ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
738 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

****Sec 29.30.050. MAJORITY ELECTIONS. (a) Unless otherwise provided by ordinance, there shall be a runoff election if no candidate receives over 40 percent of the votes cast for the office of mayor or member of the assembly, council or school board.

(b) A municipality may by ordinance require a majority vote for the election of a municipal official.

(c) Unless otherwise provided by ordinance, a runoff election shall be held within three weeks after the date of certification of the election for which a runoff is required and notice of the runoff election shall be published at least five days prior to the election date.

* Sec. 29.30.060. ELECTION CONTEST AND APPEAL. (a) The governing body may provide by ordinance the time and procedure for the contest of an election.

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

(c) Unless otherwise provided by ordinance, the governing body shall declare the election results at the first meeting to canvass the election and record the results in the minutes of that meeting.

(d) The contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse any result of the election or the difference between the winning and a losing vote on the result contested is more than two percent.

(e) No person may appeal or seek judicial review of a city or borough election for any cause or reason unless the person is qualified to vote in the municipality, has exhausted his administrative remedies before the governing body and has commenced, within 10 days after the governing body has finally declared the election results, an action in the superior court in the judicial district in which the municipality is located. If no such action is commenced within the 10-day period, the election and election results shall be conclusive, final and valid in all respects.

(f) Notwithstanding the provisions of (e) of this section, the expulsion of a member of a borough assembly under AS 29.24.150(c), of a member of a city council under AS 29.24.290(b) of a borough mayor under AS 29.24.200(f) or of a city mayor under AS 29.24.350 is final and is not subject to judicial review.

ARTICLE 2. INITIATIVE AND REFERENDUM.

Sec. 29.30.090. RESERVATION OF POWERS. The powers of initiative and referendum are reserved to the residents of municipalities except the powers do not extend to matters restricted by Sec. 7, art. XI, of the state constitution.

****Sec. 29.30.095. APPLICATION FOR PETITION. (a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the bill to be initiated or the act to be referred and the address to which all correspondence relating to the application may be sent. An application shall be signed by at least ten municipal voters who will sponsor the petition. Other sponsors may be added at any time prior to filing the petition by submitting their names to the clerk. Within two weeks the clerk shall certify the application if he finds that it is in proper form and, for an initiative petition, that the matter

(1) is not restricted by AS 29.30.090;

(2) includes only a single subject;

(3) relates to a legislative rather than to an administrative matter; and

(4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition shall be subject to judicial review.

Sec. 29.30.100. PETITION. A petition for initiative or referendum is filed with the municipal clerk and an initiative petition must be filed not less than 90 days before the next regular election.

****Sec. 29.30.110. CONTENTS OF PETITION. (a) Within two weeks after certification of an application for petition, a petition shall be prepared by the municipal clerk. Each copy of the petition shall

(1) contain a summary of the bill to be initiated or the act to be referred;

(2) set out fully the ordinance or resolution sought to be initiated or referred;

(3) state the date on which the petition is issued by the clerk;

(4) contain notice that signatures must be secured within 60 days after the date the petition is issued;

(5) contain spaces for each signature, the printed name of each signer, the date each signature is affixed, and the residence and mailing addresses of each signer;

(6) contain a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be;

(7) space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) If a petition is composed of more than one page, each page shall contain the summary of the bill to be initiated or the act to be referred.

(c) Copies of the petition shall be provided to each sponsor by the clerk.

****Sec. 29.30.120. REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 60 days after the clerk issues the petition. The statement provided under AS 29.30.110(a)(7) shall be completed and signed by the sponsor. Signatures shall be ink or indelible pencil.

(b) A petition shall be signed by a number of voters residing within the municipality based on the number of votes cast at the last regular election held on or prior to the date the petition was issued equal to

(1) 25 percent, when a municipality has fewer than 7,500 persons; or

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

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

****Sec. 29.30.130. SUFFICIENCY OF PETITION. (a) All copies of a petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insufficient, it may be supplemented with additional signatures obtained within 10 days after the date on which the petition is rejected.

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

* Sec. 29.30.140. PROTEST. If the municipal clerk certifies the petition is insufficient, a signer of the petition may file a protest with the municipal executive within seven days after the certification and the

municipal executive shall present the protest at the next regular meeting to the governing body which shall hear and decide the protest.

Sec. 29.30.150. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition may not be filed sooner than six months after a petition is rejected.

****Sec. 29.30.160. PRESENTATION OF INITIATIVE. (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the clerk shall submit the matter to all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days after the certification of a petition, the governing body shall hold a special election within 75 days, but not sooner that 45 days after certification.

(b) If the governing body adopts substantially the same measure, the petition is void and the matter initiated shall not be placed before the voters.

(c) The ordinance or resolution initiated shall be published in full in the notice of the election but may be summarized on the ballot to indicate clearly the proposal submitted.

(d) If a majority vote favors the ordinance or resolution it becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution approved by the voters.

****Sec. 29.30.170. PRESENTATION OF REFERENDUM. (a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to all of the municipal voters at the next regular or special election occurring no sooner than 45 days after certification of the petition. If no regular or special election occurs within 75 days of certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification.

(b) If a petition for referendum is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the governing body may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the governing body repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective upon certification of the election.

****Sec. 29.30.180. EFFECT. (a) An ordinance or resolution may not be repealed within one year of its effective date if adopted in an initiative election or adopted after a petition which contains substantially the same measure has been filed. The ordinance or resolution may be amended at any time.

(b) If an ordinance or resolution is repealed in a referendum election or by the governing bdoy after a petition which contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of one year.

(c) An unsuccessful initiative or referendum precludes the filing of a new petition application for substantially the same measure sooner than six months after the election results are certified.

ARTICLE 3. RECALL.

****Sec. 29.30.210. RECALL. (a) An official who is elected or appointed to an elective municipal office may be recalled by the voters after he has served six months of the term for which elected or appointed.

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

Sec. 29.30.220. GROUNDS. Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties.

****Sec. 29.30.225. APPLICATION FOR RECALL PETITION. (a) An application for a recall petition shall be filed with the municipal clerk and shall contain

(1) the signatures and residence addresses of at least ten municipal voters who will sponsor the petition;

(2) The address to which all correspondence relating to the application may be sent;

(3) a statement in 200 words or less of the grounds of the recall stated with particularily.

(b) Additional sponsors may be added at any time prior to filing the petition by submitting their names to the clerk.

****Sec. 29.30.230. PETITION. (a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.30.225, he shall prepare a recall petition. All copies of the petition shall contain

(1) The name of the official sought to be recalled;

(2) The statement of the grounds for recall as set forth in the application for petition;

(3) the date the petition is issued by the clerk;

(4) notice that signatures must be secured within 60 days after the date the petition is issued;

(5) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;

(6) a statement that the sponsor personally circulated the petition, that all signatures were affixed in his presence, that he believes the signatures to be those of the persons whose names they purport to be;

(7) space for indicating the number of signatures on the petition, and space for the sponsor's sworn signature.

(b) Copies of the petition shall be provided to each sponsor by the clerk.

****Sec. 29.30.240. REQUIRED SIGNATURES. (a) The necessary signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under AS 29.30.230(a)(6) shall be completed and signed by the sponsor. Signatures shall be ink or indelible pencil.

(b) If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters residing within the municipality equal to 35 percent of the number of votes cast at the last regular election for that office held prior to the issuance of the petition. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters residing within the district equal to 35 percent of the number of votes cast in the district at the last regular election for that office held prior to the issuance of the petition. The clerk shall determine the number of signatures required on a petition and shall inform each sponsor.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw his signature upon written application to the clerk prior to certification of the petition.

****Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The copies of a petition shall be assembled and filed as a single instrument. Within ten days after the date the petition is filed, the municipal clerk shall certify on the petition whether it is sufficient.

(b) If a petition is insuffcent, it may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, except that a petition which does not contain an adequate number of signatures, both valid and invalid, may not be supplemented and shall be rejected and filed as a public record.

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

****Sec. 29.30.260. NEW RECALL PETITION APPLICATION. A new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected.

* Sec. 29.30.270. SUBMISSION. If a recall petition is sufficient, the clerk shall immediately submit it to the governing body.

****Sec. 29.30.280. ELECTION. (a) If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election.

(b) If no regular election occurs within 75 days the governing body shall hold a special election on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the governing body.

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question shall not be submitted to the voters. The governing body may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming him.

****Sec. 29.30.290. FORM OF RECALL BALLOT. A recall ballot shall contain

(1) the grounds as stated in 200 words or less on the recall petition;

(2) a statement by the official named on the recall petition of 200 words or less if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? YES ( ) NO ( )".

****Sec. 29.30.300. ELECTION PROCEDURE. Procedures for conducting a recall election are those of a regular municipal election if the question is submitted at a regular election. Procedures for conducting a recall election are those of a special election if the question is submitted at a special election, except that at least 20 days notice shall be given notwithstanding an ordinance or charter provisions to the contrary.

Sec. 29.30.310. MAJORITY REQUIRED. A majority vote on the question is required to recall an officer.

