

INDEX

CS FOR SENATE **BILL NO. 113**

TITLE 29. MUNICIPAL GOVERNMENT

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MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND EXISTING MUNICIPAL LAW

INTRODUCTION

Senate Bill 113, the current version of the revised municipal code, is an entire recodification of the laws relating to cities and boroughs now found in Titles 7 and 29. Like other reorganized and updated statutory titles, it incorporates changes from existing law both in form and in substance.

The revision was directed by the 1963 Legislature, which noted that the bulk of law relating to cities (Title 29) was a disjointed product of the territorial period. Addition of the Borough Act as a separate title in 1961 (Title 7) further confused the municipal law area.

In 1963 and 1964, the Local Affairs Agency, Department of Law and the Legislative Council prepared the first draft of legislation combining and attempting to reconcile the provisions of Titles 7 and 29. The revision was introduced as SB 101 in 1965 and was the subject of widespread hearings around the state, committee deliberations, and further revision.

Revised versions of SB 101 were introduced into the legislature in 1966, 1967 and 1969.

SB 113, the basis of the current proposal, represents a thorough review by the Alaska Municipal League and governmental agencies at the municipal and state levels. The League felt that revision should be primarily technical and should not attempt to solve the substantive problems existing in two areas, that of relations between cities and boroughs and that of relations between schools and general government.

Accordingly, the bill in these areas is substantially the same as existing law, with some exceptions as noted further (see references on pages 6, 7, 9 and 12 - 14).

It is virtually impossible to detail all of the changes that have taken place between the code and existing municipal law, but this summary will explain the major impact of the revision. It takes into account changes made after joint deliberations of the Senate and House Local Government Committees which resulted in CSSB 113. These changes between CSSB 113 and SB 113 are also separately treated in an attachment following this summary.

Chapter 3. The Unorganized Borough

The law relating to the unorganized borough is unchanged. The present provisions of Title 7 granting authority to the division of lands to adopt zoning regulations for federal lands in the unorganized borough at the request of the Secretary of the Interior and only for purposes of facilitating federal land sales in the unorganized borough is placed in Title 38 (Sec. 6 of the proposed Act).

Chapter 8. Classification of Municipalities (i.e. Cities and Organized Boroughs)

One of the most significant changes is the change from four classes of cities to two classes of cities. The primary difference in the revision between the first and second class cities is that the first class city has the school function and has the power to assess, levy and collect a general property tax while the fourth class city has neither of these powers. Under present law, first, second and third class cities all have these powers, while fourth class cities do not. A population minimum of 400 persons has been set as the number

necessary to incorporate a first class city under the code, as in present law. The status of existing home rule cities, and existing first class cities with populations of 400 or more, remains unaffected by the proposed Act. Existing second and third class cities of 400 or more persons will automatically become first class cities, retaining their school and tax powers. The revision takes into account the fact that certain existing first, second and third class cities of under 400 persons may not have sufficient population or tax base to assume the burden of the school function. Therefore, these cities are given the option of becoming either first class or second class, depending upon their abilities and desires, as assessed by the local boundary commission and subject to legislative review. Existing fourth class cities will automatically become second class cities with the same powers and responsibilities which they now possess (Sections 29.08.010 through 29.08.050 and Sections 29.18.010 and 29.18.020). The code provides for reclassification of cities and boroughs to a higher class. Upon reclassification of a third class borough to a second or first class borough the borough may retain a combined assembly-school board or may separate the functions between an assembly and a board, depending upon the wishes of the voters (Sec. 29.08.040).

Chapter 13. Home Rule Municipalities

The new code standardizes the procedures for adopting a charter by either a first class city or borough (Secs. 29.13.010 - 29.13.080). Home rule limitations are gathered together in one place and listed. This section makes explicit the legislative intention to make only the sections of the code which are specifically listed as applicable to home rule municipalities so applicable. Additionally, the sections

themselves contain a specific reference making them applicable to home rule municipalities (Sec. 29.13.100).

Chapter 18. Incorporation

Incorporation procedures for all municipalities are gathered together and standardized (Secs. 29.18.050 - 29.18.110). The election of the first slate of officers is separated from the question of incorporation itself.

Present law provides for transitional assistance upon the incorporation of a new borough. In the revision, such transitional assistance is also made available to cities incorporating after the code takes effect. Organizational money grants based on an allocation of \$10 per voter are allowed the newly incorporating boroughs and cities of all classes, other than unifying or consolidating municipalities. A minimum grant of \$25,000 is authorized for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities outside organized boroughs or by reclassifying from second class to first class cities outside boroughs (Sec. 29.18.180).

Under the revised code boroughs and cities of all classes may also select 10 per cent of the vacant, unappropriated, unreserved state land within their boundaries. (Secs. 29.18.190 - 29.18.200). Previously, only boroughs and, as of 1970, first and second class cities, were given this privilege. The code provisions declare that the policy of the state in making land selections under the Statehood Act is to make available the maximum land area for borough and city selections under the code provisions, consistent with the best interests of the state.

Chapter 23. Municipal Officers and Employees

The law relating to borough assemblies, city councils and all

municipal officers is gathered into this chapter.

Local officials' election dates and terms of office are changed to conform to the date of state general elections, but terms of office may be varied by local ordinance so as to provide either staggered or simultaneously expiring terms up to four years (Secs. 29.23.040, 29.23.200(c) and 29.23.310). If a locality chooses to have other than two-year terms it may, of course, hold the elections in odd-numbered years, but the elections would occur on the Tuesday after the first Monday in November. Elections are nonpartisan for all municipalities (Sec. 29.28.010).

The executive power has remained essentially the same except that the veto power of borough chairmen and mayors of first class cities has been broadened and clarified. In the past, there has been a question of whether a veto could be used for motions and other actions of the assembly or council. It is clearly spelled out that they may be.

Additionally, a new authority for the line item veto in municipal budgets has been added. This line item veto is expressly stated not to apply to the school budget (since the only power the assembly or council has is to approve or disapprove the total school budget, and the chairman or mayor may only veto that which the assembly or council has power to enact) (Secs. 29.23.170 and 29.23.270). The mayor of a second class city is a member of the council and has no veto power (Sec. 29.23.270(b)).

The mayor of a first class city is elected separately from the council. The mayor of a second class city is a council member who is elected to the council along with the other council members, who then

mayor of a first class city votes only in case of a tie and has the veto power. The mayor of a second class city may vote on all matters as a council member, but he has no veto power (Secs. 29.23.260 and 29.-23.270). The borough chairman does not vote on matters before the assembly but has the veto power (Secs. 29.23.160 and 29.23.170).

A provision of present law applying only to first class cities and requiring written examination of police officer applicants on laws and ordinances, the examination to be graded by the council, is not retained in the code.

The revision makes clear that city councils may be elected from election districts within the city as well as citywide or partly at large and partly by districts, the choice being left to the local governments (Sec. 29.23.200(a)). Election sections for election of borough assemblymen in the borough area outside cities are permitted, as under present law, with sections to be of approximately equal population (Sec. 29.23.100).

Utility boards elected by the voters or appointed by the municipal executive and confirmed by the governing body are permitted for boroughs and cities (Sec. 29.23.340). (Elected boards only are authorized to general law municipalities under existing statutes.)

With respect to school board relations with local governments there are no substantive changes from present law except that election dates and terms of office have been established to coincide with state general elections with different terms not exceeding four years authorized by local ordinance, and local governing bodies are authorized to provide for centralized purchasing of those school supplies and equipment which are of a kind used by municipal departments (Sec. 29.-48.250, and Secs. 29.23.310 and 29.23.340).

In addition, the code makes clear that Sec. 29.33.050 setting out school board-governing body relationships is not intended to apply to home rule municipalities. There is uncertainty whether the same provisions as they appear in present law apply to home rule governments.

Either a borough or a city may adopt or repeal a manager form of government, as under existing law. However, a standard procedure is established for both types of municipality. Under this procedure, either the voters by petition, or the assembly or council by its own motion, may initiate an election on the manager plan (Secs. 29.23-410 - 29.23.480).

The code requires certain reports to be made to the Local Affairs Agency, including up-to-date maps, tax assessment figures, a financial report, and reports relating to long-term debt as already required under AS 44.19.205. The financial report takes the form of the annual audit for boroughs and first class cities, but second class cities may submit a statement of income and expenditures. Furnishing the reports is made a condition of receipt of authorized shared revenues under AS 43.18 (Sec. 29.23.560).

Chapter 28. Elections

The major change affecting elections is the scheduling of municipal elections to coincide with state general elections rather than being held approximately one month earlier, as under current law (Sec. 29.28.020). Terms of office of borough, city and school elected officials are also set at two years, but different terms not exceeding four years for borough and city governing bodies, and three years for school boards (the maximum term permitted under present law)

may be set in all cases by local ordinance.

Municipalities may, but are not required to, impose registration requirements over and above those of the state. However, a local voter registered with the state to vote in state elections is eligible to vote in local elections, whether or not he meets local registration requirements (Sec. 29.28.030). Also, the municipality may at its option require a majority vote for election of officials and utilize a runoff election or other means of obtaining a majority for the purpose (Sec. 29.28.040).

Assemblies and councils are required to provide by ordinance for election appeals. If the appeal is successful, the assembly or council bears the cost; if unsuccessful, the contestant must pay (Sec. 29.28.-050).

The powers of initiative and referendum are reserved to municipalities and the procedure for exercise of these powers by municipal residents is outlined (Secs. 29.28.060 - 29.28.110).

The section on recall has been changed to eliminate the successor running at the same election as the recall election. Should the recall be successful, a subsequent election is required to elect a successor (Secs. 29.28.130 - 29.28.250).

Chapter 33. Areawide Borough Powers and Duties

Boroughs retain their basic areawide responsibilities prescribed by current law: (1) assessment and collection of taxes, (2) education, and (3) planning, platting and zoning. Under current law, however, the borough is charged only with assessment and collection of real and personal property taxes. The assessment and collection provision of the new code broadens this to include the collection of use

and sales taxes authorized by the voters (Sec. 29.33.030).

There has been considerable smoothing out in the planning, platting and zoning article, with two significant alterations. One is that the planning commission itself may decide on variances subject only to appeal to the board of adjustment. Under the current procedure all variances, no matter how routine, must go to the board of adjustment. The second change is the placing of power to adopt and enforce building, housing, and related codes clearly within the jurisdiction of cities within boroughs rather than the boroughs as part of the area-wide planning, platting and zoning responsibility. Boroughs may exercise the powers in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in those areas. However, boroughs now exercising the powers within cities may continue to do so upon agreement to that effect between a city and a borough; if there is no agreement, the city is required to exercise the powers within the city and the borough now exercising the powers is required to continue doing so outside the city. Arawide borough exercise of the powers may subsequently be acquired through transfer by the cities or by vote of the people (Sec. 29.48.025). (Present borough law has been interpreted by the Attorney General's office to vest boroughs with areawide building code powers as part of the required areawide planning and zoning function.)

Under existing laws relating to acquisition of additional areawide powers, it is unclear whether second class boroughs may, like first class boroughs, acquire additional areawide powers by transfer from cities. The revision explicitly authorizes this method. Also, the Local Affairs Agency is no longer required to pass upon the acquisition

of additional areawide powers. In both the revision and present law, additional areawide powers require approval by a majority of the borough voters (Secs. 29.33.250 - 29.33.290).

Chapter 38. Borough Powers and Duties in the
Area Outside Cities

This chapter is designed to encourage areawide or joint city-borough exercise of powers by requiring the borough to seek these alternatives before exercising powers in the area outside cities only. If transfer or joint exercise is not acceptable, a first class borough may exercise any general law municipal power outside cities (Sec. 29.38.-010).

A second or third class borough requires an election in the area outside cities in order to add additional powers in that area (Sec. 29.-38.020), except with respect to certain special matters specified in Sec. 29.48.020, including regulation of fireworks, animals, vehicles, snow machines, garbage and solid waste, and water pollution. The latter two powers are newly conferred in the code for second class borough exercise in the area outside cities without a vote of the area; the others are already conferred for such exercise under existing law. Acquisition of additional powers and duties in the area outside cities again no longer requires review by the Local Affairs Agency.

Chapter 41. Powers of Third Class Boroughs

Third class borough powers are unchanged.

Chapter 43. Powers of Cities Outside Boroughs

Authority is continued for cities outside boroughs to assess, levy and collect property and sales taxes. Use tax authority is also conferred. Taxes are to be assessed, levied and collected in the same manner as set forth for boroughs in the code.

First class cities outside boroughs continue to comprise city school districts, with relationships between school boards and city councils to be governed in the same manner as those between borough school boards and assemblies, as under present law.

Home rule and first class cities outside boroughs must, and second class cities may, provide for planning, platting and zoning in the manner provided in the code for boroughs under the code (present law does not expressly require home rule or first class city exercise of planning, platting or zoning authority).

The chapter makes borough laws incorporated by reference under the chapter applicable to home rule cities only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Chapter 48. Powers Applicable to All Municipalities

An entirely new approach has been taken to delineation of municipal powers, facilities and services. Under existing law these are in many cases spelled out in substantial detail. This detail often serves no useful purpose. The new code merely lists the powers and provides for liberal construction of the powers, as required by the constitution (Secs. 29.48.010, 29.48.030, and 29.48.310). The listings the code provides are not intended to be all-inclusive but rather illustrative of the object or purpose intended to be accomplished (Secs. 29.48.320 and 29.48.330).

The procedure for enactment of ordinances has been simplified and streamlined without changing substantive rights. The code, however, changes the time between publication and hearing from one week to five days. The change permits special meetings for final consideration of

a proposed ordinance to be held on the same day as regular meetings (Sec. 29.48.140). The code also eliminates the requirement for a new hearing should there be an amendment as to substance, since the purpose of the hearing is to allow the public to propose changes to improve the ordinance.

Each municipality is required to codify its permanent ordinances (Sec. 29.48.180). Under existing law, boroughs are required to keep codes, but cities are not clearly included in the requirement.

The new code fixes July 1 to June 30 as the fiscal year for home rule and general law municipalities (Sec. 29.48.190).

Municipalities are given the option of establishing central purchasing (Sec. 29.48.250).

Under current law, emergency disaster powers are applicable only to first class municipalities. The new code allows all municipalities, regardless of class, to exercise emergency disaster powers (Sec. 29.-48.270). The thinking is that should a disaster strike the classification of the city is not particularly relevant.

Chapter 53. Municipal Assessment and Taxation

This chapter grants municipalities the power to levy property, sales and use taxes. Boroughs and home rule and first class cities may utilize all these taxes. Second class cities may levy sales and use taxes but not property taxes (Sec. 29.53.400). Within a borough the borough collects all of the taxes, provided the borough itself levies a sales or use tax (under existing law boroughs are required to assess and collect only property taxes levied by cities). Within a borough a city collects sales or use taxes if the borough does not levy and collect such taxes itself (Sec. 29.53.450). Within a borough which

levies and collects sales or use taxes on an areawide basis, cities which levy such taxes must levy upon the same sources as are taxed by the borough and in the same manner as the borough (Sec. 29.53.440). (This uniformity requirement is an addition to present law.) Outside boroughs the city collects its own taxes.

The sales and use tax provisions of the code are made binding only on general law cities and boroughs, but provisions governing assessment, levy and collection of property taxes (Secs. 29.53.010 - 29.53.350, and 29.53.400) are made to apply uniformly to all municipalities, home rule as well as general law (Sec. 29.13.100(19)). Under present law only selected provisions of the taxing statutes, relating to required exemptions from property tax and collections of penalties and interest on property and sales taxes, are made expressly applicable to home rule governments, but there remains doubt whether other taxing provisions of present law (as well as many other provisions of existing local government law generally) apply, particularly in light of a recent state supreme court decision on applicability of general municipal laws of the state to home rule as well as general law governments (Chugach Electric Assn. v. City of Anchorage, Sup. Ct. Opin. No. 647, November 2, 1970).

In addition to certain exemptions from property tax required or authorized under present law, the code authorizes additional optional exemptions by ordinance ratified by the municipal voters. Any exemptions or exclusions granted by home rule cities and in effect on the effective date of the proposed code would not be affected by enactment of the code.

Procedures for assessment of property are consolidated and simplified. No tax limitation is imposed insofar as payment of principal and

interest on bonded indebtedness (Sec. 29.53.050). Property taxes for other purposes may not exceed three per cent of the assessed property valuation per year, including the combined levy of such taxes within a city by a borough and the city within the borough (Sec. 29.53.050).

There are several changes concerning the enforcement of tax liens. One is that the foreclosure list no longer must be presented to the court on the day of publication. This requirement has created substantial difficulty where the newspaper of publication is not located within the same city as the borough seat or within the city which is foreclosing the taxes. Under the current law, tax foreclosed property is deeded to the borough.

