

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

765 SCOM123: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

1 Sec. 29.27.030. (Sec. 29.48.150.) ORDINANCE PROCEDURE. (a) The
2 following procedure governs the enactment of all ordinances except emergency
3 ordinances. An ordinance may be introduced by a member or committee of the
4 assembly or council or by the municipal executive or chief administrator. An
5 ordinance shall be set for hearing by the affirmative vote of a majority of
6 the votes authorized on the question. A summary of the ordinance and its
7 amendments is published together with a notice of time and place for public
8 hearing. The hearing follows publication by at least five days. Copies of
9 the ordinance must be available to all persons present or the ordinance must
10 be read in full. The assembly or council shall hear all interested persons
11 wishing to be heard. After the hearing, the assembly or council shall
12 consider the ordinance and may adopt it with or without amendment. The
13 assembly or council shall print and make available copies of adopted
14 ordinances.

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

17 Sec. 29.27.040. (Sec. 29.48.160.) EMERGENCY ORDINANCES. (a) To meet a
18 public emergency the assembly or council may adopt ordinances effective on
19 adoption. Every emergency ordinance must contain ~~a~~ finding by the assembly
20 or council that an emergency exists and a statement of the facts upon which
21 the finding is based. The ordinance may be adopted, amended and adopted, or
22 rejected at the meeting at which it is introduced. The affirmative vote of
23 all members present, or the affirmative vote of three-fourths of the total
24 membership, whichever is less, is required for adoption. The assembly must
25 print and make available copies of adopted emergency ordinances.

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

(1) ~~the this section~~ "Emergency" means

(c) Emergency ordinances are effective for 60 days.

Sec. 29.27.050. (Sec. 29.48.170.) CODES OF REGULATION. The assembly or council may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the ordinance nor its amendments need be distributed to the public or read in full at the hearings. For a period of 15 days before adoption at least five copies of the code must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The assembly or council shall provide for the adopted code to be sold to the public. *1 or provided at ~~cost~~ no charge, as determined by the assembly or council.*

Sec. 29.27.060. (Sec. 29.48.180.) CODIFICATION. (a) Each ordinance after adoption shall be codified.

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

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

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

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

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

Sec. 29.27.070. (Sec. 29.48.185.) RESOLUTIONS. The assembly or council shall provide for the maintenance of a permanent file of resolutions that have been adopted.

Sec. 29.27.080. (Sec. 29.48.200.) PENALTIES. For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$¹⁰⁰⁰500 or imprisonment for ^{6 months}30 days, or both. However, the punishment authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at cost.

use lang from zoning material for civil

(5 days) Kodiak case - allow
for mandatory ~~sentencing~~ jail
time not to exceed 5 days
by ordinance.

The assembly or council for minimum and
non-suspendable)

CHAPTER 30. ELECTIONS

(CHAPTER 28. ELECTIONS)

Article 1. REGULAR AND SPECIAL ELECTIONS

1
2
3
4 Sec. 29.30.010. (Sec. 29.28.010.) ADMINISTRATION. (a) The borough
5 assembly or city council shall prescribe the general rules for conducting
6 municipal elections and appoint at least three judges for each polling
7 place. The municipality may not alter voter qualification requirements of
8 this title.

9 (b) This section applies to home rule and general law munici-
10 palities.

11 Sec. 29.30.020. (Sec. 29.28.015.) NOMINATIONS. (a) The assembly or
12 council shall provide by ordinance for nominations of elected officers by
13 providing for declaration of candidacy, or petition requiring the signatures
14 of not more than 10 voters, or both.

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

19 Sec. 29.30.030. (Sec. 29.28.020.) ELECTION DATES. (a) The date of a
20 regular municipal election is the first Tuesday of October annually, or on a
21 date of election or at an interval of years provided by ordinance.

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

24 Sec. 29.30.040. (Sec. 29.28.030.) VOTER QUALIFICATION. A person may
25 vote only if he is a United States citizen who is qualified to vote in state
26 elections and has been a resident of the municipality for 30 days
27 immediately preceding the election and who is registered to vote in state
28 elections and is not disqualified under art. V of the state constitution.
29 Voter registration by the municipality may not be required. This section
LA-L applies to home rule and general law municipalities.

1 Sec. 29.30.050. (Sec. 29.28.040.) MAJORITY ELECTIONS. If in a
2 municipal election no candidate receives in excess of 40 per cent of the
3 votes cast for his respective office, the assembly or council shall hold a
4 runoff election within two weeks from the date of certification of the
5 election between the two candidates receiving the greatest number of votes
6 for the office. Notice of a runoff election shall be published at least
7 five days before the election. The assembly or council may by ordinance
8 require a majority vote for election of officials. A runoff election or
9 other means of obtaining a majority may be used.

10 Sec. 29.30.060. (Sec. 29.28.050.) ELECTION CONTEST AND APPEAL. (a)
11 The assembly or council may provide by ordinance the time and procedure for
12 the contest of an election.

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

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

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

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

1 superior court in the judicial district in which the municipality is
2 located. If no such action is commenced within the 10-day period, the
3 election and election results shall be conclusive, final and valid in all
4 respects.

5 (f) Notwithstanding the provisions of (e) of this section,
6 the expulsion of a member of a borough assembly under AS 29.24.150 [AS
7 29.23.060(c)], of a member of a city council under AS 29.24.290(b)
8 [29.23.210(b)], of a borough mayor under AS 29.24.200(f) [29.23.130(f)], or
9 of a city mayor under AS 29.24.350 (29.23.255) is final and is not subject
10 to judicial review.

11 Article 2. INITIATIVE AND REFERENDUM

12 Sec. 29.30.090. (Sec. 29.28.060.) RESERVATION OF POWERS. The powers
13 of initiative and referendum are reserved to the residents of municipalities
14 except the powers do not extend to matters restricted by Sec. 7, art. XI, of
15 the state constitution.

16 Sec. 29.30.100. (Sec. 29.28.062.) PETITION. A petition for
17 initiative or referendum is filed with the municipal clerk and an initiative
18 petition must be filed not less than 90 days before the next regular
19 election.

20 Sec. 29.30.110. (Sec. 29.28.065.) CONTENTS OF PETITION. A petition
21 for an initiative or referendum shall

22 (1) embrace only a single comprehensive subject;

23 (2) set out fully the ordinance or resolution sought by the
24 petition;

25 (3) state upon the petition, when circulated, the date of first
26 circulation of the petition;

27 (4) contain the statement, when circulated, that the signatures
28 on the petition must be secured within 90 days from the date of the first
29 circulation;

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

Sec. 29.30.120. (Sec. 29.28.070.) REQUIRED SIGNATURES. (a) The necessary signatures on a petition shall be secured within 90 days from the date of the first circulation of the petition. The petition shall be signed in ink or indelible pencil.

(b) Every petition for either the initiative or referendum in the government of a municipality shall be signed by a number of qualified voters residing within the territorial limits of the municipality, or, if the act sought to be initiated or referred pertains exclusively to the area outside cities or to a service area, by a number of qualified voters residing within the area outside cities or within the service area, as the case may be, equal to the following percent of the total number of votes cast at the last general election in the city or borough or borough area concerned, or special election called for the purpose of electing city or borough officers:

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

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

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

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

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

Sec. 29.30.130. (Sec. 29.28.073.) SUFFICIENCY OF PETITION. (a) Within 10 days from the filing date, the municipal clerk shall certify on LA-Lt20 petition whether or not it is sufficient.

WORK DRAFT COPY WORK DRAFT COPY
1 (b) If the petition is insufficient, it may be amended or sup-
2 plemented within 10 days after the date on which the petition is rejected as
3 insufficient.

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

7 Sec. 29.30.140. (Sec. 29.28.075.) PROTEST. If the municipal clerk
8 certifies the petition is insufficient, a signer of the petition may file a
9 protest with the municipal executive within seven days after the
10 certification and the municipal executive shall present the protest at the
11 next regular meeting to the assembly or council which shall hear and decide
12 the protest.

13 Sec. 29.30.150. (Sec. 29.28.077.) NEW PETITION. Failure to secure
14 sufficient signatures does not preclude the filing of a new initiative or
15 referendum petition. However, a new petition may not be filed sooner than
16 six months after a petition is rejected.

17 Sec. 29.30.160. (Sec. 29.28.080.) PRESENTATION OF INITIATIVE. (a)
18 When a petition seeks enactment of an ordinance or resolution within the
19 powers of the assembly or council and not otherwise restricted by Sec. 60 of
20 this chapter, the clerk shall present it to the assembly or council at its
21 next meeting after certification. The assembly or council may reject the
22 petition if the subject matter of the initiative or referendum is within the
23 restrictions of Sec. 090 (Sec. 60) of this chapter.

24 (b) Unless the petition is granted within 30 days of its
25 submission to the assembly or council, the clerk shall, with the assistance
26 of the municipal attorney, prepare an ordinance or resolution to implement
27 the petition and shall submit it to the voters at the next regular election.
28 The ordinance or resolution shall be published in full in the notice of
29 election but may be summarized on the ballot to indicate clearly the

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

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

6 Sec. 29.30.170. (Sec. 29.28.090.) PRESENTATION OF REFERENDUM. (a)
7 When a petition seeks a referendum vote on an ordinance or resolution, the
8 clerk shall submit the ordinance to the voters of the municipality at the
9 next regular or special election. If no regular or special election occurs
10 within 75 days of the filing of a sufficient petition with the clerk, the
11 assembly or council shall hold a special election within 75 days of filing.

12 (b) If a sufficient petition for referendum is filed within 30
13 days after final passage of the ordinance, or before the effective date of
14 the ordinance, the ordinance against which the petition is filed shall be
15 suspended pending the referendum on the ordinance. During the period of
16 suspension the assembly or council may not enact an ordinance substantially
17 similar to the suspended ordinance but may repeal the suspended ordinance.

18 (c) If a majority of those voting favor the referendum legis-
19 lation, it remains in effect. If a majority rejects the legislation, it is
20 repealed. A municipal charter may be amended as provided in the charter or
21 by initiative and referendum as provided in Secs. 090-180 (Secs. 60-110) of
22 this chapter.

23 Sec. 29.30.180. (Sec. 29.28.110.) EFFECT. (a) The assembly or
24 council may not, within two years, act in any way to modify or negate the
25 effect of a successful initiative or referendum. If an ordinance against
26 which a referendum is directed has been repealed by the assembly or council
27 after a petition has been filed but before the referendum, the council or
28 assembly may not enact substantially similar legislation for a period of one
29 year after repeal.

