

INDEX

SENATE BILL NO. 113

TITLE 29. MUNICIPAL GOVERNMENT

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1 IN THE SENATE

BY THE LOCAL GOVERN-
MENT COMMITTEE

2 SENATE BILL NO. 113

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. The following laws are repealed: AS 07.05 - 07.40; AS 09.65.070;
10 AS 18.75.010 - 18.75.030, 18.75.050 - 18.75.060; AS 29.05 - 29.95; AS 40.15.-
11 070, and 40.15.100 - 40.15.180.

12 * Sec. 2. AS 29 is amended by adding new chapters to read:

13 TITLE 29. MUNICIPAL GOVERNMENT.

14 CHAPTER 3. THE UNORGANIZED BOROUGH.

15 Sec. 29.03.010. ESTABLISHMENT. Areas of the state which are not
16 within the boundaries of an organized borough constitute a single
17 unorganized borough.

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

25 CHAPTER 8. CLASSIFICATION OF MUNICIPALITIES.

26 Sec. 29.08.010. HOME RULE. A home rule municipality is a munici-
27 pal corporation and is a borough of the first class or city of the
28 first class which has adopted a home rule charter. It has all legis-
29 lative powers not prohibited by law or charter.

1 Sec. 29.08.020. GENERAL LAW. A general law municipality is a
2 municipal corporation and is an unchartered borough or city. It has
3 legislative powers conferred by law.

4 Sec. 29.08.030. CLASSES OF GENERAL LAW. General law municipali-
5 ties are of five classes:

- 6 (1) first class boroughs;
7 (2) second class boroughs;
8 (3) third class boroughs;
9 (4) first class cities;
10 (5) second class cities.

11 Sec. 29.08.040. RECLASSIFICATION. (a) A second class city may
12 be reclassified as a first class city in the manner provided in
13 AS 29.33.270 - 29.33.290 for the addition of powers by boroughs if
14 the Local Affairs Agency determines from the best figures available
15 that the population of the city has reached 400 permanent residents.

16 (b) A second class borough may reclassify as a first class
17 borough, or a third class borough may reclassify as a first or second
18 class borough, in the manner provided by AS 29.33.270 - 29.33.290 for
19 the addition of powers by boroughs, except the petition or proposal
20 requests reclassification instead of requesting addition of powers.

21 Sec. 29.08.050. TRANSITION. (a) Upon the effective date of
22 this Act, second and third class cities incorporated before the effec-
23 tive date of this Act and having 400 or more permanent residents are
24 reclassified as first class cities. The city council shall certify
25 by resolution the number of permanent residents within the city. Upon
26 the failure to certify, the Local Boundary Commission shall hold a
27 public hearing and make a determination as to classification as pro-
28 vided in (c) of this section.

29 (b) Upon the effective date of this Act, fourth class cities

1 incorporated before the effective date of this Act are reclassified as
2 second class cities subject to reclassification under sec. 40 of this
3 chapter.

4 (c) The Local Boundary Commission shall, within two years of the
5 effective date of this Act, hold a public hearing in each city which
6 was first, second, or third class on the effective date of this Act
7 and whose population is under 400 permanent residents. The commission
8 shall determine in each case whether the city should be classified
9 as first or second class under the new classification. The commission's
10 decision must be published at least once. If no objections are filed
11 with the Local Boundary Commission by at least five per cent of the
12 permanent residents of the city within 60 days, the classification
13 recommended by the commission becomes effective on the 61st day. If
14 objections are filed by at least five per cent of the permanent
15 residents of the city, the commission shall submit its recommendation
16 to the legislature in the manner provided for submission of boundary
17 changes in sec. 12, art. X of the state constitution.

18 CHAPTER 13. HOME RULE MUNICIPALITIES.

19 ARTICLE 1. CHARTERS.

20 Sec. 29.13.010. MUNICIPAL CHARTER ADOPTION. A first class
21 municipality may adopt a charter for its own government. A home rule
22 municipality may amend its charter or adopt a new one. A charter is
23 framed by a charter commission of seven members chosen by the municipal
24 voters at a regular or special election. A candidate for the commis-
25 sion must be a qualified voter of the municipality and a resident of
26 the municipality for three years immediately preceding the election.
27 A charter commission election is called by filing a petition with the
28 borough assembly or the city council, or by resolution of the borough
29 assembly or city council. The petition must be signed by a number of

1 municipal voters equal to 10 per cent of the votes cast in the last
2 regular election of the municipality.

3 Sec. 29.13.020. NOMINATION. Charter commission candidates are
4 nominated by petitions signed by 50 voters or the number of qualified
5 municipal voters equal to 10 per cent of the number of votes cast in
6 the last regular election, whichever is less.

7 Sec. 29.13.030. ELECTION. At the charter commission election
8 the voters shall consider the question "Shall a charter commission be
9 elected to frame a proposed new charter?" and shall select the members
10 of the commission. If the question is approved, the seven candidates
11 receiving the highest number of votes shall immediately organize as
12 a charter commission.

13 Sec. 29.13.040. PREPARATION OF CHARTER. The charter commission
14 shall, within one year, prepare a municipal charter. The proposed
15 charter shall be signed by a majority of the charter commissioners
16 and filed in the office of the municipal clerk. Within 15 days, the
17 borough assembly or city council shall have the charter published
18 once in a newspaper of general circulation within the municipality.
19 The clerk shall post copies of the proposed charter in at least three
20 public places and make copies available at the office of the clerk.
21 The commission shall give published notice of and hold at least one
22 public hearing on the proposed charter before signing and filing of
23 the charter.

24 Sec. 29.13.050. INITIATIVE AND REFERENDUM. (a) Municipal
25 charters shall provide the procedures for the initiative and referendum.

26 (b) A charter may not require an initiative or referendum peti-
27 tion to have a number of signatures greater than 25 per cent of the
28 total votes cast at the last regular municipal election.

29 (c) A charter may not permit the initiative and referendum to be

1 used for a purpose prohibited by sec. 7, art. XI of the state consti-
2 tution.

3 Sec. 29.13.060. CHARTER ELECTION. The charter shall be submitted
4 to the municipal voters at a regular or special election held not
5 less than 30 days nor more than 90 days from the publication of the
6 charter.

7 Sec. 29.13.070. CHARTER ADOPTION. (a) If a majority of those
8 voting on the question favor the proposed charter, it becomes the
9 organic law of the municipality. Thereafter the court shall take
10 judicial notice of the charter. The municipality shall file the
11 indicated number of copies of the charter with the

12 (1) lieutenant governor - two copies;

13 (2) Local Affairs Agency - two copies;

14 (3) district recorder - one copy;

15 (4) municipal clerk - one copy.

16 (b) If a proposed charter is rejected, the charter commission
17 shall prepare another proposed charter to be submitted to the voters
18 at a regular or special election to be held within one year after the
19 date of the first charter election. If the second proposed charter
20 is also rejected, the charter commission shall be dissolved and the
21 question of adoption of a charter shall be treated as if it had never
22 been proposed or approved.

23 Sec. 29.13.080. CHARTER AMENDMENT. A municipal charter may be
24 amended as provided in the charter or by initiative as provided in
25 AS 29.28.100, except that no amendment shall be effective unless
26 ratified by the voters.

27 ARTICLE 2. HOME RULE LIMITATIONS.

28 Sec. 29.13.100. LIMITATION OF HOME RULE POWERS. Only the following
29 provisions apply to home rule municipalities, which are prohibited

1 from acting otherwise than as provided. They supersede existing and
2 prohibit future home rule enactments which provide otherwise:

- 3 (1) AS 29.13.080 (charter amendment)
- 4 (2) AS 29.23.250(a) (election and term of mayor)
- 5 (3) AS 29.23.540 (prohibitions respecting appointment
6 and removal of personnel)
- 7 (4) AS 29.23.560 (municipal reports)
- 8 (5) AS 29.23.580 (meetings public)
- 9 (6) AS 29.28.010 (municipal elections)
- 10 (7) AS 29.28.130 - 29.28.250 (recall)
- 11 (8) AS 29.33.010(b) (areawide borough powers)
- 12 (9) AS 29.48.037 (extraterritorial jurisdiction)
- 13 (10) AS 29.48.040 - 29.48.100 (utilities)
- 14 (11) AS 29.48.180 (codification)
- 15 (12) AS 29.48.210 (expenditure of borough revenue)
- 16 (13) AS 29.48.220 (post audit)
- 17 (14) AS 29.53.020, 29.53.050, 29.53.060, 29.53.180, 29.53.-
18 310 - 29.53.350 (borough and city property tax)

19 CHAPTER 18. INCORPORATION.

20 ARTICLE 1. REQUIREMENTS.

21 Sec. 29.18.010. FIRST CLASS CITIES. A community having 400 or
22 more permanent residents may incorporate as a first class city.

23 Sec. 29.18.020. SECOND CLASS CITIES. A community having 50 or
24 more permanent residents may incorporate as a second class city.

25 Sec. 29.18.030. ORGANIZED BOROUGHES. An area may incorporate as
26 an organized borough if it conforms to the following standards:

- 27 (1) the population of the area is interrelated and inte-
28 grated as to its social, cultural, and economic activities, and is
29 large and stable enough to support organized borough government;

1 (2) the boundaries of the proposed borough conform generally
2 to natural geography and include all areas necessary for full develop-
3 ment of local services;

4 (3) the economy encompasses a trading area with human and
5 financial resources capable of providing local services; evaluation
6 of an area's economy includes land use, property valuations, total
7 economic base, total personal income, resource and commercial develop-
8 ment, anticipated functions, expenses, and income of the proposed
9 borough;

10 (4) land, water, and air transportation facilities allow
11 the communication and exchange necessary for the development of
12 integrated local government.

13 ARTICLE 2. PROCEDURES.

14 Sec. 29.18.050. PETITION. Municipal incorporation is proposed
15 by filing a petition with the Local Affairs Agency. The petition shall
16 include the following information about the proposed municipality:

17 (1) class;
18 (2) name;
19 (3) boundaries;
20 (4) composition and apportionment of the assembly or council;
21 (5) for a first class borough, a designation of areawide
22 powers to be exercised;

23 (6) for a second class borough, a designation of areawide
24 powers to be exercised and of powers to be exercised in the area out-
25 side cities only;

26 (7) maps, documents, and other information required by the
27 Local Affairs Agency to show that the proposed municipality meets the
28 standards for incorporation;

29 (8) for first class city incorporation, the signatures and

1 resident address of 50 permanent resident voters within the proposed
2 municipality;

3 (9) for second class city incorporation, the signature and
4 resident address of 10 permanent resident voters within the proposed
5 municipality;

6 (10) for borough incorporation, the signature and resident
7 address of 15 per cent of the permanent resident voters in each first
8 class city and 15 per cent of voters in the area outside first class
9 cities based on the number who voted in the respective areas in the last
10 general election.

11 Sec. 29.18.060. REVIEW. The Local Affairs Agency shall review
12 petitions for content and signatures and shall return deficient peti-
13 tions for correction and completion.

14 Sec. 29.18.070. INVESTIGATION. (a) If the petition contains
15 the required information and signatures, the Local Affairs Agency
16 shall investigate the proposal. It may use U. S. Bureau of the Census
17 reports or other reliable information to determine more accurately
18 the population of the proposed municipality.

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

21 Sec. 29.18.080. REPORT AND HEARING. (a) The Local Affairs
22 Agency shall report its findings to the Local Boundary Commission with
23 its recommendations regarding the incorporation.

24 (b) The Local Boundary Commission shall hold at least one public
25 hearing in the area proposed to be incorporated for the purpose of
26 gauging public sentiment on the incorporation proposal.

27 Sec. 29.18.090. DECISION ON BOROUGH INCORPORATION. (a) If the
28 Local Boundary Commission determines that a proposed borough fails
29 to meet the standards for incorporation, it shall reject the petition.

1 If the commission determines that the proposed borough meets the
2 standards, it shall accept the petition. If the commission determines
3 that the proposed boundaries can be altered to meet the standards,
4 it may alter the boundaries and accept the petition.

5 (b) A commission decision under this section may be appealed
6 under the Administrative Procedure Act (AS 44.62).

7 Sec. 29.18.100. DECISION ON CITY INCORPORATION. (a) If the
8 Local Boundary Commission determines that proposed city boundaries
9 are too restrictive or too expansive for efficient local government,
10 it may alter the boundaries and accept the petition.

11 (b) The commission may reject a petition for incorporation of
12 a city lying within a borough if it determines that desired municipal
13 services can be more practically and economically provided by the
14 borough or by annexation to an existing city.

15 (c) A commission decision under this section may be appealed
16 under the Administrative Procedure Act (AS 44.62).

17 Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local Boundary
18 Commission shall immediately notify the lieutenant governor of its
19 acceptance of an incorporation petition. Within 30 days after notifi-
20 cation, the lieutenant governor shall order an election in the proposed
21 municipality to determine whether the voters desire incorporation.
22 The election is held not less than 30 nor more than 90 days after the
23 date of the election order. The election order must specify the dates
24 during which nomination petitions may be filed.

25 (b) An Alaska voter who has been a resident for 30 days of the
26 area within the proposed municipality may vote.

27 (c) Areawide borough powers included in the incorporation petition
28 are considered to be part of the incorporation question. In an elec-
29 tion for the incorporation of a second class borough, each power to be

1 exercised outside cities only is placed separately on the ballot.
2 Adoption of a nonareawide power requires a majority of the votes cast
3 on the question, and the vote is limited to the voters residing outside
4 cities.

5 (d) The lieutenant governor shall supervise the election in the
6 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-
7 60). The state shall pay all election costs under this section.

8 Sec. 29.18.120. ELECTION OF INITIAL OFFICERS. (a) If incorpora-
9 tion is approved, the lieutenant governor shall, within 10 days of
10 certification order an election to choose an initial slate of officers.
11 The election is held not less than 60 nor more than 90 days after the
12 date of the election order.

13 (b) Nominations for initial officers are made by petition. The
14 petition is in the form prescribed by the lieutenant governor and
15 includes the name and address of the nominee and a statement of the
16 nominee that he is qualified under the provisions of this title for
17 the office that he seeks. A person may file for and occupy more than
18 one office, but he may not serve simultaneously as borough chairman
19 and as a member of the borough assembly or as mayor and as a member
20 of the council of a first class city. Petitions to nominate officers
21 of a second class city must include the signature and resident
22 address of 10 voters in the area of the proposed city. Petitions to
23 nominate borough assemblymen must include the signature and resident
24 address of 50 voters who are residents of the proposed borough in
25 the area outside first class cities. Petitions to nominate other
26 municipal officers must include the signature and resident address
27 of 50 voters in the area of the proposed municipality.

28 (c) The lieutenant governor shall supervise the election in the
29 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60).

1 The municipality shall not be required to reimburse the state for the
2 election costs.

3 (d) Elected municipal officials take office on the first Monday
4 following certification of their election. Borough assembly members
5 representing first class cities are appointed by the city council
6 and serve until the first Tuesday of the following October and until
7 their successors are elected and have qualified. All other elected
8 municipal officials serve until the first regular election occurring
9 after they have served two years in office and until their successors
10 are elected and have qualified.

11 Sec. 29.18.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE
12 AREAS. Special service districts and service areas in a newly incor-
13 porated borough or city shall be integrated into the borough or city
14 within two years after the date of incorporation. On integration
15 the borough or city succeeds to all the rights, powers, duties, assets
16 and liabilities of the districts and service areas. After integration,
17 the borough assembly or city council may exercise within a former
18 district or service area all of the rights and powers held by the
19 former district or service area at the time of integration, and may
20 levy and collect special charges, taxes, or assessments to amortize
21 bonded indebtedness incurred by the district or service area or by
22 a borough or city as successor to the district or service area. Upon
23 integration no less than all property in the district or service area
24 at the time of integration remains subject to taxation to pay the
25 principal of and interest on the bonds. The provisions of this section
26 shall apply to all organized boroughs whether incorporated or organized
27 before or after the effective date of this Act.

28 Sec. 29.18.140. TRANSITION. (a) The powers and functions
29 exercised by cities, service areas, and special districts which are

1 succeeded to by a newly incorporated borough or city are exercised
2 by them until the new borough or city assumes the powers and functions,
3 which may not exceed two years after the date of incorporation.

4 Ordinances, rules, resolutions, procedures, and orders in effect before
5 the transfer remain in effect until superseded by the action of the
6 new borough or city.

7 (b) The borough or city shall give written notice of its assump-
8 tion of the powers, duties and other items enumerated in secs. 130 -
9 140 of this chapter, to the city, service area, or special district
10 concerned before the assumption. Borough or city officials shall
11 consult with the officials of the city, service area, or special
12 district concerned and arrange an orderly transfer.

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

17 Sec. 29.18.150. CHALLENGE OF LEGALITY. No person may challenge
18 the formation of a municipality except within six months of the date
19 of its incorporation.

20 ARTICLE 3. BOROUGH TRANSITIONAL ASSISTANCE.

21 Sec. 29.18.180. ORGANIZATION GRANTS. (a) For the purpose of
22 defraying the cost of transition to borough or city government and
23 in order to provide for development and interim governmental operations,
24 each organized borough and city of the first class hereafter organized
25 is entitled to an organization grant equal to \$10 for every voter in
26 the borough or city who voted in the incorporation election. However,
27 each borough is entitled to at least \$25,000.

28 (b) The Local Affairs Agency shall determine, within 30 days
29 after the date of incorporation of a borough or city, the number of

1 voters in the borough or city who voted in the last general election.

2 (c) Within 30 days after the completion of its findings, or as
3 soon thereafter as money is appropriated to it for the purpose, the
4 Local Affairs Agency shall transmit to the borough or city the total
5 amount of money to which the borough or city is entitled.

6 Sec. 29.18.190. STATE LAND. A borough or city may select 10
7 per cent of the vacant, unappropriated, unreserved state land located
8 within its boundaries. Nothing in this section affects a valid
9 existing claim, location, or entry under the laws of the state or
10 the United States whether for homestead, mineral, right-of-way or
11 other purpose or affects the rights of an owner, claimant, locator,
12 or entryman to the full use and enjoyment of the land so occupied.

13 Sec. 29.18.200. SELECTION PROCEDURE. (a) All selections must
14 be made in reasonably compact tracts, taking into account the situation
15 and potential uses of the land involved. The authority to make selec-
16 tions may not be alienated or bargained away, in whole or in part,
17 by the borough or city.

18 (b) If land desired by the borough is unsurveyed at the time of
19 its selection, the Department of Natural Resources shall survey or
20 approve a survey by the borough or city of the exterior boundaries
21 of the area requested without interior subdivision and shall issue a
22 patent for the selected area in terms of the exterior boundary survey.
23 The cost of survey, is borne by the borough or city. If land desired
24 by the borough or city has been surveyed at the time of its selection,
25 the boundaries of the areas requested must conform to the public land
26 subdivisions established by the approval of the survey. Land selected
27 by the borough or city under this chapter is patented to the borough
28 or city by the Department of Natural Resources.

29 (c) After the selection of the land by the borough but before

1 the issuance of final patent, the borough or city may execute condi-
2 tional leases and make conditional sales of selected land.