Under the new code, tax-foreclosed property lying within a city is deeded to the city while tax-foreclosed property lying within the borough but outside the city is deeded to the borough. The code further provides that should property deeded to the city not be needed for public use by the city but needed for public use by the borough, the borough may obtain such property. The same holds true for property deeded to the borough. When property is taken for public use by any governmental unit, the amount of taxes owing to the other governmental units will be paid by the governmental unit taking title (Secs. 29.53.-360 and 29.53.385).

Under present law, general law municipalities are allowed to levy a sales tax but are not allowed to levy a use tax. Under the code both a sales tax and use tax may be levied. The code requires an election on sales tax. Since use tax is a correlative of the sales tax and can only be adopted subsequent to or at a referendum where the sales tax is adopted, no separate election is required for adoption of the use tax (Secs. 29.53.410 and 29.53.420).

The code expressly authorizes differential property tax zones within cities to provide services not provided throughout a city or provided at a different level than in the remainder of the city (Sec. 29.53.405).

Chapter 58. Municipal Debt

There is now no express statutory authority for issuance of tax anticipation notes by general law municipalities. Such notes as a matter of practice are issued despite specific statutory authority (presumably on the basis of authority conferred to the state and political subdivisions under Art. IV, sec. 10 of the state constitution relating to the borrowing of money in anticipation of revenue collections). The code specifically authorizes tax anticipation notes in anticipation of tax or other revenues (Secs. 29.58.010 - 29.58.040).

As under present law, municipalities are permitted to issue general obligation bonds as approved by the voters after proper notice; the notice includes a statement of total current bonded indebtedness, the cost of current debt service, and the total assessed valuation (Sec. 29.58.160). Second class cities do not have the power to assess and levy property taxes except when municipal bonds or other debt financed by another form of revenue are in danger of default (Sec. 29.58.350), essentially the same provision as under present law for fourth class cities.

Under existing law, an election is required to authorize issuance of revenue bonds in general law municipalities. This requirement is deleted in the new code since no general tax obligation is assumed and revenue bonds are generally a management tool for the utility involved (Sec. 29.58.205). In boroughs if the full faith and credit of

area outside cities or a service area, majority voter approval must be obtained both areawide as well as in the area outside or the service area (Sec. 29.58.340(d)); under present law, a boroughwide pledge is expressly authorized for bonds of a service area only.

Chapter 63. Special Assessment and Service Areas

Under existing law, there are two distinct sections on special assessments, each with minor variations and procedures. The major variation was cleaned up last session, but the procedures still vary slightly, depending upon whether the special assessment is initiated by petition of the people or by ordinance of the governing body. While these distinctions are not substantial, it becomes troublesome to determine precisely what procedure should be followed. In both instances, the procedures are extremely cumbersome.

This code standardizes the sections on special assessments to provide the same notice and hearing requirements as in existing codes. The procedural fairness requirements are retained, but much of the unnecessary cumbersomeness is eliminated.

Significantly, the new code also provides that special assessments may be levied against property owned by other governmental units (Sec. 29.63.010). The rationale is that special assessments are based upon special benefits conferred to the assessed property and that, should property owned by the state be specially benefited by public improvements which increase the value of state property, the state no less than any other property owner should pay for such special benefits.

Chapter 68. Alteration of Boundaries

Procedures for review of all municipal boundaries are consolidated. The Local Boundary Commission is required to establish procedures for

annexation and exclusion by local action (Sec. 29.68.010).

Merger and consolidation of municipalities is allowed by either petition to the Local Boundary Commission or by local option election (Sec. 29.68.030).

Unification of local governments is authorized as under present law (Secs. 29.68.240 - 29.68.440), with authority of the unified government to allocate preunification debt spelled out more specifically than under present law (Secs. 29.68.350(a)(1) and 29.68.410).

Dissolution of municipalities may be proposed by either petition to the Local Boundary Commission or by local option election (Sec. 29.-68.500(a)). In addition, the Local Affairs Agency is required to investigate municipalities which it considers inactive and to report on their status. The Local Boundary Commission may recommend that inactive municipalities be dissolved (Sec. 29.68.500).

Chapter 73. Miscellaneous Provisions

Municipalities are authorized the powers of eminent domain and declaration of taking in the performance of an authorized municipal power or function (Sec. 29.73.020).

THE CODE IN GENERAL

The proposed revised municipal code is primarily a series of technical changes which reconcile inconsistent provisions in existing law, modernize the archaic language found throughout Title 29 and provide a more workable and immensely more understandable basic framework for local government. Substantive changes are necessary in many areas. The proposed code provides a better framework for existing law. It also provides a better framework from which to develop proposals for substantive changes which may be added after individual consideration of each change on its own merits.

CSSB 113 & CSHB 208 -- THE PROPOSED REVISED MUNICIPAL CODE*

Attachments Prepared by Direction of the Senate and House Local Government Committees Acting Jointly

- a) Comparison of CSSB 113 (CSHB 208) and Existing Municipal Law
- b) Comparison of CSSB 113 (CSHB 208) and SB 113 (HB 208)

Foreword and Synopsis of Attachments

The need for revision of the maze of local government laws of the state, most of them in the case of cities dating back to territorial days, has long been recognized by the legislature. By concurrent resolution adopted in 1963 the Third Legislature characterized the bulk of state law relating to cities as "disjointed" and not serving the best interest of the state. After a two-year revision effort conducted by the Local Affairs Agency, the Department of Law, and the Legislative Affairs Agency, a proposed revised code was introduced into the First Session of the Fourth Legislature and since then has been continually before the legislature in various modified forms of the original bill.

This year, following two years of preparation and six years of review and revision by legislative committees as well as by the Alaska Municipal League, the public through hearings, municipal and

* The provisions of CSSB 113 and CSHB 208, like those of SB 113 and HB 208, are identical; for convenience, the reference to the proposed municipal code is made as CSSB 113, which is the printed and distributed bill.

school officials, staffs of the legislative and executive branches of the government, and others, the presentation of CSSB 113 marks the first time the proposed code has reached the floor of either house. It does so after consideration by joint deliberation of the Senate and House Local Government Committees. Its passage in the current session offers the opportunity for the same legislature which enacts it to observe its practical operation and make any changes it may deem warranted during the second session.

This code is based on a proposed draft submitted by the Alaska Municipal League and prepared by a League committee comprised of municipal attorneys and administrators; the League draft in turn is based on earlier versions of the proposed code but reflects extensive updating and adjustment of provisions to emphasize a technical revision rather than large-scale substantive changes in existing areas of law, particularly in terms of relationships of boroughs and cities and local governing bodies and school boards.

Like any overall revision of titles of the Alaska Statutes, of course, the code incorporates changes from existing law both in form and in substance, albeit the substantive changes are relatively few considering the scope of the revision and the technical changes made. Among the most significant substantive changes appear to be the following. The code

- 1) provides for two classes of general law cities rather than four;

- 2) makes clear which provisions of the code apply to home rule local governments and which do not apply; a notable

example of the merit of this approach is the basic provision outlining school board and local assembly or council relationships; the proposed code retains the substance of the provisions (sec. 29.33.050) virtually as they appear under present law (AS 07.15.330) but does not apply them to home rule governments; the provisions under present law have been the source of much controversy and pending litigation as to their applicability to home rule governments;

3) authorizes cities and boroughs to permit, on vote of the people, exemptions from property taxes in addition to those exemptions now required by law or already permitted on an optional basis by law (general law cities and, arguably, home rule cities, do not have such authority under present law);

4) expressly authorizes use taxes as correlatives to sales taxes, which still continue to require voter approval; authorizes borough collection and refund of city sales taxes as well as city property taxes, the latter now being required to be collected by boroughs under present law;

5) establishes uniform fiscal years and practices for assessing, levying and collecting property taxes for all municipalities;

6) revises existing cumbersome special assessment laws and permits levy of special assessments against governmental units;

7) authorizes differential property tax zones within cities to allow for different services or different levels of services than are provided generally within a city;

8) provides for general law cities within general law boroughs to levy sales or use taxes upon the same tax sources as are levied upon by the borough;

9) expands eligibility for organization grants to second class cities newly incorporating or reclassifying to first class status and assuming school functions (outside boroughs);

10) provides that the terms of office of city, borough and school board officials are two years but that any local government may by ordinance choose otherwise and provide different terms not exceeding four years (three years for school boards, as under present law); terms of incumbents are not affected, however;

11) sets the date of the regular municipal election at the same time as the date of the state general election (i.e. on the Tuesday after the first Monday of November);

12) makes every local voter registered to vote in state elections eligible to vote in any municipal election, without being required also to meet separate municipal registration requirements; if not registered to vote with the state, he may vote in local elections upon meeting the local registration requirements if any;

13) adds garbage and solid waste and water pollution control powers to the existing categories of powers which second class boroughs may exercise in the borough area outside cities without special voter approval;

14) gives cities authority to adopt and enforce building, housing and related codes within the cities rather than conferring such authority upon a borough as part of its required areawide planning, platting and zoning powers, as has been the interpretation under present law;

15) requires no election in general law cities and boroughs to sell municipal revenue bonds unless the local government chooses by ordinance to require an election.

The fundamental change represented by the proposed code is technical in that it is a reorganized, clarified, and updated body of municipal law and a vastly improved framework within which to meet the legislative needs of municipalities as they may develop. Not the least of the proposed code's advantages is that it takes a body of law referred to probably as much or more than any other title in the Alaska Statutes and renders it far more intelligible for municipal officials as well as for the citizens whom it so directly affects.

The following summaries set forth in more detail comparisons of CSSB 113 and CSHB 208 and existing law and comparisons of CSSB 113 and CSHB 208 with the bills as first introduced.

MUNICIPAL CODE

S U M M A R Y

COMPARISON OF CSSB 113 AND SB 113

This is a summary of substantive amendments to Senate Bill No. 113 resulting from deliberations of the Senate and House Local Government Committees meeting jointly. (The preceding summary of CSSB 113 and existing law takes into account the changes noted in this comparison).

A second class borough is permitted to reclassify as a third class borough, not only as a first class borough. This change restores existing law. Moreover, a third class borough voting on whether or not to reclassify is given the option to vote at the same time on retaining a combined assembly and school board. (Sec. 29.08.040)

A community having 25, rather than 50 permanent residents, may incorporate as a second class city (formerly called a fourth class city). This change restores existing law. (Sec. 29.18.020)

After the effective date of this Act, boroughs and cities which incorporate, except as unified or consolidated municipalities, and second class cities which reclassify to first class cities will receive transitional grants of \$10 per voter. The minimum grant will be \$25,000 for communities assuming the school function for the first time, either by incorporating as boroughs or first class cities or by reclassifying from second class city to first class city. (Sec. 29.18.-180)

In selecting lands under the Alaska Statehood Act, it is the policy of the state to make available to boroughs and cities the maximum land area from which to make selections under this section, consistent with the best interests of the state. (Sec. 29.18.190)

The elections of borough assemblies, city councils, and school boards will be held every two years on the same date as the state election, unless a locality provides by ordinance for different terms, which may not exceed four years in the case of assemblies and councils and three years in the case of school boards. If a locality chooses to have different terms it will, of course, have elections in odd-numbered years, but they will take place on the Tuesday after the first Monday in November. (Sec. 29.23.040, Sec. 29.23.200, and Sec. 29.23.310)

School budget items are excluded from the items in appropriation ordinances which a borough chairman (or a mayor in a city in the unorganized borough) may strike or reduce by veto. Also, two-thirds of the assembly (or council), rather than three-fourths, can override a veto. (Sec. 29.23.170)

City councils may be elected on a basis other than at large, if a local ordinance providing another basis of election is adopted. (Sec. 29.23.200)

Second class cities (formerly called fourth class cities) may submit to the Local Affairs Agency an annual statement of income and expenditures in place of an audit. The state payment of shared revenues is contingent on the submission of the financial and other reports specifically required of municipalities. (Sec. 29.23.560)

A qualified voter contesting an election will bear the costs of a recount unless the result of the election is reversed by the recount. (Sec. 29.28.050)

The authority for general law municipalities to adopt official maps was deleted from the bill by vote of the joint committee.

(Sec. 29.33.095 of SB 113)

The provisions of the code on the assessment, levy, and collection of property taxes apply fully, rather than only in part, to home rule as well as general law municipalities. (Sec. 29.43.020, Sec. 29.53.010-29.53.350 and Sec. 29.53.400)

The provisions of Ch. 12, SLA 1971, providing that home rule and general law municipalities may change their names by an ordinance ratified by the voters, are included in the bill. (Sec. 29.48.010)

Second class boroughs may by ordinance provide for garbage and solid waste collection and disposal in the area outside cities. (Sec. 29.48.020)

The existing law on the power of cities to provide garbage collection and disposal services, including effects on private services in annexed areas, is added. (Sec. 29.48.033)

Cities may adopt and enforce building, housing, and related codes for the area inside cities. Boroughs may exercise this power in the area outside cities or areawide by acquiring the power in the same manner as they obtain other powers in such areas. A borough now exercising this power areawide or within a city will continue to do so if the city agrees; otherwise, the city is required to exercise the power in the area inside the city and the borough is required to exercise it outside the city. Boroughs may later acquire the power by transfer from cities or by areawide vote. (Sec. 29.48.035)

The fiscal year will begin on July 1 in home rule as well as general law municipalities. (Sec. 29.48.190 (a))

The property tax exemptions or exclusions required of all municipalities under present law are retained. (Sec. 29.53.020) General law cities may by ordinance exempt or exclude boats, household furniture and effects, and civic centers, as under existing law. They may exempt or exclude additional property from tax by an ordinance ratified by the voters. Any exemptions or exclusions granted by home rule municipalities before the effective date of this act are not affected. (Sec. 29.53.025)

Added is the existing law which permits boroughs to adjust their property tax structure to that of cities within the borough and permits cities to exempt or exclude from borough taxes property exempted or excluded from city taxes, upon payment to the borough of the money it loses by the cities' action. (Sec. 29.53.025 (c))

Existing law on valuation of farm land for property tax purposes is added. (Sec. 29.53.035)

The combined borough and city property tax levy inside a city may not exceed 3% of assessed valuation. (Sec. 29.53.050)

When a borough votes to pledge its full faith and credit to guarantee bonds for the area outside cities or for service areas, the question must carry in these areas as well as areawide. (Sec. 29.58.340 (d))

Boroughs and cities may assess the real property of governments and private citizens for all or part of the costs of capital improve-

ments which benefit their property. The state will pay the assessment. Payment of the assessment by other governments is made a condition of receiving the benefit of the capital improvement. In the case of private citizens, payment is made a lien against their property. (Sec. 29.63.010) Existing law limiting the amount of a lump-sum or installment payment of a special assessment and authorizing special assessment bonds is added. (Sec. 29.63.060 and Sec. 29.63.085)

A borough is expressly permitted in service areas to provide different services, or a different level of services, than are provided areawide or in the borough area outside cities. The provisions clarify existing law. (Sec. 29.63.090) A city is permitted to have tax zones with different services, or a different level of services, than in the rest of the city. (Sec. 29.53.405)

The Local Boundary Commission is directed to establish procedures for boundary changes by local action in boroughs as well as in cities. (Sec. 29.68.010 (b))

With regard to the unification of a borough and its cities, the authority of the governing body to allocate pre-unification debt is delineated more fully than in existing law. (Sec. 29.68.350 (a) (1) and Sec. 29.68.410)

The section of SB 113 on the civil tort liability of local governments is deleted (Sec. 29.73.010) and the existing law at AS 09.65.070 is retained.

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Original sponsor: Local Government Committee

Offered: 4/9/71
Referred: Rules

1 IN THE SENATE

BY THE LOCAL GOVERNMENT COMMITTEE

2 CS FOR 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
7 cities 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;
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 un-
17 organized 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 municipi-
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 by holding an election on the
13 question as provided in this subsection, if the Local Affairs Agency
14 determines from the best figures available that the population of the
15 city has reached 400 permanent residents.

16 (b) An election on the question of reclassification may be
17 initiated in two ways:

18 (1) a number of voters equal to 15 per cent of the number
19 of votes cast in the city at the preceding regular election may file
20 a petition with the council; or

21 (2) the council may propose reclassification.

22 (c) The council shall hold at least one public hearing within the
23 city on the question. The council shall then evaluate the ability of
24 the city to assume first class status and make its findings public.

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

29 (e) If more than one question is to be voted on at the election,

1 each appears separately on the ballot.

2 (f) The council shall certify the election results to the Local
3 Affairs Agency. If the majority of votes cast on the question is
4 favorable, the city shall be considered reclassified to first class
5 status 30 days after certification of the election results.