* Sec. 29.30.320. EFFECT. If an incumbent is not recalled at the recall election, an application for a a petition to recall the same incumbent may not be filed sooner than six months after the recall election.

****Sec. 29.30.330. SUCCESSORS. (a) If an official is recalled from the governing body, the governing body, by affirmative vote of a majority of the remaining members, may appoint a qualified person to fill a vacancy created by the recall.

(b) If all members of the governing body are recalled, the governor shall appoint at least three qualified persons to the governing body. The appointees shall, by an affirmative vote of the majority, appoint additional members to fill remaining vacancies.

(c) If all but two members of the governing body are recalled, each remaining member shall appoint a qualified person to fill a vacancy created by the recall. Additional persons may be appointed to fill vacancies by the affirmative vote of a majority of the remaining members and their appointees.

(d) If all officials are recalled from a school board the governing body may appoint a qualified person to fill a vacancy created by the recall.

(e) A person appointed under (a) - (d) of this section shall serve until a successor is elected and takes office.

(f) If an official is recalled the clerk, without further action by the governing body, shall conduct an election for a successor to fill the unexpired portion of the term. The election shall be held at least ten but not more than 60 days from the date the recall election is certified, except that if a regular or special election occurs within 75 days after certification and the certification occurs at least 20 days prior to the last date upon which a first notice of the election must be published, the successor shall be chosen at that election.

(g) Nominations for a successor may be filed until seven days prior to the last date upon which a first notice of the election must be published. Nominations may not be filed before the certification of the recall election.

CHAPTER 33. POWERS AND DUTIES APPLICABLE TO.

HOME RULE AND GENERAL LAW MUNICIPALITIES.

ARTICLE 1. GENERAL POWERS.

Sec. 29.33.010. GENERAL POWERS. Municipalities have the following general powers, subject to other provisions of law:

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

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

(3) to make investigations of the affairs of the municipality and make inquiries into the conduct of a municipal department;

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

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

(6) to sue and be sued;

**** (7) to levy taxes and special assessments, and impose liens for their enforcement;

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

**** (9) to acquire, manage, control, use and dispose of real and personal property, irrespective of whether or not the property is situated within or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area created under AS 29.36.270(f).

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

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

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

Sec. 29.33.010(1) COMBINING OFFICES. The assembly or council may combine two or more appointive or administrative offices.

* Sec. 29.33.020. EXTRATERRITORIAL JURISIDICTION. ****(a) A municipality may provide, to the extent otherwise authorized by law, parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries, transportation facilities, airports, utility services, solid and septic waste disposal, and wharves, harbors and other marine facilities outside its boundaries, subject to AS 29.36.010 and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

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

Sec. 29.33.030. EMINENT DOMAIN. A home rule or general law municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250 - 09.55.460.

Sec. 29.33.040. EMERGENCY DISASTER POWERS. (a) A municipality which is wholly or partially within an area which is declared by the President or Governor to be a disaster area may participate in and provide for housing and urban renewal and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough is limited to the area outside a city in the borough.

(b) A borough may exercise the powers for a housing or urban renewal and redevelopment project transferred to it by a city located in the borough as provided by AS 29.36.100.

(c) AS 29.36.170 - 29.36.200 are not applicable to the housing and urban renewal and redevelopment powers granted by this section.

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

ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

Sec. 29.33.070. MUNICIPAL FACILITIES AND SERVICES.

****(a) To the extent that a municipality may exercise the powers necessary to provide the service or facility and subject to other provisions of law a municipality may exercise the powers necessary to provide the following:

(1) streets and sidewalks;

(2) sewers and sewage treatment facilities;

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

(4) watercourse and flood control facilities;

(5) health services and hospital facilities;

(6) cemeteries;

(7) police protection and jail facilities;

(8) cold storage plants;

(9) telephone systems;

(10) light, power and heat;

(11) water;

(12) transportation systems;

(13) community centers;

(14) libraries, visual or performing arts centers, or museums;

(15) recreation facilities;

(16) airport and aviation facilities;

(17) garbage and solid-waste collection and disposal service and facilities subject to Sec. 080 of this chapter;

(18) fire protection service and facilities, not in conflict with AS 18.70.075, but not limited to AS 18.70.075;

(19) parking and parking facilities;

(20) housing and urban renewal, rehabilitation and development;

(21) preservation, maintenance and protection of historic sites, buildings and monuments;

**** (22) Repeal.

(23) emergency medical services and facilities.

**** (24) provide any other facility or service necessary to carry out a public purpose.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090 - 29.36.130 for areawide exercise or in the manner required under AS 29.36.160 - 29.36.200 for exercise in the borough area outside cities or are conferred by (Sec.20) of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17) and (20), in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

Sec. 29.33.080. GARBAGE AND SOLID WASTE SERVICES. (a) A municipality may by ordinance provide for the establishment, maintenance and operation of a system of garbage and solid waste collection and disposal for the entire municipality or for districts or portions of it; require all persons within the municipality or district to use the system and to dispose of their garbage and solid wastes as provided in the ordinance; award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees; pay for garbage and solid waste collection and disposal from available funds; require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality and fix charges against the property owners or occupants of premises for the collection and disposal; provide that charges for collection and disposal shall be paid by the property owner or occupants of the premises; and provide penalties for violations of the ordinances.

(b) The council or governing body of any political subdivision may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or other related services in any area in the political subdivision if the certificate authorizes the collection and disposal of garbage, refuse, trash or other waste material and providing of other services in the area, and the certificate was originally issued before the political subdivision provided like or similar services. A political subdivision may not provide for a garbage, refuse, trash or other waste material collection and disposal service in any area to the extent it lies within an area granted to a garbage, refuse, trash or other waste material carrier by a certificate issued by the commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier or that portion of the certificate which would be affected at fair market value and may exercise the right of eminent domain to determine fair market value.

(c) Repealed by Sec. 6 ch 76 SLA 1973.

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

Sec. 29.33.090. REGULATORY POWERS. (a) A municipality may regulate the operation and use of its public rights-of-way, public facilities and services. It may also regulate the following:

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(1) vehicle, pedestrian, and other traffic, and licensing and operation of motor vehicles, including snow vehicles and off-highway vehicles, and operators not inconsistent with AS 28.01.010;

(2) licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers or baggage not inconsistent with AS 28.01.010;

(3) vehicle parking not inconsistent with AS 28.01.010;

**** (4) Repeal.

(5) licensing, impounding and disposition of animals;

**** (6) Repeal.

**** (7) Repeal.

**** (8) Repeal.

**** (9) Repeal.

(10) alcoholic beverages as provided by AS 04.15.070;

(11) recreational devices as provided by AS 05.20.100;

**** (12) Repeal.

**** (13) Repeal.

**** (14) building, housing and related codes, which may be provided by cities within boroughs or, in the manner required in (b) of this section, by first or second class boroughs in the area outside cities or areawide;

(15) condemnation and abatement of public nuisances and hazards;

**** (16) Repeal.

(17) water pollution control;

(18) air pollution control as provided in AS 46.03.140 - 46.03.230;

**** (19) to the extent not otherwise prohibited, any activity affecting the general health, safety, well-being and welfare of its inhabitants;

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(20) licensing of day care facilities.

**** (21) municipally owned utilities to the extent not prohibited by AS 42.05.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090 - 29.36.130 for areawide exercise or in the manner required under AS 29.36.160 - 29.36.200 for exercise in the borough area outside cities or are conferred by (Sec. 20) of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17), (18) and (20) of this section, exercise of the powers areawide or, as to (a)(5), (15), (17) and (20), in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

****Sec. 29.33.100. MUNICIPALLY-OWNED UTILTIES. Repeal.

Sec. 29.33.110. FRANCHISES AND PERMITS. ****(a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, and may permit them the use of streets and other public places under regulations prescribed by ordinance.

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

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

Sec. 29.33.120. PUBLIC UTILITIES RATES. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a municipally owned utility not regulated under AS. 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest is paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital.

****Sec. 29.33.130. HEARING FOR REGULATION OF UTILITIES RATES. Repeal.

****Sec. 29.33.140. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY. Repeal.

****Sec. 29.33.150. FURTHER PROCEEDINGS. Repeal.

****Sec. 29.33.160. APPLICATION. Repeal.

ARTICLE 3. FISCAL DUTIES.

****Sec. 29.33.190. CENTRALIZED PURCHASING. Repeal.

Sec. 29.33.200. MUNICIPAL PROPERTIES. ****(a) Repeal.

**** (b) Repeal.

**** (c) Repeal.

**** (d) The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality. Each transaction disposing of land or an interest in land which is not subject to a competitive process shall be by ordinance.

**** (e) Repeal.

**** (f) Repeal.

Sec. 29.33.210. BUDGET AND CAPITAL PROGRAM. (a) The assembly or council shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve the budgets with or without amendments and shall appropriate the funds required for the approved budgets.

**** (b) Repeal.

(c) The governing body may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.