3 CHAPTER 23. MUNICIPAL OFFICERS AND EMPLOYEES.

4 ARTICLE 1. BOROUGH ASSEMBLY.

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

7 Sec. 29.23.020. STANDARDS FOR COMPOSITION AND APPORTIONMENT.

8 (a) The assembly of a borough is composed of the number of seats
9 shown on the following table:

Population	Assembly Seats
under 6,000	5
6,000 - 12,000	7
12,001 - 30,000	9
over 30,000	11

15 (b) If there is one first class city in the borough, the assembly
16 is composed of at least one assemblyman from the first class city.

17 (c) The assembly seats are apportioned as follows: Except as
18 provided in (b) of this section, each first class city has the number
19 of seats designated in the following table, unless a lesser number is
20 approved by a resolution of the council of the city concerned:

Population	Assembly Seats
under 2,000	1
2,000 - 6,000	2
6,001 - 12,000	3
12,001 - 30,000	4
over 30,000	5

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

1 Sec. 29.23.030. ELECTION AND APPOINTMENT. Members of the assembly
2 are appointed or elected according to the apportionment determined by
3 the incorporation petition approved by the voters until the assembly
4 is reapportioned. Members representing first class cities are
5 appointed by and from the city councils, unless provided otherwise
6 by city charter or ordinance. Members representing the area outside
7 first class cities are elected.

8 Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs an election
9 is held every year on the Tuesday after the first Monday in November
10 to choose assemblymen from outside first class cities for staggered
11 two-year terms. The regular term begins on the first Monday following
12 the regular borough election. City councilmen on the assembly may not
13 be replaced by the council unless their assembly term expires as pro-
14 vided by city charter or ordinance, or they cease to be a member of
15 either the assembly or the council. The assembly may provide for
16 different terms by ordinance, but they must be staggered and none may
17 exceed four years.

18 Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is
19 eligible to be an assemblyman if he is a borough voter. An assemblyman
20 who ceases to be a borough voter immediately forfeits his office.
21 If an assemblyman elected from an area outside first class cities
22 or from a section becomes a resident of a first class city or another
23 section he may continue to serve only until the next regular election.
24 The assembly may by ordinance establish residency requirements for
25 assemblymen elected from outside first class cities not exceeding
26 three years.

27 Sec. 29.23.060. PROCEDURE. (a) The assembly shall meet at
28 least once every two months. All meetings shall be public meetings.
29 Special meetings may be held on the call of the chairman, the

1 presiding officer, or one-third of the members, upon not less than
2 24 hours written or oral notice communicated to each member. In an
3 emergency a special meeting shall be a legal meeting if all members
4 are present or there is a quorum and all absent members have waived
5 in writing the required notice. A waiver may be either before or
6 after the time of the meeting. The waiver shall be attached to and
7 made a part of the journal for that meeting.

8 (b) The assembly shall elect from among its members a presiding
9 officer and a deputy presiding officer to serve at its pleasure.
10 If the presiding officer is not present or disqualifies himself, the
11 deputy presiding officer shall preside.

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

14 (d) A majority of the membership authorized by law constitutes
15 a quorum. In the absence of a quorum, any number less than a quorum
16 may recess or adjourn the meeting to a later date. Actions of the
17 assembly are adopted by a majority of the votes authorized on the
18 question. All assemblymen present shall vote unless the assembly
19 for special reasons permits a member to abstain, except no assembly-
20 man may vote on a question in which he has a substantial direct or
21 indirect financial interest.

22 (e) The final vote on each ordinance, resolution, or substantive
23 motion is a recorded "yes" or "no", except that if the vote is
24 unanimous it is necessary only so to state.

25 (f) When the borough assembly votes on an ordinance or resolution
26 in exercising an areawide power and when it votes on the areawide
27 budget, the votes are weighted to enable the assemblymen who represent
28 a majority of the borough's population to have a majority of the
29 votes. Weighted voting applies to all procedures and votes affecting

1 the final outcome of the ordinance or resolution.

2 (g) The weight to be given to each vote cast by the assemblymen
3 present and voting who represent a first class city which has a
4 majority of the population is determined by dividing the number of
5 all assembly seats apportioned to the area outside the city plus one
6 by the number of seats apportioned to the city.

7 (h) The weight to be given to each vote cast by assemblymen
8 present and voting who represent first class cities which have a
9 combined majority of the borough's population is determined by
10 dividing the number of all assembly seats apportioned to the area
11 outside cities plus one by the number of all assembly seats appor-
12 tioned to the first class cities.

13 (i) If the area outside first class cities has the majority of
14 the borough's population, each assemblyman present and voting has
15 one vote.

16 (j) Fifty voters or a first class city in a borough may petition
17 the assembly or the Local Affairs Agency, or the assembly may petition
18 the agency, to determine from U. S. Bureau of the Census reports or
19 other reliable information whether the votes of the assemblymen
20 representing a first class city shall be weighted. The petition
21 shall include evidence to indicate that weighted voting should or
22 should not be used. A determination by the Local Affairs Agency
23 prevails over one by the assembly. A determination by either the
24 assembly or the agency is effective immediately, subject to judicial
25 review for abuse of discretion.

26 Sec. 29.23.070. DEPARTMENTS. (a) The assembly may establish
27 departments and distribute administrative functions among them.

28 (b) Each department is administered by a department head. With
29 the consent of the assembly, the chairman may serve as the head of

1 one or more departments or may appoint one person as the head of two
2 or more departments.

3 Sec. 29.23.080. ASSEMBLY VACANCIES. (a) The assembly shall
4 provide by ordinance the manner in which a vacancy in assembly represen-
5 tation occurs.

6 (b) A vacancy in the city council representation on the assembly
7 is filled by a councilman designated by the council to serve until
8 the next regular election.

9 (c) A vacancy in the representation for the area outside a first
10 class city is filled by the assemblymen representing the area outside
11 first class cities, who designate a voter residing outside first
12 class cities, and if there are borough sections established, a resident
13 of the borough section from which he will serve, to serve until the
14 next regular election.

15 Sec. 29.23.090. REAPPORTIONMENT. (a) The assembly of home
16 rule and general law boroughs shall be reapportioned by either of the
17 following methods:

18 (1) The assembly shall reapportion itself when the appor-
19 tionment does not meet the standards provided in sec. 20 of this
20 chapter. The proposal must be submitted to the Local Affairs Agency
21 for review.

22 (2) Fifty voters or a first class city in a borough may
23 petition the assembly or the Local Affairs Agency to reapportion the
24 assembly. The petition must include evidence that the apportionment
25 of the assembly does not meet prescribed standards. If it is found
26 from U. S. Bureau of the Census reports or other reliable information
27 that the standards are not met, the assembly or the Local Affairs
28 Agency shall reapportion the assembly. A reapportionment by the
29 Local Affairs Agency prevails over one by an assembly. Reapportionment

1 by the assembly or the agency is subject to judicial review for abuse
2 of discretion.

3 (b) A reapportionment is effective beginning with the next
4 regular election to the assembly. If reapportionment results in an
5 increase of representation on the assembly, the assembly may determine
6 that the reapportionment is effective before the next regular election.
7 If the assembly makes this determination, the additional seats are
8 filled as prescribed in sec. 80(a) and (b) of this chapter for filling
9 vacancies, except that additional seats outside first class cities
10 may be filled without regard to sections.

11 Sec. 29.23.100. BOROUGH SECTIONS. (a) The borough assembly may,
12 by ordinance adopted without weighted voting, establish, alter, or
13 abolish sections for the election of assemblymen in the area outside
14 first class cities, except that sections may not be abolished unless
15 a majority of the assemblymen outside first class cities approve. If
16 it establishes sections, members representing the area outside first
17 class cities represent the sections in which they reside. The ordi-
18 nance must state whether assemblymen are elected by all voters outside
19 first class cities or only by the voters of the section in which they
20 reside. The number of sections equals the number of assemblymen
21 representing the area outside first class cities. Section boundaries
22 are established in such a way to provide, insofar as possible, clarity
23 of boundaries, compactness of an area, equal voter representation
24 among sections, and homogeneity of interest.

25 (b) Borough sections shall be reapportioned in the manner pre-
26 scribed in sec. 90 of this chapter for reapportionment of the assembly.

27 ARTICLE 2. BOROUGH EXECUTIVE.

28 Sec. 29.23.130. EXECUTIVE POWER. (a) The executive and adminis-
29 trative power of the borough is vested in an elected chairman or in

1 an appointed manager.

2 (b) A borough voter is eligible to be borough chairman.

3 (c) The chairman's regular term of office is two years and
4 begins on the first Monday following his election, which is held the
5 Tuesday after the first Monday in November. The assembly may provide
6 by ordinance for a different term not to exceed four years, except that
7 the current term of an incumbent chairman may not be altered.

8 (d) A borough may adopt or abandon a manager plan at any time,
9 as provided in secs. 410 - 480 of this chapter. The chairman may not
10 veto an ordinance or resolution calling for an election on this
11 question. The manager has all the powers and duties of the chairman
12 except that he has no veto power. There is no elected chairman if
13 the manager plan is adopted, except that the chairman retains his
14 office and the manager plan is not effective until the first regular
15 election occurring at least six months after the manager plan is
16 adopted.

17 Sec. 29.23.140. POWERS AND DUTIES OF BOROUGH EXECUTIVE. (a)
18 The borough executive, as the chief administrative officer, is respon-
19 sible for the proper administration of all borough affairs. The
20 executive of the borough shall

21 (1) appoint borough employees and administrative officers,
22 except as provided otherwise in sec. 360 of this chapter and in
23 AS 29.33.050; he may hire necessary administrative assistants and may
24 authorize an appointive administrative officer to appoint, suspend,
25 or remove subordinates in his department;

26 (2) suspend or remove by written order borough employees
27 and administrative officers, except as provided otherwise in sec. 360
28 of this chapter and in AS 29.33.050;

29 (3) supervise enforcement of borough law;

1 (4) prepare the annual budget and capital improvements
2 program for the assembly;

3 (5) execute the budget and capital improvement program as
4 adopted;

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

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

9 (8) prepare and make available for public distribution an
10 annual report on borough affairs;

11 (9) serve as borough personnel officer unless the assembly
12 authorizes him to appoint a personnel officer;

13 (10) direct and supervise the administration of

14 (A) the functions of all borough officers and employees
15 except as provided otherwise in this title;

16 (B) the care and custody of all borough buildings and
17 of all real and personal property of the borough, except as pro-
18 vided otherwise by AS 29.33.050;

19 (C) the construction, maintenance, and operation of
20 all borough roads, bridges, drains, buildings and other public
21 works;

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

24 Sec. 29.23.150. EXECUTIVE ABSENCE. The assembly presiding
25 officer shall act as chairman during the chairman's temporary absence
26 or disability. If a manager plan has been adopted, the assembly shall
27 designate by resolution a borough administrative officer to act as
28 manager during his absence or disability.

29 Sec. 29.23.160. ASSEMBLY PARTICIPATION. The chairman may take

1 part in the discussion of all matters before the assembly but may not
2 vote.

3 Sec. 29.23.170. VETO. (a) Except as provided in (b) of this
4 section, the chairman may veto any ordinance, resolution, motion or
5 other action of the assembly and may, by veto, strike or reduce items
6 in appropriation ordinances. He shall submit to the assembly at its
7 next regular meeting a written statement advising of his veto and
8 giving his reasons. His veto may be overridden by three-fourths of
9 all the votes to which the assembly is entitled on the question.

10 (b) The chairman may not veto actions of the assembly taken under
11 sec. 130(d) of this chapter or actions of the board of equalization
12 and the board of adjustment.

13 Sec. 29.23.180. FILLING A VACANCY. A vacancy in the office of the
14 chairman occurring within six months of a regular election shall be filled
15 by the assembly. The person designated shall serve until the next regu-
16 lar election. If an assemblyman is chosen, he shall resign his assembly
17 seat. If a vacancy occurs more than six months before a regular election,
18 the assembly shall call a special election to fill the unexpired term.

19 ARTICLE 3. CITY COUNCIL.

20 Sec. 29.23.200. COMPOSITION, ELIGIBILITY, ELECTION AND TERM.

21 (a) Each first class city has a council of six members elected by the
22 voters at large. Each second class city has a council of seven members
23 elected by the voters at large.

24 (b) A city voter is eligible to hold the office of councilman.
25 A council member who ceases to be eligible to be a city voter immediate-
26 ly forfeits his office.

27 (c) An election is held every year on the Tuesday after
28 the first Monday in November to choose councilmen
29 for staggered two-year terms. The regular

1 term of office begins on the first Monday following the election.
2 The council may provide by ordinance for different terms not to exceed
3 four years, except that the current term of incumbent councilmen may
4 not be altered.

5 Sec. 29.23.210. PROCEDURE. (a) The council shall meet at least
6 once every month. Special meetings may be held on the call of the
7 mayor or two councilmen upon not less than 24 hours written or oral
8 notice communicated to each member.

9 (b) The council shall determine its own rules and order of
10 business and provide for keeping a journal of its proceedings.

11 (c) Four councilmen constitute a quorum. Four affirmative votes
12 are required for the passage of an ordinance, resolution, or motion.

13 (d) The final vote on each ordinance, resolution, or substantive
14 motion is a recorded roll call vote. All councilmen present shall
15 vote unless the council, for special reasons, permits a member to
16 abstain.

17 Sec. 29.23.220. FILLING A VACANCY. If a vacancy occurs in the
18 council, the council shall designate a person to fill the vacancy until
19 the next regular election.

20 ARTICLE 4. CITY EXECUTIVE.

21 Sec. 29.23.240. MAYOR. Each city has a mayor who shall preside
22 at council meetings, act as ceremonial head of the city, and sign docu-
23 ments on the city's behalf upon council authorization. In cities
24 which have not adopted a manager plan, the mayor is responsible for
25 the duties listed in sec. 290 of this chapter.

26 Sec. 29.23.250. ELECTION AND TERM OF MAYOR. (a) A voter of a
27 home rule or general law city is eligible to hold the office of mayor,
28 except that a home rule city may prescribe additional residency
29 requirements by charter.

1 (b) The mayor of a first class city is elected at large for a
2 term of two years. The council may provide by ordinance for a differ-
3 ent term not to exceed four years, except that the current term of
4 an incumbent mayor may not be altered.

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

7 (d) The mayor's regular term begins on the first Monday following
8 his election, which is held on the Tuesday after the first Monday
9 in November. The council of a second class city shall meet on the
10 first Monday after the regular election date and elect a mayor who
11 takes office immediately.

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

14 (b) The mayor of a second class city is a council member and
15 may vote on all matters.

16 Sec. 29.23.270. VETO. (a) The mayor of a first class city may
17 veto any ordinance, resolution, motion, or other action of the council
18 and may, by veto, strike or reduce items in appropriation ordinances.
19 He shall submit to the council at its next regular meeting a written
20 statement advising of his veto and giving his reasons. A veto is
21 overridden by the vote of three-fourths of the authorized membership
22 of the council.

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

24 Sec. 29.23.280. FILLING A VACANCY. (a) In a first class city,
25 a vacancy in the office of mayor occurring within six months of a
26 regular election shall be filled by the council. The person designated
27 shall serve until the next regular election. If a councilman is
28 chosen, he shall resign his council seat. If a vacancy occurs more
29 than six months before a regular election, the council shall call a

1 special election to fill the unexpired term.

2 (b) In a second class city, a vacancy in the office of mayor is
3 filled by and from the council.

4 Sec. 29.23.290. POWERS AND DUTIES OF CITY MANAGER. If the city
5 has a manager, he is the chief executive and administrative officer.
6 The manager shall.

7 (1) appoint city employees and administrative officers,
8 except as provided otherwise in sec. 360 of this chapter and AS 29.33.-
9 050; he may hire necessary administrative assistants and may authorize
10 an appointive administrative officer to appoint, suspend, or remove
11 subordinates in his department;

12 (2) suspend or remove by written order city employees and
13 administrative officers, except as provided otherwise in sec. 360 of
14 this chapter and AS 29.33.050;

15 (3) supervise enforcement of city law;

16 (4) prepare the annual budget and capital improvement
17 program for the council;

18 (5) execute the budget and capital program as adopted;

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

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

23 (8) prepare and make available for public distribution an
24 annual report on city affairs;

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

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

29 ARTICLE 5. SCHOOL BOARDS.

1 Sec. 29.23.310. ELECTION. Each borough and city school district
2 has a school board. All board members are elected at large, but
3 school zones for the election of borough school boards may be estab-
4 lished, altered, or abolished as provided by sec. 100 of this chapter.

5 ARTICLE 6. UTILITY BOARDS.

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

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

14 (c) Vacancies in the board are filled by the municipal executive.
15 Executive appointments shall be confirmed by the assembly or council.
16 A person selected to fill a vacancy on a utility board serves until
17 the expiration of the term.

18 (d) Unless otherwise provided by ordinance, the board shall

19 (1) choose its chairman and secretary;

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

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

24 ARTICLE 7. OTHER OFFICERS AND EMPLOYEES.

25 Sec. 29.23.360. APPOINTMENT OF OFFICERS. The municipal clerk,
26 attorney, treasurer, and police chief are appointed by the chief
27 executive or by the assembly or council, as determined by ordinance.
28 Officers serve at the pleasure of the appointing authority, subject
29 to ordinance. Appointments by the chief executive are subject to

1 confirmation by the governing body.

2 Sec. 29.23.370. MUNICIPAL ATTORNEY. The municipal attorney is
3 the legal advisor of the council or assembly, the school board, and
4 the other officers of the municipality. He represents the municipality
5 as attorney in civil and criminal proceedings. The school board has
6 the right to hire independent counsel when in its judgment independent
7 counsel is needed.

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

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

11 (2) attend meetings and keep the journal;

12 (3) arrange publication of notices, ordinances, and resolu-
13 tions;

14 (4) maintain and make available for public inspection an
15 indexed file including the municipal ordinances, resolutions, rules,
16 regulations, and codes;

17 (5) attest deeds and other documents;

18 (6) perform other duties specified in this title or pre-
19 scribed by the chief executive or by the governing body.

20 (b) The assembly or council may combine the office of clerk with
21 that of treasurer. If the offices are combined, the clerk shall, as
22 required of the treasurer, give his bond to the municipality for the
23 faithful performance of his duties as clerk-treasurer.

24 Sec. 29.23.390. MUNICIPAL TREASURER. (a) The treasurer is the
25 custodian of all municipal funds. He shall keep an itemized account
26 of money received and disbursed. He shall pay money on vouchers drawn
27 against appropriations.

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

1 ARTICLE 8. ADOPTION OR REPEAL OF MANAGER PLAN.

2 Sec. 29.23.410. APPLICATION. A municipality may adopt a manager
3 plan of government.

4 Sec. 29.23.420. PETITION. A petition for the adoption of a
5 manager plan is submitted to the assembly or council. The petition
6 must be signed by a number of municipal voters equal to the following
7 per cent of the votes cast at the preceding regular election:

8 (1) 25 per cent when the municipality has fewer than 7,500
9 persons;

10 (2) 15 per cent when the municipality has 7,500 persons or
11 more.

12 Sec. 29.23.430. ELECTION. Upon receipt of the petition, the
13 assembly or council shall provide by ordinance or resolution for a
14 vote on the question at the next regular or special election. Notice
15 of the election shall be published at least 30 days before the election.

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

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

20 Sec. 29.23.450. APPOINTMENT. The assembly or council shall
21 appoint a manager by a majority vote of its membership. He is chosen
22 solely on the basis of his executive and administrative qualifications
23 and receives the compensation set by the assembly or council. An
24 elected municipal official may not be appointed manager of the munic-
25 ipality sooner than one year after leaving office, except that, by a
26 vote of three-fourths of its authorized membership, the assembly or
27 council may at any time appoint one of its members or other elected
28 municipal officials as manager.

