

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

756 SCOM423: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

(4) (a) This section shall not apply to any property owned by a home rule or statutory county, city and county, city, or town, or by a territorial charter city, if such property is subject to payments in lieu of taxes under section 29-3-120, C.R.S. 1973 (L 76)

(b) This section shall not apply to any property owned by a home rule or statutory county, city and county, city, or town or by a territorial charter city, if such property was, before July 1, 1976, leased, loaned, or otherwise made available to and used by a private individual, association, or corporation in connection with a business conducted for profit; but such exemption shall not extend beyond the term of such lease or loan or option included in the agreement in effect before said date. (L 76)

(c) This section shall not apply to rights-of-way or easements acquired by public utilities or for access roads. (L 76)

(d) This section shall not apply to any property owned by a political subdivision of the state which is used in the provision of normal facilities, services, or operations authorized by constitution or statute to be provided by such political subdivisions. (L 76)

(5) This section is not applicable to lands used solely for agricultural purposes and improvements thereon. (L 75)

(6) The valuation for assessment of lands owned by the United States and used for recreational purposes shall be thirty percent of the fees paid by the user of said lands to the United States for the use thereof in the previous calendar year. (L 75)

(7) Nothing in this section shall be construed to apply to properties exempted by territorial charter. (L 75)

By: Bruce Wammack
John Kohler
Introduced: 5/22/80
Advanced: 5/22/80
Substituted: 6/12/80
Adopted: 6/12/80

ORDINANCE NO. 80-35

AN ORDINANCE LIMITING PROPERTY TAXES
TO FIVE MILLS

BE IT ORDAINED BY the Fairbanks North Star Borough Assembly
that:

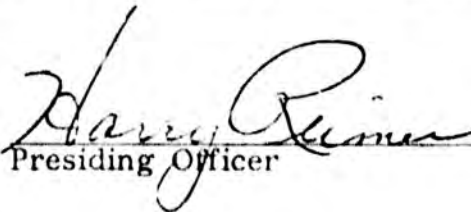
Section 1. Classification. This ordinance is of a general and
permanent nature and shall become a part of the Code of the Fairbanks North
Star Borough.

Section 2. Section 3.08.140 is amended by adding a new subsection
to read:

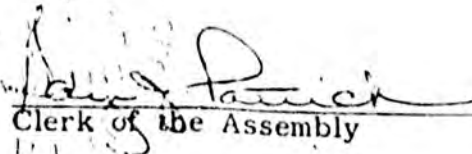
Section 3.08.140 (B) Property taxes assessed or levied by the
Fairbanks North Star Borough, inclusive of existing current bonded
indebtedness, and principal and interest payments thereon, but exclusive
of any future bonded indebtedness and principal and interest payments thereon,
incurred, and passed by a majority of voters in any general or special
election, after July 1, 1980, shall be limited to a maximum of five (5)
mills.

Section 3. Effective date. This ordinance shall become effective
on July 1, 1980, and shall remain in effect unless repealed by a majority of
the assembly of the Fairbanks North Star Borough.

PASSED AND APPROVED THIS 12th DAY OF JUNE, 1980.


Presiding Officer

ATTEST:


Clerk of the Assembly



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901

August 15, 1980

Terry L. Earley, State Assessor
Department of Community & Regional Affairs
Pouch B
Juneau, AK 99811

Re: TITLE 29 REVISIONS

Dear Terry:

Attached are copies of excerpts from title 29, chapter 53. I have included my recommended revisions and/or additions in the right column. Recommended deletions are shaded in the body of the text.

My work schedule has been such that I was unable to address this matter as quickly as I would have liked. I apologize.

Sincerely,

Michael W. Worley
Director of Assessments
Ketchikan Gateway Borough

MWW/jfs

RECEIVED
AUG 21 1980

DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901

MEMORANDUM

TO: Russell W. Walker, Municipal Attorney
THRU: Judi Slajer, Borough Manager
FROM: *mw* Michael W. Worley, Director of Assessments
RE: Revisions to Title 29
DATE: August 14, 1980

I support the revision of AS 29.53.135 (see attached copy) as stated in your memorandum dated July 31, 1980.

Attached are my suggestions for further revisions of Chapter 53. Revisions are stated in the right margin, and deletions are highlighted in the body of the text.

revised
134 TV

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

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

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

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

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

(5) money on deposit;

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

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

(1) the residence of the 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 education or a nonprofit hospital;

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

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

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

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

(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than \$10,000 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; however, in the case of more than one party eligible for an exemption with

(Housekeeping)

If used by educational groups, the property must be used exclusively for classroom space.

(Housekeeping)

respect to the same property, the total combined gross annual income of the parties may not exceed \$10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560—44.62.570.

(f) No exemption may be granted except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and 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. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(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.

(h) Nothing in (e)—(i) of this section affects similar exemptions from property taxes granted by municipalities on September 10, 1972 or prevents municipalities from granting similar exemptions by ordinance as provided in § 25 of this chapter. However, under (e)—(i) of this section only the amount of revenue lost to the municipality by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state.

(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. (§ 2 ch 118 SLA 1972)

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

This section was enacted pursuant to Alaska Const., art. IX, § 4. *Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists*, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

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

was being used to produce income should be taxable, that such other parts should be exempt, and that a proration between taxable and non-taxable parts should be made. 1962 Op. Att'y Gen., No. 15.

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

under (e) of this section

tioned in this section, is not subject to valuation by first class cities for the purposes of AS 14.17.010 et seq., to the extent that it is exempt from taxation. 1962 Op. Att'y Gen., No. 18.

Exclusive employment of occupants of properties sought to be taxed was such as to bring these properties within the exemptions provided in subsections (b)(1) and (b)(2) for residences of ministers owned by religious organizations, or property used for "solely charitable purposes" or "religious education." North Pac. Union Conference Ass'n of Seventh Day Adventists v. Harmon, 5 Alaska L.J. No. 11, p. 228 (Nov., 1967).

The providing of recreational facilities, such as accommodations for campers, is a charitable use of the property. Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

Ordinance exempting from local taxation any class of real or personal property.—A home rule city has the power to enact an ordinance exempting from local taxation any class of real or personal property, if such an exemption is not prohibited by the city's home rule charter. 1969 Op. Att'y Gen., No. 1.

Electric cooperative operating under arrangement with federal agency is not exempt.—A nonprofit cooperative is not an agency of the United States government simply by virtue of an "arrangement" with the Rural Electrification Administration pursuant to 7 USC §§ 901—915, and therefore immune from local taxation. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

There is no statutory authority exempting the property of Chugach Electric Association from taxation by the city of Anchorage and the Anchorage independent school district. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

Exemption of property on federal land inapplicable to Railroad Reserve. — The doctrine that property located upon federally owned land is immune from local taxation is inapposite where it is not shown that the Railroad Reserve is "federal property" or under the exclusive jurisdiction of the federal government. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

Amended 74
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.

(b) Municipalities may by ordinance

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

(2) classify and exempt from taxation

(A) the household furniture over \$500 in value and the effects of the head of a family or a householder; and

(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

See § 29.53.020.(a)(2)

(Housekeeping)

(C) historic sites, buildings and monuments.

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

(1) a home rule or first or second class borough may, by ordinance adopted without weighted voting, 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.

(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. (§ 2 ch 118 SLA 1972)

City may not exempt property without express authority.—The authority of a municipal corporation to allow exemptions of particular property from taxation, unless expressly conferred by law, has very generally been denied. *Valentine v. City of Juneau*, 36 F.2d 904 (9th Cir. 1929).

Ordinance exempting from local taxation any class of real or personal property.—A home rule city has the power to enact an ordinance exempting from local taxation any class of real or personal property, if such an exemption is not prohibited by the city's home rule charter. 1969 Op. Att'y Gen., No. 1.

Valuation of full and true value not precluded. — The fact that first

class cities may choose the tonnage valuation of ships for the purposes of taxation does not preclude them from making a valuation of full and true value for the purposes of taxation. It necessarily follows that boats and vessels should be valued at full and true value for the purpose of AS 14.17.010 et seq. 1962 Op. Att'y Gen., No. 18.

Rules applicable to second class cities.—The rules applicable to boats and vessels in first class cities apply equally to those under the jurisdiction of second class cities. 1962 Op. Att'y Gen., No. 18.

Sec. 29.53.030. Mining claims. The assessed value of an unimproved unpatented mining claim which is not producing, and a non-producing patented mining claim upon which the improvements originally required for patent have become useless and valueless through depreciation, removal or otherwise, is fixed at \$200 for each 20 acres or fraction of 20 acres. If the surface ground of a claim has a separate and independent value for nonmining uses, the real and personal property is assessed at its full and true value. (§ 2 ch 118 SLA 1972)

Replace with local Severance tax on all resources (timber, fill, minerals, etc.)

Sec. 29.53.110. 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. (§ 2 ch 118 SLA 1972)

Sec. 29.53.120. Corrections. (a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of his property. The assessor may correct errors or omissions 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. (§ 2 ch 118 SLA 1972)

Sec. 29.53.130. 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. (§ 2 ch 118 SLA 1972)

Taxpayer may contest valuation.—Under this section a taxpayer may contest valuation before a board of trustees meeting as a board of equalization. *Yakutat & S. Ry. v. City of Yakutat*, 16 Alaska 18, 227 F.2d 9 (9th Cir. 1955).

Determining portion of property devoted to purposes of organization.—Determination of what portion of

property owned by a charitable, religious, or educational organization is devoted to purposes of the organization, is a factual function devolving upon the assessor and the board of equalization by law. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

within 30 days of the effective date of the notice.

(b) If the property owner disagrees with the assessed value, the assessor shall review the assessment and inform the property owner of his findings allowing 10 days for appeal to the board. If the assessed value changes, the assessor shall send a revised notice to the property owner.

be allowed 10 . . . the notification described in §29.53.120(b) above, to

Sec. 29.53.135. Board of equalization. The assembly sits as a board of equalization for the purpose of hearing any appeal from determinations of the borough assessor, or it may delegate this authority to a board appointed by it for that purpose. The board of equalization shall consist of ~~at least that number of members of the assembly over and above the number required for a quorum to transact business.~~ The board is governed in its proceedings by such procedures consistent with general rules of administrative law and the laws governing equalization proceedings as may be adopted by ordinance, ~~including but not limited to quorum and voting requirements.~~ The assembly shall by ordinance adopt rules for the membership and conduct of the board (§ 2 ch 118 SLA 1972)

Borough assembly as administrative body. — When the borough assembly functions as a board of equalization or adjustment, it acts as an administrative, not a legislative, body. 1965 Op. Att'y Gen., No. 7.

When the borough assembly sits as an administrative body, whether as a board of equalization or adjustment, the weighted vote may not be used. 1965 Op. Att'y Gen., No. 7.

not fewer than three members.

Sec. 29.53.140. 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 is proof of unequal, excessive ~~or improper~~ valuation based on facts which are stated in a valid written appeal timely filed ~~or proved at the hearing.~~

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

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

(f) An appellant may appeal to the superior court for, and is entitled to, trial de novo of the board's action. Either party to the appeal may demand a jury trial. (§ 2 ch 118 SLA 1972)

Scope of review. — The superior court will not substitute its judgment for the judgment of those upon whom the law confers the authority and duty to assess and levy taxes. The superior court is concerned with nothing less than fraud or the clear adoption of a fundamentally wrong principle of evaluation. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970); *Twentieth Century Inv. Co. v. City of Juneau*, Sup. Ct. Op. No. 28 (File No. 42), 359 P.2d 783 (1961).

When valuation or assessment violates due process.—The valuation and assessment of property for taxes does

not contravene the due process clause of the 14th amendment unless it is plainly demonstrated that there is involved, not the exercise of the taxing power, but the exertion of a different and forbidden power, such as the confiscation of property. Such a demonstration is not made simply by showing overvaluation; there must be something which, in legal effect, is equivalent to an intention or fraudulent purpose to place an excessive valuation on property, and thus violate fundamental principles that safeguard the taxpayer's property rights. *Twentieth Century Inv. Co. v. City of Juneau*, Sup. Ct. Op. No. 28 (File No. 42), 359 P.2d 783 (1961).

Sec. 29.53.150. 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. (§ 2 ch 118 SLA 1972)

Erroneous omissions from assessment roll do not invalidate all taxes. —The omission of property from an assessment roll, through error of judgment or of law, will not inval-

idate all taxes, thus practically putting an end to the operations of government. *Valentine v. City of Juneau*, 36 F.2d 904 (9th Cir. 1929).

Sec. 29.53.160. 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. (§ 2 ch 118 SLA 1972)

Sec. 29.53.170. 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 general ordinances, but 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. (§ 2 ch 118 SLA 1972)

Sec. 29.53.180. 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 10 per cent may be added to all

Sec. 29.53.155. Manifest errors discovered on the assessment roll may be corrected by the assessor and an adjustment made to the roll subsequent to its certification.

date of repurchase, together with delinquent taxes assessed and levied as though it had continued in private ownership.

(b) After termination of the right of redemption there is no right to repurchase property held for, or devoted to, a public purpose. (§ 2 ch 118 SLA 1972)

Payment of taxes constitutes an application to repurchase property from foreclosure. *Jamison v. Wurtz*, Sup. Ct. Op. No. 21 (File No. 431), 396 P.2d 68 (1964).

Sec. 29.53.380. Proceeds of tax sale. Upon sale of foreclosed real or personal property the borough or city shall divide the proceeds less cost of collection, between the borough and the city having unpaid taxes against the property. The division is in proportion to the respective municipal taxes against the property at the time of foreclosure. (§ 2 ch 118 SLA 1972)

Sec. 29.53.385. 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. (§ 2 ch 118 SLA 1972)

Sec. 29.53.390. 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, the borough shall refund the amount of the taxes to the taxpayer with interest at eight per cent 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 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. (§ 2 ch 118 SLA 1972)

Article 3. City Property Tax.