6 (g) A second class borough may reclassify as a first class or
7 third class borough, and a second class borough may reclassify as a
8 first class or second class borough, in the manner provided by AS 29.-
9 33.270 - 29.33.290 for the addition of powers by boroughs, except
10 the petition or proposal requests reclassification instead of requesting
11 addition of powers.

12 (h) At the time of voting on reclassification of a second class
13 borough to third class status, borough voters in conformity with
14 AS 29.41 shall elect an assembly to serve as the combined assembly and
15 school board of the third class borough if reclassification is approved.

16 (i) At the time of voting on reclassification of a third class
17 borough to second class or first class status, borough voters shall
18 vote also on the question whether the borough shall upon reclassifica-
19 tion retain a combined assembly and school board or a separate assembly
20 and board as otherwise provided for first and second class boroughs.
21 If the majority of votes cast on the question favors retention of the
22 combined assembly and board, the assembly serving at the time of the
23 reclassification election continues to serve as the assembly and board
24 upon voter approval of reclassification and until terms of assemblymen
25 expire as provided before reclassification. If a separate board and
26 assembly are approved at the reclassification election, a school board
27 shall be elected in conformity with AS 14.12 at the next regular municipi-
28 pal election, if it occurs within 90 days of the date of the reclassi-
29 fication election, or otherwise at a special election within that time

1 called by the assembly with expiration dates of terms of members
2 elected at the special election to coincide with the date of the regu-
3 lar municipal election. Until a board is elected and qualified, the
4 assembly continues to serve as the board.

5 Sec. 29.08.050. TRANSITION. (a) Upon the effective date of
6 this Act, the current classification of existing home rule cities
7 and of first class cities having 400 or more permanent residents is
8 not affected by this Act. Second and third class cities incorporated
9 before the effective date of this Act and having 400 or more permanent
10 residents are reclassified as first class cities. The city council
11 shall certify by resolution the number of permanent residents within
12 the city. Upon the failure to certify, the Local Boundary Commission
13 shall hold a public hearing and make a determination as to classification
14 as provided in (c) of this section.

15 (b) Upon the effective date of this Act, fourth class cities
16 incorporated before the effective date of this Act are reclassified as
17 second class cities subject to reclassification under sec. 40 of this
18 chapter.

19 (c) The Local Boundary Commission shall, within two years of the
20 effective date of this Act, hold a public hearing in each city which
21 was first, second, or third class before the effective date of this Act
22 and whose population is under 400 permanent residents. The commission
23 shall determine in each case whether the city should be classified
24 as first or second class under the new classification. The commission's
25 decision must be published at least once. Unless objections are filed
26 with the Local Boundary Commission by at least five per cent of the
27 permanent residents of the city within 60 days, the classification
28 recommended by the commission becomes effective on the 61st day. If
29 objections are filed by at least five per cent of the permanent

1 residents of the city, the commission shall submit its recommendation
2 to the legislature in the manner provided for submission of boundary
3 changes in sec. 12, art. X of the state constitution.

4 CHAPTER 13. HOME RULE MUNICIPALITIES.

5 ARTICLE 1. CHARTERS.

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

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

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

28 Sec. 29.13.040. PREPARATION OF CHARTER. The charter commission
29 shall, within one year, prepare a municipal charter. The proposed

1 charter shall be signed by a majority of the charter commissioners
2 and filed in the office of the municipal clerk. Within 15 days, the
3 borough assembly or city council shall have the charter published
4 once in a newspaper of general circulation if distributed within the
5 municipality. The clerk shall post copies of the proposed charter in
6 at least three public places and make copies available at the office
7 of the clerk. The commission shall give published notice of and hold
8 at least one public hearing on the proposed charter before signing
9 and filing of the charter.

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

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

15 (c) A charter may not permit the initiative and referendum to be
16 used for a purpose prohibited by sec. 7, art. XI of the state consti-
17 tution.

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

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

- 27 (1) lieutenant governor - two copies;
- 28 (2) Local Affairs Agency - two copies;
- 29 (3) district recorder - one copy;

1 (4) municipal clerk - one copy.

2 (b) If a proposed charter is rejected, the charter commission
3 shall prepare another proposed charter to be submitted to the voters
4 at a regular or special election to be held within one year after the
5 date of the first charter election. If the second proposed charter
6 is also rejected, the charter commission shall be dissolved and the
7 question of adoption of a charter shall be treated as if it had never
8 been proposed or approved.

9 Sec. 29.13.080. CHARTER AMENDMENT. A municipal charter may be
10 amended as provided in the charter or by initiative referendum as
11 provided in AS 29.28.060 - 29.28.110, except that no amendment shall be
12 effective unless ratified by the voters.

13 ARTICLE 2. HOME RULE LIMITATIONS.

14 Sec. 29.13.100. LIMITATION OF HOME RULE POWERS. Only the follow-
15 ing provisions of this title apply to home rule municipalities as
16 prohibitions on acting otherwise than as provided. They supersede
17 existing and prohibit future home rule enactments which provide other-
18 wise:

- 19 (1) AS 29.23.020 - 29.23.050 (city representation and vote
20 on borough assembly)
- 21 (2) AS 29.13.080 (charter amendment)
- 22 (3) AS 29.18.140 (borough transition)
- 23 (4) AS 29.23.250(a) (election and term of mayor)
- 24 (5) AS 29.23.540 (prohibitions respecting appointment and
25 removal of personnel)
- 26 (6) AS 29.23.560 (municipal reports)
- 27 (7) AS 29.23.580 (meetings public)
- 28 (8) AS 29.28.010, 29.28.020 - 29.28.030 (municipal elections)
- 29 (9) AS 29.28.130 - 29.28.250 (recall)

- 1 (10) AS 29.33.010(b) (areawide borough powers)
2 (11) AS 29.33.295 (acquisition of additional areawide
3 powers)
4 (12) AS 29.43.020 - 29.43.040 (powers of cities outside
5 boroughs)
6 (13) AS 29.43.033 (garbage collection and disposal)
7 (14) AS 29.48.035(c) (borough building code jurisdiction
8 within cities)
9 (15) AS 29.48.037 (extraterritorial jurisdiction)
10 (16) AS 29.48.040 - 29.48.100 (utilities)
11 (17) AS 29.48.180 (codification)
12 (18) AS 29.48.190(a) (fiscal year)
13 (19) AS 29.48.210 (expenditure of borough revenue)
14 (20) AS 29.48.220 (post audit)
15 (21) AS 29.53.010 - 29.53.350, 29.53.400(borough and city
16 property tax)
17 (22) AS 29.58.180(b) (security for bonds)
18 (23) AS 29.68.010 (annexation and exclusion)
19 (24) AS 29.68.030 - 29.68.110 (merger and consolidation)
20 (25) AS 29.68.500 - 29.68.580 (dissolution)
21 (26) AS 29.73.020 (eminent domain)
22 (27) AS 29.73.030 (adverse possession)
23 (28) AS 29.73.040 (taxation of municipalities)
24 (29) AS 29.73.050 (municipal name changes)

25 CHAPTER 18. INCORPORATION.

26 ARTICLE 1. REQUIREMENTS.

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

29 Sec. 29.18.020. SECOND CLASS CITIES. A community having 25 or

1 more permanent residents may incorporate as a second class city.

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

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

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

10 (3) the economy encompasses a trading area with human and
11 financial resources capable of providing local services; evaluation
12 of an area's economy includes land use, property valuations, total
13 economic base, total personal income, resource and commercial develop-
14 ment, anticipated functions, expenses, and income of the proposed
15 borough;

16 (4) land, water, and air transportation facilities allow
17 the communication and exchange necessary for the development of
18 integrated local government.

19 ARTICLE 2. PROCEDURES.

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

- 23 (1) class;
24 (2) name;
25 (3) boundaries;
26 (4) composition and apportionment of the assembly or council;
27 (5) for a first class borough, a designation of areawide
28 powers to be exercised;
29 (6) for a second class borough, a designation of areawide

1 powers to be exercised and of powers to be exercised in the area out-
2 side cities only;

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

6 (8) for first class city incorporation, the signatures and
7 resident address of 50 permanent resident voters within the proposed
8 municipality;

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

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

17 Sec. 29.18.060. REVIEW. The Local Affairs Agency shall review
18 petitions for content and signatures and shall return deficient peti-
19 tions for correction and completion.

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

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

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

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

4 Sec. 29.18.090. DECISION ON BOROUGH INCORPORATION. (a) If the
5 Local Boundary Commission determines that a proposed borough fails
6 to meet the standards for incorporation, it shall reject the petition.
7 If the commission determines that the proposed borough meets the
8 standards, it shall accept the petition. If the commission determines
9 that the proposed boundaries can be altered to meet the standards,
10 it may alter the boundaries and accept the petition.

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

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

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

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

23 Sec. 29.18.110. INCORPORATION ELECTION. (a) The Local Boundary
24 Commission shall immediately notify the lieutenant governor of its
25 acceptance of an incorporation petition. Within 30 days after notifi-
26 cation, the lieutenant governor shall order an election in the proposed
27 municipality to determine whether the voters desire incorporation.
28 The election is held not less than 30 nor more than 90 days after the
29 date of the election order. The election order must specify the dates

1 during which nomination petitions for election of initial officers
2 may be filed.

3 (b) An Alaska voter who has been a resident of the area within
4 the proposed municipality for 30 days before the date of the election
5 order may vote.

6 (c) Areawide borough powers included in the incorporation petition
7 are considered to be part of the incorporation question. In an elec-
8 tion for the incorporation of a second class borough, each power to be
9 exercised outside cities only is placed separately on the ballot.
10 Adoption of a nonareawide power requires a majority of the votes cast
11 on the question, and the vote is limited to the voters residing outside
12 cities.

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

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

21 (b) Nominations for initial officers are made by petition. The
22 petition is in the form prescribed by the lieutenant governor and
23 includes the name and address of the nominee and a statement of the
24 nominee that he is qualified under the provisions of this title for
25 the office that he seeks. A person may file for and occupy more than
26 one office, but he may not serve simultaneously as borough chairman
27 and as a member of the borough assembly or as mayor and as a member
28 of the council of a home rule or first class city. Petitions to
29 nominate officers of a second class city must include the signature and

1 resident address of 10 voters in the area of the proposed city.
2 Petitions to nominate borough assemblymen must include the signature
3 and resident address of 50 voters who are residents of the proposed
4 borough in the area outside home rule and first class cities. Peti-
5 tions to nominate other municipal officers must include the signature
6 and resident address of 50 voters in the area of the proposed munici-
7 pality.

8 (c) The lieutenant governor shall supervise the election in the
9 general manner prescribed by the Alaska Election Code (AS 15.05 -
10 15.60). The municipality shall not be required to reimburse the state
11 for the election costs.

12 (d) The initial elected municipal officials take office on the
13 first Monday following certification of their election. Borough
14 assembly members representing home rule or first class cities are ap-
15 pointed by the city council and serve until the next regular city
16 election and until their successors are elected and have qualified.
17 All other elected municipal officials serve until the first regular
18 election occurring after they have served two years in office and until
19 their successors are elected and have qualified.

20 Sec. 29.18.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE
21 AREAS. Service areas in a newly incorporated borough or city shall
22 be integrated into the borough or city within two years after the
23 date of incorporation. On integration the borough or city succeeds
24 to all the rights, powers, duties, assets and liabilities of the
25 service areas. After integration, the borough assembly or city council
26 may exercise within a former service area all of the rights and powers
27 exercised by the service area at the time of integration, and may
28 levy and collect special charges, taxes, or assessments to amortize
29 bonded indebtedness incurred by the service area or by a borough or

1 city as successor to the service area. Upon integration no less than
2 all property in the service area at the time of integration remains
3 subject to taxation to pay the principal of and interest on the bonds.
4 The provisions of this section shall apply to all organized boroughs
5 whether incorporated or organized before or after the effective date
6 of this Act.

7 Sec. 29.18.140. TRANSITION. (a) The powers and functions
8 exercised by home rule or general law cities and service areas which
9 are succeeded to by a newly incorporated borough or city are exercised
10 by them until the new borough or city assumes the powers and functions,
11 which may not exceed two years after the date of incorporation.
12 Ordinances, rules, resolutions, procedures, and orders in effect
13 before the transfer remain in effect until superseded by the action of
14 the new borough or city.

15 (b) The borough or city shall give written notice of its assump-
16 tion of the powers, duties and other items enumerated in secs. 130 -
17 140 of this chapter, to the city, and service area concerned before
18 the assumption. Borough or city officials shall consult with the
19 officials of the city, and service area concerned and arrange an
20 orderly transfer.

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

24 Sec. 29.18.150. CHALLENGE OF LEGALITY. No person may challenge
25 the formation of a municipality except within six months of the date
26 of its incorporation.

27 ARTICLE 3. TRANSITIONAL ASSISTANCE.

28 Sec. 29.18.180. ORGANIZATION GRANTS. (a) For the purpose of
29 defraying the cost of transition to borough or city government and

1 in order to provide for development and interim governmental operations,
2 each borough and city incorporated or, in the case of a second class
3 city, incorporated or reclassified after the effective date of this
4 Act, other than a unified municipality incorporated under the provi-
5 sions of ch. 134 SLA 1967, as amended, or a municipality otherwise
6 incorporated by consolidation, is entitled to an organization grant
7 equal to \$10 for every voter who voted in the borough or city incorpora-
8 tion election. However, each incorporated borough and each first
9 class city incorporated or established by reclassification outside an
10 organized borough is entitled to at least \$25,000.

11 (b) Within 30 days after the date of incorporation of a borough
12 or city following the effective date of this Act the Local Affairs
13 Agency shall determine the number of voters in the borough or city
14 who voted in the incorporation election.

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

19 Sec. 29.18.190. STATE LAND. A borough or city may select 10
20 per cent of the vacant, unappropriated, unreserved state land located
21 within its boundaries. In the selection of land under the Alaska
22 Statehood Act, it is the policy of the state to make available to
23 cities and boroughs the maximum land area from which to make selections
24 under this section consistently with the best interests of the state.
25 Nothing in this section affects a valid existing claim, location, or
26 entry under the laws of the state or the United States whether for
27 homestead, mineral, right-of-way or other purpose or affects the
28 rights of an owner, claimant, locator, or entryman to the full use
29 and enjoyment of the land so occupied.

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

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

17 (c) After the selection of the land by the borough or city but
18 before the issuance of final patent, the borough or city may execute
19 conditional leases and make conditional sales of selected land.

20 CHAPTER 23. MUNICIPAL OFFICERS AND EMPLOYEES.

21 ARTICLE 1. BOROUGH ASSEMBLY.

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

24 Sec. 29.23.020. STANDARDS FOR COMPOSITION AND APPORTIONMENT.

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

Population	Assembly Seats
under 6,000	5
6,000 - 12,000	7

1	12,001 - 30,000	9
2	over 30,000	11

3 (b) If there is one home rule or first class city in the borough,
4 the assembly is composed of at least one assemblyman from the home
5 rule or first class city.

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

10	Population	Assembly Seats
11	under 2,000	1
12	2,000 - 6,000	2
13	6,001 - 12,000	3
14	12,001 - 30,000	4
15	over 30,000	5

16 (d) The area outside home rule and first class cities within the
17 borough has a number of assemblymen equal to one more than the total
18 number of all assemblymen who represent home rule and first class
19 cities.

20 Sec. 29.23.030. ELECTION AND APPOINTMENT. Members of the assembly
21 are appointed or elected according to the apportionment determined by
22 the incorporation petition approved by the voters until the assembly
23 is reapportioned. Members representing home rule and first class
24 cities are appointed by and from the city councils, unless provided
25 otherwise by city charter or ordinance. Members representing the area
26 outside home rule and first class cities are elected.

27 Sec. 29.23.040. REGULAR TERM OF OFFICE. In boroughs an election
28 is held every two years at the time of the general election to choose
29 assemblymen from outside home rule and first class cities for two-year

1 terms, unless provided otherwise by ordinance, and until their suc-
2 cessors are elected and have qualified. The regular term begins on
3 the first Monday following the regular borough election. City council-
4 men on the assembly may not be replaced by the council unless their
5 assembly term expires as provided by city charter or ordinance, or
6 they cease to be a member of either the assembly or the council. The
7 assembly may provide for different terms by ordinance, but they may
8 not exceed four years. The current term of incumbent assemblymen
9 may not be altered.

10 Sec. 29.23.050. QUALIFICATIONS. A resident of the borough is
11 eligible to be an assemblyman if he is a borough voter. An assemblyman
12 who ceases to be a borough voter immediately forfeits his office. If
13 an assemblyman elected from an area outside home rule and first class
14 cities or from a section becomes a resident of a home rule or first
15 class city or another section he may continue to serve only until the
16 next regular election. The assembly may by ordinance establish resi-
17 dency requirements for assemblymen elected from outside home rule and
18 first class cities not exceeding three years.