29 Sec. 29.23.460. TERM. Subject to the contract of employment,

1 the manager holds office at the pleasure of the assembly or council.

2 Sec. 29.23.470. APPOINTMENT OF TEMPORARY OR NEW MANAGER. In the
3 absence or disability of the manager, the assembly or council shall
4 appoint a temporary manager. If the office becomes vacant, the
5 assembly or council shall appoint a new manager.

6 Sec. 29.23.480. REPEAL. A municipality may repeal the manager
7 plan in the same manner used for its adoption. At its first meeting
8 after repeal, the assembly or council shall enact provisions for the
9 reorganization of the municipal executive.

10 ARTICLE 9. MISCELLANEOUS PROVISIONS.

11 Sec. 29.23.500. OATHS OF OFFICE. Municipal officers, before
12 taking office, shall affirm in writing that they will honestly, faith-
13 fully, and impartially perform their duties. The oath is filed with
14 the municipal clerk.

15 Sec. 29.23.510. COMBINING OFFICES. The assembly or council may
16 combine two or more appointive or administrative offices.

17 Sec. 29.23.520. BONDING. The executive and the other municipal
18 officers or employees which the assembly or council may designate shall
19 give bond in the amount and with the surety prescribed by the assembly
20 or council. Premiums on bonds are paid by the municipality.

21 Sec. 29.23.530. SALARIES OF ELECTED OFFICERS NOT TO BE VARIED.
22 The assembly or council may fix by ordinance the salaries of elected
23 officers before they are elected. Salaries may not be changed during
24 a term of office. An elected officer may not receive any other com-
25 pensation for service to the municipality. Per diem payments or
26 reimbursements for expenses are not compensation under this section.

27 Sec. 29.23.540. PROHIBITIONS. (a) No person may be appointed
28 to or removed from municipal office or in any way favored or discrimi-
29 nated against with respect to a municipal position because of his race,

1 color, sex, creed, national origin or, unless otherwise contrary to
2 law, because of his political opinions or affiliations.

3 (b) This section applies to home rule and general law municipali-
4 ties.

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

8 Sec. 29.23.560. REPORTS. Home rule and general law municipalities
9 shall file with the Local Affairs Agency:

10 (1) maps and descriptions of all annexed or excluded terri-
11 tory;

12 (2) a copy of the annual audit;

13 (3) tax assessment figures as requested.

14 Sec. 29.23.570. VACANCIES. An elected municipal office is
15 vacated under the following conditions and upon the declaration of
16 vacancy by the assembly or council. The assembly or council shall
17 declare an elective office vacant when the person elected

18 (1) fails to qualify or take office within 30 days after
19 his election or appointment;

20 (2) is physically absent from the municipality for a 90-day
21 period, unless excused by the assembly or council;

22 (3) resigns and his resignation is accepted;

23 (4) is physically or mentally unable to perform the duties
24 of his office;

25 (5) is removed from office;

26 (6) misses three consecutive regular meetings unless excused;

27 or

28 (7) is convicted of a felony or of an offense involving a
29 violation of his oath of office.

1 Sec. 29.23.580. MEETINGS PUBLIC. Meetings of all municipal
2 bodies shall be public as provided in AS 44.62.310. The assembly and
3 council shall provide reasonable opportunity for the public to be
4 heard at regular and special meetings. This section applies to home
5 rule and general law municipalities.

6 CHAPTER 28. ELECTIONS.

7 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

8 Sec. 29.28.010. ADMINISTRATION. (a) The borough assembly or
9 city council shall prescribe the general rules for conducting municipal
10 elections and appoint at least three judges for each polling place.
11 The municipality may require voter registration by charter or ordinance,
12 ratified by a majority of the voters, but may not otherwise alter
13 qualification requirements. Elections are nonpartisan.

14 (b) This section applies to home rule and general law municipali-
15 ties.

16 Sec. 29.28.015. NOMINATIONS. (a) The assembly or council shall
17 provide by ordinance for nominations of elected officers by providing
18 for declaration of candidacy, or petition requiring the signatures of
19 not more than 10 voters, or both.

20 (b) A person may be nominated for and occupy more than one office,
21 but he may not serve simultaneously as borough chairman and as a member
22 of the borough assembly or as mayor and as a member of the council of
23 a first class city,

24 Sec. 29.28.020. ELECTION DATES. (a) The date of a
25 regular municipal election is the Tuesday after the first Monday in
26 November.

27 (b) The assembly or council may call a special election upon at
28 least 20 days notice.

29 Sec. 29.28.030. VOTER QUALIFICATION. A person may vote only if

1 he is a qualified voter in Alaska, is a resident of the municipality,
2 and meets voter registration requirements which may be prescribed by
3 the municipality.

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

7 Sec. 29.28.050. ELECTION CONTEST AND APPEAL. (a) The assembly
8 or council may provide by ordinance the procedure for the contest of
9 an election.

10 (b) Unless otherwise provided by ordinance an election may be
11 contested only upon the filing, before or at the time of the first
12 canvass of ballots by the assembly or council, by a voter of his
13 written affidavit specifying with particularity the grounds for the
14 contest or invalidity of the election.

15 (c) Unless otherwise provided by ordinance, the assembly or
16 council shall declare the election results at the first meeting to
17 canvass the election and record the results in the minutes of that
18 meeting.

19 (d) The contestant shall pay all costs and expenses incurred in
20 a recount of an election demanded by the contestant.

21 (e) No person may appeal or seek judicial review of a city or
22 borough election for any cause or reason unless the person is a voter
23 who has exhausted his administrative remedies before the assembly or
24 council and who has commenced, within 10 days after the assembly or
25 council has finally declared the election results, an action in the
26 superior court in the judicial district in which the municipality is
27 located. If no such action is commenced within the 10-day period,
28 the election and election results shall be conclusive, final and valid
29 in all respects.

1 qualified voters residing within the area outside cities or within the
2 service area, as the case may be, equal to the following per cent of
3 the total number of votes cast at the next preceding general election
4 in the city or borough or borough area concerned, or special election
5 called for the purpose of electing city or borough officers:

6 (1) 25 per cent, when a city or borough has fewer than
7 7,500 persons, or

8 (2) 15 per cent, when a city or borough has 7,500 persons
9 or more.

10 (c) When signing a petition each voter shall write or print after
11 his signature the date of signing the petition and his resident
12 address.

13 (d) Illegible signatures unless accompanied by a legible printed
14 name may be rejected by the municipal clerk.

15 (e) A petition signer may withdraw his signature upon written
16 application to the clerk within seven days after the petition has been
17 filed with the clerk.

18 Sec. 29.28.073. SUFFICIENCY OF PETITION. (a) Within 10 days
19 from the filing date, the municipal clerk shall certify on the petition
20 whether or not it is sufficient.

21 (b) If the petition is insufficient, it may be amended or supple-
22 mented within 10 days after the filing date.

23 (c) Within 10 days after supplementary filing the clerk shall
24 recertify the petition. If it is still insufficient, the petition is
25 rejected and filed as a public record.

26 Sec. 29.28.075. PROTEST. If the municipal clerk certifies the
27 petition is insufficient, a signer of the petition may file a protest
28 with the municipal executive within seven days after the certification
29 and the municipal executive shall present the protest at the next

1 regular meeting to the assembly or council which shall hear and decide
2 the protest.

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

7 Sec. 29.28.080. PRESENTATION OF INITIATIVE. (a) When a petition
8 seeks enactment of an ordinance or resolution within the powers of the
9 assembly or council and not otherwise restricted by sec. 60 of this
10 chapter, the clerk shall present it to the assembly or council at its
11 next meeting after certification. The assembly or council may reject
12 the petition if the subject matter of the initiative or referendum is
13 within the restrictions of sec. 60 of this chapter.

14 (b) Unless the petition is granted within 30 days of its sub-
15 mission to the assembly or council, the clerk shall, with the assistance
16 of the municipal attorney, prepare an ordinance or resolution to imple-
17 ment the petition and shall submit it to the voters at the next regular
18 election. The ordinance or resolution shall be published in full in
19 the notice of election but may be summarized on the ballot to indicate
20 clearly the proposal submitted.

21 (c) If a majority of those voting favor the proposal, it becomes
22 effective when the election results are officially declared.

23 (d) The assembly or council may at any time not less than 10
24 days from the date of election adopt an ordinance or resolution to
25 implement the petition. In that event an election shall not be held.

26 Sec. 29.28.090. PRESENTATION OF REFERENDUM. (a) When a petition
27 seeks a referendum vote on an ordinance or resolution, the clerk shall
28 submit the ordinance to the voters of the municipality at the next
29 regular or special election. If no regular or special election occurs

1 within 75 days of the filing of a sufficient petition with the clerk,
2 the assembly or council shall hold a special election within 75 days
3 of filing.

4 (b) If a sufficient petition for referendum is filed within 30
5 days after final passage of the ordinance, or before the effective
6 date of the ordinance, the ordinance against which the petition is
7 filed shall be suspended pending the referendum on the ordinance.
8 During the period of suspension the council may not enact an ordinance
9 substantially similar to the suspended ordinance but may repeal the
10 suspended ordinance.

11 (c) If a majority of those voting favor the referendum legisla-
12 tion, it remains in effect. If a majority rejects the legislation,
13 it is repealed.

14 Sec. 29.28.110. EFFECT. (a) The assembly or council may not,
15 within two years, act in any way to modify or negate the effect of a
16 successful initiative or referendum. If an ordinance against which a
17 referendum directed has been repealed by the assembly or council after
18 a petition has been filed but before the referendum, the council or
19 assembly may not enact substantially similar legislation for a period
20 of one year after repeal.

21 (b) An unsuccessful initiative or referendum precludes the
22 filing of a new petition for the same purpose sooner than six months
23 after voter disapproval of the initiative or referendum.

24 ARTICLE 3. RECALL.

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

28 Sec. 29.28.140. GROUNDS. Grounds for recall are misconduct in
29 office, incompetence, or failure to perform prescribed duties.

1 Sec. 29.28.150. PETITION. (a) A petition seeking recall of
2 one or more municipal officials is filed with the municipal clerk.
3 The petition shall contain

4 (1) the signatures and resident addresses of a number of
5 voters as prescribed in sec. 70(b) of this chapter for initiative and
6 referendum;

7 (2) the date each voter signed the petition; and

8 (3) a statement of the grounds of the recall stated with
9 particularity as to specific instances.

10 (b) A petition for recall must be filed with the clerk within
11 60 days after the date of the earliest signature on the petition.

12 Sec. 29.28.160. EXAMINATION FOR SUFFICIENCY. The municipal
13 clerk shall review the petition for content and signatures and shall
14 certify on the petition within 10 days of the filing date whether it
15 is accepted or rejected. Until the petition is accepted, a petition
16 signer may withdraw his signature upon written application to the
17 clerk.

18 Sec. 29.28.170. SUPPLEMENTAL PETITION. (a) If the petition is
19 rejected because of insufficient signatures, it may be supplemented by
20 additional signatures within 10 days after the date of rejection. If
21 the petition is insufficient for any other reason, it shall be rejected
22 and filed as a public record.

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

26 Sec. 29.28.180. NEW PETITION. Failure to secure sufficient
27 signatures does not preclude the filing of a new recall petition.
28 However, a new petition may not be filed sooner than six months after
29 a petition is rejected.

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

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

6 (b) If no regular election will occur within 75 days, the assem-
7 bly or council shall hold a special election within 75 days of sub-
8 mission.

9 (c) If a vacancy occurs in the office after a recall petition is
10 filed, the petition shall not be submitted to the voters.

11 Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot con-
12 tains:

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

14 (2) the officer's statement of 200 words or less, if the
15 statement is filed with the clerk for publication and public inspection
16 within 20 days before the election;

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

19 Sec. 29.28.220. ELECTION PROCEDURE. Procedures for conducting
20 a recall election are those of a regular election.

21 Sec. 29.28.230. MAJORITY REQUIRED. A two-thirds majority vote
22 on the question is required to recall an officer.

23 Sec. 29.28.240. EFFECT. If an incumbent is not recalled at the
24 recall election, a petition to recall the same incumbent may not be
25 filed sooner than six months after the recall election.

26 Sec. 29.28.250. ELECTION OF SUCCESSOR. If the voters recall an
27 officer, the clerk shall conduct an election for a successor to fill
28 the unexpired term. The election shall be held at least 10 but not
29 more than 45 days from the date of the recall election. However, if

1 a regular or special election occurs within 75 days of the recall elec-
2 tion, the successor to the recalled official shall be chosen at that
3 regular or special election. The procedures and requirements for the
4 regular election for the office from which the incumbent is recalled
5 apply to the election conducted under this section.

6 CHAPTER 33. AREAWIDE BOROUGH POWERS AND DUTIES.

7 ARTICLE 1. SCOPE.

8 Sec. 29.33.010. SCOPE OF AREAWIDE POWERS. (a) Boroughs shall
9 exercise the powers as specified and in the manner specified in this
10 chapter on an areawide basis, both inside and outside cities within
11 their boundaries.

12 (b) No city, whether home rule or not, may exercise an areawide
13 power once that power is being exercised by a borough.

14 ARTICLE 2. ASSESSMENT AND COLLECTION OF TAXES.

15 Sec. 29.33.030. ASSESSMENT AND COLLECTION. Boroughs shall
16 assess and collect property, sales, and use taxes levied within their
17 boundaries, subject to ch. 53 of this title. Taxes levied by a city
18 and collected by a borough are returned in full to the levying city.

19 ARTICLE 3. EDUCATION.

20 Sec. 29.33.050. EDUCATION. (a) Each borough constitutes a
21 borough school district and shall establish, maintain, and operate a
22 system of public schools on an areawide basis.

23 (b) The borough assembly may by ordinance require that all school
24 money be deposited in a centralized treasury with all other borough
25 money. The borough chairman shall have the custody of, invest and
26 manage all money in the centralized treasury. However, the borough
27 assembly, with the consent of the borough school board, may by ordi-
28 nance delegate to the borough school board the responsibility of a
29

1 centralized treasury.

2 (c) When the borough school board by resolution consents, the
3 borough assembly may by ordinance provide a centralized accounting
4 system for school and all other borough operations. The system shall
5 be operated in accordance with accepted principles of governmental
6 accounting. However, the assembly, with the consent of the borough
7 school board, may by ordinance delegate to the borough school board
8 the responsibilities of the accounting system.

9 (d) The borough school board shall submit the school budget for
10 the following school year to the borough assembly by April 1 for
11 approval of the total amount. Within 30 days after receipt of the
12 budget the assembly shall determine the total amount of money to be
13 made available from local sources for school purposes and shall furnish
14 the school board with a statement of the sum to be made available.
15 If the assembly does not, within 30 days, furnish the school board
16 with a statement of the sum to be made available, the amount requested
17 in the budget is automatically approved. By May 31, the assembly
18 shall appropriate the amount to be made from local sources from money
19 available for the purpose.

20 (e) The borough assembly shall determine the location of school
21 buildings with due consideration to the recommendations of the borough
22 school board.

23 (f) The borough school board is responsible for the design
24 criteria of school buildings. Subject to the approval of the assembly,
25 the school board shall select the appropriate professional personnel
26 to develop the designs. The school board shall submit preliminary and
27 subsequent designs for a school building to the assembly for approval
28 or disapproval; if the design is disapproved, a revised design shall
29 be prepared and presented to the assembly.

1 (g) The borough school board shall provide custodial services
2 and routine maintenance for school buildings and shall appoint, compen-
3 sate, and otherwise control personnel for these purposes. The borough
4 assembly through the borough executive, shall provide for all major
5 rehabilitation, all construction and major repair of school buildings.
6 The recommendations of the school board shall be considered in carrying
7 out the provisions of this section.

8 (h) State law relating to teacher salaries and tenure, to finan-
9 cial support, to supervision by the Department of Education and other
10 general laws relating to schools, governs the exercise of the functions
11 by the borough. The school board shall appoint, compensate, and other-
12 wise control all school employees and administration officers in
13 accordance with AS 14.

14 ARTICLE 4. PLANNING, PLATTING AND ZONING.

15 Sec. 29.33.070. PLANNING, PLATTING AND ZONING. (a) Boroughs
16 shall provide for planning, platting and zoning on an areawide basis.

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

19 (1) designate the council of the city as a board of adjust-
20 ment within the city;

21 (2) delegate other planning and zoning administrative and
22 enforcement responsibilities to the city, provided that borough juris-
23 diction is not impaired;

24 (3) withdraw powers delegated under this subsection.

25 Sec. 29.33.080. PLANNING COMMISSION. (a) The borough planning
26 commission consists of five residents unless a greater number is other-
27 wise provided by ordinance. Commission membership shall be apportioned
28 so that the number of members from first class cities reflects the
29 proportion of borough population residing within those cities. Members

1 shall be appointed by the borough executive for a term of three years
2 subject to confirmation by the assembly, except that appointments of
3 members from first class cities shall be made from the city advisory
4 planning commission membership. Members first appointed shall draw
5 lots for one-, two- and three-year terms. Appointments to fill vacancies
6 are for the unexpired term. The compensation and expenses of the
7 planning commission and its staff are paid as directed by the assembly.

8 (b) The commission shall prepare and recommend to the assembly

- 9 (1) a comprehensive plan consisting of maps and related
10 texts for the systematic development of the borough;
11 (2) a zoning ordinance to implement the plan;
12 (3) a subdivision ordinance;
13 (4) the official map of the borough;
14 (5) modifications to the documents specified in (1) - (4)

15 of this section.

16 (c) The commission shall publish notice of and hold at least one
17 hearing before submitting its recommendations under (b) of this section
18 to the assembly.

19 (d) The commission shall

- 20 (1) act as the platting board;
21 (2) act upon requests for variances;
22 (3) act upon requests for conditional uses.

23 (e) No platting request, variance or conditional use may be
24 granted except upon an affirmative vote of a majority of the commission.

25 (f) The commission shall designate its presiding officer and
26 shall meet as frequently as is necessary. The commission shall estab-
27 lish, subject to approval by the assembly, rules and regulations for
28 the conduct of its meetings. Meetings shall be public and minutes
29 shall be kept. Minutes and records shall be filed with the municipal

1 clerk and retained as public records.

2 Sec. 29.33.085. COMPREHENSIVE PLAN. (a) The comprehensive plan
3 is a compilation of policy statements, goals, standards and maps for
4 guiding the physical, social and economic development, both private
5 and public, of the borough, and may include, but is not limited to,
6 the following: statements of policies, goals, standards, a land use
7 plan, a community facilities plan, a transportation plan, and recommen-
8 dations for plan execution.

9 (b) The assembly shall adopt a comprehensive plan based upon the
10 recommendations of the planning commission. The assembly may modify
11 the plan, provided that it first obtains the recommendations of the
12 planning commission.

13 Sec. 29.33.090. ZONING. (a) In accordance with the comprehen-
14 sive plan, the assembly shall regulate and restrict the use of land
15 and improvements by districts. Regulations shall be uniform for each
16 class or kind of building, structure, land or water area within each
17 district, but the regulations may differ among districts.