**** (d) Repeal.

****Sec. 29.33.220. EXPENDITURE OF BOROUGH REVENUES. Borough revenues received through taxes collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only. This section does not apply to a unified municipality.

Sec. 29.33.230. POST AUDIT. The governing body shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the governing body shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request. This section applies to home rule and general law municipalities.

ARTICLE 4. CONSTRUCTION OF POWERS.

Sec. 29.33.260. GENERAL CONSTRUCTION. A liberal construction shall be given to all powers and functions of boroughs and cities conferred in this title.

Sec. 29.33.270. EXTENT OF POWERS. Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

Sec. 29.33.280. ENUMERATION OF POWERS. Specific examples within an enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

CHAPTER 36. AREAWIDE BOROUGH POWERS AND DUTIES.

ARTICLE 1. SCOPE.

Sec. 29.36.010. SCOPE OF AREAWIDE POWERS. (a) First and second class boroughs shall exercise the powers as specified and in the manner specified in this chapter on an areawide basis, both inside and outside cities within their boundaries.

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

ARTICLE 2. MANDATORY AREAWIDE POWERS AND DUTIES.

Sec. 29.36.040. EDUCATION. Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation within an organized borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education, operation, management and control of schools on military reservation transfers to the borough school district in which the military reservation is located.

Sec. 29.36.050. ASSESSMENT AND COLLECTION OF TAXES. Boroughs shall assess and collect property, sales, and use taxes levied within their boundaries, subject to ch. 45 of this title. Taxes levied by a city and collected by a borough are returned in full to the levying city.

****Sec. 29.36.060. PLANNING, PLATTING, AND LAND USE REGULATION.

ARTICLE 3. ACQUISITION OF ADDITIONAL AREAWIDE POWERS.

Sec. 29.36.090. ADDITIONAL AREAWIDE POWERS. First and second class boroughs acquire additional areawide municipal powers by transfer from a city or by holding an areawide election on the question, except as provided otherwise in AS 29.33.080 and 29.33.090.

Sec. 29.36.100. TRANSFER BY CITY. (a) A city may transfer to the first or second class borough in which it is located any of its powers or functions, subject to the approval of the borough assembly.

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

Sec. 29.36.110. PETITION FOR POWER. An election on the question of adding an areawide power may be initiated in two ways:

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

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

Sec. 29.36.120. INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public.

Sec. 29.36.130. ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

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

(c) The borough mayor shall certify the election results to the Department of Community and Regional Affairs. The vote on the question of adding an areawide power shall be tabulated in two separate classifications.

One shall consist of all votes cast in the home rule and first class cities of the borough. The other shall consist of all votes cast in the remaining borough area. If the majority of the votes cast in each classification is favorable, the borough shall assume the added power within 30 days of certification of the election results. Upon acquisition of an areawide power the borough succeeds to all of the rights, powers and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises and other contractual obligations, liability for bonded and all other indebtedness and to all of the right, title and interest in the real and personal property held by the city or service area for the exercise of the power. The borough assembly may levy and collect special charges, taxes or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the city or service area for continuing services in the area. When a city or service area had previously incurred bonded indebtedness, no less than all property that was within the city or service area at the time the bonds were issued shall remain subject to taxation to pay the principal of and interest on the bond for a long as they remain outstanding. Upon acquisition of additional areawide powers the borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties and other matters related to acquisition of the areawide powers. This section applies to home rule and general law cities.

ARTICLE 4. BOROUGH POWERS AND DUTIES IN THE AREA OUTSIDE CITIES.

Sec. 29.36.160. FIRST CLASS BOROUGH. The first class borough may exercise in the area outside cities any general law municipal power. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

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Sec. 29.36.170. SECOND CLASS BOROUGH. (a) The second class borough may exercise in the area outside cities municipal powers approved at incorporation, conferred by AS 29.36.170 or added as provided in this chapter. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

****(b) A second class borough may, in the area outside cities,

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

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

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

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

(5) provide for garbage and solid waste collection and disposal subject to AS 29.33.080;

(6) provide for water pollution control:

(7) establish or participate in federal and state government loan programs for housing rehabilitation and improvement for conservation of energy.

**** (8) Tax, spend, and regulate for the purpose of promoting economic development.

Sec. 29.36.180. ADDITIONAL POWERS. The second class borough may initiate the acquisition of additional powers outside cities in either of two ways:

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

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

Sec. 29.36.190. INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public.

Sec. 29.36.200. ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election on the question in the borough area outside cities. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

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

(c) The borough mayor shall certify the election results to the Department of Community and Regional Affairs. If the majority of the votes cast on the question is favorable, the borough shall assume the added power within 30 days of certification of election results.

ARTICLE 5. POWERS OF THIRD CLASS BOROUGHS.

Sec. 29.36.230. POWERS OF THIRD CLASS BOROUGHS. (a) A third class borough shall exercise the areawide powers of education and tax assessment and collection in the manner provided for second class boroughs. Areawide exercise of powers other than education and tax assessment and collection is not authorized.

* (b) A third class borough may by a majority vote of the voters in a general or special election provide for planning, platting and land use regulation in accordance with AS 29.42.010 - 29.42.150 for boroughs and may exercise any general law municipal power which a second class borough is authorized to assume by this title. Powers assumed by a third class borough under this section may be exercised only within service areas. A third class borough may establish, operate, alter or abolish service areas in the

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manner provided by AS 29.63.090 for second class boroughs. The acquisition of additional powers on a service area basis may be initiated in either of two ways:

(1) a number of voters equal to 15 percent of the number of votes cast in the proposed service area at the preceding regular election may file a petition with the assembly; or

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

(c) A third class borough may borrow money and issue negotiable general obligation, revenue or refunding bonds and other evidences of indebtedness as provided for first and second class boroughs in AS 29.51.200 - 29.51.510

(d) A military reservation within a third class borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education, operation, management and control of schools on the military reservation transfers to the borough school district in which the military reservation is located.

****Sec. 29.36.240. ASSEMBLY TO SERVE AS SCHOOL BOARD. Repeal.

ARTICLE 6. SERVICE AREAS.

****Sec. 29.36.270. SERVICE AREAS. (a) Service areas to provide special services within a borough may be established, operated, altered or abolished by the assembly by ordinance. Special services include services not provided on an areawide basis within the borough or the borough area outside cities or a higher or different level of service than that provided on an areawide basis or in the borough area outside cities. In a first class borough the assembly may exercise within a service area any power granted a first class city by general law. Except as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the qualified voters residing within the service area and voting on the question at a regular or special election, or if no voters reside within the area, all owners of real property within the service area must consent in writing to the exercise of the power.

(b) The assembly may levy or authorize the levying of taxes, charges, or assessments in service areas to finance the special services.

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

(d) A new service area may not be established if, consistent with the purposes of art. X of the state constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

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

(f) A second class borough may establish a service area by ordinance which may include only vacant, unappropriated and unreserved land owned by the municipality. A second class borough may establish a service area, with the concurrence of the commissioner of natural resources, which may include only vacant, unappropriated and unreserved land owned by the state and classified for disposal to individuals. A second class borough may provide those services in a service area established under this subsection necessary to develop state or municipal land as required by the planning and platting ordinances of the borough. Exercise of the powers authorized by this subsection shall be by ordinance.

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CHAPTER 39. POWERS OF CITIES OUTSIDE BOROUGHS.

Sec. 29.39.010. ADDITIONAL POWERS. In addition to the powers granted by ch. 48 of this title, cities outside boroughs are granted the powers specified in this chapter. Powers of this chapter which are incorporated by reference to laws governing boroughs apply to home rule cities outside boroughs only in those cases in which they are made applicable to home rule boroughs in the provisions incorporated.

Sec. 29.39.020. ASSESSMENT AND TAX COLLECTION. Home rule and first class cities outside boroughs may assess, levy and collect a general property tax. A property tax if levied must be assessed, levied and collected as provided by ch. 45 of this title for boroughs. Cities outside boroughs may levy and collect sales and use taxes as provided by ch. 45 of this title for boroughs.

Sec. 29.39.030. DIFFERENTIAL TAX ZONES. Moved to 29.45.535.

Sec. 29.39.040. EDUCATION. Home rule and first class cities outside boroughs constitute city school districts and establish, maintain, and operate a system of public scnools as provided by AS 29.36.040 for boroughs.

****Sec. 29.39.050. PLANNING AND LAND USE REGULATION. (a) Home rule and first class cities outside boroughs shall, and second class cities outside boroughs may, provide for planning, platting and land use regulation within their boundaries as provided by AS 29.42.010 - 29.42.245 for boroughs.

(b) Home rule and first class cities within third class boroughs shall, and second class cities within third class boroughs may provide for planning, platting and land use regulation, as provided by AS 29.42.010 - 29.42.150 for boroughs.

****Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES. Repeal.

****Sec. 29.39.070. ENFORCEMENT OF CURFEWS. Repeal.

****Sec. 29.39.080. PENALTY FOR VIOLATION OF CURFEW. Repeal.

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CHAPTER 42. PLANNING, PLATTING, AND LAND USE REGULATION

****Sec. 29.42.010. PLANNING, PLATTING, AND LAND USE REGULATION. (a) First and second class boroughs shall provide for planning, platting, and land use regulation on an areawide basis.