19 Sec. 29.23.060. PROCEDURE. (a) The assembly shall meet at
20 least once every month, unless otherwise provided by ordinance. All
21 meetings shall be public meetings. Special meetings may be held on the
22 call of the chairman, the presiding officer, or one-third of the members,
23 upon not less than 24 hours written or oral notice communicated to each
24 member. In an emergency a special meeting shall be a legal meeting if
25 all members are present or there is a quorum and all absent members
26 have waived in writing the required notice. A waiver may be either
27 before or after the time of the meeting. The waiver shall be attached
28 to and made a part of the journal for that meeting.

29 (b) The assembly shall elect from among its members a presiding

1 officer and a deputy presiding officer to serve at its pleasure. If
2 the presiding officer is not present or disqualifies himself, the
3 deputy presiding officer shall preside.

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

6 (d) A majority of the membership authorized by law constitutes
7 a quorum. In the absence of a quorum, any number less than a quorum
8 may recess or adjourn the meeting to a later date. Actions of the
9 assembly are adopted by a majority of the votes authorized on the
10 question. All assemblymen present shall vote unless the assembly for
11 special reasons permits a member to abstain, except no assemblyman
12 may vote on a question in which he has a substantial direct or indirect
13 financial interest.

14 (e) The final vote on each ordinance, resolution, or substantive
15 motion is a recorded "yes" or "no", except that if the vote is unani-
16 mous it is necessary only so to state.

17 (f) When the borough assembly votes on an ordinance or resolution
18 in exercising an areawide power and when it votes on the areawide
19 budget, the votes are weighted to enable the assemblymen who represent
20 a majority of the borough's population to have a majority of the
21 votes. Weighted voting applies to all procedures and votes affecting
22 the final outcome of the ordinance or resolution.

23 (g) The weight to be given to each vote cast by the assemblymen
24 present and voting who represent a home rule or first class city which
25 has a majority of the population is determined by dividing the number
26 of all assembly seats apportioned to the area outside the city plus one
27 by the number of seats apportioned to the city.

28 (h) The weight to be given to each vote cast by assemblymen
29 present and voting who represent home rule and first class cities

1 which have a combined majority of the borough's population is determined
2 by dividing the number of all assembly seats apportioned to the area
3 outside cities plus one by the number of all assembly seats apportioned
4 to the home rule and first class cities.

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

8 (j) Fifty borough voters or a home rule or first class city in a
9 borough may petition the assembly or the Local Affairs Agency, or the
10 assembly may petition the agency, to determine from U. S. Bureau of
11 the Census reports or other reliable information whether the votes of
12 the assemblymen representing a home rule or first class city shall be
13 weighted. The petition shall include evidence to indicate that weighted
14 voting should or should not be used. A determination by the Local
15 Affairs Agency prevails over one by the assembly. A determination by
16 either the assembly or the agency is effective immediately, subject to
17 judicial review for abuse of discretion.

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

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

24 Sec. 29.23.080. ASSEMBLY VACANCIES. (a) The assembly shall
25 provide by ordinance the manner in which a vacancy in assembly represen-
26 tation occurs.

27 (b) A vacancy in the city council representation on the assembly
28 is filled by a councilman designated by a majority of the remaining
29 membership of the council to serve until the next regular election.

1 (c) A vacancy in the representation for the area outside a home
2 rule or first class city is filled by a majority of the remaining
3 assemblymen representing the area outside home rule and first class
4 cities, who designate a voter residing outside home rule and first
5 class cities, and if there are borough sections established, a resident
6 of the borough section from which he will serve, to serve until the
7 next regular election.

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

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

15 (2) Fifty borough voters or a home rule or first class city
16 in a borough may petition the assembly or the Local Affairs Agency to
17 reapportion the assembly. The petition must include evidence that the
18 apportionment of the assembly does not meet prescribed standards. If
19 it is found from U. S. Bureau of the Census reports or other reliable
20 information that the standards are not met, the assembly or the Local
21 Affairs Agency shall reapportion the assembly. A reapportionment by
22 the Local Affairs Agency prevails over one by an assembly. Reapportion-
23 ment by the assembly or the agency is subject to judicial review for
24 abuse of discretion.

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

1 filled as prescribed in sec. 80(a) and (b) of this chapter for filling
2 vacancies, except that additional seats outside home rule and first
3 class cities may be filled without regard to sections.

4 Sec. 29.23.100. BOROUGH SECTIONS. (a) The borough assembly may,
5 by ordinance adopted without weighted voting, establish, alter, or
6 abolish sections for the election of assemblymen in the area outside
7 home rule and first class cities, except that sections may not be
8 abolished unless a majority of the assemblymen outside home rule and
9 first class cities approve. If it establishes sections, members
10 representing the area outside home rule and first class cities repre-
11 sent the sections in which they reside. The ordinance must state
12 whether assemblymen are elected by all voters outside home rule and
13 first class cities or only by the voters of the section in which they
14 reside. The number of sections equals the number of assemblymen
15 representing the area outside home rule and first class cities.
16 Section boundaries are established in such a way to provide, insofar
17 as possible, clarity of boundaries, compactness of an area, approxi-
18 mately equal population representation among sections, and homogeneity
19 of interest.

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

22 ARTICLE 2. BOROUGH EXECUTIVE.

23 Sec. 29.23.130. EXECUTIVE POWER. (a) The executive and adminis-
24 trative power of the borough is vested in an elected chairman or in
25 an appointed manager.

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

27 (c) The chairman's regular term of office is two years and until
28 a successor is elected and has qualified and begins on the first Monday
29 following his election, which is held the Tuesday after the first Monday

1 in November. The assembly may provide by ordinance for a different
2 term not to exceed four years, except that the current term of an
3 incumbent chairman may not be altered.

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

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

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

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

25 (3) supervise enforcement of borough law;

26 (4) prepare the annual budget and capital improvements
27 program for the assembly;

28 (5) execute the budget and capital improvement program as
29 adopted;

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

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

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

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

9 (10) direct and supervise the administration of

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

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

15 (C) the construction, maintenance, and operation of
16 all borough roads, bridges, drains, buildings and other public
17 works;

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

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

25 Sec. 29.23.160. ASSEMBLY PARTICIPATION. The chairman may take
26 part in the discussion of all matters before the assembly but may not
27 vote.

28 Sec. 29.23.170. VETO. (a) Except as provided in (b) of this
29 section, the chairman may veto any ordinance, resolution, motion or

1 other action of the assembly and may, by veto, strike or reduce items
2 in appropriation ordinances except for school budget items. He shall
3 submit to the assembly at its next regular meeting a written statement
4 advising of his veto and giving his reasons. His veto may be over-
5 ridden by two-thirds of all the votes to which the assembly is entitled
6 on the question.

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

10 Sec. 29.23.180. FILLING A VACANCY. A vacancy in the office of
11 the chairman occurring within six months of a regular election shall
12 be filled by the assembly. The person designated shall serve until
13 the next regular election and until a successor is elected and has
14 qualified. If an assemblyman is chosen, he shall resign his assembly
15 seat. If a vacancy occurs more than six months before a regular
16 election, the assembly shall call a special election to fill the unex-
17 pired term.

18 ARTICLE 3. CITY COUNCIL.

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

20 (a) Each first class city has a council of six members elected by the
21 voters at large. Each second class city has a council of seven members
22 elected by the voters at large. The council of a first or second class
23 city may by ordinance provide for election of members other than on
24 an at large basis for all members.

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

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

1 until their successors are elected and have qualified. The regular
2 term of office begins on the first Monday following the election.
3 The council may provide by ordinance for different terms not to exceed
4 four years, except that the current term of incumbent councilmen may
5 not be altered.

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

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

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

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

19 Sec. 29.23.220. FILLING A VACANCY. If a vacancy occurs in the
20 council, the council by vote of a majority of its remaining members
21 shall designate a person to fill the vacancy until the next regular
22 election, and until a successor is elected and has qualified.

23 ARTICLE 4. CITY EXECUTIVE.

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

29 Sec. 29.23.250. ELECTION AND TERM OF MAYOR. (a) A voter of a

1 home rule or general law city is eligible to hold the office of mayor,
2 except that a home rule city may prescribe additional residency
3 requirements by charter.

4 (b) The mayor of a first class city is elected at large for a
5 term of two years and until a successor is elected and has qualified.
6 The council may provide by ordinance for a different term not to
7 exceed four years, except that the current term of an incumbent mayor
8 may not be altered.

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

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

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

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

20 Sec. 29.23.270. VETO. (a) The mayor of a first class city may
21 veto any ordinance, resolution, motion, or other action of the council
22 and may, by veto, strike or reduce items in appropriation ordinances
23 except, in a city outside an organized borough, for school budget
24 items. He shall submit to the council at its next regular meeting a
25 written statement advising of his veto and giving his reasons. A veto
26 is overridden by the vote of two-thirds of the authorized membership
27 of the council.

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

29 Sec. 29.23.280. FILLING A VACANCY. (a) In a first class city,

1 a vacancy in the office of mayor occurring within six months of a
2 regular election shall be filled by the council. The person designated
3 shall serve until the next regular election and until a successor is
4 elected and has qualified. If a councilman is chosen, he shall resign
5 his council seat. If a vacancy occurs more than six months before a
6 regular election, the council shall call a special election to fill the
7 unexpired term.

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

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

13 (1) appoint city employees and administrative officers,
14 except as provided otherwise in sec. 360 of this chapter and AS 29.33.-
15 050; he may hire necessary administrative assistants and may authorize
16 an appointive administrative officer to appoint, suspend, or remove
17 subordinates in his department;

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

21 (3) supervise enforcement of city law;

22 (4) prepare the annual budget and capital improvement
23 program for the council;

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

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

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

29 (8) prepare and make available for public distribution an

1 annual report on city affairs;

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

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

6 ARTICLE 5. SCHOOL BOARDS.

7 Sec. 29.23.310. ELECTION. Each borough and city school district
8 has a school board. Members are elected at the regular municipal
9 election held on the Tuesday after the first Monday in November for
10 two-year terms and until their successors take office. However, the
11 board may by ordinance provide for different terms not to exceed three
12 years. All board members are elected at large, but school zones for
13 the election of borough school boards may be established, altered, or
14 abolished as provided by sec. 100 of this chapter.

15 ARTICLE 6. UTILITY BOARDS.

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

20 (b) Members of the board are appointed by the municipal executive
21 and confirmed by the assembly or council as are elected at the
22 regular municipal election on the Tuesday following the first Monday
23 in November. The term of a utility board member is two years and until
24 a successor is elected and has qualified. However, the assembly or
25 council may by ordinance provide for a different term not to exceed
26 four years.

27 (c) Vacancies in the board are filled by the municipal executive.
28 Executive appointments shall be confirmed by the assembly or council.
29 A person selected to fill a vacancy on a utility board serves until

1 the expiration of the term and until a successor is elected and has
2 qualified.

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

4 (1) choose its chairman and secretary;

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

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

9 ARTICLE 7. OTHER OFFICERS AND EMPLOYEES.

10 Sec. 29.23.360. APPOINTMENT OF OFFICERS. The municipal clerk,
11 attorney, treasurer, and police chief are appointed by the chief
12 executive or by the assembly or council, as determined by ordinance.
13 Officers serve at the pleasure of the appointing authority, subject
14 to ordinance. Appointments by the chief executive are subject to
15 confirmation by the governing body.

16 Sec. 29.23.370. MUNICIPAL ATTORNEY. The municipal attorney is
17 the legal advisor of the council or assembly, the school board, and
18 the other officers of the municipality. He represents the municipality
19 as attorney in civil and criminal proceedings. The school board has
20 the right to hire independent counsel when in its judgment independent
21 counsel is needed.

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

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

25 (2) attend meetings and keep the journal;

26 (3) arrange publication of notices, ordinances, and resolu-
27 tions;

28 (4) maintain and make available for public inspection an
29 indexed file including the municipal ordinances, resolutions, rules,

1 regulations, and codes;

2 (5) attest deeds and other documents;

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

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

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

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

15 ARTICLE 8. ADOPTION OR REPEAL OF MANAGER PLAN.

16 Sec. 29.23.410. APPLICATION. A municipality may adopt a manager
17 plan of government.

18 Sec. 29.23.420. PETITION. Adoption of a manager plan may be
19 initiated either by petition or upon motion of the assembly or
20 council. A petition for the adoption of a manager plan is submitted
21 to the assembly or council. The petition must be signed by a number
22 of municipal voters equal to the following per cent of the votes cast
23 at the preceding regular election:

24 (1) 25 per cent when the municipality has fewer than 7,500
25 persons;

26 (2) 15 per cent when the municipality has 7,500 persons or
27 more.

28 Sec. 29.23.430. ELECTION. Upon receipt of the petition or upon
29 its motion, the assembly or council shall provide by ordinance or

1 resolution for a vote on the question at the next regular or special
2 election. Notice of the election shall be published at least 30 days
3 before the election.

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

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

8 Sec. 29.23.450. APPOINTMENT. The assembly or council shall
9 appoint a manager by a majority vote of its membership. He is chosen
10 solely on the basis of his executive and administrative qualifications
11 and receives the compensation set by the assembly or council. An
12 elected municipal official may not be appointed manager of the munici-
13 pality sooner than one year after leaving office, except that, by a
14 vote of three-fourths of its authorized membership, the assembly or
15 council may at any time appoint one of its members or other elected
16 municipal officials as manager.

17 Sec. 29.23.460. TERM. Subject to the contract of employment,
18 the manager holds office at the pleasure of the assembly or council.

19 Sec. 29.23.470. APPOINTMENT OF TEMPORARY OR NEW MANAGER. In the
20 absence or disability of the manager, the assembly or council shall
21 appoint a temporary manager. If the office becomes vacant, the
22 assembly or council shall appoint a new manager.

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

27 ARTICLE 9. MISCELLANEOUS PROVISIONS.

28 Sec. 29.23.500. OATHS OF OFFICE. Municipal officers, before
29 taking office, shall affirm in writing that they will honestly, faith-

1 fully, and impartially perform their duties. The oath is filed with
2 the municipal clerk.

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

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

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

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

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

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

25 Sec. 29.23.560. REPORTS. (a) Home rule and general law munici-
26 palities shall file with the Local Affairs Agency:

27 (1) maps and descriptions of all annexed or excluded terri-
28 tory;

29 (2) a copy of the annual audit or in the case of second

1 class cities an audit or statement of annual income and
2 expenditures;

3 (3) tax assessment figures as requested;

4 (4) reports relating to long-term debt as provided in
5 AS 44.19.205.

6 (b) Compliance with the provisions of this section is a prerequi-
7 site to receipt of state shared-revenues under AS 43.18. The state
8 shall withhold annual allocations under that chapter in the event of
9 noncompliance until such time as the report requirements are complied
10 with.

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

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

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

19 (3) resigns and his resignation is accepted;

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

22 (5) is removed from office;

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

24 or

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

27 Sec. 29.23.580. MEETINGS PUBLIC. Meetings of all municipal
28 bodies shall be public as provided in AS 44.62.310. The assembly and
29 council shall provide reasonable opportunity for the public to be

1 heard at regular and special meetings. This section applies to home
2 rule and general law municipalities.

3 CHAPTER 28. ELECTIONS.

4 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

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

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

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

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

21 Sec. 29.28.020. ELECTION DATES. (a) The date of a regular
22 municipal election in home rule and general law municipalities is the
23 Tuesday after the first Monday in November every even-numbered year,
24 or at an interval of years provided by ordinance.

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

27 Sec. 29.28.030. VOTER QUALIFICATION. A person may vote only if
28 he is a United States citizen who has been a resident of Alaska for
29 one year and of the municipality for 30 days immediately preceding the

1 election and who is registered to vote in state elections or meets
2 registration requirements of the municipality if any and is not dis-
3 qualified under art. V of the state constitution. This section
4 applies to home rule and general law municipalities.

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

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

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

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

20 (d) The contestant shall pay all costs and expenses incurred in
21 a recount of an election demanded by the contestant if the recount
22 reverses any result of the election.

23 (e) No person may appeal or seek judicial review of a city or
24 borough election for any cause or reason unless the person is qualified
25 to vote in the municipality, has exhausted his administrative remedies
26 before the assembly or council and has commenced, within 10 days after
27 the assembly or council has finally declared the election results, an
28 action in the superior court in the judicial district in which the
29 municipality is located. If no such action is commenced within the

1 10-day period, the election and election results shall be conclusive,
2 final and valid in all respects.