18 (b) Regulations adopted under (a) of this section may include,
19 but are not limited to, restriction of

- 20 (1) land use;
- 21 (2) building location and use;
- 22 (3) the height and size of structures;
- 23 (4) the number of stories in buildings;
- 24 (5) the percentage of lot which may be covered;
- 25 (6) the size of open spaces;
- 26 (7) population density and distribution.

27 (c) Zoning regulations are designed to

- 28 (1) provide for orderly development;
- 29 (2) lessen street congestion;

- 1 (3) promote fire safety and public order;
- 2 (4) protect the public health and general welfare;
- 3 (5) prevent overcrowding;
- 4 (6) stimulate systematic development of transportation,
- 5 water, sewer, school, park and other public facilities.

6 (d) The designation of zoning purposes does not confer police
7 powers upon a borough except as authorized by this title nor does it
8 prohibit cities within the borough from exercising police powers as
9 to those purposes.

10 Sec. 29.33.095. OFFICIAL MAPS. (a) It is the purpose of this
11 section to promote the public health, safety and general welfare by
12 encouraging orderly growth and development within organized boroughs
13 and cities through the reservation of public street rights-of-way and
14 control of access to them, drainage rights-of-way, public utility
15 rights-of-way, public parks and playgrounds, and sites for public
16 buildings.

17 (b) The assembly may make or cause to be made surveys of the
18 exact location of the lines of existing and proposed public streets,
19 watercourses and public grounds, including widenings, narrowings,
20 extensions, diminutions, and openings or closings, for the entire
21 borough or city and by ordinance adopt such surveys as the official
22 map, or part of the map, of the borough or city. The assembly by
23 ordinance may make additions or modifications to the official map,
24 or part of the map, by adopting surveys of the exact location of the
25 lines of the public streets, watercourses or public grounds to be
26 added or modified and may also vacate all or part of an existing pro-
27 posed public street, watercourse or public ground included in the map.

28 (c) Before the adoption of a survey of existing or proposed
29 public streets, watercourses or public grounds as the official map,

1 or part of the map, or amendments to the map, the assembly, after
2 giving public notice, shall hold a public hearing. Public notice
3 shall be given not more than 45 and not less than 30 days before the
4 public hearing. The notice shall be published once each week for two
5 successive weeks in a newspaper of general circulation within the
6 municipality or be posted in three public places for at least seven
7 days if there is no newspaper of general circulation within the
8 municipality. It shall state the time and place of the hearing and
9 the particular nature of the matter to be considered at the hearing.

10 (d) After adoption of the official map, or part of the map, all
11 streets, watercourses and public grounds on final, recorded plats which
12 have been approved by the platting board shall be considered amendments
13 to the map. Notwithstanding (c) of this section, a public hearing
14 need not be held or notice given if the amendment of the map is the
15 result of the addition of a plat which has been approved by the platting
16 board.

17 (e) The adoption of a street or street lines as part of the
18 official map does not by itself constitute the opening or establishment
19 of a street or the taking or acceptance of land for street purposes.
20 Neither does it obligate the borough or city to improve or maintain
21 the street. The adoption of proposed watercourses or public grounds
22 as part of the official map does not by itself constitute a taking
23 or acceptance of land by the borough or city.

24 (f) No building permit may be issued for a structure within the
25 lines of a street, watercourse, or public grounds shown or laid out
26 on the official map. No person may recover damages for the taking
27 for public use of a structure or improvements constructed within the
28 lines of a street, watercourse or public ground after it has been
29 included in the official map, and such structure or improvement shall

1 be removed at the expense of the owner. However, if the property of
2 which the reserved location forms a part cannot yield a reasonable
3 return to the owner unless a building permit is granted, the owner may
4 apply to the assembly for the grant of the permit. Before granting
5 a permit authorized in this section, the assembly shall give published
6 notice and hold a public hearing at which all parties in interest shall
7 have an opportunity to be heard. A refusal by the assembly to grant
8 the permit applied for may be appealed by the applicant to the superior
9 court in the same manner and within the same time limitation as is
10 provided for zoning appeals. Final decision of each appeal shall be
11 made by the court, considering the record and the findings of fact made
12 by the assembly as supplemented or replaced by findings of fact made
13 by the court.

14 (g) The assembly may fix the time for which streets, watercourses
15 and public grounds on the official map shall be considered reserved for
16 future taking or acquisition for public use. However, the reservation
17 for public grounds shall lapse and become void one year after an owner
18 of such property submits a written notice to the assembly announcing
19 his intentions to build, subdivide or otherwise develop the land
20 covered by the reservation, or makes formal application for a permit
21 to build a structure for private use, unless the assembly acquires the
22 property or begins condemnation proceedings to acquire the property
23 before the end of the one-year period.

24 (h) The assembly may withhold issuance of a permit to build a
25 structure within a land area reserved under (g) of this section for
26 up to one year following application for the permit. The assembly may
27 withhold approval of a subdivision plan affecting a reserved area for
28 up to one year following submission of the plan for approval. The
29 withholding period shall be valid, notwithstanding provisions of law

1 or local enactments which require approval or disapproval of such
2 applications within a lesser time period.

3 (i) A state agency, public corporation or other instrumentality
4 intending to construct a structure within the lines of a street,
5 watercourse or public ground included in the official map shall give
6 the assembly written notice of the intention at least one year in
7 advance of the date on which the construction is planned to begin.

8 (j) The assembly may designate any of its agencies to negotiate
9 for or secure from the owner of land as to which reservations are
10 made releases of claims for damages or compensation for the reservations,
11 or agreements indemnifying the governing body from such claims by
12 others. The releases or agreements when properly recorded shall be
13 binding upon a successor in title.

14 (k) When a borough has adopted an official map in accordance
15 with this section, a certified copy of the map, ordinances adopting
16 it, and subsequent amendments shall be sent to each city within the
17 borough. The map or amendments shall not take effect until 30 days
18 after receipt. If a city not within an organized borough adopts an
19 official map, or amendment to its map, which shows a street intended
20 to lead into an adjacent city, a certified copy of the map or amend-
21 ment shall be forwarded to the adjacent city.

22 (l) A city, after notice and hearing by the council in the manner
23 provided in (c) of this section, may initiate amendment of a borough
24 official map with respect to land within the city by submitting a
25 written request and map showing the proposed amendments to the borough
26 planning commission. If the borough planning commission does not act
27 on the city request within 30 days, unless the city agrees to an exten-
28 sion of time, the borough map shall be automatically amended as
29 provided in the request. If the planning commission denies the request

1 the city may appeal the denial to the board of adjustment.

2 (m) In this section

3 (1) "plat" means the map or plan of a subdivision or land
4 development;

5 (2) "public grounds" includes

6 (A) parks, playgrounds, and other public areas for
7 active or passive recreation and

8 (B) sites for schools, sewage treatment, refuse dis-
9 posal, and other publicly owned or operated facilities;

10 (3) "street" includes street, avenue, boulevard, road,
11 highway, freeway, parkway, lane, alley, viaduct, and other ways used
12 or intended to be used by vehicular traffic or pedestrians;

13 (4) "structure" means a man-made object having an ascer-
14 tainable stationary location on or in land or water, whether or not
15 affixed to land.

16 Sec. 29.33.110. BOARD OF ADJUSTMENT. (a) The assembly is the
17 board of adjustment for areas outside cities, but it may delegate by
18 ordinance part or all of its functions to other borough boards. The
19 city council is the board of adjustment for the area within the city
20 boundaries. Meetings of the borough board are held at the call of the
21 presiding officer and of the city board by the mayor. The presiding
22 officer or mayor may administer oaths and compel attendance of wit-
23 nesses. Meetings and hearings of the board shall be open to the public
24 and the board shall keep minutes of its proceedings as a public record.

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

26 (1) appeals regarding alleged errors in enforcement of
27 zoning ordinances and building codes;

28 (2) appeals from the decisions of the planning commission
29 on requests for conditional uses;

1 (3) appeals from the decisions of the planning commission
2 on requests for variances from the terms of the zoning ordinance which
3 are not contrary to the public interest, when a literal enforcement
4 would deprive a property owner of rights commonly enjoyed by other
5 properties in the same district;

6 (4) in the case of borough boards, appeals from cities
7 regarding the borough official map.

8 (c) A variance shall not be granted because of special conditions
9 caused by actions of the person seeking relief or for reasons of
10 pecuniary hardship or inconvenience. A variance shall not be granted
11 which will permit a land use in a district in which that use is pro-
12 hibited.

13 Sec. 29.33.120. ADJUSTMENT PROCEDURE. An interested party,
14 including but not limited to a borough or city official, may file
15 with the board of adjustment an appeal specifying his objections.
16 Copies are filed with the administrative officer involved and with
17 the borough clerk within the time required by the zoning ordinance.
18 The officer shall provide the board with all pertinent records,
19 including his written decision. An appeal to the board stays enforce-
20 ment proceedings unless the board or a court issues an enforcement
21 order based on a certificate of imminent peril to life or property
22 made by the enforcement officer.

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

26 (b) A municipal officer, a taxpayer, or a person, jointly or
27 severally aggrieved, may appeal an action of the board to the superior
28 court by filing with the borough clerk within the time fixed by
29 ordinance, a notice of appeal specifying grounds. When the notice of

1 appeal is filed, the board shall at once transmit to the superior
2 court clerk copies of all the papers constituting the record in the
3 case.

4 (c) An appeal from the board of adjustment stays enforcement
5 proceedings unless the court issues an enforcement order based on a
6 certificate of imminent peril to life or property made by the board.

7 (d) The appeal is heard upon the record by the superior court,
8 and the court may reverse or affirm, wholly or partly, the decision
9 appealed from.

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

13 Sec. 29.33.150. PLATTING JURISDICTION AND POWER. The planning
14 commission acting as the platting board has jurisdiction over platting
15 and shall adopt and publish rules and regulations to implement this
16 power. Jurisdiction includes, but is not limited to, the control of

17 (1) form, size, and other aspects of subdivisions, dedica-
18 tions, and vacations of land;

19 (2) dimensions of lots or tracts;

20 (3) street width, arrangement, and right-of-way, including
21 allowance for access to lots and installation of street paving, curbs,
22 gutters, sidewalks, sewers, water lines, drainage, and other public
23 utility facilities and improvements.

24 Sec. 29.33.160. PROCEDURE. (a) The platting board shall within
25 60 days of filing approve or disapprove the plat or shall return it to
26 the applicant for modification or correction. If the board fails to
27 act, the plat is considered approved and a certificate of approval
28 shall be issued by the board on demand. The applicant for plat approv-
29 al may consent to the extension of the period for action by the board.

1 The board shall state on its record and in writing to the applicant its
2 reason for disapproval of a plat.

3 (b) The platting board shall submit an approved plat to the
4 district recorder in compliance with AS 40.15.010 - 40.15.020.

5 Sec. 29.33.170. WAIVER IN CERTAIN CASES. The platting board
6 may in individual cases waive the preparation, submission, and recording
7 of a plat upon satisfactory evidence that

8 (1) a conveyance of part of a larger tract is not made for
9 the purpose of, or in connection with, a present or projected subdivi-
10 sion development;

11 (2) the transaction constitutes an isolated transaction
12 which does not fall within the general intent of this chapter;

13 (3) no dedication of a street, alley, thoroughfare, park or
14 other public area would be involved or required.

15 Sec. 29.33.180. INFORMATION REQUIRED. A plat shall show initial
16 point of survey, original or reestablished corners and their descrip-
17 tions, and actual traverse showing area of closure and all distances,
18 angles and calculations required to determine initial point, corners
19 and distances of the plat, as well as other information which may be
20 required by ordinance.

21 Sec. 29.33.190. PENALTIES. (a) The owner or agent of the owner
22 of land located within a subdivision who transfers, sells, or enters
23 into a contract to sell land in a subdivision before a plat of the
24 subdivision has been prepared, approved, and recorded, is guilty of a
25 misdemeanor and upon conviction is punishable by a fine of not more
26 than \$500 for each lot or parcel transferred, sold, or included in a
27 contract to be sold. The platting board may enjoin a transfer, sale,
28 or contract to sell, and may recover the penalty by appropriate legal
29 action.

1 (b) No person may record a plat or seek to have a plat recorded
2 unless it bears the approval of the platting board. A person who
3 knowingly violates this requirement is punishable upon conviction by
4 a fine of not more than \$500.

5 Sec. 29.33.200. ALTERATION OR REPLAT PETITION. No recorded
6 plat may be altered or replatted except upon petition of the owners of
7 a majority of the land affected by the alteration or replat or by the
8 platting board. No platted street may be vacated, except upon petition
9 of the owners of the majority of the front feet of the land fronting
10 the part of the street sought to be vacated. The petition shall be
11 filed with the platting board. It shall be accompanied by a copy of
12 the existing plat showing the proposed alteration or replat.

13 Sec. 29.33.210. NOTICE OF HEARING. The platting board shall fix
14 a time for a hearing on the petition which shall not be more than 60
15 days after the filing. The board shall publish a notice stating when
16 and by whom the petition was filed, its purpose, and the time and
17 place of the hearing. The notice shall generally describe the altera-
18 tion or replat sought. The notice shall be published once a week for
19 two consecutive weeks in a newspaper of general circulation in the
20 area. The board shall also mail a copy of the notice to each affected
21 property owner not signing the petition.

22 Sec. 29.33.220. HEARING AND DETERMINATION. At the hearing the
23 platting board shall consider the alteration or replat and make its
24 decision on the merits of the proposal. No vacation of a city street
25 may be made without the consent of the city council. No vacation of
26 a street in the borough area outside cities may be made without the
27 consent of the borough assembly. The assembly or council shall have
28 30 days from the decision in which to veto the board decision. If no
29 veto is received by the board within the 30-day period, the consent

1 of the city or borough shall be considered to have been given to the
2 vacation.

3 Sec. 29.33.230. RECORDING. If the alteration or replat is
4 approved, the revised plat must be recorded by the platting board and
5 is thereafter the lawful plat.

6 Sec. 29.33.240. TITLE TO VACATED AREA. (a) The title to the
7 street or other public area vacated on a plat attaches to the lot or
8 lands bordering on the area in equal proportions, except that if the
9 area was originally dedicated by different persons, original boundary
10 lines shall be adhered to so that the street area which lies on one
11 side of the boundary line shall attach to the abutting property on
12 that side, and the street area which lies on the other side of the
13 boundary line shall attach to the property on that side. The portion
14 of a vacated street which lies within the limits of a platted addition
15 attaches to the lots of the platted addition bordering on the area.
16 If a public square is vacated, the title to it vests in the city if
17 it lies within the city and to the borough if it lies within the
18 borough outside a city. If the property vacated is a lot or tract,
19 title vests in the rightful owner.

20 (b) If the borough or city acquired the street or other public
21 area vacated for legal consideration or by express dedication to and
22 acceptance by the borough or city other than required subdivision
23 platting, before the final act of vacation the fair market value of
24 the street or public area shall be deposited with the platting author-
25 ity to be paid over to the borough or city on final vacation.

26 Sec. 29.33.245. HEARING OFFICER. The assembly may by ordinance
27 authorize the planning commission, the platting board and the board
28 of adjustment to designate a hearing officer, or one or more members
29 of the commission or board, to hear and decide cases under this

1 chapter. The assembly shall prescribe procedures for hearings and
2 appeals. The commission or board shall hear and decide appeals de
3 novo.

4 ARTICLE 5. ADDITIONAL AREAWIDE POWERS.

5 Sec. 29.33.250. ADDITIONAL AREAWIDE POWERS. First and second
6 class boroughs acquire additional areawide municipal powers by transfer
7 from a city or by holding an areawide election on the question.

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

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

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

15 (1) a number of voters equal to 15 per cent of the number
16 of votes cast in the borough at the preceding regular election may
17 file a petition with the assembly, or

18 (2) the assembly may propose the acquisition of the power.

19 Sec. 29.33.280. INVESTIGATION. The assembly shall hold at least
20 one public hearing in the borough on the question. The assembly shall
21 then evaluate the ability of the borough to exercise the powers and
22 make its findings public.

23 Sec. 29.33.290. ELECTION. (a) The assembly shall, within 30
24 days after its findings have been made public, order an election to
25 be held on the question. The election shall be held at least 30 days
26 after the order and not later than the next regular election occurring
27 after the 30-day period.

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

1 (c) The chairman shall certify the election results to the Local
2 Affairs Agency. If the majority of votes cast on the question is
3 favorable, the borough shall assume the added power within 30 days
4 of certification of the election results.

5 CHAPTER 38. BOROUGH POWERS AND DUTIES

6 IN THE AREA OUTSIDE CITIES.

7 Sec. 29.38.010. FIRST CLASS BOROUGH. The first class borough
8 may exercise in the area outside cities any general law municipal power.
9 Before exercising a power outside cities only, the borough shall seek
10 to have the identical power transferred from cities within the borough
11 or propose joint borough-city exercise of the power.

12 Sec. 29.38.020. SECOND CLASS BOROUGH. The second class borough
13 may exercise in the area outside cities municipal powers approved at
14 incorporation, conferred by AS 29.48.020, or added as provided in this
15 chapter. Before exercising a power outside cities only, the borough
16 shall seek to have the identical power transferred from cities within
17 the borough or propose joint borough-city exercise of the power.

18 Sec. 29.38.030. ADDITIONAL POWERS. The second class borough
19 may initiate the acquisition of additional powers outside cities in
20 either of two ways:

21 (1) a number of voters equal to 15 per cent of the number
22 of votes cast in the area outside cities at the preceding regular
23 election may file a petition with the assembly, or

24 (2) the assembly may place the question on the ballot.

25 Sec. 29.38.040. INVESTIGATION. The assembly shall hold at least
26 one public hearing in the borough on the question. The assembly shall
27 then evaluate the ability of the borough to exercise the powers and
28 make its findings public.

29 Sec. 29.38.050. ELECTION. (a) The assembly shall, within 30

1 days after its findings have been made public, order an election on the
2 question. The election shall be held at least 30 days after the
3 order and not later than the next regular election occurring after the
4 30-day period.

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

7 (c) The chairman shall certify the election results to the Local
8 Affairs Agency. If the majority of the votes cast on the question is
9 favorable, the borough shall assume the added power within 30 days of
10 certification of election results.

11 CHAPTER 41. POWERS OF THIRD CLASS BOROUGHES.

12 Sec. 29.41.010. POWERS OF THIRD CLASS BOROUGHES. (a) A third
13 class borough shall exercise the areawide powers of education and tax
14 assessment and collection in the manner provided for second class
15 boroughs. Provisions of law relative to first and second class organ-
16 ized boroughs apply with respect to third class boroughs only to the
17 extent they are consistent with this chapter.

18 (b) A third class borough may establish, operate, alter or
19 abolish service areas in the manner provided for second class boroughs.

20 Sec. 29.41.020. ASSEMBLY TO SERVE AS SCHOOL BOARD. The borough
21 assembly is the borough school board for third class boroughs. Where
22 applicable, weighted voting shall apply to board decisions. The
23 borough executive is the presiding officer of the borough assembly and
24 president of the school board. The borough executive has all powers
25 of a borough executive except for the veto power.

26 CHAPTER 43. POWERS OF CITIES OUTSIDE BOROUGHES.

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

1 Sec. 29.43.020. ASSESSMENT AND TAX COLLECTION. First class cities
2 outside boroughs may assess, levy and collect a general property tax.
3 A property tax if levied must be assessed, levied and collected as
4 provided by ch. 53 of this title for boroughs. Cities outside boroughs
5 may levy and collect sales and use taxes as provided by ch. 53 of this
6 title for boroughs.

