only until the next regular election.

25 Sec. 29.23.060. PROCEDURE. (a) The assembly shall
26 meet at least once every two months. Special meetings may
27 be held on the call of the chairman, the presiding officer,
28 or one-third of the members, upon no less than 24 hours
29 written or oral notice communicated to each member.

1 (b) The assembly shall elect from among its members a
2 presiding officer and a deputy presiding officer to serve at
3 its pleasure. If the presiding officer is not present or
4 disqualifies himself, the deputy presiding officer shall pre-
5 side.

6 (c) The assembly shall determine its own rules and
7 order of business and provide for keeping a journal of its
8 proceedings.

9 (d) A majority of the membership authorized by law con-
10 stitutes a quorum. Actions of the assembly are adopted by a
11 majority of the votes authorized on the question.

12 (e) The final vote on each ordinance, resolution, or
13 substantive motion is a recorded roll call vote.

14 (f) When the assembly of a home rule or general law
15 borough votes on an ordinance, resolution, or motion in exer-
16 cising an areawide power, when it votes on the budget, and
17 when it acts as a board of equalization or adjustment, the
18 votes are weighted to enable the assemblymen who represent
19 a majority of the borough's population to have a majority of
20 the votes.

21 (1) The weight to be given to each vote cast by
22 the assemblymen present and voting who represent a first
23 class city which has a majority of the population is deter-
24 mined by dividing the number of all assembly seats apportion-
25 ed to the area outside the city plus one by the number of
26 seats apportioned to the city.

27 (2) The weight to be given to each vote cast by
28 assemblymen present and voting who represent first class
29 cities which have a combined majority of the borough's

1 population is determined by dividing the number of all
2 assembly seats apportioned to the area outside cities plus
3 one by the number of all assembly seats apportioned to the
4 first class cities.

5 (3) If the area outside first class cities has
6 the majority of the borough's population, each assemblyman
7 present and voting has one vote.

8 (4) Fifty voters in a borough may petition the
9 assembly or the Local Affairs Agency to determine from the
10 best figures available whether the votes of the assemblymen
11 representing a first class city or cities shall be weighted.
12 A determination by the Local Affairs Agency prevails over one
13 by the assembly. A determination by either the assembly or
14 the agency is subject to judicial review for abuse of dis-
15 cretion.

16 Sec. 29.23.070. DEPARTMENTS. (a) The assembly may
17 establish departments and distribute administrative functions
18 among them.

19 (b) Each department is administered by a department
20 head. With the consent of the assembly, the chairman may
21 serve as the head of one or more departments or may appoint
22 one person as the head of two or more departments.

23 Sec. 29.23.080. FILLING VACANCIES. (a) A vacancy in
24 the city council representation on the assembly is filled by
25 a councilman designated by the council to serve until the
26 next regular election.

27 (b) A vacancy in the representation for the area outside
28 a first class city is filled by the assemblymen representing
29 the area outside first class cities, who designate a voter

1 residing outside a first class city to serve until the next
2 regular election.

3 (c) A vacancy in the representation of a borough sec-
4 tion, established under sec. 100 of this chapter, is filled
5 by the assemblymen representing the area outside first class
6 cities, who designate a voter from the section affected by
7 the vacancy to serve until the next regular election.

8 Sec. 29.23.090. REAPPORTIONMENT. (a) The assembly may
9 be reapportioned by either of the following methods.

10 (1) The assembly shall reapportion itself when
11 the apportionment does not meet the standards provided in
12 sec. 20 of this chapter. The proposal must be submitted to
13 the Local Affairs Agency for review.

14 (2) Fifty voters in a borough may petition the
15 assembly or the Local Affairs Agency to reapportion the
16 assembly. The petition must include evidence that the
17 apportionment of the assembly does not meet the prescribed
18 standards. If it is found from the best figures available
19 that the standards are not met, the assembly or the Local
20 Affairs Agency shall reapportion the assembly. A reappor-
21 tionment by the Local Affairs Agency prevails over one by an
22 assembly. Reapportionment by the assembly or the agency is
23 subject to judicial review for abuse of discretion.

24 (b) The reapportionment is effective beginning with
25 the next regular election to the assembly. If reapportion-
26 ment results in an increase of representation on the
27 assembly, the assembly may determine that the reapportionment
28 is effective before the next regular election. If the
29 assembly makes this determination, the additional seats are

1 filled as prescribed in sec. 80(a) and (b) of this chapter
2 for filling vacancies.

3 (c) This section applies to home rule and general law
4 boroughs.

5 Sec. 29.23.100. BOROUGH SECTIONS. (a) The borough
6 assembly may, by ordinance adopted without weighted voting,
7 establish, alter, or abolish sections for the election of
8 assemblymen in the area outside first class cities. If it
9 establishes sections, members representing the area outside
10 first class cities represent the sections in which they
11 reside. The ordinance must state whether assemblymen are
12 elected by all voters outside first class cities or only by
13 the voters of the section in which they reside. The number
14 of sections equals the number of assemblymen representing the
15 area outside first class cities. Section boundaries are
16 established in such a way as to provide, insofar as possible,
17 clarity of boundaries, compactness of area, equal voter
18 representation among sections, and homogeneity of interest.
19 A section may not have a number of voters which is less than
20 three-fourths that of any other section, as determined from
21 the records of the last general election.

22 (b) Borough sections shall be reapportioned in the
23 manner prescribed in sec. 90 of this chapter for reapportion-
24 ment of the assembly.

25 Sec. 29.23.110. BOROUGH ZONES. (a) The assembly may
26 by ordinance establish, alter, or abolish zones for the
27 election of school board members. If the assembly establishes
28 zones, school board members represent the zones in which they
29 reside. Voters may vote upon the candidacy of all candidates,

1 but candidates from each zone run only against other candi-
2 dates from the same zone. The number of zones equals the
3 number of school board members. No zone may have a popula-
4 tion which is less than three-fourths that of any other zone.

5 (b) Borough zones shall be reapportioned in the manner
6 prescribed in sec. 90 of this chapter for reapportionment of
7 the assembly.

8 ARTICLE 2. BOROUGH EXECUTIVE

9 Sec. 29.23.130. EXECUTIVE POWER. (a) The executive
10 and administrative power of the borough is vested in an
11 elected chairman or in an appointed manager.

12 (b) A voter of a home rule or general law borough is
13 eligible to be borough chairman.

14 (c) The chairman's regular term of office is two years
15 and begins on the first Monday following his election which
16 is held the first Tuesday of October. The assembly may pro-
17 vide by ordinance for a different term not to exceed four
18 years.

19 (d) A borough may adopt or abandon a manager plan at
20 any time. The chairman may not veto an ordinance or resolu-
21 tion calling for an election on this question. The manager
22 serves at the pleasure of the assembly and has all the powers
23 and duties of the chairman except that he has no veto power.
24 There is no elected chairman if the manager plan is adopted,
25 except that the chairman retains his office and the manager
26 plan is not effective until the first regular election
27 occurring at least six months after the manager plan is
28 adopted.

29 (e) This section applies to home rule and general law

1 boroughs.

2 Sec. 29.23.140. POWERS AND DUTIES OF BOROUGH EXECUTIVE.

3 (a) The borough executive, as the chief administrative
4 officer, is responsible for the proper administration of all
5 borough affairs. The executive of a home rule or general law
6 borough shall

7 (1) appoint all borough employees and administra-
8 tive officers, except as provided otherwise by law; he may
9 hire necessary administrative assistants and may authorize an
10 appointive administrative officer to appoint, suspend, or
11 remove subordinates in his department;

12 (2) suspend or remove by written order borough
13 employees and administrative officers, subject to AS 29.33.-
14 050;

15 (3) supervise enforcement of borough law;

16 (4) prepare the annual budget and capital improve-
17 ments program for the assembly;

18 (5) execute the budget and capital improvement
19 program as adopted by the assembly;

20 (6) make monthly reports to the assembly on
21 borough finances and operations;

22 (7) report to the assembly at the end of each
23 fiscal year on the finances and administrative activities of
24 the borough;

25 (8) prepare and make available for public distri-
26 bution an annual report on borough affairs;

27 (9) serve as borough personnel officer, unless the
28 assembly authorizes him to appoint a personnel officer;

29 (10) direct and supervise the administration of

1 the following functions:

2 (A) the functions of all borough officers
3 and employees except as provided otherwise under this
4 title;

5 (B) the care and custody of all borough
6 buildings and of all real and personal property of the
7 borough, except as provided otherwise by AS 29.33.050;

8 (C) the construction, maintenance, and oper-
9 ation of all borough roads, bridges, drains, buildings,
10 and other public works;

11 (12) execute other powers or duties specified in
12 this title or lawfully prescribed by the assembly.

13 Sec. 29.23.150. EXECUTIVE ABSENCE. The assembly pre-
14 siding officer shall act as chairman during the chairman's
15 temporary absence. If a manager plan has been adopted, the
16 assembly shall designate by resolution a borough administra-
17 tive officer to act as manager during his absence.

18 Sec. 29.23.160. ASSEMBLY PARTICIPATION. The chairman
19 may take part in the discussion of all matters before the
20 assembly but may not vote.

21 Sec. 29.23.170. VETO. The chairman may veto any action
22 of the assembly when not acting as a board of equalization or
23 adjustment and may strike or reduce items in appropriation
24 bills. He shall submit to the assembly at its next regular
25 meeting a written statement giving his reasons for the veto.
26 His veto may be overridden by two-thirds of all the votes to
27 which the assembly is entitled on the question.

28 Sec. 29.23.180. FILLING A VACANCY. A vacancy in the
29 office of chairman is filled by and from the assembly, which

1 designates an assemblyman to serve until the next regular
2 election. The assemblyman chosen shall resign his assembly
3 seat.

4 ARTICLE 3. CITY COUNCIL

5 Sec. 29.23.200. COMPOSITION, ELIGIBILITY, ELECTION,
6 AND TERM. (a) Each city has a city council of five members
7 elected by the city voters at large.

8 (b) A city voter is eligible to hold the office of
9 councilman.

10 (c) An election is held every year on the first Tuesday
11 in October to choose councilmen for staggered two year terms.
12 The regular term of office begins on the first Monday follow-
13 ing the election. The council may provide by ordinance for
14 different terms not to exceed four years.

15 (d) This section applies to home rule and general law
16 cities except that home rule cities may vary the number of
17 councilmen.

18 Sec. 29.23.210. PROCEDURE. (a) The council shall
19 meet at least once every month. Special meetings may be held
20 on the call of the mayor or two councilmen upon no less than
21 24 hours written or oral notice communicated to each member.

22 (b) The council shall determine its own rules and order
23 of business and provide for keeping a journal of its proceed-
24 ings.

25 (c) A majority of the authorized council membership
26 constitutes a quorum and the vote of a majority of the
27 authorized membership is required for the passage of an
28 ordinance, resolution, motion, or budget.

29 (d) The final vote on each ordinance, resolution, or

1 substantive motion is a recorded roll call vote.

2 Sec. 29.23.220. FILLING A VACANCY. If a vacancy occurs
3 in the council, the remaining council members shall designate
4 by majority vote a person to fill the office until the next
5 regular election.

6 ARTICLE 4. CITY EXECUTIVE

7 Sec. 29.23.240. MAYOR. Each city has a mayor who shall
8 preside at council meetings, act as ceremonial head of the
9 city, and sign documents on the city's behalf upon council
10 authorization. In cities which have not adopted a manager
11 plan the mayor is responsible for the duties listed in sec.
12 290 of this chapter.

13 Sec. 29.23.250. ELECTION AND TERM. (a) A voter of a
14 home rule or general law city is eligible to hold the office
15 of mayor.

16 (b) The mayor of a first class city is elected at large
17 for a term of two years. The council may provide by
18 ordinance for a different term not to exceed four years.

19 (c) The mayor of a second class city is elected by and
20 from the council for a term equal in length to a councilman's
21 term.

22 (d) The mayor's regular term begins on the first Monday
23 following his election which is held on the first Tuesday of
24 October. The council of a second class city shall meet on
25 the first Monday after the regular election date and elect a
26 mayor who takes office immediately.

27 Sec. 29.23.260. MAYOR'S VOTE. (a) The mayor of a
28 first class city is not a council member and may vote only in
29 the case of a tie.

1 (b) The mayor of a second class city is a council mem-
2 ber and may vote on all matters.

3 Sec. 29.23.270. VETO. (a) The mayor of a first class
4 city may veto any action of the council and may strike or
5 reduce items in appropriation bills. He shall submit to
6 the council at its next regular meeting a written statement
7 giving his reasons for the veto. A veto is overridden by the
8 vote of three-fourths of the authorized membership of the
9 council.

10 (b) The mayor of a second class city has no veto.

11 Sec. 29.23.280. FILLING A VACANCY. Within 30 days of
12 a vacancy in the office of mayor, the council shall designate
13 one of its members as mayor until the next regular election.
14 In a first class city the councilman chosen shall resign his
15 council seat.

16 Sec. 29.23.290. POWERS AND DUTIES OF CITY MANAGER. If
17 the city has a manager, he is the chief executive and admin-
18 istrative officer. The manager shall

19 (1) appoint all city employees and administrative
20 officers, except as provided otherwise by law;

21 (2) suspend or remove by written order city em-
22 ployees and administrative officers, except the employees and
23 administrative officers of the school system; he may hire
24 necessary administrative assistants and may authorize any
25 appointive administrative officer to appoint, suspend, or
26 remove subordinates in his department;

27 (3) supervise enforcement of city law;

28 (4) prepare the annual budget and capital improve-
29 ment program for the council;

1 (5) execute the budget and capital program as
2 adopted by the council;

3 (6) make monthly financial reports to the council
4 on city finances and operations;

5 (7) report to the council at the end of each
6 fiscal year on the finances and administrative activities of
7 the city;

8 (8) prepare and make available for public distri-
9 bution an annual report on city affairs;

10 (9) serve as city personnel officer unless the
11 council authorizes him to appoint a personnel officer;

12 (10) execute other powers and duties specified in
13 this title or lawfully prescribed by the council.

14 ARTICLE 5. SCHOOL BOARDS

15 Sec. 29.23.310. COMPOSITION, ELIGIBILITY, ELECTION,
16 AND TERM. (a) Each borough and city school district has a
17 school board of five members, except that a district with an
18 average daily membership exceeding 5,000 pupils has a board
19 of seven members. All board members are elected at large,
20 but school zones for the election of borough school boards
21 may be established, altered, or abolished as provided by sec.
22 110 of this chapter.

23 (b) A municipal voter is eligible to serve on the
24 school board.

25 (c) An election is held every year on the first Tues-
26 day of October to choose school board members for staggered
27 three-year terms. The regular term of office begins on the
28 first Monday following the election.

29 (d) This section applies to home rule and general law

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municipalities.