(b) The assembly by ordinance may delegate any of its powers and responsibilities under this chapter to a city within the borough, or to a city board or commission, provided the city first consents by ordinance to the delegation. The assembly may, without first obtaining the consent of the city, revoke any power or responsibility delegated under this section.

Sec. 29.42.020. PLANNING COMMISSION. (a) The borough planning commission consists of five residents unless a greater number is otherwise provided by ordinance. Commission membership shall be apportioned so that the number of members from first class cities reflects the proportion of borough population residing within those cities. Members shall be appointed by the borough executive for a term of three years subject to confirmation by the assembly, except that appointments of members from first class cities are selected from a list of recommendations submitted by the city council. Members first appointed shall draw lots for one, two-and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the assembly.

**** (b) In addition to the responsibilities prescribed by ordinance, the planning commission shall

(1) prepare and recommend to the assembly a comprehensive plan in accordance with AS 29.42.030 for the systematic and organized development of the borough;

(2) prepare, recommend, and administer measures necessary to implement the comprehensive plan, including measures provided under AS 29.42.040.

Sec. 29.42.030. COMPREHENSIVE PLAN. (a) The comprehensive plan is a compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the borough, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan implementation.

**** (b) With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan. The assembly shall, after receiving the recommendations of the planning commission, periodically undertake an overall review of the plan and update the plan as necessary.

****Sec. 29.42.040. LAND USE REGULATION. (a) In accordance with a comprehensive plan adopted under AS 29.42.030 and in order to implement the plan, the assembly by ordinance as a legislative act, shall adopt or amend provisions governing the use and occupancy of land which may include but are not limited to

(1) zoning regulations restricting the use of land and improvements by geographic districts;

(2) land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;

(3) measures to further the goals and objectives of the comprehensive plan.

(b) A variance from a land use regulation adopted under this section shall not be granted if

(1) special conditions which require the variance are caused by the person seeking the variance;

(2) the variance will permit a land use in a district in which that use is prohibited; or

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(3) the variance is sought solely to relieve pecuniary hardship or inconvenience.

****Sec. 29.42.050. APPEALS FROM ADMINISTRATIVE DECISIONS. (a) By ordinance the assembly shall provide for an appeal from an administrative decision of a municipal employee, board, or commission made in the enforcement, administration, or application of a land use regulation adopted under this chapter. The assembly may provide for an appeal to a court, board of adjustment, hearing officer, or other body. The assembly shall provide for an appeal from a decision on a request for a variance from the terms of a land use regulation when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the district.

(b) By ordinance the assembly may provide for appointment of hearing officers, or for the composition, appointment and terms of office of a board of adjustment or other body established to hear appeals from administrative actions specified in (a) of this section. The assembly may define proper parties, prescribe evidentiary rules, standards of review, and remedies available to the hearing officers, board of adjustment or other body.

****Sec. 29.42.060. ADJUSTMENT PROCEDURE. Repeal

****Sec. 29.42.070. JUDICIAL REVIEW. (a) The assembly shall provide by ordinance for an appeal by a municipal officer or person aggrieved from a decision of the board of adjustment, hearing officer or other body to the superior court.

(b) An appeal to the superior court under this section is an administrative appeal and the appeal is heard solely on the record established by the board of adjustment, hearing officer or other body. A proceeding under this section has preference over all other civil actions and proceedings.

****Sec. 29.42.080. PLATTING JURISDICTION AND POWER. (a) By ordinance the assembly shall adopt subdivision requirements which may include but are not limited to the control of

(1) form, size and other aspects of subdivision, dedications, and vacations of land;

(2) dimensions and design of lots or tracts;

(3) street width, arrangement, and rights-of-way, including requirements for public access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage and other public utility facilities and improvements;

(4) dedication of streets, rights-of-way, public utility easements and areas deemed by the platting board necessary for other public uses.

(b) The assembly by ordinance shall establish a platting authority to administer subdivision regulations adopted by the borough and perform other duties. The platting authority may consist of members of the planning commission or of other municipal residents.

****Sec. 29.42.085. APPLICATION TO STATE AND POLITICAL SUBDIVISIONS. All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to this chapter and AS 40.15.200. The platting authority in the area outside cities in the unorganized borough and in third class boroughs is subject to this chapter and to AS 40.15.075.

****Sec. 29.42.090. PROCEDURE. (a) The platting authority shall approve or disapprove the plat within 60 days of filing or shall return it to the applicant for modification or correction. If the platting authority fails to act, the plat is considered approved and a certificate of approval shall be issued by the platting authority on demand. The applicant for plat approval may consent to the extension of the period for action by the platting authority. The platting authority shall state on its record and in writing to the applicant its reason for disapproval of a plat.

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

****Sec. 29.42.100. WAIVER IN CERTAIN CASES. Repeal

Sec. 29.42.110. INFORMATION REQUIRED. A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance.

****Sec. 29.42.115. SHORT PLAT PROCEDURE. (a) Nothwithstanding other provisions of this chapter the assembly may by ordinance establish a short or abbreviated plat filing procedure for a plat which will only relocate or vacate lot lines, or subdivide a single tract or lot into not more than four tracts or lots and which will not:

(1) deny legal and physical public access to all lots or tracts created or adjacent to the subdivision, or require construction or improvements necessary for access;

(2) alter a dedicated street or right-of-way, or require any dedication other than a dedication needed for an existing right-of-way;

(3) allow a change in the permitted use to which the lot or tract may be devoted;

(4) require the granting of a vacation or a variance from a subdivision regulation.

(b) Regulations may provide for an administrative official to review, consider, and approve short plats with notice, hearing, and other procedure requirements established by the assembly.

****Sec. 29.42.120. PENALTIES. Repeal.

****Sec. 29.42.130. ALTERATION OR REPLAT PETITION. No recorded plat may be altered or replatted except by the platting authority upon petition of the state, the municipality, a public utility, or the owners of a majority of the land affected by the alteration or replat. No platted street may be vacated, except upon petition of the state, municipality, or a public utility, or owners of the majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

*Sec. 29.42.140. NOTICE OF HEARING. The platting authority shall fix a time for a hearing on the petition which shall not be more than 60 days after the filing. The platting authority shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area. The platting authority shall also mail a copy of the notice to each affected property owner not signing the petition.

*Sec. 29.42.150. HEARING AND DETERMINATION. At the hearing the platting authority shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street may be made without the consent of the city council. No vacation of a street in the borough area outside cities may be made without the consent of the borough assembly. The assembly or council shall have 30 days from the decision in which to veto the board decision. If no veto is received by the board within the 30-day period, the consent of the city or borough shall be considered to have been given to the vacation.

*Sec. 29.42.160. RECORDING. If the alteration or replat is approved, the revised plat must be recorded by the platting authority and is thereafter the lawful plat.

Sec. 29.42.170. TITLE TO VACATED AREA. (a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering

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on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

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

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate those streets, alleys, crossings, sidewalks or other public ways that may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (a) of this section but remains in the city.

****Sec. 29.42.180. DELEGATIONS. Repeal.

****Sec. 29.42.190. REMEDIES. (a) It shall be unlawful for the owner of land located within a subdivision to transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded in accordance with this chapter or with an ordinance adopted under this chapter. It shall be unlawful for a person to record a plat or other document depicting subdivided land in any public recorder's office unless the plat or document has been approved by the municipal authority. A person convicted of violating a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority in the exercise of its powers under this chpater is guilty of a class B misdemeanor.

(b) The municipality or an aggrieved person may institute civil action against a person who violates a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority. In addition to injunctive and compensatory relief, a civil penalty not to exceed $1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.

(c) Every day upon which an unlawful act or condition continues shall constitute a separate violation.

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CHAPTER 45. MUNICIPAL TAXATION

Article 1. MUNICIPAL PROPERTY TAX

****Sec. 29.45.010. GENERAL PROPERTY TAX. A general law or home rule borough other than a unified municipality, 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 tax if levied on real property, personal property, or both must be assessed, levied and collected as provided in this chapter.

****Sec. 29.45.020. TAXPAYER NOTICE. (a) If a municipality levies and collects real or personal property taxes, or both, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER"

For the current fiscal year the (city)(borough) has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE (AS 14.17)	$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 43.18.100)	$
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE (AS 29.88)	$
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.89)	$
TOTAL AID	$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

	MILLAGE EQUIVALENT PREVIOUS YEAR	MILLAGE EQUIVALENT THIS YEAR
PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	....MILLS	....MILLS
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	....MILLS	....MILLS
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE	....MILLS	....MILLS
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES	....MILLS	....MILLS
TOTAL MILLAGE EQUIVALENT	....MILLS	....MILLS

Notice shall be provided

(1) by furnishing a copy of the notice with tax statements mailed for the fiscal year for which aid is received; or

(2) by publishing in a newspaper of general circulation within the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget.