7 Sec. 29.43.030. EDUCATION. First class cities outside boroughs
8 constitute city school districts and shall establish, maintain, and
9 operate a system of public schools as provided by AS 29.33.050 for
10 boroughs.

11 Sec. 29.43.040. PLANNING AND ZONING. First class cities outside
12 boroughs shall, and second class cities outside boroughs may, provide
13 for planning, platting and zoning, as provided by AS 29.33.070 -
14 29.33.245 for boroughs.

15 CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES.

16 ARTICLE 1. GENERAL POWERS.

17 Sec. 29.48.010. GENERAL POWERS. Municipalities have the follow-
18 ing general powers, subject to other provisions of law:

- 19 (1) to establish and prescribe the functions of municipal
20 departments, offices, or agencies;
- 21 (2) to establish and prescribe salaries for the elected
22 and appointed municipal officers and employees;
- 23 (3) to make investigations of the affairs of the municipality
24 and make inquiries into the conduct of a municipal department;
- 25 (4) to enter into agreements, including those for coopera-
26 tive or joint administration of any functions or powers with a local
27 government, with the state, or with the United States;
- 28 (5) to require periodic and special reports from a municipal
29 department to be submitted through the municipal executive;

- 1 (6) to sue and be sued;
- 2 (7) to levy taxes and special assessments;
- 3 (8) to enforce ordinances and to prescribe penalties for
- 4 violations;
- 5 (9) to acquire and dispose of real and personal property;
- 6 (10) to acquire membership in organizations which promote
- 7 legislation for the good of the municipality;
- 8 (11) to expend funds for community purposes for the good of
- 9 the municipality;
- 10 (12) to borrow money and issue evidences of indebtedness.

11 Sec. 29.48.020. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES. A

12 second class borough may in the area outside cities

- 13 (1) regulate or prohibit the offering for sale, exposure for
- 14 sale, sale, use, or explosion of fireworks;
- 15 (2) provide for the licensing, impounding, and disposition
- 16 of animals;
- 17 (3) regulate the licensing and operation of motor vehicles
- 18 and operators;
- 19 (4) regulate snow vehicles as provided in AS 05.30.070.

20 ARTICLE 2. . FACILITIES, SERVICES AND REGULATION.

21 Sec. 29.48.030. MUNICIPAL FACILITIES AND SERVICES. (a) A muni-

22 cipality may exercise the powers necessary to provide the following

23 public facilities and services:

- 24 (1) streets and sidewalks;
- 25 (2) sewers and sewage treatment facilities;
- 26 (3) harbors, wharves, and other marine facilities;
- 27 (4) watercourse and flood control facilities;
- 28 (5) health services and hospital facilities;
- 29 (6) cemeteries;

- 1 (7) police protection and jail facilities;
- 2 (8) cold storage plants;
- 3 (9) telephone systems;
- 4 (10) light, power and heat;
- 5 (11) water;
- 6 (12) transportation systems;
- 7 (13) community centers;
- 8 (14) libraries;
- 9 (15) recreation facilities;
- 10 (16) airport and aviation facilities;
- 11 (17) garbage disposal service and facilities;
- 12 (18) fire protection service and facilities;
- 13 (19) parking and parking facilities;
- 14 (20) housing and urban renewal, rehabilitation and develop-
- 15 ment.

16 (b) First and second class boroughs may exercise the powers
17 conferred by (a) of this section only after they have been assumed under
18 AS 29.33.250 - 29.33.290 or 29.38.010 - 29.38.050 or are conferred by
19 sec. 20 of this chapter.

20 Sec. 29.48.035. REGULATORY POWERS. (a) A municipality may
21 regulate the operation and use of its public rights-of-way, public
22 facilities and services. It may also regulate the following:

- 23 (1) licensing and operation of motor vehicles, including
- 24 snow vehicles, and operators;
- 25 (2) licensing of drivers of taxicabs, for-hire automobiles,
- 26 motor buses, or other vehicles for the transportation of passengers
- 27 or baggage;
- 28 (3) vehicle parking and traffic;
- 29 (4) transportation fares;

- 1 (5) licensing, impounding and disposition of animals;
2 (6) selling of goods;
3 (7) selling of food;
4 (8) abandoned property;
5 (9) dangerous and disorderly conduct;
6 (10) alcoholic beverages as provided by AS 04.15.070;
7 (11) recreational devices as provided by AS 05.20.100;
8 (12) control of insects and rodents;
9 (13) offering for sale, exposure for sale, sale, use, or
10 explosion of fireworks;
11 (14) minimum occupancy, construction, heating, electrical,
12 plumbing and other building and housing requirements and specifications;
13 (15) condemnation and abatement of public nuisances and
14 hazards;
15 (16) other powers and functions affecting the general health,
16 safety, well-being and welfare of its inhabitants.

17 (b) First and second class boroughs may exercise the powers con-
18 ferred by (a) of this section only after they have been assumed under
19 AS 29.33.250 - 29.33.290 or 29.38.010 - 29.38.050 or are conferred by
20 sec. 20 of this chapter.

21 Sec. 29.48.037. EXTRATERRITORIAL JURISDICTION. (a) A municipality
22 may provide parks, roads, trails, playgrounds, cemeteries and airports
23 outside its boundaries, subject to AS 29.33.010, and may regulate their
24 use and operation. A regulation adopted under this section must state
25 that it applies outside the municipality.

26 (b) A municipality may adopt ordinances to protect its water
27 supply and watershed and may enforce them outside its boundaries.
28 Before this power may be exercised within the boundaries of another
29 municipality, the approval of that municipality must be given by

1 ordinance. This section applies to general law and home rule municipi-
2 palities.

3 Sec. 29.48.040. MUNICIPALLY-OWNED UTILITIES. A municipality
4 owning or operating utilities may extend service to adjacent areas
5 outside its municipal limits. For that purpose the municipality may
6 acquire, maintain and operate utility facilities together with neces-
7 sary real property interests in real property outside its limits.
8 This section applies to home rule and general law municipalities.

9 Sec. 29.48.050. FRANCHISES AND PERMITS. (a) The assembly acting
10 for the area outside cities and the council acting for the area within
11 a city may grant franchises, including exclusive franchise privileges,
12 for the construction, operation and maintenance of bus transportation
13 systems and public utilities not regulated under AS 42.05 and may
14 permit them the use of streets and other public places under regulations
15 prescribed by ordinance.

16 (b) No franchise is valid until it has been submitted to the
17 qualified voters of the city or borough area outside cities in which
18 it applies, and at least 55 per cent of the votes cast are in favor
19 of the franchise. At least 30 days notice of a franchise referendum
20 election shall be given in the same manner as is provided for notice
21 of regular municipal elections, and the notice shall specify the
22 purpose of the election. The ordinance granting a franchise shall
23 provide for its submission for ratification to the qualified voters
24 of the city or borough area outside cities at either a general or spe-
25 cial election, and the result of the election shall be canvassed
26 publicly by the council or assembly and spread upon the records of the
27 minutes and the result declared and certified in the same manner as
28 in a regular election.

29 (c) Public utilities regulated under AS 42.05 have the right to

1 use the streets and other public places, upon payment of a reasonable
2 permit fee and on reasonable terms and conditions and with reasonable
3 exceptions the assembly or council requires. A dispute as to whether
4 fees, terms, conditions, or exceptions are reasonable shall be decided
5 by the Alaska Public Utilities Commission.

6 Sec. 29.48.060. PUBLIC UTILITIES RATES. The assembly acting
7 for the area outside cities and the council acting for the area within
8 a city may regulate, fix, establish and change, as it considers
9 proper, the rates and charges imposed for utilities services given to
10 the municipality or its inhabitants by a public service association,
11 corporation, or individual not regulated under AS 42.05 and may regu-
12 late and provide what is a reasonable deposit for meters and security
13 for service to be given, provided that interest be paid on the deposit.
14 All rates, charges and regulations shall be reasonable and shall permit
15 a fair and reasonable return on invested capital.

16 Sec. 29.48.070. HEARING FOR REGULATION OF UTILITIES RATES. If
17 the assembly or council considers it advisable to regulate, change, or
18 fix the rates to be charged by a public service corporation, associa-
19 tion or individual not regulated under AS 42.05, it shall order a
20 hearing to be held before the governing body at a time and place speci-
21 fied. Notice of the hearing shall be given by at least one publication
22 in a newspaper of general circulation within the municipality or, if
23 no newspaper of general circulation is published within the municipality,
24 notice shall be given by posting a notice in three public places
25 within the city or borough area outside cities receiving the utilities
26 services and by serving written notice upon the corporations, associa-
27 tions and individuals whose rates are to be regulated, fixed, or
28 changed in the same manner that summonses are served. The notices
29 shall be published or posted and served at least 15 days before the

1 hearing.

2 Sec. 29.48.080. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY. At
3 a hearing held under sec. 70 of this chapter, all public service cor-
4 porations, associations, or individuals affected by or interested in
5 the matters to be heard may be present and may be represented by counsel.
6 The municipality and all interested parties may produce witnesses and
7 examine them and introduce evidence to prove or disprove the facts in
8 issue or matters to be established or inquired into at the hearing.
9 All parties may compel the attendance of witnesses, and subpoenas
10 requiring attendance shall be issued by the municipal clerk under his
11 hand and the seal of the municipality. Subpoenas duces tecum requiring
12 the production of books and papers shall be issued in like manner upon
13 request. If a person fails to obey a subpoena, the party at whose
14 request the subpoena issued may petition the superior court for an
15 order compelling the attendance of the disobedient witness or the pro-
16 duction of the books or papers referred to in a subpoena duces tecum.
17 The superior court shall order the witness to appear and testify or
18 compel the production of the books or papers. A violation of the order
19 of the court is a contempt of court. If a witness appears and refuses
20 to testify concerning a matter material to the facts inquired about at
21 the hearing and to establish or determine which the hearing was had,
22 an application may be made to the superior court to compel the witness
23 to testify and answer questions put to him concerning the matters
24 inquired about, and the court shall make an order compelling the wit-
25 ness to testify. Violation of the order is contempt of court.

26 Sec. 29.48.090. FURTHER PROCEEDINGS. A hearing under. sec. 70
27 of this chapter shall begin at the time stated in the notice but may
28 be continued from time to time. At least a quorum of the assembly or
29 council shall be present at the hearing. At the conclusion of the

1 hearing the parties interested may make such arguments before the
2 assembly or council, either in person or by attorney as they consider
3 proper, touching the matters at issue, and thereafter the assembly or
4 council shall proceed to regulate and fix the rates by ordinance. The
5 date upon which the rates fixed or regulated take effect shall be
6 stated in the ordinance and shall be at least 10 days after passage and
7 approval of the ordinance.

8 Sec. 29.48.100. APPLICATION. (a) In the case of conflict between
9 the provisions of secs. 50 - 70 of this chapter and the provisions of
10 AS 42.05 as to the regulation of rates of a utility, the provisions of
11 AS 42.05 shall prevail.

12 (b) Secs. 50 - 100 of this chapter apply to home rule and
13 general law municipalities.

14 ARTICLE 3. MUNICIPAL ENACTMENTS.

15 Sec. 29.48.130. ACTS REQUIRED TO BE BY ORDINANCE. (a) In addi-
16 tion to other actions which this title requires to be by ordinance,
17 the assembly or council of a municipality shall use ordinances to

- 18 (1) establish, alter or abolish municipal departments;
19 (2) fix the compensation of members of the assembly or
20 council;
21 (3) provide for a fine or other penalty for establishing
22 rules or regulations for violation of which a fine or other penalty
23 is imposed;
24 (4) provide for the levying of taxes;
25 (5) make appropriations and supplemental appropriations or
26 transfer appropriations;
27 (6) grant, renew, or extend a franchise;
28 (7) regulate the rate charged by a public utility;
29 (8) adopt, modify or repeal the comprehensive plan, zoning

1 and subdivision ordinances, building and housing codes, and the official
2 map;

3 (9) approve the transfer of a power to a borough from a
4 city;

5 (10) designate the borough seat.

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

8 Sec. 29.48.140. FORM OF ORDINANCES. Ordinances are introduced
9 in writing in the form required by the assembly or council.

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

24 (b) Ordinances take effect upon adoption or at a later date
25 specified in the ordinance.

26 Sec. 29.48.160. EMERGENCY ORDINANCES. (a) To meet a public
27 emergency the assembly or council may adopt ordinances effective on
28 adoption. Every emergency ordinance must contain a finding by the
29 assembly or council that an emergency exists and a statement of the

1 facts upon which the finding is based. The ordinance may be adopted,
2 amended and adopted, or rejected at the meeting at which it is intro-
3 duced. The affirmative vote of all members present, or the affirmative
4 vote of three-fourths of the total membership, whichever is less, is
5 required for adoption. The assembly must print and make available
6 copies of adopted emergency ordinances.

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

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

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

21 Sec. 29.48.180. CODIFICATION. (a) Each ordinance and resolution
22 after adoption shall be codified.

23 (b) Within three years after incorporation of the municipality,
24 the municipal executive, with the advice and assistance of a legal
25 advisor, shall have prepared a general codification of all municipal
26 ordinances of general applicability having the force and effect of law.
27 The municipal code shall be revised and printed at least every five
28 years, unless the code is kept current by regular supplements.

29 (c) In this section, codified means

1 (1) the ordinance has been given a serial number or other
2 permanent identifying number and, bearing a notation of the date of
3 adoption and the designation of the adopting authority, it has been
4 entered by the municipal clerk in a properly indexed book maintained
5 for the purposes of organizing and recording the ordinances; or

6 (2) the ordinance is a provision included, or to be included,
7 in a code of ordinances or other complete system of positive law promul-
8 gated by the council and kept current by the city at reasonable intervals.

9 (d) This section applies to general law and home rule municipali-
10 ties.

11 Sec. 29.48.190. BUDGET AND CAPITAL PROGRAM. (a) The municipal
12 fiscal year shall begin on July 1 of each year. The assembly or
13 council shall establish the manner for the preparation and submission
14 of the budgets and capital programs by the executive. After public
15 hearing, the assembly or council may approve the budgets with or without
16 amendments and shall appropriate the funds required for the approved
17 budgets.

18 (b) A bond, contract, lease, or other obligation requiring the
19 payment of funds from the appropriations of a later fiscal year or of
20 more than one fiscal year shall be made or approved by ordinance adopted
21 by a majority of the votes authorized on the question.

22 (c) The assembly or council may make supplemental and emergency
23 appropriations. No payment may be authorized or made and no obligation
24 incurred except in accordance with appropriations.

25 (d) Nothing in this section is intended to prevent the authorizing
26 of payment or making of contracts for capital improvements to be fi-
27 nanced wholly or partly by the issuance of bonds.

28 Sec. 29.48.200. PENALTIES. For the violation of an ordinance,
29 the assembly or council may prescribe punishment not to exceed a fine

1 of \$500 or imprisonment for 30 days, or both, together with costs of
2 prosecution. However, the punishment authorized under this subsection
3 may be imposed only if an ordinance is codified and copies of the
4 ordinance are made available for distribution to the public.

5 Sec. 29.48.210. EXPENDITURE OF BOROUGH REVENUES. Borough revenues
6 levied and collected on an areawide basis by a home rule or general law
7 borough may be expended on general administrative costs and on areawide
8 functions only. Revenues levied and collected in the area outside
9 cities only may be expended on general administrative costs and func-
10 tions which render service to the area outside cities only.

11 Sec. 29.48.220. POST AUDIT. The assembly or council shall provide
12 for an annual independent audit of the accounts and financial trans-
13 actions of the municipality. To make the audit the assembly or council
14 shall designate a public accountant who has no personal interest,
15 direct or indirect, in the fiscal affairs of the municipality. Copies
16 of the audit shall be available to the public upon request. This
17 section applies to home rule and general law municipalities.

18 ARTICLE 4. MISCELLANEOUS PROVISIONS.

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

25 Sec. 29.48.260. MUNICIPAL PROPERTIES. (a) A municipality may
26 acquire and hold real and personal property or interest in property,
27 and may sell, lease or otherwise dispose of property no longer required
28 for municipal purposes.

29 (b) Notwithstanding the provisions of (c) of this section, a

1 municipality may sell, lease, donate or exchange with the United States,
2 the state, or a political subdivision real estate or other property,
3 or interest in property, when in the judgment of the assembly or
4 council it is advantageous to the municipality to do so.

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

1 (d) The assembly or council may by ordinance establish a formal
2 procedure for acquisition from the state of land or rights in land and
3 the disposal of the land or rights in land, in which event the pro-
4 visions of (c) of this section do not apply.

5 (e) A municipality, in order to make sites available for benefi-
6 cial new industries, may acquire and hold real property, either inside
7 or outside the corporate limits, and may sell, lease or dispose of it
8 to persons who agree to operate a beneficial new industry upon the
9 terms and conditions the assembly or council considers advantageous to
10 the municipality.

11 Sec. 29.48.270. EMERGENCY DISASTER POWERS. (a) A municipality
12 which is wholly or partially within an area which is declared by the
13 President to be a disaster area may participate in and provide for
14 housing and urban renewal and redevelopment in the same manner as a
15 home rule city. The exercise of these powers by a borough is limited
16 to the area outside a city in the borough.

17 (b) A borough may exercise the powers for a housing or urban
18 renewal and redevelopment project transferred to it by a city located
19 in the borough as provided by AS 29.33.260.

20 (c) AS 29.38.020 - 29.38.050 are not applicable to the housing
21 and urban renewal and redevelopment powers granted by this section.

22 (d) Powers granted by this section must be initiated within a
23 period of not more than five years from the date of declaration of a
24 natural disaster by the President, but these powers may be extended for
25 an additional period of not more than three years.

26 ARTICLE 5. CONSTRUCTION OF POWERS.

27 Sec. 29.48.310. GENERAL CONSTRUCTION. A liberal construction
28 shall be given to all powers and functions of boroughs and cities con-
29 ferred in this title.

1 Sec. 29.48.320. EXTENT OF POWERS. Unless otherwise limited by
2 law, boroughs and cities have and may exercise all powers and functions
3 necessarily or fairly implied in or incident to the object or purpose
4 of all powers and functions conferred in this title.

5 Sec. 29.48.330. ENUMERATION OF POWERS. Specific examples within
6 an enumerated power or function conferred upon boroughs or cities in
7 this title are illustrative of the object and not a limitation or
8 exclusion upon the exercise of the power or function.

9 CHAPTER 53. MUNICIPAL ASSESSMENT AND TAXATION.

10 ARTICLE 1. BOROUGH PROPERTY TAX.

11 Sec. 29.53.010. GENERAL PROPERTY TAX. Home rule and general law
12 boroughs may levy (1) an areawide property tax for areawide functions,
13 and (2) a property tax limited to the area outside cities for functions
14 limited to the area outside cities. A property tax if levied must be
15 assessed, levied and collected on real and personal property as pro-
16 vided in this chapter.

17 Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property
18 is exempt from general taxation:

19 (1) municipal, state or federally owned property, except
20 that private leaseholds, contracts or other interest in the property
21 shall be taxable to the extent of those interests;

22 (2) household goods and personal effects not used for
23 business, rent or profit;

24 (3) property used exclusively for nonprofit religious,
25 charitable, cemetery, hospital or educational purposes;

26 (4) property of a nonbusiness organization composed entirely
27 of persons with 90 days or more of active service in the armed forces
28 of the United States whose conditions of service and separation were
29 other than dishonorable, or the property of the auxiliary of such

1 organization;

2 (5) money on deposit.