Sec. 29.23.320. FILLING A VACANCY. If a vacancy occurs in the board, the remaining members shall within 30 days submit to the borough chairman or to the mayor a list of at least three municipal voters as candidates to fill the vacancy. Within 30 days the chairman or mayor shall appoint from a list a person to serve until the next regular election. The chairman or mayor shall bring the name before the assembly or council for confirmation. In boroughs with a manager form of government, vacancies are filled by a majority of the assemblymen.

ARTICLE 6. UTILITY BOARDS

Sec. 29.23.340. UTILITY BOARDS. (a) The assembly or council of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

(b) Members of the board serve staggered three-year terms. As determined by ordinance, they are appointed by the municipal executive and confirmed by the assembly or council or elected at a regular or special election.

(c) Vacancies in the board are filled by the municipal executive. Executive appointments shall be confirmed by the assembly or council. A person selected to fill a vacancy on an elected utility board serves until the next regular election. A person selected to fill a vacancy on an appointed utility board serves until the expiration of the term.

(d) Unless otherwise provided by ordinance the board shall

- (1) choose its chairman and secretary;

1 (2) appoint the manager of the public utility
2 for a term not longer than five years and set his salary;

3 (3) formulate and enforce the general rules and
4 policies of the utility.

5 ARTICLE 7. OTHER OFFICERS AND EMPLOYEES

6 Sec. 29.23.360. APPOINTMENT OF OFFICERS. The chief
7 executive and administrative officer may appoint a clerk,
8 treasurer, assessor, attorney, police chief, and other
9 officials. Officers serve at the pleasure of the executive.

10 Sec. 29.23.370. MUNICIPAL ATTORNEY. The municipal
11 attorney is the legal advisor of the council or assembly, the
12 school board and the other officers of the municipality. He
13 represents the municipality as attorney in civil and criminal
14 proceedings.

15 Sec. 29.23.380. MUNICIPAL CLERK. (a) The municipal
16 clerk shall

17 (1) give notice of the time and place of meetings
18 to the assembly or the council and to the public;

19 (2) attend meetings and keep the journal;

20 (3) arrange publication of notices, ordinances,
21 and resolutions;

22 (4) maintain and make available for public in-
23 spection an indexed file including the municipal ordinances,
24 resolutions, rules, regulations, and codes;

25 (5) attest deeds and other documents;

26 (6) perform other duties specified in this title
27 or lawfully prescribed by the assembly or council.

28 (b) The assembly or council may combine the office of
29 clerk with that of treasurer. If the offices are combined,

1 the clerk shall, as required of the treasurer, give his bond
2 to the municipality for the faithful performance of his
3 duties as clerk-treasurer.

4 Sec. 29.23.390. MUNICIPAL TREASURER. (a) The treasurer
5 er is the custodian of all municipal funds. He shall keep
6 an itemized account of money received and disbursed. He
7 shall pay money on vouchers drawn against appropriations.

8 (b) The treasurer shall give bond to the municipality
9 in a sum which the assembly or council directs.

10 ARTICLE 8. ADOPTION OF MANAGER PLAN

11 Sec. 29.23.410. APPLICATION. A municipality may adopt
12 a manager plan of government ✓

13 Sec. 29.23.420. PETITION. A petition for the adoption
14 of a manager plan is submitted to the assembly or council.
15 It must be signed by a number of municipal voters equal to
16 25 per cent of the votes cast in the last regular election.

17 Sec. 29.23.430. ELECTION. (a) Upon receipt of the
18 petition, the assembly or council shall provide by ordinance
19 or resolution for a vote on the question at the next regular
20 or special election.

21 (b) The assembly or council shall post copies of the
22 ordinance or resolution at three public places 30 days before
23 the election.

24 Sec. 29.23.440. ADOPTION. (a) If the manager plan is
25 approved, the assembly or council shall adopt the plan by
26 ordinance or resolution.

27 (b) The assembly or council shall notify the Local
28 Affairs Agency of the adoption of the manager plan.

29 Sec. 29.23.450. APPOINTMENT. The assembly or council

1 shall appoint a manager by a majority vote of its membership.
2 He is chosen solely on the basis of his executive and admin-
3 istrative qualifications and receives the compensation set
4 by the assembly or council. An elected municipal official
5 may not be appointed manager of the municipality sooner than
6 one year after leaving office, except that, by a vote of
7 three-fourths of its authorized membership, the assembly or
8 council may at any time appoint one of its members or other
9 elected municipal officials as manager.

10 Sec. 29.23.460. TERM. Subject to the contract of em-
11 ployment, the manager holds office at the pleasure of the
12 assembly or council and may be removed for cause by a
13 majority vote of the membership.

14 Sec. 29.23.470. APPOINTMENT OF TEMPORARY OR NEW MANAGER.
15 In the absence or disability of the manager the assembly or
16 council shall appoint a temporary manager. If the office
17 becomes vacant the assembly or council shall appoint a new
18 manager.

19 Sec. 29.23.480. REPEAL. A municipality may repeal the
20 manager plan in the same manner used for its adoption. At
21 its first meeting after repeal the assembly or council shall
22 enact provisions for the reorganization of the municipal
23 executive.

24 ARTICLE 9. MISCELLANEOUS PROVISIONS

25 Sec. 29.23.500. OATHS OF OFFICE. Municipal officers,
26 before taking office, shall affirm in writing that they will
27 honestly, faithfully, and impartially perform their duties.
28 The oath is filed with the municipal clerk.

29 Sec. 29.23.510. COMBINING OFFICES. The assembly or

1 council may combine two or more offices.

2 Sec. 29.23.520. BONDING. The executive and the other
3 municipal officers or employees which the assembly or council
4 may designate shall give bond in the amount and with the
5 surety prescribed by the assembly or council. Premiums on
6 bonds are paid by the municipality.

7 Sec. 29.23.530. SALARIES NOT TO BE VARIED. The assem-
8 bly or council may fix by ordinance the salaries of elected
9 officers before they are elected. Salaries may not be
10 changed during terms of office. The salary of an officer
11 appointed by the assembly or council is fixed by ordinance
12 before he takes office. An officer may not receive any other
13 compensation for service to the municipality.

14 Sec. 29.23.540. PROHIBITIONS. (a) No person may be
15 appointed to or removed from municipal office or in any way
16 favored or discriminated against with respect to a municipal
17 position because of his race, color, sex, creed, national
18 origin or, unless otherwise contrary to law, because of his
19 political opinions or affiliations.

20 (b) This section applies to home rule and general law
21 municipalities.

22 Sec. 29.23.550. PERSONNEL SYSTEM. All appointments and
23 promotions of municipal officers and employees are made on
24 the basis of merit. The assembly or council may provide for
25 a personnel system.

26 Sec. 29.23.560. REPORTS. Home rule and general law
27 municipalities shall file with the Local Affairs Agency

28 (1) maps and descriptions of all annexed or ex-
29 cluded territory,

- 1 (2) a copy of the annual audit,
2 (3) tax assessment figures as required by the
3 state assessor.

4 Sec. 29.23.570. VACANCIES. An elective municipal
5 office is vacated when the person elected

6 (1) fails to qualify or take office within 30 days
7 after his election or appointment,

8 (2) is physically absent from the municipality for
9 a 90 day period, unless excused by the assembly or council,

10 (3) resigns and his resignation is accepted,

11 (4) is physically unable to attend assembly or
12 council meetings,

13 (5) is removed from office,

14 (6) misses three consecutive regular meetings,
15 unless excused.

16 CHAPTER 28. ELECTIONS

17 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS

18 Sec. 29.28.010. ADMINISTRATION. The borough assembly
19 or city council shall prescribe the general rules for con-
20 ducting municipal elections and appoint at least three
21 judges for each polling place. The municipality may require
22 voter registration but may not otherwise alter qualification
23 requirements. Elections are nonpartisan.

24 Sec. 29.28.020. ELECTION DATES. (a) The date of a
25 regular municipal election is the first Tuesday of October
26 of each year. This date applies to home rule and general
27 law municipalities.

28 (b) The assembly or council may call a special election
29 upon 30 days' notice.

1 Sec. 29.28.030. VOTER QUALIFICATION. A person may vote
2 if he is a qualified voter in Alaska and is a resident of
3 the municipality. This section applies to home rule and
4 general law municipalities.

5 Sec. 29.28.040. MAJORITY ELECTIONS. The assembly or
6 council may by ordinance require a majority vote for election
7 of officials. A runoff election or other means of obtaining
8 a majority may be used.

9 ARTICLE 2. INITIATIVE AND REFERENDUM

10 Sec. 29.28.060. RESERVATION OF POWERS. The powers of
11 the initiative and referendum are reserved to the residents
12 of municipalities, subject to the restrictions of sec. 7,
13 art. XI, of the state constitution.

14 Sec. 29.28.070. PETITION. (a) A petition for initia-
15 tive or referendum is filed with the municipal clerk. The
16 petition must be signed by a number of municipal voters equal
17 to the following per cent of the votes cast at the preceding
18 regular election:

19 (1) twenty-five per cent when the municipality has
20 fewer than 7,500 persons;

21 (2) fifteen per cent when the municipality has
22 7,500 persons or more.

23 Sec. 29.28.073. EXAMINATIONS FOR SUFFICIENCY. Within
24 10 days from the filing date, the municipal clerk shall
25 certify on the petition whether or not it bears the required
26 number of signatures.

27 Sec. 29.28.075. SUPPLEMENTAL PETITION. (a) If the
28 petition is insufficient, it may be supplemented by addition-
29 al signatures within 10 days.

1 (b) Within 10 days after supplementary filing the clerk
2 shall recertify the petition. If it is still insufficient,
3 the petition is rejected and filed as a public record.

4 Sec. 29.28.077. NEW PETITION. Failure to secure
5 sufficient signatures does not preclude the filing of a new
6 initiative or referendum petition. However, a new petition
7 may not be filed sooner than six months after a petition is
8 rejected.

9 Sec. 29.28.080. PRESENTATION OF INITIATIVE. When a
10 petition seeks enactment of an ordinance or resolution within
11 the powers of the assembly or council, the clerk shall present
12 it to the assembly or council at its next meeting. Unless
13 the petition is granted within 15 days of its submission to
14 the assembly or council, the clerk shall submit the ordinance
15 or resolution to the voters at the next regular or special
16 election. If no regular or special election occurs within 75
17 days after the final date on which the assembly or council
18 may grant the petition, the assembly or council shall hold
19 a special election within 75 days of that date. If a majority
20 of those voting favor the proposal, it becomes effective.

21 Sec. 29.28.090. PRESENTATION OF REFERENDUM. When a
22 petition seeks a referendum vote on an ordinance or resolu-
23 tion, the clerk shall submit the ordinance to the voters of
24 the municipality at the next regular or special election. If
25 no regular or special election occurs within 75 days of the
26 filing of a sufficient petition with the clerk, the assembly
27 or council shall hold a special election within 75 days of
28 filing. If a majority of those voting favor the legislation,
29 it remains in effect. If a majority rejects the legislation,

1 it is repealed.

2 Sec. 29.28.100. PRESENTATION OF CHARTER AMENDMENT.

3 When an initiative petition seeks a charter amendment, the
4 executive shall submit the amendment to the voters at the
5 next regular or special election. If no regular or special
6 election occurs within 75 days of the filing of a sufficient
7 petition with the clerk, the assembly or council shall hold
8 a special election within 75 days of filing. If a majority
9 of those voting favor the amendment, it becomes effective
10 immediately.

11 Sec. 29.28.110. EFFECT. (a) The assembly or council
12 may not, within one year, act in any way to modify or negate
13 the effect of a successful initiative, referendum, or charter
14 amendment.

15 (b) An unsuccessful initiative, referendum, or charter
16 amendment precludes the filing of a new petition for the
17 same purpose sooner than six months after voter disapproval
18 of the initiative, referendum, or charter amendment.

19 ARTICLE 3. RECALL

20 Sec. 29.28.130. RECALL. An elected official of a
21 home rule or general law municipality may be recalled by the
22 voters after he has served six months in office.

23 Sec. 29.28.140. GROUNDS. Grounds for recall are mis-
24 conduct in office, incompetence, or failure to perform pre-
25 scribed duties.

26 Sec. 29.28.150. PETITION. (a) A petition seeking
27 recall of one or more officers is filed with the municipal
28 clerk. The petition must be signed by a number of voters not
29 less than 25 per cent of the votes cast in the preceding

1 regular election.

2 (b) A statement of the grounds for recall must appear
3 at the head of each copy of a petition circulated.

4 Sec. 29.28.160. EXAMINATION FOR SUFFICIENCY. Within
5 10 days from the filing date, the municipal clerk shall
6 certify on the petition whether or not it bears the required
7 number of signatures.

8 Sec. 29.28.170. SUPPLEMENTAL PETITION. (a) If the
9 petition is insufficient, it may be supplemented by addition-
10 al signatures within 10 days.

11 (b) Within 10 days after supplementary filing the clerk
12 shall recertify the petition. If it is still insufficient,
13 the petition is rejected and filed as a public record.

14 Sec. 29.28.180. NEW PETITION. Failure to secure suffi-
15 cient signatures does not preclude the filing of a new recall
16 petition. However, a new petition may not be filed sooner
17 than six months after a petition is rejected.

18 Sec. 29.28.190. SUBMISSION. If a recall petition is
19 sufficient, the clerk shall immediately submit it to the
20 assembly or council.

21 Sec. 29.28.200. ELECTION. (a) If a regular election
22 occurs within 75 days of the submission, the assembly or
23 council shall submit the recall at that election.

24 (b) If no regular election will occur within 75 days,
25 the assembly or council shall hold a special election within
26 75 days of submission.

27 Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot
28 contains

29 (1) the grounds as stated in the recall petition;

1 (2) the officer's statement of 200 words or less,
2 if the statement is filed with the clerk for publication and
3 public inspection not later than 20 days before the election;

4 (3) the following question: "Shall (name of
5 person) be recalled from the office of (office)?" Yes
6 No .

7 Sec. 29.28.220. ELECTION PROCEDURE. Procedures for
8 conducting a recall election are those of a regular election.

9 Sec. 29.28.230. MAJORITY REQUIRED. A two-thirds
10 majority vote on the question is required to recall an offi-
11 cer.

12 Sec. 29.28.240. EFFECT. If an incumbent is not recall-
13 ed at the recall election, a petition to recall the same
14 incumbent may not be filed sooner than six months after the
15 recall election.

16 Sec. 29.28.250. ELECTION OF SUCCESSOR. If the voters
17 recall an officer, the clerk shall conduct an election for a
18 successor to fill the unexpired term, the election shall be
19 held at least 10 but not more than 30 days from the date of
20 the recall election. However, if a regular or special elec-
21 tion occurs within 75 days of the recall election, the
22 successor to the recalled official shall be chosen at that
23 regular or special election. The procedures and requirements
24 for the regular election for the office from which the in-
25 cumbent is recalled apply to the election conducted under
26 this section.