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

4 Article 3. RECALL

5 Sec. 29.30.210. (Sec. 29.28.130) RECALL. An ^{appointed or elected} elected official ^{to an elec} of a
6 home rule or general law municipality may be recalled by the voters after he
7 has served six months in office.

8 Sec. 29.30.220. (Sec. 29.28.140.) GROUNDS. Grounds for recall are
9 misconduct in office, incompetence, or failure to perform prescribed duties.

10 Sec. 29.30.230. (Sec. 29.28.150.) PETITION. (a) A petition seeking
11 recall of one or more municipal officials is filed with the municipal clerk.
12 The petition shall contain

13 (1) the signatures and resident addresses of a number of
14 voters as prescribed in Sec. 120(b) [Sec. 70(b)] of this chapter for
15 initiative and referendum;

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

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

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

21 Sec. 29.30.240. (Sec. 29.28.160.) EXAMINATION FOR SUFFICIENCY. The
22 municipal clerk shall review the petition for content and signatures and
23 shall certify on the petition within 10 days of the filing date whether it
24 is accepted or rejected. Until the petition is accepted, a petition signer
25 may withdraw his signature upon written application to the clerk.

26 Sec. 29.30.250. (Sec. 29.28.170.) SUPPLEMENTAL PETITION. (a) If the
27 petition is rejected because of insufficient signatures, it may be
28 supplemented by additional signatures within 10 days after the date of
29 rejection. If the petition is insufficient for any other reason, it shall

LA-Lb20 rejected and filed as a public record.

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

4 Sec. 29.30.260. (Sec. 29.28.180.) NEW PETITION. Failure to secure
5 sufficient signatures does not preclude the filing of a new recall petition.
6 However, a new petition may not be filed sooner than six months after a
7 petition is rejected.

8 Sec. 29.30.270. (Sec. 29.28.190.) SUBMISSION. If a recall petition
9 is sufficient, the clerk shall immediately submit it to the assembly or
10 council.

11 Sec. 29.30.280. (Sec. 29.28.200.) ELECTION. (a) If a regular
12 election occurs within 75 days of the submission, the assembly or council
13 shall submit the recall at that election.

14 (b) If no regular election will occur within 75 days, the
15 assembly or council shall hold a special election within 75 days of
16 submission.

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

19 Sec. 29.30.290. (Sec. 29.28.210.) FORM OF RECALL BALLOTS. A recall
20 ballot contains:

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

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

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

27 Sec. 29.30.300. (Sec. 29.28.220.) ELECTION PROCEDURE. Procedures for
28 conducting a recall election are those of a regular election.
29

1 Sec. 29.30.310. (Sec. 29.28.230.) MAJORITY REQUIRED. A majority vote
2 on the question is required to recall an officer.

3 Sec. 29.30.320. (Sec. 29.28.240.) EFFECT. If an incumbent is not
4 recalled at the recall election, a petition to recall the same incumbent may
5 not be filed sooner than six months after the recall election.

6 Sec. 29.30.330. (Sec. 29.28.250.) ELECTION OF SUCCESSOR. If the
7 voters recall an officer, the clerk shall conduct an election for a
8 successor to fill the unexpired term. The election shall be held at least
9 10 but not more than 45 days from the date of the recall election. However,
10 if a regular or special election occurs within 75 days of the recall
11 election, the successor to the recalled official shall be chosen at that
12 regular or special election. The procedures and requirements for the
13 regular election for the office from which the incumbent is recalled apply
14 to the election conducted under this section.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

CHAPTER 33. POWERS AND DUTIES APPLICABLE TO

HOME RULE AND GENERAL LAW MUNICIPALITIES

(CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES)

Article 1. GENERAL POWERS

Sec. 29.33.010. (Sec. 29.48.010.) GENERAL POWERS. Municipalities have the following general powers, subject to other provisions of law:

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

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

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

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

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

(6) to sue and be sued;

(7) to levy taxes and special assessments; *in impose laws for the enforcement thereof*

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

(9) to acquire, manage, control, use and dispose of real and personal property, ~~for a purpose authorized under this title, federal law, or other law, or in accordance with such law,~~ *have law* and irrespective of whether or not the property is situated within or outside the municipal boundaries; this power includes the power of a second class borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area created under [AS 29.63.090(f)];

have law

(B) *equal franchises and personal property of municipality*
the municipality
14) municipality
owned
utilized

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

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

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

Sec. 29.33.010(1) (Sec. 29.23.510.) COMBINING OFFICES. The assembly or council may combine two or more appointive or administrative offices.

Sec. 29.33.020. (Sec. 29.48.037.) EXTRATERRITORIAL JURISDICTION. (a) A municipality may provide parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries, ^{harbor and marinas} and airports outside its boundaries, subject to AS 29.36.010 (AS 29.33.010), and may regulate their use and operation. ^{provided that if services or facilities subject to regulation of another municipality} A regulation adopted under this section must state that it applies outside the municipality.

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

Sec. 29.33.030. (Sec. 29.73.020.) EMINENT DOMAIN. A home rule or general law municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250-09.55.460. In the case of a second class city, before exercising the power, the council shall request or petition the Department of Community and Regional Affairs for permission to exercise the power. The council may not exercise the power of eminent domain or declaration of taking without the formal approval of the Department of Community and Regional Affairs. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general

1 election or special election called for that purpose. A majority of the
2 qualified voters voting on the question is required for approval of the
3 ordinance.

4 Sec. 29.33.040. (Sec. 29.48.270.) EMERGENCY DISASTER POWERS. (a) A
5 municipality which is wholly or partially within an area which is declared by
6 the President to be a disaster area may participate in and provide for
7 housing and urban renewal and redevelopment in the same manner as a home rule
8 city. The exercise of these powers by a borough is limited to the area
9 outside a city in the borough.

10 (b) A borough may exercise the powers for a housing or urban
11 renewal and redevelopment project transferred to it by a city located in the
12 borough as provided by AS 29.36.100 (AS 29.33.260).

13 (c) AS 29.36.170-29.36.200 (AS 29.38.020-29.38.050) are not
14 applicable to the housing and urban renewal and redevelopment powers granted
15 by this section.

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

20 Article 2. FACILITIES, SERVICES AND REGULATION

21 Sec. 29.33.070. (Sec. 29.48.030.) ~~MUNICIPAL FACILITIES AND SERVICES~~ ^{AND PROGRAMS}

22 (a) ^{Subject to other provisions of law} A municipality may exercise the powers necessary to provide the following:
23 public facilities and services;

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

- 1 (6) cemeteries;
2 (7) police protection and jail facilities;
3 (8) cold storage plants;
4 (9) telephone systems;
5 (10) light, power and heat;
6 (11) water;
7 (12) transportation systems;
8 (13) community centers;
9 (14) libraries, visual or performing arts centers, or museums;
10 (15) recreation facilities;
11 (16) airport and aviation facilities;
12 (17) garbage and solid-waste collection and disposal service
13 and facilities subject to Sec. 080 (Sec. 33) of this chapter;
14 (18) fire protection service and facilities, not in conflict
15 with AS 18.70.075, but not limited to AS 18.70.075;
16 (19) parking and parking facilities;
17 (20) housing and urban renewal, rehabilitation and
18 development;
19 (21) preservation, maintenance and protection of historic
20 sites, buildings and monuments;

21 (22) consumer protection;

22 (23) emergency medical services and facilities.

23 (24) ~~any program determined to be to perform any public purpose,~~

24 (b) First and second class boroughs may exercise the powers
25 conferred by (a) of this section only after they have been assumed in the
26 manner required under AS 29.36.090-130 (AS 29.33.250-29.33.290) for areawide
27 exercise or in the manner required under AS 29.36.160-29.36.200 (AS
28 29.38.010-29.38.050) for exercise in the borough area outside cities or are
29 conferred by (Sec.20) of this chapter for exercise in the borough area
outside cities. However, as to powers conferred under (a)(5), (17) and (20),

1 in the borough area outside cities is at the option of the borough and is not
2 subject to those restrictions on acquisition of additional borough powers.
3 Upon adoption of a borough ordinance to provide for areawide exercise of the
4 powers specified, no home rule or general law city within the borough may
5 exercise the powers, unless the borough ordinance provides otherwise or the
6 borough by subsequent ordinance ceases to exercise the power. *✓ written*

7 Sec. 29.33.080. (Sec. 29.48.033.) GARBAGE AND SOLID WASTE SERVICES.

8 (a) A municipality may by ordinance provide for the establishment,
9 maintenance and operation of a system of garbage and solid waste collection
10 and disposal for the entire municipality or for districts or portions of it;
11 require all persons within the municipality or district to use the system and
12 to dispose of their garbage and solid wastes as provided in the ordinance;
13 award contracts for collection and disposal, or provide for the collection
14 and disposal of garbage and solid waste by municipal officials and employees;
15 pay for garbage and solid waste collection and disposal from available funds;
16 require property owners or occupants of premises to use the garbage and solid
17 waste collection and disposal system provided by the municipality and fix
18 charges against the property owners or occupants of premises for the
19 collection and disposal; provide that charges for collection and disposal
20 shall be paid by the property owner or occupants of the premises; and provide
21 penalties for violations of the ordinances.

22 (b) The council or governing body of any political subdivision may
23 not prohibit a person holding a valid certificate from the Alaska Public
24 Utilities Commission from continuing to collect and dispose of garbage,
25 refuse, trash, waste material, or other related services in any area in the
26 political subdivision if the certificate authorizes the collection and
27 disposal of garbage, refuse, trash or other waste material and providing of
28 other services in the area, and the certificate was originally issued before
29 the political subdivision provided like or similar services. A political

1 subdivision may not provide for a garbage, refuse, trash or other waste
2 material collection and disposal service in any area to the extent it lies
3 within an area granted to a garbage, refuse, trash or other waste material
4 carrier by a certificate issued by the commission to the carrier until it has
5 purchased the certificate, equipment and facilities of the carrier or that
6 portion of the certificate which would be affected at fair market value and
7 may exercise the right of eminent domain to determine fair market value.

8 (c) Repealed by Sec. 6 ch 76 SIA 1973.