(b) If the municipality levies and collects only a sales tax, the governing body shall provide a notice substantially in the form set out in (a) of this section. In providing notice under this subsection, the council or assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in (a) of this section. Notice shall be provided

(1) by publishing in a newspaper of general circulation within the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget; or

(2) if there is no newspaper of general circulation in the municipality, by posting a copy of the notice for at least 20 days in at least two public places within the municipality, with posting to occur not later than 45 days after the final adoption of the municipality's budget.

(c) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.62 and state aid for miscellaneous municipal services under AS 29.62. The Department of Community and Regional Affairs shall withhold annual allocations under those chapters until municipal officials demonstrate that the requirements of this section have been met.

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) The following property is exempt from general taxation:

**** (1) municipal, state or federally owned property, except that a private leasehold, contract 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 household;

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

**** (4) property of a nonbusiness organization or its auxiliary 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 (e) of this section.

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

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(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) Repeal.

(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. If used by nonprofit educational groups, the property is exempt only if used exclusively 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 44.62.560 and 44.62.570.

**** (f) No exemption may be granted under (e) of this section except upon written application

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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 or a date provided by ordinance which is not later than March 31, 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 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 or a date provided by ordinance which is not later than March 31, 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 (e) of 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 AS 29.53.025(a).

(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 AS 29.53.025.

(i) In (e) - (i) 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.

(j) Two percent of the assessed value of a structure is exempt from taxation if the structure contains a fire protection system approved under AS 19.70.081, 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.

Sec. 29.45.040. PROPERTY TAX EQUIVALENCY PAYMENTS. (a) A resident of the state 65 years of age or older who rents a permanent place of abode is eligible for tax equivalency payments from the state through the Department of Community and Regional Affairs.

(b) For purposes of determining payments to eligible persons, the department shall calculate a property tax equivalent percentage for each home rule or general law municipality which levies a general property tax at the rate of one percent per mil. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain tax equivalency payments the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid.

(d) If two or more persons occupy a residence as tenants, not all of whom are eligible for tax equivalency payments under this section, the assessor shall determine equitable partial payments to be made to the eligible tenants. However, tax equivalency payments to an eligible applicant may not be reduced because the spouse is less than 65 years of age. If all occupants in a residence are eligible for tax equivalency payments under this section, the occupants shall decide between and among themselves which shall receive payment.

Sec. 29.45.050. (Sec. 29.53.025.) OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election. An exclusion or exemption authorized by this section may not exceed $10,000 for any one residence.

(b) Municipalities may by ordinance

**** (1) classify boats and vessels for the purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage.

(2) classify and exempt from taxation

**** (A) Repeal.

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

(C) historic sites, buildings and monuments;

(D) land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the

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conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this subparagraph may be conveyed by the state only in accordance with AS 38.05.069(c).

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

(1) a home rule or first or second class borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

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

(3) a home rule or general law city within an organized borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act.

(e) Municipalities may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. However, the easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property so that the property owner is compensated at a rate which does not reflect the easement grant.

(f) A municipality may by ordinance exempt from taxation all or any part of the increase in assessed value of improvements to real property if an increase in assessed value is direcly attributable to alteration of the natural features of the land or new maintenance, repair or renovation of an existing structure and if the alteration, maintenance, repair or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. No exemption may be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use within the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed or from the date of approval for the exemption by the local assessor, whichever is later.

(g) A municipality may by ordinance exempt from taxation all or any part of the increase in assessed value of improvements to a single family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later.

****Sec. 29.45.060. MINING CLAIMS. Repeal.

Sec. 29.45.070. FARM OR AGRICULTURAL LANDS. (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceeding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must be actively engaged in farming the land, and derive at least 10 per cent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceeding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must be actively engaged in farming the land, and derive at least 10 per cent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section.

Sec. 29.45.080. MOBILE HOMES. Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential office or commercial purposes and attached to the land or connected to water, gas, electric or sewage facilities are classed as real property for tax purposes except where expressly classified as personal property by ordinance. This section does not apply to house trailers and mobile homes which are unoccupied and held for sale by persons engaged in the business of selling mobile homes.

Sec. 29.45.090. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROPERTY. (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to $1,500 a year for each person residing within its boundaries.

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which value, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

(d) By February 1 of each assessment year a taxing municipality must inform the Department of Revenue which method of taxation the municipality will use.

(e) For purposes of this section, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data, and shall advise each municipality of its population as so determined by January 15 of each year.

Sec. 29.45.100. TAX LIMITATION. (a) No municipality may levy and tax for any purpose in excess of three percent of the assessed valuation of property within the municipality in any one year.

**** (b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding $1,500 a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding $1,500 a year for each person residing within their boundaries or (2) upon value which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

Sec. 29.45.110. NO LIMITATIONS ON TAXES TO PAY BONDS. The limitations provided for in Sec. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default.

Sec. 29.45.120. FULL AND TRUE VALUE. (a) The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section and Secs. 30, 35 and 160 of this chapter. The full and true value is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

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

(c) In the case of cessation of business during the tax year, the assembly may provide for reassessment of business inventories using the average monthly method of assessment for the tax year rather than the value existing on January 1 of the tax year, and for reduction and refund of taxes. In enacting an ordinance authorized by this section, the assembly may prescribe procedures, restrictions, and conditions of assessing or reassessing business inventories and of remitting or refunding taxes.

Sec. 29.45.130. RETURNS. (a) The assembly may require every person having ownership or control of or an interest in property to submit a return in the form prescribed by the assessor, based on property values existing on January 1, except as otherwise provided in this chapter.

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

Sec. 29.45.140. INDEPENDENT INVESTIGATION. (a) The assessor is not bound to accept a return as correct. He may make an independent investigation of property returned or of taxable property upon which no return has been filed. In either case, the assessor may make his own valuation of the taxable property, which is prima facie evidence.

**** (b) For investigation, the assessor or his agent may enter any premise during reasonable hours and may examine property on the premises. He may examine all property records involved. A person shall, upon request, furnish to the assessor or his agent every facility and assistance for the investigation. The assessor may seek a court order to compel entry and production of records.

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

****Sec. 29.45.150. STATEMENT. A person who knowingly fails to file a statement required by ordinance or who knowingly makes a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind or value of property subject to taxation with intent to evade the taxation, is guilty of a class B misdemeanor.

Sec. 29.45.160. REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly.

Sec. 29.45.170. ASSESSMENT ROLL. (a) The assessor shall prepare an annual assessment roll. The roll contains

(1) a description of all taxable property;

(2) the assessed value of all taxable property;

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

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the owner of record as shown in the records of the district recorder, who shall at least monthly provide the assessor a copy of each recorded change of ownership showing the name and mailing address of the owner and the name and mailing address of the party recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to

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be the legal owner of record. If the property owner is unknown, the property may be assessed to "unknown owner." No assessment is invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described.

Sec. 29.45.180. ASSESSMENT NOTICE. (a) The assessor shall give every person named in the assessment roll a notice of assessment, showing the assessed value of his property. On each notice is printed a brief summary of the dates when taxes are payable, delinquent and subject to penalty and interest, and the dates when the board of equalization will sit.

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

Sec. 29.45.190. CORRECTIONS. (a) A person receiving an assessment notice shall advise the assessor of errors or ommissions in the assessment of his property. The assessor may correct errors or ommissions in the roll before the board of equalization hearing.

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

Sec. 29.45.200. APPEAL. (a) A person whose name appears on the assessment roll or his agent or assigns may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

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

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

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

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

****Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the assembly, municipal residents, or a combination of assembly members and residents. The assembly shall be ordinance establish the qualifications for membership.

(b) The board is governed in its proceedings by rules adopted by ordinance which are consistent with general rules of administrative procedure. The board may alter an assessment of a lot or parcel only pursuant to an appeal filed as the the particular lot or parcel.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law shall be appealed directly to the superior court.

Sec. 29.45.220. HEARING. (a) If an appellant fails to appear, the board of equalization may proceed with the hearing in his absence.

(b) The appellant bears the burden of proof.

**** (c) The only grounds for adjustment are proof of unequal, excessive, improper, or undervaluation based on facts which are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(d) Tne board shall certify its actions to the assessor within seven days.

**** (e) Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

**** (f) An appellant or the assessor may appeal the board's determination to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

Sec. 29.45.230. SUPPLEMENTARY ASSESSMENT ROLLS. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll.

Sec. 29.45.240. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A NATURAL DISASTER. (a) The assembly may provide for reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a natural disaster.

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

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

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

**** (e) In this section "disaster" means a major disaster declared by the President of the United States under the provisions of the Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g, or other federal law, or a disaster declared by the governor under AS 26.23.010 26.23.110.

Sec. 29.45.250. TAX LEVY AND RATE. ****(a) The power granted to the assembly to assess, levy and collect a general property tax shall be exercised by means of a general ordinance. The rate of levy, the date of equalization and the date when taxes become delinquent shall be fixed by resolution.