Section

400. Power of levy

405. Differential tax zones

Section

410. Limited property taxing power for second class cities

Sec. 29.53.400. Power of levy. Home rule and first class cities within boroughs may levy a general property tax. A property tax,

, or if in the absence of suit, the borough assembly determines that judgment for the recovery of the taxes would be obtained if legal proceedings were brought, the amount of the taxes shall be paid to the taxpayer

Sec. 29.53.050. Tax limitation. (a) No municipality may levy and tax for any purpose in excess of three per cent 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 ~~\$2,000~~ 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 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. 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 ~~\$1,000~~ 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. (§ 2 ch 118 SLA 1972; am § 4 ch 1 FSSLA 1973; am § 5 ch 159 SLA 1975)

Needs to be changed to \$1,500 to be consistent with § 29.53.045.

Effect of amendments. — The 1973 amendment, effective January 1, 1974, added subsection (b).

The 1975 amendment, effective June 26, 1975, in subsection (b), inserted "(1)," "upon values which," and "exceed" in both the first and second sentences, deleted "either (1)" preceding "\$1,000" in those sentences, and added the fourth sentence.

Editor's note. — Section 8, ch. 159, SLA 1975, contains a severability clause.

Alaska Statutes 29.53.055 and 29.58.180(a) authorize taxes to pay for municipal bonds, independent of the limitations of this section or AS 29.53.045, and regardless of whether the bonds are in default or default is pending. *North Slope Borough v. Sohio Petroleum Corp.*, Sup. Ct. Op. No. 1750 (File Nos. 3460, 3513, 3659), 585 P.2d 534 (1978).

Alaska Statute 29.53.055, literally read, does not render this section and AS

29.53.015 meaningless. AS 29.53.055 applies only to debt financing. The limitations of this section and AS 29.53.045 apply to operating revenues. Merely because they do not also curb taxes to pay for bonds does not render them nullities. *North Slope Borough v. Sohio Petroleum Corp.*, Sup. Ct. Op. No. 1750 (File Nos. 3460, 3513, 3659), 585 P.2d 534 (1978).

Regulation denying credit against tax levied under AS 43.56 was invalid. An emergency regulation which denied a credit against the tax levied by the state under AS 43.56.010(a) for property taxes collected by municipalities in excess of the limitations set forth in AS 29.53.045 and subsection (b) of this section was invalid since AS 43.56.010(d) mandates that all taxes paid under AS 29.53.045 are to be credited against the levy of AS 43.56.010(a). *North Slope Borough v. Sohio Petroleum Corp.*, Sup. Ct. Op. No. 1750 (File Nos. 3460, 3513, 3659), 585 P.2d 534 (1978).

RECEIVED

SEP 09 1980

DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

OFFICE OF ADMINISTRATION
September 3, 1980



Terry L. Earley
State Assessor
Dept. of Community & Regional Affairs
Division of Local Government Assistance
Pouch B
Juneau, Alaska 99811

Dear Mr. Earley:

The City of Valdez would like to submit a comment with regard to the current plans to revise Alaska Municipal Code - Title 29 as it pertains to property tax - specifically the Senior Citizen Property Exemption program.

During a recent council meeting it was suggested that the age limit to qualify for the Senior Citizen Property Tax Exemption program be reduced to something less than 65 - perhaps 62. Council felt this would be one means by which people who chose to retire earlier than 65 could be benefitted

Thank you for your consideration.

Sincerely,

CITY OF VALDEZ, ALASKA

Mark Lewis
City Manager

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

DATE August 14, 1980

FILE NO.

TELEPHONE NO.

FROM:

Ernst W. Mueller
Commissioner
Department of Environmental
Conservation

SUBJECT

Designation of "Village"

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

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

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

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

cc: Tim Bergin

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DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

MEMORANDUM

State of Alaska DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Lee McAnerney
Commissioner

DATE: August 20, 1980

THRU: Lawrence H. Kimball, Jr. *LH Kimball*
Director/Community Planning

FILE NO:

TELEPHONE NO: 465-4750

FROM: David Dye *DD*
Planner III
Division of Community Planning

SUBJECT: Title 29 Revisions

As requested, this memo is a list of suggestions and comments for revision of Title 29 of the Alaska Statutes. Some of these comments are products of the consensus viewpoint of the staff. Some are the products of a particular staff member's concern and experience with a given provision. Several otherwise meritorious suggestions do not appear in this memo because the provisions to which they are addressed are located in other titles and could not easily be integrated into Title 29 or they are primarily a matter of DCRA's jurisdiction vis a vis other State agencies. It is my feeling that these issues must be dealt with separately in order to avoid the appearance that our Department is attempting to restructure its statutory authority under the guise of revising Title 29 or construing the mandate of SCR 66 in an excessively broad fashion.

Many of the suggestions concern policy questions which are sure to be debated extensively as the revision process continues. I do not feel it is appropriate, at this point, to offer statutory drafts implementing these policy considerations. In some cases, a mere substitution, addition, or clarification is all that is suggested and these are presented with more specificity than questions with broader policy implications. In one or two instances, a model draft of a new provision is offered as a guide where it is appropriate to do so.

Other suggestions were modified or eliminated because, after some reflection, I felt that Title 29 already adequately addressed the question or that the suggested change would have unanticipated and unwanted consequences. Given that I was not guided by the divine revelation in exercising my editorial license, I invite other staff members to continue to advocate revisions I have not favored or overlooked.

General Consideration

Title 29 provides a framework for municipal authority and function in Alaska. The relationships among the entities it creates are complex and intertwined. Therefore, the language of the statute is necessarily complex and requires a certain sophistication and studied familiarity to master. This is perhaps unavoidable given the striking diversity of conditions in Alaska. However, the burden of using this complex blueprint falls unevenly on smaller communities. Larger urban communities usually possess the technical and professional resources to deal with Title 29's requirements and options. Many smaller communities do not.

Because of this lack of expertise and resources some basic concepts are not well understood and some functions are performed badly or not at all by these small municipalities. It is ironic that many larger municipalities have home rule status which relieves them of the burden of conforming to most of the finer details of Title 29 while most smaller communities must do so.

If Title 29 is to serve as both a mandate and as a guide, it will be most effective where it is clearest and most straightforward. A primary goal of revision should be to clarify, define and simplify to the greatest extent possible. To do so comprehensively would require a great deal of work but would undoubtedly be worth the effort if the result were better local government.

On the other hand, there are areas which would benefit from a bit more complexity. Wherever a public body, commission, or board performs a discretionary or quasi-judicial duty there should be standards, guidelines, criteria, and legislative intent spelled out with some specificity. Too often these entities do not understand the necessity of procedural regularity and therefore do not function at an acceptable level of competence and evenhandedness.

Chapter 18, Article 4-Development Cities

The development cities statute should be eliminated or, in the alternative, thoroughly restructured in light of the experience gained in the few abortive attempts at implementing its provisions. The case for elimination of the development cities law has been convincingly laid out in prior DCRA analyses. The following is a lengthy quote from an April 20, 1976 intra-Division memo:

The Development City law has been a failure. As of this date, this statute has been applied to only one area, notorious Lost River, and that project fizzled and then went "dud". A stunning indication of the value of the Development City law is found in the fact that it was substantially instigated, according to an Anchorage Times editorial (January 31, 1975), by the very group sponsoring its most egregious failure, Lost River.

Once a petition is offered for development city, a great deal of State authority is set in motion, but no development city petitions other than Lost River have or will be forthcoming because development cities are usually undesirable or impractical public and private investments. Let me elaborate on this point.

Building a community from scratch--and that is what a development city is essentially--is a very costly proposition to the public purse. The more costly it becomes, the more controversial and the less willing the State and public are to commit public funds to

to finance the proposed city's service and facilities requirements. Remember how nearby Nome jealously questioned the potentially great expenditure of State and Federal energy and financial resources for Lost River.

Lost River was bound to a State policy--which should also apply to future development city proposals--that State fiscal support of a development city will be forthcoming only if the development city first demonstrates economic feasibility without State subsidies. Considering the nature of the kind of development most likely to foster a development city proposal this is impossible. Most will be based on single industry natural resource development, be it mining like Lost River, or possibly lumbering and associated wood processing or activities supporting onshore or offshore oil and gas development. Absent the creation of a diversified regional economy, a development city isolated in the bush has virtually no potential for attracting further permanent industrial growth and only limited possibilities for commercial growth. Thus, the city collapses when the natural resource upon which it is founded becomes depleted.

Spending public funds on a community bound for extinction is not a sound investment unless the economic returns to the public substantially exceed public investment costs. Substantial public investment can cause a development city to generate a regional economy attracting more lasting industrial and commerce development, especially through State and federal investment for a regional transportation network--i.e., for airport, port and/or highway transportation facilities. However, even with such public investment, there is no guarantee that the regional economy created will be self-sustaining without continued substantial public investment. Bethel, a regional center created by substantial federal and State investment in public services and facilities, cannot sustain its regional economy without ever constant and substantial federal and State subsidy.

The development city will not only be fiscally infeasible from the State's point of view, but also as a functioning municipality. Lost River, which should fairly well exemplify any new city built from the ground up in the hinterlands, was hardly an attractive prospect in the municipal bond market. Its assessed valuation was extremely low while required bonded indebtedness was astronomically high. Not

a good bond investment. Projected municipal expenditure for community development in Lost River was reported as extremely high due to the high construction and maintenance cost characteristic of bush Alaska. On the other hand, expected revenue was extremely

low, attributable to the usual absence of other revenue-producing industrial and commercial operations in a single-industry city, and a low public ability-to-pay taxes, since an unusually large share of individual and family consumer expenses in remote high cost-of-living Alaskan settlements are required for the purchase of necessities. Under these foregoing circumstances, municipal fiscal health would be the exception and not the rule for a development city.

A development city will have just as hard a time becoming a socially viable community. The Bethel magneticism syndrome is a premier problem. A new community situated in the middle of the bush and chockfull of services and facilities of a high-quality never before experienced in a region could, and probably would, create an in-migration of bush citizens. The phenomenon of in-migration from rural to urban areas has been discussed and analyzed about the world for years and as of yet no one has formulated a workable, humane solution to the tremendous physical, social and governmental problems and pressures it creates in the receiving urban settlement. Bethel says it all.

Natural resource cities cannot seem to hold their workforce, having a high labor turnover and, resultantly, a high turnover of families whose continued presence is the prime ingredient for community stability. Faro, a development city (mining) in the Yukon is geographically the closest example of this instability. It was well designed and provided every essential amenity. Today, visitors and many of its former residents remark that Faro is a tedious place lacking the community spirit and cohesiveness that inexplicably only organic community development can provide. Only close to genius planning can create a brand new development city with the vitality and stability natural to communities created and evolving organically. Tapiolas, however, are exceptional and almost more a result of fortuity of circumstances than of deliberate planning.

The private sector has not exactly been flooding the Local Boundary Commission with petitions for development city incorporation. Private reluctance to jump on the bandwagon of the Development City concept is based on a good capitalist economic sense and the company-town mentality.

First, most conventional industrial development will not locate in the bush away from the established markets and amenities and thus reassuring to developers in existing cities. Second, past experience reveals that those kinds of natural resource ventures, large or small, most likely to be candidates for development city treatment

want to avoid association with any kind of municipal organization whether a development city or a regular municipality. Go it alone is the ethic, with the principal developer providing the facilities and services to the employees of the operation. Look to Prudhoe Bay, Thorne Bay and Red Bay as examples of this company-town mentality. The principal developer knows he can provide needed services for his development if he so wishes to assume the obligation. He does not have the same degree of assurance where these services are promised by a newly created municipal entity with no experience or demonstrated financial or functional capability in providing essential services supportive of industrial activity and concomitant residential and commercial build-up. The company town reaction will probably extend to any new industrial settlements arising as a consequence of offshore oil and gas development occurring well away from existing municipalities of any consequence. (Memo from Sid Wolf, Senior Planner to Kevin Waring, Directory Division of Community Planning, April 20, 1976).

The case against development cities is reinforced by the experience gained from the proposed development city of Afognak. The developer of Afognak was an ANCSA village corporation with large holdings of timber lands located within the boundaries of the proposed city. Also located within the boundaries were timber lands owned by other village corporations, permanent logging camps, and up to eighty private landowners. These various groups protested the formation of the development city and the local boundary commission finally disapproved the incorporation petition. It was argued that the development of timber land other than those held by the city's developer might be subject to land use controls designed to inhibit competition. Private land holders complained that the composition of the City Council during the development stage denied them representation and that the council meetings would not be public. They also argued the City might use its power to issue revenue bonds excessively and that there was no voter approval as a check on this power. Due to the particular status of ANCSA lands, it was feared that the ultimate liability for bonding for other municipal indebtedness would fall on the private non-Native landholders. Objections were also raised to what was perceived as a massive and unjustified State subsidy to private industry.

In retrospect, it has been argued that the Afognak case was a misapplication of the development cities statute. Perhaps the better viewpoint is that the statute was not designed to anticipate the variety of conditions to which its general application would make it susceptible. It is clear that the statute was intended primarily for the Lost River type of situation i.e., a reasonably compact development located in an isolated and virtually unpopulated area with no diversity in land ownership and no competing development. Given the complex land ownership pattern created by ANCSA, the large amount of land required for some types of resource development and the somewhat random pattern of rural population

it can be anticipated that future development cities, if any, have a good chance of facing the same problems as Afognak. Some of these problems could be ameliorated by restructuring the statute but others are likely to remain as latent political questions.

Perhaps the best framework for judging the development cities law is the utilitarian propective. To date no development city exists and no serious proposal is on the horizon. The statute books are thick enough without special interest legislation which even the special interests have not found useful.

Chapter 33, Article 4-Planning, Platting and Zoning

Section 29.33.070 (b)(2). The present language of this provision was adopted by amendment in 1979. DCRA is on record as favoring the language of this provision as it existed prior to its 1979 amendment. The department was concerned that allowing a borough to delegate planning authority to a city within the borough may lead to gaps and inconsistency in planning. This is still a valid objection. The previous language allowed a borough to delegate only administrative and enforcement responsibilities to a city within the borough. This was a reasonable and efficient arrangement which struck a balance between the need for areawide continuity and the need for local responsibility. The Department should therefore recommend a return to the pre-1979 statutory language.