3 ARTICLE 2. INITIATIVE AND REFERENDUM.

4 Sec. 29.28.060. RESERVATION OF POWERS. The powers of initiative
5 and referendum are reserved to the residents of municipalities except
6 the powers do not extend to matters restricted by sec. 7, art. XI, of
7 the state constitution.

8 Sec. 29.28.062. PETITION. A petition for initiative or referendum
9 is filed with the municipal clerk and an initiative petition must be
10 filed not less than 90 days before the next regular election.

11 Sec. 29.28.065. CONTESTS OF PETITION. A petition for an initia-
12 tive or referendum shall:

13 (1) embrace only a single comprehensive subject;

14 (2) set out fully the ordinance or resolution sought by the
15 petition;

16 (3) state upon the petition, when circulated, the date of
17 first circulation of the petition;

18 (4) contain the statement, when circulated, that the signa-
19 tures on the petition must be secured within 90 days from the date of
20 the first circulation;

21 (5) have the required signatures, dates of signatures and
22 resident addresses of the signers.

23 Sec. 29.28.070. REQUIRED SIGNATURES. (a) The necessary signa-
24 tures on a petition shall be secured within 90 days from the date of
25 the first circulation of the petition. The petition shall be signed
26 in ink or indelible pencil.

27 (b) Every petition for either the initiative or referendum in
28 the government of a municipality shall be signed by a number of quali-
29 fied voters residing within the territorial limits of the municipality,

1 or, if the act sought to be initiated or referred pertains exclusively
2 to the area outside cities or to a service area, by a number of
3 qualified voters residing within the area outside cities or within the
4 service area, as the case may be, equal to the following per cent of
5 the total number of votes cast at the last general election in the
6 city or borough or borough area concerned, or special election called
7 for the purpose of electing city or borough officers:

8 (1) 25 per cent, when a city or borough has fewer than
9 7,500 persons, or

10 (2) 15 per cent, when a city or borough has 7,500 persons
11 or more.

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

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

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

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

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

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

28 Sec. 29.28.075. PROTEST. If the municipal clerk certifies the
29 petition is insufficient, a signer of the petition may file a protest

1 with the municipal executive within seven days after the certification
2 and the municipal executive shall present the protest at the next
3 regular meeting to the assembly or council which shall hear and decide
4 the protest.

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

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

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

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

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

28 Sec. 29.28.090. PRESENTATION OF REFERENDUM. (a) When a petition
29 seeks a referendum vote on an ordinance or resolution, the clerk shall

1 submit the ordinance to the voters of the municipality at the next
2 regular or special election. If no regular or special election occurs
3 within 75 days of the filing of a sufficient petition with the clerk,
4 the assembly or council shall hold a special election within 75 days
5 of filing.

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

13 (c) If a majority of those voting favor the referendum legisla-
14 tion, it remains in effect. If a majority rejects the legislation,
15 it is repealed. A municipal charter may be amended as provided in
16 the charter or by initiative and referendum as provided in secs. 60 -
17 110 of this chapter.

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

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

28 ARTICLE 3. RECALL.

29 Sec. 29.28.130. RECALL. An elected official of a home rule or

1 general law municipality may be recalled by the voters after he has
2 served six months in office.

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

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

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

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

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

14 (b) A petition for recall must be filed with the clerk within
15 60 days after the date of the earliest signature on the petition.

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

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

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

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

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

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

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

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

15 Sec. 29.28.210. FORM OF RECALL BALLOTS. A recall ballot con-
16 tains:

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

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

21 (3) the following question: "Shall (name of person) be
22 recalled from the office of (office)? Yes [] No []".

23 Sec. 29.28.220. ELECTION PROCEDURE. Procedures for conducting
24 a recall election are those of a regular election.

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

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

1 Sec. 29.28.250. ELECTION OF SUCCESSOR. If the voters recall an
2 officer, the clerk shall conduct an election for a successor to fill
3 the unexpired term. The election shall be held at least 10 but not
4 more than 45 days from the date of the recall election. However, if
5 a regular or special election occurs within 75 days of the recall elec-
6 tion, the successor to the recalled official shall be chosen at that
7 regular or special election. The procedures and requirements for the
8 regular election for the office from which the incumbent is recalled
9 apply to the election conducted under this section.

10 CHAPTER 33. AREAWIDE BOROUGH POWERS AND DUTIES.

11 ARTICLE 1. SCOPE.

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

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

18 ARTICLE 2. ASSESSMENT AND COLLECTION OF TAXES.

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

23 ARTICLE 3. EDUCATION.

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

27 (b) The borough assembly may by ordinance require that all school
28 money be deposited in a centralized treasury with all other borough
29 money. The borough chairman shall have the custody of, invest and

1 manage all money in the centralized treasury. However, the borough
2 assembly, with the consent of the borough school board, may by ordi-
3 nance delegate to the borough school board the responsibility of a
4 centralized treasury.

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

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

23 (e) The borough assembly shall determine the location of school
24 buildings with due consideration to the recommendations of the borough
25 school board.

26 (f) The borough school board is responsible for the design
27 criteria of school buildings. Subject to the approval of the assembly,
28 the school board shall select the appropriate professional personnel
29 to develop the designs. The school board shall submit preliminary and

1 subsequent designs for a school building to the assembly for approval
2 or disapproval; if the design is disapproved, a revised design shall
3 be prepared and presented to the assembly.

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

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

17 ARTICLE 4. PLANNING, PLATTING AND ZONING.

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

20 (b) If a city within a borough is located more than 25 miles
21 from a boundary of the borough seat, the assembly by ordinance may

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

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

27 (3) withdraw powers delegated under this subsection.

28 Sec. 29.33.080. PLANNING COMMISSION. (a) The borough planning
29 commission consists of five residents unless a greater number is

1 otherwise provided by ordinance. Commission membership shall be ap-
2 portioned so that the number of members from first class cities re-
3 flects the proportion of borough population residing within those
4 cities. Members shall be appointed by the borough executive for a term
5 of three years subject to confirmation by the assembly, except that
6 appointments of members from first class cities are selected from a
7 list of recommendations submitted by the city council. Members first
8 appointed shall draw lots for one-, two- and three-year terms.
9 Appointments to fill vacancies are for the unexpired term. The comp-
10 ensation and expenses of the planning commission and its staff are
11 paid as directed by the assembly.

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

- 13 (1) a comprehensive plan consisting of maps and related
14 texts for the systematic development of the borough;
15 (2) a zoning ordinance to implement the plan;
16 (3) a subdivision ordinance;
17 (4) the official map of the borough;
18 (5) modifications to the documents specified in (1) - (4)
19 of this section.

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

23 (d) The commission shall

- 24 (1) act as the platting board;
25 (2) act upon requests for variances;
26 (3) act upon requests for conditional uses.

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

29 (f) The commission shall designate its presiding officer and

1 shall meet as frequently as is necessary. The commission shall estab-
2 lish, subject to approval by the assembly, rules and regulations for
3 the conduct of its meetings. Meetings shall be public and minutes
4 shall be kept. Minutes and records shall be filed with the municipal
5 clerk and retained as public records.

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

13 (b) The assembly shall adopt a comprehensive plan based upon the
14 recommendations of the planning commission. The assembly may modify
15 the plan, provided that it first obtains the recommendations of the
16 planning commission. The planning commission shall undertake an over-
17 all review of the plan at least once every two years and shall present
18 recommendations based on the review to the assembly.

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

24 (b) Zoning regulations adopted under (a) of this section may
25 include, but are not limited to, restriction of

- 26 (1) land use;
- 27 (2) building location and use;
- 28 (3) the height and size of structures;
- 29 (4) the number of stories in buildings;

1 (5) the percentage of lot which may be covered;

2 (6) the size of open spaces;

3 (7) population density and distribution.

4 (c) Zoning regulations are designed to

5 (1) provide for orderly development;

6 (2) lessen street congestion;

7 (3) promote fire safety and public order;

8 (4) protect the public health and general welfare;

9 (5) prevent overcrowding;

10 (6) stimulate systematic development of transportation,
11 water, sewer, school, park and other public facilities.

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

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 resolution or ordinance part or all of its functions to other borough
19 boards. The city council is the board of adjustment for the area
20 within the city boundaries but may delegate by resolution or ordinance
21 part or all of its functions to the borough. Meetings of the borough
22 board are held at the call of the presiding officer and of the city
23 board by the mayor. The presiding officer or mayor may administer
24 oaths and compel attendance of witnesses. Meetings and hearings of
25 the board shall be open to the public and the board shall keep minutes
26 of its proceedings as a public record.

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

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

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

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

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

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

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

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

28 (b) A municipal officer, a taxpayer, or a person, jointly or
29 severally aggrieved, may appeal an action of the board to the superior

1 court by filing with the borough clerk within the time fixed by
2 ordinance, a notice of appeal specifying grounds. When the notice of
3 appeal is filed, the board shall at once transmit to the superior
4 court clerk copies of all the papers constituting the record in the
5 case.

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

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

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

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

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

21 (2) dimensions of lots or tracts;

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

26 Sec. 29.33.160. PROCEDURE. (a) The platting board shall within
27 60 days of filing approve or disapprove the plat or shall return it to
28 the applicant for modification or correction. If the board fails to
29 act, the plat is considered approved and a certificate of approval

1 shall be issued by the board on demand. The applicant for plat approv-
2 al may consent to the extension of the period for action by the board.
3 The board shall state on its record and in writing to the applicant its
4 reason for disapproval of a plat.

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

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

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

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

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

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

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

1 or contract to sell, and may recover the penalty by appropriate legal
2 action.

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

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

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

25 Sec. 29.33.220. HEARING AND DETERMINATION. At the hearing the
26 platting board shall consider the alteration or replat and make its
27 decision on the merits of the proposal. No vacation of a city street
28 may be made without the consent of the city council. No vacation of
29 a street in the borough area outside cities may be made without the

1 consent of the borough assembly. The assembly or council shall have
2 30 days from the decision in which to veto the board decision. If no
3 veto is received by the board within the 30-day period, the consent
4 of the city or borough shall be considered to have been given to the
5 vacation.

6 Sec. 29.33.230. RECORDING. If the alteration or replat is
7 approved, the revised plat must be recorded by the platting board and
8 is thereafter the lawful plat.

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

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

29 Sec. 29.33.245. HEARING OFFICER. The assembly may by ordinance

1 authorize the planning commission, the platting board and the board
2 of adjustment to designate a hearing officer, or one or more members
3 of the commission or board, to hear and decide cases under this
4 chapter. The assembly shall prescribe procedures for hearings and
5 appeals. The commission or board shall hear and decide appeals de novo.

6 ARTICLE 5. ADDITIONAL AREAWIDE POWERS.

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

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

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

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

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

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

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

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

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

3 (c) The chairman shall certify the election results to the Local
4 Affairs Agency. If the majority of votes cast on the question is
5 favorable, the borough shall assume the added power within 30 days
6 of certification of the election results. Upon acquisition of an area-
7 wide power the borough succeeds to all of the rights, powers and duties
8 of any city or service area with respect to that power. The borough suc-
9 ceeds to claims, franchises and other contractual obligations, liability
10 for bonded and all other indebtedness and to all of the right, title and
11 interest in the real and personal property held by the city or service
12 area for the exercise of the power. The borough assembly may levy and
13 collect special charges, taxes or assessments including interest for
14 the purpose of amortizing bonded indebtedness previously incurred by
15 the city or service area for continuing services in the area. When a
16 city or service area had previously incurred bonded indebtedness, no
17 less than all property that was within the city or service area at the
18 time the bonds were issued shall remain subject to taxation to pay the
19 principal of and interest on the bonds for as long as they remain out-
20 standing. Upon acquisition of additional areawide powers the borough, in
21 consultation with the city or service area personnel, shall arrange for
22 an orderly and equitable transfer of rights, assets, liabilities, powers
23 duties and other matters related to acquisition of the areawide powers.
24 This section applies to home rule and general law cities.

25 CHAPTER 38. BOROUGH POWERS AND DUTIES

26 IN THE AREA OUTSIDE CITIES.

27 Sec. 29.38.010. FIRST CLASS BOROUGH. The first class borough
28 may exercise in the area outside cities any general law municipal
29 power. Before exercising a power outside cities only, the borough

1 shall seek to have the identical power transferred from cities within
2 the borough or propose joint borough-city exercise of the
3 power.

4 Sec. 29.38.020. SECOND CLASS BOROUGH. The second class bor-
5 ough may exercise in the area outside cities municipal powers
6 approved at incorporation, conferred by AS 29.48.020, or added as
7 provided in this chapter. Before exercising a power outside cities
8 only, the borough shall seek to have the identical power transferred
9 from cities within the borough or propose joint borough-city exercise
10 of the power.

11 Sec. 29.38.030. ADDITIONAL POWERS. The second class borough
12 may initiate the acquisition of additional powers outside cities in
13 either of two ways:

14 (1) a number of voters equal to 15 per cent of the
15 number of votes cast in the area outside cities at the pre-
16 ceding regular election may file a petition with the assembly,
17 or

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

19 Sec. 29.38.040. INVESTIGATION. The assembly shall hold at
20 least one public hearing in the borough on the question. The
21 assembly shall then evaluate the ability of the borough to exercise
22 the powers and make its findings public.

23 Sec. 29.38.050. ELECTION. (a) The assembly shall, within
24 30 days after its findings have been made public, order an election
25 on the question. The election shall be held at least 30 days after
26 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
2 the Local Affairs Agency. If the majority of the votes cast on
3 the question is favorable, the borough shall assume the added
4 power within 30 days of certification of election results.

5 CHAPTER 41. POWERS OF
6 THIRD CLASS BOROUGHES.

7 Sec. 29.41.010. POWERS OF THIRD CLASS BOROUGHES. (a) A
8 third class borough shall exercise the areawide powers of educa-
9 tion and tax assessment and collection in the manner provided for
10 second class boroughs. Provisions of law relative to first and
11 second class organized boroughs apply with respect to third class
12 boroughs only to the extent they are consistent with this
13 chapter.

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

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

24 CHAPTER 43. POWERS OF CITIES
25 OUTSIDE BOROUGHES.

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

1 boroughs apply to home rule cities outside boroughs only
2 in those cases in which they are made applicable to home rule
3 boroughs in the provisions incorporated.

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

11 Sec. 29.43.030. EDUCATION. Home rule and first class
12 cities outside boroughs constitute city school districts and
13 shall establish, maintain, and operate a system of public schools
14 as provided by AS 29.33.050 for boroughs.

15 Sec. 29.43.040. PLANNING AND ZONING. Home rule and
16 first class cities outside boroughs shall, and second class cities
17 outside boroughs may, provide for planning, platting and zoning,
18 as provided by AS 29.33.070 - 29.33.245 for boroughs.
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1 CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES.

2 ARTICLE 1. GENERAL POWERS.

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

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

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

9 (3) to make investigations of the affairs of the municipali-
10 ty and make inquiries into the conduct of a municipal department;

11 (4) to enter into agreements, including those for coopera-
12 tive or joint administration of any functions or powers with a local
13 government, with the state, or with the United States;

14 (5) to require periodic and special reports from a municipal
15 department to be submitted through the municipal executive;

16 (6) to sue and be sued;

17 (7) to levy taxes and special assessments;

18 (8) to enforce ordinances and to prescribe penalties for
19 violations;

20 (9) to acquire and dispose of real and personal property;

21 (10) to acquire membership in organizations which promote
22 legislation for the good of the municipality;

23 (11) to expend funds for community purposes for the good of
24 the municipality;

25 (12) to borrow money and issue evidences of indebtedness.

26 Sec. 29.48.020. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES. A
27 second class borough may in the area outside cities

28 (1) regulate or prohibit the offering for sale, exposure for
29 sale, sale, use, or explosion of fireworks;

1 (2) provide for the licensing, impounding, and disposition
2 of animals;

3 (3) regulate the licensing and operation of motor vehicles
4 and operators;

5 (4) regulate snow vehicles as provided in AS 05.30.070;

6 (5) provide for garbage and solid waste collection and
7 disposal;

8 (6) provide for water pollution control.

9 ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

10 Sec. 29.48.030. MUNICIPAL FACILITIES AND SERVICES. (a) A muni-
11 cipality may exercise the powers necessary to provide the following
12 public facilities and services:

13 (1) streets and sidewalks;

14 (2) sewers and sewage treatment facilities;

15 (3) harbors, wharves, and other marine facilities;

16 (4) watercourse and flood control facilities;

17 (5) health services and hospital facilities;

18 (6) cemeteries;

19 (7) police protection and jail facilities;

20 (8) cold storage plants;

21 (9) telephone systems;

22 (10) light, power and heat;

23 (11) water;

24 (12) transportation systems;

25 (13) community centers;

26 (14) libraries;

27 (15) recreation facilities;

28 (16) airport and aviation facilities;

29 (17) garbage and solid-waste collection and disposal service

1 and facilities subject to sec. 33 of this chapter;

2 (18) fire protection service and facilities;

3 (19) parking and parking facilities;

4 (20) housing and urban renewal, rehabilitation and develop-
5 ment.