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

Sec. 29.45.260. RATES OF PENALTY AND INTEREST. ****(a) If the taxpayer is required to pay the entire tax on the due date set by the assembly, a penalty not to exceed 20 percent may be added to all delinquent taxes, and interest at the rate of 15 percent a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. If the taxpayer is given the right to pay the tax in two installments penalty and interest on an unpaid installment accrues from the date the installment becomes due.

(b) If the assembly imposes a penalty for the nonpayment of property taxes when due, or the late return of personal property assessment forms, the rate of penalty or combined rates of penalty may not exceed 10 percent of the tax due on the property concerned.

**** (c) Repeal.

ARTICLE 2. ENFORCEMENT OF TAX LIENS

Sec. 29.45.290. VALIDITY. Certified assessment and tax rolls are valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.

Sec. 29.45.300. TAX LIABILITY. (a) The owner of personal property assessed is personally liable for the amount of taxes assessed against his property. The tax, together with penalty and interest, may be collected in a personal action brought in the name of the borough.

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

Sec. 29.45.310. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly shall provide the procedure for distraint and sale by ordinance. No seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice is given by posting or publication. The siezure is made by virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty and interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale. If the property is sold for more money than is needed to satisfy the tax, upon presentation of a proper claim, the municipality shall remit the excess to the former record owner. A claim for the excess filed after six months of the date of sale is forever barred.

Sec. 29.45.320. REAL PROPERTY TAX COLLECTION. (a) The borough shall enforce delinquent real property tax liens by annual foreclosure, unless otherwise provided by ordinance.

**** (b) If the tax on property described in AS 29.45.080 or on a taxable interest in tax exempt property is not paid when due, a borough may enforce the tax by a personal action against the delinquent taxpayer brought in the district or superior court, in addition to other remedies available to the borough to enforce the lien.

Sec. 29.45.330. FORECLOSURE LIST. (a) The borough shall

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

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

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

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

(1) the last known owner;

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

(3) years and amounts of deliquency;

(4) penalty and interest due;

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

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

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

Sec. 29.45.340. CLEARING DELINQUENCIES. During the publication or posting of the foreclosure list and up to the time of transfer to the borough a person may pay the taxes, together with the penalty, interest and costs. The collector shall note payment on the foreclosure list.

Sec. 29.45.350. LIST TO LIENHOLDER. A holder of a mortgage or other lien on real property may request the clerk to send by certified mail notice of a foreclosure list which includes such real property.

Sec. 29.45.360. GENERAL FORECLOSURE. The borough shall bring one general foreclosure proceeding in rem against the properties included in the list. If the owner is unknown, the property is proceeded against as belonging to "unknown owner." Tax foreclosure proceedings have priority over all other civil proceedings except board of adjustment appeals as provided in AS 29.33.130(e).

Sec. 29.45.370. ANSWER AND OBJECTION. A person having an interest in a tract on the foreclosure list may file an answer within 30 days of the date of last publication, specifying his objection. The court shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the tax is valid and that the tax is unpaid.

Sec. 29.45.380. JUDGEMENT. The court shall in a proper case give judgment and decree that the tax liens be foreclosed. It is a several judgment against and a lien on each parcel.

Sec. 29.45.390. TRANSFER AND APPEAL. (a) Foreclosed properties are transferred to the borough for the lien amount. When answers are filed the court may enter judgment against and order the transfer to the borough of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

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

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

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

Sec. 29.45.400. REDEMPTION PERIOD. (a) Properties transferred to the borough are held by the borough for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest and costs, including all costs incurred under Sec. 350(a) of this chapter. Property redeemed is subject to all taxes, assessments, liens and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property.

**** (b) Repeal.

****Sec. 29.45.410. EFFECT. Receipt of redemption money by the borough releases the judgment obtained under AS 29.45.380. The clerk or his designee shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The clerk or his designee shall collect the recording fee at the time or redemption and shall file the certificate with the record as part of the judgment roll.

Sec. 29.45.420. ADDITIONAL LIENS. If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the payment represented by receipt for payment constitutes an additional lien on the property, collectible by the lienholder in the same manner as the original lien.

Sec. 29.45.430. POSSESSION DURING REDEMPTION PERIOD. Foreclosure does not affect the former owner's right to possession during the redemption period. In the event that waste is committed by the former owner, or by anyone acting under his permission or control, the borough may declare an immediate forfeiture of the right to possession.

Sec. 29.45.440. EXPIRATION. ****(a) At least 30 days before the expiration of the redemption period the clerk or his designee shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration of the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the borough or city immediately on expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the borough or city. The notice is published once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough. If there is no newspaper of general circulation distributed within the borough, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against which a judgment of foreclosure has been taken and, if the assessed value of the property is more than $100,000, to all holders of mortgages or other liens of record on the property. The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner and to the holder of a mortgage or recorded lien at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

(b) Costs incurred in the determination of holders of mortgages and other liens of record and costs of publication of notice incurred by a municipality under (a) of this section are a lien on the property and may be recovered by the municipality.

Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) Unredeemed properties in the area of the borough outside cities are deeded to the borough by the clerk of the court. Unredeemed properties within a city are deeded to the city subject to the payment by the city of unpaid borough taxes and costs of foreclosure levied against the property before foreclosure. The deeds shall be recorded in the recording district in which the property is located.

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

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

**** (d) No deed is invalid for irregularities, omissions or defects in the proceedings under this chapter unless the former owner has been misled to his injury. After two years from the date of the deed, its validity is conclusively presumed and any claim of the former owner or other person having an interest in the property is forever barred.

Sec. 29.45.460. DISPOSITION AND SALE OF FORECLOSED PROPERTIES. (a) The assembly of a borough or council of a city shall determine by ordinance whether foreclosed property deeded to the municipality under Sec. 360 of this chapter shall be retained by the municipality for a public purpose. The ordinance shall contain the legal description of the property, the address or a general description of the property sufficient to provide the public with notice of its location, and the name of the last record owner of the property as his name appears on the assessment rolls of the municipality.

(b) Tax-foreclosed properties conveyed to a borough or city by tax foreclosure and not required for a public purpose may be sold. Before the sale of tax-foreclosed property held for a public purpose, the assembly or council, by ordinance, shall determine that a public need does not exist. The ordinance shall contain the information required in (a) of this section.

**** (c) The clerk or his designee shall send a copy of the published notice of hearing of an ordinance to consider a determination required by (a) or (b) of this section by certified mail to the former record owner of the parcel of property which is the subject of the ordinance. The notice shall be mailed within five days of its first publication and shall be sufficient if mailed to the last record owner of the property as his name appears on the assessment rolls of the municipality.

(d) The provisions of (c) of this section do not apply with respect to property which has been held by the municipality for a period of more than 10 years after the close of the redemption period.

Sec. 29.45.470. REPURCHASE BY RECORD OWNER. (a) The record owner at the time of tax foreclosure of property acquired by a borough or city, or his assigns, may, at any time before the sale or contract of sale of the tax-foreclosed property by the borough or city, repurchase the property. The borough or city shall sell the property for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight percent a year from the date of entry of the judgment of foreclosure to the date of repurchase, delinquent taxes assessed and levied as though it had continued in private ownership, and costs of foreclosure and sale, Sec. 29.45.490. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a city or borough holds or takes title to tax-foreclosed property for a public purpose, the city or borough shall satisfy unpaid taxes and assessments against the property held by other municipalities, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed valuation of the property, the city or borough shall pay the other municipalities the assessed valuation, which shall be divided between the other municipalities in proportion to their respective taxes and assessments against the property at the time of foreclosure.

****Sec. 29.45.510. REFUND OF TAXES. (a) If a taxpayer pays taxes under protest, he may bring suit in the superior court against the borough for recovery of the taxes. If judgment for recovery is given against the borough or, if in the absence of suit, it becomes obvious to the assembly that judgment for recovery of the taxes would be obtained if legal proceedings were brough, the borough shall refund the amount of the taxes to the taxpayer with interest at eight percent from the date of payment plus costs.

(b) If, in payment of taxes legally imposed, a remittance by a taxpayer through error or otherwise exceeds the amount due, and the borough, on audit of the account in question, is satisfied that this is the case, the borough shall refund the excess to the taxpayer with interest at ~~[illegible]~~ eight percent from the date of payment. A claim for refund filed after one year of the due date of the tax is forever barred.

(c) The assembly may correct manifest clerical errors at anytime.

ARTICLE 3. CITY PROPERTY TAX.

Sec. 29.45.530. POWER OF LEVY. Home rule and first class cities within boroughs may levy a general property tax. A property tax, if levied, shall be levied in the manner provided for borough levies in Sec. 170(a) of this chapter and is subject to Secs. 10-25, 50-55 and 310-350 of this chapter

The council shall by June 15 of each year present to the borough assembly a statement of the city's rate of levy, unless a different date is agreed upon by the borough and city.

Sec. 29.45.535. DIFFERENTIAL TAX ZONES. Cities may by ordinance establish, alter and abolish differential tax zones to provide and levy property taxes for services not provided generally within the city or a different level of service than that provided generally within the city.