Section 29.33.080 (b)(4). The term "official" map needs to be defined as it has a technical meaning which is not apparent by reference to common usage. An official map is a document adopted by the legislative body of the community. It pinpoints the location of future streets and other public facilities. The official map serves as notice on developers that the municipality intends to acquire certain specified property(it is not however, a comprehensive or general plan). (A good discussion of official maps is contained in Principals and Practice of Urban Planning, International City Managers Association, Wash., D.C., 1968).

Section 29.33.080 (f). Among other things, paragraph (f) requires that "the commission shall establish, subject to approval by the assembly, rules and regulations for the conduct of its meeting." The assembly is not required to adopt these rules and regulations by ordinance. The wording of paragraph (f) should be changed to require the adoption of these rules and regulations by ordinance. In the alternative, a new section could be added to Title 29 which requires that the rules and regulations of all municipal boards, commissions, and departments be codified and published. Either of these changes would increase public access to these rules and regulations and thereby help to insure procedural regularity in the performance of administrative and quasijudicial functions.

Section 29.33.090. This section should be rewritten to eliminate the use of the term "zoning" and a broader term such as "land use regulation"

or "land use management" should be substituted. Euclidian zoning, whereby land is divided into use restricted districts, has not always proved to be the best or most appropriate method for regulating community development in Alaska, particularly in rural communities. "Permit" and "performance standards" systems are examples of devices used in other parts of the country to accommodate the needs for flexibility in planning. The use of the broader concept of land use regulation would include traditional zoning but would not limit communities to this device. It would also help to avoid the rather narrow and inflexible interpretation given to zoning powers by some courts.

Enabling legislation should be added to section 29.33.090 for the transfer of development rights. This land use device has evolved in recent years as a way to accomodate extensive use of community police powers to zone for open space or to preserve historic buidlings with the right of property owners to the reasonable use of their property. Other devices such as comprehensible regulation, eminent domain and acquisition of conservation easements accomplish the same public goal but require large expenditures of public funds.

The transfer of development rights system creates zones where development is greatly restricted for some public purpose. The owners of the restricted property are given the power to sever the right to develop from the rest of the fee in the land to transfer (sell) that right to an adjacent or remote parcel of land. The receiving property is no longer limited by the bulk and density requirements of its zone and may be over-developed in an amount equal to the transferred right.

The use of this device could be an important tool in shaping attractive and functional communities while at the same time allowing appropriate development to the greatest extent possible. A good discussion of this concept along with model enabling legislation can be found in: Rose, "A Proposal for the Separation and Marketability of Development Rights as a Technique to Preserve Open Space," 2 Real Estate Law Review 635 (Winter, 1974.).

Section 29.33.150.245. Paragraph (a) of section 29.33.150 should be re-written to explicitly state that all subdivisions are required to be platted and that these plats must be recorded except where the requirement is waived in specified circumstances. Chapter 15 of Title 40 of the Alaska Statutes concerning subdivisions and dedications should be integrated into Title 29.

Section 29.33.170. The waiver provisions of section 29.33.170 should be modified and a new section added authorizing short subdivisions and short plats. Under present waiver provisions, a large tract of land could be successively subdivided into four or less parcels without ever

triggering the platting requirements. Short plat authority would avoid this result by requiring simplified plats and summary approval for small subdivisions. A model short plat and short subdivision statute is set out below:

Section 29.33. . The assembly or council may adopt regulations and procedures for the summary approval of short plats and short subdivisions or revisions thereof. Such regulations shall be adopted by ordinance and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and shall require filing of the short plat for record in the office of the recorder: provided, that regulations shall contain a requirement that land in short subdivisions may not be further divided in any manner [within a period of five years] without filing of a final plat.

Section 29.33. . Definitions 1) "Short subdivision" is the division of land into four or less lots, tracts, parcels, sites, or subdivisions for the purpose of sale or lease. 2) "Short plat" is the map or representation of a short subdivision.

If the provisions of AS 40.15 relating to subdivisions and dedication, were integrated into Title 29 a new section should be added as follows:

Section 29.33. . Purpose: The purpose of this chapter is to regulate the subdivision of land to promote the public health, safety, and general welfare in accordance with standards established by the State to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewage, parks and recreation area, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; and to require uniform monumenting of land subdivision and conveyancing by accurate legal description.

Chapter 41-Powers of Third Class Boroughs

Section 29.41.010. This section should be rewritten to specifically include or exclude all or part of the provisions of Chapter 48 (powers applicable to all municipalities) with particular attention paid to Section 29.48.010 and Section 29.48.260.

The last sentence of paragraph (a) of Section 29.41.010 states that: "Area wide exercise of powers other than education and tax assessments and collection is not authorized." Paragraph (b) states that a third class borough may, under certain circumstances, exercise any power exercised by a third class borough but only on a service area basis. Are third class boroughs prohibited, except on a service area basis, from:

acquiring, using, and disposing of real property; the power to sue and be sued; or the power to expend funds for the good of the municipality? The literal application of section 29.41.010 would seem to limit the exercise of these and other general municipal powers to service areas created especially for the purpose.

Chapter 48 Article I-General Powers

Section 29.48.010. Sub-section (9) of this section allows the disposal of real and personal property for purposes authorized under this or other law. Unlike section 29.48.260, this provision requires no procedural safeguards nor does it require that such action be done by ordinance.

Sub-section (9) should also be rewritten to allow for land exchanges between municipalities and private persons in certain circumstance which will occur as a result of the implementation of section 14 (c)(3) of ANSCA. Under section 14 (c)(3) municipalities will receive 1280 acres of land to be used for future municipal expansion. Several municipalities will not be able to select appropriate land in or near the municipality because most or all of the available land has been conveyed to private persons pursuant to section 14 (c)(1). It would be advantageous for a municipality to be able to exchange some of this inconveniently located land for parcels more suited to municipal purposes. Procedural safeguards should be built in to guard against improper exchanges.

Section 29.48.020. This section should be placed in another chapter. Chapter 48, in which this section is located, is entitled "Powers Applicable to all Municipalities". This section deals with powers of second class boroughs in areas outside cities and not with municipalities in general. It should be placed in another chapter.

Chapter 48 Article 4-Miscellaneous Provisions

The provisions of Section 29.48.260 relating to disposal of municipal properties could be improved by several additions and changes as outlined below:

The term "municipal purpose" in subsection (a) should be defined, or in the alternative, standards or criteria for determining when municipal land is no longer required for municipal purposes should be added to this section.

Certain procedural requirements are specified in subsection (c). The authorized methods for sale of municipal land are auction or by opening of sealed bids. Adding authority for disposal by lottery at fair market value, or some lesser figure set by the municipal legislative body, would give municipalities a fair and reasonable way to distribute land

to persons of low or moderate income. The State has used this method for some time and there is no apparent reason why it would not be appropriate for municipalities. Another provision of sub-section (c) requires voter ratification of any ordinance for the sale, lease or disposition of real property or interest of real property valued at \$25,000 or more. The ravages of inflation has made this provision unnecessarily burdensome to municipalities. In today's market, this provision could require voter ratification for the sale of one lot in some urban municipalities. An appropriate figure would be two to four times the present figure.

Sub-section (d) exempts municipal lands acquired from the State from the procedural requirements of subsection (c). The policy behind this provision is not apparent from reading the statute. It has been suggested that the purpose of this provision is to facilitate the transfer of excess municipal to private ownership, particularly for residential use. If this indeed is the policy behind this subsection, it should be rewritten to exempt transfers for specific purposes regardless of the source of the land. Many municipalities have or will soon receive land from non-State sources (Townsite Trust land, section 14(c)(3) ANCSA land, etc.) which may be equally appropriate for transfer to residential or other private use. It doesn't make much sense to require all the procedural steps of subsection (c) if this land is to be disposed for the same purpose as State land.

The Alaska Supreme Court has recently interpreted sub-section (e) in the case of Libby v. Dillingham. After considering competing interpretations of this paragraph, the court said that municipal land leased to "beneficial new industries" must comply with the procedural requirements of paragraph (c) of the same section. As a result of the Libby decision, communities cannot now negotiate the lease or sale of municipal property to industries which they wish to attract into the community without first engaging into an elaborate competitive bid procedure. This provision should be rewritten to specifically exclude these kinds of transactions from the requirements of paragraph (c).

Many rural communities have expressed the desire to make residential land available to local residents but fear that under present land disposal procedures much of the land would pass to wealthy non-residents who are able to pay a higher price for the land. A new provision should be written which allows for preferences to certain classes of people (e.g. heads of household, non-owners of residential property, etc.) to insure that municipalities have some control over this problem. By listing which classes of preferences are appropriate, guidance would be given to communities so that they would not attempt to exclude classes of people protected by State or Federal law. This is especially important since many communities have expressed an interest in using durational

Lawrence H. Kimball, Jr.
August 20, 1980
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residency requirements for land disposal preference purposes without realizing that such preferences are clearly unconstitutional. At the time of this memo, the Zobel case has not been decided by the Alaska Supreme Court. The outcome of that case may have broad implications for all classes of preference rights. Therefore, any proposed system of preference rights should be carefully reviewed in light of the final holding in the Zobel case.

One type of preference right deserves particular attention because of the inequities created by the application of section 14 of ANCSA. Section 14 (c)(1) of the Act requires that village corporations reconvey those lands occupied prior to Dec. 18, 1971 as a primary place of residence, primary place of business, subsistence campsite or headquarters for reindeer husbandry. After these claims are satisfied, section 14(c)(3) requires the village corporation to reconvey 1280 acres of land for future expansion to any municipality located in the village or, if no municipality exists, to the State in trust for a future municipality. Unfortunately conveyance of land to the various village corporations has not proceeded in the expeditious manner envisioned by ANCSA. It has been over eight years since the passage of the Act and the process of conveyance is far from complete. As a result community expansion and new development has continued in the traditional fashion from Dec. 18, 1971 to the present. Most of this expansion has occurred with the tacit or express permission of the community. However, the village corporations will not be able to convey title to land occupied after Dec. 18, 1971.

Much of this occupied land will eventually be conveyed to municipalities under section 14(c)(3) and many of these communities have expressed a desire to convey those lands occupied after Dec. 18, 1971 to present occupants. However, there is no provision in Title 29 allowing them to do so. These occupants, many of whom have made expensive improvements such as houses or businesses on the land, will have to compete for the land under the present land disposal provisions of section 29.48.260.

A new sub-section should be added to section 29.48.260 which would permit a municipality, if it so chooses, to grant these occupiers a preference right to acquire land they have substantially improved. Such a provision would avoid the injustice of denying the legitimacy of traditional land practices in rural Alaska and the hardships of forfeiture which will inevitably fall on many families and small businesses.

The following is a tentative draft of a new sub-section designed to implement this policy:

Section 29.48.260(). Notwithstanding the provisions of (c) of this section, the assembly or council may by ordinance establish a formal procedure for the disposal of land received pursuant to

Lawrence H. Kimball, Jr.
August 20, 1980
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section 14(c)(3) of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688) to any person who substantially improves the land prior to the date on which title is conveyed to the municipality. The amount of land disposed to any person shall not exceed an amount necessary for the reasonable use and enjoyment of the improvements. The ordinance shall require notice of intent to dispose of the land in the manner provided in (c)(2) of this section. Upon written request submitted prior to disposal, the assembly or council shall hold a hearing and issue written findings of fact to resolve disputed claims. The ordinance shall provide a right of appeal to the Superior Court if filed within 60 days of a hearing. Disposal may be without or with consideration not to exceed fair market value of the land prior to improvement. Expenses, if any, for notice appraisal and survey shall be paid by the grantee.

Chapter 78 General Provisions

This chapter contains the "definitions" section of Title 29. This section should be expanded to include the terms specifically mentioned in this memo and any other terms which, upon review and reflection, are susceptible to an ambiguous or technical meaning.

Index

The present index is inadequate. Many topics are not adequately cross referenced or are not mentioned at all. A careful revision and update would be extremely useful.

cc: Veronica Clark

CITY OF UNALASKA

P.O. BOX 89
UNALASKA, ALASKA 99685
581-1251

"Capital of the Aleutians"



September 22, 1980

Tamara Brandt Cook
Division of Legal Services
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Ms. Cook:

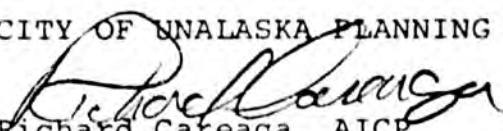
There are two aspects of Title 29 revision which I wish to comment upon.

First, I urge consideration be given to the American Law Institute's (1975) Model Land Development Code which represents a major improvement over the Hoover-era model upon which the present provisions of Title 29 governing the conduct of local planning are based. I particularly urge that the Code's recommendations concerning the division of responsibility between State and local planning responsibilities be considered.

Second, there are other statutes which can be interpreted to impose duties upon general purpose units of local government which are not specifically tied to Title 29. I have in mind, in particular, Chapter 35 of Title 46, the Alaska Coastal Management Program. This program and any similar program enacted in the attempt to attain consistency should be accompanied by a definitive tie to Title 29 which establishes an affirmative obligation on the part of local governments to exercise their substantive powers if this is the intent of the Legislature. Otherwise, Title 29 should indicate that it is the complete statement of the substantive duties and powers of municipalities.

Sincerely,

CITY OF UNALASKA PLANNING DEPARTMENT


Richard Careaga, AICP
Director



CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

September 22, 1980

Tamara Brandt Cook
Div. of Legal Services
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, AK 99811

Dear Ms. Cook:

RE: TITLE 29 Review

I have had one general problem with Title 29. As City Manager in Dillingham, Kodiak and now Nome, it seems obvious that Title 29 has been organized and written for governments who have an attorney that interprets each provision.