3 (b) "property used exclusively for religious purposes" includes
4 the following property owned by a religious organization:

5 (1) the residence of the pastor, priest, rabbi, minister or
6 religious order of a recognized religious organization;

7 (2) a structure, its furniture and its fixtures used solely
8 for public worship, charitable purposes, religious education or a non-
9 profit hospital;

10 (3) lots supporting and adjacent to a structure or residence
11 mentioned in (1) or (2) of this subsection which are necessary to
12 convenient use;

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

15 (c) Property described in (a) or (b) of this section from which
16 income is derived is exempt only if that income is solely from use of
17 the property by nonprofit religious, charitable, hospital, or educa-
18 tional groups for classroom space.

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

22 Sec. 29.53.030. MINING CLAIMS. The assessed value of an unim-
23 proved unpatented mining claim which is not producing, and a nonproducing
24 patented mining claim upon which the improvements originally required
25 for patent have become useless and valueless through depreciation,
26 removal or otherwise, is fixed at \$200 for each 20 acres or fraction of
27 20 acres. If the surface ground of a claim has a separate and inde-
28 pendent value for nonmining uses, the real and personal property is
29 assessed at its full and true value.

1 Sec. 29.53.040. MOBILE HOMES. Mobile homes, trailers, house
2 trailers, trailer coaches and similar property used or intended to be
3 used for residential, office or commercial purposes and attached to the
4 land or connected to water, gas, electric or sewage facilities are
5 classed as real property for tax purposes. This section does not apply
6 to house trailers and mobile homes which are unoccupied and held for
7 sale by persons engaged in the business of selling mobile homes.

8 Sec. 29.53.050. TAX LIMITATION. Home rule and general law
9 municipalities may levy property taxes to pay or secure the payment of
10 principal and interest on general obligation bonds without limitation
11 as to rate or amount. They may not levy property taxes for other pur-
12 poses in excess of three per cent of the assessed property valuation.

13 Sec. 29.53.060. FULL AND TRUE VALUE. (a) The assessor of a
14 home rule or general law municipality shall assess property at its
15 full and true value as of January 1 of the assessment year, except as
16 provided in this section and secs. 30 and 160 of this chapter. The
17 full and true value is the amount which the property would bring on an
18 open market in a sale on normal payment terms between a willing seller
19 and a willing buyer both conversant with the property and with pre-
20 vailing general price levels.

21 (b) Assessment of business inventories may be based on the
22 average monthly method of assessment rather than the value existing on
23 January 1. The method used to assess business inventories shall be
24 prescribed by the borough assembly.

25 Sec. 29.53.070. RETURNS. (a) The assembly may require every
26 person having ownership or control of or an interest in property to
27 submit a return in the form prescribed by the assessor, based on
28 property values existing on January 1, except as otherwise provided in
29 this chapter.

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

3 Sec. 29.53.080. INDEPENDENT INVESTIGATION. (a) The assessor is
4 not bound to accept a return as correct. He may make an independent
5 investigation of property returned or of taxable property upon which
6 no return has been filed. In either case, the assessor may make his
7 own valuation of the taxable property, which is prima facie evidence.

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

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

16 Sec. 29.53.090. STATEMENT. A person who fails to file a state-
17 ment required by ordinance or who knowingly makes a false affidavit
18 to a statement required by a tax ordinance relative to the amount,
19 location, kind or value of property subject to taxation with intent
20 to evade the taxation, is guilty of a misdemeanor. Upon conviction,
21 he is punishable by a fine of not more than \$500, or by imprisonment
22 for not more than 30 days, or by both, together with costs of prosecu-
23 tion.

24 Sec. 29.53.100. ASSESSMENT ROLL. (a) The assessor shall pre-
25 pare an annual assessment roll. The roll contains

- 26 (1) a description of all taxable property;
27 (2) the assessed value of all taxable property;
28 (3) the names and addresses of persons with property subject
29 to assessment and taxation.

1 (b) The assessor may list real property by any description that
2 may be made certain. Real property is assessed to the owner of record
3 as shown in the records of the district recorder, who shall at least
4 monthly provide the assessor a copy of each recorded change of owner-
5 ship and the address of the party recording the change of ownership.
6 Other persons having an interest in the property may be listed on the
7 assessment records with the owner. The person in whose name property
8 is listed as owner is conclusively presumed to be the legal owner of
9 record. If the property owner is unknown, the property may be assessed
10 to "unknown owner". No assessment is invalidated by a mistake, omis-
11 sion or error in the name of the owner, if the property is correctly
12 described.

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

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

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

28 (b) If errors found in the preparation of the assessment roll are
29 adjusted, the assessor shall mail a corrected notice allowing 30 days

1 for appeal to the board.

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

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

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

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

15 (e) A city may appeal an assessment to the board of equalization
16 in the same manner as a taxpayer. Within five days after receipt of
17 the appeal, the assessor shall notify the person whose property
18 assessment is being appealed by the city.

19 Sec. 29.53.135. BOARD OF EQUALIZATION. The assembly is the
20 board of equalization. It may delegate all or part of its functions
21 as the board of equalization to an appointed board consisting of not
22 fewer than five or more than nine members. The assembly shall by
23 ordinance adopt rules for the membership and conduct of the board.

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

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

27 (c) The only grounds for adjustment is proof of unequal, exces-
28 sive or improper valuation based on facts stated in a valid written
29 appeal timely filed.

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

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

5 (f) An appellant may appeal to the superior court for review
6 de novo of the board's action.

7 Sec. 29.53.150. SUPPLEMENTARY ASSESSMENT ROLLS. The assessor
8 shall include property omitted from the assessment roll on a supple-
9 mentary roll, using the procedures set out in this chapter for the
10 original roll.

11 Sec. 29.53.160. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A NATURAL
12 DISASTER. (a) The assembly may provide for reassessment and reduction
13 of taxes for property destroyed, damaged, or otherwise reduced in
14 value as a result of a natural disaster.

15 (b) A reassessment may be made by the assessor only upon the
16 receipt of a sworn statement of the taxpayer that his losses exceed
17 \$1,000. A reduction of taxes may be made only on losses in excess of
18 \$1,000 for the remainder of the year following the disaster. Upon
19 reassessment, the borough shall recompute this tax and refund taxes
20 which have already been paid.

21 (c) The borough shall make notice of assessment or reassessment
22 and shall hold an equalization hearing as provided in this chapter,
23 except that a notice of appeal is filed with the board of equalization
24 within 10 days after notice of assessment is given to the person
25 appealing. Otherwise, the right of appeal ceases unless the board
26 finds that the taxpayer is unable to comply.

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

1 property and of remitting, refunding or forgiving taxes.

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

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

11 (b) The assembly shall annually determine the rate of levy before
12 June 15. The tax collector shall mail tax statements by July 1.

13 Sec. 29.53.180. RATES OF PENALTY AND INTEREST. If the taxpayer
14 is required to pay the entire tax on the due date set by the assembly
15 of a home rule or general law borough, a penalty not to exceed 10 per
16 cent may be added to all delinquent taxes, and interest at the rate
17 of eight per cent a year shall accrue upon all unpaid taxes, not
18 including penalty, from the due date until paid in full. If the tax-
19 payer is given the right to pay the tax in two installments and the
20 first half is not paid when due, the entire tax becomes delinquent
21 and penalty and interest accrue as follows:

22 (1) if the first half is paid when due, the second half is
23 payable on the due date fixed by the assembly for the second half and
24 if not paid is delinquent after that date;

25 (2) a penalty not to exceed eight per cent shall be added
26 to all taxes delinquent until the due date fixed for payment of the
27 second half, and interest at the rate of eight per cent a year shall
28 be charged on the whole of the unpaid taxes, not including penalty,
29 from due date until paid in full;

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

6 ARTICLE 2. ENFORCEMENT OF TAX LIENS.

7 Sec. 29.53.200. VALIDITY. Certified assessment and tax rolls are
8 valid and binding on all persons, notwithstanding any defect, error,
9 omission or invalidity in the assessment rolls or proceedings pertain-
10 ing to the assessment roll.

11 Sec. 29.53.210. TAX LIABILITY. (a) The owner of personal proper-
12 ty assessed is personally liable for the amount of taxes assessed
13 against his property. The tax, together with penalty and interest, may
14 be collected in a personal action brought in the name of the borough.

15 (b) Real property taxes, together with penalty and interest, are
16 a lien upon the property assessed, and the lien is prior and paramount
17 to all other liens or encumbrances against the property.

18 Sec. 29.53.220. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY
19 DISTRAINT AND SALE. The lien of personal property taxes may be en-
20 forced by distraint and sale of the property. The assembly shall
21 provide the procedure for distraint and sale by ordinance. No seizure,
22 levy or distraint is legal unless demand is first made of the person
23 assessed for the amount of the tax, penalty and interest, and no sale
24 is valid unless made at public auction after 15 days notice given by
25 posting or publication. The seizure is made by virtue of a warrant
26 issued by the borough clerk to a peace officer. If the property sold
27 is not sufficient to satisfy the tax, penalty, interest, and costs of
28 sale, the warrant may authorize the seizure of other personal property
29 sufficient to satisfy the tax, penalty, interest and costs of sale.

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

4 (b) If the tax on property described in sec. 40 of this chapter
5 or on a leasehold interest in tax exempt property is not paid when
6 due, a borough may enforce the tax by a personal action against the
7 delinquent taxpayer brought in the district or superior court, in
8 addition to other remedies available to the borough to enforce the
9 lien.

10 Sec. 29.53.240. FORECLOSURE LIST. (a) The borough shall

11 (1) annually present a petition for judgment and a certified
12 copy of the foreclosure list for the previous year's delinquent taxes
13 to the superior court for judgment;

14 (2) publish the foreclosure list for four consecutive weeks
15 in a newspaper of general circulation in the borough or, if there is
16 no newspaper of general circulation, post the list at three public
17 places;

18 (3) within 10 days after the first publication or posting,
19 mail to the last known owner of each property as his name and address
20 appear on the list, a notice advising of the foreclosure proceeding in
21 which a petition for judgment of foreclosure has been filed and
22 describing the property and the amount due as stated on the list.

23 (b) The list shall be arranged in alphabetical order as to the
24 last name and shall include

25 (1) the last known owner;

26 (2) the property description as stated on the assessment
27 roll;

28 (3) years and amounts of delinquency;

29 (4) penalty and interest due;

1 (5) a statement that the list is available for public
2 inspection at the clerk's office;

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

5 (c) Completion of the requirements of (a) of this section consti-
6 tutes and has the same force and effect as the filing of an individual
7 and separate complaint and service of summons to foreclose a lien
8 against each property described on the foreclosure list.

9 Sec. 29.53.250. CLEARING DELINQUENCIES. During the publication
10 or posting of the foreclosure list and up to the time of transfer to
11 the borough a person may pay the taxes, together with the penalty,
12 interest and costs. The collector shall note payment on the foreclosure
13 list.

14 Sec. 29.53.260. LIST TO LIENHOLDER. A holder of a mortgage or
15 other lien on real property may request the clerk to send by certified
16 mail notice of a foreclosure list which includes such real property.

17 Sec. 29.53.270. GENERAL FORECLOSURE. The borough shall bring
18 one general foreclosure proceeding in rem against the properties
19 included in the list. If the owner is unknown, the property is pro-
20 ceeded against as belonging to "unknown owner". Tax foreclosure pro-
21 ceedings have priority over all other civil proceedings except board
22 of adjustment appeals as provided in AS 29.33.130(e).

23 Sec. 29.53.280. ANSWER AND OBJECTION. A person having an interest
24 in a tract on the foreclosure list may file an answer within 30 days
25 of the date of last publication, specifying his objection. The court
26 shall make its decision in summary proceedings. The foreclosure list
27 is prima facie evidence that the assessment and levy of the tax is
28 valid and that the tax is unpaid.

29 Sec. 29.53.290. JUDGMENT. The court shall in a proper case give

1 judgment and decree that the tax liens be foreclosed. It is a several
2 judgment against and a lien on each parcel.

3 Sec. 29.53.300. TRANSFER AND APPEAL. (a) Foreclosed properties
4 are transferred to the borough for the lien amount. When answers are
5 filed the court may enter judgment against and order the transfer to
6 the borough of all other properties on the list pending determination
7 of the matters in controversy. The court shall hear and determine the
8 issues raised by the complaint and answers in the same manner and under
9 the same rules as it hears and determines other actions.

10 (b) The court clerk shall deliver a certified copy of the judgment
11 and decree to the borough clerk. The certified judgment and decree
12 constitutes a transfer to the borough.

13 (c) The judgment and decree stops objections to it which could
14 have been presented before judgment and decree.

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

18 Sec. 29.53.310. REDEMPTION PERIOD. (a) Properties transferred
19 to the borough are held by the borough for at least one year. During
20 the redemption period a party having an interest in the property may
21 redeem it by paying the lien amount plus penalties, interest and costs.
22 Property redeemed is subject to all taxes, assessments, liens and
23 claims as though it had continued in private ownership. Only the
24 amount applicable under the judgment and decree must be paid in order
25 to redeem the property.

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

1 Sec. 29.53.320. EFFECT. Receipt of redemption money by the clerk
2 releases all claims of the borough to the property. The clerk shall
3 record the redemption and issue a certificate containing a property
4 description, the redemption amount, and the dates of judgment and
5 decree of foreclosure. The clerk shall file the certificate with
6 the recorder and collect the recording fee from the person redeeming
7 at the time of redemption. The court clerk shall file the certificate
8 as part of the judgment roll.

9 Sec. 29.53.330. ADDITIONAL LIENS. If a property included in a
10 foreclosure list is removed after payment of delinquencies or redemp-
11 tion by another lienholder, the receipt for payment constitutes an
12 additional lien on the property, collectible in the same manner as the
13 original lien.

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

19 Sec. 29.53.350. EXPIRATION. Not earlier than 30 days before the
20 expiration of the redemption period the clerk shall publish a redemption
21 period expiration notice. The notice shall contain the date of judg-
22 ment, the date of expiration of the period of redemption and a warning
23 to the effect that all properties ordered sold under the judgment,
24 unless redeemed, shall be deeded to the borough or city immediately
25 on expiration of the period of redemption and that every right or
26 interest of any person in the properties will be forfeited forever to
27 the borough or city. The notice is published once a week for four
28 consecutive weeks in a newspaper of general circulation within the
29 borough. If there is no newspaper of general circulation within the

1 borough, the notice is posted in three public places for at least four
2 consecutive weeks. The clerk shall send a copy of the published notice
3 by certified mail to each record owner of property against whom a judg-
4 ment of foreclosure has been taken. The notice shall be mailed within
5 five days of the first publication. The mailing shall be sufficient
6 if mailed to the property owner at the last address of record. The
7 right of redemption shall expire 30 days after the date of the first
publication notice.

9 Sec. 29.53.355. APPLICATION. Secs. 310 - 350 of this chapter
10 apply to home rule municipalities.

11 Sec. 29.53.360. DEED TO BOROUGH OR CITY. (a) Unredeemed proper-
12 ties in the area of the borough outside cities are deeded to the
13 borough by the clerk of the court. Unredeemed properties within a
14 city are deeded to the city subject to the payment by the city of
15 unpaid borough taxes levied against the property before foreclosure.

16 (b) Conveyance gives the borough or the city clear title except
17 for prior recorded liens of the United States and the state.

18 (c) If unredeemed property lies within a city and if the city
19 has no immediate public use for the property but the borough does have
20 an immediate public use, the city shall deed the property to the
21 borough. If unredeemed property lies within the borough outside a
22 city and if the borough does not have an immediate public use for the
23 property but the city does have an immediate public use, the borough
24 shall deed the property to the city.

25 (d) No deed is invalid for irregularities, omissions or defects,
26 unless the former owner has been misled to his injury. After two
27 years from the date of the deed its validity is conclusively presumed
28 and any claim of the former owner is forever barred.

29 Sec. 29.53.370. SALE OF FORECLOSED PROPERTIES. Tax-foreclosed

1 properties conveyed to a borough or city by tax foreclosure may be
2 sold. Before the sale of any property held for a public purpose, the
3 assembly or council by ordinance shall determine that the public need
4 no longer exists.

5 Sec. 29.53.375. REPURCHASE BY RECORD OWNER. (a) The record
6 owner at the time of tax foreclosure of property acquired by a borough
7 or city, or his assigns, may, at any time before the sale or contract
8 of sale of the tax-foreclosed property by the borough or city, repur-
9 chase the property. The borough or city shall sell the property, for
10 the full amount applicable to the property under the judgment and
11 decree, with interest at the rate of eight per cent a year from the
12 date of entry of the judgment of foreclosure to the date of repurchase,
13 together with delinquent taxes assessed and levied as though it had
14 continued in private ownership.

15 (b) After termination of the right of redemption there is no
16 right to repurchase property held for, or devoted to, a public purpose.

17 Sec. 29.53.380. PROCEEDS OF TAX SALE. Upon sale of foreclosed
18 real or personal property the borough or city shall divide the proceeds
19 less cost of collection, between the borough and the city having unpaid
20 taxes against the property. The division is in proportion to the
21 respective municipal taxes against the property at the time of fore-
22 closure.

23 Sec. 29.53.385. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a
24 city or borough holds or takes title to tax-foreclosed property for a
25 public purpose, the city or borough shall satisfy unpaid taxes and
26 assessments against the property held by other municipalities, with
27 accrued interest but without penalty. If the amount required to satis-
28 fy the unpaid taxes and assessments exceeds the assessed valuation of
29 the property, the city or borough shall pay the other municipalities

1 the assessed valuation, which shall be divided between the other muni-
2 cipalities in proportion to their respective taxes and assessments
3 against the property at the time of foreclosure.

4 Sec. 29.53.390. REFUND OF TAXES. (a) If a taxpayer pays taxes
5 under protest, he may bring suit in the superior court against the
6 borough for recovery of the taxes. If judgment for recovery is given
7 against the borough, the borough shall refund the amount of the taxes
8 to the taxpayer.

9 (b) If, in payment of taxes legally imposed, a remittance by a
10 taxpayer through error or otherwise exceeds the amount due, and the
11 borough, on audit of the account in question, is satisfied that this
12 is the case, the borough shall refund the excess to the taxpayer. A
13 claim for refund filed after one year of the due date of the tax is
14 forever barred.

15 ARTICLE 3. CITY PROPERTY TAX.

16 Sec. 29.53.400. POWER OF LEVY. Cities within boroughs may levy
17 a general property tax. A property tax if levied must be levied upon
18 all property within the city listed as taxable on the borough assess-
19 ment roll and is subject to sec. 50 of this chapter. The council shall
20 by June 15 of each year present to the borough assembly a statement of
21 the city's rate of levy, unless a different date is agreed upon by the
22 borough and city.

23 ARTICLE 4. BOROUGH SALES AND USE TAXES.

24 Sec. 29.53.410. SALES AND USE TAX. (a) A borough may levy
25 and collect a sales tax not exceeding three per cent on sales or rents,
26 and on services made within the borough. The sales tax may apply to
27 any or all of these sources. Exemptions may be granted by ordinance.