6 (b) First and second class boroughs may exercise the powers
7 conferred by (a) of this section only after they have been assumed in
8 the manner required under AS 29.33.250 - 29.33.290 for areawide
9 exercise or in the manner required under AS 29.38.010 - 29.38.050 for
10 exercise in the borough area outside cities, or are conferred by
11 sec. 20 of this chapter for exercise in the borough area outside cities.

12 Sec. 29.48.033. GARBAGE COLLECTION AND DISPOSAL SERVICES. (a)
13 The municipality may by ordinance provide for the establishment,
14 maintenance and operation of a system of garbage collection and dis-
15 posal for the entire municipality or for districts or portions of it;
16 require all persons within the municipality or district to use the
17 system and to dispose of their garbage as provided in the ordinance;
18 award contracts for collection and disposal, or provide for the collec-
19 tion and disposal of garbage by municipal officials and employees;
20 pay for garbage collection and disposal from available funds; require
21 property owners or occupants of premises to use the garbage collection
22 and disposal system provided by the municipality and fix charges
23 against the property owners or occupants of premises for the collection
24 and disposal; provide that charges for collection and disposal shall
25 be paid by the property owner or occupants of the premises; and provide
26 penalties for violations of the ordinances.

27 (b) The council of a first or second class city may not prohibit
28 a person holding a valid permit from the Alaska Transportation Com-
29 mission from continuing to collect and dispose of garbage and provide

1 other related services in an area annexed by the city if the permit
2 authorizes the collection and disposal of garbage and the providing of
3 other services in the area annexed by the city and the permit was
4 originally issued before the area was annexed by the city. If a city
5 provides for a garbage collection and disposal system in an annexed
6 area already serviced by a person allowed to continue under this sub-
7 section, the city may not charge less than the rate set for garbage
8 collection and disposal by the Alaska Transportation Commission for
9 common carriers.

10 (c) If the council determines that it is not in the public inter-
11 est for the city to provide garbage collection and disposal and related
12 services under the restrictions of (b) of this section, it may exer-
13 cise the power of eminent domain to acquire, at the fair market
14 value, from the person providing the services, that portion of the
15 operating authority representing the services within the city. The
16 fair market value shall be based on the economic loss to the permit
17 holder. If an eminent domain proceeding is instituted, the council
18 may exercise the power through the filing of a declaration of taking
19 with the complaint or at any time after the filing of the complaint,
20 but before judgment.

21 (d) This section applies to home rule and general law municipi-
22 palities.

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

26 (1) licensing and operation of motor vehicles, including
27 snow vehicles, and operators;

28 (2) licensing of drivers of taxicabs, for-hire automobiles,
29 motor buses, or other vehicles for the transportation of passengers

1 or baggage;

- 2 (3) vehicle parking and traffic;
- 3 (4) transportation fares;
- 4 (5) licensing, impounding and disposition of animals;
- 5 (6) selling of goods;
- 6 (7) selling of food;
- 7 (8) abandoned property;
- 8 (9) dangerous and disorderly conduct;
- 9 (10) alcoholic beverages as provided by AS 04.15.070;
- 10 (11) recreational devices as provided by AS 05.20.100;
- 11 (12) control of insects and rodents;
- 12 (13) offering for sale, exposure for sale, sale, use, or
- 13 explosion of fireworks;
- 14 (14) building, housing and related codes, which may be pro-
- 15 vided by cities within cities or, in the manner required in (b) or (c)
- 16 of this section, by first or second class boroughs in the borough
- 17 area outside cities or areawide;
- 18 (15) condemnation and abatement of public nuisances and
- 19 hazards;
- 20 (16) garbage and solid-waste collection and disposal;
- 21 (17) water pollution control;
- 22 (18) other powers and functions affecting the general health,
- 23 safety, well-being and welfare of its inhabitants.

24 (b) First and second class boroughs may exercise the powers con-

25 ferred by (a) of this section only after they have been assumed in the

26 manner required under AS 29.33.250 - 29.33.290 for areawide exercise

27 or in the manner required under AS 29.38.010 - 29.38.050 for exercise

28 in the borough area outside cities or are conferred by sec. 20 of this

29 chapter for exercise in the borough area outside cities.

1 (c) The provisions of (b) of this section notwithstanding,
2 boroughs which on the effective date of this Act are exercising
3 building, housing or related code powers on an areawide basis or in
4 the borough area outside cities shall, subject to acquisition of the
5 powers on an areawide basis by transfer or election as provided in
6 (b) of this section, exercise the powers in the borough area outside
7 cities and, upon agreement of the city and borough, within any city,
8 home rule or otherwise, in which the powers are being exercised on
9 the effective date of this Act; if the city does not agree to continued
10 borough exercise of the powers within the city, the city shall exercise
11 the powers within the city.

12 Sec. 29.48.037. EXTRATERRITORIAL JURISDICTION. (a) A municipi-
13 pality may provide parks, roads, trails, playgrounds, cemeteries and
14 airports outside its boundaries, subject to AS 29.33.010, and may
15 regulate their use and operation. A regulation adopted under this
16 section must state that it applies outside the municipality.

17 (b) A municipality may adopt ordinances to protect its water
18 supply and watershed and may enforce them outside its boundaries.
19 Before this power may be exercised within the boundaries of another
20 municipality, the approval of that municipality must be given by
21 ordinance. This section applies to general law and home rule municipi-
22 palities.

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

29 Sec. 29.48.050. FRANCHISES AND PERMITS. (a) The assembly acting

1 for the area outside cities and the council acting for the area within
2 a city may grant franchises, including exclusive franchise privileges,
3 for the construction, operation and maintenance of bus transportation
4 systems and public utilities not regulated under AS 42.05 and may
5 permit them the use of streets and other public places under regulations
6 prescribed by ordinance.

7 (b) No franchise is valid until it has been submitted to the
8 qualified voters of the city or borough area outside cities in which
9 it applies, and at least 55 per cent of the votes cast are in favor
10 of the franchise. At least 30 days notice of a franchise referendum
11 election shall be given in the same manner as is provided for notice
12 of regular municipal elections, and the notice shall specify the
13 purpose of the election. The ordinance granting a franchise shall
14 provide for its submission for ratification to the qualified voters
15 of the city or borough area outside cities at either a general or
16 special election, and the result of the election shall be canvassed
17 publicly by the council or assembly and spread upon the records of the
18 minutes and the result declared and certified in the same manner as
19 in a regular election.

20 (c) Public utilities regulated under AS 42.05 have the right to
21 use the streets and other public places, upon payment of a reasonable
22 permit fee and on reasonable terms and conditions and with reasonable
23 exceptions the assembly or council requires. A dispute as to whether
24 fees, terms, conditions, or exceptions are reasonable shall be decided
25 by the Alaska Public Utilities Commission.

26 Sec. 29.48.060. PUBLIC UTILITIES RATES. The assembly acting
27 for the area outside cities and the council acting for the area within
28 a city may regulate, fix, establish and change, as it considers
29 proper, the rates and charges imposed for utilities services given to

1 the municipality or its inhabitants by a public service association,
2 corporation, or individual not regulated under AS 42.05 and may regu-
3 late and provide what is a reasonable deposit for meters and security
4 for service to be given, provided that interest be paid on the deposit.
5 All rates, charges and regulations shall be reasonable and shall permit
6 a fair and reasonable return on invested capital.

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

22 Sec. 29.48.080. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY. At
23 a hearing held under sec. 70 of this chapter, all public service cor-
24 porations, associations, or individuals affected by or interested in
25 the matters to be heard may be present and may be represented by counsel.
26 The municipality and all interested parties may produce witnesses and
27 examine them and introduce evidence to prove or disprove the facts in
28 issue or matters to be established or inquired into at the hearing.
29 All parties may compel the attendance of witnesses, and subpoenas

1 requiring attendance shall be issued by the municipal clerk under his
2 hand and the seal of the municipality. Subpoenas duces tecum requiring
3 the production of books and papers shall be issued in like manner upon
4 request. If a person fails to obey a subpoena, the party at whose
5 request the subpoena issued may petition the superior court for an
6 order compelling the attendance of the disobedient witness or the pro-
7 duction of the books or papers referred to in a subpoena duces tecum.
8 The superior court shall order the witness to appear and testify or
9 compel the production of the books or papers. A violation of the order
10 of the court is a contempt of court. If a witness appears and refuses
11 to testify concerning a matter material to the facts inquired about at
12 the hearing and to establish or determine which the hearing was had,
13 an application may be made to the superior court to compel the witness
14 to testify and answer questions put to him concerning the matters
15 inquired about, and the court shall make an order compelling the wit-
16 ness to testify. Violation of the order is contempt of court.

17 Sec. 29.48.090. FURTHER PROCEEDINGS. A hearing under sec. 70
18 of this chapter shall begin at the time stated in the notice but may
19 be continued from time to time. At least a quorum of the assembly or
20 council shall be present at the hearing. At the conclusion of the
21 hearing the parties interested may make such arguments before the
22 assembly or council, either in person or by attorney as they consider
23 proper, touching the matters at issue, and thereafter the assembly or
24 council shall proceed to regulate and fix the rates by ordinance. The
25 date upon which the rates fixed or regulated take effect shall be
26 stated in the ordinance and shall be at least 10 days after passage and
27 approval of the ordinance.

28 Sec. 29.48.100. APPLICATION. (a) In the case of conflict between
29 the provisions of secs. 50 - 70 of this chapter and the provisions of

1 AS 42.05 as to the regulation of rates of a utility, the provisions of
2 AS 42.05 shall prevail.

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

5 ARTICLE 3. MUNICIPAL ENACTMENTS.

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

9 (1) establish, alter or abolish municipal departments;

10 (2) fix the compensation of members of the assembly or
11 council;

12 (3) provide for a fine or other penalty for establishing
13 rules or regulations for violation of which a fine or other penalty
14 is imposed;

15 (4) provide for the levying of taxes;

16 (5) make appropriations and supplemental appropriations or
17 transfer appropriations;

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

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

20 (8) adopt, modify or repeal the comprehensive plan, zoning
21 and subdivision ordinances, building and housing codes, and the official
22 map;

23 (9) approve the transfer of a power to a borough from a
24 city;

25 (10) designate the borough seat.

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

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

1 Sec. 29.48.150. ORDINANCE PROCEDURE. (a) The following proce-
2 dure governs the enactment of all ordinances except emergency ordi-
3 nances. An ordinance may be introduced by a member or committee of the
4 assembly or council or by the municipal executive. An ordinance shall
5 be set for hearing by the affirmative vote of a majority of the votes
6 authorized on the question. A summary of the ordinance and its amend-
7 ments is published together with a notice of time and place for public
8 hearing. The hearing follows publication by at least five days. Copies
9 of the ordinance must be available to all persons present or the
10 ordinance must be read in full. The assembly or council shall hear
11 all interested persons wishing to be heard. After the hearing, the
12 assembly or council shall consider the ordinance and may adopt it with
13 or without amendment. The assembly or council shall print and make
14 available copies of adopted ordinances.

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

17 Sec. 29.48.160. EMERGENCY ORDINANCES. (a) To meet a public
18 emergency the assembly or council may adopt ordinances effective on
19 adoption. Every emergency ordinance must contain a finding by the
20 assembly or council that an emergency exists and a statement of the
21 facts upon which the finding is based. The ordinance may be adopted,
22 amended and adopted, or rejected at the meeting at which it is intro-
23 duced. The affirmative vote of all members present, or the affirmative
24 vote of three-fourths of the total membership, whichever is less, is
25 required for adoption. The assembly must print and make available
26 copies of adopted emergency ordinances.

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

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

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

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

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

20 (c) In (a) of this section, codified means

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

26 (2) the ordinance is a provision included, or to be included,
27 in a code of ordinances or other complete system of positive law promul-
28 gated by the council and kept current by the city at reasonable inter-
29 vals.

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

3 Sec. 29.48.190. BUDGET AND CAPITAL PROGRAM. (a) The fiscal
4 year of home rule and general law municipalities begins on July 1 of
5 each year.

6 (b) The assembly or council shall establish the manner for the
7 preparation and submission of the budgets and capital programs by the
8 executive. After public hearing, the assembly or council may approve
9 the budgets with or without amendments and shall appropriate the funds
10 required for the approved budgets.

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

15 (d) The assembly or council may make supplemental and emergency
16 appropriations. No payment may be authorized or made and no obligation
17 incurred except in accordance with appropriations.

18 (e) Nothing in this section is intended to prevent the authorizing
19 of payment or making of contracts for capital improvements to be
20 financed wholly or partly by the issuance of bonds.

21 Sec. 29.48.200. PENALTIES. For the violation of an ordinance,
22 the assembly or council may prescribe punishment not to exceed a fine
23 of \$500 or imprisonment for 30 days, or both. However, the punishment
24 authorized under this subsection may be imposed only if an ordinance
25 is codified and copies of the ordinance are made available for distri-
26 bution to the public.

27 Sec. 29.48.210. EXPENDITURE OF BOROUGH REVENUES. Borough revenues
28 levied and collected on an areawide basis by a home rule or general law
29 borough may be expended on general administrative costs and on areawide

1 functions only. Revenues levied and collected in the area outside
2 cities only may be expended on general administrative costs and func-
3 tions which render service to the area outside cities only.

4 Sec. 29.48.220. POST AUDIT. The assembly or council shall provide
5 for an annual independent audit of the accounts and financial trans-
6 actions of the municipality or in the case of a second class city an
7 audit or statement of annual income and expenditures. To make the
8 audit the assembly or council shall designate a public accountant who
9 has no personal interest, direct or indirect, in the fiscal affairs
10 of the municipality. Copies of the audit shall be available to the
11 public upon request. This section applies to home rule and general
12 law municipalities.

13 ARTICLE 4. MISCELLANEOUS PROVISIONS.

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

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

24 (b) Notwithstanding the provisions of (c) of this section, a
25 municipality may sell, lease donate or exchange with the United States,
26 the state, or a political subdivision real estate or other property,
27 or interest in property, when in the judgment of the assembly or
28 council it is advantageous to the municipality to do so.

29 (c) The assembly or council shall by ordinance establish a formal

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

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

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

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

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

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

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

22 ARTICLE 5. CONSTRUCTION OF POWERS.

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

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

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

5 CHAPTER 53. MUNICIPAL ASSESSMENT AND TAXATION.

6 ARTICLE 1. BOROUGH PROPERTY TAX.

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

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

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

18 (2) household furniture of the head of a family or a house-
19 holder not exceeding \$500 in value;

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

22 (4) property of a nonbusiness organization composed entirely
23 of persons with 90 days or more of active service in the armed forces
24 of the United States whose conditions of service and separation were
25 other than dishonorable; or the property of the auxiliary of such
26 organization;

27 (5) money on deposit.

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

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

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

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

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

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

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

18 Sec. 29.53.025. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) Muni-
19 cipalities may exclude or exempt property from taxation by ordinance
20 ratified by the voters at a regular or special election.

21 (b) Municipalities may by ordinance

22 (1) classify boats and vessels for purposes of taxation and
23 may establish the assessed valuation of boats and vessels on the basis
24 of their registered or certificated net tonnage; a tax based upon a
25 tonnage valuation shall not exceed \$5 a year for a boat or vessel of
26 less than five net tons and shall not exceed \$15 a year for a boat or
27 vessel of more than five net tons;

28 (2) classify and exempt from taxation

29 (A) the household furniture over \$500 in value and the

1 effects of the head of a family or a householder; and

2 (B) the property of an organization not organized for
3 business or profit-making purposes and used exclusively for
4 community purposes, provided that income derived from rental of
5 such property does not exceed the actual cost to the owner of the
6 use by the renter.

7 (c) The provisions of (a) of this section notwithstanding,

8 (1) a home rule or first or second class borough may, by
9 ordinance adopted without weighted voting, adjust its property tax
10 structure in whole or in part to the property tax structure of a city
11 within it, including but not limited to, excluding personal property
12 from taxation, establishing exemptions, and extending the redemption
13 period;

14 (2) a home rule or first class city shall have the same
15 power to grant exemptions or exclude property from borough taxes that
16 it has as to city taxes, provided that the exemptions or exclusions have
17 been adopted as to city taxes and further provided that the city
18 appropriate to the borough sufficient money to equal revenues lost by
19 the borough because of the exemptions or exclusions, the amount to be
20 determined annually by the assembly without weighted voting.