Many times one refers to Title 29 and needs an attorneys interpretation to understand what it means. This is not practical in a smaller city because of the cost and the amount of time it takes to get an opinion.

More specifically, I am referring to references to boroughs that apply to first class cities. This is very confusing because it's hard to understand when borough statutes apply. First class cities should be set out specifically to end the confusion.

There are a number of specific problems I'd like to bring to the Policy Advisory Groups attention.

29.23.040. Majority elections. The 40 per cent runoff election should be thoroughly considered if allowed to remain in the Statutes.

Article 3. Recall. These provisions should also be researched and grounds 29.28.140 should be made more clear.

Chapter 33. Areawide Borough Powers & Duties. 29.33.010 Scope. From this point on, Boroughs are given too much power. To be more specific, the fact that a borough plans for a city is a disaster in my experience. How can a city possibly exist as a city and not have control over its destiny? In Kodiak, while I was the manager, the Borough continually attempted to manage the City through its planning powers. This caused creation of service areas (another issue) and confusion where the City was to extend its services. City planning must be a responsibility of the government that

Tamara Brandt Cook
September 22, 1980
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is going to implement the projects planned for. In the case of Kodiak, I personally had to attend each planning commission and assembly meeting to make certain the City's interests were considered. Since the City Council had no real influence over the assembly or the planning commission, it became an unbelievable political struggle that wound up in Court. In this case, the City's taxpayers footed the bill for both attorneys since the majority of the tax base was inside the City.

The conflict with the Borough and the City regarding Borough powers adjacent to a City is a similar issue. In the case of Kodiak, the Borough wanted to establish a water, sewer and road service area that would utilize the City's water and sewer system and possibly contract for road service. This was their attempt to stop the City from annexing an area immediately adjacent to the City that needed to do something about those services. The competing aspects of this caused undue hardship and strains on the political as well as the social systems on the island. As far as I was concerned, the whole problem was the result of Chapter 38, Borough Powers and Duties in the Area Outside Cities. This chapter actually allowed the establishment of another taxing entity that was going to increase the cost of services to the users in the service area. It also made it more difficult for the city to plan for use and expansion of its facilities and equipment.

The conflicts described above are in direct conflict with Article X, Local Government of the Constitution of the State of Alaska.

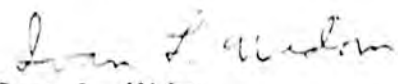
Section 1. Purpose & Construction. The purpose of this article is to provide maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions.

If the system of using Boroughs is to continue and expand into the Unorganized Borough, then the items I have mentioned, plus others will have to be straightened out.

I believe that 29.48.150. Ordinance. Procedure should be redone to clarify the number of times an ordinance should be voted upon. The question has come up a number of times.

Thank you for the opportunity to make suggestions regarding the Title 29 revisions. I am quite interested in these items as well as what others are suggesting and would like to be kept fully informed as to the Groups deliberations.

Sincerely,


Ivan L. Widom
City Manager

cc: Mayor & City Council

KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901



TO: Russell Walker, Municipal Attorney
THRU: Marvin Yoder, ^{my} Interim Borough Manager
FROM: M. Westfall, Revenue Collector
RE: Title 29 Review
DATE: September 2, 1980

I have reviewed the material relating to the review of Title 29 and approve and support those portions pertaining to chapter 53 of this title.

A few other changes which might be considered are listed below:

1. Sec. 29.53.025 the classification of boats for purposes of taxation by tonnage should be changed to more realistic amounts.
2. Sec. 29.53.060 include the words having a situs within the taxing district after the word property. Many property owners believe that property not within the taxing district on January 1 of the taxing year is free of tax. Boats and airplanes are commonly removed from the taxing district during the first month of the year to avoid taxation.
3. Sec. 29.53.320 change person to receive redemption monies from clerk to tax collector who has in his/her possession the records of assessment and taxation, applied penalties, interest & costs.



Issue Paper for Title 29 Meeting

Frederick McGinnis,

Deputy Commissioner

Dept. Health and Social Services

For some time, the DHSS has been decentralizing and regionalizing the administration of health and social services programs. The general thrust of this has been that each program action should be taken at the lowest level of the departmental organizational structure that has staff with the requisite knowledge to effectively accomplish it. It would be a logical evolutionary extension of that concept if authority were statutorily delegated to ^{recognized} political subdivisions of the State to allow them to administer those health and social services programs which they possess, or could develop, the capability to handle.

In general, if those DHSS programs which receive Federal financial participation were statutorily delegated to political subdivisions, they would be Federally mandated to comply with the same program administration standards and regulations as DHSS does. The DHSS would still be held fully accountable by the Federal government for each of its Federally supported programs. The DHSS would have to continue as the "single State agency" authorized to receive Federal funds and would disburse them, along with State matching funds, to political subdivisions to cover the costs of the programs they administer. The DHSS would be required to supervise and conduct formal audits of the Federally supported programs administered by political subdivisions. In turn, the DHSS would continue to be subject to monitoring and formal audit by the Federal government with respect to its Federally supported programs.

At the present time, eighteen States have delegated to political subdivisions the Administration of their AFDC and Medicaid programs. In the parlance of Federal regulations, these States have State supervised, locally administered, AFDC/Medicaid programs. The States in this category are: Alabama, California, Colorado, Georgia, Indiana, Maryland, Minnesota, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, South Carolina, Virginia, Wisconsin and Wyoming.

Of the remaining thirty-two States, twenty-one, including Alaska, directly administer their AFDC/Medicaid programs through regionally located offices staffed by State employees. Eleven of the thirty-two States directly administer their AFDC/Medicaid programs through direct State/Federal funding and line supervision of the programs and staffs of separately identifiable public assistance staffs in political subdivisions. States in the latter category are Illinois, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New Mexico, Oklahoma, Pennsylvania, Tennessee and West Virginia. Under the Federal regulations, all thirty-two of these States, including Alaska, have what are termed "State administered" AFDC/Medicaid programs.

DHSS monitorship and audit of fully State funded health and social services programs and projects administered by political subdivisions is currently practiced as a sound public administration measure. It would seem to be a logical presumption that DHSS supervision and audit would be continued statutorily in any delegation by the Legislature of health and social services programs to political subdivisions. From the standpoint of efficiency and to avoid any confusion, it would be practical if the Legislature were to require similar supervisory and audit requirements by DHSS over both Federally supported and fully State funded programs that are delegated to political subdivisions.

Perhaps needless to say to this knowledgeable group, there are substantial legal ramifications that must be fully taken into account with respect to delegation of powers to administer Federally financed DHSS programs to political subdivisions. Failure to legislate the delegation within the parameters of Federal law and regulations could jeopardize Federal funding and result in the loss of substantial amounts of Federal funds. The DHSS leadership is hopeful that if the proposed amendments to the municipal code are to include any delegation of health and social services programs to political subdivisions that there will be full coordination between the Alaska Legislative Council, attorneys of the Department of Law who work with DHSS legal matters, and DHSS program directors.

AFDC/Medicaid Programs

	State Supervised/ Local Government Agency Administered	State Administered
Alabama	X	
Alaska		X
Arizona	(No Medicaid program)	X
Arkansas		X
California	X	
Colorado	X	
Connecticut		X
Delaware		X
District of Columbia		X
Florida		X
Georgia	X	
Hawaii		X
Idaho		X
Illinois	(Counties operate as local welfare offices for State)	X
Indiana	X	
Iowa		X
Kansas		X
Kentucky	(Counties operate as local welfare offices for State)	X
Louisiana	(Parishes operate as local welfare offices for State)	X
Maine		X
Maryland	X	
Massachusetts		X
Michigan	(Counties operate as local welfare offices for State)	X

	<u>State Supervised/ Local Government Agency Administered</u>	<u>State Administered</u>
Minnesota	X	
Mississippi	(Counties operate as local welfare offices for State)	X
Missouri	(Counties operate as local welfare offices for State)	X
Montana	X	
Nebraska	X	
Nevada		X
New Hampshire		X
New Jersey	X	
New Mexico	(Counties operate as local welfare offices for State)	X
New York	X	
North Carolina	X	
North Dakota	X	
Ohio	X	
Oklahoma	(Counties operate as local welfare offices for State)	X
Oregon		X
Pennsylvania	(Counties operate as local welfare offices for State)	X
Rhode Island		X
South Carolina	X	
South Dakota		X
Tennessee	(Counties operate as local welfare offices for State)	X
Texas		X
Utah		X
Vermont		X
Virginia	X	

	State Supervised/ Local Government Agency Administered	State Administered
Washington		X
West Virginia	(Counties operate as local welfare offices for State)	X
Wisconsin	X	
Wyoming	X	

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HAINES BOROUGH

P.O. BOX H
HAINES, ALASKA 99827
(907) 766-2711

January 6, 1980

Palmer McCarter
Director, Division of Local Government Assistance
Community and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Palmer:

During the course of the revision of Title 29 I have noticed that the third class borough seems to be at odds with 29.33.310 Elections (for School Boards). This section states that all board members are elected at large. The provision that school zones may be established in accordance with section 100 of chapter 33 was repealed in 1972. As you know, in a third class borough, the borough assembly is the school board and the borough assembly may legitimately be composed of members elected by and from established districts. This is the case in the Haines Borough. Hence, school board members are not elected at large.

It occurs to me that perhaps the statement in 29.41.020 that the assembly in a third class borough is the school board actually supercedes 29.33.310. However, if this is a possible interpretation I still believe the status of the third class borough school board members ought to be recognized in 23.33.310.

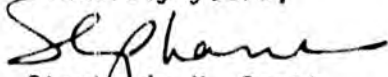
The Title 29 Revision Commission is recommending that 29.33.310 be re-worded as:

School Boards. Each borough and city school district has a school board. Members are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. Members are elected for three-year terms and until their successors take office. All board members are elected at large.

I believe that the statute would be more complete if the phrase "except those members who are also members of the third class borough assembly" were added to the last sentence.

I would appreciate your thoughts on this subject.

Sincerely yours,


Stephanie K. Scott
Administrative Secretary

✓ xc: Tam Cook, Legislative Affairs

SUMMARY OF

SUGGESTIONS - TITLE 29 REVISION

AS 29.18.180

(Gerald L. Sharp)

Organizational grants under this section appear to be inadequate.

AS 29.18.330

(Gerald L. Sharp)

The resident training and hire preference should be examined for constitutionality.

AS 29.23.025(e) (9)

(Marjorie Gorsuch)

Clarify what happens to the reapportionment order if a reapportionment ordinance has not been approved by the voters.

AS 29.23.029

(Marjorie Gorsuch)

There should be additional provisions for judicial review and relief.

AS 29.23.031

(Marjorie Gorsuch)

There should be additional provisions for judicial review and relief.

AS 29.23.040

(Gerald L. Sharp)

(et.seq.) The residency requirements, terms of officers, powers, duties, and the procedures for the changing of terms and qualifications of officers as these relate to the mayor, council, and assembly members should be uniform as between a city and a borough.

AS 29.23.050

(Allan E. Tesche)

The statutory residence requirement prescribed in this section is probably invalid. It is suggested that such residence requirements throughout AS 29 be reduced to a maximum of one year.

AS 29.23.060(a)

(Gerald L. Sharp)

This section implies that there may be no special meetings if any member is not notified.

AS 29.23.060(d)

(Gerald L. Sharp)

Some consideration should be give to reducing the quorum voting requirement by one vote for every two members of the body who are present who do not vote because they either have a conflict of interest or have been excused by the legislative body.

SUGGESTIONS - TITLE 29 REVISION

AS 29.23.060(d)

(Allan E. Tesche)

Circumstances, other than financial interests, which allow a member to abstain should be better defined.

AS 29.23.070

(Gerald L. Sharp)

This section seems to provide an unnecessary infringement of the chief administrator's prerogatives in appointing department heads.

AS 29.23.070 &

(City of St. Mary's)

(& 29.43.040) The mandatory language of this section should be permissive. The wisdom of comprehensive plans and complicated zoning requirements are still subject to professional debate and Cities should have the option to develop other methods of control.

AS 29.23.080

(Gerald L. Sharp)

This section should be checked to determine whether it tracks with the new procedures on reapportionment as it relates to council appointments and dual seats.

AS 29.23.080

(Allan E. Tesche)

The procedure for determining vacancies under this section conflicts with the procedure established under AS 29.23.570.

AS 29.23.130(B)

(Allan E. Tesche)

Once again, the three residency requirement in this section should probably be reduced to one year to assure its constitutional validity.

AS 29.23.150

(Allan E. Tesche)

(& 29.23.470) Both require assembly appointment of an acting borough manager in the absence of or disability of the manager. If these sections address different policy questions, they are unclear; if they do not, one should be eliminated as redundant.

AS 29.23.170

(Allan E. Tesche)

This provision does not specify when a veto becomes effective or specify any time limit for the overriding of the veto. Moreover, it does not indicate what is the status of an ordinance between the time its veto is announced and the time the Assembly first has an opportunity to override the veto.

SUGGESTIONS - TITLE 29 REVISION

AS 29.23.170(cont'd)

(Allan E. Tesche)

For instance, if the mayor vetos a line item in the budget, may expenditures be made under that item until the mayor announces the veto at the next regular assembly meeting, or does the veto immediately strike the item until the veto is overridden?

AS 29.23.200

(Allan E. Tesche)

The three year residency requirement here is also probably invalid.

AS 29.23.210

(Gerald L. Sharp)

Does this require four votes on a procedural motion? This language should parallel the similar provisions for boroughs and both should be clarified as to whether there is a distinction between procedural and substantive motions.

AS 29.23.210

(Allan E. Tesche)

As with the provisions for boroughs, this section should provide more definite standards for abstention on other than conflict of interest grounds.

AS 29.23.250

(Allan E. Tesche)

Another probably invalid three year residency requirement.