28 (b) A borough levying a sales tax may also by ordinance levy a
29 use tax on the storage, use or consumption of tangible personal

1 property within the borough. The use tax rate must equal the sales
2 tax rate and the use tax shall be levied only upon buyers.

3 (c) A person who furnishes proof, in the form required by the
4 borough tax collector, that he has paid a sales tax on the source on
5 which a use tax is levied by the borough is required to pay the use
6 tax only to the extent of the difference between the amount of the
7 sales tax paid and the amount of the use tax levied by the borough.
8 This subsection applies to a sales tax levied in any taxing jurisdiction
9 whether in or outside the state.

10 Sec. 29.53.420. REFERENDUM, ADOPTION AND MODIFICATION. (a) The
11 assembly shall hold a referendum vote on the question of levy of sales
12 taxes. Borough sales tax propositions may be presented only once in
13 any 12-month period.

14 (b) If the proposition receives a majority of the votes cast,
15 the assembly may enact the sales tax as a levy upon buyers, sellers,
16 or both. The sales tax is collected at the time of sale or at the
17 time of payment in credit transactions and transmitted to the borough.

18 ARTICLE 5. CITY SALES AND USE TAXES.

19 Sec. 29.53.440. POWER OF LEVY. Cities within a borough which
20 levies and collects sales or use taxes for areawide borough functions
21 may levy sales or use taxes upon all sources taxed by the borough in
22 the manner provided for boroughs.

23 Sec. 29.53.450. POWER OF LEVY AND COLLECTION. Cities within a
24 borough which does not levy and collect sales or use taxes for areawide
25 borough functions may levy and collect sales or use taxes in the manner
26 provided for boroughs.

27 Sec. 29.53.460. COMBINING SALES TAX WITH INCORPORATION. A peti-
28 tion for second class city incorporation may request that a sales tax
29 proposal be placed on the same ballot. The petition must state the

1 proposed tax rate. The petition may request that incorporation be
2 dependent upon the passage of the sales tax proposition. If so, the
3 incorporation proposition fails if the sales tax fails.

4 CHAPTER 58. MUNICIPAL DEBT.

5 ARTICLE 1. TAX ANTICIPATION NOTES.

6 Sec. 29.58.010. TAX ANTICIPATION NOTES. A municipality may
7 borrow money in the form of negotiable or nonnegotiable notes to meet
8 the appropriations for a fiscal year in anticipation of the collection
9 of taxes and revenues for that year. The aggregate principal amount
10 borrowed may not at any time exceed 50 per cent of the appropriations
11 for the fiscal year.

12 Sec. 29.58.020. FORMS AND TERMS. The assembly or council shall
13 authorize by resolution or ordinance the sale of tax anticipation notes.
14 Notes are in the form and denominations determined by the assembly or
15 council, with a maturity date not to exceed the end of the next fiscal
16 year from the date of issue.

17 Sec. 29.58.030. SECURITY. Tax anticipation notes are a general
18 obligation of the municipality and payment is secured by its full
19 faith, and credit. The municipality may levy ad valorem taxes for
20 payment without limitation of rate or amount.

21 Sec. 29.58.040. SALE OF NOTES. The municipality may sell tax
22 anticipation notes in the manner and at the price it determines, at
23 either public or private sale.

24 ARTICLE 2. BOND ANTICIPATION NOTES.

25 Sec. 29.58.060. BOND ANTICIPATION BORROWING. A municipality may
26 borrow money in anticipation of the sale of general obligation and
27 revenue bonds if

28 (1) the general obligation bonds to be sold have been
29 authorized by the assembly or council and ratified by a majority vote

1 at a regular or special election;

2 (2) the revenue bonds to be sold have been authorized by
3 ordinance.

4 Sec. 29.58.070. ISSUANCE OF NOTES. The assembly or council shall
5 issue negotiable or nonnegotiable notes for the amounts borrowed with
6 a maturity date not to exceed one year from the date of issue. All
7 notes and the interest on them are payable at fixed places on or before
8 a fixed time, from the proceeds of the sale of bonds in anticipation
9 of which the original note or notes were issued, unless the bonds have
10 not been sold by the maturity date of the notes.

11 Sec. 29.58.080. ISSUANCE OF NEW NOTES. If the sale of the bonds
12 has not occurred before the maturity of the notes issued in anticipation
13 of the sale, the assembly or council shall issue new notes in order
14 to meet payment of the notes then maturing or shall renew the outstand-
15 ing bond anticipation notes. New notes issued or renewals of out-
16 standing bond anticipation notes shall bear a maturity date not to
17 exceed one year from the date of issue. Notes, new notes, and renewals
18 of notes shall not be outstanding for a total elapsed time of more than
19 three years.

20 Sec. 29.58.090. REPAYMENT OF NOTES. Every note is payable from
21 the proceeds of the sale of bonds which the notes anticipated or from
22 the proceeds of the sale of new bond anticipation notes.

23 Sec. 29.58.100. SECURITY. (a) Notwithstanding any other pro-
24 visions of this chapter as to payment of notes, notes issued in antici-
25 pation of the sale of general obligation bonds and the interest on
26 them are secured by the full faith, credit, taxing power and resources
27 of the municipality. The municipality may levy ad valorem taxes for
28 payment without limitation of rate or amount.

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

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

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

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

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

14 ARTICLE 3. GENERAL OBLIGATION BONDS.

15 Sec. 29.58.150. GENERAL OBLIGATION BONDS. A municipality may
16 acquire, construct, improve and equip capital improvements and issue
17 negotiable or nonnegotiable general obligation bonds for these purposes.

18 Sec. 29.58.160. VOTE AND NOTICE OF EXISTING INDEBTEDNESS REQUIRED.

19 (a) A municipality may incur general obligation bond debt only after
20 a bond authorization ordinance is approved by a majority of those voting
21 on the question at a regular or special election. Any municipal voter
22 may vote in the bond election, except as otherwise provided by charter
23 or law.

24 (b) Before a general obligation bond issue election, the assembly
25 or council shall publish a notice of the municipality's total existing
26 bond indebtedness at least once a week for three consecutive weeks in
27 a newspaper of general circulation in the municipal area. The first
28 notice shall be published at least 20 days before the date of the
29 election. A notice shall include

- 1 (1) the current total general obligation bonded indebtedness,
2 including authorized by unsold bonds of the municipality;
- 3 (2) the cost of the debt service on the current indebtedness;
- 4 (3) the total assessed valuation within the municipality.

5 Sec. 29.58.170. FORM AND TERMS OF SALE. The assembly or council
6 shall fix the date of the bonds, denominations, maturities, rate of
7 interest, place and manner of payment, redemption terms, registration
8 privileges, manner of execution, and signatures required. If an offi-
9 cer whose signature appears on the bonds or coupons ceases to be an
10 officer before delivery of the bonds, his signature is valid as if he
11 had remained in office until delivery.

12 Sec. 29.58.180. PAYMENT. (a) The full faith and credit of a
13 municipality are pledged for the payment of principal and interest on
14 general obligation bonds. The municipality may levy ad valorem taxes
15 for payment without limitation of rate or amount.

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

21 ARTICLE 4. REVENUE BONDS.

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

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

1 Sec. 29.58.210. FORMS AND TERMS. The assembly or council shall
2 fix the date of the bonds, denominations, maturities, rate of interest,
3 place and manner of payment, redemption terms, registration privileges,
4 manner of execution and signatures required. If an officer whose
5 signature appears on the bonds or coupons ceases to be an officer before
6 delivery of the bonds, his signature is valid as if he had remained in
7 office until delivery.

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

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

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

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

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

22 ARTICLE 5. REFUNDING BONDS.

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

28 Sec. 29.58.250. EFFECT OF BONDS. The refunding bonds may take
29 up and refund all or any part of outstanding bonds at or before their

1 maturity or redemption date. The assembly or council may include
2 various series and issues of bonds in a single issue of refunding bonds.

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

9 Sec. 29.58.270. PAYMENT OF REFUNDING BONDS. General obligation
10 refunding bonds are payable according to sec. 180 of this chapter.
11 Revenue refunding bonds are payable according to sec. 220 of this
12 chapter.

13 Sec. 29.58.280. SALE. General obligation or revenue refunding
14 bonds may, in the discretion of the assembly or council, be exchanged
15 at par for the bonds being refunded, or may be sold at public or private
16 sale for an amount not less than par and accrued interest. They may
17 be issued and delivered at any time before the date of maturity or
18 redemption of the refunded bonds.

19 ARTICLE 6. MISCELLANEOUS PROVISIONS.

20 Sec. 29.58.300. PUBLIC SALE. The municipality shall sell all
21 bonds at a public or private sale as provided by ordinance. No bonds
22 may be sold at less than par value.

23 Sec. 29.58.310. INTEREST RATE. No municipal bond or note may
24 bear an interest rate exceeding the contract usury rate of interest
25 provided by law.

26 Sec. 29.58.320. REDEMPTION BEFORE MATURITY. A bond or note may
27 be made subject to redemption before maturity as stated in the authori-
28 zation or in the bond or note.

29 Sec. 29.58.340. BOROUGH INDEBTEDNESS. (a) Boroughs may incur

1 indebtedness

2 (1) on an areawide basis for areawide functions; or

3 (2) on a noncity basis for functions performed in the
4 area outside cities only; or

5 (3) on a service area basis for functions performed in a
6 service area only; payment of debt principal and interest as well as
7 other costs shall be limited to the service area, except that the
8 full faith and credit of the entire borough may be pledged to guarantee
9 payment of principal and interest.

10 (b) If bonded indebtedness to be incurred by a borough is an
11 areawide debt, or the full faith and credit of the entire borough is
12 to be pledged for payment of a service area debt, the vote shall be
13 areawide; if the bonded indebtedness to be incurred is limited to areas
14 outside cities only or to service areas, the vote shall be limited to
15 voters in those areas.

16 CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS.

17 ARTICLE 1. SPECIAL ASSESSMENTS.

18 Sec. 29.63.010. ASSESSMENT AND PROPOSAL. The assembly or council
19 may assess against state, borough, city and private real property
20 benefited all or a portion of the cost of constructing or improving
21 capital improvements. An improvement proposal may be initiated by

22 (1) petition to the assembly or council of the owners of
23 one-half in value of the property to be benefited or

24 (2) the assembly or council.

25 Sec. 29.63.015. PROCEDURE. (a) The assembly or council may
26 prescribe by ordinance the complete special assessment procedure for
27 local improvements, including and subject to the following:

28 (1) the procedure for filing petitions;

29 (2) a survey and report by the borough or city executive

1 concerning the need for, desirable extent of, and estimated cost of
2 each proposed local improvement;

3 (3) a public hearing on the necessity for the local improve-
4 ment;

5 (4) a resolution of the council determining to proceed or
6 not to proceed with the proposed local improvement;

7 (5) a public hearing by the assembly or council on the
8 special assessment roll for the local improvement;

9 (6) published notice of each public hearing required by this
10 section and mailing notice to each legal owner of record of real pro-
11 perty within the special assessment district;

12 (7) a resolution confirming the special assessment roll for
13 the local improvement;

14 (8) if protests as to the necessity of a local improvement
15 are made by owners of property which will bear 50 per cent or more of
16 the estimated cost of the improvement, the assembly or council shall
17 not proceed with the improvement until the objections have been reduced
18 to less than 50 per cent, except upon approval of not fewer than
19 three-fourths of the assembly or council.

20 (b) If the assembly or council does not prescribe a procedure
21 for special assessments as permitted by this section, the assembly or
22 council shall comply with the special assessment procedures set out
23 in secs. 20 - 70 of this chapter.

24 Sec. 29.63.020. DECISION AND NOTICE. (a) When an improvement
25 proposal has been filed with the municipal clerk and presented to the
26 assembly or council, the assembly or council shall find by resolution
27 whether (1) the improvement request is necessary and should be made,
28 and (2) the request has sufficient and proper petitioners. The
29 findings of the assembly are conclusive.

1 (b) If the assembly or council passes a resolution approving an
2 improvement proposal with the necessary findings, it shall develop a
3 proposed improvement plan including cost estimate and the percentage of
4 the improvement plan cost to be assessed against the property benefited.
5 This plan is to be filed with the municipal clerk.

6 (c) The assembly or council shall set a time for public hearing
7 on the improvement plan. The assembly or council shall publish a
8 notice at least once a week for four consecutive weeks in a newspaper
9 of general circulation within the municipality and shall send notice
10 by mail to every record owner of property within the special assessment
11 district.

12 Sec. 29.63.025. RECORD OWNER. The person in whose name property
13 is listed on the municipal property tax roll as owner is conclusively
14 presumed to be the legal owner of record. If the owner is unknown, the
15 assessment may be made against "unknown owner".

16 Sec. 29.63.030. OBJECTIONS AND REVISION. (a) Objections to the
17 improvement plan may be filed not less than 30 nor more than 60 days
18 after publication of notice on a date specified by the assembly or
19 council. The assembly or council may by resolution approve the plan
20 and proceed with the improvement if the owners of one-half in value of
21 the property to be benefited do not object in writing.

22 (b) If objections are made by the owners of property bearing
23 one-half of the estimated cost of the improvement, the assembly or
24 council may not proceed with the improvement unless it revises the
25 plan to meet the objections and the objections are reduced to less than
26 50 per cent. A revised plan shall be approved and adopted as an ori-
27 ginal plan.

28 Sec. 29.63.040. ASSESSMENT ROLL. (a) At any time after project
29 approval, the assembly or council shall assess the authorized

1 percentage of the cost against tracts in proportion to benefit received.
2 Assessments may not exceed actual costs.

3 (b) The special assessment roll contains property descriptions,
4 names of owners of record and assessment amounts.

5 (c) The assembly or council shall fix a time to hear objections
6 to the roll. The municipal clerk shall send an assessment and hearing
7 notice by mail to each record owner of an assessed tract not less than
8 15 days before the hearing.

9 Sec. 29.63.050. HEARING AND SETTLEMENT. After the public hearing,
10 the assembly or council shall correct errors and any inequalities in
11 the roll. When the roll is corrected, the clerk shall so certify.

12 Sec. 29.63.060. PAYMENT. (a) The assembly or council shall fix
13 times of payment, rate of interest on unpaid installments, and delin-
14 quency of assessments. Payment may not be required sooner than 60 days
15 after assessment. Payment may be in one sum or by installments.
16 Penalty and interest are the same as for real property taxes.

17 (b) Within 30 days after fixing the time of payment, the municipal
18 clerk shall mail a statement to the owner of record of each property
19 assessed. The statement designates the property, the assessment amount,
20 the time of delinquency, and penalties.

21 (c) Within five days after the statements are mailed, the clerk
22 shall publish notice that the statements have been mailed.

23 (d) Assessments are liens upon the property assessed and are
24 prior and paramount to all liens except municipal tax liens. They may
25 be enforced as provided in AS 29.53.200 - 29.53.390 for enforcement
26 of property tax liens.

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

1 (b) Notice and hearing must conform to the initial assessment
2 procedures.

3 (c) Payments on the initial assessment are credited to the
4 property upon reassessment.

5 (d) The reassessment becomes a charge upon the property notwith-
6 standing failure to comply with any provision of the assessment proce-
7 dure.

8 Sec. 29.63.080. OBJECTION AND APPEAL. (a) The regularity or
9 validity of an assessment may not be contested by a person who did not
10 file with the municipal clerk a written objection to the assessment
11 roll before its confirmation.

12 (b) The decision of the council upon an objection may be appealed
13 to the superior court within 30 days of the date of confirmation of
14 the assessment roll.

15 (c) If no objection is filed or an appeal taken within the time
16 provided in this section, the assessment procedure shall be considered
17 regular and valid in all respects.

18 ARTICLE 2. SERVICE AREAS.

19 Sec. 29.63.090. SERVICE AREAS. (a) Service areas to provide
20 special services within a borough may be established, operated,
21 altered or abolished by the assembly by ordinance.

22 (b) The assembly may levy or authorize the levying of taxes,
23 charges, or assessments in service areas to finance the special ser-
24 vices.

25 (c) The assembly may provide for appointed or elected boards to
26 supervise the furnishing of special services in service areas.

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

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

7 CHAPTER 68. ALTERATION OF BOUNDARIES.

8 ARTICLE 1. ANNEXATION AND EXCLUSION.

9 Sec. 29.68.010. LOCAL BOUNDARY COMMISSION. (a) The Local
10 Boundary Commission may consider any proposed local government boundary
11 change. It may present proposed changes to the legislature during the
12 first 10 days of any regular session. The change shall become effec-
13 tive 45 days after presentation or at the end of the session, whichever
14 is earlier, unless disapproved by a resolution concurred in by a
15 majority of the members of each house.

16 (b) In addition to the regulations governing annexation by local
17 action adopted under AS 44.19.260, the Local Boundary Commission shall,
18 within 90 days of the effective date of this Act, establish procedures
19 for annexation and exclusion of territory by cities by local action.
20 The procedures established under this subsection shall include

21 (1) a provision requiring that a proposed annexation and
22 exclusion must be approved by a majority of the voters voting on the
23 question residing within the area proposed to be annexed or excluded;

24 (2) provisions that municipally-owned property adjoining
25 the municipality may be annexed by ordinance without voter approval;
26 and

27 (3) provisions that an area adjoining the municipality may
28 be annexed by ordinance without an election if all property owners
29 and voters within the area petition the assembly or council.

1 ARTICLE 2. MERGER AND CONSOLIDATION.

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

5 (1) petition to the Local Boundary Commission under regula-
6 tions adopted by the commission, or

7 (2) the local option method specified in secs. 40 - 110 of
8 this chapter.

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

14 (b) The petition includes

15 (1) the name and class of each municipality;

16 (2) the name and class of the proposed municipality;

17 (3) the proposed composition and apportionment of the
18 assembly or council;

19 (4) maps, documents, and other information which show that
20 the proposed municipality meets the standards for municipal incorpora-
21 tion.

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

25 Sec. 29.68.060. INVESTIGATION. If the petition contains the
26 required information and signatures, the Local Affairs Agency shall
27 investigate the proposal.

28 Sec. 29.68.070. REPORT AND HEARING. (a) The Local Affairs
29 Agency shall report its findings to the Local Boundary Commission with

1 its recommendations regarding the merger or consolidation.

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

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

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

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

24 (c) The lieutenant governor shall supervise the election in the
25 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-
26 60). The state shall pay all election costs.

27 (d) The lieutenant governor shall certify the election results.
28 If merger or consolidation is approved, he shall, within 10 days, set
29 a date for election of officers of the new municipality under

1 AS 29.18.120. The election date is not less than 60 nor more than
2 90 days after the election order. This date is the effective date for
3 the merger or consolidation.

4 Sec. 29.68.100. ASSETS AND LIABILITIES. (a) When two or more
5 municipalities merge, one municipality succeeds to the rights, powers,
6 duties, assets and liabilities of the others.

7 (b) When two or more municipalities consolidate, the newly-
8 incorporated municipality succeeds to the rights, powers, duties,
9 assets and liabilities of the consolidated municipalities.

10 Sec. 29.68.110. ORDINANCES. The ordinances, resolutions, rules,
11 regulations, procedures and orders of the former municipalities remain
12 in force within their respective territories until superseded by the
13 action of the successor municipality.

14 ARTICLE 3. UNIFICATION OF LOCAL GOVERNMENTS.

15 Sec. 29.68.240. UNIFICATION OF LOCAL GOVERNMENTS AUTHORIZED. An
16 organized borough and all cities within the borough may unite to form
17 a single unit of home rule local government by complying with this
18 chapter.

