

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

737 SCOM123: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

The determination of the assessor is appealable under AS 44.62.560 - 44.62.570. The state shall reimburse a borough or city for the real property tax revenues lost to it by the operation of (a)(7) of this section. However, reimbursement will be made only to the extent that revenue lost exceeds an exemption which was granted by the borough or city or which, upon application, would have been granted under AS 29.53.025(a).

(f) The exemption granted by (a)(8) of this section is limited to:

(1) an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure based on the assessment as of January 1st of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

Donna
SUGGESTED DRAFTING CHANGES TO TITLE 29 - Cook, 17 Sep 80

Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property is exempt from ^{the property} ~~general~~ taxation:

(1) municipal, state, or federal property, except that a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(2) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes including the following property owned by a religious organization:

INSENT → (A) a structure, its fixtures and furniture used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

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

(C) a lot supporting and adjacent to a structure set out in (A) or (B) of this paragraph which is necessary to use of the structure;

(D) a lot required by ordinance for parking near a structure set in (A) of this paragraph;

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

(4) household furniture of the head of a family or householder not exceeding \$500 in value;

(5) money on deposit;

(6) inventories located within a foreign trade zone established under AS 45.77.010, before those inventories are cleared by the United States Customs Service and admitted into domestic commerce.

(7) ~~subject to (e) of this section,~~ ^{3, 11} real property owned and occupied as a permanent place of abode by a resident 65 years of age or older, including a mobile home whether classified as real or personal property for municipal tax purposes;

~~Suggested text changes - Book 17, 20, 21~~

(8) subject to (f) of this section, a structure containing a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure.

(b) Property described in (a) of this section from which income is derived is exempt only if that income is solely from use of the property by ^a nonprofit religious, charitable, hospital, or educational group~~s~~ for classroom space.

(c) Property exempted from execution under the Code of Civil Procedure (AS 09) is not exempt from ^{municipal} taxes levied and collected by municipalities.

(d) An exemption may not be granted except upon written application on a form prescribed by the state assessor for use by local assessors. A claimant must file the application no later than January 15 of the assessment year for which the exemption is sought, but during that year the governing body of the municipality for good cause may waive the claimant's failure to make timely application for the exemption and authorize the assessor to accept the application. If an application is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. If failure to file by January 15 of the assessment year is waived and the application is approved, the amount of tax which a claimant may have already paid for the assessment year for property exempted shall be refunded. The assessor may require proof at any time of the right to and amount of an exemption claimed. A claimant must file a separate application for each assessment year in which an exemption is sought.

(e) Real property which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption under (a)(7) of this section may not be exempted. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570. The state shall reimburse a borough or city for the

real property tax revenues lost to it by the operation of (a)(7) of this section. However, ~~the~~^a reimbursement will be made only to the extent that revenue lost exceeds an exemption which was granted by the borough or city or which, upon application, would have been granted under AS 29.53.025(a).

(f) The exemption granted by (a)(8) of this section is limited to:

(1) an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

Note: Suggested amendments to the

1) Amend the following language in (a):

"for classroom space."

to not allow any exemption for empty rooms which are not used for classroom space. Reasoning: if the prior intent was to allow exemption for empty rooms, it is decided if the income reports from nonprofit groups to encourage people to use the space for groups, who must be able to make it at the property but the groups to classroom space only?

I am

- ① I'm not sure how much you can change present law -

but I substituted "property tax" for "general taxation" at beginning of this section - to tie back to AS 29.53.010. I do not feel too strongly about this.

②

~~29.53.020(b) as a slightly copy from present law. But it doesn't make sense. It reads as,~~

- ② Do you read (b) as applying only to Classroom space? I do.

I like
your
reorganizing.

I don't think you need the intro to (7). But I don't feel strongly about this. It's simply a matter of opinion.

Don
9/23

Tam -

on p. 1, lines 23-24

"to convenient use" - I'm
not sure what that means

In (e), I deleted
the paragraphs because
they didn't refer back
to a lead-in of some
kind. (1) ~~They~~ ^{seemed} more
like subsections but
then (3) didn't fit.

Please review the attached
draft of your bill and
return it to the revisor's
basket. Remember to indi-
cate the date of return
either in the status book
or on the CS card, as
appropriate.

Due Monday

12-0065

Cook

9/17/80

Prosed

1 IN THE HOUSE

BY MILLER

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to property exempted from taxation."

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

8 * Section 1. AS 29.53.020 is repealed and re-enacted to read:

9 Sec. 29.53.020. REQUIRED EXEMPTIONS. (a) The following property
10 is exempt ~~or partly exempt~~ from general taxation:11 (1) municipal, state, or federal property, except that a
12 private leasehold, contract, or other interest in the property is tax-
13 able to the extent of the interest;14 (2) property used exclusively for nonprofit religious, chari-
15 table, cemetery, hospital, or educational purposes including the follow-
16 ing property owned by a religious organization:17 (A) a structure, its fixtures and furniture used solely
18 for public worship, charitable purposes, religious administrative
19 offices, religious education, or a nonprofit hospital;20 (B) the residence of a bishop, pastor, priest, rabbi,
21 minister or religious order of a recognized religious organization;22 (C) a lot supporting and adjacent to a structure set out
23 in (A) or (B) of this paragraph which is necessary to convenient
24 use;25 (D) a lot required by ordinance for parking near a
26 structure set out in (A) of this paragraph;27 (3) property of a nonbusiness organization composed entirely
28 of persons with 90 days or more of active service in the armed forces of
29 the United States whose conditions of service and separation were other

1 than dishonorable, or the property of the auxiliary of the organization;

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

4 (5) money on deposit;

5 (6) real property owned and occupied as a permanent place of
6 abode under (e) of this section;

7 (7) a structure containing a fire protection system under (f)
8 of this section;

9 (8) inventories located within a foreign trade zone estab-
10 lished under AS 45.77.010, before those inventories are cleared by the
11 United States Customs Service and admitted into domestic commerce.

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

16 (c) Property exempted from execution under the Code of Civil
17 Procedure (AS 09) is not exempt from taxes levied and collected by
18 municipalities.

19 (d) An exemption may not be granted except upon written appli-
20 cation on a form prescribed by the state assessor for use by local
21 assessors. A claimant must file the application no later than
22 January 15 of the assessment year for which the exemption is sought, but
23 during that year the governing body of the municipality for good cause
24 may waive the claimant's failure to make timely application for the
25 exemption and authorize the assessor to accept the application. If an
26 application is approved by the assessor, he shall allow an exemption in
27 accordance with the provisions of this section. If failure to file by
28 January 15 of the assessment year is waived and the application is
29 approved, the amount of tax which a claimant may have already paid for

1 the assessment year for property exempted shall be refunded. The
2 assessor may require proof at any time of the right to and amount of an
3 exemption claimed. A claimant must file a separate application for each
4 assessment year in which an exemption is sought.

5 (e) ~~The real property owned and occupied as a permanent place of~~
6 ~~abode by a resident is exempt from taxation of the assessed value of the~~
7 ~~property. Real property which the assessor determines, after notice and~~
8 ~~hearing to the parties concerned, has been conveyed to the applicant~~
9 ~~primarily for the purpose of obtaining the exemption may not be exempted,~~
10 ~~under this subsection.~~ The determination of the assessor is appealable
11 under AS 44.62.560 - 44.62.570. The state shall reimburse a borough or
12 city for the real property tax revenues lost to it by the operation of
13 ~~this subsection.~~ However, the reimbursement will be made only to the
14 extent that revenue lost exceeds an exemption which was granted by the
15 borough or city¹ or which, upon application, would have been granted
16 under AS 29.53.025(a). In ~~this subsection,~~ "real property" includes a
17 mobile home, whether classified as real or personal property for municipi-
18 pal tax purposes.

19 (f) Two percent of the assessed value of a structure is exempt
20 from taxation if the structure contains a fire protection system
21 approved under AS 18.70.081, in operating condition, and incorporated as
22 a fixture or part of the structure. The exemption granted by this
23 subsection is limited to

24 (1) an amount equal to two percent of the value of the struc-
25 ture based on the assessment for 1981, if the fire protection system is
26 a fixture of the structure on January 1, 1981; or

27 (2) an amount equal to two percent of the value of the struc-
28 ture based on the assessment as of January 1 of the year immediately
29 following the installation of the fire protection system if the fire

1 protection system becomes a fixture of the structure after January 1,
2 1981.
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Original sponsor:

((must be on all CS's)))

Funding Information (((appropriation bills only)))

General Fund \$

Other Funds

BY MILLER

\$

HOUSE

IN THE

SENATE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH

FIRST

ELEVENTH LEGISLATURE - ~~SECOND~~ SESSION

A BILL

For an Act entitled: "An Act relating to property exempted from taxation.

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

* Section 1. AS 29.53.020 is repealed and reenacted to read:

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

(1) municipal, state or federal property, except that a private leasehold, contract or other interest in the property ~~shall~~ ^{is} be taxable to the extent of the interest;

(2) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes including the following property owned by a religious organization;

(A) a structure, its fixtures and furniture used solely for public worship, charitable purposes, religious administrative offices, religious education or a nonprofit hospital;

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

(C) ^{a lot} ~~real property~~ supporting and adjacent to a structure set out in (A) or (B) of this ~~sub~~paragraph which is necessary to convenient use;

(D) ^{a lot} ~~real property~~ required by ordinance for parking near a structure set out in (A) of this ~~sub~~paragraph;

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

(4) household furniture of the head of a family ^{or householders} not exceeding \$500 in value;

(5) money on deposit;

(6) real property ^{together with improvements} owned and occupied as a permanent place of abode under ^(e) (4) of this section;

(7) a structure containing a fire protection system under ^(f) (4) of this section;

(8) inventories located within ^a foreign trade zone established under AS 45.77.010, before those inventories are cleared by the United States Customs Service and admitted into domestic commerce.

(b) Property described in (a) ^(d) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups for classroom space.

(c) Property exempted from execution under the Code of Civil Procedure (AS 09) is not exempt from taxes levied and collected by municipalities.

^{INSERT #1} (d) The real property ~~together with improvements~~ owned and occupied as a permanent place of abode by a resident is exempt from taxation of the assessed value of the property. ^{not} No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560 - 44.62.570. ⁴³⁰ In this subsection ~~the~~

^{INSERT #2} ~~term~~ "real property" includes ^a mobile home, whether classified as real or personal property for municipal tax purposes.

INSERT

(b) ^{an} No exemption may ^{not} be granted except upon written application on

a form prescribed by the state assessor for use by local assessors. ~~The~~ ^A claimant must file the application no later than January 15 of the assessment year for which the exemption is sought, but during that year the governing body of the municipality for good cause ~~shown~~ may waive the claimant's failure to make timely application for the exemption and authorize the assessor ^{to} accept the application. ~~The claimant must file a separate application for each assessment year in which the exemption is sought.~~

If an application is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. ~~If a claimant whose~~

^{IF} failure to file by January 15 of the assessment year ~~has been~~ ^{is} waived and ~~the~~ application is approved, the amount of tax which ~~the~~ ^a claimant may have already paid for the assessment year for property exempted shall be refunded. The assessor may require proof at any time in the form he considers necessary of the right ^{to} and amount of an exemption claimed. ~~The~~ ^A claimant must file a separate application for each assessment year in which an exemption is sought.

^{INSERT} ~~The~~ The state shall reimburse a borough or city for the real property tax revenues lost to it by the operation ~~of~~ ^{sub} of this ^A section. However, the reimbursement will be made only to the extent that revenue lost exceeds an exemption which was granted by the borough or city, or which, upon application, would have been granted ~~by the borough or city~~ under AS 29.53.025(a)

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(f) ~~Two~~ Two percent of the assessed value of a structure is exempt from taxation if the structure contains a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to

(1) an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

Article 1. Municipal Property Tax.

Sec. 29.53.010. General property tax. Home rule and general law boroughs may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. A property tax if levied must be assessed, levied and collected on real and personal property as provided in this chapter. (§ 2 ch 118 SLA 1972)

Taxation of personal property of resident located outside city. — See *Town of Fairbanks v. Independent Meat Mkt.*, 4 Alaska 147 (1910).

The North Slope Borough is a viable legal entity with powers to tax as provided to boroughs by this section. *Arco Pipe Line Co. v. North Slope Borough*, Superior Court, 4th Jud. Dist., C.A. No. 73-236 and C.A. Nos. 73-294 to 73-306 (1973).

Sec. 29.53.020. Required exemptions. (a) The following property is exempt from general taxation:

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

(2) household furniture of the head of a family or a householder not exceeding \$500 in value;

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

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

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (c) of this section.

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

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

(2) a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education or a nonprofit hospital;

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

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

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

(d) Laws exempting certain property from execution under the Code of Civil Procedure (AS 09) do not exempt the property from taxes levied and collected by municipalities.

(e) The real property owned and occupied as a permanent place of abode by a resident 65 years of age or over is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.360 — 44.62.570.

(f) No exemption may be granted except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought, but during the same year the governing body of the municipality for good cause shown may waive the claimant's failure to make timely application for the exemption for that year and authorize the assessor to accept the application as if timely filed. The claimant must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. If a claimant whose failure to file by January 15 of the assessment year has been waived as provided in this subsection and the application for exemption is approved, the amount of tax which the claimant may have already paid for the assessment year with respect to the property exempted shall be refunded to him. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section. However, reimbursement will be made to a borough or city for revenue lost to it only to the extent that the loss exceeds an exemption which was granted by the borough or city, or which upon proper application by an individual would have been granted by the borough or city, under § 25(a) of this chapter.