AS 29.23.270

(Allan E. Tesche)

This provision has the same ambiguities with regard to the effectiveness of a veto and a veto override as the provision applying to boroughs.

AS 29.23.310

(Gerald L. Sharp)

Reference within this section to repeal Section 100 should be corrected.

AS 29.23.340(d)

(Gerald L. Sharp)

Perhaps this section should be clarified to permit the board to set rates.

AS 29.23.360

(Gerald L. Sharp)

My question why there appears to be authority for the assembly or council to appoint administrative officers such as the treasurer and chief of police who do not serve the council or the assembly but must respond to the chief administrative officer.

SUGGESTIONS - TITLE 29 REVISION

AS 29.23.370

(Gerald L. Sharp)

I question whether there may not be a conflict of interest for an attorney to provide legal advice to both the legislative and administrative branches. Perhaps there should be a specific extension of the authority of the legislative body to retain its own legal counsel. Next, I question whether there isn't a conflict of interest for the clerk to service two different masters, the legislative body, and the chief administrator.

AS 29.23.395

(Gerald L. Sharp)

(Through .401) This sort of specific legislation ought to be deleted. If some sort of authority of this sort is required, it should be addressed in the general grant of powers.

AS 29.23.470

(Gerald L. Sharp)

I question why the manager has no authority to appoint a temporary or interim manager during his own temporary absence.

AS 29.23.480

(Gerald L. Sharp)

I suggest that the adoption of an ordinance at the very next meeting after the repeal of manager plan is expecting too much of any council or assembly considering the careful deliberation which should be given to the reorganization.

AS 29.23.540

(Gerald L. Sharp)

The seriousness of the conflict of interest which exists when an employee of the school board serves on the body which determines the school board's budget but is not lessened in any way by the existence of subsection (c) of this section. This section should be repealed. Also, it appears that this section would permit a person working in the grants section of the Department of C&RA to serve on an assembly or a council.

AS 29.23.555

(Allan E. Tesche)

This section has been superceded by AS 39.50.

AS 29.23.570

(City of St. Mary's)

This year the City had one councilman leave town without resigning before departure. The City needed to fill the vacancy quickly. None of the provisions of 29.23.570 were helpful. However, 29.23.200 provides that a councilman who ceases to be a city voter immediately forfeits his office. The Council used this provision to justify filling the vacancy immediately. This provision of section 23.200 should be included under section 23.570.

SUGGESTIONS - TITLE 29 REVISION

AS 29.25.110

(Richard W. Garnett, III) (Allan E. Tesche)

Clarify application of public records law to municipality.

AS 29.28.

(Bruce Aronson)

Once a sufficient petition has been accepted, members of the council should not be able to resign and be re-appointed to the council.

AS 29.28.

(Bruce Aronson)

Statutes should be clear that the local recall effort is based on the last regular municipal election for purposes of determining the number of signatures required on a petition.

AS 29.28.

(Bruce Aronson)

A transition period should be provided by statute to allow a person recalled to service for a while after the recall election has been certified to allow a government to continue to operate.

AS 29.28.015

(Gerald L. Sharp)

I question why the mayor in a manager-type municipality should not be permitted to be a member of the legislative body so long as he does not have the veto power. This seems to be something that should be left to local option.

AS 29.28.030

(Gerald L. Sharp)

It is not clear, under this section, how one deals with a person who has been present within the municipality for more than 30 days but who does not register with the State of Alaska until four days before the election. It appears they might be qualified to vote in the municipal election as they will certainly be qualified to vote in the next state election.

AS 29.28.040

(Richard W. Garnett, III)

More specificity as to whether recall may be based on "political" factors.

AS 29.28.070(b)

(Richard W. Garnett, III)

Service area initiatives are potential problems; could lead to "Balkanization" of municipalities.

SUGGESTIONS - TITLE 29 REVISION

AS 29.28.070(b)

(Richard W. Garnett, III)(Allan Tesche)

Standardize use of "general" and "regular" as to elections to avoid uncertainty as to required number of signatures.

AS 29.28.080(a)

(Gerald L. Sharp)

This section implies that the initiative ordinance or resolution must be something within the power of the assembly or council and must not fall within the restrictions of Section 60; however, it appears that the assembly or council may reject the initiative only if it is within the restrictions of Section 60. I also believe that this section should be tightened up to make it clear that the

AS 29.28.080(a) (cont'd)

(Gerald L. Sharp)

initiative process may not be used to take what are essentially administrative actions even though the assembly or council itself may take such actions by ordinance or resolution.

AS 29.28.090(b)

(Richard W. Garnett, III)

Not specifically provided that assembly may not immediately repeal ordinance enacted under threat of initiative.

AS 29.28.110

(Gerald L. Sharp)

This section establishes an observed public policy and should be modified to parallel the more liberal provisions which we find in our state constitution.

AS 29.28.130

(Bruce Aronson)(Lee Sharp)

Change provision so that all officials would be subject to recall after six months in office. The six month grace period would not apply if a person is re-elected to the same office.

AS 29.28.130

(Allan E. Tesche)

(Et. seq.) Statutory provisions governing recall contents do not clearly define signature requirements by distinguishing between at large and district forms of representation. AS 29.28.070(b) should be redrafted to state required percentages of votes cast for Assemblymen who are elected in districts and who are elected at large.

AS 29.28.140

(Bruce Aronson)

Grounds for recall are too narrow.

SUGGESTIONS - TITLE 29 REVISION

AS 29.28.140

(Gerald L. Sharp)

This section should be changed to make it clear that elected officials may not be recalled for the manner in which they exercised a duty, e.g., the way they vote on a particular issue, but that they can be recalled for having voted on an issue on which they are prohibited from voting. They could be recalled for refusing to vote when they had neither a conflict nor been excused from voting.

AS 29.28.140(cont'd)

(Gerald L. Sharp)

They could be recalled for failing to file a report required of individual public officials. They could not be recalled for having voted in favor of doing something prescribed by law nor could they be recalled for voting against doing something which is required by law.

AS 29.28.150

(Bruce Aronson) (Lee Sharp)

A recall petition should be required to contain the mailing address of each person who signs it and a separate petition should be filed for each person sought to be recalled. Statement of grounds should be limited to 200 words.

AS 29.28.160

(Gerald L. Sharp)

Either the clerk of the assembly or council should be given specific authority to review the petition for more than merely the superficial contents requirements. This determination should also go to whether or not the ground stated, if true, constitute grounds for repeal.

AS 29.28.170

(Gerald L. Sharp)

I question why petitioners should have an additional ten days to gather signatures. Why not give them 70 days to begin with or just cut them off at 60? If the petitioners cannot do some of the leg work themselves of determining how many valid signatures they have collected, there seems to be little in public policy to require they be give an additional ten days for their sloppiness or inadequate performance.

AS 29.28.180

(Bruce Aronson)

A new petition should not be filed sooner than six months after the original is rejected for insufficient content. However, the waiting period should not apply when a petition is rejected for lack of signatures.

SUGGESTIONS - TITLE 29 REVISION

AS 29.28.190

(Elsie O'Brien)

Add a requirement that the city council and city officials perform, with reference to recall petitions, within a time certain.

AS 29.28.200(c)

(Gerald L. Sharp)

If a public official who is the subject of a sufficient recall petition resigns prior to the election, and his name is removed from the recall ballot, may he then be reappointed to his position by the remaining members prior to the recall election? May he be reappointed after the recall election?

AS 29.28.210

(Gerald L. Sharp)

If we permit one petition to contain more than one name, how should the names appear on the ballot, separately so that the voters may express their desires as to each public official individually or should there be a single ballot giving the voters the same choice which the petitioners gave the petition signers, i.e., all or none?

AS 29.28.250

(Jack Chenoweth)

Include a provision somewhere by which a state officer has authority to appoint municipal voters to fill elected city or borough offices when the number of members drops below the number required to produce a quorum.

AS 29.28.250

(Gerald L. Sharp)

What happens when an entire assembly, city council, or school board are recalled? There should be some mechanism for providing for an interim legislative body.

AS.29.33.

(Allan E. Tesche)

The current language of this chapter, as it incorporates a traditional definition of zoning and makes zoning along with platting the principal means of land use regulations, is unduly restrictive and should be revised to allow more innovative forms of land use regulation by boroughs and municipalities.

AS 29.33.

(Allan E. Tesche)

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities?)

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.010

(Gerald L. Sharp)

Some place here, and perhaps other sections, we should deal with the almost impossible antitrust situation which the United States Supreme Court cast upon us in it's Lafayette decision.

AS 29.33.050

(Gerald L. Sharp)

While the section is drafted so that it uses parallel verbs, I believe the "establishes, maintains, and operates" phrase should be changed to read "and shall establish, maintain, and operate".

AS 29.33.070

(Allan E. Tesche)

It is unclear whether platting powers can be delegated to a second class borough or a city within the borough under this section.

AS 29.33.070

(Allan E. Tesche)

(Through 29.33.245) Serious thought should be given to the purpose of the planning, platting, and zoning provisions in this code. Should they only prescribe minimum due process standards for rezonings and other land use decisions or should they detail all of the administrative procedures to be followed by local governments in this area. This article presently tries to do little of both and does neither very well.

AS 29.33.080(e)

(Gerald L. Sharp)

Consideration should also be give here to reducing the majority vote requirement where there are two or more members of the commission who are present but do not vote because of a conflict of interest or because they have been excused by the remaining members.

AS 29.33.085(b)

(Gerald L. Sharp)

The requirement that the commission present new recommendations on a comprehensive plane very two years should be redrafted so that it does not appear that the continued validity of the zoning ordinance is dependent upon such a review and so that it soes not appear that there is any question as to the validity of an ordinance which is adopted pursuant to a comprehensive plan which has not been reviewed for more than two years.

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.085(b) (cont'd)

(Gerald L. Sharp)

Also, it may not hurt to throw in some sort of language within the planning and zoning article to make it clear that the adoption of any zoning map change is a legislative and discretionary act and is not administrative as some state supreme courts seem to believe.

AS 29.33.110(b) (1)

(Gerald L. Sharp)

I strongly suggest that we not make the Board of Adjustment the board which hears appeals from building code enforcement actions. Some municipalities may prefer to place building code enforcement under some other department such as public works.

AS 29.33.110(b) (1) (cont'd)

(Gerald L. Sharp)

The authority of the Board of Adjustment to hear building code appeals should be optional with the municipality. Also, whether the assembly or council sits as the Board of Adjustment should also be optional with the municipality.

AS 29.33.110(b) (3)

(Gerald L. Sharp)

It is not clear what the phrase "which are not contrary to the public interest" modifies, "the zoning ordinance", or "requests...".

AS 29.33.120

(Gerald L. Sharp)

It appears that a person may file for a variance or conditional use, be denied that application, and yet proceed with the denied use if they appeal to the Board of Adjustment because the appeal, under the terms of this section, stays any enforcement where imminent peril is not involved.

AS 29.33.130(b)

(Gerald L. Sharp)

I question whether the legislature, and more particularly an assembly, has any authority to establish what the court may well consider as a procedural rule relating to establishing the time within which one may file an appeal to the superior court.

AS 29.33.150

(Gerald L. Sharp)

It might be wise to indicate in this section that the platting board has authority to require subdivision exactions.

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.150(b)

(Gerald L. Sharp)

(& 29.33.169(c)) These sections need to be revised out of the code.

AS 29.33.170(a)(1)

(Gerald L. Sharp)

I suggest it be made clear in here that adequate access does not include access over other privately owned land by way of an easement in favor of the applicant. Adequate access consists solely of access by dedicated or publicly owned ways.

AS 29.33.190

This section needs to be beefed up by incorporating administrative procedures to prevent the recording of instruments which create unlawful subdivisions.

AS 29.33.190

(Allan E. Tesche)

This section makes it unlawful for any person to sell or attempt to sell land located within a subdivision which has not yet been approved by the borough platting authority and subjects violators to certain criminal sanctions. But AS 29.53.100 requires that the borough assessor assess real property to "the owner of record as shown on the records of the district recorder" even

AS 29.33.190(cont'd)

(Allan E. Tesche)

though that person may be the owner of record by virtue of an illegal subdivision in violation of AS 29.33.190. Moreover, AS 29.53.310 allows persons holding security interest in illegally subdivided lands to obtain release for portions of lots or tracts originally subdivided even though such lands were illegally subdivided in violation of AS 29.33.190.

AS 29.33.200

(Gerald L. Sharp)

This section needs to be coordinated with the procedures under the condemnation sections of Title 9 which require the state to submit its property acquisitions in condemnation proceedings to the platting board.

AS 29.33.240

(Gerald L. Sharp)

I question why a second class city located outside an organized borough may obtain title to vacated ways if they intend to use the way for some other public purpose, while within an organized borough the property goes to the abutting owner. I also wonder why parks, greenbelts, and other areas which are vacated are split between abutting property owners while the title to a public square vests in a municipality upon vacation.

SUGGESTIONS - TITLE 29 REVISION

AS 29.33.250

(Allan E. Tesche)

Presumably the transfer required is one from all cities exercising the power rather than from a city.

AS 29.38.

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities?)

AS 29.41.

(Bruce Aronson) (Lee Sharp)

Eliminate third class boroughs. Re-examine idea.

AS 29.48.

(Richard W. Garnett, III)

Consider need for APUC regulation of municipality owned utilities.

AS 29.48.010

(Gerald L. Sharp)

I question the need for such subsections as (1)(2)(3) and (5) as these all seem to relate to internal administrative matters which are clearly within the authority of the municipality. Some of these sound more like delegations of authority to a specific branch within the municipality. Also, I believe some consideration should be given to whether or not there should be a catch-all grant clause.

AS 29.48.010(cont'd)

Gerald L. Sharp

Also, something should or could be added to this section to clarify the authority of the municipality to establish and enforce liens for the collection of sales taxes. There might also be a section clearly authorizing the municipality to establish both minimum and non-suspendible penalties for violation of municipal ordinances.