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

11 Sec. 29.33.090. (Sec. 29.48.035.) REGULATORY POWERS. (a) A *R-write - preserve (b) call with cross-references*
12 municipality may regulate the operation and use of its public rights-of-way,
13 public facilities and services. It may also regulate the following:

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

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

20 (3) vehicle parking not inconsistent with AS 28.01.010;

21 (4) transportation fares;

22 (5) licensing, impounding and disposition of animals;

23 (6) selling of goods;

24 (7) selling of food;

25 (8) abandoned property;

26 (9) dangerous and disorderly conduct;

27 (10) alcoholic beverages as provided by AS 04.15.070;

28 (11) recreational devices as provided by AS 05.20.100;

1 (12) control of insects and rodents;

2 (13) offering for sale, exposure for sale, sale, use, or
3 explosion of fireworks;

4 (14) building, housing and related codes, which may be
5 provided by cities within cities or, in the manner required in (b) or (c) of
6 this section, by first or second class boroughs in the borough area outside
7 cities or areawide, subject to the following;

8 (A) exceptions to requirements of the codes may be made
9 in the codes among other reasons, in order to provide for the pre-
10 servation, maintenance and protection of historic sites, buildings
11 and monuments;

12 (B) codes may not be used to prohibit or restrict the
13 development or use of solar or wind energy unless the assembly or
14 council finds that the development or use of solar or wind energy
15 would endanger the health or safety of the public;

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

18 (16) garbage and solid-waste collection and disposal;

19 (17) water pollution control;

20 (18) air pollution control as provided in AS

21 46.03.140-46.03.240;

22 ^{any activity}
23 → (19) ~~other powers and functions~~ affecting the general health,
24 safety, well-being and welfare of its inhabitants;

25 (20) licensing of day care facilities.

26 (b) ^{(21) consumer protection} First and second class boroughs may exercise the powers
27 conferred by (a) of this section only after they have been assumed in the
28 manner required under AS 29.36.090-29.36.130 (AS 29.33.250-29.33.290) for
29 areawide exercise or in the manner required under AS 29.36.160-29.36.200 (AS
29.38.010-29.38.050) for exercise in the borough area outside cities

or are conferred by (Sec. 20) of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17), (18) and (20) of this section, exercise of the powers areawide or, as to (a)(5), ⁽¹⁵⁾ (17) and (20), in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

Sec. 29.33.100. (Sec. 29.48.040.) ^{add to extrajurisdictional jurisdiction} MUNICIPALLY-OWNED UTILITIES. A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits. This section applies to home rule and general law municipalities.

Sec. 29.33.110. (Sec. 29.48.050.) ^{add Gen. power grant} FRANCHISES AND PERMITS. (a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, ~~for the construction, operation and maintenance of bus transportation systems and public utilities not regulated under AS 42.05 and may permit them the use of streets and other public places under regulations prescribed by ordinance.~~ ^{leave in}

(b) No franchise is valid until it has been submitted to the qualified voters of the city or borough area outside cities in which it applies, and at least ^{a majority} ~~55 percent~~ of the votes cast are in favor of the franchise. At least 30 days notice of a franchise referendum election shall be given in the same manner as is provided for notice of regular municipal elections, and the notice shall specify the purpose of the election. The

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

1 ordinance granting a franchise shall provide for its submission for
2 ratification to the qualified voters of the city or borough area outside
3 cities at either a regular or special election, and the result of the
4 election shall be canvassed publicly by the council or assembly and spread
5 upon the records of the minutes and the result declared and certified in the
6 same manner as in a regular election.

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

13 ~~Sec. 29.33.120.~~ (Sec. 29.48.060.) PUBLIC UTILITIES RATES. The
14 assembly acting for the area outside cities and the council acting for the
15 area within a city may regulate, fix, establish and change, as it considers
16 proper, the rates and charges imposed for utilities services given to the
17 municipality or its inhabitants by ^{not in power} a municipally owned utility ^{municipally owned utilities to the extent not} not regulated
18 under AS. 42.05 ^{prohibited by} and may regulate and provide what is a reasonable deposit for
19 meters and security for service to be given, provided that interest is paid
20 on the deposit. All rates, charges and regulations shall be reasonable and
21 shall permit a fair and reasonable return on invested capital.

22 Sec. 29.33.120. (Sec. 29.48.070.) HEARING FOR REGULATION OF UTILITIES
23 RATES. If the assembly or council considers it advisable to regulate,
24 change, or fix the rates to be charged by a public service corporation,
25 association or individual not regulated under AS 42.05, it shall order a
26 hearing to be held before the governing body at a time and place specified.
27 Notice of the hearing shall be given by at least one publication in a
28 newspaper of general circulation distributed within the municipality or, if
29 no newspaper of general circulation is distributed within the municipality,

1 notice shall be given by posting a notice in three public places within the
2 city or borough area outside cities receiving the utilities services and by
3 serving written notice upon the corporations, associations and individuals
4 whose rates are to be regulated, fixed, or changed in the same manner that
5 summonses are served. The notices shall be published or posted and served at
6 least 15 days before the hearing.

7 ~~Sec. 29.33.140.~~ (Sec. 29.48.080.) RIGHT TO PARTICIPATE AND COMPEL
8 TESTIMONY. At a hearing held under Sec. 70 of this chapter, all public
9 service corporations, associations, or individuals affected by or interested
10 in the matters to be heard may be present and may be represented by counsel.
11 The municipality and all interested parties may produce witnesses and examine
12 them and introduce evidence to prove or disprove the facts in issue or
13 matters to be established or inquired into at the hearing. All parties may
14 compel the attendance of witnesses, and subpoenas requiring attendance shall
15 be issued by the municipal clerk under his hand and the seal of the
16 municipality. Subpoenas duces tecum requiring the production of books and
17 papers shall be issued in like manner upon request. If a person fails to
18 obey a subpoena, the party at whose request the subpoena issued may petition
19 the superior court for an order compelling the attendance of the disobedient
20 witness or the production of the books or papers referred to in a subpoena
21 duces tecum. The superior court shall order the witness to appear and
22 testify or compel the production of the books or papers. A violation of the
23 order of the court is a contempt of court. If a witness appears and refuses
24 to testify concerning a matter material to the facts inquired about at the
25 hearing and to establish or determine which the hearing was had, an
26 application may be made to the superior court to compel the witness to
27 testify and answer questions put to him concerning the matters inquired
28 about, and the court shall make an order compelling the witness to testify.
29 Violation of the order is contempt of court.

1 ~~Sec. 29.33.150.~~ (Sec. 29.48.090.) FURTHER PROCEEDINGS. A hearing
2 under Sec. 70 of this chapter shall begin at the time stated in the notice
3 but may be continued from time to time. At least a quorum of the assembly or
4 council shall be present at the hearing. At the conclusion of the hearing
5 the parties interested may make such arguments before the assembly or
6 council, either in person or by attorney, as they consider proper, touching
7 the matters at issue, and thereafter the assembly or council shall proceed to
8 regulate and fix the rates by ordinance. The date upon which the rates fixed
9 or regulated take effect shall be stated in the ordinance and shall be at
10 least 10 days after passage and approval of the ordinance.

11 ~~Sec. 29.33.160.~~ (Sec. 29.48.100.) APPLICATION. (a) In the case of
12 conflict between the provisions of Secs. 110-130 (Secs. 50-70) of this
13 chapter and the provisions of AS 42.05 as to the regulation of rates of a
14 utility, the provisions of AS 42.05 shall prevail.

15 (b) Sections 110-160 (Sections 50-100) of this chapter apply to
16 home rule and general law municipalities.

17 Article 3. FISCAL DUTIES

18 Sec. 29.33.190. (Sec. 29.48.250.) CENTRALIZED PURCHASING. The
19 assembly or council may provide for centralized purchasing, storage and
20 distribution of supplies, material and equipment for the municipality and its
21 departments.

22 *but* Sec. 29.33.200. (Sec. 29.48.260.) MUNICIPAL PROPERTIES. (a) A
23 municipality may acquire and hold real and personal property or interest in
24 property, and may sell, lease or otherwise dispose of property no longer
25 required for municipal purposes.

26 (b) Notwithstanding the provisions of (c) of this section, a
27 municipality may sell, lease, donate or exchange with the United States, the
28 state, or a political subdivision real estate or other property, or interest
29 in property, when in the judgment of the assembly or council it is
LA-Lae20 advantageous to the municipality to do so.

(c) The assembly or council shall by ordinance establish a formal procedure for the sale, lease or disposition of real property or interest in real property. The ordinance shall require (1) an estimated value of the property by a qualified appraiser or the assessor; (2) a notice of sale published in a newspaper of general circulation distributed within the municipality at least 30 days before the date of the sale, lease, or disposition, or posted within that time in at least three public places in the municipality (3) public auction or opening of sealed bids, if any; and (4) other terms and conditions fixed by the assembly or council. However, no ordinance for the sale, lease, or disposition of real property or interest in real property valued at \$25,000 or more is valid unless ratified by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted. Thirty days notice shall be given of the election and during that period the assembly or council shall have published at least once a week in a newspaper of general circulation distributed within the municipality a notice stating the time of the election and the place of voting, describing the property to be sold, leased or disposed of, giving a brief statement of the terms and conditions of the sale and the consideration, if any, and stating the title and date of passage of the ordinance. Notice shall also be given by posting a copy of it in at least three public places in the municipality at least 30 days before the election. If no newspaper of general circulation is distributed within the municipality, the notice given by posting is sufficient for the purposes of this section.

(d) The assembly or council ^{shall} ~~may~~ by ordinance establish a formal procedure for acquisition ^{disposal} ~~from the state~~ of land ^{interests} ~~or rights~~ in land, ^{and} ~~and the disposal of the land or rights in land, in which event the provisions of (c) of this section do not apply.~~ ^{except that if no ~~conflicting~~ ^{by competitive means} process is used, it may be by ordinance.}

(e) A municipality, in order to make sites available for beneficial new industries, may acquire and hold real property, either inside or outside

1 the corporate limits, and may sell, lease or dispose of it to persons who
2 agree to operate a beneficial new industry upon the terms and conditions the
3 assembly or council considers advantageous to the municipality.

4 (f) A deed, contract of sale, lease, or other instrument evidencing
5 disposition by a borough of land or interest in land classified by the
6 borough as agricultural land shall include, among other terms, conditions and
7 limitations which may be required by law or which the assembly may elect to
8 include, a condition that the land is restricted to agricultural use. The
9 assembly may not by subsequent action waive or abrogate the condition for a
10 period of 50 years. An abrogation of the restriction to agricultural use
11 after the 50-year period requires the consent of any party having an interest
12 in the land. The assembly shall provide for enforcement by appropriate legal
13 means, including but not limited to forfeiture of the purchaser's interest
14 for violation of the condition.