(h) Except as provided in (g) of this section, nothing in (e)—(i) of this section affects similar exemptions from property taxes granted by municipalities on September 10, 1972 or prevents municipalities from

granting similar exemptions by ordinance as provided in § 25 of this chapter.

(am §§ 1, 2 ch 60 SLA 1973; am § 1 ch 65 SLA 1975; am § 1 ch 191 SLA 1976; am § 1 ch 217 SLA 1976; am §§ 1, 2 ch 229 SLA 1976; am § 1 ch 97 SLA 1977)

(i) In (e)—(h) of this section the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes. (§ 2 ch 118 SLA 1972)

History of section. — See *City of Anchorage v. Chugach Elec. Ass'n*, 17 Alaska 481, 252 P.2d 412 (9th Cir. 1958).

This section was enacted pursuant to Alaska Const., art. IX, § 4. *Harmen v. North Pac. Union Conference Ass'n of Seventh Day Adventists*, Sup. Ct. Op. No. 591 (File No. 1080), 462 P.2d 432 (1969).

Intent of constitutional convention. — The constitutional convention intended that only so much of the property used for religious purposes as

was being used to produce income should be taxable, that such other parts should be exempt, and that a proration between taxable and non-taxable parts should be made. 1962 Op. Att'y Gen., No. 16.

Purpose. — The purpose of this section is to encourage the establishment of privately supported nonprofit educational institutions; the motivation for their establishment is largely irrelevant. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

It should be noted that, in addition to favoring a simplified organization for Title 29, there seemed to be considerable initial support for increasing local government autonomy. One of the Policy Group's next tasks will probably be a section-by-section analysis of the present statutes to determine which laws might either be eliminated or placed in a "directory" category to be used at the option of municipalities.

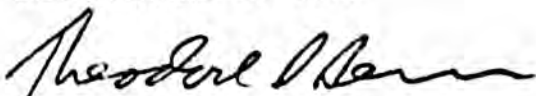
The Policy Group is tentatively looking at a second meeting on or about September 22nd. At this time, it is hoped that the technical group, together with staff, will have prepared an outline of a proposed new organization showing all of the present statutes organized into the three or four categories described above. Additionally, I know many of you submitted specific written comments on the present statutes, and I suggest that we explore a division of labor to begin preparing specific recommended statutory changes for consideration by the Policy Group.

Since time is uncomfortably short, I would like to propose an initial meeting for 9:00 a.m., Monday, September 8, 1980, at the Legislative Information Office, 1024 W. 6th Avenue, Anchorage. At this meeting, the committee would attempt to respond to the requests of the Policy Group and to discuss its future role in the review of Title 29. Hopefully, everyone will be able to consider in advance of September 8, a proposed reorganization along the lines described above and begin our individual grouping of present statutes. Recognizing all of our busy schedules, I am hopeful that a one day meeting on the 8th will be sufficient. However, if necessary, you may wish to allow for some time on your calendar for the morning of the 9th.

It is my understanding that travel and per diem expenses will be reimbursed. Please contact Ms. Tamara Cook, Legislative Counsel, 465-4996 for details. I look forward to seeing you in Anchorage. Please feel free to contact my office at 264-4236 with any questions.

Sincerely,

DEPARTMENT OF LAW



Theodore D. Berns
Municipal Attorney

TDB:gml

cc: Ms. Tamara Cook
Bill Berrier

Municipality of Anchorage



POUCH 6-850
ANCHORAGE, ALASKA 99502
(907) 264-4545

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

September 2, 1980

Title 29 - Technical Review Committee

Re: Organizational Meeting

It is my understanding that you have agreed to serve on a technical review committee to assist in a comprehensive review of AS Title 29. (Municipal Government). A Policy Review Group has been appointed by the Legislature to review Title 29 and report on any recommended revisions. The Technical Committee has been asked to assist the Policy Group in recommending changes and reorganizing the present body of statutes. As a member of the Policy Group, I have been asked to act as liason with the Technical Committee. I would therefore like to propose an organizational meeting and to pass along some preliminary requests made by the Policy Group at its initial meeting on August 27th and 28th in Anchorage.

One of the first points of consensus reached by the Policy Group was a feeling that the present Title 29 is confusing and badly organized. The Policy Group therefore requested the Technical Committee to explore the feasibility of a new organization for Title 29. Under the proposed organization, the present statute would be organized into roughly three or four categories according to their applicability. Category I would be those provisions applicable to and binding upon all municipal governments, including home rule municipalities. Category II would then contain statutory material constituting additional limitations or prescriptions for various classes of cities or boroughs. Category III would seek to address the needs of many smaller communities by containing directory administrative and legislative provisions. Such provisions would apply to local governments unless a municipality, by ordinance, rejected coverage in order to adopt its own local procedures. Probably, a Category IV containing miscellaneous and general matter would also be necessary.

TO:
Debbie Behr, Special Assistant
Office of the Commissioner

DATE:
August 15, 1980

FILE NO:

TELEPHONE NO: 465-3082

SUBJECT:
Comments on Amendments
to State Statutes
re: Local Government

FROM:

V. L. Iverson, Director
Division of Administrative Services

The subject of local control by political subdivisions over selected DHSS programs does appear to be proper for consideration by the special legislative committee on revision of the State Municipal Code.

I'm sure you are aware that it is essential to distinctly separate statutorily delegated local government control of DHSS programs from contractual arrangements with private, non-profit entities to implement DHSS programs. The latter system presents numerous legal problems with respect to at least those programs that are partially Federally funded. As we all know, on the other hand, many States for many years have successfully operated their health and social services programs through statutory delegation of powers to local political subdivisions.

per call Debbie Behr.

*would like issue raised at giving local control
of health programs to local gov. by allowing
DHSS to have statutory authority to delegate implementation
of programs to the local gov.*

Alan Korhonen

29.900

Ben Iverson

TO: [The Honorable Lee McAnerney
Commissioner
Department of Community
& Regional Affairs

DATE: August 14, 1980

FILE NO:

TELEPHONE NO:

FROM: Ernst W. Mueller
Commissioner
Department of Environmental
Conservation

SUBJECT: Designation of "Village"

Thank you for your letter of August 13 concerning the use of the term "City" rather than "Village" for small rural incorporated communities. A term I find even more offensive is the word "bush" as a substitute for "rural."

I fear, however, that "village" may be with us a long time. AS 46.07.080(2) reads:

"'village' means an unincorporated community which has between 25 and 600 people residing within a two-mile radius, or a second class city." (Emphasis added)

We have tried to encourage the Legislature to revise this language; perhaps we can ask them to replace "village" with a term such as "eligible rural community."

cc: Tim Bergin

RECEIVED
AUG 15 1980
DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

SCOMM

#23:3

1 CHAPTER 03. THE UNORGANIZED BOROUGH.

2 Sec. 29.03.010. ESTABLISHMENT. Areas of the state which are not
3 within the boundaries of an organized borough constitute a single unorganized
4 borough.

5 Sec. 29.03.020. SERVICE AREAS. Allowing for maximum local participa-
6 tion, the legislature may establish, alter, or abolish service areas within
7 the unorganized borough to provide special services, which may include but
8 are not limited to schools, utilities, land use regulations and fire protec-
9 tion. A new service area may not be established if the new service can be
10 provided by an existing service area, by incorporation as a city, or by
11 annexation to a city.

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1 CHAPTER 06. CLASSIFICATION OF MUNICIPALITIES.

2 ****Sec. 29.06.010. HOME RULE. A home rule municipality is a municipal
3 corporation and political subdivision. It is a city of the first class or
4 an organized borough which has adopted a home rule charter, or it is a
5 municipality unified in accordance with AS 29.12.190 - 29.12.350. A home
6 rule municipality has all legislative powers not prohibited by law or charter.

7 Sec. 29.06.020. GENERAL LAW. A general law municipality is a municipa
8 corporation and political subdivision and is an unchartered borough or city.
9 It has legislative powers conferred by law.

10 Sec 29.06.030. CLASSES OF GENERAL LAW. General law municipalities
11 are of five classes:

- 12 (1) first class boroughs;
13 (2) second class boroughs;
14 (3) third class boroughs;
15 (4) first class cities;
16 (5) second class cities.

17 Sec. 29.06.040. RECLASSIFICATION. (a) A second class city may be
18 reclassified as a first class city by holding an election on the question as
19 provided in this subsection, if the Department of Community and Regional
20 Affairs determines from the best figures available that the population of
21 the city has reached 400 permanent residents.

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

24 (1) a number of voters equal to 15 percent of the number of
25 votes cast in the city at the preceding regular election may file a petition
26 with the council; or

27 (2) the council may propose reclassification.

28 (c) The council shall hold at least one public hearing within the
29

1 city on the question. The council shall then evaluate the ability of the
2 city to assume first class status and make its findings public.

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

7 (e) If more than one question is to be voted on at the election,
8 each appears separately on the ballot.

9 (f) The council shall certify the election results to the Depart-
10 ment of Community and Regional Affairs. If the majority of votes cast on
11 the question is favorable, the city shall be considered reclassified to
12 first class status 30 days after certification of the election results.

13 (g) A second class borough may reclassify as a first class or
14 third class borough, and a third class borough may reclassify as a first
15 class or second class borough, in the manner provided by AS 29.36.110
16 -29.36.130 for the addition of powers by boroughs,
17 except the petition or proposal requests reclassification instead of
18 requesting addition of powers.

19 (h) At the time of voting on reclassification of a second class
20 borough to third class status, borough voters in conformity with AS 29.36,
21 shall elect an assembly to serve as the combined assembly and
22 school board of the third class borough if reclassification is approved.

23 (i) At the time of voting on reclassification of a third class
24 borough to second class or first class status, borough voters shall vote
25 also on the question whether the borough shall upon reclassification retain
26 a combined assembly and school board or a separate assembly and board as
27 otherwise provided for first and second class boroughs. If the majority of
28 votes cast on the question favors retention of the combined assembly and
29 board, the assembly serving at the time of the reclassification election

1 continues to serve as the assembly and board upon voter approval of reclas-
2 sification and until terms of assemblymen expire as provided before reclas-
3 sification. If a separate board and assembly are approved at the reclas-
4 sification election, a school board shall be elected in conformity with AS
5 14.12 at the next regular municipal election, if it occurs within 90 days of
6 the date of the reclassification election, or otherwise at a special
7 election within that time called by the assembly with expiration dates of
8 terms of members elected at the special election to coincide with the date
9 of the regular municipal election. Until a board is elected and qualified,
10 the assembly continues to serve as the board.

11 (j) The effective date of reclassification of a borough for which
12 reclassification is approved under (h) of this section is the first day of
13 the borough's fiscal year which begins at least six months after the date on
14 which the reclassification proposition has been approved by the voters.

15 ****Sec. 29.06.050. TRANSITION. Repeal.
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1 CHAPTER 09. INCORPORATION.

2 ARTICLE 1. REQUIREMENTS.

3 Sec. 29.09.010. INCORPORATION OF CITIES. (a) A community which meets
4 the following standards may incorporate as a first class city:

5 (1) the community has 400 or more permanent residents;

6 (2) the boundaries of the proposed city include all areas
7 necessary to provide municipal services on an efficient scale;

8 (3) the economy of the community includes the human and
9 financial resources necessary to provide local services; in considering the
10 economy of the community, the Local Boundary Commission shall consider
11 property valuations, economic base, personal income, resource and commercial
12 development, anticipated functions, and the expenses and income of the
13 proposed city, including the ability of the community to generate local
14 revenue;

15 (4) the population of the community is stable enough to
16 support local government;

17 (5) there is a demonstrated need for local government.

18 (b) A community which meets all the standards established in (a)
19 of this section except (a)(1) may incorporate as a second class city.

20 Sec. 29.09.020. LIMITATIONS ON INCORPORATION OF CITIES. (a) A com-
21 munity within the unorganized borough may not incorporate as a city if the
22 services may be provided by annexation to an existing city.

23 (b) A community within an organized borough may not incorporate
24 as a city if the services could be provided on an areawide or nonareawide
25 basis by the borough in which it is located or by annexation to an existing
26 city.