27 CHAPTER 33. AREAWIDE BOROUGH POWERS AND DUTIES

28 ARTICLE 1. SCOPE

29 Sec. 29.33.010. SCOPE OF AREAWIDE POWERS. Home rule

1 and general law boroughs shall exercise the powers specified
2 in this chapter on an areawide basis, both inside and outside
3 cities within their boundaries. No city, whether home rule
4 or not, may exercise an areawide power once that power is
5 being exercised by a borough.

6 ARTICLE 2. ASSESSMENT AND COLLECTION OF TAXES

7 Sec. 29.33.030. ASSESSMENT AND COLLECTION. Boroughs
8 shall assess and collect property, sales, and use taxes
9 levied within their boundaries, subject to ch. 53 of this
10 title. Taxes levied by cities and collected by a borough
11 are returned in full to levying cities.

12 ARTICLE 3. EDUCATION

13 Sec. 29.33.050. EDUCATION. (a) Each borough consti-
14 tutes a borough school district and shall establish, maintain,
15 and operate a system of public schools on an areawide basis,
16 and shall do so in the manner provided by law for city school
17 districts, except as otherwise provided in this title.

18 (b) The borough assembly may by ordinance require that
19 all school money be deposited in a centralized treasury with
20 all other borough money. The borough chairman shall have the
21 custody of, invest, and manage all money in the centralized
22 treasury. However, the borough assembly, with the consent of
23 the borough school board, may by ordinance delegate to the
24 borough school board the responsibilities of a centralized
25 treasury.

26 (c) When the borough school board by resolution con-
27 sents, the borough assembly may by ordinance provide a
28 centralized accounting system for school and all other
29 borough operations. The system shall be operated in

1 accordance with accepted principles of governmental account-
2 ing. However, the borough assembly, with the consent of the
3 borough school board, may by ordinance delegate to the
4 borough school board the responsibilities of the accounting
5 system.

6 (d) The borough school board shall submit the school
7 budget to the borough assembly for approval of the total
8 amount. The assembly shall then determine the total amount
9 of money to be made available for school purposes, shall
10 furnish the borough school board with a statement of the sum
11 to be made available, and shall appropriate the amount from
12 any borough money available for the purpose.

13 (e) The borough executive shall determine the location
14 of school buildings with due consideration to the recommenda-
15 tions of the borough school board.

16 (f) The borough school board has the responsibility
17 for design of school buildings, subject to the approval of
18 the borough assembly by resolution.

19 (g) The borough school board shall provide custodial
20 services and routine maintenance for school buildings and
21 shall appoint, compensate, and otherwise control personnel
22 for these purposes. The borough assembly and borough
23 executive shall provide for all major rehabilitation, all
24 construction, and major repair of school buildings.

25 (h) The state law relating to teacher salaries and
26 tenure, to financial support, to supervision by the Depart-
27 ment of Education and other general laws relating to schools,
28 govern the exercise of the functions by the borough. The
29 school board shall appoint, compensate, and otherwise control

1 all school employees and administrative officers.

2 ARTICLE 4. PLANNING, PLATTING, AND ZONING

3 Sec. 29.33.070. PLANNING, PLATTING, AND ZONING. (a)
4 Boroughs shall provide for planning, platting, zoning, and
5 building codes on an areawide basis. Cities may have
6 planning commissions in an advisory capacity. Borough com-
7 mission members from a first class city are appointed from
8 the advisory commission membership.

9 (b) If a city within a borough is located more than
10 25 miles from the borough seat, the assembly by ordinance
11 may

12 (1) designate the council of the city as the
13 board of adjustment within the city;

14 (2) designate the advisory planning commission
15 of the city as the platting board within the city;

16 (3) grant the boards extraterritorial jurisdic-
17 tion;

18 (4) grant the city the authority to enact, admin-
19 ister, and enforce building codes within the city and
20 authorize it extraterritorial jurisdiction for that purpose;

21 (5) delegate other planning and zoning responsi-
22 bilities to the city, provided that borough jurisdiction
23 over the comprehensive plan and over major highway and other
24 areawide borough matters is not impaired;

25 (6) withdraw powers delegated under this subsec-
26 tion.

27 Sec. 29.33.080. PLANNING COMMISSION. (a) The borough
28 planning commission consists of not more than nine citizens
29 nominated by the executive and confirmed by the assembly for

1 a term of three years. The members first appointed shall
2 draw lots for one, two, and three year terms. Appointments
3 to fill vacancies are for the unexpired term. The com-
4 pensation and expenses of the planning commission and its
5 staff are paid as directed by the assembly.

6 (b) The commission shall

7 (1) prepare a comprehensive plan for the syste-
8 matic development of the borough;

9 (2) prepare for consideration of the assembly a
10 zoning ordinance to implement the plan;

11 (3) submit recommendations to the assembly on the
12 location and design of every public facility;

13 (4) prepare building codes for consideration by
14 the assembly;

15 (5) act as a platting board to approve plats of
16 subdivisions, dedications, and vacations of land within the
17 borough;

18 (6) act upon requests for variances.

19 Sec. 29.33.090. ZONING. (a) The assembly shall
20 regulate and restrict the construction, alteration, or use
21 of land and improvements by zones. Regulations must be
22 uniform for each class or improvement within each zone,
23 but the regulations may differ among zones.

24 (b) Regulations adopted under (a) of this section
25 extend to

26 (1) land use,

27 (2) building location and use,

28 (3) the height and size of structures,

29 (4) the number of stories in buildings,

- 1 (5) the percentage of lot that may be occupied,
2 (6) the size of open spaces,
3 (7) population density.

4 (c) Zoning regulations are designed to

- 5 (1) lessen street congestion,
6 (2) promote fire safety and public order,
7 (3) protect health,
8 (4) provide adequate light and air,
9 (5) prevent overcrowding,
10 (6) stimulate development of transportation,

11 water, sewer, school, park, and other public facilities.

12 Sec. 29.33.100. BUILDING CODES. The assembly shall
13 adopt and administer building codes regulating minimum
14 construction, heating, lighting, and other building require-
15 ments and specifications.

16 Sec. 29.33.110. BOARD OF ADJUSTMENT. (a) The
17 assembly is the board of adjustment. Meetings of the
18 board are held at the call of the presiding officer. He
19 may administer oaths and compel attendance of witnesses.
20 Meetings of the board are open to the public and the board
21 shall keep minutes of its proceedings as a public record.

22 (b) The board of adjustment shall hear and decide

- 23 (1) appeals regarding alleged errors in enforce-
24 ment of zoning ordinances and building codes,
25 (2) requests for exceptions,
26 (3) appeals from the decision of the planning
27 commission on requests for variances from the terms of
28 the zoning ordinance which are not contrary to the public
29 interest, when a literal enforcement would result in

1 unnecessary hardship and injustice.

2 Sec. 29.33.120. ADJUSTMENT PROCEDURE. An interested
3 party may file with the board of adjustment an appeal
4 specifying his objections. Copies are filed with the
5 administrative officer involved and with the borough clerk
6 within the time required by the zoning ordinance. The
7 officer shall provide the board with all pertinent records,
8 including his written decision. An appeal to the board
9 stays enforcement proceedings unless the board or a court
10 issues an enforcement order based on a certificate of
11 imminent peril to life or property made by the enforcement
12 officer.

13 Sec. 29.33.130. JUDICIAL REVIEW. (a) The assembly
14 shall provide by ordinance for appeals from the board of
15 adjustment to the superior court.

16 (b) A municipal officer, a taxpayer, or a person
17 or persons, jointly or severally aggrieved, may appeal an
18 action of the board to the superior court by filing with
19 the borough clerk within the time fixed by ordinance, a
20 notice of appeal specifying grounds. When the notice of
21 appeal is filed, the board shall at once transmit to the
22 superior court clerk copies of all the papers constituting
23 the record in the case.

24 (c) An appeal from the board of adjustment stays
25 enforcement proceedings unless the court issues an enforce-
26 ment order based on a certificate of imminent peril to
27 life or property made by the board.

28 (d) The appeal is heard and tried de novo in the
29 superior court. After trial of an appeal on the merits,

1 the court may reverse or affirm, wholly or partly, the
2 decision appealed from. Costs are allowed against the
3 board only when it appears to the court that it acted with
4 gross negligence, in bad faith, or with malice in making
5 its decision.

6 (e) Issues in proceedings under this section have
7 preference over all other civil actions and proceedings.
8 An appeal lies from the decision of the superior court as
9 in other civil cases.

10 Sec. 29.33.140. HAZARDS AND NUISANCES. The assembly
11 may provide by ordinance for the condemnation of fire
12 or health hazards or public nuisances, and, after a hear-
13 ing on 30 days' notice to the owner or his agent, order
14 or cause their removal or demolition. The owner must be
15 given 30 days after the hearing to remove the hazard or
16 nuisance before the borough may proceed. If the borough
17 removes the hazard or nuisance, the cost is chargeable
18 to the property, first against the salvaged material,
19 which may be sold at public auction, and the balance of
20 the cost, if any, against the land as in the case of
21 taxes.

22 Sec. 29.33.150. PLATTING JURISDICTION AND POWER.
23 The planning commission acting as the platting board has
24 jurisdiction over platting and shall adopt and publish
25 rules and regulations to implement this power. Jurisdiction
26 includes the control of

27 (1) form, size, and other aspects of subdivi-
28 sions, dedications, and vacations of land;

29 (2) dimensions of lots or tracts;

1 (3) street width and arrangement, including
2 allowance for installation of street paving, curbs, gutters,
3 sidewalks, sewers, water lines, and other public utility
4 facilities.

5 Sec. 29.33.160. PROCEDURE. (a) The platting board
6 shall within 60 days of filing approve or disapprove the plat
7 or shall return it to the applicant for modification or
8 correction. If the board fails to act, the plat is consider-
9 ed approved and a certificate of approval shall be issued by
10 the board on demand. The applicant for plat approval may
11 consent to the extension of the period for action by the
12 board. The board shall state on its record its reason for
13 disapproval of a plat.

14 (b) The applicant shall submit an approved plat to the
15 district recorder in compliance with AS 40.15.010 - 40.15.-
16 020.

17 Sec. 29.33.170. WAIVER IN CERTAIN CASES. The platting
18 board may in individual cases waive the preparation, submis-
19 sion, and recording of a plat upon satisfactory evidence that

20 (1) a conveyance of part of a larger tract is not
21 made for the purpose of, or in connection with, a present or
22 projected subdivision development;

23 (2) the transaction constitutes an isolated trans-
24 action which does not fall within the general intent of this
25 chapter;

26 (3) no dedication of a street, alley, thorough-
27 fare, park or other public area is involved or required.

28 Sec. 29.33.180. INFORMATION REQUIRED. A plat shall
29 show initial point of survey, original or re-established

1 corners and their descriptions, and actual traverse showing
2 area of closure and all distances, angles and calculations
3 required to determine initial point, corners and distances
4 of the plat.

5 Sec. 29.33.190. PENALTIES. (a) The owner or agent of
6 the owner of land located within a subdivision who transfers,
7 sells, or enters into a contract to sell land in a subdivi-
8 sion before a plat of the subdivision has been prepared,
9 approved, and recorded is guilty of a misdemeanor, and upon
10 conviction is punishable by a fine of not more than \$300
11 for each lot or parcel transferred, sold, or included in a
12 contract to be sold. The platting board may enjoin a trans-
13 fer, sale, or contract to sell, and may recover the penalty
14 by appropriate legal action.

15 (b) No person may record a plat or seek to have a plat
16 recorded unless it bears the approval of the platting board.
17 A person who knowingly violates this requirement is punish-
18 able upon conviction by a fine of not more than \$300.

19 Sec. 29.33.200. ALTERATION OR REPLAT PETITION. No
20 recorded plat may be altered or replatted except upon peti-
21 tion of the owners of a majority of the land affected by the
22 alteration or replat. No platted street may be vacated,
23 except upon petition of the owners of the majority of the
24 front feet of the land fronting the part of the street sought
25 to be vacated. The petition shall be filed with the platting
26 board. It shall be accompanied by a copy of the existing
27 plat showing the proposed alteration or replat.

28 Sec. 29.33.210. NOTICE OF HEARING. The platting board
29 shall fix a time for a hearing on the petition which shall

1 not be less than 30 nor more than 60 days after the filing.
2 The clerk shall publish a notice stating when and by whom
3 the petition was filed, its purpose, and the time and place
4 of the hearing. The notice shall generally describe the
5 alteration or replat sought. The notice shall be published
6 once a week for three consecutive weeks in a newspaper of
7 general circulation in the area. The clerk shall also mail
8 by registered mail a copy of the notice to each affected
9 property owner not signing the petition.

10 Sec. 29.33.220. HEARING AND DETERMINATION. At the
11 hearing the platting board shall consider the alteration or
12 replat and make its decision on the merits of the proposal.

13 Sec. 29.33.230. RECORDING. If the alteration or replat
14 is approved, the revised plat must be recorded and is there-
15 after the lawful plat.

16 Sec. 29.33.240. TITLE TO VACATED AREA. The title to
17 the street or other public area vacated on a plat attaches to
18 the lots or lands bordering on the area in equal proportions,
19 except that where the area was originally dedicated by
20 different persons, original boundary lines shall be adhered
21 to so that the street area which lies on one side of the
22 boundary line shall attach to the abutting property on that
23 side, and the street area which lies on the other side of
24 the boundary line shall attach to the property on that side.
25 The portion of a vacated street which lies within the limits
26 of a platted addition attaches to the lots of the platted
27 addition bordering on the area. If a public square is
28 vacated, the title to it vests in the city if it lies within
29 the city and to the borough if it lies within the borough

1 outside a city. If the property vacated is a lot or tract,
2 title vests in the rightful owner.

3 Sec. 29.33.245. HEARING OFFICER. A platting board may
4 delegate authority to hear and decide cases under this chap-
5 ter to a hearing officer designated by the board. A person
6 aggrieved, an officer of the borough, or a taxpayer of the
7 borough may appeal a decision of the hearing officer to the
8 board within the time and in the manner to be prescribed by
9 board rule or regulation. The board shall hear and decide
10 the appeal de novo.

11 ARTICLE 5. ADDITIONAL AREAWIDE POWERS

12 Sec. 29.33.250. ADDITIONAL AREAWIDE POWERS. First and
13 second class boroughs acquire additional areawide general law
14 municipal powers by transfer from a city or by holding an
15 areawide election on the question.

16 Sec. 29.33.260. TRANSFER BY CITY. (a) A city may
17 transfer to the first or second class borough in which it is
18 located any of its powers or functions, subject to the
19 approval of the borough assembly.

20 (b) First and second class boroughs shall exercise all
21 powers transferred to them by cities.