15 Sec. 29.33.210. (Sec. 29.48.190.) BUDGET AND CAPITAL PROGRAM. (a) The
16 assembly or council shall establish the manner for the preparation and
17 submission of the budgets and capital programs by the executive. After
18 public hearing, the assembly or council may ~~by ordinance~~ approve the budgets with or
19 without amendments and shall appropriate the funds required for the approved
20 budgets. *violating - unconstitutional if not for capital project*

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

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

28 (d) Nothing in this section is intended to prevent the authorizing
29 of payment or making of contracts for capital improvements to be financed
LA-1120 wholly or partly by the issuance of bonds.

1 Sec. 29.33.220. (Sec. 29.48.210.) EXPENDITURE OF BOROUGH REVENUES.
2 Borough revenues ~~levied and collected on an~~ ^{received through taxes collected on an} areawide basis by a home rule or
3 general law borough may be expended on general administrative costs and on
4 areawide functions only. ^{Borough} Revenues ~~levied and collected~~ ^{received through taxes collected on} in the area outside
5 cities only may be expended on general administrative costs and functions
6 which render service to the area outside cities only. *This section does not apply to unified municipalities.*

7 Sec. 29.33.230. (Sec. 29.48.220.) POST AUDIT. The assembly or council
8 shall provide for an annual independent audit of the accounts and financial
9 transactions of the municipality or in the case of a second class city an
10 audit or statement of annual income and expenditures. To make the audit the
11 assembly or council shall designate a public accountant who has no personal
12 interest, direct or indirect, in the fiscal affairs of the municipality.
13 Copies of the audit shall be available to the public upon request. This
14 section applies to home rule and general law municipalities.

15 Article 4. CONSTRUCTION OF POWERS

16 (Chapter 48. Article 5. CONSTRUCTION OF POWERS)

17 Sec. 29.33.260. (Sec. 29.48.310.) GENERAL CONSTRUCTION. A liberal
18 construction shall be given to all powers and functions of boroughs and
19 cities conferred in this title.

20 Sec. 29.33.270. (Sec. 29.48.320.) EXTENT OF POWERS. Unless otherwise
21 limited by law, boroughs and cities have and may exercise all powers and
22 functions necessarily or fairly implied in or incident to the object or
23 purpose of all powers and functions conferred in this title.

24 Sec. 29.33.280. (Sec. 29.48.330.) ENUMERATION OF POWERS. Specific
25 examples within an enumerated power or function conferred upon boroughs or
26 cities in this title are illustrative of the object and not a limitation on
27 or exclusion from the exercise of the power or function.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

CHAPTER 36. AREAWIDE BOROUGH POWERS AND DUTIES
(CHAPTER 33. AREAWIDE BOROUGH POWERS AND DUTIES)

Article 1. SCOPE

Sec. 29.36.010. (Sec. 29.33.010.) SCOPE OF AREAWIDE POWERS. (a)
First and second class boroughs shall exercise the powers as specified and
in the manner specified in this chapter on an areawide basis, both inside
and outside cities within their boundaries.

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

Article 2. MANDATORY AREAWIDE POWERS AND DUTIES

(Chapter 33, Article 2. ASSESSMENT AND COLLECTION OF TAXES)

Sec. 29.36.040. (Sec. 29.33.050.) EDUCATION. Each borough
constitutes a borough school district and establishes, maintains, and
operates a system of public schools on an areawide basis as provided in AS
14.14.060. A military reservation within an organized borough is not part
of the borough school district until the military mission is terminated or
until inclusion in the borough school district is approved by the Department
of Education. However, operation of the military reservation schools by the
borough school district may be required by the Department of Education under
AS 14.14.110. If the military mission of a military reservation terminates
or continued management and control by a regional educational attendance
area is disapproved by the Department of Education, operation, management
and control of schools on military reservation transfers to the borough
school district in which the military reservation is located.

Sec. 29.36.050. (Sec. 29.33.030.) ASSESSMENT AND COLLECTION OF TAXES.
(ASSESSMENT AND COLLECTION) Boroughs shall assess and collect property,
sales, and use taxes levied within their boundaries, subject to ch. 45 (ch.
53) of this title. Taxes levied by a city and collected by a borough are
returned in full to the levying city.

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY
Cross reference - Borough shall provide for as provided in AS
Sec. 29.36.060. (New Section) PLANNING, PLATTING, AND ZONING.

Article 3. ACQUISITION OF ADDITIONAL AREAWIDE POWERS

(Chapter 33. Article 5. ADDITIONAL AREAWIDE POWERS)

Sec. 29.36.090. (Sec. 29.33.250.) ADDITIONAL AREAWIDE POWERS. First and second class boroughs acquire additional areawide municipal powers by transfer from a city or by holding an areawide election on the question, except as provided otherwise in AS 29.33.070 (AS 29.48.030) and AS 29.33.080 [29.48.035(b)].

Sec. 29.36.100. (Sec. 29.33.260.) TRANSFER BY CITY. (a) A city may transfer to the first or second class borough in which it is located any of its powers or functions, subject to the approval of the borough assembly.

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

Sec. 29.36.110. (Sec. 29.33.270.) PETITION FOR POWER. An election on the question of adding an areawide power may be initiated in two ways:

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

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

Sec. 29.36.120. (Sec. 29.33.280.) INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public.

Sec. 29.36.130. (Sec. 29.33.290.) ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

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

3 (c) The borough mayor shall certify the election results to the
4 Department of Community and Regional Affairs. The vote on the question of
5 adding an areawide power shall be tabulated in two separate classifications.
6 One shall consist of all votes cast in the home rule and first class cities
7 of the borough. The other shall consist of all votes cast in the remaining
8 borough area. If the majority of the votes cast in each classification is
9 favorable, the borough shall assume the added power within 30 days of
10 certification of the election results. Upon acquisition of an areawide
11 power the borough succeeds to all of the rights, powers and duties of any
12 city or service area with respect to that power. The borough succeeds to
13 claims, franchises and other contractual obligations, liability for bonded
14 and all other indebtedness and to all of the right, title and interest in
15 the real and personal property held by the city or service area for the
16 exercise of the power. The borough assembly may levy and collect special
17 charges, taxes or assessments including interest for the purpose of
18 amortizing bonded indebtedness previously incurred by the city or service
19 area for continuing services in the area. When a city or service area had
20 previously incurred bonded indebtedness, no less than all property that was
21 within the city or service area at the time the bonds were issued shall
22 remain subject to taxation to pay the principal of and interest on the bond
23 for as long as they remain outstanding. Upon acquisition of additional
24 areawide powers the borough, in consultation with the city or service area
25 personnel, shall arrange for an orderly and equitable transfer of rights,
26 assets, liabilities, powers, duties and other matters related to acquisition
27 of the areawide powers. This subsection applies to home rule and general
28 law cities.
29

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

Article 4. BOROUGH POWERS AND DUTIES IN THE AREA

OUTSIDE CITIES

(CHAPTER 38. BOROUGH POWERS AND DUTIES IN THE
AREA OUTSIDE CITIES

Sec. 29.36.160. (Sec. 29.38.010.) FIRST CLASS BOROUGH. The first class borough may exercise in the area outside cities any general law municipal power. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

Sec. 29.36.170. (Sec. 29.38.020.) SECOND CLASS BOROUGH. The second class borough may exercise in the area outside cities municipal powers approved at incorporation, conferred by AS 29.36.170 (AS 29.48.020), or added as provided in this chapter. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power.

Sec. 29.36.170. (Sec. 29.48.020.) SECOND CLASS BOROUGH POWERS OUTSIDE CITIES. [NOTE: THIS SECTION HAS BEEN COMBINED WITH SEC. 29.38.020] A second class borough may, in the area outside cities,

- (1) regulate or prohibit the offering for sale, exposure for sale, sale, use, or explosion of fireworks;
- (2) provide for the licensing, impounding, and disposition of animals;
- (3) regulate the licensing and operation of motor vehicles and operators;
- (4) regulate snow vehicles as provided in AS 05.30.070;
- (5) provide for garbage and solid waste collection and disposal subject to AS 29.33.080 (Sec. 33) of this chapter;

change vs include "septa"

(6) provide for water pollution control;

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

(9) tax, spend, and regulate for the purpose of promoting industrial development

Sec. 29.36.180. (Sec.29.38.030.) ADDITIONAL POWERS. The second class borough may initiate the acquisition of additional powers outside cities in either of two ways:

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

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

Sec. 29.36.190. (Sec. 29.38.040.) INVESTIGATION. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public.

Sec. 29.36.200. (Sec. 29.38.050.) ELECTION. (a) The assembly shall, within 30 days after its findings have been made public, order an election on the question in the borough area outside cities. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

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

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

Article 5. POWERS OF THIRD CLASS BOROUGHES

(CHAPTER 41. POWERS OF THIRD CLASS BOROUGHES)

1 Sec. 29.36.230. (Sec. 29.41.010.) POWERS OF THIRD CLASS BOROUGHES.

2 (a) A third class borough shall exercise the areawide powers of education
3 and tax assessment and collection in the manner provided for second class
4 boroughs. Areawide exercise of powers other than education and tax
5 assessment ^{those under AS 29.33.010} and collection is not authorized.

6 [^](b) A third class borough may by a majority vote of the voters in
7 a general or special election provide for planning, platting and zoning in
8 accordance with AS 29.42.010-29.42.150 (AS 29.33.070-29.33.245) for boroughs
9 and may exercise any general law municipal power which a second class
10 borough is authorized to assume by this title. Powers assumed by a third
11 class borough under this section may be exercised only within service areas.
12 A third class borough may establish, operate, alter or abolish service areas
13 in the manner provided by (AS 29.63.090) for second class boroughs. The
14 acquisition of additional powers on a service area basis may be initiated in
15 either of two ways:

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

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

20 (c) A third class borough may borrow money and issue negotiable
21 general obligation, revenue or refunding bonds and other evidences of
22 indebtedness as provided for first and second class boroughs in AS
23 29.51.200-29.51.510 (AS 29.58.150-29.58.340).