27 Sec. 29.09.030. ORGANIZED BOROUGHES. An area may incorporate as an
28 organized borough if it conforms to the following standards:
29

1 (1) the population of the area is interrelated and integrated
2 as to its social, cultural, and economic activities, and is large and stable
3 enough to support organized borough government;

4 (2) the boundaries of the proposed borough conform generally
5 to natural geography and include all areas necessary for full development of
6 local services;

7 (3) the economy of the area includes the human and financial
8 resources capable of providing local services; evaluation of an area's
9 economy includes land use, property valuations, total economic base, total
10 personal income, resource and commercial development, anticipated functions,
11 expenses, and income of the proposed borough;

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

15 ARTICLE 2. PROCEDURES.

16 Sec. 29.09.060. PETITION. Municipal incorporation is proposed by
17 filing a petition with the Department of Community and Regional Affairs.
18 The petition shall include the following information about the proposed
19 municipality:

20 (1) class;

21 (2) name;

22 (3) boundaries;

23 *(4) [Effective January 1, 1981] composition and appor-
24 tionment of the assembly or council;

25 (5) for a first class borough, a designation of areawide
26 powers to be exercised;

27 (6) for a second class borough, a designation of
28 areawide and nonareawide powers to be exercised;

1 (7) maps, documents, and other information required by
2 the Department of Community and Regional Affairs;

3 (8) for first class city incorporation, the signatures
4 and resident address of 50 permanent resident voters or of 15 percent of the
5 permanent resident voters within the proposed municipality, whichever is
6 greater, based on the number who voted in the area in the last general elec-
7 tion;

8 (9) for second class city incorporation, the signature
9 and resident address of 25 permanent resident voters or of 15 percent of the
10 permanent resident voters within the proposed municipality, whichever is
11 greater, based on the number who voted in the area in the last general elec-
12 tion;

13 (10) for borough incorporation, the signature and resi-
14 dent address of 15 percent of the permanent resident voters in each first
15 class city and 15 percent of voters in the area outside first class cities
16 based on the number who voted in the respective areas in the last general
17 election;

18 (11) for a city, a designation of the powers proposed by
19 the petitioners to be exercised;

20 (12) a proposed operating budget for the municipality
21 projecting sources of income and items of expenditure through the first full
22 fiscal year of operation.

23 Sec. 29.09.070. REVIEW. The Department of Community and Regional
24 Affairs shall review petitions for content and signatures and shall return
25 deficient petitions for correction and completion.

26 Sec. 29.09.080. INVESTIGATION. (a) If the petition contains the
27 required information and signatures, the Department of Community and Regional
28 Affairs shall investigate the proposal.
29

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

3 (c) The department shall hold at least one public hearing in the
4 area proposed for incorporation.

5 Sec. 29.09.090. REPORT AND HEARING. (a) The Department of Community
6 and Regional Affairs shall report its findings to the Local Boundary Commission
7 with its recommendations regarding the incorporation.

8 (b) The Local Boundary Commission shall hold at least one public
9 hearing in the area proposed to be incorporated for the purpose of receiving
10 testimony and evidence on the proposal.

11 Sec. 29.09.100. DECISION ON BOROUGH INCORPORATION. (a) If the Local
12 Boundary Commission determines that a proposed municipality fails to meet
13 the standards for incorporation, it shall reject the petition. If the
14 commission determines that the proposed municipality meets the standards, it
15 shall accept the petition. If the commission determines that the proposed
16 boundaries can be altered to meet the standards, it may alter the boundaries
17 and accept the petition.

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

20 Sec. 29.09.110. INCORPORATION ELECTION. (a) The Local Boundary Com-
21 mission shall immediately notify the lieutenant governor of its acceptance
22 of an incorporation petition. Within 30 days after notification, the
23 lieutenant governor shall order an election in the proposed municipality to
24 determine whether the voters desire incorporation and, if so, to elect the
25 initial officers in the same election. If incorporation is rejected, no
26 officers are elected. The election is held not less than 30 nor more than
27 90 days after the date of the election order. The election order must
28 specify the dates during which nomination petitions for election of initial
29 officers may be filed.

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

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

10 (d) The lieutenant governor shall supervise the election in the
11 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60). The
12 state shall pay all election costs under this section.

13 Sec.29.09.120. ELECTION OF INITIAL OFFICERS (a) Repealed by Sec. 4 ch.
14 23 SLA 1976.

15 (b) Nominations for initial officers are made by petition. The
16 petition is in the form prescribed by the lieutenant governor and includes
17 the name and address of the nominee and a statement of the nominee that he
18 is qualified under the provisions of this title for the office that he
19 seeks. A person may file for and occupy more than one office, but he may not
20 serve simultaneously as borough mayor and as a member of the borough assembly
21 or as mayor and as a member of the council of a home rule or first class
22 city. Petitions to nominate officers of a second class city must include the
23 signature and resident address of 10 voters in the area of the proposed
24 city. Petitions to nominate elected municipal officers must include the
25 signature and resident address of 50 voters in the area of the proposed
26 municipality, or that area of the proposed municipality from which the
27 officers are to be elected under the composition and apportionment set out
28 in the accepted incorporation petition.
29

1 (c) The lieutenant governor shall supervise the election in the
2 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60).
3 The state shall pay all election costs under (a) - (c) of this section.

4 (d) The initial elected municipal officials take office on the
5 first Monday following certification of their election.

6 (e) The initial elected borough assembly and city council members
7 shall determine by lot the length of their terms of office so that a pro-
8 portionate number of terms expire each year, resulting in staggered terms of
9 office for members subsequently elected.

10 Sec. 29.09.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE AREAS.

11 Service areas in a newly incorporated borough or city shall be integrated
12 into the borough or city within two years after the date of incorporation.
13 On integration the borough or city succeeds to all the rights, powers,
14 duties, assets and liabilities of the service areas. After integration, the
15 borough assembly or city council may exercise within a former service area
16 all of the rights and powers exercised by the service area at the time of
17 integration, and may levy and collect special charges, taxes, or assessments
18 to amortize bonded indebtedness incurred by the service area or by a borough
19 or city as successor to the service area. Upon integration no less than all
20 property in the service area at the time of integration remains subject to
21 taxation to pay the principal of and interest on the bonds. The provisions
22 of this section apply to all organized boroughs whether incorporated or
23 organized before or after September 10, 1972.

24 Sec. 29.09.140. TRANSITION. (a) The powers and functions exercised by
25 home rule or general law cities and service areas which are succeeded to by
26 a newly incorporated borough or city are exercised by them until the new
27 borough or city assumes the powers and functions, which may not exceed two
28 years after the date of incorporation. Ordinances, rules, resolutions,
29 procedures, and orders in effect before the transfer remain in effect until
superseded by the action of the new borough or city.

1 (b) The borough or city shall give written notice of its assump-
2 tion of the powers, duties and other items enumerated in Secs. 130-140 of
3 this chapter, to the city, and service area concerned before the assumption.
4 Borough or city officials shall consult with the officials of the city and
5 service area concerned, and arrange an orderly transfer.

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

9 Sec. 29.09.150. CHALLENGE OF LEGALITY. No person may challenge the
10 formation of a municipality except within six months of the date of its
11 incorporation.

12 ARTICLE 03. TRANSITIONAL ASSISTANCE.

13 Sec. 29.09.180. ORGANIZATION GRANTS. (a) For the purpose of defraying
14 the cost of transition to borough or city government and in order to provide
15 for development and interim governmental operations, each borough and city
16 incorporated after January 1, 1968, or, in the case of a second class city,
17 incorporated or reclassified after January 1, 1968, other than a unified
18 municipality incorporated under the provisions of (AS 29.85), or a munici-
19 pality otherwise incorporated by consolidation, is entitled to an organization
20 grant equal to \$10 for every voter who voted in the borough or city incor-
21 poration election. However, each incorporated borough and each first class
22 city incorporated or established by reclassification outside an organized
23 borough is entitled to at least \$25,000.

24 (b) Within 30 days after the date of incorporation of a borough
25 or city after September 10, 1972, the Department of Community and Regional
26 Affairs shall determine the number of voters in the borough or city who
27 voted in the incorporation election.
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1 (c) Within 30 days after the completion of its findings, or as
2 soon thereafter as money is appropriated to it for the purpose, the Depart-
3 ment of Community and Regional Affairs shall transmit to the borough or city
4 the total amount of money to which the borough or city is entitled.
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1 CHAPTER 12. ALTERATION OF MUNICIPALITIES.

2 ARTICLE 1. CHANGE OF NAME.

3 Sec. 29.12.010. CHANGE OF MUNICIPAL NAME. (a) The governing body of a
4 home rule or general law municipality may change the official municipal name
5 by adopting an ordinance for the purpose and filing the ordinance with the
6 office of the lieutenant governor. Upon receipt of a legally adopted ordin-
7 ance ratified by the qualified voters voting on the question at a regular or
8 special election, the lieutenant governor shall issue an appropriate order
9 to the municipality changing its existing name. The name change shall
10 become effective on a date fixed in the order and occurring within 45 days
11 of receipt of the ordinance. A copy of the order shall be transmitted to
12 the Department of Community and Regional Affairs.

13 (b) If an ordinance adopted under (a) of this section which
14 results in an order changing the municipal name is subsequently repealed,
15 the lieutenant governor shall issue a further order reinstating the former
16 municipal name within 45 days of the date of the order, unless a different
17 municipal name is adopted by ordinance transmitted to the lieutenant
18 governor for implementation as provided in (a) of this section.

19 (c) When a municipal name change takes effect by means of an
20 order issued under (a) or (b) of this section, civil or criminal suits,
21 applications, petitions, hearings and other proceedings to which the munici-
22 pality is a party and pending at or brought after the date the name change
23 takes effect shall proceed in the name of the municipality as changed by the
24 order.

25 ARTICLE 2. ANNEXATION AND EXCLUSION.

26 Sec. 29.12.040. LOCAL BOUNDARY COMMISSION. (a) The Local Boundary
27 Commission may consider any proposed local government boundary change. It
28 may present proposed changes to the legislature during the first 10 days of
29 any regular session. The change shall become effective 45 days after presen-

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1 tation or at the end of the session, whichever is earlier, unless disap-
2 proved by a resolution concurred in by a majority of the members of each
3 house.

4 (b) In addition to the regulations governing annexation by local
5 action adopted under AS 44.19.260, the Local Boundary Commission shall,
6 within 90 days of September 10, 1972, establish procedures for annexation
7 and exclusion of territory by cities and boroughs by local action. The pro-
8 cedures established under this subsection shall include

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

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

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

17 (c) A boundary change effected under (a) of this section prevails
18 over a boundary change initiated by local action, without regard to priority
19 in time.

20 Sec. 29.12.050. ANNEXATION OF MILITARY RESERVATIONS. A military
21 reservation may be annexed to a city or borough in the same manner as pre-
22 scribed for any other territory under Sec. 040 of this chapter. If
23 a city within an organized borough annexes a military reservation under this
24 section, the territory encompassing the military reservation automatically
25 is annexed to the borough of which the city is a part.

26 ARTICLE 3. MERGER AND CONSOLIDATION.

27 Sec. 29.12.080. METHODS OF MERGER AND CONSOLIDATION. Two methods may
28 be used to initiate merger or consolidation of home rule and general law
29 municipalities:

1 (1) petition to the Local Boundary Commission under regulations
2 adopted by the commission, or

3 (2) the local option method specified in Secs. 090-160 of this
4 chapter .

5 Sec. 29.12.090. PETITION. (a) Residents of two or more municipalities
6 may file a merger or consolidation petition with the Department of Community
7 and Regional Affairs. The petition must be signed by a number of municipal
8 voters of each municipality equal to at least 25 percent of the number of
9 votes cast in its last regular election.

10 (b) The petition includes

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

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

13 (3) the proposed composition and apportionment of the assem-
14 bly or council;

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

17 Sec. 29.12.100. REVIEW. The Department of Community and Regional
18 Affairs shall review a petition for content and signatures and shall return
19 a deficient petition for correction or completion.

20 Sec. 29.12.110. INVESTIGATION. If the petition contains the required
21 information and signatures, the Department of Community and Regional Affairs
22 shall investigate the proposal.

23 Sec. 29.12.120. REPORT AND HEARING. (a) The Department of Community
24 and Regional Affairs shall report its findings to the Local Boundary Commission
25 with its recommendations regarding the merger or consolidation.

26 (b) The Local Boundary Commission shall hold at least one public
27 hearing in each of the municipalities included in the merger or consolida-
28 tion petition, unless officials of the municipalities agree to a single
29 hearing.

1 Sec. 29.12.130. DECISION. If the Local Boundary Commission determines
2 that the proposed municipality fails to meet the standards for incorporation,
3 it shall reject the petition. If the commission determines that the proposed
4 municipality meets these standards, it shall accept the petition. If the
5 commission determines that the proposed boundaries or the composition and
6 apportionment of the assembly or council can be altered to meet the standards,
7 it may change the proposal and accept the petition. The decision may be
8 appealed under the Administrative Procedure Act (AS 44.62).

9 Sec. 29.12.140. ELECTION. (a) The Local Boundary Commission shall
10 immediately notify the lieutenant governor of its acceptance of a merger or
11 consolidation petition. Within 30 days after notification, the lieutenant
12 governor shall order an election within the area to be included in the new
13 municipality to determine whether the voters desire merger or consolidation.
14 The election is held not less than 30 nor more than 90 days after the election
15 order.

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

18 (c) The lieutenant governor shall supervise the election in the
19 general manner prescribed by the Alaska Election Code (AS 15.05 -15.60).
20 The state shall pay all election costs.

21 (d) The lieutenant governor shall certify the election results.
22 If merger or consolidation is approved, he shall, within 10 days, set a date
23 for election of officers of the new municipality under AS 29.09.120. The
24 election date is not less than 60 nor more than 90 days after the election
25 order. This date is the effective date for the merger or consolidation.

26 Sec. 29.12.150. ASSETS AND LIABILITIES. (a) When two or more munici-
27 palities merge, one municipality succeeds to the rights, powers, duties,
28 assets and liabilities of the others.
29

1 (b) When two or more municipalities consolidate, the newly incor-
2 porated municipality succeeds to the rights, powers, duties, assets and
3 liabilities of the consolidated municipalities.