22 (c) A city may not revoke the transfer of any power or
23 function to the borough unless a petition for the dissolu-
24 tion of the borough is approved or the borough fails to
25 exercise the power transferred to it.

26 Sec. 29.33.270. PETITION FOR POWER. An election on the
27 question of adding an areawide power may be initiated in two
28 ways:

29 (1) a number of voters equal to 15 per cent of

1 the number of votes cast in the borough at the preceding
2 regular election may file a petition with the assembly; or
3 (2) the assembly may propose the acquisition of
4 the power.

5 Sec. 29.33.280. INVESTIGATION. The assembly shall
6 hold at least one public hearing in the borough on the ques-
7 tion. The assembly shall then evaluate the ability of the
8 borough to exercise the powers and make its findings public.

9 Sec. 29.33.290. ELECTION. (a) The assembly shall,
10 within 30 days after its findings have been made public,
11 order an election to be held no less than 30 days after the
12 order nor later than the next regular election.

13 (b) If more than one power is proposed, each appears
14 separately on the ballot.

15 (c) The chairman shall certify the election results to
16 the Local Affairs Agency. If the majority of votes cast on
17 the question is favorable, the borough shall assume the
18 added power within 30 days of certification of the election
19 results.

20 CHAPTER 38. BOROUGH POWERS AND DUTIES IN THE
21 AREA OUTSIDE CITIES

22 Sec. 29.38.010. FIRST CLASS BOROUGH. The first class
23 borough may exercise in the area outside cities any general
24 law municipal power. Before exercising a power outside
25 cities only, the borough shall seek to have the identical
26 power transferred from cities within the borough or propose
27 joint borough-city exercise of the power.

28 Sec. 29.38.020. SECOND CLASS BOROUGH. The second class
29 borough may exercise in the area outside cities municipal

1 powers approved at incorporation or added as provided in this
2 chapter. Before exercising a power outside cities only, the
3 borough shall seek to have the identical power transferred
4 from cities within the borough or propose joint borough-city
5 exercise of the power.

6 Sec. 29.38.030. ADDITIONAL POWERS. The second class
7 borough may initiate the acquisition of additional powers
8 outside cities in either of two ways:

9 (1) a number of voters equal to 15 per cent of
10 the number of votes cast in the area outside cities at the
11 preceding regular election may file a petition with the
12 assembly; or

13 (2) the assembly may place the question on the
14 ballot.

15 Sec. 29.38.040. INVESTIGATION. The assembly shall hold
16 at least one public hearing in the borough on the question.
17 The assembly shall then evaluate the ability of the borough
18 to exercise the powers and make its findings public.

19 Sec. 29.38.050. ELECTION. (a) The assembly shall,
20 within 30 days after its findings have been made public,
21 order an election to be held not less than 30 days after the
22 order and not later than the next regular election.

23 (b) If more than one power is proposed, each appears
24 separately on the ballot.

25 (c) The chairman shall certify the election results to
26 the Local Affairs Agency. If the majority of votes cast on
27 the question is favorable, the borough shall assume the
28 added power within 30 days of certification of election
29 results.

1 CHAPTER 43. POWERS OF CITIES OUTSIDE BOROUGHES

2 Sec. 29.43.010. ADDITIONAL POWERS. In addition to the
3 powers granted by ch. 48 of this title, cities outside
4 boroughs are granted the powers specified in this chapter.

5 Sec. 29.43.020. ASSESSMENT AND TAX COLLECTION. First
6 class cities outside boroughs may assess, levy, and collect
7 a general property tax. A property tax if levied must be
8 assessed, levied, and collected as provided by ch. 53 of this
9 title for boroughs. First and second class cities outside
10 boroughs may levy and collect sales and use taxes as provided
11 by ch. 53 of this title for boroughs.

12 Sec. 29.43.030. EDUCATION. First class cities outside
13 boroughs constitute city school districts and shall establish,
14 maintain, and operate a system of public schools as provided
15 by AS 29.23.310 - 29.23.320 and 29.33.050 for boroughs.

16 Sec. 29.43.040. PLANNING AND ZONING. First and second
17 class cities outside boroughs shall provide for planning,
18 platting, zoning, and building codes as provided by AS 29.-
19 33.070 - 29.33.245 for boroughs.

20 Sec. 29.43.050. EXTRATERRITORIAL POWER. (a) A city
21 outside a borough may provide for planning, platting, zoning,
22 and building codes within five miles in all directions of its
23 boundaries if the area is not within another municipality.

24 (b) An ordinance adopted under this section must state
25 that it applies both inside and outside the city.

26 Sec. 29.43.060. BOUNDARY LINES. If the territory of
27 a city lies within five miles of the boundaries of another
28 city, the planning, platting, zoning, and building code
29 jurisdiction of each city terminates at a point equidistant

1 from their respective boundaries or at another point agreed
2 upon by the councils of the cities.

3 Sec. 29.43.070. PLANNING COMMISSION. The planning com-
4 mission of a city exercising extraterritorial planning,
5 platting, zoning, and building code power shall include one
6 or more members who are residents of the area lying outside
7 the city.

8 Sec. 29.43.080. ENFORCEMENT. The council of a city
9 exercising extraterritorial powers under this chapter may
10 provide for the enforcement of its regulations in the area
11 outside the city in the same manner as the regulations inside
12 the city are enforced.

13 CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES

14 ARTICLE 1. GENERAL POWERS

15 Sec. 29.48.010. GENERAL POWERS. Municipalities have
16 the following general powers:

17 (1) to establish and prescribe the functions of
18 municipal departments, offices, or agencies;

19 (2) to establish and prescribe salaries for the
20 elected and appointed municipal officers and employees;

21 (3) to make investigations of the affairs of the
22 municipality and make inquiries into the conduct of a muni-
23 cipal department;

24 (4) to enter into agreements, including those for
25 cooperative or joint administration of any functions or
26 powers with a local government, with the state, or with the
27 United States;

28 (5) to require periodic and special reports from
29 a municipal department to be submitted through the municipal

- 1 executive;
- 2 (6) to sue and be sued;
- 3 (7) to levy taxes and special assessments;
- 4 (8) to prescribe penalties for violations of muni-
5 cipal ordinances;
- 6 (9) to acquire and dispose of real and personal
7 property;
- 8 (10) to acquire membership in organizations which
9 promote legislation for the good of the municipality.

10 Sec. 29.48.020. GENERAL POLICE POWERS. The assembly
11 or council may take action by ordinance or resolution to
12 protect and preserve the lives, health, safety and well-
13 being of municipal residents.

14 ARTICLE 2. FACILITIES, SERVICES, AND REGULATION

15 Sec. 29.48.030. MUNICIPAL FACILITIES AND SERVICES. (a)
16 A municipality may exercise the powers necessary to provide
17 the following public facilities and services:

- 18 (1) streets and sidewalks,
- 19 (2) sewers and sewage treatment facilities,
- 20 (3) harbors, wharves, and other marine facilities,
- 21 (4) watercourse and flood control facilities,
- 22 (5) health services and hospital facilities,
- 23 (6) cemeteries,
- 24 (7) police protection and jail facilities,
- 25 (8) cold storage plants,
- 26 (9) telephone systems,
- 27 (10) light, power, and heat,
- 28 (11) water,
- 29 (12) transportation systems,

- 1 (13) community centers,
- 2 (14) libraries,
- 3 (15) recreation facilities,
- 4 (16) airport and aviation facilities,
- 5 (17) garbage disposal service and facilities,
- 6 (18) fire protection service and facilities.

7 (b) First and second class boroughs may exercise the
8 powers conferred by (a) of this section only after they have
9 been assumed under AS 29.33.250 - 29.33.290 or 29.38.010 -
10 29.38.050.

11 Sec. 29.48.035. REGULATORY POWERS. (a) A municipality
12 may regulate the operation and use of its public facilities
13 and services. It may also regulate the following:

- 14 (1) operation of motor vehicles,
- 15 (2) licensing of drivers of taxicabs, for-hire
16 automobiles, motor buses, or other vehicles for the trans-
17 portation of passengers or baggage,
- 18 (3) transportation fares,
- 19 (4) licensing, impounding, and disposition of
20 animals,
- 21 (5) peddling and hawking in public places,
- 22 (6) selling of food,
- 23 (7) radio interference,
- 24 (8) abandoned property,
- 25 (9) dangerous and disorderly conduct,
- 26 (10) alcoholic beverages as provided by AS 04.-
27 15.070,
- 28 (11) recreational devices as provided by AS 05.-
29 20.100,

1 (12) control of insects and rodents.

2 (b) First and second class boroughs may exercise the
3 powers conferred by (a) of this section only after they have
4 been assumed under AS 29.33.250 - 29.33.290 or 29.38.010 -
5 29.38.050.

6 Sec. 29.48.040. MUNICIPALLY-OWNED UTILITIES. (a) A
7 municipality owning or operating utilities may extend service
8 to contiguous areas outside its municipal limits. For that
9 purpose the municipality may acquire and operate extensions,
10 pole lines, mains, pipelines and other equipment together
11 with necessary real property outside its limits.

12 (b) All municipally-owned utilities except sewers and
13 water systems must be operated by revenue from users rather
14 than tax revenues.

15 Sec. 29.48.050. FRANCHISES AND RATES. (a) The assem-
16 bly or council may by ordinance grant franchises allowing
17 the construction, operation, and maintenance of services and
18 facilities and permitting the use of streets and other
19 public places for a period of not to exceed 20 years.
20 Franchises must be approved at a referendum election. Thirty
21 days' notice of a franchise election must be given. Elec-
22 tion results are canvassed by the assembly or council in a
23 public session. Franchises may be renewed or extended in
24 the manner provided in this section for the granting of
25 initial franchises.

26 (b) The assembly or council shall regulate the rates
27 and charges for utility services furnished to the municipali-
28 ty or its inhabitants by a municipally-owned utility, by a
29 privately-owned utility, or otherwise. It may require a

1 reasonable security deposit. Rates, charges, and regulations
2 must permit a fair return on invested capital.

3 Sec. 29.48.060. HEARING. If the assembly or council
4 decides to fix, change, or approve utility rates, it shall
5 call a hearing. Notice must be given by publication at
6 least once a week for three consecutive weeks in a newspaper
7 of general circulation in the area, by posting in three
8 public places, and by service of written notice upon the
9 utilities whose rates are to be fixed, changed, or approved
10 and by service of written notice upon each municipality
11 within whose boundaries the utility operates.

12 Sec. 29.48.070. PROCEEDINGS. At least four assembly or
13 council members shall be present at the hearing. At the
14 conclusion of the hearing the parties interested may make
15 arguments before the assembly or council, either in person
16 or by attorney as they consider proper, touching the matters
17 at issue, and thereafter the assembly or council shall pro-
18 ceed to regulate, approve, or fix the rates by ordinance.
19 The date upon which the rates fixed, regulated, or approved
20 go into effect is stated in the ordinance and may not be
21 less than 10 days after its passage and approval.

22 Sec. 29.48.080. RIGHT TO PARTICIPATE AND COMPEL TESTI-
23 MONY. At a utility rate hearing all parties and their
24 counsel interested in the matter must be heard. The muni-
25 cipality and all interested parties may call witnesses and
26 introduce evidence. All parties may compel the attendance
27 of witnesses, and subpoenas may be issued by the municipal
28 clerk. Subpoenas requiring the production of books and
29 papers may be issued in like manner upon request. If a per-

1 son fails to obey a subpoena, the superior court shall order
2 the witness to appear and testify, or compel the production
3 of the books or papers.

4 Sec. 29.48.090. APPLICATION. In a case of conflict
5 between the provisions of this title and the provisions of
6 Title 42, the provisions of Title 42 shall prevail.

7 ARTICLE 3. MUNICIPAL ENACTMENTS

8 Sec. 29.48.130. ACTS REQUIRED TO BE BY ORDINANCE. (a)
9 In addition to other actions which this title requires to be
10 by ordinance, the assembly or council shall use ordinances
11 to

12 (1) establish, alter, or abolish municipal
13 departments;

14 (2) fix the compensation of members of the
15 assembly or council;

16 (3) provide for a fine or other penalty, or
17 establish a rule or regulation for violation of which a fine
18 or other penalty is imposed;

19 (4) provide for the levying of taxes;

20 (5) make appropriations and supplemental appro-
21 priations, or transfer appropriations;

22 (6) grant, renew, or extend a franchise;

23 (7) regulate the rate charged by a public utility;

24 (8) authorize the borrowing of money;

25 (9) adopt, modify, or repeal the comprehensive
26 and zoning plans and the platting controls;

27 (10) approve the transfer of a power to a borough
28 from a city,

29 (11) designate the borough seat.

1 (b) This section grants no authority but requires the
2 assembly or council to use ordinances in exercising certain
3 of its powers.

4 Sec. 29.48.140. FORM OF ORDINANCES. Ordinances are
5 introduced in writing in the form required by the assembly
6 or council.

7 Sec. 29.48.150. ORDINANCE PROCEDURE. (a) The follow-
8 ing procedure governs the enactment of all ordinances except
9 emergency ordinances. An ordinance may be introduced by a
10 member or committee of the assembly or council or by the
11 municipal executive. Upon introduction, an ordinance is set
12 for hearing by the affirmative vote of a majority of the
13 votes authorized on the question. A summary of the
14 ordinance and its amendments is published together with a
15 notice of time and place for public hearing. The hearing
16 follows publication by at least 12 days. Copies of the
17 ordinance must be available to all persons present or the
18 ordinance must be read in full. The assembly or council
19 shall hear all interested persons wishing to be heard.
20 After the hearing, the assembly or council shall consider
21 the ordinance and may adopt it with or without amendment.
22 Substantive amendments require publication and hearing as
23 though an original ordinance. The assembly or council shall
24 print and make available copies of adopted ordinances.

25 (b) Ordinances take effect 15 days after adoption or
26 at a later date specified in the ordinance.

27 Sec. 29.48.160. EMERGENCY ORDINANCES. (a) To meet a
28 public emergency the assembly or council may adopt ordinances
29 effective on adoption. Every emergency ordinance must

1 plainly state the claimed emergency. The ordinance may be
2 adopted, amended and adopted, or rejected at the meeting at
3 which it is introduced. The affirmative vote of all members
4 present, or the affirmative vote of three-fourths of the
5 total membership, is required for adoption. The assembly
6 must print and make available copies of adopted emergency
7 ordinances.

8 (b) An emergency ordinance may not be used to levy
9 taxes, to grant, renew or extend a franchise, or to regulate
10 the rate charged by a public utility for its services.

11 (c) Emergency ordinances are effective for 60 days.