24 (d) A military reservation within a third class borough is not
25 part of the borough school district until the military mission is terminated
26 or until inclusion in the borough school district is approved by the
27 Department of Education. However, operation of the military reservator
28 schools by the borough school district may be required by the Department of
29 Education under AS 14.14.110. If the military mission of a military

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

1 reservation terminates or continued management and control by a regional
2 educational attendance area is disapproved by the Department of Education,
3 operation, management and control of schools on the military reservation
4 transfers to the borough school district in which the military reservation
5 is located.

6 Sec. 29.36.240. (Sec. 29.41.020.) ASSEMBLY TO SERVE AS SCHOOL BOARD.
7 The borough assembly is the borough school board for third class boroughs.
8 The borough executive is the presiding officer of the borough assembly and
9 president of the school board. The borough executive has all powers of a
10 borough executive except for the veto power.

11 Article 6. SERVICE AREAS

12 Sec. 29.36.270. (Sec. 29.63.090) SERVICE AREAS. (a) Service areas
13 to provide special services within a borough may be established, operated,
14 altered or abolished by the assembly by ordinance. Special services include
15 services not provided on an areawide basis within the borough or the borough
16 area outside cities or a higher or different level of service than that
17 provided on an areawide basis or in the borough area outside cities. In a
18 first class borough the assembly may exercise within a service area any
19 power granted a first class city by general law. Except as provided in (f)
20 of this section, a second class borough may exercise the powers granted a
21 first class city by general law but the exercise of the powers must be
22 approved by a majority of the qualified voters residing within the service
23 area and voting on the question at a regular or special election. *upon petition signed by 75 owners*

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

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

28 (d) A new service area may not be established if, consistent with
29 the purposes of art. X of the state constitution, the new service can be

1 provided by an existing service area, by annexation to a city, or by incor-
2 poration as a city.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

CHAPTER 39. POWERS OF CITIES OUTSIDE BOROUGHES

(CHAPTER 43. POWERS OF CITIES OUTSIDE BOROUGHES

1
2
3 Sec. 29.39.010. (Sec. 29.43.010.) ADDITIONAL POWERS. In addition to
4 the powers granted by (ch. 48) of this title, cities outside boroughs are
5 granted the powers specified in this chapter. Powers of this chapter which
6 are incorporated by reference to laws governing boroughs apply to home rule
7 cities outside boroughs only in those cases in which they are made
8 applicable to home rule boroughs in the provisions incorporated.

9 Sec. 29.39.020. (Sec. 29.43.020.) ASSESSMENT AND TAX COLLECTION.
10 Home rule and first class cities outside boroughs may assess, levy and
11 collect a general property tax. A property tax if levied must be assessed,
12 levied and collected as provided by ch. 45 (ch. 53) of this title for
13 boroughs. Cities outside boroughs may levy and collect sales and use taxes
14 as provided by ch. 45 (ch. 53) of this title for boroughs.

15 Sec. 29.39.030. (Sec. 29.53.405) DIFFERENTIAL TAX ZONES. Cities may
16 by ordinance establish, alter and abolish differential tax zones to provide
17 and levy property taxes for services not provided generally within the city
18 or a different level of service than that provided generally within the
19 city.

20 Sec. 29.39.040. (Sec. 29.43.030.) EDUCATION. Home rule and first
21 class cities outside boroughs constitute city school districts and
22 establish, maintain, and operate a system of public schools as provided by
23 AS 29.36.040 (AS 29.33.050) for boroughs.

24 Sec. 29.39.050. (Sec. 29.43.040.) PLANNING AND ZONING. (a) Home rule
25 and first class cities outside first and second class boroughs shall, and
26 second class cities outside first and second class boroughs may, provide for
27 planning, platting and ~~zoning~~ ^{land use regulations}, as provided by AS 29.42.010-29.42.245 (AS
28 29.33.070-29.33.245) for boroughs.
29

(b) Home rule and first class cities within third class boroughs shall, and second class cities within third class boroughs may, provide for planning, platting and zoning, as provided by AS 29.42.010-29.42.150 (AS 29.33.070-29.33.245) for boroughs.

Sec. 29.39.060. (Sec. 29.43.100.) EXTENSION OF CURFEWS OUTSIDE CITIES. The provisions of a curfew ordinance enacted by a city of any class concerning minors shall be imposed in the total area within 20 miles of the limits of that city. If a given area lies within 20 miles of two or more cities with conflicting curfew ordinances, the provisions of the curfew ordinance of the city having the largest population prevails as to the overlapping area.

Sec. 29.39.070. (Sec. 29.43.105.) ENFORCEMENT OF CURFEWS. (a) The municipal peace officers shall enforce the provisions of the ordinance inside the city limits. Under AS 29.39.060-29.39.080 (AS 29.43.100 - 29.43.110) the state peace officers shall enforce the provisions of the ordinance in the area outside the city limits.

(b) In an area where state peace officers are not available, the municipal peace officer may enforce the provisions of the ordinance in the area outside the city limits if the enforcement responsibilities are delegated by contract between the state and the municipality.

Sec. 29.39.080. (Sec. 29.43.110.) PENALTY FOR VIOLATION OF CURFEW. The penalty for violation of AS 29.36.060-29.36.080 (AS 29.43.100 29.43.110) is as prescribed by the curfew ordinance of the city, and a fine so paid shall be paid to the city when the violation takes place in the city. Otherwise the fine shall be paid to the state. However, the penalty shall not exceed a fine of \$300, or imprisonment for 30 days, or both.

CHAPTER 42. PLANNING, PLATTING AND ZONING

(Chapter 33. Article 4. PLANNING, PLATTING AND ZONING)

Sec. 29.42.010. (Sec. 29.33.070.) PLANNING, PLATTING AND ZONING.

(a) First and second class boroughs shall provide for planning, platting and zoning on an areawide basis.

(b) The assembly by ordinance may

(1) designate the council of a city within the borough as a board of adjustment within the city;

(2) delegate other planning and zoning powers conferred by this chapter to a city within the borough;

(3) revoke or modify any part or all of the powers delegated under this subsection.

Sec. 29.42.020. (Sec. 29.33.080.) PLANNING COMMISSION. (a) The borough planning commission consists of five residents unless a greater number is otherwise provided by ordinance. Commission membership shall be apportioned so that the number of members from first class cities reflects the proportion of borough population residing within those cities. Members shall be appointed by the borough executive for a term of three years subject to confirmation by the assembly, except that appointments of members from first class cities are selected from a list of recommendations submitted by the city council. Members first appointed shall draw lots for one, two-and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the assembly.

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

(1) a comprehensive plan consisting of maps and related texts for the systematic development of the borough;

(2) a zoning ordinance to implement the plan;

- 1 (3) a subdivision ordinance;
2 (4) the official map of the borough;
3 (5) modifications to the documents specified in (1)-(4) of
4 this section.

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

8 (d) The commission shall

- 9 (1) act as the platting board;
10 (2) act upon requests for variances;
11 (3) act upon requests for conditional uses.

12 (e) Subject to Sec. 150 (Sec. 245) of this chapter, no platting
13 request, variance or conditional use may be granted except upon an
14 affirmative vote of a majority of the commission.

15 (f) The commission shall designate its presiding officer and
16 shall meet as frequently as is necessary. The commission shall establish ,
17 subject to approval by the assembly, rules and regulations for the conduct
18 of its meetings. Meetings shall be public and minutes shall be kept.
19 Minutes and records shall be filed with the municipal clerk and retained as
20 public records.

21 (g) Exceptions may be granted to building, housing and related
22 codes by the planning commission when an applicant for an exception
23 demonstrates that the exception will result in increased energy efficiency,
24 unless the planning commission determines that the exception would endanger
25 the health or safety of the public.

26 Sec. 29.42.030. (Sec. 29.33.085.) COMPREHENSIVE PLAN. (a) The
27 comprehensive plan is a compilation of policy statements, goals, standards
28 and maps for guiding the physical, social and economic development, both
29 private and public, of the borough, and may include, but is not limited to,

1 the following: statements of policies, goals, standards, a land use plan, a
2 community facilities plan, a transportation plan, and recommendations for
3 plan implementation.

4 (b) The assembly shall adopt a comprehensive plan based upon the
5 recommendations of the planning commission. The assembly may modify the
6 plan, provided that it first obtains the recommendations of the planning
7 commission. The planning commission shall undertake an overall review of
8 the plan at least once every two years and shall present recommendations
9 based on the review to the assembly.

10 Sec. 29.42.040. (Sec. 29.33.090.) ZONING. (a) In accordance with
11 the comprehensive plan, the assembly shall regulate and restrict the use of
12 land and improvements by districts or contract zoning to permit specific
13 uses provided for in the contract. Regulations shall be uniform for each
14 class or kind of building, structure, land or water area within each
15 district, but the regulations may differ among districts and exceptions may
16 be made in order to provide for the preservation, maintenance and protection
17 of historic sites, buildings and monuments. In this section, "contract
18 zoning" means a zoning reclassification to a less restricted use when the
19 owner of the rezoned property, either through an agreement with the assembly
20 or a covenant in favor of the borough, places restrictions on the use of the
21 land beyond the zoning requirements generally attaching to the new district
22 in which the property has been placed. The assembly shall hold a public
23 hearing on the proposed contract zoning.

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

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

(4) the number of stories in buildings;

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

(6) the size of open spaces;

(7) population density and distribution.

(c) Zoning regulations are designed to

(1) provide for orderly development;

(2) lessen street congestion;

(3) promote fire safety and public order;

(4) protect the public health and general welfare;

(5) prevent overcrowding;

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

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

(d) Repealed by sec. 45 ch 85 SLA 1979.

(e) A zoning ordinance adopted or amended under (a) of this section may not preclude an activity authorized under a license or permit issued under AS 04 if the activity was licensed or permitted by the Alcoholic Beverage Control Board before the adoption of the zoning ordinance or zoning ordinance amendment.

Sec. 29.42.050. (Sec. 29.33.110.) BOARD OF ADJUSTMENT. (a) The assembly is the board of adjustment but may delegate by resolution or ordinance part or all of its functions to a city within the borough for the area within city boundaries in accordance with AS 29.42.010(b)(1) [AS 29.33.070(b)(1)], in addition to making delegations as provided for an assembly under AS 29.42.150 (AS 29.33.245). Meetings of the borough board are held at the call of the presiding officer and of the city board by the mayor. The presiding officer or mayor may administer oaths and compel

attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

(b) The board of adjustment shall hear and decide

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

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

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

→ (c) A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited.