4 Sec. 29.12.160. ORDINANCES. The ordinances, resolutions, rules,
5 regulations, procedures and orders of the former municipalities remain in
6 force within their respective territories until superseded by the action of
7 the successor municipality.

8 ARTICLE 4. UNIFICATION OF LOCAL GOVERNMENTS.

9 Sec. 29.12.190. UNIFICATION OF LOCAL GOVERNMENTS AUTHORIZED. An
10 organized borough and all cities within the borough may unite to form a
11 single unit of home rule local government by complying with this chapter.

12 Sec. 29.12.200. UNIFICATION TO BE PROPOSED BY PETITION. (a) Formation
13 of a charter commission to propose a unification charter shall be proposed
14 by resolution of the assembly or by petition. An assembly resolution for
15 the purpose may be adopted not more often than once every 12 months.

16 (b) The borough assembly, a city council, or a person living
17 within the area of proposed unification may initiate the petition.

18 Sec. 29.12.210. PETITION REQUIREMENTS. (a) The petition shall read:

19 "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER
20 We, the undersigned, qualified voters of the Borough do hereby petition that
21 the following proposition be placed before the voters as provided by law:

22 'Shall a charter commission be formed (and charter commission members be
23 elected as elsewhere provided on this ballot) to prepare, adopt and submit
24 to the voters for their approval or rejection a proposed charter uniting the
25 Borough and all cities within it as a single unit of home rule government
26 having the powers, duties and functions of a unified government as authorized
27 by law? Yes [] No []'

28		Inside First Class	Outside First Class
29		or	or
	Signature	Address	Home Rule City
			Home 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 percent 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 percent of the qualified voters who voted in the last regular borough election in each city.

Sec. 29.12.220. REVIEW OF PETITION. Upon receipt of a petition, the borough assembly shall review the petition within 15 days after its receipt to determine whether it complies with Sec. 200 of this chapter.

If the petition does not meet the designated requirements, it shall be immediately returned to the person who initiated the petition with a statement indicating which requirements have not been satisfied.

Sec. 29.12.230 CALL FOR CHARTER COMMISSION NOMINATIONS. Once it is determined by the borough assembly that a petition meets the requirements of Sec. 200 of this chapter, or the assembly by its resolution proposes an election on formation of a charter commission to propose a unification charter, the assembly shall issue a call for the nomination of charter commission candidates, specifying the filing deadline and outlining the procedure described for making nominations under Sec. 240 of this chapter.

Sec. 29.12.240. NOMINATION OF CHARTER COMMISSION CANDIDATES. (a) Charter commission candidates shall be nominated by petition signed by at least 50 qualified voters of the area from which the candidate seeks election or by a number of qualified voters from that area equal to at least 10 percent of the number of votes cast from that area in the last regular borough election, whichever is less.

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

Sec. 29.12.250. QUALIFICATIONS OF CHARTER COMMISSION CANDIDATES. A person is eligible to be nominated as a candidate for the charter commission if he has been a qualified voter of the area from which he seeks election for at least one year immediately preceding the date his nomination petition is filed with the borough clerk.

****Sec. 29.12.260. COMPOSITION OF CHARTER COMMISSION. (a) The charter commission shall consist of 11 voters, three of whom shall be residents elected at large from the area of the borough and eight of whom, proportionate to the population as determined by the Department of Community and Regional Affairs, shall be

(1) residents of and elected from the area outside a home rule or first class city in the borough; or,

(2) residents of and elected from a home rule or first class city in the borough.

(b) If at least one nomination of a qualified charter commission candidate for each available seat is not filed in accordance with AS 29.12.240 the resolution or petition for unification is void and no election on the question shall be held.

Sec. 29.12.270. ELECTION. (a) After receipt of a valid petition or adoption of an assembly resolution for the purpose, the borough assembly shall submit to the voters the question of whether that borough and all cities within it shall unite to form a single unit of home rule government. The vote shall be held at the next regular borough election scheduled at least 90 days after receipt of the valid petition or adoption of the resolution

1 (b) The ballot on the question of unification shall be worded
2 exactly as in Sec. 210(a) of this chapter.

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

5 (d) All costs incurred in conducting an election under this chap-
6 ter shall be paid by the borough.

7 Sec. 29.12.280. REQUIREMENTS FOR APPROVAL OF UNIFICATION AND ELECTION
8 OF CHARTER COMMISSION. (a) The votes on unification shall be tabulated in
9 two separate classifications. One classification shall consist of all votes
10 cast in the first class and home rule cities of the borough. The other
11 classification shall consist of all votes cast in the remaining areas of the
12 borough. In order for unification to be approved, it is necessary that a
13 majority of the votes in each classification favor unification.

14 (b) If unification is approved, those charter commission can-
15 didates who received the highest number of votes from their respective areas
16 shall serve as members of the commission.

17 Sec. 29.12.290. CHARTER COMMISSION ORGANIZATION AND PROCEDURE. (a)
18 The charter commission authorized by this chapter shall hold its first
19 meeting within 30 days of the date of certification of its election. The
20 commission shall elect from among its members a chairman and a deputy chairman.

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

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

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

(e) Except as provided in AS 29.12.340(e), vacancies on the charter commission shall be filled by a majority vote of the commission . The person appointed to fill a vacancy must be a qualified voter of the same area as the person whom he succeeds and must have been a qualified voter of that area for at least one year immediately preceding the date of his appointment.

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

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

Sec. 29.12.300. CHARTER PREPARATION. (a) A charter commission established under this chapter shall prepare, adopt and submit a proposed home rule charter for the area to be unified to the voters for approval or rejection at a regular or special borough election called by the borough assembly held within 60 days of the date of publication and posting of the proposed charter as required in AS 29.12.380. The charter shall include among its provisions:

(1) provisions for adjustment of existing bonded indebtedness and other obligations in a manner which will reserve a fair and equitable burden of taxation for debt service, subject to AS 29.12.360;

(2) provisions for

(A) the establishment of service areas; and

(B) the establishment of districts or sections for the election of members of the legislative body of the unified municipality, if election of members of the legislative body is not areawide, and procedures by which to reapportion the election districts or sections;

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

2 (3) provision for nonpartisan government and provision for
3 the selection, organization, authority and responsibilities of the governing
4 body and its executive and administrator;

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

8 (5) provision for exercise of the rights of initiative and
9 referendum as required by AS 29.15.050;

10 (6) a method of amending the charter;

11 (7) the date on which the charter, if approved at the charter
12 election required by AS 29.12.340, is effective;

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

15 (9) other charter provisions which the charter commission
16 elects to include and which may be included in a home rule charter under
17 this chapter and the state constitution.

18 (b) The area to be unified shall be known as a borough or a city
19 or by some other designation consistent with existing law.

20 Sec. 29.12.310. PUBLIC HEARINGS. Both before and after drafting the
21 proposed charter, the charter commission shall hold a public hearing in each
22 area of the borough represented on the borough assembly. Other public
23 hearings may be held by the charter commission whenever and wherever it
24 believes necessary and appropriate.

25 Sec. 29.12.320. FILING OF PROPOSED CHARTER. Upon the adoption of a
26 proposed home rule charter by the charter commission, the charter shall be
27 signed by at least a majority of the total membership of the commission and
28 shall be filed with the borough clerk. A copy with signatures affixed shall
29 also be filed with the clerk of each city within the borough.

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1 Sec. 29.12.330. PUBLICATION AND POSTING OF PROPOSED CHARTER. Within
2 10 days after filing the proposed charter, the borough clerk shall have it
3 published once in at least one newspaper having general circulation distri-
4 buted within the borough, if there is a newspaper having general circulation
5 distributed within the borough. In addition, the clerk shall have a copy of
6 the proposed charter posted in at least three public places within each city
7 of the borough and each area outside cities. Copies of the proposed charter
8 shall be made available by the borough assembly to the public at both the
9 office of the borough clerk and the office of the clerk of each city within
10 the borough. The clerk shall publish notice by radio and television of the
11 publication, posting, and availability of the proposed charter in a manner
12 intended to apprise the entire borough population of the existence of the
13 proposed charter.

14 Sec. 29.12.340. ELECTION ON CHARTER. (a) The proposed charter adopted
15 by the charter commission shall be submitted to the voters for ratification
16 or rejection at the borough election specified in AS 29.12.300. The borough
17 clerk shall prepare the ballots for use in the election and shall give
18 published notice of and otherwise conduct the election in the manner in
19 which regular municipal elections are conducted. In addition, the clerk
20 shall publish notice of the election by radio and television in a manner
21 intended to apprise the entire borough population of the election.

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

24 (c) If a majority of the votes cast in the area of the borough
25 outside all first class and home rule cities and a majority of the votes
26 cast in the remaining area of the borough, composed of all first class and
27 home rule cities, are cast in favor of the proposed charter, the charter is
28 ratified. If the charter is ratified, two copies of the charter shall be
29 filed with each of the following authorities:

- 1 (1) lieutenant governor;
2 (2) commissioner of the Department of Community and Regional
3 Affairs;
4 (3) district recorder for the area of the borough;
5 (4) clerk of the borough;
6 (5) clerk of each city in the borough.

7 (d) If a proposed charter is rejected, the charter commission
8 shall prepare, adopt and submit a proposed charter to the voters at a general
9 or special borough election called by the borough and held within one year
10 of the date of the first charter election. If the second proposed charter
11 is also rejected, the charter commission shall be dissolved and the question
12 of unification shall be treated as if it had never been proposed or approved.

13 (e) If after the rejection of the first proposed charter, more
14 than one-half of the charter commission members resign from the commission ,
15 the borough assembly shall appoint new members to fill the vacancies in
16 accordance with AS 29.12.160(e).

17 Sec. 29.12.350. EFFECT OF THE CHARTER AFTER RATIFICATION. Upon ratifi-
18 cation, the charter of a unified municipality organized under AS 29.12.190 -
19 390 operates to dissolve all local governments within the area of unification
20 in accordance with the charter.

21 Sec. 29.12.360. ASSETS AND LIABILITIES. A municipality created by
22 unification shall succeed to all the assets and liabilities of the local
23 governments it unified. A bonded indebtedness or other debt incurred before
24 unification shall remain the tax obligation of the area which contracted the
25 debt, except that the tax obligation may be spread over a larger area by
26 ordinance if the governing body determines that the asset for which the
27 bonded indebtedness or other debt was incurred was used for the benefit of
28 the larger area before unification, or is so used after unification.
29 However, preunification bonded indebtedness or other debt for sewage col-

1 lection systems, water distribution systems, and streets, even if determined
2 to be used for the benefit of a larger area than that which incurred the
3 debt, shall remain the tax obligation of the area which incurred the debt.

4 Sec. 29.12.370. ORDINANCES. Within two years after ratification of
5 the charter, the governing body of the unified municipality shall revise,
6 repeal, or reaffirm all borough and city ordinances, resolutions and orders
7 in force within the borough at the time of unification. Each ordinance,
8 resolution, regulation, or order in force at the time of unification shall
9 remain in force until superseded by action of the new governing body.

10 Sec. 29.12.380. RIGHT TO STATE AND FEDERAL FUNDS PRESERVED. All provisions
11 of law authorizing contributions of any kind, in money or otherwise, from
12 the state or federal government to boroughs and cities shall remain in full
13 force and effect with respect to a unified municipality organized under
14 AS 29.12.190 - 29.12.390.

15 Sec. 29.12.390. POWERS OF A UNIFIED MUNICIPALITY. A municipality
16 organized under AS 29.12.190 - 29.12.390 shall have all powers

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

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

19 ARTICLE 5. DISSOLUTION.

20 Sec. 29.12.420. METHODS OF DISSOLUTION. (a) Two petition methods may
21 be used to initiate dissolution of home rule and general law municipalities:

22 (1) petition to the Local Boundary Commission under regulations
23 adopted by the commission; or

24 (2) the local option method specified in AS 29.12.430 - 29.12.500

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

28 (c) The Department of Community and Regional Affairs shall investigate
29 a municipality which it considers to be inactive and shall report to the

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1 Local Boundary Commission on the status of the municipality. The commission
2 may submit its recommendation to the legislature that the municipality be
3 dissolved in the manner provided for submission of boundary changes in Sec.
4 12, art. X of the state constitution.

5 Sec. 29.12.430. PETITION. (a) Municipal residents may file a dissolution
6 petition with the Department of Community and Regional Affairs in the form
7 prescribed by the department. The petition must be signed by a number of
8 municipal voters equal to at least 25 percent of the number of votes cast in
9 the last regular municipal election.

10 (b) The petition includes

11 (1) the name of the municipality;

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

14 Sec. 29.12.440. STANDARDS. (a) Except as provided in (b) of this
15 section, a municipality may petition for dissolution when

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

18 (2) either it no longer meets the minimum standards prescribed
19 for incorporation by ch. 09 of this title, or it ceases to use each and
20 every one of its mandatory powers.

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

25 Sec. 29.12.450. REVIEW. The Department of Community and Regional
26 Affairs shall review a petition for content and signatures and shall return
27 a deficient petition for correction or completion.

28 Sec. 29.12.460. INVESTIGATION. If the petition contains the required
29 information and signatures, the Department of Community and Regional Affairs
shall investigate the proposal.