12 Sec. 29.48.170. CODES OF TECHNICAL REGULATIONS. The
13 assembly or council may in a single ordinance adopt or amend
14 by reference provisions of any standard published code of
15 technical regulations. The regular ordinance procedure
16 applies except that neither the ordinance nor its amendments
17 need be distributed to the public or read in full at the
18 hearings. For a period of 15 days before adoption at least
19 five copies of the code must be made available for public
20 inspection at a time and place set out in the hearing notice.
21 Only the adopting ordinance need be printed after adoption.
22 The assembly or council shall provide for the adopted code
23 to be sold to the public.

24 Sec. 29.48.180. CODIFICATION. (a) Each ordinance and
25 resolution after adoption shall be given a serial number
26 and, together with the date of adoption and the designation
27 of the adopting authority, shall be entered by the municipal
28 clerk in a properly indexed book kept for that purpose.

29 (b) Within three years after incorporation of the

1 municipality, the municipal executive, with the advice and
2 assistance of a legal advisor, shall have prepared a general
3 codification of all municipal ordinances and resolutions
4 having the force and effect of law. The municipal code
5 shall be revised and published at least every five years.

6 Sec. 29.48.190. BUDGET AND CAPITAL PROGRAM. (a) The
7 assembly or council shall establish the manner for the pre-
8 paration and submission of the budget and capital program
9 by the executive. After public hearing, the assembly or
10 council may adopt the annual budget with or without amendment
11 by a majority of the votes authorized on the question.

12 (b) A bond, contract, lease, or other obligation
13 requiring the payment of funds from the appropriations of a
14 later fiscal year or of more than one fiscal year shall be
15 made or approved by ordinance by a majority of the votes
16 authorized on the question.

17 (c) The assembly or council may make supplemental and
18 emergency appropriations. No payment may be authorized or
19 made and no obligation incurred except in accordance with
20 appropriations.

21 (d) Nothing in this section is intended to prevent the
22 authorizing of payment or making of contracts for capital
23 improvements to be financed wholly or partly by the issuance
24 of bonds.

25 Sec. 29.48.200. PENALTIES. For the violation of an
26 ordinance, the assembly or council may prescribe punishment
27 not to exceed a fine of \$300, or imprisonment for 30 days,
28 or both, together with costs of prosecution.

29 Sec. 29.48.210. EXPENDITURE OF BOROUGH REVENUES.

1 Borough revenues levied and collected on an areawide basis
2 by a home rule or general law borough may be expended on
3 general administrative costs and on areawide functions only.
4 Revenues levied and collected in the area outside cities
5 only may be expended on functions which render service to
6 the area outside cities only.

7 Sec. 29.48.220. POST AUDIT. The assembly or council
8 shall provide for an annual independent audit of the
9 accounts and financial transactions of the municipality and
10 its departments. To make the audit the assembly or council
11 shall designate a public accountant who has no personal
12 interest, direct or indirect, in the fiscal affairs of the
13 municipality or its departments.

14 ARTICLE 4. MISCELLANEOUS PROVISIONS

15 Sec. 29.48.250. CENTRALIZED PURCHASING. The assembly
16 or council may provide for centralized purchasing, storage,
17 and distribution of supplies, material, and equipment for the
18 municipality and its departments. However, the municipal
19 school board may determine the policy for purchase of
20 supplies and equipment of a kind not used by other municipal
21 departments.

22 Sec. 29.48.260. MUNICIPAL PROPERTIES. (a) The assem-
23 bly or council may acquire and hold real and personal
24 property or interest in property, and may sell, lease or
25 otherwise dispose of property no longer required for munici-
26 pal purposes.

27 (b) The assembly or council may sell, lease, donate or
28 exchange with the United States, the state, or a political
29 subdivision real estate or other property, or interest in

1 property, when in the judgment of the assembly or council it
2 is advantageous to the municipality to do so.

3 (c) The assembly or council shall by ordinance estab-
4 lish a formal procedure for the sale, lease, or disposition
5 of real property or interest in real property. The ordinance
6 shall require (1) an estimated value of the property by a
7 qualified appraiser or the assessor, (2) a notice of sale
8 published in a newspaper of general circulation within the
9 municipality at least 30 days before the date of the sale,
10 lease, or disposition, or posted within that time in at least
11 three public places in the municipality, (3) public opening
12 of sealed bids, if any, and (4) other terms and conditions
13 fixed by the assembly or council. However, no ordinance for
14 the sale, lease, or disposition of real property or interest
15 in real property valued at \$25,000 or more is valid unless
16 ratified by a majority of the qualified voters voting at a
17 general or special election at which the question of the
18 ratification of the ordinance is submitted. Thirty days'
19 notice shall be given of the election and during that period
20 the assembly or council shall have published at least once
21 a week in a newspaper published in the municipality a notice
22 stating the time of the election and the place of voting,
23 describing the property to be sold, leased, or disposed of,
24 giving a brief statement of the terms and conditions of the
25 sale and the consideration, if any, and stating the title
26 and date of passage of the ordinance. Notice shall also be
27 given by posting a copy of it in at least three public places
28 in the municipality at least 30 days before the election. If
29 no newspaper of general circulation is published in the

1 municipality, the notice given by the posting is sufficient for
2 the purposes of this section.

3 (d) The assembly or council may by ordinance establish a
4 formal procedure for acquisition from the state of land or
5 rights in land and disposal of those lands or rights in land,
6 in which event the provisions of subsection (c) do not apply.

7 (e) The assembly or council, in order to make sites avail-
8 able for beneficial new industries, may acquire and hold real
9 property, either inside or outside the corporate limits, and
10 may sell, lease or dispose of it to persons who agree to oper-
11 ate a beneficial new industry upon the terms and conditions the
12 assembly or council considers advantageous to the municipality.

13 CHAPTER 53. MUNICIPAL ASSESSMENT AND TAXATION

14 ARTICLE 1. BOROUGH PROPERTY TAX

15 Sec. 29.53.010. GENERAL PROPERTY TAX. Home rule and
16 general law boroughs may levy (1) an areawide property tax for
17 areawide functions, and (2) a property tax limited to the area
18 outside cities for functions limited to the area outside cities.
19 A property tax if levied must be assessed, levied and collected
20 as provided in this chapter.

21 Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following
22 property is exempt from taxation:

23 (1) municipal, state, or federally-owned property,
24 (2) household goods and personal effects not used
25 for business, rent, or profit,

26 (3) property used exclusively for nonprofit re-
27 ligious, eleemosynary, charitable, cemetery, hospital, or
28 educational purposes,

29 (4) property of a nonbusiness organization composed

1 entirely of U. S. war veterans and its auxiliaries,

2 (5) money on deposit,

3 (6) intangible personal property not including
4 leasehold interests.

5 (b) "Property used exclusively for religious purposes"
6 includes the following property owned by a religious organi-
7 zation:

8 (1) the residence of the pastor, priest, rabbi,
9 minister, or religious order of a recognized religious
10 organization,

11 (2) a structure, its furniture, and its fixtures
12 used solely for public worship, charitable purposes,
13 religious education, or a nonprofit hospital,

14 (3) lots supporting and adjacent to a structure or
15 residence mentioned in (1) or (2) of this subsection which
16 are necessary to convenient use,

17 (4) lots required by local ordinance for parking
18 near a structure defined in (2) of this subsection.

19 (c) Property described in (a) or (b) of this section
20 from which income is derived is exempt only if used by
21 religious, eleemosynary, charitable, or educational groups
22 for classroom space.

23 (d) Laws exempting certain property from execution
24 under the Code of Civil Procedure do not exempt the property
25 from taxes levied and collected by municipalities.

26 Sec. 29.53.025. OPTIONAL PERSONAL PROPERTY EXEMPTIONS.

27 (a) The assembly may by ordinance, ratified by a majority
28 of the qualified voters voting on the question, exclude
29 personal property from taxation or classify and exempt from

1 taxation any class or classes of personal property. The
2 ordinance as presented to the voters shall specify (1) the
3 current estimated full and true value of the personal
4 property or classes of personal property to be exempted or
5 excluded and (2) the amount of money which is equivalent to
6 the amount which would be raised from the current mill levy
7 on the full and true value of the personal property to be
8 exempted or excluded.

9 (b) For purposes of this section commercial fishing
10 vessels registered with the Department of Fish and Game may
11 be considered as a separate class of personal property.

12 (c) A borough which on the effective date of this Act
13 exempts or excludes personal property or any class or classes
14 of personal property from taxation may continue the exemption
15 or exclusion only upon adopting an ordinance as required by
16 (a) of this section.

17 Sec. 29.53.030. MINING CLAIMS. The assessed value of
18 an unimproved, unpatented mining claim which is not produc-
19 ing, and a nonproducing patented mining claim upon which the
20 improvements originally required for patent have become use-
21 less and valueless through depreciation, removal or otherwise,
22 is fixed at \$200 for each 20 acres or fraction of 20 acres.
23 If the surface ground of a claim has a separate and independ-
24 ent value for nonmining uses, the real and personal property
25 is assessed at its full and true value.

26 Sec. 29.53.040. MOBILE HOMES. Mobile homes permanently
27 attached to land or connected with water, gas, electric, or
28 sewage facilities are real property for tax purposes.

29 Sec. 29.53.050. TAX LIMITATION. Municipalities may

1 levy property taxes to pay or secure the payment of principal
2 and interest on general obligation bonds without limitation
3 as to rate or amount. They may not levy property taxes for
4 other purposes in excess of three per cent of the assessed
5 property valuation.

6 Sec. 29.53.060. FULL AND TRUE VALUE. (a) The assessor
7 shall assess property at its full and true value as of
8 January 1 of the assessment year, except as provided in this
9 section and secs. 30 and 160 of this chapter. The full and
10 true value is the amount which the property would bring on
11 an open market in a sale between a willing seller and a will-
12 ing buyer both conversant with the property and with prevail-
13 ing general price levels.

14 (b) Assessment of business inventories shall be based
15 on the average monthly inventory value during the previous
16 calendar year rather than the value existing on January 1.
17 The method for determining average monthly inventory shall be
18 prescribed by the borough.

19 Sec. 29.53.070. RETURNS. (a) Every person shall sub-
20 mit a return in the form which the assessor may require,
21 based on property values existing on January 1, except as
22 otherwise provided by this chapter. As required by the
23 municipality, the return includes real or personal property
24 in which the person has any ownership, control, or interest.

25 (b) The assessor may, by written notice, require a
26 person to provide additional information within 30 days.

27 Sec. 29.53.080. INDEPENDENT INVESTIGATION. (a) The
28 assessor is not bound to accept a return as correct. He
29 may make an independent investigation of property returned

1 or of taxable property upon which no return has been filed.
2 In either case, the assessor may make his own valuation of
3 the taxable property, which is prima facie evidence.

4 (b) For investigation, the assessor or his agent may
5 enter any premise during reasonable hours and may examine
6 property on the premises. He may examine all property
7 records involved. A person shall, upon request, furnish to
8 the assessor or his agent every facility and assistance for
9 the purposes of the investigation. If refused entry, the
10 assessor may seek a court order to compel entry.

11 (c) An assessor may examine a person on oath. Upon
12 request, the person shall present himself for examination
13 by the assessor.

14 Sec. 29.53.090. STATEMENT. A person who fails to file
15 a statement or who knowingly makes a false affidavit to a
16 statement required by a tax ordinance relative to the amount,
17 kind or value of property subject to taxation with intent
18 to evade the taxation, is guilty of a misdemeanor. Upon
19 conviction, he is punishable by a fine of not more than \$300
20 or by imprisonment for not more than 30 days, or by both,
21 together with costs of prosecution.

22 Sec. 29.53.100. ASSESSMENT ROLL. (a) The assessor
23 shall prepare an annual assessment roll. The roll contains
24 (1) a description of all taxable property,
25 (2) the assessed value of all taxable property,
26 (3) the names and addresses of persons with
27 property subject to assessment and taxation.

28 (b) The assessor may list real property by any descrip-
29 tion that may be made certain. Real property is assessed to

1 the owner of record as shown in the records of the district
2 recorder, who shall quarterly provide the assessor a copy of
3 each recorded change of ownership. Other persons having an
4 interest in the property may be listed on the assessment
5 records with the owner. The person in whose name property
6 is listed as owner is conclusively presumed to be the legal
7 owner of record. If the property owner is unknown, the
8 property may be assessed to "Unknown Owner". No assessment
9 is invalidated by a mistake, omission, or error in the name
10 of the owner, if the property is correctly described.

11 Sec. 29.53.110. ASSESSMENT NOTICE. (a) The assessor
12 shall give every person named in the assessment roll a
13 notice of assessment, showing the assessed value of his
14 property. On each notice is printed a brief summary of the
15 dates when taxes are payable, delinquent, and subject to
16 penalty and interest and the dates when the assembly will
17 sit as a board of equalization.

18 (b) Sufficient assessment notice is given if mailed
19 by first class mail 30 days before the equalization hearings.
20 If the address is not known to the assessor, the notice may
21 be addressed to the person at the post office nearest the
22 property. Notice is effective on the date of mailing.

23 Sec. 29.53.120. CORRECTIONS. (a) A person receiving
24 an assessment notice shall advise the assessor of errors or
25 omissions in the assessment of his property. The assessor
26 may correct errors or omissions in the roll before the board
27 of equalization hearing.

28 (b) If errors found in the preparation of the assess-
29 ment roll are adjusted, the assessor shall mail a corrected

1 notice allowing 30 days for appeal to the board.

2 Sec. 29.53.130. APPEAL. (a) A person whose name
3 appears on the assessment roll or his agent or assigns may
4 appeal to the board of equalization for relief from an alleg-
5 ed error in valuation not adjusted by the assessor to the
6 taxpayer's satisfaction.

7 (b) The appellant shall, within 30 days from date of
8 mailing of notice of assessment, submit to the assessor a
9 written appeal specifying grounds in the form which the
10 board may require. Otherwise, the right of appeal ceases
11 unless the board finds that the taxpayer was unable to
12 comply.

13 (c) The assessor shall notify appellants by mail of
14 the time and place of their hearing.

15 (d) The assessor shall prepare for use by the board a
16 summary of assessment data relating to each assessment which
17 is appealed.

18 Sec. 29.53.140. HEARING. (a) If an appellant fails
19 to appear, the board of equalization may proceed with the
20 hearing in his absence.

21 (b) The appellant bears the burden of proof.

22 (c) The only grounds for adjustment is proof of unequal
23 value or excessive valuation based on facts stated in a valid
24 written appeal timely filed.

25 (d) The board shall certify its actions to the assessor
26 within three days.

27 (e) The assessor shall enter the changes and certify
28 the final assessment roll by June 1.

29 (f) An appellant may appeal to the superior court for

1 review de novo of the board's action.

2 Sec. 29.53.150. SUPPLEMENTARY ASSESSMENT ROLLS. The
3 assessor shall include property omitted from the assessment
4 roll on a supplementary roll, using the procedures outlined
5 by this chapter for the original roll.