Sec. 29.42.060. (Sec. 29.33.120.) ADJUSTMENT PROCEDURE. An interested party, including but not limited to a borough or city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the borough clerk within the time required by the zoning ordinance. The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

Sec. 29.42.070. (Sec. 29.33.130.) JUDICIAL REVIEW. (a) The assembly shall provide by ordinance for appeals from the board of adjustment to the superior court.

1 (b) A municipal officer, a taxpayer, or a person, jointly or
2 severally aggrieved, may appeal an action of the board to the superior court
3 by filing with the borough clerk within the time fixed by ordinance, a
4 notice of appeal specifying grounds. When the notice of appeal is filed,
5 the board shall at once transmit to the superior court clerk copies of all
6 the papers constituting the record in the case.

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

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

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

16 Sec. 29.42.080. (Sec. 29.33.150.) PLATTING JURISDICTION AND POWER.

17 (a) The planning commission acting as the platting board has jurisdiction
18 over platting and shall adopt and publish rules and regulations to implement
19 this power. Jurisdiction includes, but is not limited to, the control of

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

22 (2) dimensions of lots or tracts;

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

27 (b) The regulations adopted under (a) of this section apply to
28 subdivision plats of undeveloped state land for disposal under AS 38.05 or
29 AS 38.08 filed with the platting board, except that the platting board may

not disapprove the subdivision plat or adopt regulations which require the state to construct access roads or capital improvements on state land included in the subdivision plat.

Sec. 29.42.090. (Sec. 29.33.160.) PROCEDURE. (a) The platting board shall within 60 days of filing approve or disapprove the plat or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered approved and a certificate of approval shall be issued by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

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

(c) If a municipality has adopted a subdivision ordinance which requires the submission of a preliminary or sketch subdivision plat during the platting procedure, the commissioner of natural resources shall, not later than 60 days before filing a final subdivision plat which contains land to be disposed of to individuals under AS 38.05 or AS 38.08, file a preliminary subdivision plat with the platting authority of the municipality.

Sec 29.42.100. (Sec. 29.33.170.) WAIVER IN CERTAIN CASES. (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that

(1) each tract or parcel of land will have adequate access to a public highway or street;

(2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;

1 (3) the conveyance is not made for the purpose of, or in
2 connection with, a present or projected subdivision development;

3 (4) no dedication of a street, alley, thoroughfare or other
4 public area is involved or required.

5 (b) In other cases the platting authority may waive the
6 preparation, submission for approval, and recording of a plat, if the
7 transaction involved does not fall within the general intent of Secs.
8 29.42.080-29.42.170 (Secs. 29.33.150-29.33.240) of this chapter and AS 40.15
9 if it is not made for the purpose of, or in connection with, a present or
10 projected subdivision development and no dedication of a street, alley,
11 thoroughfare, park or other public area is involved or required.

12 Sec. 29.42.110. (Sec. 29.33.180.) INFORMATION REQUIRED. A plat shall
13 show initial point of survey, original or reestablished corners and their
14 descriptions, and actual traverse showing area of closure and all distances,
15 angles and calculations required to determine initial point, corners and
16 distances of the plat, as well as other information which may be required by
17 ordinance.

18 Sec. 29.42.120. (Sec. 29.33.190.) PENALTIES. (a) The owner or agent
19 of the owner of land located within a subdivision who transfers, sells, or
20 enters into a contract to sell land in a subdivision before a plat of the
21 subdivision has been prepared, approved, and recorded, is guilty of a
22 misdemeanor and upon conviction is punishable by a fine of not more than
23 \$500 for each lot or parcel transferred, sold, or included in a contract to
24 be sold. The borough may enjoin a transfer, sale, or contract to sell, and
25 may recover the penalty by appropriate legal action.

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

1 Sec. 29.42.140. (Sec. 29.33.200.) ALTERATION OF REPLAT PETITION. No
2 recorded plat may be altered or replatted except upon petition of the owners
3 of a majority of the land affected by the alteration or replat or by the
4 platting board. No platted street may be vacated, except upon petition of
5 the municipality or owners of the majority of the front feet of the land
6 fronting the part of the street sought to be vacated. The petition shall be
7 filed with the platting board. It shall be accompanied by a copy of the
8 existing plat showing the proposed alteration or replat.

9 Sec. 29.42.140. (Sec. 29.33.210.) NOTICE OF HEARING. The platting
10 board shall fix a time for a hearing on the petition which shall not be more
11 than 60 days after the filing. The board shall publish a notice stating
12 when and by whom the petition was filed, its purpose, and the time and place
13 of the hearing. The notice shall generally describe the alteration or
14 replat sought. The notice shall be published once a week for two
15 consecutive weeks in a newspaper of general circulation in the area. The
16 board shall also mail a copy of the notice to each affected property owner
17 not signing the petition.

18 Sec. 29.42.150. (Sec. 29.33.220.) HEARING AND DETERMINATION. At the
19 hearing the platting board shall consider the alteration or replat and make
20 its decision on the merits of the proposal. No vacation of a city street
21 may be made without the consent of the city council. No vacation of a
22 street in the borough area outside cities may be made without the consent of
23 the borough assembly. The assembly or council shall have 30 days from the
24 decision in which to veto the board decision. If no veto is received by the
25 board within the 30-day period, the consent of the city or borough shall be
26 considered to have been given to the vacation.

27 Sec. 29.42.160. (Sec. 29.33.230.) RECORDING. If the alteration or
28 replat is approved, the revised plat must be recorded by the platting board
29 and is thereafter the lawful plat.

1 Sec. 29.42.170. (Sec. 29.33.240.) TITLE TO VACATED AREA. (a) The
2 title to the street or other public area vacated on a plat attaches to the
3 lot or lands bordering on the area in equal proportions, except that if the
4 area was originally dedicated by different persons, original boundary lines
5 shall be adhered to so that the street area which lies on one side of the
6 boundary line shall attach to the abutting property on that side, and the
7 street area which lies on the other side of the boundary line shall attach
8 to the property on that side. The portion of a vacated street which lies
9 within the limits of a platted addition attaches to the lots of the platted
10 addition bordering on the area. If a public square is vacated, the title to
11 it vests in the city if it lies within the city and to the borough if it
12 lies within the borough outside a city. If the property vacated is a lot or
13 tract, title vests in the rightful owner.

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

20 (c) Provisions of (a) of this section notwithstanding, the
21 council of a second class city located outside an organized borough may
22 vacate those streets, alleys, crossings, sidewalks or other public ways that
23 may have been previously dedicated or established when the council, in its
24 discretion, finds that the streets, alleys, crossings, sidewalks or other
25 public ways are no longer necessary for the public welfare, or when the
26 public welfare will be enhanced by the vacation. If the council determines
27 that all or a portion of the area vacated under this subsection should be
28 devoted to another public purpose, title to the area vacated and held for
29 another public purpose does not vest as provided in (a) of this section but
LA-Lr20 remains in the city.

1 Sec. 29.42.150. (Sec. 29.33.245.) DELEGATIONS. The assembly may by
2 ordinance authorize the planning commission, ^{and} the platting ^{authority} ~~board and the~~
3 ~~board of adjustment~~ to delegate powers to hear and decide cases under this
4 chapter in a manner authorized by the ordinance, including but not limited
5 to delegations to one or more members of the commission or board, to other
6 boards or commissions, or to a hearing officer designated by the commission
7 or board. ~~The assembly shall prescribe procedures for hearings and appeals.~~
8 ~~The commission or board shall hear and decide appeals de novo.~~

CHAPTER 45. MUNICIPAL TAXATION

(Chapter 53. MUNICIPAL ASSESSMENT AND TAXATION

Article 1. MUNICIPAL PROPERTY TAX

Sec. 29.45.010. (Sec. 29.53.010.) GENERAL PROPERTY TAX. Home rule and general law boroughs may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. A property tax if levied must be assessed, levied and collected on real and personal property as provided in this chapter. *Unified municipality may levy areawide and nonareawide property taxes.*

Sec. 29.45.020. (Sec. 29.73.070) TAXPAYER NOTICE. (a) If a municipality levies and collects real or personal property taxes, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER"

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

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE

(AS 14.17) \$

STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 43.18.100)

(AS 43.18.100) \$

MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE

(AS 29.88) \$

STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.89)

(AS 29.89) \$

TOTAL AID \$

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

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

Notice shall be provided

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

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

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

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

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

5 (c) Compliance with the provisions of this section is a prerequi-
6 site to receipt of municipal tax resource equalization assistance under AS
7 29.62 (AS 29.88) and state aid for miscellaneous municipal services under AS
8 29.62 (AS 29.89). The Department of Community and Regional Affairs shall
9 withhold annual allocations under those chapters until municipal officials
10 demonstrate that the requirements of this section have been met.

11 Sec. 29.45.030. (Sec. 29.53.020.) REQUIRED EXEMPTIONS. (a) The
12 following property is exempt from general taxation:

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

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

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

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

25 (5) money on deposit;

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

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

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

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

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

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

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

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

18 (e) The real property owned and occupied as a permanent place
19 of abode by a resident 65 years of age or over is exempt from taxation of
20 the assessed value of the real property. Only one exemption may be granted
21 with respect to the same property and, if two or more persons are eligible
22 for an exemption with respect to the same property, the parties shall decide
23 between or among themselves which shall receive the benefit of the
24 exemption. No real property may be exempted under this subsection which the
25 assessor determines, after notice and hearing to the parties concerned, has
26 been conveyed to the applicant primarily for the purpose of obtaining the
27 exemption. The determination of the assessor is appealable under AS
28 44.62.560 and 44.62.570.

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

19 (g) The state shall reimburse a borough or city, as
20 appropriate, for the real property tax revenues lost to it by the operation
21 of (e) of this section. However, reimbursement will be made to a borough or
22 city for revenue lost to it only to the extent that the loss exceeds an
23 exemption which was granted by the borough or city, or which upon proper
24 application by an individual would have been granted by the borough or city,
25 under AS 29.53.025(a).

26 (h) Except as provided in (g) of this section, nothing in (e)
27 (i) of this section affects similar exemptions from property taxes granted
28 by municipalities on September 10, 1972 or prevents municipalities from
29 granting similar exemptions by ordinance as provided in AS 29.53.025.

1 (i) In (e) - (i) of this section the term "real property"
2 includes but is not limited to mobile homes, whether classified as real or
3 personal property for municipal tax purposes.