21 (d) Exemptions or exclusions from property tax which have been
22 granted by home rule municipalities in addition to exemptions author-
23 ized or required by law, and which are in effect on the effective date
24 of this Act and not later withdrawn, are not affected by this Act.

25 Sec. 29.53.030. MINING CLAIMS. The assessed value of an unim-
26 proved unpatented mining claim which is not producing, and a nonproduc-
27 ing patented mining claim upon which the improvements originally
28 required for patent have become useless and valueless through depreci-
29 ation, removal or otherwise, is fixed at \$200 for each 20 acres or

1 fraction of 20 acres. If the surface ground of a claim has a separate
2 and independent value for nonmining uses, the real and personal property
3 is assessed at its full and true value.

4 Sec. 29.53.035. FARM OR AGRICULTURAL LANDS. (a) Farm use lands
5 shall be assessed on the basis of full and true value for farm use,
6 and shall not be assessed as if subdivided or used for some other non-
7 farm purpose. The assessor shall maintain separate assessment records
8 evaluating the farm use land for other than farm use purposes, where
9 applicable. Should the farm use land be sold, leased, or otherwise
10 disposed of, for other than farm use purposes, the owner shall be
11 liable to pay the additional tax for the preceding two years, and the
12 applicable portion of the current tax year, as though the land had
13 not been assessed for farm use purposes.

14 (b) An owner of farm use land must, to secure the assessment,
15 make application to the assessor before February 1 of each year in which
16 the assessment is desired. The application shall be made upon forms
17 prepared and supplied by the assessor and shall include information
18 which may reasonably be required to determine the entitlement of the
19 applicant.

20 (c) In this section "farm use" means the use of land for raising
21 and harvesting crops or for the feeding, breeding and management of
22 livestock or for dairying or another agricultural or horticultural use
23 or any combination thereof and includes the preparation of the products
24 raised on the farm use land and disposal by marketing or otherwise. It
25 includes the construction and use of dwellings and other buildings
26 customarily provided in conjunction with the farm use. To be farm use
27 land, the owner must be actively engaged in farming the land, and
28 derive at least one-fourth of his yearly gross income from the farm use
29 land. The provisions of this section shall not apply to land which

1 the owner has granted, and has outstanding, a lease or option to buy
2 the surface rights.

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

10 Sec. 29.53.050. TAX LIMITATION. Municipalities may levy property
11 taxes to pay or secure the payment of principal and interest on
12 general obligation bonds without limitation as to rate or amount. They
13 may not levy property taxes for other purposes in excess of three
14 per cent of the assessed property valuation including the combined
15 levy of borough and city taxes within a city.

16 Sec. 29.53.060. FULL AND TRUE VALUE. (a) The assessor of a
17 municipality shall assess property at its full and true value as of
18 January 1 of the assessment year, except as provided in this section
19 and secs. 30, 35 and 160 of this chapter. The full and true value
20 is the amount which the property would bring on an open market in a
21 sale on normal payment terms between a willing seller and a willing
22 buyer both conversant with the property and with prevailing general
23 price levels.

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

28 Sec. 29.53.070. RETURNS. (a) The assembly may require every
29 person having ownership or control of or an interest in property to

1 submit a return in the form prescribed by the assessor, based on
2 property values existing on January 1, except as otherwise provided in
3 this chapter.

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

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

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

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

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

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

29 (1) a description of all taxable property;

1 (2) the assessed value of all taxable property;

2 (3) the names and addresses of persons with property subject
3 to assessment and taxation.

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

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

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

27 Sec. 29.53.120. CORRECTIONS. (a) A person receiving an assess-
28 ment notice shall advise the assessor of errors or omissions in the
29 assessment of his property. The assessor may correct errors or omissions

1 in the roll before the board of equalization hearing.

2 (b) If errors found in the preparation of the assessment roll are
3 adjusted, the assessor shall mail a corrected notice allowing 30 days
4 for appeal to the board.

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

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

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

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

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

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

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

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

1 (c) The only grounds for adjustment is proof of unequal, exces-
2 sive or improper valuation based on facts stated in a valid written
3 appeal timely filed or proved at the hearing.

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

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

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

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

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

18 (b) A reassessment may be made by the assessor only upon the
19 receipt of a sworn statement of the taxpayer that his losses exceed
20 \$1,000. A reduction of taxes may be made only on losses in excess of
21 \$1,000 for the remainder of the year following the disaster. Upon
22 reassessment, the borough shall recompute this tax and refund taxes
23 which have already been paid.

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

1 (d) In enacting an ordinance or resolution authorized by this
2 section, the assembly may, consistent with this section, prescribe
3 procedures, restrictions and conditions of assessing or reassessing
4 property and of remitting, refunding or forgiving taxes.

5 (e) In this section "disaster" means a major disaster declared
6 by the President of the United States under the provisions of the
7 Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-
8 1855g, or other federal law.

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

14 (b) The assembly shall annually determine the rate of levy before
15 June 15. By July 1 the tax collector shall mail tax statements
16 setting out the levy, dates when taxes are payable and delinquent, and
17 penalties and interest.

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

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

29 (2) a penalty not to exceed eight per cent shall be added

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

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

10 ARTICLE 2. ENFORCEMENT OF TAX LIENS.

11 Sec. 29.53.200. VALIDITY. Certified assessment and tax rolls are
12 valid and binding on all persons, notwithstanding any defect, error,
13 omission or invalidity in the assessment rolls or proceedings pertain-
14 ing to the assessment roll.

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

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

22 Sec. 29.53.220. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY
23 DISTRAINT AND SALE. The lien of personal property taxes may be en-
24 forced by distraint and sale of the property. The assembly shall
25 provide the procedure for distraint and sale by ordinance. No seizure,
26 levy or distraint is legal unless demand is first made of the person
27 assessed for the amount of the tax, penalty and interest, and no sale
28 is valid unless made at public auction after 15 days notice given by
29 posting or publication. The seizure is made by virtue of a warrant

1 issued by the borough clerk to a peace officer. If the property sold
2 is not sufficient to satisfy the tax, penalty, interest, and costs of
3 sale, the warrant may authorize the seizure of other personal property
4 sufficient to satisfy the tax, penalty, interest and costs of sale.

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

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

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

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

18 (2) publish the foreclosure list for four consecutive weeks
19 in a newspaper of general circulation distributed within the borough
20 or, if there is no newspaper of general circulation distributed within
21 the borough, post the list at three public places for at least 30 days;

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

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

29 (1) the last known owner;

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

3 (3) years and amounts of delinquency;

4 (4) penalty and interest due;

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

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

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

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

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

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

27 Sec. 29.53.280. ANSWER AND OBJECTION. A person having an interest
28 in a tract on the foreclosure list may file an answer within 30 days
29 of the date of last publication, specifying his objection. The court

1 shall make its decision in summary proceedings. The foreclosure list
2 is prima facie evidence that the assessment and levy of the tax is
3 valid and that the tax is unpaid.

4 Sec. 29.53.290. JUDGMENT. The court shall in a proper case give
5 judgment and decree that the tax liens be foreclosed. It is a several
6 judgment against and a lien on each parcel.

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

14 (b) The court clerk shall deliver a certified copy of the judg-
15 ment and decree to the borough clerk. The certified judgment and
16 decree constitutes a transfer to the borough.

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

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

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

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

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

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

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

23 Sec. 29.53.350. EXPIRATION. Not earlier than 30 days before the
24 expiration of the redemption period the clerk shall publish a redemption
25 period expiration notice. The notice shall contain the date of judg-
26 ment, the date of expiration of the period of redemption and a warning
27 to the effect that all properties ordered sold under the judgment,
28 unless redeemed, shall be deeded to the borough or city immediately
29 on expiration of the period of redemption and that every right or

1 interest of any person in the properties will be forfeited forever to
2 the borough or city. The notice is published once a week for four
3 consecutive weeks in a newspaper of general circulation distributed
4 within the borough. If there is no newspaper of general circulation
5 distributed within the borough, the notice is posted in three public
6 places for at least four consecutive weeks. The clerk shall send a
7 copy of the published notice by certified mail to each record owner
8 of property against whom a judgment of foreclosure has been taken.
9 The notice shall be mailed within five days of the first publication.
10 The mailing shall be sufficient if mailed to the property owner at the
11 last address of record. The right of redemption shall expire 30 days
12 after the date of the first publication notice.

13 Sec. 29.53.360. DEED TO BOROUGH OR CITY. (a) Unredeemed properties
14 in the area of the borough outside cities are deeded to the borough
15 by the clerk of the court. Unredeemed properties within a city are
16 deeded to the city subject to the payment by the city of unpaid borough
17 taxes and costs of foreclosure levied against the property before fore-
18 closure. The deeds shall be recorded in the recording district in
19 which the property is located.

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

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

29 (d) No deed is invalid for irregularities, omissions or defects,

1 unless the former owner has been misled to his injury. After two
2 years from the date of the deed its validity is conclusively presumed
3 and any claim of the former owner is forever barred.

4 Sec. 29.53.370. SALE OF FORECLOSED PROPERTIES. Tax-foreclosed
5 properties conveyed to a borough or city by tax foreclosure may be
6 sold. Before the sale of any property held for a public purpose, the
7 assembly or council by ordinance shall determine that the public need
8 no longer exists.

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

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

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

27 Sec. 29.53.385. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a
28 city or borough holds or takes title to tax-foreclosed property for a
29 public purpose, the city or borough shall satisfy unpaid taxes and

1 assessments against the property held by other municipalities, with
2 accrued interest but without penalty. If the amount required to satis-
3 fy the unpaid taxes and assessments exceeds the assessed valuation of
4 the property, the city or borough shall pay the other municipalities
5 the assessed valuation, which shall be divided between the other muni-
6 cipalities in proportion to their respective taxes and assessments
7 against the property at the time of foreclosure.

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

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

19 ARTICLE 3. CITY PROPERTY TAX.

20 Sec. 29.53.400. POWER OF LEVY. Home rule and first class cities
21 within boroughs may levy a general property tax. A property tax, if
22 levied, is subject to secs. 50 and 310 - 350 of this chapter. The
23 council shall by June 15 of each year present to the borough assembly
24 a statement of the city's rate of levy, unless a different date is
25 agreed upon by the borough and city.

26 Sec. 29.53.405. DIFFERENTIAL TAX ZONES. Cities may by ordinance
27 establish, alter and abolish differential tax zones to provide and levy
28 property taxes for services not provided generally within the city or
29 a different level of service than that provided generally within the

1 city.

2 ARTICLE 4. BOROUGH SALES AND USE TAXES.

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

7 (b) A borough levying a sales tax may also by ordinance levy a
8 use tax on the storage, use or consumption of tangible personal
9 property within the borough. The use tax rate must equal the sales
10 tax rate and the use tax shall be levied only upon buyers.

11 (c) A person who furnishes proof, in the form required by the
12 borough tax collector, that he has paid a sales tax on the source on
13 which a use tax is levied by the borough is required to pay the use
14 tax only to the extent of the difference between the amount of the
15 sales tax paid and the amount of the use tax levied by the borough.
16 This subsection applies to a sales tax levied in any taxing jurisdiction
17 whether in or outside the state.

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

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

26 ARTICLE 5. CITY SALES AND USE TAXES.

27 Sec. 29.53.440. POWER OF LEVY. Cities within a borough which
28 levies and collects sales or use taxes for areawide borough functions
29 may levy sales or use taxes upon all sources taxed by the borough in

1 the manner provided for boroughs.

2 Sec. 29.53.450. POWER OF LEVY AND COLLECTION. Cities within a
3 borough which does not levy and collect sales or use taxes for areawide
4 borough functions may levy and collect sales or use taxes in the manner
5 provided for boroughs.

6 Sec. 29.53.460. COMBINING SALES TAX WITH INCORPORATION. A peti-
7 tion for second class city incorporation may request that a sales tax
8 proposal be placed on the same ballot. The petition must state the
9 proposed tax rate. The petition may request that incorporation be
10 dependent upon the passage of the sales tax proposition. If so, the
11 incorporation proposition fails if the sales tax fails.

12 CHAPTER 58. MUNICIPAL DEBT.

13 ARTICLE 1. TAX ANTICIPATION NOTES.

14 Sec. 29.58.010. TAX ANTICIPATION NOTES. A municipality may
15 borrow money in the form of negotiable or nonnegotiable notes to meet
16 the appropriations for a fiscal year in anticipation of the collection
17 of taxes and revenues for that year. The aggregate principal amount
18 borrowed may not at any time exceed 50 per cent of the appropriations
19 for the fiscal year.

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

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

29 Sec. 29.58.040. SALE OF NOTES. The municipality may sell tax

1 anticipation notes in the manner and at the price it determines, at
2 either public or private sale.

3 ARTICLE 2. BOND ANTICIPATION NOTES.

4 Sec. 29.58.060. BOND ANTICIPATION BORROWING. A municipality may
5 borrow money in anticipation of the sale of general obligation and
6 revenue bonds if

7 (1) the general obligation bonds to be sold have been
8 authorized by the assembly or council and ratified by a majority vote
9 at a regular or special election;

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

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

19 Sec. 29.58.080. ISSUANCE OF NEW NOTES. If the sale of the bonds
20 has not occurred before the maturity of the notes issued in anticipation
21 of the sale, the assembly or council shall issue new notes in order
22 to meet payment of the notes then maturing or shall renew the outstand-
23 ing bond anticipation notes. New notes issued or renewals of out-
24 standing bond anticipation notes shall bear a maturity date not to
25 exceed one year from the date of issue. Notes, new notes, and renewals
26 of notes shall not be outstanding for a total elapsed time of more than
27 three years.

28 Sec. 29.58.090. REPAYMENT OF NOTES. Every note is payable from
29 the proceeds of the sale of bonds which the notes anticipated or from

1 the proceeds of the sale of new bond anticipation notes.

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

8 (b) Notes issued in anticipation of the sale of revenue bonds
9 and the interest on them are secured in the same manner as are the
10 revenue bonds in anticipation of which the notes are issued.

11 Sec. 29.58.110. LIMITATION. The total amount of notes issued
12 and outstanding shall at no time exceed the total amount of bonds
13 authorized to be issued.

14 Sec. 29.58.120. USE OF PROCEEDS. The proceeds from the sale of
15 notes shall be used only for the purposes for which the proceeds from
16 the sale of bonds may be used or to meet payment of outstanding bond
17 anticipation notes.

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

22 ARTICLE 3. GENERAL OBLIGATION BONDS.

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

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

27 (a) A municipality may incur general obligation bond debt only after
28 a bond authorization ordinance is approved by a majority of those voting
29 on the question at a regular or special election. Any municipal voter

1 may vote in the bond election, except as otherwise provided by charter
2 or law.

3 (b) Before a general obligation bond issue election, the assembly
4 or council shall have published a notice of the municipality's total
5 existing bond indebtedness at least once a week for three consecutive
6 weeks. The first notice shall be published at least 20 days before
7 the date of the election. A notice shall include

8 (1) the current total general obligation bonded indebtedness,
9 including authorized by unsold bonds of the municipality;

10 (2) the cost of the debt service on the current indebtedness;

11 (3) the total assessed valuation within the municipality.

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

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

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

28 ARTICLE 4. REVENUE BONDS.

29 Sec. 29.58.200. REVENUE BONDS. A municipality may acquire,

1 construct, improve and equip capital improvements to be operated upon
2 a revenue-producing basis, and bonds for these purposes are payable
3 solely from unpledged revenue of the public facilities for which the
4 bonds are issued.

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

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

15 Sec. 29.58.220. PAYMENT. Bonds issued under secs. 200 - 220 of
16 this chapter or the proceedings of the assembly or council authorizing
17 their issuance may contain the covenants which the assembly or council
18 considers advisable concerning

19 (1) the rates or fees to be charged for services rendered
20 by the public facilities, the revenue of which is pledged to the pay-
21 ment of the bonds;

22 (2) the deposit and use of the revenue of the public
23 facilities;

24 (3) the issuance of additional bonds payable from revenue
25 of the public facilities;

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

29 ARTICLE 5. REFUNDING BONDS.

1 Sec. 29.58.240. AUTHORIZATION. If a municipality has outstanding
2 general obligation or revenue bonds and the assembly or council deter-
3 mines that it would be financially advantageous to refund the bonds,
4 the assembly or council may provide by ordinance for the issuance of
5 general obligation or revenue refunding bonds.

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

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

16 Sec. 29.58.270. PAYMENT OF REFUNDING BONDS. General obligation
17 refunding bonds are payable according to sec. 180 of this chapter.
18 Revenue refunding bonds are payable according to sec. 220 of this
19 chapter.