19 Sec. 29.68.250. UNIFICATION TO BE PROPOSED BY PETITION. (a)
20 Unification shall be proposed by petition.

21 (b) The borough assembly, a city council, or a person living
22 within the area of proposed unification may initiate the petition for
23 unification.

24 Sec. 29.68.260. PETITION REQUIREMENTS. (a) The petition shall
25 read:

26 "PETITION FOR UNIFICATION

27 We, the undersigned, qualified voters of the _____
28 Borough do hereby petition that the following two propositions be
29 placed before the voters as provided by law:

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(1) Shall the _ _ _ _ _ Borough and all cities within it unite into a single unit of home rule government after the election of a charter commission by the voters and the adoption of recommendations of the charter commission by a majority vote from the area of the borough outside first class and home rule cities and majority vote from the remaining area composed of all first class and home rule cities of the borough?

Yes No

(2) Knowing that the powers and responsibilities of a home rule municipality are essentially the same whether it carries the name of borough or city, I would still prefer that, if the proposition above carries, the new home rule municipality be called a:

Borough

City

No preference (I would expect the charter commission to recommend an appropriate designation consistent with existing law.)

		Inside First	Outside First
		Class or Home	Class or Home
Signature	Address	Rule City	Rule City"

(b) The petition shall be signed by at least

(1) that number of qualified voters of the borough living outside all first class and home rule cities in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election; and

(2) that number of qualified voters residing in each first class and home rule city located in the borough equal to 25 per cent of the qualified voters who voted in the last regular borough election in each city.

1 Sec. 29.68.270. REVIEW OF PETITION. Upon receipt of a petition
2 for unification, the borough assembly shall review the petition within
3 15 days after its receipt to determine whether it complies with sec.
4 260 of this chapter. If the petition does not meet the designated
5 requirements, it shall be immediately returned to the person who
6 initiated the petition with a statement indicating which requirements
7 have not been satisfied.

8 Sec. 29.68.280. CALL FOR CHARTER COMMISSION NOMINATIONS. Once
9 it is determined by the borough assembly that a petition for unifica-
10 tion meets the requirements of sec. 260 of this chapter, the assembly
11 shall issue a call for the nomination of charter commission candidates,
12 specifying the filing deadline and outlining the procedure described
13 for making nominations under sec. 290 of this chapter.

14 Sec. 29.68.290. NOMINATION OF CHARTER COMMISSION CANDIDATES. (a)
15 Charter commission candidates shall be nominated by petition signed by
16 at least 50 qualified voters of the area from which the candidate
17 seeks election or by a number of qualified voters from that area equal
18 to at least 10 per cent of the number of votes cast from that area
19 in the last regular borough election, whichever is less.

20 (b) Nomination petitions shall be filed with the borough clerk
21 on or before the date fixed by the borough assembly, which date shall
22 not be less than 30 days after notice of the call for nominations has
23 been given through the borough.

24 Sec. 29.68.300. QUALIFICATIONS OF CHARTER COMMISSION CANDIDATES.
25 A person is eligible to be nominated as a candidate for the charter
26 commission if he has been a qualified voter of the area from which he
27 seeks election for at least one year immediately preceding the date
28 his nomination petition is filed with the borough clerk.

29 Sec. 29.68.310. COMPOSITION OF CHARTER COMMISSION. The charter

1 commission members shall be qualified voters and shall consist of
2 ll members, three of whom shall be residents elected at large from the
3 area of the borough and eight of whom shall be (1) residents of and
4 elected from the area outside cities in the borough or (2) residents
5 of and elected from a city or cities in the borough. The number
6 representing each of these areas shall be proportionate to the respec-
7 tive populations as determined by the Local Affairs Agency.

8 Sec. 29.68.320. ELECTION. (a) After receipt of a valid petition
9 for unification, the borough assembly shall submit to the voters the
10 question of whether that borough and all cities within it shall unite
11 to form a single unit of home rule government. The vote shall be held
12 at the next regular borough election scheduled at least 90 days after
13 receipt of the valid petition.

14 (b) The ballots on the question of unification shall be worded
15 exactly as in sec. 260(a)(1) and (2) of this chapter.

16 (c) The election of charter commission members shall take place
17 at the same time as the election on the question of unification.

18 (d) All costs incurred in conducting an election under this
19 chapter shall be paid by the borough.

20 Sec. 29.68.330. REQUIREMENTS FOR APPROVAL OF UNIFICATION AND
21 ELECTION OF CHARTER COMMISSION. (a) The votes on unification shall
22 be tabulated in two separate classifications. One classification shall
23 consist of all votes cast in the first class and home rule cities of
24 the borough. The other classification shall consist of all votes cast
25 in the remaining areas of the borough. In order for unification to be
26 approved, it is necessary that a majority of the votes in each classi-
27 fication favor unification.

28 (b) If unification is approved, those charter commission candi-
29 dates who received the highest number of votes from their respective

1 areas shall serve as members of the commission.

2 Sec. 29.68.340. CHARTER COMMISSION ORGANIZATION AND PROCEDURE.

3 (a) The charter commission authorized by this chapter shall hold its
4 first meeting within 30 days of the date of certification of its elec-
5 tion. The commission shall elect from among its members a chairman
6 and a deputy chairman.

7 (b) A majority of the total membership of the charter commission
8 constitutes a quorum. No decision of the commission is valid or binding
9 unless approved by that number of members necessary to constitute a
10 quorum.

11 (c) The charter commission may elect other officers from among
12 its membership, adopt rules governing its procedures and hire and
13 discharge commission employees. Rules adopted must conform with the
14 provisions of this chapter.

15 (d) Meetings of the charter commission shall be open to the
16 public at all times. A journal of commission proceedings shall be
17 kept and shall be available for public inspection at the borough office.

18 (e) Except as provided in sec. 390(e) of this chapter, vacancies
19 on the charter commission shall be filled by a majority vote of the
20 commission. The person appointed to fill a vacancy must be a qualified
21 voter of the same area as the person whom he succeeds and must have
22 been a qualified voter of that area for at least one year immediately
23 preceding the date of his appointment.

24 (f) The borough assembly may grant a per diem allowance to the
25 commission members and may reimburse the members for travel expenses
26 incurred in carrying out the duties prescribed by this chapter.

27 (g) Costs, fees, and other expenses incurred by the charter
28 commission are a debt of the borough and shall be paid upon proper
29 verification.

1 Sec. 29.68.350. CHARTER PREPARATION. (a) A charter commission
2 established under this chapter shall prepare, adopt and submit a pro-
3 posed home rule charter for the area to be unified to the voters for
4 approval or rejection at a general or special borough election called
5 by the borough assembly held within 60 days of the date of publication
6 and posting of the proposed charter as required in sec. 380 of this
7 chapter. The charter shall include among its provisions:

8 (1) provisions for adjustment of existing bonded indebted-
9 ness and other obligations in a manner which will reserve a fair and
10 equitable burden of taxation for debt service;

11 (2) provision for the establishment of

12 (A) service areas;

13 (B) sections, if desired; and

14 (C) reapportionment of the sections, if established;

15 (3) provision for nonpartisan government and provision for
16 the selection, organization, authority and responsibilities of the
17 governing body and its executive;

18 (4) the transfer or other disposition of property and other
19 rights, claims, assets and franchises of the local government to be
20 unified under the charter;

21 (5) provision for exercise of the rights of initiative and
22 referendum as required by AS 29.13.050;

23 (6) a method of amending the charter;

24 (7) the date on which the charter, if approved at the
25 charter election required by sec. 390 of this chapter, is effective;

26 (8) designation of the new municipality's official name,
27 subject to the provisions of (b) of this section;

28 (9) other charter provisions which the charter commission
29 elects to include and which may be included in a home rule charter

1 under this chapter and the state constitution.

2 (b) The area to be unified shall be known as a borough or a city
3 or by some other designation consistent with existing law as determined
4 by a plurality of the votes cast at the election held under sec. 320
5 of this chapter.

6 Sec. 29.68.360. PUBLIC HEARINGS. Both before and after drafting
7 the proposed charter, the charter commission shall hold a public hear-
8 ing in each area of the borough represented on the borough assembly.
9 Other public hearings may be held by the charter commission whenever
10 and wherever it believes necessary and appropriate.

11 Sec. 29.68.370. FILING OF PROPOSED CHARTER. Upon the adoption
12 of a proposed home rule charter by the charter commission, the charter
13 shall be signed by at least a majority of the total membership of the
14 commission and shall be filed with the borough clerk. A copy with
15 signatures affixed shall also be filed with the clerk of each city
16 within the borough.

17 Sec. 29.68.380. PUBLICATION AND POSTING OF PROPOSED CHARTER.
18 Within 10 days after filing the proposed charter, the borough clerk
19 shall have it published once in at least one newspaper having general
20 circulation within the borough, if there is a newspaper having general
21 circulation within the borough. In addition, the clerk shall have a
22 copy of the proposed charter posted in at least three public places
23 within each city of the borough and each area outside cities. Copies
24 of the proposed charter shall be made available by the borough assembly
25 to the public at both the office of the borough clerk and the office
26 of the clerk of each city within the borough. The clerk shall publish
27 notice by radio and television of the publication, posting, and
28 availability of the proposed charter in a manner intended to apprise
29 the entire borough population of the existence of the proposed charter.

1 Sec. 29.68.390. ELECTION ON CHARTER. (a) The proposed charter
2 adopted by the charter commission shall be submitted to the voters for
3 ratification or rejection at the borough election specified in sec.
4 350 of this chapter. The borough clerk shall prepare the ballots for
5 use in the election and shall give published notice of and otherwise
6 conduct the election in the manner in which regular municipal elections
7 are conducted. In addition, the clerk shall publish notice of the
8 election by radio and television in a manner intended to apprise the
9 entire borough population of the election.

10 (b) A person who is a qualified voter of the borough may vote
11 in the election on the proposed charter.

12 (c) If a majority of the votes cast in the area of the borough
13 outside all first class and home rule cities and a majority of the
14 votes cast in the remaining area of the borough, composed of all first
15 class and home rule cities, are cast in favor of the proposed charter,
16 the charter is ratified. If the charter is ratified, two copies of
17 the charter shall be filed with each of the following authorities:

- 18 (1) lieutenant governor;
- 19 (2) director of the Local Affairs Agency;
- 20 (3) district recorder for the area of the borough;
- 21 (4) clerk of the borough;
- 22 (5) clerk of each city in the borough.

23 (d) If a proposed charter is rejected, the charter commission
24 shall prepare, adopt and submit a proposed charter to the voters at a
25 general or special borough election called by the borough and held
26 within one year of the date of the first charter election. If the
27 second proposed charter is also rejected, the charter commission shall
28 be dissolved and the question of unification shall be treated as if it
29 had never been proposed or approved.

1 (e) If after the rejection of the first proposed charter, more
2 than one-half of the charter commission members resign from the commis-
3 sion, the borough assembly shall appoint new members to fill the
4 vacancies in accordance with sec. 110(e) of this chapter.

5 Sec. 29.68.400. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon
6 ratification, the charter of a unified municipality organized under
7 secs. 240 - 440 of this chapter operates to dissolve all local govern-
8 ments within the area of unification in accordance with the charter.

9 Sec. 29.68.410. ASSETS AND LIABILITIES. A municipality created
10 by unification shall succeed to all the assets and liabilities of the
11 local governments it unified. A bonded indebtedness incurred before
12 unification shall remain the tax obligation of the area which contracted
13 the debt, except that the tax obligation may be spread over a larger
14 area by vote of the governing body of the unified municipality.

15 Sec. 29.68.420. ORDINANCES. Within two years after ratification
16 of the charter, the governing body of the unified municipality shall
17 revise, repeal, or reaffirm all borough and city ordinances, resolutions
18 and orders in force within the borough at the time of unification.
19 Each ordinance, resolution, regulation, or order in force at the time
20 of unification shall remain in force until superseded by action of the
21 new governing body.

22 Sec. 29.68.430. RIGHT TO STATE AND FEDERAL FUNDS PRESERVED. All
23 provisions of law authorizing contributions of any kind, in money or
24 otherwise, from the state or federal government to boroughs and cities
25 shall remain in full force and effect with respect to a unified munici-
26 pality organized under secs. 240 - 440 of this chapter.

27 Sec. 29.68.440. POWERS OF A UNIFIED MUNICIPALITY. A municipality
28 organized under secs. 240 - 440 of this chapter shall have all powers

29 (1) not prohibited it by law or charter;

1 (2) granted to organized boroughs and first class cities.

2 ARTICLE 4. DISSOLUTION.

3 Sec. 29.68.500. METHODS OF DISSOLUTION. (a) Two petition methods
4 may be used to initiate dissolution of home rule and general law
5 municipalities:

6 (1) petition to the Local Boundary Commission under regula-
7 tions adopted by the commission; or

8 (2) the local option method specified in secs. 510 - 580
9 of this chapter.

10 (b) A home rule or general law borough is dissolved when its
11 entire territory is included within a home rule or first class city or
12 cities. A city is dissolved when all its powers become areawide
13 borough powers.

14 (c) The Local Affairs Agency shall investigate a municipality
15 which it considers to be inactive and shall report to the Local
16 Boundary Commission on the status of the municipality. The commission
17 may submit its recommendation to the legislature that the municipality
18 be dissolved in the manner provided for submission of boundary changes
19 in sec. 12, art. X of the state constitution.

20 Sec. 29.68.510. PETITION. (a) Municipal residents may file a
21 dissolution petition with the Local Affairs Agency in the form pre-
22 scribed by the agency. The petition must be signed by a number of
23 municipal voters equal to at least 25 per cent of the number of votes
24 cast in the last regular municipal election.

25 (b) The petition includes

26 (1) the name of the municipality;

27 (2) maps, documents, and other information showing that the
28 municipality meets the standards for dissolution.

29 Sec. 29.68.520. STANDARDS. (a) Except as provided in (b) of

1 this section, a municipality may petition for dissolution when

2 (1) it is free of debt, or if in debt, each of its creditors
3 is satisfied with a method of repayment; and

4 (2) either it no longer meets the minimum standards pre-
5 scribed for incorporation by ch. 18 of this title, or it ceases to use
6 each and every one of its mandatory powers.

7 (b) A home rule or general law city in a borough may petition for
8 dissolution if the borough consents to assume the city's rights, powers,
9 duties, assets and liabilities. The consent must be ratified by a
10 majority of borough voters voting on the question.

11 Sec. 29.68.530. REVIEW. The Local Affairs Agency shall review
12 a petition for content and signatures and shall return a deficient
13 petition for correction or completion.

14 Sec. 29.68.540. INVESTIGATION. If the petition contains the
15 required information and signatures, the Local Affairs Agency shall
16 investigate the proposal.

17 Sec. 29.68.550. REPORT AND HEARING. (a) The Local Affairs
18 Agency shall report its findings to the Local Boundary Commission with
19 its recommendation regarding the dissolution.

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

22 Sec. 29.68.560. DECISION. If the Local Boundary Commission deter-
23 mines that the municipality fails to meet the standards for dissolution,
24 it shall reject the petition. If the commission determines that the
25 municipality meets the standards, it shall accept the petition.

26 Sec. 29.68.570. ELECTION. (a) The Local Boundary Commission
27 shall immediately notify the lieutenant governor of its acceptance of
28 a dissolution petition. Within 30 days after notification, the
29 lieutenant governor shall order an election within the municipality to

1 determinc whether the voters desire dissolution. The election is at
2 least 30 and not more than 90 days after the election order.

3 (b) A person who is a qualified voter of the municipality may
4 vote in the dissolution election.

5 (c) The lieutenant governor shall supervise the election in the
6 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.-
7 60). The state shall pay all election costs.

8 (d) The lieutenant governor shall certify the election results.
9 If dissolution is approved, he shall declare that the municipality is
10 dissolved effective on the date of certification.

11 Sec. 29.68.580. SUCCESSION. The government succeeding to a
12 dissolved municipality succeeds to all its rights, powers, duties,
13 assets, and liabilities as provided in AS 29.18.140 - 29.18.150.

14 CHAPTER 73. MISCELLANEOUS PROVISIONS.

15 Sec. 29.73.010. ACTIONABLE CLAIMS AGAINST A MUNICIPALITY. A
16 person or corporation having a contract, quasi-contract, or tort claim
17 against a municipality may bring an action against the municipality in
18 the superior court. However, no action may be brought under this
19 section if the claim

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

28 (2) is for damages caused by the imposition or establishment
29 of a quarantine by a municipality;

1 (3) has not been filed with the municipality in the form
2 and within the time period as provided by ordinance.

3 Sec. 29.73.020. EMINENT DOMAIN. A municipality may exercise
4 the powers of eminent domain and declaration of taking in the perfor-
5 mance of an authorized power or function of the municipality, in
6 accordance with AS 09.55.250 - 09.55.460.

7 Sec. 29.73.030. ADVERSE POSSESSION. A municipality may not be
8 divested of title to real property by adverse possession.

9 Sec. 29.73.040. TAXATION OF MUNICIPALITIES. No state law or
10 regulation may assess or tax, or be construed to assess or tax, home
11 rule or general law cities or boroughs of this state, unless the law
12 or regulation expressly provides that the cities or boroughs are to
13 be assessed or taxed by the particular law or regulation.

14 CHAPTER 78. GENERAL PROVISIONS.

15 Sec. 29.78.010. DEFINITIONS. In this title, unless otherwise
16 provided or the context otherwise requires,

17 (1) "borough" means a general law first, second, or third
18 class organized borough;

19 (2) "city" means a general law first or second class city;

20 (3) "conditional use" means exception, special exception,
21 special use, or special permit designated in the zoning ordinance;

22 (4) "consolidation" means dissolution of two or more munici-
23 palities and their incorporation as a new municipality;

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

26 (6) "majority" means a simple majority;

27 (7) "merger" means dissolution of a municipality and its
28 absorption by another municipality;

29 (8) "municipality" means a general law municipal corporation,

1 which is a first or second class borough or city, or a third class
2 borough, incorporated under the laws of the state;

3 (9) "owner", "record owner", or "owner of record" means
4 owner of record or purchaser of record;

5 (10) "published" means appearing at least once in a newspaper
6 of general circulation within the municipality or, if there is no news-
7 paper of general circulation within the municipality, posting in three
8 public places for at least seven days;

9 (11) "regular election" means the annual municipal election;

10 (12) "street" includes streets, avenues, boulevards, roads,
11 lanes, alleys, and other ways;

12 (13) "subdivision" means the division of a tract or parcel
13 of land into two or more lots, sites, or other divisions for the
14 purpose, whether immediate or future, of sale or building development,
15 includes resubdivision, and, when appropriate to the context, relates
16 to the process of subdividing or to the land or area subdivided;

17 (14) "voter" means a United States citizen who has been a
18 resident of Alaska for one year and of the municipality for 30 days
19 immediately preceding the election and who meets registration require-
20 ments of the municipality and is not disqualified under art. V of the
21 state constitution.

22 * Sec. 3. A right or liability of a home rule or general law city or
23 borough existing on the effective date of this Act is not affected by the
24 enactment of this title. All existing ordinances remain in force and effect
25 for a period of 90 days from the effective date of this Act, unless earlier
26 superseded, in order to permit amendment of the ordinances to comply with
27 the provisions of this title.
28
29