4 (j) Two percent of the assessed value of a structure is exempt
5 from taxation if the structure contains a fire protection system approved
6 under AS 19.70.081, in operating condition, and incorporated as a fixture or
7 part of the structure. The exemption granted by this subsection is limited
8 to

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

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

16 Sec. 29.45.040. (Sec. 29.73.060.) PROPERTY TAX EQUIVALENCY PAYMENTS.

17 (a) A resident of the state 65 years of age or older who rents a permanent
18 place of abode is eligible for tax equivalency payments from the state
19 through the Department of Community and Regional Affairs.

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

26 (c) To obtain tax equivalency payments the eligible resident must
27 apply to the department for payment for the preceding year by January 15 of
28 each year on forms and in the manner prescribed by the department. Each
29 applicant shall submit with the application rental receipts or, if rental

1 (i) In (e) - (i) of this section the term "real property"
2 includes but is not limited to mobile homes, whether classified as real or
3 personal property for municipal tax purposes.

4 Sec. 29.45.040. (Sec. 29.73.060.) ^{move} PROPERTY TAX EQUIVALENCY PAYMENTS.

5 (a) A resident of the state 65 years of age or older who rents a permanent
6 place of abode is eligible for tax equivalency payments from the state
7 through the Department of Community and Regional Affairs.

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

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

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

28 Sec. 29.45.050. (Sec. 29.53.025.) OPTIONAL EXEMPTIONS AND EXCLUSIONS.

29 (a) Municipalities may exclude or exempt or partially exempt residential

1 receipts are not available, other evidence satisfactory to the department
2 for determination of the fact of payment of rent and the amount paid.

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

11 Sec. 29.45.050. (Sec. 29.53.025.) OPTIONAL EXEMPTIONS AND EXCLUSIONS.

12 (a) Municipalities may exclude or exempt or partially exempt residential
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

1 property from taxation by ordinance ratified by the voters at a regular or
2 special election. An exclusion or exemption authorized by this section may
3 not exceed \$10,000 for any one residence.

4 (b) Municipalities may by ordinance

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

11 (2) classify and exempt from taxation

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

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

19 (C) historic sites, buildings and monuments;

20 (D) land of a nonprofit organization used for agricultural
21 purposes if rights to subdivide the land are conveyed to the state
22 and the conveyance includes a covenant restricting use of the land
23 to agricultural purposes only; rights conveyed to the state under
24 this subparagraph may be conveyed by the state only in accordance
25 with AS 38.05.069(c).

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

27 (1) a home rule or first or second class borough may, by
28 ordinance, adjust its property tax structure in whole or in part to the
29 property tax structure of a city within it, including but not limited to,

1 excluding personal property from taxation, establishing exemptions, and
2 extending the redemption period;

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

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

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

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

27 (f) A municipality may by ordinance exempt from taxation all or
28 any part of the increase in assessed value of improvements to real property
29 if an increase in assessed value is directly attributable to alteration of

1 the natural features of the land or new maintenance, repair or renovation of
2 an existing structure and if the alteration, maintenance, repair or
3 renovation, when completed, enhances the exterior appearance or aesthetic
4 quality of the land or structure. No exemption may be allowed under this
5 subsection for the construction of an improvement to a structure if the
6 principal purpose of the improvement is to increase the amount of space for
7 occupancy or nonresidential use within the structure or for the alteration
8 of land as a consequence of construction activity. An exemption provided in
9 this subsection may continue for up to four years from the date the
10 improvement is completed or from the date of approval for the exemption by
11 the local assessor, whichever is later.

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

19 Sec. 29.45.060. (Sec. 29.53.030.) MINING CLAIMS. The assessed value
20 of an unimproved unpatented mining claim which is not producing, and a
21 nonproducing patented mining claim upon which the improvements originally
22 required for patent have become useless and valueless through depreciation,
23 removal or otherwise, is fixed at \$200 for each 20 acres or fraction of 20
24 acres. If the surface ground of a claim has a separate and independent
25 value for nonmining uses, the real and personal property is assessed at its
26 full and true value.

27 Sec. 29.45.070. (Sec. 29.53.035.) FARM OR AGRICULTURAL LANDS. (a)
28 Farm use lands included in a farm unit and not dedicated or being used for
29 nonfarm purposes shall be assessed on the basis of full and true value for
LA-160m use, and shall not be assessed as if subdivided or used for some other

1 nonfarm purpose. The assessor shall maintain records valuing the farm use
2 land for both full and true value and farm use value. Should the farm use
3 land be sold, leased, or otherwise disposed of for uses incompatible with
4 farm use or be converted to a use incompatible with farm use by the owner,
5 the owner is liable to pay an amount equal to the additional tax at the
6 current mill levy together with eight percent interest for the preceding
7 seven years, as though the land had not been assessed for farm use purposes.
8 Payment by the owner shall be made to the state to the extent of its
9 reimbursement for revenue loss under (e) of this section for the preceding
10 seven years. The balance of the payment shall be made to the city or
11 borough.

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

22 (c) In this section "farm use" means the use of land for raising
23 and harvesting crops or for the feeding, breeding and management of
24 livestock or for dairying or another agricultural use for profit or any
25 combination thereof. To be farm use land, the owner or the lessee must be
26 actively engaged in farming the land, and derive at least 10 per cent of his
27 yearly gross income from the farm use land. The provisions of this section
28 do not apply to land respecting which the owner has granted, and has
29 outstanding, a lease or option to buy the surface rights. A property owner

1 wishing to file for farm use classification having no history of
2 farm-related income may submit a declaration of intent at the time of filing
3 the application with the assessor setting out the intended use of the land
4 and the anticipated percentage of income. An applicant using this procedure
5 shall file with the assessor before February 1 of the following year a
6 notarized statement of the percentage of gross income attributable to the
7 farm use land. Failure to make the filing required in this subsection
8 forfeits the exemption.

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

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

15 Sec. 29.45.080. (Sec. 29.53.040.) MOBILE HOMES. Mobile homes,
16 trailers, house trailers, trailer coaches and similar property used or
17 intended to be used for residential, office or commercial purposes and
18 attached to the land or connected to water, gas, electric or sewage
19 facilities are classed as real property for tax purposes except where
20 expressly classified as personal property by ordinance. This section does
21 not apply to house trailers and mobile homes which are unoccupied and held
22 for sale by persons engaged in the business of selling mobile homes.

23 Sec. 29.45.090. (Sec. 29.53.045.) TAX ON OIL AND GAS PRODUCTION AND
24 PIPELINE PROPERTY. (a) A municipality may levy and collect taxes on taxable
25 property taxable under AS 43.56 only by using one of the methods set out in
26 (b) or (c) of this section.

27 (b) A municipality may levy and collect a tax on the full and
28 true value of taxable property taxable under AS 43.56 as valued by the
29 Department of Revenue at a rate not to exceed that which produces an amount

of revenue from the total municipal property tax equivalent to \$1,500 a year for each person residing within its boundaries.

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

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

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

Sec. 29.45.100. (Sec. 29.53.050.) TAX LIMITATION. (a) No municipality may levy and tax for any purpose in excess of three percent of the assessed valuation of property within the municipality in any one year.

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding \$1,000 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 percent of the average per capita assessed full and true value of property in the state multiplied by the number of

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

1 residents of the taxing municipality. If two or more municipalities
2 occupying the same geographical area, in whole or in part, attempt to levy a
3 tax (1) the combined levy of which would result in tax revenues from all
4 sources exceeding \$1,000 a year for each person residing within their
5 boundaries or (2) upon value which, when combined with the value of property
6 otherwise taxable by the municipality, exceed the product of 225 per cent of
7 the average per capita assessed full and true value of property in the state
8 multiplied by the number of residents of the taxing municipality, the
9 commissioner of community and regional affairs shall apportion the lawful
10 levy and equitably divide these revenues on the basis of need, services
11 performed and other considerations in the public interest. For the purpose
12 of this subsection, population shall be determined by the commissioner of
13 community and regional affairs based on the latest statistics of the United
14 States Bureau of the Census or on other reliable population data. For
15 purposes of this subsection the average per capita assessed full and true
16 value of property in the state shall be calculated without regard to the
17 assessed value of taxable property under AS 43.58.

18 Sec. 29.45.110. (Sec. 29.53.055.) NO LIMITATIONS ON TAXES TO PAY
19 BONDS. The limitations provided for in Sec. 45 or 50 of this chapter do not
20 apply to taxes levied or pledged to pay or secure the payment of the
21 principal and interest on bonds. Taxes to pay or secure the payment of
22 principal and interest on bonds may be levied without limitation as to rate
23 or amount, regardless of whether the bonds are in default or in danger of
24 default.

25 Sec. 29.45.120. (Sec. 29.53.060.) FULL AND TRUE VALUE. (a) The
26 assessor shall assess property at its full and true value as of January 1 of
27 the assessment year, except as provided in this section and Secs. 30, 35 and
28 160 of this chapter. The full and true value is the estimated price which
29 the property would bring in an open market and under the then prevailing

1 market conditions in a sale between a willing seller and a willing buyer
2 both conversant with the property and with prevailing general price levels.

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

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

14 Sec. 29.45.130. (Sec. 29.53.070.) RETURNS. (a) The assembly may
15 require every person having ownership or control of or an interest in
16 property to submit a return in the form prescribed by the assessor, based on
17 property values existing on January 1, except as otherwise provided in this
18 chapter.

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

21 Sec. 29.45.140. (Sec. 29.53.080.) INDEPENDENT INVESTIGATION. (a) The
22 assessor is not bound to accept a return as correct. He may make an
23 independent investigation of property returned or of taxable property upon
24 which no return has been filed. In either case, the assessor may make his
25 own valuation of the taxable property, which is prima facie evidence.

26 (b) For investigation, the assessor or his agent may enter any
27 premise during reasonable hours and may examine property on the premises.
28 He may examine all property records involved. A person shall, upon request,
29 furnish to the assessor or his agent every facility and assistance for the

1 purposes of the investigation. If refused entry, the assessor may seek a
2 court order to compel entry.

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

5 Sec. 29.45.150. (Sec. 29.53.090.) STATEMENT. A person who fails to
6 file a statement required by ordinance or who knowingly makes a false
7 affidavit to a statement required by a tax ordinance relative to the amount,
8 location, kind or value of property subject to taxation with intent to evade
9 the taxation, is guilty of a misdemeanor. Upon conviction, he is punishable
10 by a fine of not more than \$500, or by imprisonment for not more than 30
11 days, or by both, together with costs of prosecution.