6 Sec. 29.53.160. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY
7 A NATURAL DISASTER. (a) The assembly may provide for a re-
8 assessment and reduction of taxes for property destroyed,
9 damaged, or otherwise reduced in value as a result of a
10 natural disaster.

11 (b) A reassessment may be made by the assessor only
12 upon the receipt of a sworn statement of the taxpayer that
13 his losses exceed \$1,000. A reduction of taxes may be made
14 only on losses in excess of \$1,000 for the remainder of the
15 year following the disaster. Upon reassessment the borough
16 shall recompute this tax and refund taxes which have already
17 been paid.

18 (c) The borough shall make notice of assessment or re-
19 assessment and shall hold an equalization hearing as provided
20 in this chapter, except that a notice of appeal is filed with
21 the board of equalization within 10 days after notice of
22 assessment is given to the person appealing. If notice of
23 appeal is not given within 10 days, the right of appeal
24 ceases as to any matter within the jurisdiction of the board,
25 unless it is shown to the satisfaction of the board that the
26 taxpayer was unable to appeal within that time.

27 (d) In enacting an ordinance or resolution authorized
28 by this section, the assembly may, consistent with this sec-
29 tion, prescribe procedures, restrictions, and conditions of

1 assessing or reassessing property and of remitting, refund-
2 ing, or forgiving taxes.

3 (e) In this section "disaster" means a major disaster
4 declared by the President of the United States under the
5 provisions of the Federal Disaster Act of 1950, Title 42,
6 United States Code, Sec. 1855-1855g, or other federal law.

7 Sec. 29.53.170. TAX LEVY AND RATE. (a) The power
8 granted to the assembly to assess, levy and collect a general
9 property tax shall be exercised by means of general ordinan-
10 ces, but the rate of levy, the date of equalization and the
11 date when taxes become delinquent shall be fixed by resolu-
12 tion.

13 (b) The assembly shall annually determine the rate of
14 levy before June 15. The tax collector shall mail tax state-
15 ments by July 1.

16 Sec. 29.53.180. RATES OF PENALTY AND INTEREST. If the
17 taxpayer is required to pay the entire tax on the due date
18 set by the assembly, a penalty not to exceed 10 per cent may
19 be added to all delinquent taxes, and interest at the rate of
20 eight per cent a year shall accrue upon all unpaid taxes, not
21 including penalty, from the due date until paid in full. If
22 the taxpayer is given the right to pay the tax in two install-
23 ments and the first half is not paid when due, the entire tax
24 becomes delinquent and penalty and interest accrue as
25 follows.

26 (1) If the first half is paid when due, the second
27 half is payable on the due date fixed by the assembly for the
28 second half and if not paid is delinquent after that date.

29 (2) A penalty not to exceed eight per cent shall

1 be added to all taxes delinquent until the due date fixed
2 for payment of the second half, and interest at the rate of
3 eight per cent a year shall be charged on the whole of the
4 unpaid taxes, not including penalty, from due date until
5 paid in full.

6 (3) After the due date for the payment of the
7 second half a total penalty of not more than 10 per cent may
8 be added to all delinquent taxes, and interest at the rate
9 of eight per cent a year shall accrue upon all unpaid taxes,
10 not including penalties, from due date until date paid in
11 full.

12 ARTICLE 2. ENFORCEMENT OF TAX LIENS

13 Sec. 29.53.200. VALIDITY. Certified assessment and
14 tax rolls are valid and binding on all persons regardless of
15 defects, errors, or omissions unless a court finds infringe-
16 ment of substantial rights.

17 Sec. 29.53.210. TAX LIABILITY. (a) The owner of
18 personal property assessed is personally liable for the
19 amount of taxes assessed against his property. The tax, to-
20 gether with penalty and interest, may be collected in a
21 personal action brought in the name of the borough.

22 (b) Real property taxes, together with penalty and
23 interest, are a lien upon the property assessed, and the
24 lien is prior and paramount to other liens or encumbrances
25 against the property.

26 Sec. 29.53.220. ENFORCEMENT OF PERSONAL PROPERTY TAX
27 LIENS BY DISTRAINT AND SALE. The lien of personal property
28 taxes may be enforced by distraint and sale of the property.
29 The assembly shall provide the procedure for distraint and

1 sale by ordinance. No seizure, levy, or distraint is legal
2 unless demand is first made of the person assessed for the
3 amount of the tax, penalty, and interest, and no sale is
4 valid unless made at public auction after 15 days' notice
5 given by posting or publication. The seizure is made by
6 virtue of a warrant issued by the borough clerk to a police
7 officer. If the property sold is not sufficient to satisfy
8 the tax, penalty, interest, and costs of sale, the warrant
9 may authorize the seizure of other personal property
10 sufficient to satisfy the tax, penalty, interest, and costs
11 of sale.

12 Sec. 29.53.230. REAL PROPERTY TAX COLLECTION. (a) The
13 borough shall enforce delinquent real property tax liens by
14 annual foreclosure, unless otherwise provided by ordinance.

15 (b) If the tax on a leasehold interest in tax exempt
16 property is not paid when due, a borough may enforce the tax
17 by a personal action against the delinquent taxpayer brought
18 in the magistrate or superior court, in addition to other
19 remedies available to the borough to enforce the lien.

20 Sec. 29.53.240. FORECLOSURE LIST. (a) The collector
21 shall

22 (1) by July 1 of each year, present a petition for
23 judgment and a certified copy of the foreclosure list for
24 the previous year's delinquent taxes to the superior court
25 for judgment;

26 (2) on the day of presentation of the petition to
27 the court for judgment, begin four consecutive weekly publi-
28 cations of the foreclosure list in a newspaper of general
29 circulation in the borough, or, if there is no newspaper of

1 general circulation, post the list at three public places;

2 (3) within 10 days after the first publication or
3 posting, send by certified mail to the last known owner of
4 each property as his name and address appear on the list a
5 notice advising of the foreclosure proceeding on which a
6 judgment of foreclosure has been taken and describing the
7 property and the amount due as stated on the list.

8 (b) The list includes

9 (1) the last known owner,

10 (2) the property description as stated on the
11 assessment roll,

12 (3) years and amounts of delinquency,

13 (4) penalty and interest due,

14 (5) a statement that the list is available for
15 public inspection at the clerk's office,

16 (6) a statement that the list has been presented
17 to the superior court with a petition for judgment and decree.

18 (c) Completion of the requirements of (a) of this sec-
19 tion constitutes and has the same force and effect as the
20 filing of an individual and separate complaint and service
21 of summons to foreclose a lien against each property
22 described on the foreclosure list.

23 Sec. 29.53.250. CLEARING DELINQUENCIES. During the
24 publication or posting of the foreclosure list and up to the
25 time of transfer to the borough a person may pay the taxes,
26 together with the penalty, interest, and costs. The collec-
27 tor shall note payment on the foreclosure list.

28 Sec. 29.53.260. LIST TO LIENHOLDER. A holder of a
29 mortgage or other lien on real property may request the clerk

1 to send a copy of the foreclosure list by certified mail.

2 Sec. 29.53.270. GENERAL FORECLOSURE. The borough shall
3 bring one general foreclosure proceeding in rem against the
4 properties included in the list. If the owner is unknown,
5 the property is proceeded against as belonging to "unknown
6 owner". Tax foreclosure proceedings have priority over all
7 other civil proceedings.

8 Sec. 29.53.280. ANSWER AND OBJECTION. A person having
9 an interest in a tract on the foreclosure list may file an
10 answer by September 1, specifying his objection. The court
11 shall make its decision in summary proceedings. The fore-
12 closure list is prima facie evidence that the assessment and
13 levy of the tax is valid and that the tax is unpaid.

14 Sec. 29.53.290. JUDGMENT. The court shall in a proper
15 case give judgment and decree that the tax liens be fore-
16 closed. It is a several judgment against and a lien on each
17 parcel.

18 Sec. 29.53.300. TRANSFER AND APPEAL. (a) Foreclosed
19 properties are transferred to the borough for the lien
20 amount. When answers are filed the court may enter judgment
21 against and order the transfer to the borough of all other
22 properties on the list pending determination of the matters
23 in controversy. The court shall hear and determine the
24 issues raised by the complaint and answers in the same
25 manner and under the same rules as it hears and determines
26 other actions.

27 (b) The court clerk shall deliver a certified copy of
28 the judgment and decree to the borough clerk. The certified
29 judgment and decree constitutes a transfer to the borough.

1 (c) The judgment and decree estops objections to it
2 which could have been presented before judgment and decree.

3 (d) Appeal from a judgment and decree of foreclosure,
4 or from a final order in the proceeding, may be taken in the
5 manner provided for appeals in civil actions.

6 Sec. 29.53.310. REDEMPTION PERIOD. (a) Properties
7 transferred to the borough are held by the borough for one
8 year. During the one-year period a party having an interest
9 in the property may redeem it by paying the lien amount plus
10 penalties, interest, and costs. Property redeemed is subject
11 to all taxes, assessments, liens, and claims as though it
12 had continued in private ownership. Only the amount appli-
13 cable under the judgment and decree must be paid in order to
14 redeem the property.

15 (b) A person holding a mortgage or other lien of record
16 covering a part only of a parcel of real property included in
17 the judgment and decree of foreclosure may redeem that part
18 by paying the proportionate amount applicable under the
19 judgment and decree.

20 Sec. 29.53.320. EFFECT. Receipt of redemption money
21 by the clerk releases all claims of the borough to the
22 property. The clerk shall record the redemption and issue a
23 certificate containing a property description, the redemption
24 amount, and the dates of judgment and decree of foreclosure.
25 The person redeeming shall file the certificate with the
26 recorder. The court clerk shall file the certificate as part
27 of the judgment roll.

28 Sec. 29.53.330. ADDITIONAL LIENS. If a property in-
29 cluded in a foreclosure list is removed after payment of

1 delinquencies or redemption by another lienholder, the
2 receipt for payment constitutes an additional lien on the
3 property, collectible in the same manner as the original
4 lien.

5 Sec. 29.53.340. POSSESSION DURING REDEMPTION PERIOD.
6 Foreclosure does not affect the former owner's right to
7 possession during the redemption period. In the event that
8 waste is committed by the former owner, or by anyone acting
9 under his permission or control, the borough may declare an
10 immediate forfeiture of the right to possession.

11 Sec. 29.53.350. EXPIRATION. Thirty days before the
12 expiration of the redemption period the clerk shall publish
13 a redemption period expiration notice stating the owner's
14 name, property lien, the dates of judgment, and the date of
15 conveyance by deed to the borough. The notice is published
16 once a week for two consecutive weeks in a newspaper of
17 general circulation within the borough. If there is no news-
18 paper of general circulation within the borough, the notice
19 is posted in three public places for at least two consecu-
20 tive weeks. The clerk shall send a copy of the published
21 notice by certified mail to each record owner of property
22 against whom a judgment of foreclosure has been taken. The
23 notice shall be mailed within five days of the first publi-
24 cation.

25 Sec. 29.53.360. DEED TO BOROUGH. (a) Unredeemed
26 properties are deeded to the borough by the clerk of the
27 court. The right of redemption terminates on the execution
28 of the deed to the borough.

29 (b) Conveyance gives the borough clear title except for

1 liens of the United States and the state.

2 (c) If unredeemed property lies within a city and if
3 the borough has no immediate public use for the property but
4 the city does have an immediate public use, the borough shall
5 deed the property to the city.

6 (d) No deed is invalid for irregularities, omissions
7 or defects, unless the former owner has been misled to his
8 injury. After two years from the date of the deed its vali-
9 dity is conclusively presumed.

10 Sec. 29.53.370. SALE OF FORECLOSED PROPERTIES. Tax
11 foreclosed properties conveyed to a borough by tax fore-
12 closure may be sold.

13 Sec. 29.53.375. REPURCHASE BY RECORD OWNER. (a) The
14 record owner at the time of tax foreclosure of property
15 acquired by a borough, or his assigns, may, at any time be-
16 fore the sale or contract of sale of the tax foreclosed
17 property by the borough, repurchase the property. The
18 borough shall sell the property for the full amount appli-
19 cable to the property under the judgment and decree, with
20 interest at the rate of eight per cent a year from the date
21 of entry of the judgment of foreclosure to the date of re-
22 purchase, together with delinquent taxes assessed and levied
23 as though it had continued in private ownership.

24 (b) After termination of the right of redemption there
25 is no right to repurchase property held for, and devoted to,
26 a public purpose authorized by law and upon which improve-
27 ments have been constructed for that purpose.

28 Sec. 29.53.380. PROCEEDS OF TAX SALE. Upon sale of
29 real or personal property for satisfaction of tax liens, the

1 borough shall divide the proceeds, less cost of collection,
2 between the borough and a city having a lien against the
3 property. The division is in proportion to the respective
4 municipal tax liens which existed on the property at the
5 time of foreclosure.

6 Sec. 29.53.390. REFUND OF TAXES. (a) If a taxpayer
7 pays taxes under protest, he may bring suit in the superior
8 court against the borough for recovery of the taxes. If
9 judgment for recovery is given against the borough, the
10 borough shall refund the amount of the taxes with interest at
11 six per cent to the taxpayer.

12 (b) If, in payment of taxes legally imposed, a remit-
13 tance by a taxpayer through error or otherwise exceeds the
14 amount due, and the borough, on audit of the account in
15 question, is satisfied that this is the case, the borough
16 shall refund the excess with interest at six per cent to the
17 taxpayer. A claim for refund filed after three years of the
18 due date of the tax is forever barred.

19 (c) When real property is acquired for public use by
20 the state, an agency of the state, or a municipality, the
21 borough shall prorate property taxes so that a taxpayer pays
22 taxes only for the length of time that the real property is
23 owned by him. The borough shall make a refund with interest
24 at six per cent upon the taxpayer's application and proof of
25 transfer. A claim for refund filed after three years of the
26 taking for public use is forever barred.

27 ARTICLE 3. CITY PROPERTY TAX .

28 Sec. 29.53.400. POWER OF LEVY. Home rule and first
29 class cities within boroughs may levy a general property tax.

1 A property tax if levied must be levied upon all property
2 within the city listed as taxable on the borough assessment
3 roll and is subject to sec. 50 of this chapter. The council
4 shall by June 15 of each year present to the borough assembly
5 a statement of the city's rate of levy.

6 ARTICLE 4. BOROUGH SALES AND USE TAXES

7 Sec. 29.53.410. SALES AND USE TAX. (a) A borough may
8 levy and collect a consumer sales tax not exceeding three
9 per cent on all sales prices, on all rents, and on all service
10 charges made within the borough. The sales tax may apply to
11 any or all of these sources.

12 (b) A borough levying a sales tax may also levy a use
13 tax on the storage, use, or consumption of tangible personal
14 property within the borough. The use tax rate must equal
15 the sales tax rate.