1 Sec. 29.12.470. REPORT AND HEARING. (a) The Department of Community
2 and Regional Affairs shall report its findings to the Local Boundary Com-
3 mission with its recommendation regarding the dissolution.

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

6 Sec. 29.12.480. DECISION. If the Local Boundary Commission determines
7 that the municipality fails to meet the standards for dissolution, it shall
8 reject the petition. If the commission determines that the municipality
9 meets the standards, it shall accept the petition.

10 Sec. 29.12.490. ELECTION. (a) The Local Boundary Commission shall
11 immediately notify the lieutenant governor of its acceptance of a dis-
12 solution petition. Within 30 days after notification, the lieutenant
13 governor shall order an election within the municipality to determine
14 whether the voters desire dissolution. The election is at least 30 and not
15 more than 90 days after the election order.

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

18 (c) The lieutenant governor shall supervise the election in the
19 general manner prescribed by the Alaska Election Code (AS 15.05-15.60). The
20 state shall pay all election costs.

21 (d) The lieutenant governor shall certify the election results.
22 If dissolution is approved, he shall declare that the municipality is dis-
23 solved effective on the date of certification.

24 Sec. 29.12.500. SUCCESSION. The government succeeding to a dissolved
25 municipality succeeds to all its rights, powers, duties, assets, and
26 liabilities as provided in AS 29.09.130-29.09.140.
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CHAPTER 15. HOME RULE MUNICIPALITIES.

ARTICLE 1. CHARTERS.

* Sec. 29.15.010. MUNICIPAL CHARTER ADOPTION. A first or second class municipality may adopt a charter for its own government. A home rule municipality may amend its charter or adopt a new one. A charter is framed by a charter commission of seven members chosen by the municipal voters at a regular or special election. A candidate for the commission shall be a qualified voter of the municipality and a resident of the municipality for three years immediately preceding the election. A charter commission election is called by filing a petition with the borough assembly or the city council, or by resolution of the borough assembly or city council. The petition shall be signed by a number of municipal voters equal to 15 percent of the votes cast in the last regular election of the municipality.

Sec 29.15.020. NOMINATION. (a) Charter commission candidates are nominated by petitions signed by 50 voters or the number of qualified municipal voters equal to 10 percent of the number of votes cast in the last regular election, whichever is less.

**** (b) A nomination petition shall be filed with the borough or city clerk on or before a date to be fixed by the borough assembly or council. If at least seven nominations for qualified charter commission candidates are not filed, the petition or resolution calling for a charter commission is void and no election on the question shall be held.

Sec. 29.15.030. ELECTION. At the charter commission election the voters shall consider the question "Shall a charter commission be elected to frame a proposed new charter?" and shall select the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes shall immediately organize as a charter commission.

Sec. 29.15.040. PREPARATION OF CHARTER. The charter commission shall, within one year, prepare a municipal charter. The proposed charter shall be

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

9 Sec. 29.15.050 INITIATIVE AND REFERENDUM. ****(a) A municipal charter
10 shall provide procedures for initiative and referendum.

11 (b) A charter may not require an initiative or referendum petition
12 to have a number of signatures greater than 25 percent of the total votes
13 cast at the last regular municipal election.

14 (c) A charter may not permit the initiative and referendum to be
15 used for a purpose prohibited by Sec. 7, art. XI of the state constitution.

16 Sec. 29.15.060. CHARTER ELECTION. The charter shall be submitted to
17 the municipal voters at a regular or special election held not less than 30
18 days nor more than 90 days from the publication of the charter.

19 Sec. 29.15.070. CHARTER ADOPTION. (a) If a majority of those voting
20 on the question favor the proposed charter, it becomes the organic law of
21 the municipality. Thereafter, the court shall take judicial notice of the
22 charter. The municipality shall file the indicated number of copies of the
23 charter with the

- 24 (1) lieutenant governor - two copies;
- 25 (2) Department of Community and Regional Affairs - two
- 26 copies;
- 27 (3) district recorder - one copy;
- 28 (4) municipal clerk - one copy.
- 29

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

* Sec. 29.15.080. CHARTER AMENDMENT. A municipal charter may be amended as provided in the charter except that no amendment shall be effective unless ratified by the voters.

ARTICLE 2. HOME RULE LIMITATIONS.

Sec. 29.15.110. LIMITATION OF HOME RULE POWERS. Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise as provided. They supersede existing and prohibit future home rule enactments which provide otherwise:

- (1) AS 29.09.140 Borough Transition
- (2) AS 29.12.010 Municipal Name Change
- (3) AS 29.12.040 Annexation and Exclusion
- (4) AS 29.12.080 - 29.12.160 Merger and Consolidation
- (5) AS 29.12.420 - 29.12.500 Dissolution
- (6) AS 29.15.080 Charter Amendment
- (7) AS 29.24.010 Conflict of Interest
- (8) AS 29.24.020 Meetings Public
- * (9) (Effective January 1, 1981) AS 29.24.060; 29.24.080 -
29.24.140 Borough assembly composition and Apportionment;
Borough Assembly Members

- 1 (10) AS 29.24.150(c) Expulsion of Borough Assemblymen
2 (11) AS 29.24.200(f) Removal of Borough Mayor from
3 Office
4 (12) AS 29.24.290(b) Expulsion of City Councilman
5 from Office
6 **** (13) AS 29.24.340(a) Repeal
7 (14) AS 29.24.350 Removal of Mayor from Office
8 (15) AS 29.24.680 Prohibitions Respecting Appointment
9 and Removal of Personnel
10 (16) AS 29.24.700 Municipal Reports
11 (17) AS 29.27.010(a)(12) Municipal Exemption
12 on Contractor Bond Requirements
13 (18) AS 29.27.060 Codification
14 (19) AS 29.30.010, 29.30.030(b) - 29.30.040 Municipal Elections
15 (20) AS 29.30.060(f) Expulsion, Removal from Office
16 (21) AS 29.30.210 - 29.30.330 Recall
17 (22) AS 29.33.020 Extraterritorial Jurisdiction
18 (23) AS 29.33.030 Eminent Domain
19 (24) AS 29.33.080 Garbage and Solid Waste Services
20 (25) AS 29.33.090(b) Effect of Areawide Exercise
21 of Borough Power
22 (26) AS 29.33.090(c) Borough Building Code
23 Jurisdiction within Cities
24 (27) AS 29.33.100 - 29.33.160 Utilities
25 **** (28) AS 29.33.220 Repeal
26 (29) AS 29.33.230 Post Audit
27 (30) AS 29.36.010(b) Areawide Borough Powers
28 (31) AS 29.36.040, AS 29.36.230(d), AS 14.12.020(a) Responsibility
29 for education on Military Reservations

- 1 (32) AS 29.36.130(c) Acquisition of Additional
2 Areawide Powers
- 3 (33) AS 29.39.020 - 29.39.060 Powers of Cities Outside Boroughs
- 4 (34) AS 29.42.040(d) Zoning of State Land for
5 Homesite Entry
- 6 (35) AS 29.42.080(b) Applicability of Local
7 Platting Regulations to State Land in a Municipality
- 8 (36) AS 29.45.010 - 29.45.530 Borough
9 and City Property Taxes
- 10 (37) AS 29.45.020 Taxpayer Notice
- 11 (38) AS 29.45.580(d) Interest on Sales
12 Tax
- 13 (39) AS 29.48.090 Exemption from Special Assessment
- 14 (40) AS 29.51.420 - 29.51.430 Bonded Debt for
15 School Construction
- 16 (41) AS 29.51.210(b) Security for Bonds
- 17 (42) AS 29.51.390 Bond attorneys, Bond and Financial
18 Consultants
- 19 (43) AS 29.62. Municipal Tax Resource Equalization
- 20 (44) AS 29.62. State Aid for Miscellaneous Municipal
21 Services
- 22 (45) AS 29.71.010 Adverse Possession
- 23 (46) AS 29.71.020 Taxation of Municipalities
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CHAPTER 18. DEVELOPMENT CITIES

**** Repeal.

CHAPTER 21. CAPITAL CITY.

Sec. 29.21.010. INCORPORATION. There is created and incorporated a city of the state as the capital city of Alaska which is a city of the first class. The capital city has all the powers of a first class city.

Sec. 29.21.020. BOUNDARIES. The boundaries of the capital city shall include all of that area of land designated by the voters of Alaska as the new capital site of the state.

Sec. 29.21.030. CITY COUNCIL. (a) Until council members elected by the residents of the capital city take office as provided in AS 29.21.060 the council of the capital city shall have five members, four of whom shall be appointed by the governor and shall serve at the pleasure of the governor. The development corporation shall designate one person to serve as a member of the council. The council members appointed by the governor or designated by the development corporation shall serve an initial term which expires on the Monday following the first Tuesday in October of the calendar year following the calendar year of initial appointment or designation. Council members may be reappointed by the governor or redesignated by the development corporation. Except as provided in AS 29.21.160 the successors of the initial appointees and designee shall serve for a term of two years commencing on the date the initial appointments and designation expire. Each appointee and designee shall hold office for the term of his appointment and until his successor has been appointed or designated and has qualified.

(b) Council members appointed by the governor or designated by the development corporation need not be residents of the capital city.

(c) The council shall elect a chairman from among its membership. The chairman presides at council meetings, determines the agenda for council meetings, and carries out the other duties specified by ordinance.

Sec. 29.21.040. FILLING A VACANCY. If a vacancy occurs among the members appointed by the governor, the governor shall designate the replacement who shall serve for the unexpired portion of the term.

1 Sec. 29.21.050. APPOINTMENT OF CITY OFFICIALS. Until a mayor is
2 elected in accordance with AS 29.21.060, the council shall appoint a city
3 manager for the capital city to serve at the pleasure of the council. The
4 city manager may not be a council member.

5 Sec. 29.21.060. TRANSITION. (a) When the capital city attains a
6 population of 400 permanent residents, as certified by the lieutenant governor
7 based on the best information available, the lieutenant governor shall
8 notify the council of this determination. The lieutenant governor shall
9 specify an election date which shall be the first Tuesday of October following
10 the notification, except that if it is less than six months from the date of
11 the certification to the first Tuesday of October then the election date
12 shall be the first Tuesday of October of the year following. The elected
13 members shall take office on the Monday following the election.

14 (b) After the lieutenant governor has specified the election date,
15 the council shall make arrangements for an election at which five council
16 members and a mayor shall be elected in the manner prescribed by ordinance
17 and law. The expenses of the election shall be borne by the state. The
18 council of the capital city shall have six members. The governor shall
19 designate one council member holding office on the date of the election to
20 remain a member of the council for a single three-year term commencing on
21 the date the elected council members take office. The successors to the
22 appointed council members shall be elected by the residents, except that if
23 the appointed council member leaves office during the three years, the
24 governor may appoint a successor. The terms of all other appointed or
25 designated council members expire when the elected council members take
26 office. The term of elected council members is as provided in AS 29.24.280
27 except that three of the members are elected for an initial term of one
28 year.
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1 *Sec. 29.21.070. PLANNING AND LAND USE REGULATION AUTHORITY. The
2 general development plan and specific development plans constitute the land
3 use plan for the capital city area. When a parcel of land has been developed
4 in accordance with the applicable specific development plan, that parcel
5 becomes subject to all planning, zoning, subdivision, building code or other
6 similar ordinances of the Matanuska-Susitna Borough.

7 Sec. 29.21.080. TRANSFER OF UTILITIES TO THE CAPITAL CITY. The
8 development corporation, in cooperation with the capital city, shall arrange
9 for and agree to an orderly schedule for transferring to the capital city
10 ownership of, and financial and operational responsibility for utilities and
11 any other facilities which the development corporation considers to be
12 integral parts of the capital city infrastructure. Before January 1, 1985,
13 the development corporation and the council of the capital city shall jointly
14 retain independent consultants to study and determine an orderly schedule
15 for transfer of these utilities and facilities to the capital city. The
16 study shall consider the capabilities of the capital city and its existing
17 and anticipated residents to finance the cost of these utilities and other
18 facilities and their operating expenses. The consultants shall propose a
19 recommended schedule for and terms of transfer which are commensurate with
20 the capital city's existing and anticipated population, tax base and any
21 other factors relating to its capability to finance and operate these
22 facilities as they consider appropriate. The development corporation shall,
23 after considering the consultants' report, propose a schedule of and terms
24 and conditions of the transfer to the capital city, which shall, upon review
25 and approval by the council, be included in an agreement between the
26 development corporation and the capital city. If the development corporation
27 and the capital city are unable to agree within six months after the
28 development corporation submits its proposal, the development corporation
29 shall submit the proposal to the Legislative Budget and Audit Committee

1 which shall consider the proposal, and if the committee considers it approp-
2 riate to do so, shall recommend to the legislature legislation it considers
3 desirable for the disposition of the utilities and other facilities. If the
4 legislature does not enact legislation regarding the disposition within one
5 year after the proposal is submitted to the Legislative Budget and Audit
6 Committee, the development corporation may at any time thereafter sell or
7 dispose of the utilities and facilities or any of them to a private person
8 or entity or government body, or continue to operate them.