AS 29.48.030

(Bruce Aronson)

There should be a clear statutory statement as to when a city rather than the state must provide local enforcement services and what type of enforcement services a city must provide.

AS 29.48.030

(Palmer McCarter)

Clarify whether "health and hospital power" is one or two separate local powers.

AS 29.48.030(b)

(Allan E. Tesche)

(& 29.48.035(b)&(c)) These provisions are redundant. The limitations on the powers of second class boroughs should be stated in a more concise fashion in one easily accessible part of the code. Moreover, AS 29.48.030 and .35, inasmuch as those sections distinguish between "regulation" and provision of "municipal facilities and services", are at the very least confusing and perhaps unnecessary.

AS 29.48.030(b) (cont'd)

(Allan E. Tesche)

(& 29.48.035(b)&(c)) Reference to powers granted to second class boroughs to construct and maintain Local Service Road and Trails under AS 19.30.251 should be made in this section. Reference to the power granted to local governments to regulate use of public streets, alleys, and other public places under AS 42.05.251 should be made in AS 29.48.035 or AS 29.48.020.

AS 29.48.030(a) (12)

(Allan E. Tesche)

The term transportation "system" used in this section should be defined.

AS 29.48.033

(Gerald L. Sharp)

Again, I do not have the 1980 legislation which effected state regulatory authority over cable television, transportation services, and garbage disposal but I believe what the legislature (industry) did should be carefully reviewed.

AS 29.48.050

(Gerald L. Sharp)

I question whether there is any justified public policy behind requiring franchises to be granted by ordinance ratified by the voters. This has serious Lafayette antitrust implications. It seems that a public utility ought to be granted a permit so long as they can show public convenience and necessity.

AS 29.48.070

(Gerald L. Sharp)

(& 29.48.080 & 48.090) The idea of a council or assembly sitting through a protracted rate setting hearing is preposterous. Any hearing which the ordinary council or assembly would sit still through could not possibly adequate to justify a rate. Also, it is beyond me why the rates should be established by ordinance.

AS 29.48.100(b)

(Gerald L. Sharp)

Not only are the preceeding utility regulations outmoded, it seems ludicrous to have them apply to home rule municipalities.

AS 29.48.110

(Gerald L. Sharp)

AS 29.48.110 should be changed to make it clear that a municipality may establish more than a single historic district.

AS 29.48.130(5)

(Richard W. Garnett, III)

No need to require ordinance for routine fund transfers.

AS 29.48.150(a)

(Richard W. Garnett, III)

Majority required to set ordinance for hearing. Should be less.

AS 29.48.160(b)

(Gerald L. Sharp)

If the procedure for regulating utilities and granting franchises has changed, this section should probably also be changed to correspond.

AS 29.48.170

(Richard W. Garnett, III)

Need some procedure for enacting municipal regulations.

AS 29.48.190(b)

(Gerald L. Sharp)

This section seems to imply that a municipality may enter into an obligation to make payments in a future year if it does so by ordinance. If this happens, I think you have a debt which must have first been approved by the voters and before a capitol improvement.

AS 29.48.190

(City of St. Mary's)

Subsection (c) is unclear with respect to the procedures that must be followed to make transfer and supplemental appropriations. The language providing that no payment may be made except in accordance with appropriations may be troublesome in that it could be interpreted to give the City no leeway with respect to spending except through lengthy procedures to amend the budget.

AS 29.48.190 (cont'd)

(City of St. Mary's)

The suggested budget ordinance sent each year to municipalities by Community and Regional Affairs is more flexible and preferable but may not be legal under 29.48.190. This section should be changed to permit transfers without budget amendment if less than 10% or \$10,000 whichever is less of the original appropriation.

AS 29.48.200

(Gerald L. Sharp)

The fine limitation and imprisonment limitation both need to be raised. In addition, this may be the appropriate place to specifically authorize municipalities to establish both minimum fines and imprisonments and to provide clear authority for municipalities to make certain penalties non-suspendible.

AS 29.48.210

(Gerald L. Sharp)

This section is a good example of the need to carefully distinguish between boroughs and cities on the one hand and unified units on the other. In any event, I believe this section should be changed to permit the expenditure of areawide revenues on a non-areawide bases.

AS 29.48.220

(City of St. Mary's)

The audit requirement is burdensome for the City. As a first class city we are required to provide a certified audit of city finances. Second class cities need only submit certified financial statements prepared by the city bookkeeper. The City obtains little advantage and no tangible benefit from this requirement. The only people who review the audit are from DCRA. The audit requirement should not be tied to city class.

AS 29.48.220(cont'd)

(City of St. Mary's)

The audit requirement should not be tied to city class. Rather, the requirement should depend upon the size of the budget. It is the amount of money the city spends that justifies audits. Financial statements should be sufficient for cities with budgets less than one million.

AS 29.48.250

(Gerald L. Sharp)

Since our supreme court seems to believe that a borough may not require central purchasing to include a school district, this section does not appear to have much, if any need. It should be deleted, as I believe this power is already possessed by a municipality.

AS 29.48.260

(Richard W. Garnett, III)

Vote on sale of property over \$25,000 is unduly burdensome.

AS 29.48.260

(Gerald L. Sharp)

I believe the exemption which is set forth in (d) should be expanded to encompass any land which the municipality disposes of.

AS 29.48.260

(City of St. Mary's)

I consider this to be the most troublesome provision in Title 29 for rural communities. Through the Department of Community and Regional Affairs the City has requested an Attorney General's opinion on some of the requirements of this provision and has recently received a Community Legal Assistance Grant to determine the effect the statute has on land disposal in St. Mary's.

AS 29.48.260(cont'd)

(City of St. Mary's)

First the requirement of appraisals on land before disposal are difficult when most rural land is difficult if not impossible to appraise because comparable sales do not exist. Public auctions may cause the price of land to escalate beyond the means of local residents to afford, and may inhibit local residents who do not speak English from participating in auctions.

AS 29.48.260(cont'd)

(City of St. Mary's)

The words "if any" in subsection (c)(3) seem to indicate public auction or sealed bids are optional but this is not clear. Cities shou'd have the option of developing disposal procedures appropriate to its locality. Such procedures should be ratified by the voters.

AS 29.48.260

(Allan E. Tesche)

Provisions of this section governing disposal of municipal properties should be clarified and revised to reflect increased land values throughout the state, to state who makes determinations of the value of land offered for sale and the date upon which such valuations must be based. Moreover, the statute should be clarified to either include or exclude rights-of-way or easements from its provisions.

AS 29.48.270(b)(c)

(Gerald L. Sharp)

These two sections do not seem to have anything to do with the catch line nor with the two remaining subsections. I am not sure why (b) is required in the first place unless it is to make the transfer of this one power optional rather than mandatory as required under AS 29.33.260. These two sections should be moved to a section dealing with a general grant of powers or with the transfer of powers.

AS 29.48.310

(Gerald L. Sharp)

(& 29.48.320, & 330) Although these sections seem to be very comprehensive, it appears that our courts prefer a contrary rule. Either we need to strengthen the language in these sections or we need to print up a Miranda Rights card which we can read to the judge every time we go into court over a municipal powers question.

AS 29.53.

(Allan E. Tesche)

Should be amended to require payment of all taxes, even those due for more recent assessments on properties whose owners have requested issue of a quitclaim repurchase deed. Present law mandates issue of a quitclaim repurchase deed to the owner of record upon payment of those taxes assessed for the tax year stated in the clerk's deed even though the same property is the subject of other foreclosure proceedings brought in subsequent years.

AS 29.53. (cont'd)

(Allan E. Tesche)

An amendment to AS 29.53 which would require payment of all taxes owing on a parcel before a quitclaim repurchase deed can be issued would eliminate substantial confusion in the minds of taxpayers, and would reduce administrative complexity for borough finance departments presently confronted with multiple foreclosure actions on the same parcels.

AS 29.53.010

(Richard W. Garnett, III)

Permit exemption of all personalty or of various classes.

AS 29.53.010

(Gerald L. Sharp)

Again the problem of how this is to apply to unified units of government; also, this section should be changed to permit the use of areawide revenues on a non-areawide bases.

AS 29.53.020

(Clara M. Eccles)

Extend property tax exemption to include disabled veterans of any age.

AS 29.53.020(a)(1)

(Gerald L. Sharp)

Some place in the code we need to deal with the method of valuing privately held interests in tax exempt property.

AS 29.53.020(a)(3)

(Gerald L. Sharp)

A number of problems arise from the lack of definitions of terms such as religious, charitable, educational, and perhaps hospital, which are used in this section. Also, there is a question which arises relating to when a property which is owned by, for example, a religious organization, becomes exempt;

AS 29.53.020(a)(3) (cont'd)

(Gerald L. Sharp)

for example, does vacant land become exempt when it is first purchased by an exempt organization, when the organization has an intent to devote it to a particular exempt use, when the organization commences construction of a facility which will be used for the exempt purpose even though during construction it is not being used for the exempt purpose? (b)(2)(B)

AS 29.53.025(b)(1)

(Richard W. Garnett, III)

Clarify "delegation" of powers to service areas.

AS 29.53.030

(Gerald L. Sharp)

This section should be revised to reflect a realistic value for mining claims, particularly in light of the recent rise in the price of gold.

AS 29.53.060

(Gerald L. Sharp)

Perhaps this is a section in which the valuation of leasehold and other possessory interest in tax exempt property should be exempt.

AS 29.53.080

(Ribeit H. Ziegler, Sr.)

Assessors should not be allowed to have access to sale price of property by requesting this information from buyers or sellers.

AS 29.53.135

(Gerald L. Sharp)

This section should be clarified to indicate whether a majority of the number of members of the assembly. Also, either here or someplace else in the code, we should specifically address whether or not the Board of Equalization has the authority to determine whether property is exempt, and, if exempt, how much of the property is exempt if it is not totally devoted to exempt use.

AS 29.53.135

(Allan E. Tesche)

The language regarding the composition of the Board of Equalization is unclear. The statute presently requires "at least that number of members of the assembly over and above the number required for a quorum to transact business"; the statute is unclear when applied to a lay board to whom the equalization function is delegated.

AS 29.53.150

(Gerald L. Sharp)

A question arises as to whether property which goes from exempt property on January 1 of the tax year to non-exempt because of a change of use during the tax year can be put on a supplemental roll and taxed. Also, if it can be, should the taxes be a portion? In addition, something should be placed in the code to provide guidance for dealing with personal property which is in the municipality for only a part of the year.

AS 29.53.180

(Gerald L. Sharp)

This section should be changed to reflect a reasonable interest rate and a penalty which is substantially above the interest.

AS 29.53.415

(Gerald L. Sharp)

(& 29.53.440) Something needs to be added to these sections to take care of problem created by the Alaska Supreme Court when it ruled that there was no statutory authority for a general law municipality to establish a lead for sales taxes.

AS 29.58.

(Ben T. Delahay)

A new section should be added authorizing that an ordinance for refunding bonds be passed on one hearing, at either a regular or special meeting, and with only the normal majority vote.

AS 29.63.

(Ben T. Delahay)

The chapter on service areas should be clarified; there is too much authority in the assembly to handle decisions in the service area which should be made by the people paying the taxes in the area.

AS 29.63.

(Bruce Aronson)

Community councils should be advisory only by statute and money from the state for service areas ought to be appropriated for the city, not the local council.

AS 29.63.090(e)

(Richard W. Garnett, III)

Clarify "delegation" of powers to service areas.

AS 29.63.090

(Elsie O'Brien)

Loans by borough to service area should be subject to prior approval by voters within the service area.

AS 29.63.090

(Allan E. Tesche)

The present statute governing service areas does not adequately address the question of whether a service area may be used for exercise of a governmental regulatory power rather than for provision of municipal or services.

AS 29.68.

((Bruce Aronson)

Statutes should be changed so that cities are not able to annex territory without providing services to the annexed area and so that people living outside cities who are receiving services pay for them.

AS 29.68.010(cont'd)

(City of St. Mary's)

The delay in time between the decision of the Local Boundary commission and the legislative disapproval time is unnecessary and can lead to legal complications. Since the legislature has never disapproved a Boundary Commission decision it seems this requirement of submission to the legislature has little utility. A workable alternative might be to preserve a right to appeal a boundary commission decision to the legislature.

AS 29.68.010

(City of St. Mary's)

The City recently annexed an adjacent community into its boundary. In order to facilitate the annexation the City wanted to and did make major concessions to the citizens of the adjacent community with respect to a voice in City affairs. Technically what the City has done is not legal because the annexation is not finalized until 45 days after the next legislative session has begun.

AS 29.73.020

(Gerald L. Sharp)

This section needs to be divided into two subsections to separate the procedures for home rule and general law municipalities from those for second class municipalities. Presently, there is some question as to whether the last two sentences of the section apply only to second class cities or whether it applies to all municipalities.

AS 29.78.101(16)

(Richard W. Garnett, III)

Definition of "subdivision"; consider application to division for leasing, as by holders of oil leases.

General Revision Suggestions - Title 29

AS 29

(Tanana Chiefs Conference, Inc.)

Do not create new forms of local government in the unorganized borough, but rather recognize the traditional governments currently operating.

(Tanana Chiefs Conference, Inc.)

Allow local government to contract for the providing of state services, so that programs can be administered locally.

(Tanana Chiefs Conference, Inc.)

Coordinated regional planning should be done by existing local governments on a voluntary basis through the formation of consortiums of existing governments. These would be allowed to jointly exercise authority outside of their local boundaries.

(Tanana Chiefs Conference, Inc.)

Reduce municipal liability by raising the standard of municipal tort liability for only those official acts involving, "wanton and willful" conduct rather than mere negligence. Municipal ordinances and regulations should be assimilated into state law to allow state prosecution of local violations.

(Tanana Chiefs Conference, Inc.)