16 (c) A person who furnishes proof, in the form required
17 by the borough tax collector, that he has paid a sales tax on
18 a source on which a use tax is levied by the borough is
19 required to pay the use tax only to the extent of the differ-
20 ence between the amount of the sales tax paid and the amount
21 of the use tax levied by the borough. This subsection
22 applies to a sales tax levied in any taxing jurisdiction,
23 whether in or outside the state.

24 Sec. 29.53.420. REFERENDUM, ADOPTION AND MODIFICATION.

25 (a) The assembly shall hold a referendum vote on the ques-
26 tion of levy of sales and use taxes. Borough sales or use
27 tax propositions may be presented only once in any 12-month
28 period.

29 (b) If the proposition receives a majority of the votes

1 cast, the assembly may enact the tax as a levy upon buyers.
2 Sellers collect the sales tax at the time of sale or at the
3 time of payment in credit transactions and transmit it to
4 the borough.

5 ARTICLE 5. CITY SALES AND USE TAXES

6 Sec. 29.53.440. POWER OF LEVY. Home rule or general
7 law cities, within a borough which levies and collects sales
8 and use taxes for areawide borough functions, may levy sales
9 and use taxes upon all sources taxed by the borough, but only
10 in the manner provided for boroughs.

11 Sec. 29.53.450. POWER OF LEVY AND COLLECTION. Home rule
12 and general law cities, within a borough which does not levy
13 and collect sales and use taxes for areawide borough functions,
14 may levy and collect sales and use taxes, but only in the
15 manner provided for boroughs.

16 Sec. 29.53.460. COMBINING SALES TAX WITH INCORPORATION.
17 A petition for second class city incorporation may request
18 that a sales tax proposal be placed on the same ballot. The
19 petition must state the proposed tax rate. The petition may
20 request that incorporation be dependent upon the passage of
21 the sales tax proposition. If so, the incorporation proposi-
22 tion fails if the sales tax fails.

23 CHAPTER 58. MUNICIPAL DEBT

24 ARTICLE 1. TAX ANTICIPATION NOTES

25 Sec. 29.58.010. TAX ANTICIPATION NOTES. A municipality
26 may borrow money in the form of notes to meet the appropri-
27 ations for a fiscal year in anticipation of the collection of
28 taxes and revenues for that year. The aggregate principal
29 amount borrowed may not at any time exceed 50 per cent of the

1 estimated appropriations for the fiscal year.

2 Sec. 29.58.020. FORM AND TERMS. The assembly or
3 council shall authorize by ordinance the sale of tax antici-
4 pation notes. Notes are in the form and denominations
5 determined by the assembly or council, with a maturity date
6 not to exceed one year from the date of issue. In no event
7 shall notes and renewals of notes be outstanding for a total
8 elapsed time of more than three years.

9 Sec. 29.58.030. SECURITY. Tax anticipation notes are
10 a general obligation of the municipality and payment is
11 secured by its full faith, credit, taxing power, and re-
12 sources.

13 Sec. 29.58.040. SALE OF NOTES. The municipality shall
14 sell tax anticipation notes in the manner and at the price it
15 determines, at either public or private sale.

16 ARTICLE 2. BOND ANTICIPATION NOTES

17 Sec. 29.58.060. BOND ANTICIPATION BORROWING. A muni-
18 cipality may borrow money in anticipation of the sale of
19 general obligation and revenue bonds if

20 (1) the general obligation bonds to be sold have
21 been authorized by the assembly or council and ratified by a
22 majority vote at a regular or special election,

23 (2) the revenue bonds to be sold have been author-
24 ized by ordinance.

25 Sec. 29.58.070. ISSUANCE OF NOTES. The assembly or
26 council shall issue notes for the amounts borrowed with a
27 maturity date not to exceed one year from the date of issue.
28 All notes and the interest on them are payable at a fixed
29 place, on or before a fixed time, from the proceeds of the

1 sale of bonds in anticipation of which the original note or
2 notes were issued, unless the bonds have not been sold by
3 the maturity date of the notes.

4 Sec. 29.58.080. ISSUANCE OF NEW NOTES. If the sale of
5 the bonds has not occurred before the maturity of the notes
6 issued in anticipation of the sale, the assembly or council
7 shall issue new notes in order to meet payment of the notes
8 then maturing or shall renew the outstanding bond obligation
9 notes. New notes issued or renewals of outstanding bond
10 anticipation notes shall bear a maturity date not to exceed
11 one year from the date of issue. Notes, new notes, and re-
12 newals of notes shall not be outstanding for a total elapsed
13 time of more than three years unless the 20 year bond average
14 interest rates which exist three months before the maturity
15 date of the notes are higher than the rates which existed
16 upon issuance of the original notes. In this case notes may
17 be renewed in an amount one-twentieth less than the original
18 amount. Each succeeding reissue must be in an amount declin-
19 ing at a rate of not less than one-twentieth of the original
20 amount.

21 Sec. 29.58.090. REPAYMENT OF NOTES. Every note is
22 payable from the proceeds of the next succeeding sale of bonds
23 or from the proceeds of the sale of new bond anticipation
24 notes.

25 Sec. 29.58.100. SECURITY. (a) Notes issued in anti-
26 cipation of the sale of general obligation bonds and the
27 interest on them are secured by the full faith, credit, tax-
28 ing power, and resources of the municipality.

29 (b) Notes issued in anticipation of the sale of revenue

1 bonds and the interest on them are secured in the same manner
2 as are the revenue bonds in anticipation of which the notes
3 are issued.

4 Sec. 29.58.110. LIMITATION. The total amount of notes
5 issued and outstanding shall at no time exceed the total
6 amount of bonds authorized to be issued.

7 Sec. 29.58.120. USE OF PROCEEDS. The proceeds from
8 the sale of notes shall be used only for the purposes for
9 which the proceeds from the sale of bonds may be used or to
10 meet payment of outstanding bond anticipation notes.

11 Sec. 29.58.130. SALE OF NOTES. Notes issued under this
12 chapter shall be sold by the municipality in the manner and
13 at the price it determines, at either public or private sale,
14 but no note may be sold for less than par and accrued inter-
15 est.

16 ARTICLE 3. GENERAL OBLIGATION BONDS

17 Sec. 29.58.150. GENERAL OBLIGATION BONDS. A munici-
18 pality may acquire, construct, improve and equip public
19 facilities of a permanent character and issue negotiable
20 general obligation bonds for these purposes.

21 Sec. 29.58.160. VOTE REQUIRED. A municipality may
22 incur general obligation bond debt only after a bond author-
23 ization ordinance is approved by a majority of those voting
24 on the question at a regular or special election. Any muni-
25 cipal voter may vote in the bond election. The assembly
26 or council shall prescribe procedures for bond authorization
27 elections. This section applies to home rule and general law
28 municipalities.

29 Sec. 29.58.170. FORM AND TERMS OF SALE. The assembly

1 or council shall fix the date of the bonds, denominations,
2 maturities, rate of interest, place and manner of payment,
3 redemption terms, registration privileges, manner of execu-
4 tion, and signatures required. If an officer whose signature
5 appears on the bonds or coupons ceases to be an officer
6 before delivery of the bonds, his signature is valid as if
7 he had remained in office until delivery.

8 Sec. 29.58.180. PAYMENT. (a) The full faith, credit,
9 taxing power, and resources of a municipality are pledged for
10 the payment of principal and interest on general obligation
11 bonds. The municipality may levy ad valorem taxes for pay-
12 ment without limitation of rate or amount.

13 (b) General obligation bonds issued for acquiring, con-
14 structing, improving and equipping a municipally-owned
15 utility or other revenue generating enterprise may be addi-
16 tionally secured by a pledge of the revenue derived from
17 operation. Bonds so secured are not subject to a debt
18 limitation imposed by a borough or city home rule charter.

19 ARTICLE 4. REVENUE BONDS

20 Sec. 29.58.200. REVENUE BONDS. A municipality may
21 acquire, construct, improve, and equip public facilities of
22 a permanent character to be operated upon a revenue-producing
23 basis, and bonds for these purposes are payable solely from
24 unpledged revenue of the public facilities for which the
25 bonds are issued.

26 Sec. 29.58.205. NO ELECTION REQUIRED. No election is
27 required to authorize the issuance and sale of revenue bonds,
28 unless otherwise provided by ordinance.

29 Sec. 29.58.210. FORM AND TERMS. The assembly or

1 council shall fix the date of the bonds, denominations,
2 maturities, rate of interest, place and manner of payment,
3 redemption terms, registration privileges, manner of execu-
4 tion and signatures required. If an officer whose signature
5 appears on the bonds or coupons ceases to be an officer
6 before delivery of the bonds, his signature is valid as if he
7 had remained in office until delivery.

8 Sec. 29.58.220. PAYMENT. Bonds issued under secs. 200
9 - 220 of this chapter or the proceedings of the assembly or
10 council authorizing their issuance may contain the covenants
11 which the assembly or council considers advisable concerning

12 (1) the rates or fees to be charged for services
13 rendered by the public facilities, the revenue of which is
14 pledged to the payment of the bonds,

15 (2) the deposit and use of the revenue of the
16 public facilities,

17 (3) the issuance of additional bonds payable from
18 revenue of the public facilities,

19 (4) the rights of the bondholders in case of de-
20 fault in the payment of the principal or interest on the
21 bonds, including the appointment of a receiver to operate the
22 public facilities.

23 ARTICLE 5. REFUNDING BONDS

24 Sec. 29.58.240. AUTHORIZATION. If a municipality has
25 outstanding general obligation or revenue bonds and the
26 assembly or council determines that it would be financially
27 advantageous to refund the bonds, the assembly or council
28 may provide by ordinance for the issuance of general obli-
29 gation or revenue refunding bonds.

1 Sec. 29.58.250. EFFECT OF BONDS. The refunding bonds
2 may take up and refund all or any part of outstanding bonds
3 at or before their maturity or redemption date. The assembly
4 or council may include various series and issues of bonds in
5 a single issue of refunding bonds.

6 Sec. 29.58.260. NO ELECTION REQUIRED. No election is
7 required to authorize the issuance and sale of refunding
8 bonds. Their issuance may be authorized and all proceedings
9 with reference to them prescribed by ordinance of the
10 assembly or council. However, when it is desirable to use
11 general obligation bonds to refund a revenue bond issue, the
12 governing body shall call an election on the question.

13 Sec. 29.58.270. PAYMENT OF REFUNDING BONDS. General
14 obligation refunding bonds are payable according to sec. 180
15 of this chapter. Revenue refunding bonds are payable accord-
16 ing to sec. 220 of this chapter.

17 Sec. 29.58.280. SALE. General obligation or revenue
18 refunding bonds may, in the discretion of the assembly or
19 council, be exchanged at par for the bonds being refunded,
20 or may be sold at public or private sale at a price not less
21 than par and accrued interest. They may be issued and
22 delivered at any time before the date of maturity or redemp-
23 tion of the refunded bonds.

24 ARTICLE 6. MISCELLANEOUS PROVISIONS

25 Sec. 29.58.300. PUBLIC SALE. The municipality shall
26 sell all bonds except refunding bonds and bonds of authorized
27 issues of 100 thousand dollars or less and having a maximum
28 maturity of not more than five years at public sale upon
29 sealed bids after at least 10 days' notice published at least

1 once in a financial publication carrying municipal bond
2 notices and having a large national circulation among muni-
3 cipal bond dealers. Bonds of authorized issues of 100
4 thousand dollars or less and maturing in five years or less
5 and all notes may be sold at private sale as provided by
6 ordinance.

7 Sec. 29.58.310. INTEREST RATE. No municipal bond or
8 note shall bear an interest rate exceeding six per cent a
9 year.

10 Sec. 29.58.320. REDEMPTION BEFORE MATURITY. A bond or
11 note may be made subject to redemption before maturity as
12 stated in the authorization or in the bond or note.

13 Sec. 29.58.330. FORBIDDEN AGREEMENTS. In the issuance
14 or sale of bonds, it is unlawful for the assembly or council
15 or a municipal official to

16 (1) agree to pay directly or indirectly a bonus,
17 commission, fee or other compensation or consideration for
18 the issuance or for the sale of obligations to the purchaser
19 or to a financial consultant who may participate in the
20 purchase;

21 (2) enter into an agreement with the original
22 purchaser or his representative regarding the deposit or dis-
23 position of any money received or to be received from the
24 sale.

25 Sec. 29.58.340. INDEBTEDNESS. Home rule and general
26 law boroughs may incur indebtedness

27 (1) on an areawide basis for areawide functions,
28 or

29 (2) on a noncity basis for functions performed in

1 the area outside cities only.

2 CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS

3 ARTICLE 1. SPECIAL ASSESSMENTS

4 Sec. 29.63.010. IMPROVEMENT PROPOSALS. The assembly
5 or council may by ordinance assess against real property
6 benefited all or a portion of the cost of constructing or
7 improving streets, sidewalks, water systems, sewers, recrea-
8 tional facilities, and waterfronts or watercourses. An
9 improvement proposal may be initiated by (1) petition to the
10 assembly or council or the owners of one-half in value of
11 the property to be benefited, or (2) the assembly or council.

12 Sec. 29.63.020. DECISION AND NOTICE. (a) If the
13 assembly or council passes a resolution finding the improve-
14 ment necessary and stating that the request has sufficient
15 signatures, it shall develop a proposed improvement plan
16 including cost estimate and the percentage of the project
17 cost to be assessed against the property benefited.

18 (b) Before proceeding with the work, the assembly or
19 council shall publish the proposed improvement plan at least
20 once a week for two consecutive weeks in a newspaper of
21 general circulation within the municipality.

22 Sec. 29.63.030. OBJECTIONS AND REVISION. (a) Objec-
23 tions to the improvement plan may be filed not less than 30
24 nor more than 60 days after publication of notice on a date
25 specified by the assembly or council. The assembly or council
26 may by resolution approve the plan and proceed with the
27 improvement if the owners of one-half in value of the proper-
28 ty to be benefited do not object in writing.

29 (b) If objections are made by the owners of property

1 bearing one-half of the estimated cost of the improvement,
2 the assembly or council may not proceed with the improvement
3 unless it revises the plan to meet the objections. A revis-
4 ed plan is approved and adopted as an original plan.

5 Sec. 29.63.040. ASSESSMENT AND ROLL. (a) At any
6 time after project approval, the assembly or council shall
7 assess the authorized percentage of the cost against tracts in
8 proportion to benefit received. Assessments may not exceed
9 estimated costs.

10 (b) The special assessment roll contains property
11 descriptions, names of owners of record, and assessment
12 amounts.

13 (c) The assembly or council shall fix a time to hear
14 objections to the roll. The municipal clerk shall send an
15 assessment and hearing notice by mail to each record owner
16 of an assessed tract 15 days before the hearing. The person
17 in whose name property is listed on the municipal property
18 tax roll as owner is conclusively presumed to be the legal
19 owner of record. If the owner is unknown, the assessment
20 may be made against "Unknown Owner."