Sec. 29.45.540. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS CITIES. A second class city may by referendum levy real and personal property taxes as provided for first class cities. However, levy by a second class city may not exceed one-half of one percent of the assessed valuation of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness which is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments.

**** Sec. 29.45.545. COMBINING PROPERTY TAX WITH INCORPORATION. A petition for second class city incorporation may request that a property tax proposal be placed in the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails.

ARTICLE 4. BOROUGH SALES AND USE TAX

Sec. 29.45.570. SALES AND USE TAX. ****(a) A borough may levy and collect a sales tax not exceeding six percent on sales, rents, and on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

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

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

**** (d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

**** (e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales or use tax, and for interest, penalties and administration costs in the event of delinquencies. A lien established under this section has the force, priority and duration of a judgment lien.

Sec. 29.45.590. REFERENDUM, ADOPTION AND MODIFICATION. ****(a) A new sales tax or an increase in the rate of levy of a sales tax approved by the assembly by ordinance shall not take effect until ratified by a majority of the voters voting on the question at a regular or special election.

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

ARTICLE 5. CITY SALES AND USE TAXES

Sec. 29.45.610. POWER OF LEVY. Cities within a borough which levies and collects sales or use taxes for areawide borough functions may levy sales or use taxes upon all sources taxed by the borough in the manner provided for boroughs.

Sec. 29.45.620. POWER OF LEVY AND COLLECTION. Cities within a borough which does not levy and collect sales or use taxes for areawide borough functions may levy and collect sales or use taxes in the manner provided for boroughs.

Sec. 29.45.630. COMBINING SALES TAX WITH INCORPORATION. A petition for second class city incorporation may request that a sales tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the sales tax proposition. If so, the incorporation proposition fails if the sales tax fails.

CHAPTER 48. SPECIAL ASSESSMENTS

****Sec. 29.48.010. ASSESSMENT AND PROPOSAL. The governing body may assess against the property of a state or federal governmental unit and private real property benefited all or a portion of the cost of acquiring, installing or constructing capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under AS 29.48.020(a)(8). If a governmental unit other than the state benefited by an improvement refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

(1) petition to the governing body of the owners of one-half in value of the property to be benefited or

(2) the governing body.

Sec. 29.48.020. PROCEDURE. ****(a) The governing body may prescribe by ordinance the procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments and financing of the improvments, including and subject to the following:

**** (1) a procedure for filing petitions;

(2) a survey and report by the borough or city executive concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;

(3) a public hearing on the necessity for the local improvement;

**** (4) a resolution or ordinance of the governing body determining to proceed or not to proceed with the proposed local improvement;

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

**** (6) published notice of each public hearing required by this section and mailing notice to each record owner of real property within the special assessment district;

**** (7) a resolution or ordinance confirming the special assessment roll for the local improvement;

* (8) if protests as to the necessity of a local improvement are made by owners of property which will bear 50 percent or more of the estimated cost of the improvement, the assembly or council may not proceed with the improvement until the objections have been reduced to less than 50 percent, except upon approval of not fewer than three-fourths of the governing body.

**** (b) To the extent that the governing body does not prescribe a procedure for special assessments as permitted by this section, the governing body shall comply with the special assessment procedures set out in AS 29.48.030 - 29.48.100.

Sec. 29.48.030. CREATION OF DISTRICT. **** (a) When an improvement proposal has been filed with the municipal clerk and presented to the governing body, it shall find by resolution or ordinance whether (1) the improvement requested is necessary and should be made, and (2) if by petition the request has sufficient and proper petitioners. The findings of the governing body are conclusive.

(b) If the governing body approves an improvement proposal with the necessary findings, it shall develop a proposed improvement plan including the cost estimate and the percentage of the improvement plan cost to be assessed against the property benefited. This plan is to be filed with the municipal clerk.

(c) The governing body shall set a time for public hearing on the improvement plan and the period for filing objections to the plan. The governing body shall publish a notice of the hearing and of the period during which objections may be filed at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

****Sec. 29.48.040. RECORD OWNER. The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment roll may designate "unknown owner."

****Sec. 29.48.050. OBJECTIONS AND REVISION. (a) Objections to the improvement plan may be filed during a period of 60 days after publication of notice. The governing body may by resolution or ordinance approve the plan and order the improvement subject to the limitation of (b) of this section.

(b) If objections are made in writing during the period set for objections by the owners of property bearing one-half or more of the estimated cost of the improvement, the governing body may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 percent. A revised plan shall be approved and adopted as an original plan in accordance with AS 29.48.030.

Sec. 29.48.060. ASSESSMENT ROLL. ****(a) At any time after project approval, the governing body shall assess the authorized percentage of the cost against property within the district in proportion to benefit received.

**** (b) The special assessment roll shall contain property descriptions, names of record owners and assessment amounts.

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

****Sec. 29.48.070. HEARING AND SETTLEMENT. After the public hearing, the governing body shall correct errors and any inequalities in the roll. If an assessment is increased, a new hearing shall be set and notice mailed, except that a new hearing and notice is not required of all record owners of property subject to the increased assessment consent in writing to the increase. Objections to the increased assessment shall be limited to record 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 municipality 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 municipality is appealable under AS 44.62.560-44.62.570.

**** (b) No exemption may be granted under this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors and in accordance with the following requirements:

**** (1) the claimant must file the initial application during the period of time between the date the assessment roll is confirmed and the time of payment fixed by the governing body. Within one year of the date the assessment roll is confirmed the governing body for good cause shown may waive the claimant's failure to make timely initial application for the exemption and authorize the assessor to accept the application as if timely filed.

(2) a claimant receiving the exemption must file with the deparment by March 15 of each subsequent year a separate application proving eligibility as of January 1 in order to retain the exemption. Within the same year the department for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

(3) if an application is filed within the required time under this subsection and is approved by the assembly or council, the exemption shall be allowed in accordance with the provisions of this section. If a waiver under this subsection is granted and the application for exemption approved, the amount of any assessment, penalty or interest

which the claimant may have already paid on the assessment shall be refunded to him. The municipality may at any time require proof in the form considered necessary of the right and amount of an exemption claimed under this section.

(c) The state shall reimburse a home rule or general law municipality for the sewer and water assessment revenues which it would receive but for the operation of this section. Reimbursement under this subsection is a lien in favor of the state against the property exempted to the extent of the assessment against the property exempted. Upon recordation in the recording office of the district in which the property exempted is located the lien is prior and superior to other liens against the property except for general taxes or other special assessments and may be enforced by lien foreclosure as provided in AS 34.10.070-34.10.220. The lien becomes immediately due and payable

(1) upon sale or other transfer of the property except to a spouse, widow, widower, or minor heir; however, if the property is transferred to a minor heir the lien becomes due and payable on the date the minor heir reaches the age of 25 years; or

(2) when property exempted under (a)(1) or (2) of this section receives more than one sewer connection or more than one water connection; or

(3) when the claimant fails to prove eligibility under (b)(2) of this section.

(d) In this section

(1) "resident" means a person who for 12 consecutive months has maintained his permanent place of abode in the state;

(2) "real property" includes, but is not limited to, mobile homes, whether classified as real or personal property for municipal tax purposes.

(3) "minor heir" means a person who, at the time of transfer of the property, has not attained the age of 19 years or who, if he has not attained the age of 22 years, is a full-time student at an educational institution or a member of the armed forces of the United States.

Sec. 29.48.100. REASSESSMENT. (a) The assembly or council shall within one year correct any deficiency in a special assessment found by a court.

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

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

(d) The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure.

****Sec. 29.48.105. ALLOWABLE COSTS. (a) Whenever a special assessment district is created, there may be included in the assessments

(1) all of the cost of acquiring, installing, making or constructing the local improvement;

(2) the costs of all engineering and surveying to be done in connection with creating the district or improvement;

(3) the cost of mailing and publishing of notices;

(4) interest on interim financing;

(5) the cost of legal services and other expenses incurred in the formation of the special assessment district;

(6) the cost of completing the improvement and financing the improvement, including the issuance of any bonds.

(b) The total amount of the assessment roll may not exceed actual costs but actual costs may include reasonable estimates of the costs to be incurred in connection with issuance of any bonds.

Sec. 29.48.110. OBJECTION AND APPEAL. (a) The regularity or validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation.

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

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

****Sec. 29.48.115. INTERIM FINANCING. (a) The governing body may provide by resolution or ordinance for the issuance of notes in payment of the costs of any local improvement project, payable out of special assessments for the improvement. The notes shall bear interest at a rate or rates authorized by the resolution or ordinance and shall be redeemed either in cash or bonds for the improvement project.

(b) All notes issued against assessments shall be claims against the assessments which are prior and superior to a right, lien or claim of a surety upon the bond given to the municipality to secure the performance of its contract for a local improvement project or to secure the payment of persons who have performed work or furnished materials under the contract.

(c) The municipal treasurer may accept notes against special assessments upon conditions prescribed by the governing body in payment of

(1) assessments against which the notes were issued in order of priority;

(2) judgments rendered against property owners who have become delinquent in the payment of assessments; and

(3) certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments.