9 Sec. 29.21.090. DEFINITIONS. In AS 29.21.010 - 29.21.090, unless
10 the context requires otherwise,

11 (1) "capital city area" means the area described in AS
12 29.21.020

13 (2) "capital city " means the municipality incorporated by
14 this chapter;

15 (3) "development corporation" means the Alaska Capital City
16 Development Corporation;

17 (4) "general development plan" has the same meaning as
18 provided in AS 44.07.360 and includes amendments to the general development
19 plan;

20 (5) "specific development plan" has the same meaning as
21 provided in AS 44.07.360 and includes amendments to each specific development
22 plan.

23 Sec. 29.21.100. SHORT TITLE. AS 29.21.010 - 100 of this chapter may
24 be cited as the Capital City Incorporation Act.
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1 CHAPTER 24. MUNICIPAL OFFICERS AND EMPLOYEES.

2 ARTICLE 1. CONFLICTS OF INTEREST, PUBLIC MEETINGS.

3 ****Sec. 29.24.010. CONFLICTS OF INTEREST. Each home rule and general law
4 municipality shall adopt a conflicts of interest ordinance which provides
5 that a member of a governing body shall declare a substantial financial
6 interest he has in an official action and ask to be excused from a vote on
7 the matter. The presiding officer shall rule on the question. His decision
8 may be overridden by the majority vote of the governing body.

9 Sec. 29.24.020. MEETINGS PUBLIC. Meetings of all municipal bodies
10 shall be public as provided in AS 44.62.310. The assembly and council shall
11 provide reasonable opportunity for the public to be heard at regular and
12 special meetings. This section applies to home rule and general law munici-
13 palities.

14 ARTICLE 2. GOVERNING BODIES.

15 ****Sec. 29.24.050. (Sec. 29.23.010.) GENERAL POWER. The legislative
16 power of a borough is vested in the assembly. The legislative power of a
17 city is vested in the council.

18 Sec. 29.24.060. ASSEMBLY COMPOSITION AND APPORTIONMENT. [Effective
19 January 1, 1981].

20 (a) Assembly composition and apportionment shall be consistent
21 with the equal representation standards of the Constitution of the United
22 States.

23 (b) The assembly of a newly incorporated borough is, after incor-
24 poration and until the adoption of an ordinance providing for a change in
25 composition or apportionment, composed of the number of members and appor-
26 tioned as set out in the incorporation petition approved by the voters. If
27 the borough is already incorporated, the assembly shall be composed and
28 apportioned in a manner that is consistent with the requirements of this
29 section and prescribed by charter or ordinance.

1 (c) An assembly may not provide for weighted voting.

2 (d) A member of the assembly of a borough may not be elected or
3 appointed by and from the council of a city in the borough.

4 Sec.29.24.070. COMPOSITION AND FORM OF REPRESENTATION. (a) The
5 borough assembly shall provide for its composition and for the form of its
6 representation.

7 (b) Not later than the first regular election which occurs after
8 the report of a federal decennial census, the assembly shall propose and
9 submit to the voters of the borough, at that regular election or at a special
10 election called for the purpose, one or more forms of borough assembly
11 representation. The forms of representation which the assembly may submit
12 to the voters are:

13 (1) election of members of the borough assembly at large by
14 the qualified voters throughout the borough;

15 (2) election of members of the borough assembly by district,
16 including

17 (A) election at large by the qualified voters throughout
18 the borough, but with a requirement that a candidate live within
19 an election district established by the borough for election of
20 assembly members; or

21 (B) election from election districts established by the
22 borough for the election of assembly members by the qualified
23 voters of a district;

24 (3) election of members of the borough assembly both at
25 large and by district.

26 (c) A form of borough assembly representation which includes
27 election of borough assembly members under (b)(2) or (b)(3) of this section
28 shall be submitted to the voters of the borough with a plan of apportionment
29 as required by AS 29.24.080.

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1 (d) The borough assembly shall, within 30 days of certification
2 of the results of the election held on a proposed form of representation
3 under this section, adopt an ordinance providing for its composition and the
4 form of assembly representation, and, if applicable, the apportionment of
5 assembly seats which corresponds to the proposed form of representation
6 which received the most votes at the election.

7 (e) This section does not apply

8 (1) to a unified municipality incorporated under
9 AS 29.12.190 - 29.12.390;

10 (2) to a home rule borough if the borough charter contains
11 procedures for changing assembly composition and form of representation.

12 Sec. 29.24.080. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a) Not
13 later than two months after the official report of a federal decennial
14 census, the borough assembly shall determine and declare by resolution
15 whether the existing apportionment of the borough assembly meets the standards
16 of AS 29.24.060. If the borough assembly submits to the voters a form of
17 representation which includes election of borough assembly members under
18 AS 29.24.070(b)(2) or (b)(3) the assembly shall submit with the proposition
19 of a proposed plan of apportionment which corresponds to the form of represen-
20 tation proposed. The assembly shall describe the plan of apportionment in
21 the ballot proposition, and may present the plan in any manner which it
22 believes accurately describes the apportionment which is proposed under the
23 form of representation. If the borough assembly determines that its existing
24 apportionment meets the standards of AS 29.24.060 the assembly may include
25 the existing apportionment as a proposed plan of apportionment of assembly
26 seats which corresponds to a form of representation which is proposed.

27 (b) The borough assembly shall provide, by ordinance, for a
28 change in an existing apportionment of the borough assembly whenever it
29 determines that the apportionment does not meet the standards of AS 29.24.060.

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1 (d) The borough assembly shall, within 30 days of certification
2 of the results of the election held on a proposed form of representation
3 under this section, adopt an ordinance providing for its composition and the
4 form of assembly representation, and, if applicable, the apportionment of
5 assembly seats which corresponds to the proposed form of representation
6 which received the most votes at the election.

7 (e) This section does not apply

8 (1) to a unified municipality incorporated under AS 29.12.190
9 - 29.12.390

10 (2) to a home rule borough if the borough charter contains
11 procedures for changing assembly composition and form of representation.

12 Sec. 29.24.080. ASSEMBLY RECOMPOSITION AND REAPPORTIONMENT. (a) Not
13 later than two months after the official report of a federal decennial
14 census, the borough assembly shall determine and declare by resolution
15 whether the existing apportionment of the borough assembly meets the standards
16 of AS 29.24.060. If the borough assembly submits to the voters a form of
17 representation which includes election of borough assembly members under
18 AS 29.24.070(b)(2) or (b)(3) the assembly shall submit with the proposition
19 of a proposed plan of apportionment which corresponds to the form of represen-
20 tation proposed. The assembly shall describe the plan of apportionment in
21 the ballot proposition, and may present the plan in any manner which it
22 believes accurately describes the apportionment which is proposed under the
23 form of representation. If the borough assembly determines that its existing
24 apportionment meets the standards of AS 29.24.060 the assembly may include
25 the existing apportionment as a proposed plan of apportionment of assembly
26 seats which corresponds to a form of representation which is proposed.

27 (b) The borough assembly shall provide, by ordinance, for a
28 change in an existing apportionment of the borough assembly whenever it
29 determines that the apportionment does not meet the standards of AS 29.24.060.

1 At the same time, the borough assembly may, by ordinance, change the com-
2 position of the assembly.

3 (c) If a petition signed by not less than 50 registered voters who
4 are residents of the borough request the borough assembly to determine
5 whether the existing apportionment meets the standards for apportionment in
6 AS 29.24.060, and the petition contains evidence that the existing apportion-
7 ment does not meet those standards, the assembly may make the determination
8 requested. The borough assembly shall make a determination required by this
9 subsection within two months of receipt of a petition which meets the require-
10 ments of this subsection.

11 (d) An ordinance adopted by the assembly under (b) or (c) of this
12 section shall be submitted to the voters for approval. In order for the
13 ordinance to be approved it must receive the approval of a majority of the
14 votes cast.

15 (e) Within six months of a determination by the borough assembly
16 under (b) or (c) of this section that the current apportionment does not
17 meet the standards of AS 29.24.060 the borough assembly shall adopt an
18 ordinance providing for reapportionment, and submit the ordinance to the
19 voters. If, at the end of the six-month time period, an ordinance providing
20 for reapportionment has not been approved by the voters, the commissioner of
21 the Department of Community and Regional Affairs shall provide for the
22 reapportionment in accordance with the standards of AS 29.24.060 by preparing
23 an order of reapportionment and delivering the order to the borough mayor.

24 Sec. 29.24.090. APPORTIONMENT APPEALS. (a) A reapportionment ordinance
25 approved by the voters, or a decision of the borough assembly that the
26 standards of AS 29.24.060 do not require a change in apportionment, may be
27 appealed to the commissioner of the Department of Community and Regional
28 Affairs. Fifty registered voters who are residents of the borough may
29 submit a petition to the commissioner of community and regional affairs

1 requesting the commissioner to determine whether the proposed reappor-
2 tionment ordinance approved by the voters meets the standards of AS 29.24.060
3 or whether a decision of the borough assembly that the standards of AS
4 29.24.060 do not require a change of apportionment is correct. If the
5 petition asks the commissioner of community and regional affairs to review
6 an ordinance approved by the voters under AS 29.24.080(e), the petition
7 shall be delivered to the commissioner not later than 20 days after certifica-
8 tion of the election. If the petition asks the commissioner of community
9 and regional affairs to review a decision of the borough assembly under AS
10 29.24.080(c), the petition shall be delivered to the commissioner within 20
11 days of the decision of the borough assembly.

12 (b) The commissioner of community and regional affairs shall
13 review the petition and may make the determination requested. The commis-
14 sioner shall provide copies of his determination to the persons petitioning
15 for appeal and to borough officials not later than 60 days after he receives
16 the petition.

17 (c) If the commissioner of community and regional affairs deter-
18 mines that the proposed reapportionment ordinance approved by the voters
19 does not meet the standards of AS 29.24.060, or if he determines that the
20 decision of the borough assembly that the standards of AS 29.24.060 do not
21 require a change of apportionment is not correct, the commissioner shall, by
22 order, direct the borough assembly to prepare a reapportionment ordinance
23 which meets the standards of AS 29.24.060 and submit the ordinance to the
24 voters.

25 (d) When the borough assembly has been directed by the commis-
26 sioner of community and regional affairs to prepare a reapportionment
27 ordinance under (c) of this section, the borough assembly shall, within two
28 months of its receipt of the commissioner's order, adopt an ordinance
29 providing for reapportionment. The borough assembly shall submit an

1 ordinance adopted under this subsection to the voters at a regular election
2 or special election held within 60 days of the date of adoption of the
3 reapportionment ordinance.

4 (e) If at the end of the time period provided under (d) of this
5 section an ordinance providing for reapportionment has not been approved by
6 the voters, the commissioner of community and regional affairs shall provide
7 for the reapportionment of the borough assembly in accordance with the
8 standards of AS 29.24.060 by preparing an order of reapportionment and
9 delivering the order to the borough mayor.

10 Sec. 29.24.100. JUDICIAL REVIEW AND RELIEF. (a) The commissioner of
11 community and regional affairs may request the superior court to enforce a
12 reapportionment order issued under AS 29.24.090(e).

13 (b) Each of the following is subject to judicial review:

14 (1) a plan of reapportionment approved by the voters under
15 AS 29.24.080(a);

16 (2) a determination by the borough assembly under AS 29.24.080
17 that the standards of AS 29.24.060 do not require a change in apportionment;

18 (3) a reapportionment ordinance approved by the voters under
19 AS 29.24.080(d);

20 (4) a reapportionment order of the commissioner of community
21 and regional affairs made under AS 29.24.090(c);

22 (5) a reapportionment ordinance approved by the voters under
23 AS 29.24.090(d); and

24 (6) a reapportionment order of the commissioner of community
25 and regional affairs made under AS 29.24.090(e);

26 Sec. 29.24.110 EFFECTIVE DATE OF APPORTIONMENT. (a) A change in
27 assembly apportionment or composition under AS 29.23.080 or AS 29.24.090 is
28 effective beginning with the first regular election for members of the
29 assembly which is held more than 60 days after the later of:

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(1) approval of a reapportionment ordinance by the voters under AS 29.24.080(a), AS 29.24.080(e), or AS 29.24.090(d); or

(2) the delivery to the mayor of a reapportionment order of the commissioner of community and regional affairs under AS 29.24.090(d).

(b) The provisions of (a) of this section do not apply to a borough in which a change in assembly composition or apportionment is subject to review and approval or determination of nonobjection by the Attorney General of the United States under the Voting Rights Act of 1965, as amended, (42 U.S.C. 1971 - 1974). A change in assembly composition or apportionment subject to review under the Voting Rights Act of 1965, as amended, is effective beginning with the first regular election for members of the assembly which is held more than 60 days after

(1) receipt by the borough assembly of approval by the Attorney General of the United States of the proposed change in the composition or apportionment of the assembly; or

(2) the delivery to the mayor of a reapportionment order of the commissioner of community and regional affairs under AS 29.24.090(e).

(3) the last day on which the Attorney General of the United States may review a proposed change in the composition or apportionment of the assembly.

Sec. 29.24.120. APPLICABILITY OF APPORTIONMENT PROVISIONS. The provisions of AS 29.24.080-29.24.110 do not apply

(1) to a unified municipality incorporated under AS 29.12.190 - 29.12.390;

(2) to a home rule borough if the borough, by charter, provides for reapportionment of the borough assembly.

****Sec. 29.24.125. CITY COUNCIL COMPOSITION. Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The

1 council of a first or second class city may by ordinance provide for election
2 of members other than on an at-large basis for all members.