20 Sec. 29.58.280. SALE. General obligation or revenue refunding
21 bonds may, in the discretion of the assembly or council, be exchanged
22 at par for the bonds being refunded, or may be sold at public or private
23 sale for an amount not less than par and accrued interest. They may
24 be issued and delivered at any time before the date of maturity or
25 redemption of the refunded bonds.

26 ARTICLE 6. MISCELLANEOUS PROVISIONS.

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

1 Sec. 29.58.310. INTEREST RATE. No municipal bond or note may
2 bear an interest rate exceeding the contract usury rate of interest
3 provided by law.

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

7 Sec. 29.58.340. BOROUGH INDEBTEDNESS. (a) Boroughs may incur
8 indebtedness

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

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

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

17 (b) If the bonded debt to be incurred by a borough is an areawide
18 debt, the vote is areawide; if the full faith and credit of the entire
19 borough is pledged for the payment of the debt of the area outside
20 cities or of a service area, an areawide election is held and the
21 proposition must pass both areawide and in the area which will benefit
22 from the improvement; if the bonded indebtedness to be incurred is
23 limited to areas outside cities only or to service areas, the vote is
24 limited to voters in those areas.

25 Sec. 29.58.350. INTENT. Nothing in this title authorizes the
26 council of a second class city to levy ad valorem taxes unless such
27 a levy is necessary to avoid a default upon payment of principal and
28 interest of bonded or other indebtedness which is secured by a pledge
29 to levy ad valorem or other taxes without limit to meet debt payments.

1 In that case, assessment, levy and collection shall be made in the
2 manner of a first class city within or outside a borough, as the case
3 may be.

4 CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS.

5 ARTICLE 1. SPECIAL ASSESSMENTS.

6 Sec. 29.63.010. ASSESSMENT AND PROPOSAL. The assembly or council
7 may assess against the property of a governmental unit and private
8 real property benefited all or a portion of the cost of constructing
9 or improving capital improvements. The state shall pay an assessment
10 levied, except as otherwise provided by law and subject to its right
11 of protest under sec. 15(8) of this chapter. If a governmental unit
12 other than the state benefited by an assessment refuses to pay the
13 assessment, it shall be denied the benefit of the improvement. An
14 improvement proposal may be initiated by

- 15 (1) petition to the assembly or council of the owners of
16 one-half in value of the property to be benefited or
17 (2) the assembly or council.

18 Sec. 29.63.015. PROCEDURE. (a) The assembly or council may
19 prescribe by ordinance the complete special assessment procedure for
20 local improvements, including and subect to the following:

- 21 (1) the procedure for filing petitions;
22 (2) a survey and report by the borough or city executive
23 concerning the need for, desirable extent of, and estimated cost of
24 each proposed local improvement;
25 (3) a public hearing on the necessity for the local improve-
26 ment;
27 (4) a resolution of the assembly or council determining to
28 proceed or not to proceed with the proposed local improvement;
29 (5) a public hearing by the assembly or council on the

1 special assessment roll for the local improvement;

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

5 (7) a resolution confirming the special assessment roll for
6 the local improvement;

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

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

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

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

28 (c) The assembly or council shall set a time for public hearing
29 on the improvement plan. The assembly or council shall publish a

1 notice at least once a week for four consecutive weeks in a newspaper
2 of general circulation if distributed within the municipality and shall
3 send notice by mail to every record owner of property within the
4 special assessment district.

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

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

15 (b) If objections are made by the owners of property bearing
16 one-half of the estimated cost of the improvement, the assembly or
17 council may not proceed with the improvement unless it revises the
18 plan to meet the objections and the objections are reduced to less than
19 50 per cent. A revised plan shall be approved and adopted as an ori-
20 ginal plan.

21 Sec. 29.63.040. ASSESSMENT ROLL. (a) At any time after project
22 approval, the assembly or council shall assess the authorized percentage
23 of the cost against tracts in proportion to benefit received. Assess-
24 ments may not exceed actual costs.

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

27 (c) The assembly or council shall fix a time to hear objections
28 to the roll. The municipal clerk shall send an assessment and hearing
29 notice by mail to each record owner of an assessed tract not less than

1 15 days before the hearing.

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

5 Sec. 29.63.060. PAYMENT. (a) The assembly or council shall fix
6 times of payment, rate of interest on unpaid installments, and delin-
7 quency of assessments. Payment may not be required sooner than 60 days
8 after assessment. Payment may be in one sum or by installments, but
9 a sum or installment may not exceed 25 per cent of the assessed value
10 of the property affected. Penalty and interest are the same as for
11 real property taxes.

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

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

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

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

25 (b) Notice and hearing must conform to the initial assessment
26 procedures.

27 (c) Payments on the initial assessment are credited to the
28 property upon reassessment.

29 (d) The reassessment becomes a charge upon the property

1 notwithstanding failure to comply with any provision of the assessment
2 procedure.

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

7 (b) The decision of the assembly or council upon an objection may
8 be appealed to the superior court within 30 days of the date of con-
9 firmation of the assessment roll.

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

13 Sec. 29.63.085. SPECIAL ASSESSMENT BONDS. The assembly or
14 council may by ordinance authorize the issuance and sale of special
15 assessment bonds to pay all or part of the cost of an improvement in
16 a special assessment district. The principal and interest of bonds
17 issued shall be payable solely from the levy of special assessments
18 against the property to be benefited. The assessments shall constitute
19 a sinking fund for the payment of principal and interest on the bonds.
20 The property benefited may be pledged by the assembly or council to
21 secure a payment.

22 (b) Upon default in a payment due on a special assessment bond,
23 a bondholder may enforce payment of principal and interest and costs
24 of collection in a civil action in the same manner and with the same
25 effect as actions for the foreclosure of mortgages on real property.
26 Foreclosure shall be against all property on which assessments are in
27 default. The period for redemption shall be the same as in the case
28 of a mortgage foreclosure on real property.

29 (c) Before the assembly or council may issue special assessment

1 bonds, it shall establish a guarantee fund and appropriate to the fund
2 annually a sum adequate to cover any deficiency in meeting payments
3 of principal and interest of bonds issued by reason of nonpayment of
4 assessments when due. Money received from actions taken against
5 property for nonpayment of assessments shall be credited to the
6 guarantee fund. Interest on the guarantee funds shall be a cost of
7 the improvement district.

8 ARTICLE 2. SERVICE AREAS.

9 Sec. 29.63.090. SERVICE AREAS. (a) Service areas to provide
10 special services within a borough may be established, operated,
11 altered or abolished by the assembly by ordinance. Special services
12 include services not provided on an areawide basis within the borough
13 or the borough area outside cities or a higher or different level of
14 service than that provided on an areawide basis or in the borough area
15 outside cities. In a first class borough the assembly may exercise
16 within a service area any power granted a first class city by general
17 law; in a second class borough an exercise of the powers must be
18 approved by a majority of the qualified voters residing within the
19 service area and voting on the question.

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

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

25 (d) A new service area may not be established if, consistent
26 with the purposes of art. X of the constitution, the new service can
27 be provided by an existing service area, by annexation to a city, or
28 by incorporation as a city.

29 (e) The assembly may exercise or delegate to a service area any

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

6 CHAPTER 68. ALTERATION OF BOUNDARIES.

7 ARTICLE 1. ANNEXATION AND EXCLUSION.

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

15 (b) In addition to the regulations governing annexation by local
16 action adopted under AS 44.19.260, the Local Boundary Commission shall,
17 within 90 days of the effective date of this Act, establish procedures
18 for annexation and exclusion of territory by cities and boroughs by
19 local action. The procedures established under this subsection shall
20 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
4 general 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
13 number 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, subject to sec. 410 of
11 this chapter;

12 (2) provision for the establishment of

13 (A) service areas;

14 (B) sections, if desired; and

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

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

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

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

24 (6) a method of amending the charter;

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

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

29 (9) other charter provisions which the charter commission

1 elects to include and which may be included in a home rule charter
2 under this chapter and the state constitution.

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

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

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

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

1 the entire borough population of the existence of the proposed charter.

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

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

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

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

24 (d) If a proposed charter is rejected, the charter commission
25 shall prepare, adopt and submit a proposed charter to the voters at a
26 general or special borough election called by the borough and held
27 within one year of the date of the first charter election. If the
28 second proposed charter is also rejected, the charter commission shall
29 be dissolved and the question of unification shall be treated as if it

1 had never been proposed or approved.

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

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

10 Sec. 29.68.410. ASSETS AND LIABILITIES. A municipality created
11 by unification shall succeed to all the assets and liabilities of the
12 local governments it unified. A bonded indebtedness or other debt
13 incurred before unification shall remain the tax obligation of the area
14 which contracted the debt, except that the tax obligation may be spread
15 over a larger area by ordinance if the governing body determines that
16 the asset for which the bonded indebtedness or other debt was incurred
17 was used for the benefit of the larger area before unification, or is
18 so used after unification. However, pre-unification bonded indebtedness
19 or other debt for sewage collection systems, water distribution systems,
20 and streets, even if determined to be used for the benefit of a larger
21 area than that which incurred the debt, shall remain the tax obligation
22 of the area which incurred the debt.

23 Sec. 29.68.420. ORDINANCES. Within two years after ratification
24 of the charter, the governing body of the unified municipality shall
25 revise, repeal, or reaffirm all borough and city ordinances, resolutions
26 and orders in force within the borough at the time of unification.

27 Each ordinance, resolution, regulation, or order in force at the time
28 of unification shall remain in force until superseded by action of the
29 new governing body.

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

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

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

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

10 ARTICLE 4. DISSOLUTION.

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

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

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

18 (b) A home rule or general law borough is dissolved when its
19 entire territory is included within a home rule or first class city or
20 cities. A city is dissolved when all its powers become areawide
21 borough powers.

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

28 Sec. 29.68.510. PETITION. (a) Municipal residents may file a
29 dissolution petition with the Local Affairs Agency in the form

1 prescribed by the agency. The petition must be signed by a number of
2 municipal voters equal to at least 25 per cent of the number of votes
3 cast in the last regular municipal election.

4 (b) The petition includes

5 (1) the name of the municipality;

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

8 Sec. 29.68.520. STANDARDS. (a) Except as provided in (b) of
9 this section, a municipality may petition for dissolution when

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

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

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

19 Sec. 29.68.530. REVIEW. The Local Affairs Agency shall review
20 a petition for content and signatures and shall return a deficient
21 petition for correction or completion.

22 Sec. 29.68.540. INVESTIGATION. If the petition contains the
23 required information and signatures, the Local Affairs Agency shall
24 investigate the proposal.

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

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

1 Sec. 29.68.560. DECISION. If the Local Boundary Commission deter-
2 mines that the municipality fails to meet the standards for dissolution,
3 it shall reject the petition. If the commission determines that the
4 municipality meets the standards, it shall accept the petition.

5 Sec. 29.68.570. ELECTION. (a) The Local Boundary Commission
6 shall immediately notify the lieutenant governor of its acceptance of
7 a dissolution petition. Within 30 days after notification, the
8 lieutenant governor shall order an election within the municipality to
9 determine whether the voters desire dissolution. The election is at
10 least 30 and not more than 90 days after the election order.

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

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

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

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

22 CHAPTER 73. MISCELLANEOUS PROVISIONS.

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

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

29 Sec. 29.73.040. TAXATION OF MUNICIPALITIES. No state law or

1 regulation may assess or tax, or be construed to assess or tax, home
2 rule or general law cities or boroughs of this state, unless the law
3 or regulation expressly provides that the cities or boroughs are to
4 be assessed or taxed by the particular law or regulation.

5 Sec. 29.73.050. CHANGE OF MUNICIPAL NAME. (a) The governing
6 body of a home rule or general law municipality may change the official
7 municipal name by adopting an ordinance for the purpose and filing
8 the ordinance with the office of the lieutenant governor. Upon receipt
9 of a legally adopted ordinance ratified by the qualified voters voting
10 on the question at a regular or special election, the lieutenant gover-
11 nor shall issue an appropriate order to the municipality changing its
12 existing name. The name change shall become effective on a date fixed
13 in the order and occurring within 45 days of receipt of the ordinance.
14 A copy of the order shall be transmitted to the Local Affairs Agency.

15 (b) If an ordinance adopted under (a) of this section which
16 results in an order changing the municipal name is subsequently repealed,
17 the lieutenant governor shall issue a further order reinstating the
18 former municipal name within 45 days of the date of the order, unless
19 a different municipal name is adopted by ordinance transmitted to the
20 lieutenant governor for implementation as provided in (a) of this
21 section.

22 (c) When a municipal name change takes effect by means of an
23 order issued under (a) or (b) of this section, civil or criminal suits,
24 applications, pctitions, hearings and other proceedings to which the
25 municipality is a party and pending at or brought after the date the
26 name change takes effect shall proceed in the name of the municipality
27 as changed by the order.

28 CHAPTER 78. GENERAL PROVISIONS.

29 Sec. 29.78.010. DEFINITIONS. In this title, unless otherwise

1 provided or the context otherwise requires,

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

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

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

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

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

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

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

14 (8) "municipality" means a general law municipal corporation,
15 which is a first or second class borough or city, or a third class
16 borough, incorporated under the laws of the state;

17 (9) "owner", "record owner", or "owner of record" means
18 owner of record or purchaser of record;

19 (10) "published" means appearing at least once in a newspaper
20 of general circulation distributed within the municipality or, if there
21 is no newspaper of general circulation distributed within the munici-
22 pality, posting in three public places for at least five days;

23 (11) "regular election" means the municipal election held
24 on the Tuesday following the first Monday in November of even-numbered
25 years, or at an interval of years provided by ordinance;

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

28 (13) "subdivision" means the division of a tract or parcel
29 of land into two or more lots, sites, or other divisions for the

1 purpose, whether immediate or future, of sale or building development,
2 includes resubdivision, and, when appropriate to the context, relates to
3 the process of subdividing or to the land or area subdivided;

4 (14) "voter" means a United States citizen who has been a
5 resident of Alaska for one year and of the municipality for 30 days
6 immediately preceding the election and who is registered to vote in
7 state elections or meets registration requirements of the municipality
8 if any and is not disqualified under art. V of the state constitution.

9 * Sec. 3. A right or liability of a home rule or general law city or
10 borough existing on the effective date of this Act is not affected by the
11 enactment of this title. All existing ordinances remain in force and effect
12 for a period of 90 days from the effective date of this Act, unless earlier
13 superseded, in order to permit amendment of the ordinances to comply with
14 the provisions of this title. The terms of elected local officials within
15 home rule and general law cities and organized boroughs who are incumbents
16 in office on the effective date of this Act are not affected by this Act.
17 Their terms expire as provided before the enactment of this title. Their
18 successors are elected on the date provided before the enactment of this
19 title and serve for terms to conform with the provisions of this title.

20 * Sec. 4. AS 14.12.050 is amended to read:

21 Sec. 14.12.050. SCHOOL BOARD TERMS. (a) The term of office of
22 a member of a borough or city school board is two [THREE] years, unless
23 different terms not to exceed three years are provided by ordinance,
24 and until a successor takes office. However, if three-year terms are
25 provided, the members of a newly created five-man school board hold
26 office for initial terms as follows: two for a term of three years,
27 two for a term of two years and one for a term of one year, the terms
28 being assigned to the members by lot. If three-year terms are provided,
29 the [THE] members of a newly created seven-man school board hold

1 office for initial terms as follows: three for a term of three years,
2 two for a term of two years and two for a term of one year, the terms
3 being assigned to the members by lot.

4 (b) When a transition is made from a five-man school board to
5 a seven-man school board new members shall be elected as follows, if
6 three-year terms are provided: at the first regular school election
7 after the district becomes eligible for a seven-man school board there
8 shall be elected, in addition to the successor or successors to be
9 elected for a regular term, a new member for an initial term of two
10 years and until a successor takes office, and a new member for an
11 initial term of three years and until a successor takes office.

12 (c) Nothing in this section prevents a school board member from
13 succeeding himself.

14 * Sec. 5. AS 38.05 is amended by adding a new section to read:

15 Sec. 38.05.037. ZONING REGULATIONS IN THE UNORGANIZED BOROUGH
16 TO FACILITATE FEDERAL LAND SALES. (a) In areas of the unorganized
17 borough where there is no political subdivision of the state with a
18 zoning power, the division of lands shall exercise the zoning power by
19 adopting zoning regulations.

20 (b) The division of lands shall exercise its zoning power within
21 federal lands in the unorganized borough only at the times and in the
22 areas it is requested to do so by the Secretary of the Interior to
23 facilitate sales of federal lands within the unorganized borough under
24 Public Law 88-608, 78 Stat. 988.

25 (c) Any zoning done by the division of lands under (b) of this
26 section is final unless disapproved by concurrent resolution at the
27 next regular session of the legislature.
28
29