Alternatives for fuller local participation in the unorganized borough in state action:

1. A community or consortium must agree to agency actions/plans affecting the community. In the absence of consent, the agency would have to show, in a locally neutral administrative hearing, that the best interest of the state requires the action/plan.
2. Communities or consortiums produce regional plans with which state agencies must comply or get a waiver from the community or proceed through a local neutral hearing.
3. Agencies could be required to have local plans/actions approved after a local hearing by a local hearing officer.

SUGGESTED CHANGES TO TITLE 29

From Ben T. Delahay (City Attorney, Kenai)

1. I would note that when I was with the Borough several million dollars were saved the Borough by issuance of refunding bonds, but this was complicated because in order to take advantage of differentiation of interest rates, the banks had to have a prompt response. This is hardly the type of thing that I consider appropriate under an emergency ordinance (AS 29.48.160), and it really should not be as difficult to pass as an emergency ordinance. The indebtedness has already been approved by the voters and incurred, and the only question is refunding at a proper time to take advantage of market conditions to lower cost to the taxpayer. I would suggest a new section in AS 29.58 authorizing that an ordinance for refunding bonds be passed on one hearing, at either a regular or special meeting, and with only the normal majority vote.
2. I believe the chapter on service areas, (AS 29.63) could also stand a lot of clarification. My experience in this Borough would indicate that section has many unwise provisions that should be modified - there is too much authority in the Assembly to handle the decisions in the service area which should be made by those in the service area paying the taxes.

From Richard W. Garnett III (Attorney, Anchorage)

1. 29.28.070(b) - Service area initiatives are potential problems; could lead to "Balkanization" of municipalities.
2. Same - Standardize use of "general" and "regular" as to elections to avoid uncertainty as to required number of signatures.
3. 29.28.090(b) - Not specifically provided that assembly may not immediately repeal ordinance enacted under threat of initiative.
4. 29.28.040 - More specificity as to whether recall may be based on "political" factors.
5. 29.48.130(5) - No need to require ordinance for routine fund transfers.
6. 29.48.150(a) - Majority required to set ordinance for hearing. Should be less to give minority a chance to make it's case.
7. 29.48.170 - Maybe need some procedure for enacting municipal regulations.
8. 29.48.260 - Vote on sale of all property over \$25,000 may be unduly burdensome.
9. 29.53.010 - Why not permit exemption of all personalty or various classes.
10. 29.53.025(b)(1) - Special treatment for boats.

11. 29.63.090(e) - Reference to "delegation" of powers to service areas needs clarification.
12. 29.78.101(16) - Definition of "subdivision"; consider application to division for leasing, as by holders of oil leases.
13. Public Records - Clarify application of public records law, section 09.25.110 to municipality.
14. Home Rule - More clear criteria for application of non-title 29 provisions to home rule. (Maybe require inclusion in AS 29.13.10 laundry list).
15. APUC - Consider need for APUC regulation of municipality owned utilities.
16. 29.18 - Clarify rights to VUU land vis a vis state classification under AS 38.
17. 29.41 - Consider need for third class borough.

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

For an Act entitled: "An Act relating to senior citizen exemption from motor vehicle property tax; and providing for an effective date."

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

* Section 1. AS 29.53.020(h) is amended to read:

(h) Except as provided in (g) of this section, nothing in (e) -
(1) [(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.

* Sec. 2. AS 29.53.020 is amended by adding new subsections to read:

(j) One motor vehicle owned by a resident 65 years of age or older on January 1 of the assessment year is exempt either from taxation on its assessed value or from the registration tax established under AS 28.10.431(b).

(k) The state shall pay a borough or city for tax revenues lost to it under (j) of this section. The payment shall be an amount equal to the tax levied under AS 28.10.431(b) for each vehicle for which a senior citizen exempt affidavit form, as prescribed by the Department of Public Safety, Division of Motor Vehicles, is submitted.

(l) The Department of Community and Regional Affairs shall adopt regulations to implement the provisions of (g), (j), and (k) of this section.

* Sec. 3. AS 29.10.411(d) is repealed.

* Sec. 4. This Act is retroactive to January 1, 1980.

Note: This replaces a suggestion already submitted to the policy group.



CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

September 22, 1980

Tamara Brandt Cook
Div. of Legal Services
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, AK 99811

Dear Ms. Cook:

RE: TITLE 29 Review

I have had one general problem with Title 29. As City Manager in Dillingham, Kodiak and now Nome, it seems obvious that Title 29 has been organized and written for governments who have an attorney that interprets each provision.

Many times one refers to Title 29 and needs an attorneys interpretation to understand what it means. This is not practical in a smaller city because of the cost and the amount of time it takes to get an opinion.

More specifically, I am referring to references to boroughs that apply to first class cities. This is very confusing because it's hard to understand when borough statutes apply. First class cities should be set out specifically to end the confusion.

There are a number of specific problems I'd like to bring to the Policy Advisory Groups attention.

29.28.040. Majority elections. The 40 per cent runoff election should be thoroughly considered if allowed to remain in the Statutes.

Article 3. Recall. These provisions should also be researched and grounds 29.28.140 should be made more clear.

Chapter 33. Areawide Borough Powers & Duties. 29.33.010 Scope. From this point on, Boroughs are given too much power. To be more specific, the fact that a borough plans for a city is a disaster in my experience. How can a city possibly exist as a city and not have control over its destiny? In Kodiak, while I was the manager, the Borough continually attempted to manage the City through its planning powers. This caused creation of service areas (another issue) and confusion where the City was to extend its services. City planning must be a responsibility of the government that

Tamara Brandt Cook
September 22, 1980
Page 2

is going to implement the projects planned for. In the case of Kodiak, I personally had to attend each planning commission and assembly meeting to make certain the City's interests were considered. Since the City Council had no real influence over the assembly or the planning commission, it became an unbelievable political struggle that wound up in Court. In this case, the City's taxpayers footed the bill for both attorneys since the majority of the tax base was inside the City.

The conflict with the Borough and the City regarding Borough powers adjacent to a City is a similar issue. In the case of Kodiak, the Borough wanted to establish a water, sewer and road service area that would utilize the City's water and sewer system and possibly contract for road service. This was their attempt to stop the City from annexing an area immediately adjacent to the City that needed to do something about those services. The competing aspects of this caused undue hardship and strains on the political as well as the social systems on the island. As far as I was concerned, the whole problem was the result of Chapter 38, Borough Powers and Duties in the Area Outside Cities. This chapter actually allowed the establishment of another taxing entity that was going to increase the cost of services to the users in the service area. It also made it more difficult for the city to plan for use and expansion of its facilities and equipment.

The conflicts described above are in direct conflict with Article X, Local Government of the Constitution of the State of Alaska.

Section 1. Purpose & Construction. The purpose of this article is to provide maximum local self-government with a minimum of local government units, and to prevent duplication of tax levying jurisdictions.

If the system of using Boroughs is to continue and expand into the Unorganized Borough, then the items I have mentioned, plus others will have to be straightened out.

I believe that 29.48.150. Ordinance. Procedure should be redone to clarify the number of times an ordinance should be voted upon. The question has come up a number of times.

Thank you for the opportunity to make suggestions regarding the Title 29 revisions. I am quite interested in these items as well as what others are suggesting and would like to be kept fully informed as to the Groups deliberations.

Sincerely,


Ivan L. Widom
City Manager

cc: Mayor & City Council

CITY OF UNALASKA

P.O. BOX 89
UNALASKA, ALASKA 99685
581-1251

"Capital of the Aleutians"



September 22, 1980

Tamara Brandt Cook
Division of Legal Services
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Ms. Cook:

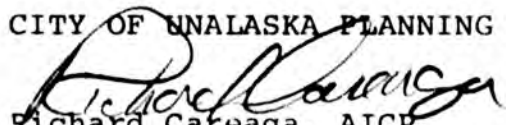
There are two aspects of Title 29 revision which I wish to comment upon.

First, I urge consideration be given to the American Law Institute's (1975) Model Land Development Code which represents a major improvement over the Hoover-era model upon which the present provisions of Title 29 governing the conduct of local planning are based. I particularly urge that the Code's recommendations concerning the division of responsibility between State and local planning responsibilities be considered.

Second, there are other statutes which can be interpreted to impose duties upon general purpose units of local government which are not specifically tied to Title 29. I have in mind, in particular, Chapter 35 of Title 46, the Alaska Coastal Management Program. This program and any similar program enacted in the attempt to attain consistency should be accompanied by a definitive tie to Title 29 which establishes an affirmative obligation on the part of local governments to exercise their substantive powers if this is the intent of the Legislature. Otherwise, Title 29 should indicate that it is the complete statement of the substantive duties and powers of municipalities.

Sincerely,

CITY OF UNALASKA PLANNING DEPARTMENT


Richard Careaga, AICP
Director

**Agenda Suggestions
from the Title 29 Working Group
to the Title 29 Policy Group**

1. Are unified municipalities home rule or general law? This needs to be clarified.
2. We recommend that AS 29.08.050 Transition be repealed as out of date.
3. We recommend that the statute concerning REAAs be expanded to include procedures for integrating REAAs into newly organized boroughs.
4. AS 29.18.180. Organization Grants. The dollar amounts of the organizational grants are inadequate. We recommend the amount be tripled.
5. AS 29.68.290 Nomination of charter commission candidates. Should a legislative body be authorized to make appointments to the charter commission in case of vacancies on the commission because of a failure to elect enough people?
6. AS 29.68.440. Powers of a unified municipality. What is a unified municipality?
7. Should the percentage requirements for signatures on petitions be lowered?
8. AS 29.68.500 Methods of dissolution. The section regarding the methods of dissolution are confusing, in that the two methods outlined involve substantially the same processes.
9. AS 29.13.050 Initiative and Referendum. This section should be clarified so that Home Rule municipalities are not bound by the procedures set out in the statute.

10. We need a more precise way of dealing with inconsistencies between Home Rule and state enactments.

11. AS 29.13.100 Limitation of home rule powers. This "laundry list" of limitations on Home Rule needs to be reviewed. Should there be cross-referencing to the home rule provisions in other statutes?

12. Chapter 18. Development cities. The chapter on development cities should either be reviewed and improved or deleted.

13. Chapter 23. Municipal Officers and Employees. This chapter should have provisions for dealing with the public records of municipalities. Municipalities should have a public records policy such as "except as provided by ordinance, all records shall be public."

14. Should municipalities be allowed to set residency requirements for voters? Should the three year residency requirement for elected officials which municipalities are permitted to set be lowered to one year in view of Castner v. City of Homer, specifically upholding one year requirements?

15. We feel there should be alternate methods for majority requirements of the votes of municipal assemblies.

16. AS 29.23.021 Assembly composition and apportionment. We feel there should be a greater delineation between composition and reapportionment.

17. There should be provisions for emergency situations arising when there is a lack of a quorum.

18. AS 29.48.130 (a) This should be amended to make possible budget transfers and supplemental appropriations by resolution instead ordinance.

19. What should mayoral veto powers encompass?

20. How are planning responsibilities to be divided between cities and boroughs?

21. We recommend that the sections of chapter 23 dealing with the involvement of young people in local government be repealed.

9/17/80
9/17/80
JES:jcs

SUGGESTED REVISIONS - TITLE 29

Sec. 29.28.140. Grounds (for recall)

This section differs from AS 15.45.510 which provides grounds for recall of State officials; there could be an argument made for consistency between the two:

Municipal grounds for recall
AS 29.28.140

- 1) misconduct in office
- 2) incompetence
- 3) failure to perform pre-scribed duties

State grounds for recall
AS 15.45.510

- 1) lack of fitness
- 2) incompetence
- 3) neglect of duties
- 4) corruption

Sec. 29.28.150. Petition (for recall)

Should be rewritten to include a requirement of the name and office of the person (singular) to be recalled and a clarification that if more than one official is considered for recall a petition for each individual must be circulated.

Sec. 29.28.190. Submission (of recall petition)

The present wording is too vague with the use of the word "immediately" and should specify a specific time frame, i.e. 10 days

Sec. 29.48.035 (14). Regulatory powers (of municipalities)

"building, housing and related codes, which may be provided by cities within cities. . ." needs rewording (cities within its own boundaries?)

Sec. 29.48.037. Extraterritorial Jurisdiction (of municipalities)

(b) states that a city can protect its watersheds and enforce such protection outside its boundaries ONLY upon the approval, by ordinance, of the municipality where the watersheds are located. This poses a problem when a city tries to exercise the protection of its water supply which lies outside the city limits but within the organized borough and where the borough is not actively involved in any such protection but refuses to allow the city to exercise such. If a borough has, in effect, veto power over the city's action in this regard, the borough government should be required to be actively involved in the exercise of such protected activity itself.

Drafted by John Stanley

AS 29.33.070(b)

If a first class or home city is located more than 25 miles from the boundary of the borough seat, the planning, platting and zoning responsibilities within the city may be exercised by the city after a city ordinance providing for the exercise thereof is approved by a majority of the electors within the city voting on the question at a regular or special election.

or by Council ordinance

John Stanley
9/19/80

AS 29.48.050(d)

For purposes of AS 29.47.050 - .070 a public utility which is not regulated as to rates and services by the Alaska Public Utilities Commission shall not be considered as regulated by AS 42.05.

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

SUGGESTED CHANGES TO TITLE 29

From Elsie O'Brien (Houston City Clerk)

1. AS 29.28.190, recall provisions:
Should consider adding a requirement that the city council and city officials perform, with reference to recall petitions, within a time certain.
2. AS 29.63.090, service areas within boroughs:
The Mat-Su borough loaned money to a road service area, apparently on promise of repayment within fiscal year, but without approval of the apparent indebtedness by voters of the affected service area. Should consider legislation to require that such debts are subject to prior approval by voters within service area.
3. General observation: would like greater information within the text of the volume. (This may not be possible because of the strict format relating to what may be annotated. However, perhaps CRA should receive an amount so that each year for small cities a loose-leaf form of Title 29 may be prepared to update which carries changes in law, applicable commentary, case decisions, AG opinions, etc., supplied by the Dept. on a quarterly basis.)