3 ****Sec. 29.24.130. REGULAR TERM OF OFFICE. Repeal.

4 ****Sec. 29.24.140 QUALIFICATIONS. (a) A borough voter is eligible to be
5 a member of the assembly and a city voter is eligible to be a member of the
6 council. A member of the assembly who ceases to be a qualified voter im-
7 mediately forfeits his office. A member of the council who ceases to be a
8 qualified city voter immediately forfeits his office.

9 (b) A governing body may by ordinance establish a durational
10 residency requirement for its members not to exceed three years.

11 (c) An assembly or council member who represents an area less
12 than that of the total borough or city and who becomes a resident of another
13 area within the municipality may continue to serve until the next regular
14 election unless provided otherwise by ordinance.

15 (d) A municipality may by ordinance establish district residency
16 requirements for members of its governing body.

17 ****Sec. 29.24.145. TERM OF OFFICE. (a) Assembly and council members are
18 elected for three-year terms and until their successors have qualified
19 unless different terms not exceeding four years are prescribed by charter or
20 ordinance.

21 (b) Except when otherwise required by a change in composition or
22 apportionment, if the term of a member of a governing body is changed by
23 charter or ordinance the term of an official holding office at the time the
24 change becomes effective is not affected.

25 (c) The regular term of office begins on the first Monday fol-
26 lowing certification of the election, unless a different date is prescribed
27 by charter or ordinance.

28 ****Sec. 29.24.150. PROCEDURES OF GOVERNING BODIES. (a) The assembly
29 shall elect from among its members a presiding officer and a deputy presiding

1 officer to serve at the pleasure of the members, except that in a borough
2 which has adopted the manager form of government under AS 29.24.550, the
3 mayor serves as presiding officer. In a city the mayor serves as presiding
4 officer. If the presiding officer is not present or disqualifies himself,
5 the deputy presiding officer shall preside.

6 (b) A municipal governing body shall hold at least one regular
7 meeting every month, unless otherwise provided by ordinance. A special
8 meeting may be held at the call of the presiding officer or at least
9 one-third of the members provided a majority of the members are given at
10 least 24 hours oral or written notice and reasonable efforts are made to
11 notify all members. A special meeting may be conducted with less than 24
12 hours notice if all members are present or if absent members have waived in
13 writing the required notice. Waiver of notice can be made before or after
14 the special meeting is held. A waiver shall be made a part of the journal
15 for the meeting.

16 (c) A majority of the total membership of a governing body
17 authorized by law shall constitute a quorum. A member disqualified by law
18 from voting on a question may be considered present for purposes of
19 constituting a quorum. In the absence of a quorum, any number of members
20 may recess or adjourn the meeting to a later date.

21 (d) Actions of a governing body are adopted by a majority of the
22 total membership of the body. All members present shall vote on every
23 question unless they are required to abstain from voting on a question by
24 law. The final vote on every ordinance, resolution or substantive motion
25 shall be recorded "yes" or "no", except that if the vote is unanimous it is
26 necessary only to so state.

27 (e) A governing body shall maintain a journal of its official
28 proceedings which shall be a public record.
29

1 (f) A governing body may, consistent with law or charter, deter-
2 mine by ordinance its own rules of procedure and order of business.

3 ****Sec. 29.24.160. DEPARTMENTS. Repeal.

4 ****Sec. 29.24.170. VACANCIES. The governing body may provide by ordinance
5 the manner in which a vacancy occurs in any elected office except the office
6 of mayor. Unless otherwise provided by ordinance the governing body shall
7 declare an elective office, other than the office of mayor, vacant when the
8 person elected

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

11 (2) unless excused by the governing body, is physically
12 absent from the municipality for 90 consecutive days;

13 (3) resigns and his resignation is accepted;

14 (4) is physically or mentally unable to perform the duties
15 of his office as determined by two-thirds vote of the governing body;

16 (5) if a member of the governing body, misses three consecu-
17 tive regular meetings and is not excused;

18 (6) is convicted of a felony or of an offense involving a
19 violation of his oath of office; or

20 (7) is convicted of a felony or misdemeanor described in AS
21 15.56 and two-thirds of the members of the governing body concur in expelling
22 him;

23 (8) no longer physically resides in the municipality and the
24 governing body by two-thirds vote declares the seat vacant.

25 ****Sec. 29.24.175. FILLING A VACANCY. (a) If a vacancy occurs in a
26 governing body, the remaining members shall within 30 days, unless a dif-
27 ferent period is provided by ordinance, appoint a qualified person to fill
28 the vacancy. The person shall serve until the next regular election, at
29 which time a successor shall be elected to service the balance of the term.
If less than 30 days remain in a term, a vacancy shall not be filled.

1 (b) Notwithstanding subsection (a), if the membership is reduced
2 to fewer than the number required to constitute a quorum, the remaining
3 members shall within seven days appoint a number of qualified persons to
4 constitute a quorum.

5 ARTICLE 3. BOROUGH EXECUTIVE AND ADMINISTRATOR.

6 ****Sec. 29.24.200. EXECUTIVE POWER. (a) The executive power within a
7 municipality is vested in a mayor elected by the voters or by the governing
8 body as provided in this article.

9 (b) The mayor shall act as ceremonial head of government, execute
10 official documents upon authorization of the governing body, and is respon-
11 sible for additional duties and powers prescribed by this chapter.

12 ****Sec. 29.24.205. ELECTION AND TERM OF MAYOR. (a) The mayor of a
13 borough or first class city is elected at large. The mayor of a borough or
14 first class city shall serve a term of three years unless by ordinance a
15 different term not to exceed four years is provided, except that the current
16 term of an incumbent mayor may not be altered. The regular term of a mayor
17 of a borough or first class city begins on the first Monday following certi-
18 fication of his election.

19 (b) The mayor of a second class city is elected by and from the
20 council and serves until a successor is elected and has qualified. The
21 council of a second class city shall meet on the first Monday after certifi-
22 cation of the regular election and elect a mayor who takes office immediately.
23 The mayor of a second class city shall serve a one-year term unless a longer
24 term is provided by ordinance, except that the mayor of a second class city
25 may serve only while he is a member of the council regardless of the term
26 established for the office of mayor.

27 (c) The governing body may not limit the number of terms a mayor
28 may serve.
29

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1 ****Sec. 29.24.206. QUALIFICATIONS FOR THE OFFICE OF MAYOR. (a) A voter
2 of a borough or first class city is eligible to hold the office of mayor. A
3 member of a city council for a second class city is eligible to hold the
4 office of mayor in that city.

5 (b) Residency requirements for the office of mayor not exceeding
6 three years may be prescribed by ordinance.

7 ****Sec. 29.24.210. POWERS AND DUTIES OF MAYOR. (a) If a municipality
8 has not adopted the manager form of government, the administrative power is
9 vested in the mayor and the mayor has the same powers and duties as those of
10 the manager.

11 (b) The mayor may take part in the discussion of all matters
12 before the governing body.

13 (c) The mayor may not vote on any matter before the governing
14 body, except that the mayor of a first class city may vote in the case of a
15 tie and the mayor of a second class city may vote on all matters as a council
16 member.

17 Sec. 29.24.220. EXECUTIVE ABSENCE. The borough mayor, subject to
18 assembly approval, shall designate a person to act as mayor during the
19 mayor's temporary absence or disability. If a manager plan has been adopted,
20 the assembly shall designate by resolution a borough administrative officer
21 to act as manager during his absence or disability.

22 ****Sec. 29.24.230. ASSEMBLY PARTICIPATION. Repeal.

23 ****Sec. 29.24.240. VETO. (a) Except as provided in subsections (c) and
24 (d), the mayor may veto any ordinance, resolution, motion, or other action
25 of the governing body and may strike or reduce appropriation items.

26 (b) A veto must be exercised before the next regular meeting of
27 the governing body and must be accompanied by a written explanation of the
28 reasons for that action. A veto may be overridden by vote of two-thirds of
29 the authorized membership of the governing body within 21 days following
exercise of the veto or at the next regular meeting, whichever is later.

(c) The veto does not extend to

(1) appropriation items in a school budget ordinance;

* (2) actions of the governing body sitting as board of equalization or the board of adjustment;

(3) adoption or repeal of the manager form of government.

(d) The mayor of a third class borough and the mayor of a second class city has no veto power.

****Sec. 29.24.250. VACANCY IN THE OFFICE OF MAYOR. (a) The governing body shall, upon two-thirds concurring vote, declare the office of mayor vacant only when the person elected

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

(2) unless excused by the governing body, is physically absent for 90 consecutive days;

(3) resigns and his resignation is accepted;

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

(5) if, as a member of the assembly or council, he misses three consecutive regular meetings and is not excused;

(6) is convicted of a felony or of an offense involving a violation of his oath of office;

(7) is convicted of a felony or misdemeanor described in AS 15.56; or

(8) no longer physically resides in the municipality.

(b) Except as provided in subsection (c), a vacancy in the office of mayor occurring six months before a regular election shall be filled by the governing body. The person appointed shall serve until the next regular election and until a successor is elected and has qualified. If a member of the governing body is chosen, he shall resign his seat on the assembly or

1 council. If a vacancy occurs more than six months before a regular election,
2 the governing body shall call a special election to fill the unexpired term.

3 (c) Notwithstanding (b) of this section, in a second class city,
4 the office of mayor is filled by and from the council and retains his seat
5 on the council.

6 ARTICLE 4. CITY COUNCIL.

7 ****Sec. 29.24.280. COMPOSITION, ELIGIBILITY, ELECTION AND TERM. Repeal.

8 ****Sec. 29.24.290. PROCEDURE. Repeal.

9 ****Sec. 29.24.300. FILLING A VACANCY. Repeal.

10 ARTICLE 5. CITY EXECUTIVE AND ADMINISTRATOR.

11 ****Sec. 29.24.330. Repeal

12 ****Sec. 29.24.340. Repeal.

13 ****Sec. 29.24.350. Repeal

14 ****Sec. 29.24.360. Repeal.

15 ****Sec. 29.24.370. Repeal.

16 ****Sec. 29.24.380. Repeal.

17 ****Sec. 29.24.390. Repeal.

18 ARTICLE 6. SCHOOL BOARDS.

19 ****Sec. 29.24.240. SCHOOL BOARDS. (a) Each municipal school district
20 has a school board. Members are elected at the regular election held
21 annually on the first Tuesday of October, unless a different election date
22 or interval of years is provided by ordinance. Members are elected for
23 three-year terms and until their successors take office. All board members
24 are elected at large unless a different method of election has been approved
25 by the voters in a regular election.

26 (b) Notwithstanding (a) of this section, assembly members in a
27 third class borough serve as the school board and the mayor is president of
28 the school board.
29

1 ****Sec. 29.24.430. OTHER BOARDS AND COMMISSIONS. (a) The governing
2 body may, by ordinance, establish advisory, administrative, technical, or
3 quasi-judicial boards and commissions.

4 (b) Members of boards and commissions, except for members of the
5 board of adjustment and assembly members serving on the board of equalization,
6 are appointed by the mayor and confirmed by the governing body.

7 ARTICLE 7. UTILITY BOARDS.

8 * Sec. 29.24.450. UTILITY BOARDS. (a) The governing body of a munici-
9 pality operating a public utility may provide by ordinance for a managing
10 board of five members and define the board's powers and duties.

11 (b) As determined by ordinance, members of the board are appointed
12 by the municipal executive and confirmed by the governing body or are elected
13 at the regular election held annually on the first Tuesday of October,
14 unless a different election date or interval of years is provided by ordin-
15 ance. The term of a utility board member is two years and until a successor
16 is selected and has qualified. However, the governing body may by ordinance
17 provide for a different term not to exceed four years and not altering the
18 current term of an elected incumbent.

19 (c) Vacancies in the board are filled by the municipal executive.
20 Executive appointments shall be confirmed by the governing body. A person
21 selected to fill a vacancy on a utility board serves until the expiration of
22 the term and until a successor is elected and has qualified.

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

24 (1) choose its chairman and secretary;

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

27 (3) formulate and enforce the general rules and policies of
28 the utility.
29

ARTICLE 8. OTHER OFFICERS AND EMPLOYEES.

****Sec. 29.24.480. APPOINTMENT OF OFFICERS. Unless otherwise provided by ordinance, the municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrative official. Unless otherwise provided by ordinance, officials described in this section serve at the pleasure of their appointing authority and, if appointed by the chief administrative official, must be confirmed by the governing body.

Sec. 29.24.490. MUNICIPAL ATTORNEY. The municipal attorney is the legal advisor of the council or assembly, the school board, and the other officers of the municipality. He represents the municipality as attorney in civil and criminal proceedings. The school board has the right to hire independent counsel when in its judgment independent counsel is needed.

* Sec. 29.24.500. MUNICIPAL CLERK. (a) The municipal clerk shall

- (1) give notice of the time and place of meetings to the governing body and to the public;
- (2) attend meetings and keep the journal;
- (3) arrange publication of notices, ordinances, and resolutions;
- (4) maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules, regulations, and codes;
- (5) attest deeds and other documents;
- (6) perform other duties specified in this title or prescribed by the chief executive or by the governing body.

(b) The governing body may combine the office of clerk with that of treasurer. If the offices are combined, the clerk shall, as required of the treasurer, give his bond to the municipality for the faithful performance of his duties as clerk-treasurer.