Sec. 29.48.120. SPECIAL ASSESSMENT BONDS. (a) The assembly or council may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds. The property benefited may be pledged by the assembly or council to secure a payment.

(b) Upon default in a payment due on a special assessment bond, a bondholder may enforce payment of principal and interest and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption shall be the same as in the case of a mortgage foreclosure on real property.

**** (c) Before the governing body may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund.

CHAPTER 51. MUNICIPAL DEBT.

ARTICLE 1. REVENUE ANTICIPATION NOTES.

Sec. 29.51.010. BORROWING IN ANTICIPATION OF REVENUE. A municipality of the state which is authorized to incur indebtedness may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year but all debt so contracted shall be paid before the end of the next fiscal year. Revenue anticipation notes may be issued as evidence of the borrowing.

Sec. 29.51.020. ISSUANCE OF NOTES. The governing body of a municipality may, by ordinance or resolution, authorize the issuance of revenue anticipation notes and prescribe the form and details of the notes and the manner of their execution. The governing body of the municipality may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution which provides for the manner of their sale.

Sec. 29.51.030. ISSUANCE OF NOTES IN ANTICIPATION OF STATE, FEDERAL GRANTS. (a) The governing body of a municipality, upon adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. The notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body of the municipality may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes shall mature not later than the end of the next fiscal year.

Sec. 29.51.040. PRIORITY OF REPAYMENT. The payment of the principal and interest on revenue anticipation notes shall be payable from revenues, and their payment additionally shall be secured by a pledge of the full faith, credit and unlimited taxing power of the municipality issuing them.

****Sec. 29.51.050. Repeal.

ARTICLE 2. BOND ANTICIPATION NOTES.

Sec. 29.51.080. BOND ANTICIPATION BORROWING. A municipality may borrow money in anticipation of the sale of general obligation and revenue bonds if

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

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

Sec. 29.51.090. ISSUANCE OF NOTES. The assembly or council shall issue negotiable or nonnegotiable notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All notes and the interest on them are payable at fixed places on or before a fixed time, from the proceeds of the sale of bonds in anticipation of which the original note or notes were issued, unless the bonds have not been sold by the maturity date of the notes.

Sec. 29.51.100. ISSUANCE OF NEW NOTES. If the sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the assembly or council shall issue new notes in order to meet payment of the notes then maturing or shall renew the outstanding bond anticipation notes. New notes issued or renewals of outstanding bond anticipation notes shall bear a maturity date not to exceed one year from the date of issue.

Notes, new notes, and renewals of notes shall not be outstanding for a total elapsed time of more than three years.

Sec. 29.51.110. REPAYMENT OF NOTES. Every note is payable from the proceeds of the sale of bonds which the notes anticipated or from the proceeds of the sale of new bond anticipation notes.

Sec. 29.51.120. SECURITY. (a) Notwithstanding any other provisions of this chapter as to payment of notes, notes issued in anticipation of the sale of general obligation bonds and the interest on them are secured by the full faith, credit, taxing power and resources of the municipality. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

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

Sec. 29.51.130. LIMITATION. The total amount of notes issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued.

Sec. 29.51.140. USE OF PROCEEDS. The proceeds from the sale of notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes.

****Sec. 29.51.150. Repeal.

ARTICLE 3. GENERAL OBLIGATION BONDS.

Sec. 29.51.180. GENERAL OBLIGATION BONDS. A municipality may acquire, construct, improve and equip capital improvements and issue negotiable or nonnegotiable general obligation bonds for these purposes.

Sec. 29.51.190. VOTE AND NOTICE OF EXISTING INDEBTEDNESS REQUIRED. (a) A municipality may incur general obligation bond debt only after a bond authorization ordinance is approved by a majority of those voting on the question at a regular or special election. Any municipal voter may vote in the bond election, except as otherwise provided by charter or law.

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

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

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

(3) the total assessed valuation within the municipality.

****Sec. 29.51.200. Repeal.

Sec. 29.51.210. PAYMENT. (a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount to pay or secure the payment of the principal and interest on bonds, regardless of whether the bonds are in default or in danger of default.

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

ARTICLE 4. REVENUE BONDS.

Sec. 29.51.240. REVENUE BONDS. ****(a) A municipality may issue revenue bonds for a public enterprise or public corporation of the municipality where the only security is the revenue of the public enterprise or corporation.

(b) A municipality may issue its revenue bonds to finance the purchase of residential mortgage loans. The revenue bonds issued under this subsection are payable solely from the principal and interest of the mortgage loans and from any other amounts pledged by the municipality, except the pledge of revenues derived from taxes. Revenue bonds issued under this subsection do not constitute a general obligation of the municipality.

**** (c) Repeal.

Sec. 29.51.250. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of revenue bonds, unless otherwise provided by ordinance.

Sec. 29.51.260. FORMS AND TERMS. The assembly or council shall fix the date of the bonds, denominations, maturities, rate or rates of interest, place and manner of payment, redemption terms, registration privileges, manner of execution, signatures required, and other details of the bonds. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

****Sec. 29.51.270. Repeal.

****Sec. 29.51.280. CONSTRUCTION. The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

ARTICLE 5. REFUNDING BONDS.

Sec. 29.51.300. AUTHORIZATION. If a municipality has outstanding general obligation or revenue bonds and the assembly or council determines that it would be financially advantageous to refund the bonds, the assembly or council may provide by ordinance for the issuance of general obligation or revenue refunding bonds.

Sec. 29.51.310. EFFECT OF BONDS. The refunding bonds may take up and refund all [illegible]y part of outstanding bonds at or before their maturity or redemption date. The assembly or council may include various series and issues of bonds in a single issue of refunding bonds.

Sec. 29.51.320. NO ELECTION REQUIRED. No election is required to authorize the issuance and sale of refunding bonds. Their issuance may be authorized and all proceedings with reference to them prescribed by ordinance of the assembly or council. However, when it is desirable to use general obligation bonds to refund a revenue bond issue, the governing body shall call an election on the question.

Sec. 29.51.330. PAYMENT OF REFUNDING BONDS. General obligation refunding bonds are payable according to Sec. 180 of this chapter. Revenue refunding bonds are payable according to Sec. 220 of this chapter.

****Sec. 29.51.340. SALE OF REFUNDING BONDS. General obligation or revenue refunding bonds may, at the discretion of the governing body, be exchanged for the bonds being refunded, or may be sold at public or private sale. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

****Sec. 29.51.350. OTHER MUNICIPAL FINANCING. (a) A municipality may authorize by ordinance or resolution the issuance of revenue bonds to finance any project which serves a public purpose, and the bonds shall be secured and payable solely from the revenue and property of the project.

(b) Bonds issued under this section are not a debt or liability of the municipality and do not create or constitute an indebtedness, liability or obligation of the municipality nor do they constitute a pledge of faith, credit or taxing power of the municipality. Each bond must contain on its face a statement that the principal and interest on the bond are payable solely from the revenues and property of the project being financed, that the municipality is not obligated to pay the principal or the interest on the bonds except from those sources, and that neither the faith and credit nor the taxing power of the municipality is pledged to the payment of principal or interest on the bond.

(c) A municipality may

(1) loan the proceeds of the bonds issued under this section;

(2) pledge, mortgage or assign money, leases, agreements, property or other assets of the project being financed;

(3) enter into covenants and agreements concerning bonds issued under this section which the municipality determines to be desirable;

(4) provide for any matter which effects the security of the bonds.

(d) In this section

(1) "bonds" means bonds, notes, or other evidence of indebtedness;

(2) "project" includes but is not limited to commercial, manufacturing, agricultural, industrial, residential housing, recreation, tourism, and medical projects and programs.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

****Sec. 29.51.370. SALE. Bonds and notes issued under this chapter may be sold at either public or private sale by the municipality in the manner and at the price it determines.

****Sec. 29.51.375. FORMS AND TERMS. The governing body may by ordinance or resolution fix the date, denominations, maturities, rate or rates of interest, redemption terms, registration privileges, manner of execution, signatures required, purchase price, manner of sale, and other requirements for issuing bonds or notes. If an official whose signature appears on the bonds or coupons ceases to be an official before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

****Sec. 29.51.380. INTEREST RATE. The interest rate payable on a bond or note shall be determined by the governing body and is not subject to the usury rate limitations of AS 45.45.010.

****Sec. 29.51.390. Repeal.

Sec. 29.51.400. REDEMPTION BEFORE MATURITY. A bond or note may be made subject to redemption before maturity as stated in the authorization or in the bond or note.

****Sec. 29.51.410. BOROUGH INDEBTEDNESS. (a) A borough may incur indebtedness

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

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

(3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be derived from the area incurring the debt under (a)(2) or (a)(3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the entire borough is pledged for the payment of the debt of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas and only the full faith and credit of the area voting on the indebtedness is pledged for the payment of the debt.

(d) The indebtedness of a municipality reclassified under AS 29.08.040 is not affected by reclassification. Not less than all property within a municipality which is reclassified remains subject to taxation to amortize bonded or other indebtedness affecting the municipality and authorized on the effective date of reclassification.