21 Sec. 29.63.050. HEARING AND SETTLEMENT. After the
22 assembly or council hears objections and suggestions it shall
23 correct errors in the roll. When the roll is corrected, the
24 clerk shall so certify.

25 Sec. 29.63.060. PAYMENT. (a) The assembly or council
26 shall fix times of payment and delinquency of assessments.
27 Payment may not be required sooner than 60 days after assess-
28 ment nor sooner than 60 days before improvement work begins.
29 Payment may be in one sum or by installments. Penalty and

1 interest are the same as for real property taxes.

2 (b) Within 10 days after fixing the time of payment the
3 clerk shall mail a statement to the owner of record of each
4 property assessed. The statement designates the property,
5 the assessment amount, the time of delinquency, and penal-
6 ties.

7 (c) Within five days after the statements are mailed,
8 the clerk shall file an affidavit of mailing.

9 (d) Assessments are liens upon the property assessed
10 and are prior and paramount to all liens except municipal
11 tax liens. They may be enforced as provided in AS 29.53.-
12 200 - 29.53.390 for enforcement of property tax liens.

13 Sec. 29.63.070. REASSESSMENT. (a) The assembly or
14 council shall within one year correct any deficiency in a
15 special assessment found by a court.

16 (b) Notice and hearing must conform to the initial
17 assessment procedures.

18 (c) Payments on the initial assessment are credited to
19 the property upon reassessment.

20 ARTICLE 2. SERVICE AREAS

21 Sec. 29.63.090. SERVICE AREAS. (a) Service areas to
22 provide special services within a home rule or general law
23 borough may be established, operated, altered, or abolished
24 by the assembly by ordinance.

25 (b) The assembly may levy or authorize the levying of
26 taxes, charges, or assessments in service areas to finance
27 the special services. No special assessment may be levied
28 except as provided by secs. 10 - 70 of this chapter.

29 (c) The assembly may provide for appointed or elected

1 boards to supervise the furnishing of special services in
2 service areas.

3 (d) A new service area may not be established if the
4 new service can be provided by an existing service area, by
5 annexation to a city, or by incorporation as a city.

6 (e) The assembly may delegate to a service area any
7 powers which may be exercised by a first class borough in
8 the area outside cities. In a second class borough, each
9 delegated power must be approved by majority vote at a
10 regular or special election held within the service area.
11 The rate of taxation and the issuance of bonds are subject
12 to the approval of the assembly.

13 CHAPTER 68. ALTERATION OF BOUNDARIES

14 ARTICLE 1. ANNEXATION AND EXCLUSION

15 Sec. 29.68.010. ANNEXATION AND EXCLUSION. Municipali-
16 ties may annex or exclude territory under Title 6 of the
17 Alaska Administrative Code. The Local Boundary Commission
18 shall, within 60 days of the effective date of this chapter,
19 establish procedures for annexation and exclusion of terri-
20 tory by local action. The procedures established shall
21 include a requirement that a proposed annexation or exclusion
22 must be approved by a majority of the voters voting on the
23 question and residing within the area proposed to be annexed
24 or excluded. This section applies to home rule and general
25 law municipalities.

26 ARTICLE 2. MERGER AND CONSOLIDATION

27 Sec. 29.68.030. METHODS OF MERGER OR CONSOLIDATION.
28 Two methods may be used to initiate merger or consolidation
29 of home rule and general law municipalities:

1 (1) petition to the Local Boundary Commission
2 under Title 6 of the Alaska Administrative Code, or

3 (2) the local option method specified in secs. 40
4 - 90 of this chapter.

5 Sec. 29.68.040. PETITION. (a) Residents of two or
6 more municipalities may file a merger or consolidation
7 petition with the Local Affairs Agency. The petition must
8 be signed by a number of municipal voters of each municipal-
9 ity equal to at least 25 per cent of the number of votes
10 cast in its last regular election.

11 (b) The petition includes

12 (1) the name and class of each municipality,

13 (2) the name and class of the proposed municipal-
14 ity,

15 (3) the proposed composition and apportionment of
16 the assembly or council,

17 (4) maps, documents, and other information which
18 show that the proposed municipality meets the standards for
19 municipal incorporation.

20 Sec. 29.68.050. REVIEW. The Local Affairs Agency shall
21 review a petition for content and signatures and shall return
22 a deficient petition for correction or completion.

23 Sec. 29.68.060. INVESTIGATION. If the petition con-
24 tains the required information and signatures, the Local
25 Affairs Agency shall investigate the proposal.

26 Sec. 29.68.070. REPORT AND HEARING. (a) The Local
27 Affairs Agency shall report its findings to the Local
28 Boundary Commission with its recommendations regarding the
29 merger or consolidation.

1 (b) The Local Boundary Commission shall hold at least
2 one public hearing in each of the municipalities included
3 in the merger or consolidation petition, unless officials of
4 the municipalities agree to a single hearing.

5 Sec. 29.68.080. DECISION. If the Local Boundary Com-
6 mission determines that the proposed municipality fails to
7 meet the standards for incorporation, it shall reject the
8 petition. If the commission determines that the proposed
9 municipality meets these standards, it shall accept the
10 petition. If the commission determines that the proposed
11 boundaries or the composition and apportionment of the
12 assembly or council can be altered to meet the standards, it
13 may change the proposal and accept the petition. The deci-
14 sion may be appealed under the Administrative Procedure Act
15 (AS 44.62).

16 Sec. 29.68.090. ELECTION. (a) The Local Boundary
17 Commission shall immediately notify the secretary of state of
18 its acceptance of a merger or consolidation petition. Within
19 30 days after notification, the secretary of state shall
20 order an election within the area to be included in the new
21 municipality to determine whether the voters desire merger
22 or consolidation. The election is held not less than 30 nor
23 more than 90 days after the election order.

24 (b) A voter who is a resident of the area to be included
25 within the proposed municipality may vote.

26 (c) The secretary of state shall supervise the election
27 in the general manner prescribed by the Alaska Election Code
28 (AS 15.05 - 15.60). The state shall pay all election costs.

29 (d) The secretary of state shall certify the election

1 results. If merger or consolidation is approved, he shall
2 within 10 days set a date for election of officers of the
3 new municipality under AS 29.18.120. The election date is
4 not less than 60 nor more than 90 days after the election
5 order. This date is the effective date for the merger or
6 consolidation.

7 Sec. 29.68.100. ASSETS AND LIABILITIES. (a) When two
8 or more municipalities merge, one municipality succeeds to
9 the rights, duties, obligations, assets and liabilities of
10 the others.

11 (b) When two or more municipalities consolidate, the
12 newly-incorporated municipality succeeds to the rights,
13 duties, obligations, assets and liabilities of the consoli-
14 dated municipalities.

15 Sec. 29.68.110. ORDINANCES. The ordinances, resolu-
16 tions, rules, regulations, procedures, and orders of the
17 former municipalities remain in force within their respective
18 territories until superseded by the action of the successor
19 municipality.

20 ARTICLE 3. DISSOLUTION

21 Sec. 29.68.130. METHODS OF DISSOLUTION. (a) Two
22 petition methods may be used to initiate dissolution of home
23 rule and general law municipalities:

24 (1) petition to the Local Boundary Commission
25 under Title 6 of the Alaska Administrative Code, or

26 (2) the local option method specified in secs.
27 140 - 200 of this chapter.

28 (b) A home rule or general law borough is dissolved
29 when its entire territory is included within a home rule or

1 first class city or cities. A city is dissolved when all its
2 powers become areawide borough powers.

3 (c) The Local Affairs Agency shall investigate a muni-
4 cipality which it considers to be inactive and shall report
5 to the Local Boundary Commission on the status of the muni-
6 cipality. The commission may, under sec. 12, art. X, of the
7 state constitution, recommend to the legislature that the
8 municipality be dissolved.

9 Sec. 29.68.140. PETITION. (a) Municipal residents
10 may file a dissolution petition with the Local Affairs Agency
11 in the form prescribed by the agency. The petition must be
12 signed by a number of municipal voters equal to at least
13 25 per cent of the number of votes cast in the last regular
14 municipal election.

15 (b) The petition includes
16 (1) the name of the municipality,
17 (2) maps, documents, and other information show-
18 ing that the municipality meets the standards for dissolu-
19 tion.

20 Sec. 29.68.150. STANDARDS. (a) Except as provided
21 in (b) of this section, a municipality may petition for dis-
22 solution when (1) it is free of debt, or if in debt, each of
23 its creditors is satisfied with a method of repayment, and
24 (2) either it no longer meets the minimum standards prescrib-
25 ed for incorporation by ch. 18 of this title, or it ceases to
26 use each and every one of its mandatory powers.

27 (b) A home rule or general law city in a first class or
28 home rule borough may petition for dissolution if the borough
29 consents to assume the city's rights, duties, obligations,

1 assets and liabilities. The consent must be ratified by a
2 majority of borough voters voting on the question.

3 Sec. 29.68.160. REVIEW. The Local Affairs Agency shall
4 review a petition for content and signatures and shall return
5 a deficient petition for correction or completion.

6 Sec. 29.68.170. INVESTIGATION. If the petition con-
7 tains the required information and signatures, the Local
8 Affairs Agency shall investigate the proposal.

9 Sec. 29.68.180. REPORT AND HEARING. (a) The Local
10 Affairs Agency shall report its findings to the Local
11 Boundary Commission with its recommendations regarding the
12 dissolution.

13 (b) The Local Boundary Commission shall hold at least
14 one public hearing in the area proposed to be dissolved.

15 Sec. 29.68.190. DECISION. If the Local Boundary Com-
16 mission determines that the municipality fails to meet the
17 standards for dissolution, it shall reject the petition.
18 If the commission determines that the municipality meets the
19 standards, it shall accept the petition.

20 Sec. 29.68.200. ELECTION. (a) The Local Boundary
21 Commission shall immediately notify the secretary of state
22 of its acceptance of a dissolution petition. Within 30 days
23 after notification, the secretary of state shall order an
24 election within the municipality to determine whether the
25 voters desire dissolution. The election is not less than
26 30 nor more than 90 days after the election order.

27 (b) A voter who is a resident of the municipality may
28 vote in the dissolution election.

29 (c) The secretary of state shall supervise the election

1 in the general manner prescribed by the Alaska Election Code
2 (AS 15.05 - 15.60). The state shall pay all election costs.

3 (d) The secretary of state shall certify the election
4 results. If dissolution is approved, he shall declare that
5 the municipality is dissolved effective on the date of
6 certification.

7 Sec. 29.68.210. SUCCESSION. The government succeeding
8 to a dissolved municipality succeeds to all its obligations,
9 assets, and liabilities.

10 CHAPTER 73. MISCELLANEOUS PROVISIONS

11 Sec. 29.73.010. ACTIONABLE CLAIMS AGAINST A MUNICIPAL-
12 ITY. (a) A person or corporation having a contract, quasi-
13 contract, or tort claim against a municipality may bring an
14 action against the municipality in the superior court. How-
15 ever, no action may be brought under this section if the
16 claim

17 (1) is an action for tort, and is based upon an
18 act or omission of a municipal officer or employee, exercis-
19 ing due care, in the execution of a municipal ordinance,
20 resolution, or order, whether or not such ordinance, resolu-
21 tion, or order is valid; or is an action for tort, and is
22 based upon the exercise or performance or the failure to
23 exercise or perform a discretionary function or duty on the
24 part of a municipal officer or employee, whether or not the
25 discretion involved is abused;

26 (2) is for damages caused by the imposition or
27 establishment of a quarantine by a municipality.

28 (b) This section applies to home rule and general law
29 municipalities.

1 Sec. 29.73.015. UNDERTAKING. At the time of filing the
2 complaint in an action against a municipality, the plaintiff
3 shall file an undertaking in a sum fixed by the court. The
4 undertaking shall be conditioned upon payment by the plain-
5 tiff of costs incurred by the municipality in the action if
6 the plaintiff fails to prosecute the action or fails to re-
7 cover judgment. This section applies to home rule and
8 general law municipalities.

9 Sec. 29.73.020. EMINENT DOMAIN. Home rule and general
10 law municipalities may exercise the power of eminent domain
11 as provided in AS 09.55.240 - 09.55.460.

12 Sec. 29.73.030. ADVERSE POSSESSION. A home rule or
13 general law municipality may not be divested of title to
14 real property by adverse possession.

15 CHAPTER 78. GENERAL PROVISIONS

16 Sec. 29.79.010. DEFINITIONS. In this title unless the
17 context otherwise requires

18 (1) "borough" means a first or second class
19 organized borough;

20 (2) "consolidation" means dissolution of two or
21 more municipalities and their incorporation as a new muni-
22 cipality;

23 (3) "merger" means dissolution of a municipality
24 and its absorption by another municipality;

25 (4) "general election" means the state election
26 held on the Tuesday after the first Monday in November of
27 even-numbered years;

28 (5) "regular election" means the municipal elec-
29 tion held annually on the first Tuesday in October;

- 1 (6) "majority" means a simple majority;
- 2 (7) "mobile homes" means vehicles without motive
3 power designed for human habitation or human occupancy, for
4 industrial, professional, or commercial purposes;
- 5 (8) "municipality" means a general law municipal
6 corporation, which is a first or second class borough or
7 city incorporated under the laws of the state;
- 8 (9) "owner," "record owner," or "owner of record"
9 means owner of record or purchaser of record;
- 10 (10) "property" means real and personal property;
- 11 (11) "real property" means land and improvements
12 and all possessory rights and privileges appurtenant to the
13 property, and, unless otherwise provided by ordinance, in-
14 cludes personal property affixed to the land or improvements;
- 15 (12) "personal property" means tangible property
16 other than real property, such as merchandise and stock in
17 trade, machinery and equipment, furniture and fixtures,
18 motor vehicles and vehicles, boats and vessels, and aircraft;
- 19 (13) "published" means appearing in a newspaper
20 of general circulation within the municipality;
- 21 (14) "street" includes streets, avenues, boule-
22 vards, roads, lanes, alleys, and other ways;
- 23 (15) "subdivision" means the division of a tract
24 or parcel of land into more than two lots, sites or other
25 divisions for the purpose, whether immediate or future, of
26 sale or building development, and includes resubdivision and,
27 when appropriate to the context, relates to the process of
28 subdividing or to the land or areas subdivided;
- 29 (16) "voter" means a U. S. citizen who has been a

1 resident of Alaska for one year and of the municipality for
2 30 days immediately preceding the election and who meets
3 registration requirements of the borough and is not disquali-
4 fied under art. V of the state constitution.

5 * Sec. 2. The following laws are repealed: AS 42.35; AS 40.15 -
6 070 - 40.15.180; AS 18.10.060 - 18.10.260.

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