1 ****Sec. 29.24.510. MUNICIPAL TREASURER. (a) Except as provided in
2 AS 14.14.060, the treasurer is the custodian of all municipal funds. He
3 shall keep an itemized account of money received and disbursed. He shall
4 pay money on vouchers drawn against appropriations.

5 (b) The treasurer shall give bond to the municipality in a sum
6 which the governing body directs.

7 ****Sec. 29.24.515. DEPARTMENTS. (a) The governing body of a municipality
8 may establish departments and distribute functions among them.

9 (b) Each department is administered by a department head. With
10 the consent of the governing body, the mayor may serve as head of one or
11 more departments or a single administrator may serve as head of two or more
12 departments.

13 ****Sec. 29.24.520. APPOINTMENT TO MUNICIPAL BOARDS AND COMMISSIONS.
14 Repeal.

15 ****Sec. 29.24.530. PERSONNEL SYSTEM. (a) Except as provided by (b) of
16 this section, all appointments and promotions of municipal employees are
17 made on the basis of merit. The governing body may provide for a personnel
18 system and classified service.

19 (b) By ordinance the governing body may designate confidential or
20 managerial positions which are wholly or partially exempt from the classified
21 service filled by persons who serve at the pleasure of their appointing
22 authority and whose terms of employment are determined by their appointing
23 authority.

24 ARTICLE 9. ADOPTION OR REPEAL OF MANAGER PLAN.

25 Sec. 29.24.550. APPLICATION. A municipality may adopt a manager plan
26 of government.

27 * Sec. 29.24.560. PETITION. Adoption of a manager plan may be initiated
28 either by petition or upon motion of the governing body. A petition for the
29 adoption of a manager plan is submitted to the governing body.

1 The petition must be signed by a number of municipal voters equal to the
2 followi. , percent of the votes cast at the preceding regular election:

3 (1) 25 percent when the municipality has fewer than 7,500 persons;

4 (2) 15 percent when the municipality has 7,500 persons or more.

5 ****Sec. 29.24.570. ELECTION. Upon receipt of the petition or upon its
6 own motion, the governing body shall provide by ordinance or resolution for
7 a vote on the question at the next regular or special election.

8 * Sec. 29.24.580. ADOPTION. (a) If the manager plan is approved, the
9 governing body shall, within 60 days, adopt the plan by ordinance or reso-
10 lution.

11 (b) The governing body shall notify the Department of Community
12 and Regional Affairs of the adoption of the manager plan.

13 ****Sec. 29.24.590. APPOINTMENT. The governing body shall appoint a
14 manager by a majority vote of its membership. He is chosen on the basis of
15 his administrative qualifications and receives the compensation set by the
16 governing body. An elected municipal officia' may not be appointed manager
17 of the municipality sooner than one year after leaving office, except that,
18 by a vote of three-fourths of its authorized membership, the governing body
19 may at any time appoint one of its members or other elected municipal o
20 fficial as manager.

21 * Sec. 29.24.600. TERM. Subject to the contract of employment, the
22 manager holds office at the pleasure of the governing body.

23 ****Sec. 29.24.610. APPOINTMENT OF TEMPORARY OR NEW MANAGER. Repeal.

24 ****Sec. 29.24.620. REPEAL. A municipality may repeal the manager plan in
25 the same manner used for its adoption. Within 60 days after repeal, the
26 governing body shall enact provisions for the reorganization of the
27 municipal executive and administrative functions.

28 ****Sec. 29.24.630. POWERS AND DUTIES OF A MANAGER. As chief administrator
29 the manager shall

1 (1) appoint, suspend, or remove municipal employees and
2 administrative officials, except as provided otherwise in this title and AS
3 14.14.065; he may hire necessary administrative assistants and may authorize
4 an administrative official to appoint suspend, or remove subordinates;

5 (2) supervise the enforcement of municipal law and carry out
6 the directives of the governing body;

7 (3) prepare and submit an annual budget and capital improve-
8 ment program for consideration by the governing body and execute the budget
9 and capital improvement program adopted;

10 (4) make monthly financial reports and other reports on
11 municipal finances and operations as required by the governing body;

12 (5) exercise care and custody over all real and personal
13 property of the municipality except as provided otherwise in AS 29.36.040;

14 (6) perform other duties required by law or by action of the
15 governing body; and

16 (7) serve as personnel officer unless the governing body
17 authorizes him to appoint a personnel officer.

18 ****Sec. 29.24.640. INTERGOVERNMENT APPOINTMENTS. A borough adopting a
19 manager plan, may by agreement with a city, enter into a contract providing
20 for the manager of a city located within the borough to serve also as borough
21 manager. A city adopting a manager plan, may by agreement with a borough,
22 enter into a contract providing for the manager of a borough within which
23 the city is located to serve also as city manager. Appointment and service
24 of the manager shall be as otherwise provided for managers in this chapter.
25 Nothing in this section affects the authority of the governing body to
26 provide for other dual officeholding if the dual offices held are compatible,
27 or otherwise to appoint officials and employees in accordance with law.
28
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ARTICLE 10. MISCELLANEOUS PROVISIONS.

*Sec. 29.24.650. OATHS OF OFFICE. Municipal officials, before taking office, shall affirm in writing that they will honestly, faithfully, and impartially perform their duties. The oath is filed with the municipal clerk.

*Sec. 29.24.660. BONDING. The administrator and the other municipal officials or employees which the governing body may designate shall give bond in the amount and with the surety prescribed by the governing body. Premiums on bonds are paid by the municipality.

****Sec. 29.24.670. SALARIES OF ELECTED OFFICIALS. The governing body shall by ordinance provide a method of determining the salaries of elected officials. The salary of the mayor may not be reduced during his term of office unless during his term a manager plan is adopted. An elected official may not receive any other compensation for service to the municipality unless otherwise provided by ordinance. Per diem payments or reimbursements for expenses are not compensation under this section.

****Sec. 29.24.680. PROHIBITIONS. (a) Repeal.

(b) Repeal.

(c) No state employee or school district employee may be denied the right to serve as an elected municipal official because of his employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, no school district employee may serve on a school district board in the school district where he is employed.

(d) For purposes of this section a school district employee is not a municipal employee.

****Sec. 29.24.690. PERSONNEL SYSTEM. Repeal.

Sec. 29.24.700. REPORTS. (a) Home rule and general law municipalities shall file with the Department of Community and Regional Affairs:

1 (1) maps and descriptions of all annexed or excluded ter-
2 ritory;

3 (2) a copy of the annual audit or in the case of second
4 class cities an audit or statement of annual income and expenditures;

5 (3) tax assessment and tax levy figures as requested;

6 (4) repealed.

7 (5) a copy of the current annual budget of the municipality;

8 (6) a summary of the optional property tax exemptions autho-
9 rized in the municipality, together with the municipality's estimate of the
10 revenues lost to it by operation of each of the exemptions.

11 (b) Compliance with the provisions of this section is a prerequi-
12 site to receipt of municipal tax resource equalization assistance under AS
13 29.62 and state aid for miscellaneous municipal services under AS 29.62.
14 The Department of Community and Regional Affairs shall withhold annual
15 allocations under those chapters in the event of noncompliance until such
16 time as the report requirements are met.

17 ****Sec. 29.24.710. VACANCIES. Repeal.

CHAPTER 27. MUNICIPAL ENACTMENTS.

* Sec. 29.27.010. ACTS REQUIRED TO BE BY ORDINANCES. (a) In addition to other actions which this title requires to be by ordinance, the governing body of a municipality shall use ordinances to

(1) establish, alter or abolish municipal departments;

**** (2) Repeal.

(3) provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;

(4) provide for the levying of taxes;

**** (5) make appropriations except supplemental appropriations or transfer of appropriations;

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

**** (7) Repeal.

**** (8) adopt, modify or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map;

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

(10) designate the borough seat;

(11) provide for the retention or sale of tax-foreclosed property.

(12) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in AS 36.25.025.

(b) This section grants no authority but requires the governing body to use ordinances in exercising certain of its powers.

Sec. 29.27.020. FORM OF ORDINANCES. Repeal.

****Sec. 29.27.030. ORDINANCE PROCEDURE. (a) Ordinances are introduced in writing in the form required by the governing body.

1 (b) The following procedure governs the enactment of all ordin-
2 ances except emergency ordinances. An ordinance may be introduced by a
3 member or committee of the governing body or by the municipal executive or
4 chief administrator. An ordinance shall be set for hearing by the affirma-
5 tive vote of a majority of the votes authorized on the question. A summary
6 of the ordinance is published together with a notice of time and place for
7 public hearing. The hearing follows publication by at least five days.
8 Copies of the ordinance must be available to all persons present or the
9 ordinance must be read in full. The governing body shall hear all interested
10 persons wishing to be heard. After the hearing, the governing body shall
11 consider the ordinance and may adopt it with or without amendment. The
12 governing body shall print and make available copies of adopted ordinances.

13 (c) Ordinances take effect upon adoption or at a later date
14 specified in the ordinance.

15 * Sec. 29.27.040. EMERGENCY ORDINANCES. (a) To meet a public emergency
16 the governing body may adopt ordinances effective on adoption. Every
17 emergency ordinance must contain a finding by the assembly or council that
18 an emergency exists and a statement of the facts upon which the finding is
19 based. The ordinance may be adopted, amended and adopted, or rejected at
20 the meeting at which it is introduced. The affirmative vote of all members
21 present, or the affirmative vote of three-fourths of the total membership,
22 whichever is less, is required for adoption. The governing body must print
23 and make available copies of adopted emergency ordinances.

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

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

28 ****Sec. 29.27.050. CODES OF REGULATION. The governing body may in a
29 single ordinance adopt or amend by reference provisions of a standard

1 published code of regulations. The regular ordinance procedure applies
2 except that neither the ordinance nor its amendments need be distributed to
3 the public or read in full at the hearings. For a period of 15 days before
4 adoption at least five copies of the code must be made available for public
5 inspection at a time and place set out in the hearing notice. Only the
6 adopting ordinance need be printed after adoption. The governing body shall
7 provide for the adopted code to be sold or available at no charge to the
8 public.

9 Sec. 29.27.060. CODIFICATION. (a) Each ordinance after adoption
10 shall be codified.

11 **** (b) Within three years after incorporation of the municipality,
12 the municipal clerk or his designee shall have prepared a general codifi-
13 cation of all municipal ordinances of general applicability having the force
14 and effect of law. The municipal code shall be revised and printed at least
15 every five years, unless the code is kept current by regular supplements.

16 (c) In (a) of this section, "codified" means

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

22 (2) the ordinance is a provision which establishes a rule of
23 conduct or behavior and which is included, or to be included, in a code of
24 ordinances or other complete system of law enacted and kept current at
25 reasonable intervals.

26 (d) This section applies to general law and home rule munici-
27 palities.

28 * Sec. 29.27.070. RESOLUTIONS. The governing body shall provide for the
29 maintenance of a permanent file of resolutions that have been adopted.

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1 ****Sec. 29.27.080. PENALTIES. (a) For the violation of an ordinance,
2 the governing body may prescribe punishment not to exceed the penalty
3 imposed for a class B misdemeanor. By ordinance mandatory nonsuspendable
4 imprisonment not to exceed five days may be imposed for violation of an
5 ordinance.

6 (b) The municipality or an aggrieved person may institute a civil
7 action against a person who violates an ordinance. In addition to injunctive
8 and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed
9 for each violation. An action to enjoin a violation may be brought notwith-
10 standing the availability of any other remedy upon application for injunctive
11 relief and a finding of a violation or a threatened violation, the injunction
12 shall be granted. Every day upon which a violation of an ordinance continues
13 shall constitute a separate violation.

14 (c) The punishment authorized under this section may be
15 imposed only if copies of the ordinance are made available for distribution
16 to the public at cost, or at no charge.

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1 CHAPTER 30. ELECTIONS.

2 ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

3 ****Sec. 29.30.010. ADMINISTRATION. The borough assembly or city council
4 shall prescribe the rules for conducting a municipal election and shall
5 appoint an election board composed of at least three judges for each
6 precinct. Unless no qualified voter is willing to serve, a judge shall be a
7 voter of the precinct for which he is appointed.

8 Sec. 29.30.020. NOMINATIONS. (a) The assembly or council shall
9 provide by ordinance for nominations of elected officers by providing for
10 declaration of candidacy, or petition requiring the signatures of not more
11 than 10 voters, or both.

12 (b) A person may be nominated for and occupy more than one office,
13 but he may not serve simultaneously as borough mayor and as a member of the
14 borough assembly or as mayor and as a member of the council of a first class
15 city.

16 Sec. 29.30.030. ELECTION DATES. (a) The date of a regular municipal
17 election is the first Tuesday of October annually, or on a date of election
18 or at an interval of years provided by ordinance.

19 * (b) The governing body may call a special election upon at least
20 20 days notice.

21 Sec. 29.30.040. VOTER QUALIFICATION. A person may vote only if he is
22 a United States citizen who is qualified to vote in state elections and has
23 been a resident of the municipality for 30 days immediately preceding the
24 election and who is registered to vote in state elections and is not dis-
25 qualified under art. V of the state constitution. Voter registration by the
26 municipality may not be required. This section applies to home rule and
27 general law municipalities.
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