From Senator Robert H. Ziegler, Sr.

1. I don't much like AS 29.53.080. What privately contracting parties sell or pay for property need not necessarily reflect f.m.v. Alaskan assessors are supposed to assess at 100% of true value. Ergo, if they can examine and inspect properties, why can't they appraise without involving the records of the buyer/seller? (I've lost this argument before!)

From Jack Chenoweth (Staff Counsel, Legislative Affairs)

1. Give some thought to inclusion of a provision somewhere by which a state officer -- governor, CRA commissioner or what have you -- enjoys authority to appoint municipal voters to fill elected city or borough offices when the number of incumbent members of city council council or borough assembly drops below the number required by law or charter to produce a quorum. For example, if the 5 members of the Juneau assembly are recalled, it may be that the four remaining cannot function as an assembly even to the point of filling a vacancy or calling for an election to fill the vacancy. Other quirks in charter provisions could operate to preclude councils or assemblies from operating if there are "mass" resignations or wholesale removals.

From Marjorie Gorsuch (House Committee on Community & Regional Affairs)

1. Section 9 AS 29.23.025 (e) outlines the procedures to be followed if a reapportionment ordinance has not been approved by the voters after the assembly has determined that reapportionment is necessary. The law does not address what happens to the order--is it voted on by the people? Can the order be appealed? Is administrative or judicial review provided for?
2. In Section 29.23.029 and Section 29.23.031 there should be additional statutory references providing for judicial review and relief in all applicable instances and referencing all applicable voter approved ordinances and reapportionment orders under Sec. 031.

From Clara M. Eccles (Anchorage)

1. I'm interested in SB 154 "Extending property tax exemption to include disabled veterans of any age." (Note: SB 154 did not pass last regular session.)

From Bruce Aronson (Ombudsman's Office)

1. AS 29.28.130 is unclear as to whether an official may be subject to recall within 6 months of being re-elected. It would seem that the original intent of this section was to protect rookies rather than incumbents. Recommendation: all officials may be recalled after 6 months have been served in office. The 6 month grace period would not apply if a person is re-elected to the same office.
2. The grounds for recall listed in AS 29.28.140 are too narrow in scope. Since the grounds stated in recall petitions need not be proven, people are forced to name one of the three listed grounds even when the real reason behind the petition bears little relation to it.
3. AS 29.28.150 should be changed so that it is clear that a recall petition can seek to recall only one named official. A separate petition should be filed for each official sought to be recalled. A petition should be required to contain the mailing address of each person who signs it.
4. AS 29.28.180 should be changed so that a new petition may not be filed sooner than 6 months after the original is rejected for insufficient content. However, the waiting period should not apply when a petition is rejected for lack of signatures.
5. There has been a fear that once a sufficient petition has been submitted and accepted, members of the council could resign and be re-appointed to the council. The statutes should preclude this possibility.
6. The statutes should be clear that the local recall effort is based on the last regular municipal election for purposes of determining the number of signatures required on a petition, not on the state election.

7. It is unclear whether a person recalled is removed from his office at once after the election has been certified, without any transition period. Some sort of transition period should be provided by statute to allow a government to continue to operate when a majority has been recalled from office.
8. Eliminate third class boroughs. There is no need for them now that REAAs have been established. If a borough is organized, it should assume minimal responsibilities, such as land use planning.
9. There should be a clear statutory statement as to when a city rather than the state must provide local enforcement services and what types of enforcement services a city must provide. This will never be done voluntarily on a local level because the state currently provides free police services. A statute should identify the types of local problems which the state troopers will not pursue, such as dog control.
10. There is a problem with local control of service areas. Community councils are getting direct support from the state and this creates mini-municipalities within the municipality which sets up the service area. The resulting overlapping jurisdiction causes confusion as to policy and citizens cannot determine who to deal with regarding particular problems. The councils should be advisory only by statute and money from the state ought to be appropriated for the city, not the council.
11. Statutes should be clarified and strengthened regarding the annexation process. Cities ought not to be able to annex territory without providing services to the annexed area and people living outside cities who are receiving services ought to help pay for them.

From Palmer McCarter (C & RA)

1. Clarify whether "health and hospital power" is one or two separate local powers.
2. Adopt uniform definitions of "municipality," "borough," and use the terms consistently throughout the title.
3. Clarify the use of the terms "general" and "regular" election. Use the term "general" election to refer to state, not local elections.

SUGGESTED CHANGES TO TITLE 29

From Elsie O'Brien (Houston City Clerk)

1. AS 29.28.190, recall provisions:
Should consider adding a requirement that the city council and city officials perform, with reference to recall petitions, within a time certain.
2. AS 29.63.090, service areas within boroughs:
The Mat-Su borough loaned money to a road service area, apparently on promise of repayment within fiscal year, but without approval of the apparent indebtedness by voters of the affected service area. Should consider legislation to require that such debts are subject to prior approval by voters within service area.
3. General observation: would like greater information within the text of the volume. (This may not be possible because of the strict format relating to what may be annotated. However, perhaps CRA should receive an amount so that each year for small cities a loose-leaf form of Title 29 may be prepared to update which carries changes in law, applicable commentary, case decisions, AG opinions, etc., supplied by the Dept. on a quarterly basis.)

From Senator Robert H. Ziegler, Sr.

1. I don't much like AS 29.53.080. What privately contracting parties sell or pay for property need not necessarily reflect f.m.v. Alaskan assessors are supposed to assess at 100% of true value. Ergo if they can examine and inspect properties, why can't they appraise without involving the records of the buyer/seller? (I've lost this argument before!)

From Jack Chenoweth (Staff Counsel, Legislative Affairs)

1. Give some thought to inclusion of a provision somewhere by which a state officer -- governor, CRA commissioner or what have you -- enjoys authority to appoint municipal voters to fill elected city or borough offices when the number of incumbent members of city council council or borough assembly drops below the number required by law or charter to produce a quorum. For example, if the 5 members of the Juneau assembly are recalled, it may be that the four remaining cannot function as an assembly even to the point of filling a vacancy or calling for an election to fill the vacancy. Other quirks in charter provisions could operate to preclude councils or assemblies from operating if there are "mass" resignations or wholesale removals.

From Marjorie Gorsuch (House Committee on Community & Regional Affairs)

1. Section 9 AS 29.23.025 (e) outlines the procedures to be followed if a reapportionment ordinance has not been approved by the voters after the assembly has determined that reapportionment is necessary. The law does not address what happens to the order--is it voted on by the people? Can the order be appealed? Is administrative or judicial review provided for?
2. In Section 29.23.029 and Section 29.23.031 there should be additional statutory references providing for judicial review and relief in all applicable instances and referencing all applicable voter approved ordinances and reapportionment orders under Sec. 031.

From Clara M. Eccles (Anchorage)

1. I'm interested in SB 154 "Extending property tax exemption to include disabled veterans of any age." (Note: SB 154 did not pass last regular session.)

From Bruce Aronson (Ombudsman's Office)

1. AS 29.28.130 is unclear as to whether an official may be subject to recall within 6 months of being re-elected. It would seem that the original intent of this section was to protect rookies rather than incumbents. Recommendation: all officials may be recalled after 6 months have been served in office. The 6 month grace period would not apply if a person is re-elected to the same office.
2. The grounds for recall listed in AS 29.28.140 are too narrow in scope. Since the grounds stated in recall petitions need not be proven, people are forced to name one of the three listed grounds even when the real reason behind the petition bears little relation to it.
3. AS 29.28.150 should be changed so that it is clear that a recall petition can seek to recall only one named official. A separate petition should be filed for each official sought to be recalled. A petition should be required to contain the mailing address of each person who signs it.
4. AS 29.28.180 should be changed so that a new petition may not be filed sooner than 6 months after the original is rejected for insufficient content. However, the waiting period should not apply when a petition is rejected for lack of signatures.
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9. There should be a clear statutory statement as to when a city rather than the state must provide local enforcement services and what types of enforcement services a city must provide. This will never be done voluntarily on a local level because the state currently provides free police services. A statute should identify the types of local problems which the state troopers will not pursue, such as dog control.
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3. Clarify the use of the terms "general" and "regular" election. Use the term "general" election to refer to state, not local elections.

AS 29: Revisions Needed

29.08

Although an attempt has been made in this Chapter to classify the various kinds of Alaskan municipalities, more recent amendments to Title 29 and unification of several cities and boroughs have resulted in confusion over definitions of "cities", "boroughs", and "municipalities". It is not clear, for instance, whether the unified Municipality of Anchorage is a city, a borough, or unified municipality or all three forms of government within existing provisions of AS 29.

29.13.100

The Code should contain a uniform system for designating statutes that expressly apply to home rule municipalities and all such statutes should be consistently cross referenced.

29.23.050

The statutory residence requirement prescribed in this section is probably invalid. It is suggested that such residence requirements throughout AS 29 be reduced to a maximum of one year.

29.23.060(d)

Circumstances, other than financial interests, which allow a member to abstain should be better defined.

29.23.080

The procedure for determining vacancies under this section conflicts with the procedure established under AS 29.23.570.

29.23.130(B)

Once again, the three residency requirement in this section should probably be reduced to one year to assure its constitutional validity.

29.23.150 and AS 29.23.470

Both require assembly appointment of an acting borough manager in the absence of or disability of the manager. If these sections address different policy questions, they are unclear; if they do not, one should be eliminated as redundant.

29.23.170

This provision does not specify when a veto becomes effective or specify any time limit for the overriding of the veto. Moreover, it does not indicate what is the status of an ordinance between the time its veto is announced and the time the Assembly first has an opportunity to override the veto. For instance, if the mayor vetoes a line

item in the budget, may expenditures be made under that item until the mayor announces the veto at the next regular assembly meeting, or does the veto immediately strike the item until the veto is overridden?

29.23.200

The three year residency requirement here is also probably invalid.

29.23.210

As with the provisions for boroughs, this section should provide more definite standards for abstention on other than conflict of interest grounds.

29.23.250

Another probably invalid three year residency requirement.

29.23.270

This provision has the same ambiguities with regard to the effectiveness of a veto and a veto override as the provision applying to boroughs.

29.23.555

This section has been superceded by AS 39.50.

29.33.070-245

Serious thought should be given to the purpose of the planning, platting and zoning provisions in this code. Should they only prescribe minimum due process standards for rezonings and other land use decisions or should they detail all of the administrative procedures to be followed by local governments in this area. This article presently tries to do little of both and does neither very well.

29.33.190

This section makes it unlawful for any person to sell or attempt to sell land located within a subdivision which has not yet been approved by the borough platting authority and subjects violators to certain criminal sanctions. But AS 29.53.100 requires that the borough assessor assess real property to "the owner of record as shown on the records of the district recorder" even though that person may be the owner of record only by virtue of an illegal subdivision in violation of AS 29.33.190. Moreover, AS 29.53.310 allows persons holding security interest in illegally subdivided lands to obtain release for portions of lots or tracts originally subdivided even though such lands were illegally subdivided in violation of AS 29.33.190.

29.33.070

It is unclear whether platting powers can be delegated to a second class borough or a city within the borough under this section.

29.33

The current language of this chapter, as it incorporates a traditional definition of zoning and makes zoning along with platting the principal means of land use regulations, is unduly restrictive and should be revised to allow more innovative forms of land use regulation by boroughs and municipalities.

29.33.250

Presumably the transfer required is one from all cities exercising the power rather than from a city.

29.33 and 29.38

Should there be a provision for a borough to exercise a power in some but not all cities (for example in second class cities but not in first class cities)?

29.48.030(b) AS 29.48.035(b) and (c)

These provisions are redundant. The limitations on the powers of second class boroughs should be stated in a more concise fashion in one easily accessible part of the code.

Moreover, AS 29.48.030 and .035, inasmuch as those sections distinguish between "regulation" and provision of "municipal facilities and services", are at the very least confusing and perhaps unnecessary.

29.48.030(a)(12)

The term transportation "system" used in this section should be defined.

29.48.260

Provisions of this section governing disposal of municipal properties should be clarified and revised to reflect increased land values throughout the state, to state who makes determinations of the value of land offered for sale and the date upon which such valuations must be based. Moreover, the statute should be clarified to either include or exclude rights-of-way or easements from its provisions.

29.53.135

The language regarding the composition of the Board of Equalization is unclear. The statute presently requires "at least that number of members of the assembly over and above the number required for a quorum to transact business"; the statute is unclear when applied to a lay board to whom the equalization function is delegated.

29.53

Should be amended to require payment of all taxes, even those due for more recent assessments on properties whose owners have requested issue of a quitclaim repurchase deed. Present law mandates issue of a quitclaim repurchase deed to the owner of record upon payment of those taxes assessed for the tax year stated in the clerk's deed even though the same property is the subject of other foreclosure proceedings brought in subsequent years. An amendment to AS 29.53 which would require payment of all taxes owing on a parcel before a quitclaim repurchase deed can be issued would eliminate substantial confusion in the minds of taxpayers, and would reduce administrative complexity for borough finance departments presently confronted with multiple foreclosure actions on the same parcels.

29.63.090

The present statute governing service areas does not adequately address the question of whether a service area may be used for exercise of a governmental regulatory power rather than for provision of municipal or services.

8.60.050-100

Regulation of junk yards in this section should be cross-referenced to those sections of Title 29. relating to areawide planning, platting and zoning powers.

9.25.110-120

It is unclear whether public records statutes apply at all to municipal government. If it is the intention of the Legislature to apply the public records laws of AS 9.25.110-120 to cities and boroughs, then those sections should be amended accordingly with an appropriate cross references to Title 29.

Arthur L. ...

21st ...

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MEMORANDUM

State of Alaska

TO: Debbie Behr, Special Assistant
Office of the Commissioner

DATE: August 15, 1980

FILE NO:

TELEPHONE NO: 465-3082

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

FROM: 
V. L. Iverson, Director
Division of Administrative Services

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

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

per call Debbie Behr

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

Alan Korhonen

29.900

Ben Iverson