12 Sec. 29.45.160. (Sec. 29.53.095.) REEVALUATION. A systematic
13 reevaluation of taxable real and personal property undertaken by the
14 assessor, whether of specific areas in which real property is located or of
15 specific classes of real or personal property to be assessed, shall be made
16 only in accordance with a resolution or other act of the assembly directing
17 a systematic reevaluation of all taxable property within the borough over
18 the shortest period of time practicable, as determined by the assembly and
19 fixed in the resolution or other act of the assembly.

20 Sec. 29.45.170. (Sec. 29.53.100.) ASSESSMENT ROLL. (a) The assessor
21 shall prepare an annual assessment roll. The roll contains

- 22 (1) a description of all taxable property;
23 (2) the assessed value of all taxable property;
24 (3) the names and addresses of persons with property subject
25 to assessment and taxation.

26 (b) The assessor may list real property by any description that
27 may be made certain. Real property is assessed to the owner of record as
28 shown in the records of the district recorder, who shall at least monthly
29 provide the assessor a copy of each recorded change of ownership showing the

name and mailing address of the owner and the name and mailing address of the party recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal owner of record. If the property owner is unknown, the property may be assessed to "unknown owner." No assessment is invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described.

Sec. 29.45.180. (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.

Sec. 29.45.190. (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.

Sec. 29.45.200. (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.

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

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

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

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

13 Sec. 29.45.210. (Sec. 29.53.135.) BOARD OF EQUALIZATION. The
14 assembly sits as a board of equalization for the purpose of hearing any
15 appeal from determinations of the borough assessor, or it may delegate this
16 authority to a board appointed by it for that purpose. The board of
17 equalization shall consist of at least that number of members of the
18 assembly over and above the number required for a quorum to transact
19 business. The board is governed in its proceedings by such procedures
20 consistent with general rules of administrative law and the laws governing
21 equalization proceedings as may be adopted by ordinance, including but not
22 limited to quorum and voting requirements. The assembly shall by ordinance
23 adopt rules for the membership and conduct of the board.

24 Sec. 29.45.220. (Sec. 29.53.140.) HEARING. (a) If an appellant fails
25 to appear, the board of equalization may proceed with the hearing in his
26 absence.

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

28 (c) The only grounds for adjustment is proof of unequal,
29 excessive or improper valuation based on facts which are stated in a valid
LA-Lw20tten appeal timely filed or proved at the hearing.

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

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

5 (f) An appellant may appeal to the superior court for, and is
6 entitled to, trial de novo of the board's action. Either party to the
7 appeal may demand a jury trial.

8 Sec. 29.45.230. (Sec. 29.53.150.) SUPPLEMENTARY ASSESSMENT ROLLS.
9 The assessor shall include property omitted from the assessment roll on a
10 supplementary roll, using the procedures set out in this chapter for the
11 original roll.

12 Sec. 29.45.240. (Sec. 29.53.160.) TAX ADJUSTMENTS ON PROPERTY
13 AFFECTED BY A NATURAL DISASTER. (a) The assembly may provide for
14 reassessment and reduction of taxes for property destroyed, damaged, or
15 otherwise reduced in value as a result of a natural disaster.

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

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

28 (d) In enacting an ordinance or resolution authorized by this
29 section, the assembly may, consistent with this section, prescribe

1 procedures, restrictions and conditions of assessing or reassessing property
2 and of remitting, refunding or forgiving taxes.

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

7 Sec. 29.45.250. (Sec. 29.53.170.) TAX LEVY AND RATE. (a) The power
8 granted to the assembly to assess, levy and collect a general property tax
9 shall be exercised by means of general ordinances, but the rate of levy, the
10 date of equalization and the date when taxes become delinquent shall be
11 fixed by resolution.

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

16 Sec. 29.45.260. (Sec. 29.53.180.) RATES OF PENALTY AND INTEREST. (a)
17 If the taxpayer is required to pay the entire tax on the due date set by the
18 assembly, a penalty not to exceed 10 percent may be added to all delinquent
19 taxes, and interest at the rate of eight percent a year shall accrue upon
20 all unpaid taxes, not including penalty, from the due date until paid in
21 full. If the taxpayer is given the right to pay the tax in two installments
22 and the first half is not paid when due, the entire tax becomes delinquent
23 and penalty and interest accrue as follows:

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

27 (2) a penalty not to exceed eight percent shall be added to
28 all taxes delinquent until the due date fixed for payment of the second
29 half, and interest at the rate of eight percent a year shall be charged on

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

1 the whole of the unpaid taxes, not including penalty, from due date until
2 paid in full;

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

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

12 (c) If the assembly charges interest on property taxes not paid
13 when due, the rate of interest may not exceed eight percent a year upon the
14 delinquent taxes and shall be charged from the due date until paid in full.

15 ARTICLE 2. ENFORCEMENT OF TAX LIENS

16 Sec. 29.45.290. (Sec. 29.53.200.) VALIDITY. Certified assessment and
17 tax rolls are valid and binding on all persons, notwithstanding any defect,
18 error, omission or invalidity in the assessment rolls or proceedings
19 pertaining to the assessment roll.

20 Sec. 29.45.300. (Sec. 29.53.210.) TAX LIABILITY. (a) The owner of
21 personal property assessed is personally liable for the amount of taxes
22 assessed against his property. The tax, together with penalty and interest,
23 may be collected in a personal action brought in the name of the borough.

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

27 Sec. 29.45.310. (Sec. 29.53.220.) ENFORCEMENT OF PERSONAL PROPERTY
28 TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be
29 enforced by distraint and sale of the property. The assembly shall provide

1 the procedure for distraint and sale by ordinance. No seizure, levy or
2 distraint is legal unless demand is first made of the person assessed for
3 the amount of the tax, penalty and interest, and no sale is valid unless
4 made at public auction after 15 days notice given by posting or publication.
5 The seizure is made by virtue of a warrant issued by the borough clerk to a
6 peace officer. If the property sold is not sufficient to satisfy the tax,
7 penalty, interest, and costs of sale, the warrant may authorize the seizure
8 of other personal property sufficient to satisfy the tax, penalty, interest
9 and costs of sale.

10 Sec. 29.45.320. (Sec. 29.53.230.) REAL PROPERTY TAX COLLECTION. (a)
11 The borough shall enforce delinquent real property tax liens by annual
12 foreclosure, unless otherwise provided by ordinance.

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

18 Sec. 29.45.330. (Sec. 29.53.240.) FORECLOSURE LIST. (a) The borough
19 shall

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

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

27 (3) within 10 days after the first publication or posting,
28 mail to the last known owner of each property as his name and address appear
29 on the list a notice advising of the foreclosure proceeding in which a

petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

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

- (1) the last known owner;
- (2) the property description as stated on the assessment roll;
- (3) years and amounts of delinquency;
- (4) penalty and interest due;
- (5) a statement that the list is available for public inspection at the clerk's office;

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

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

Sec. 29.45.340. (Sec. 29.53.250.) CLEARING DELINQUENCIES. During the publication or posting of the foreclosure list and up to the time of transfer to the borough a person may pay the taxes, together with the penalty, interest and costs. The collector shall note payment on the foreclosure list.

Sec. 29.45.350. (Sec. 29.53.260.) LIST TO LIENHOLDER. A holder of a mortgage or other lien on real property may request the clerk to send by certified mail notice of a foreclosure list which includes such real property.

Sec. 29.45.360. (Sec. 29.53.270.) GENERAL FORECLOSURE. The borough shall bring one general foreclosure proceeding in rem against the properties included in the list. If the owner is unknown, the property is proceeded

1 against as belonging to "unknown owner." Tax foreclosure proceedings have
2 priority over all other civil proceedings except board of adjustment appeals
3 as provided in AS 29.33.130(e).

4 Sec. 29.45.370. (Sec. 29.53.280.) ANSWER AND OBJECTION. A person
5 having an interest in a tract on the foreclosure list may file an answer
6 within 30 days of the date of last publication, specifying his objection.
7 The court shall make its decision in summary proceedings. The foreclosure
8 list is prima facie evidence that the assessment and levy of the tax is
9 valid and that the tax is unpaid.

10 Sec. 29.45.380. (Sec. 29.53.290.) JUDGEMENT. The court shall in a
11 proper case give judgment and decree that the tax liens be foreclosed. It
12 is a several judgment against and a lien on each parcel.

13 Sec. 29.45.390. (Sec. 29.53.300.) TRANSFER AND APPEAL. (a)
14 Foreclosed properties are transferred to the borough for the lien amount.
15 When answers are filed the court may enter judgment against and order the
16 transfer to the borough of all other properties on the list pending
17 determination of the matters in controversy. The court shall hear and
18 determine the issues raised by the complaint and answers in the same manner
19 and under the same rules as it hears and determines other actions.

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

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

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

28 Sec. 29.45.400. (Sec. 29.53.310.) REDEMPTION PERIOD. (a) Properties
29 transferred to the borough are held by the borough for at least one year.

1 During the redemption period a party having an interest in the property may
2 redeem it by paying the lien amount plus penalties, interest and costs,
3 including all costs incurred under Sec. 350(a) of this chapter. Property
4 redeemed is subject to all taxes, assessments, liens and claims as though it
5 had continued in private ownership. Only the amount applicable under the
6 judgment and decree must be paid in order to redeem the property.

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

11 Sec. 29.45.410. (Sec. 29.53.320.) EFFECT. Receipt of redemption
12 money by the clerk releases all claims of the borough to the property. The
13 clerk shall record the redemption and issue a certificate containing a
14 property description, the redemption amount, and the dates of judgment and
15 decree of foreclosure. The clerk shall file the certificate with the
16 recorder and collect the recording fee from the person redeeming at the time
17 of redemption. The court clerk shall file the certificate as part of the
18 judgment roll.

19 Sec. 29.45.420. (Sec. 29.53.330.) ADDITIONAL LIENS. If a property
20 included in a foreclosure list is removed after payment of delinquencies or
21 redemption by another lienholder, the payment represented by receipt for
22 payment constitutes an additional lien on the property, collectible by the
23 lienholder in the same manner as the original lien.

24 Sec. 29.45.430. (Sec. 29.53.340.) POSSESSION DURING REDEMPTION
25 PERIOD. Foreclosure does not affect the former owner's right to possession
26 during the redemption period. In the event that waste is committed by the
27 former owner, or by anyone acting under his permission or control, the
28 borough may declare an immediate forfeiture of the right to possession.
29

1 Sec. 29.45.440. (Sec. 29.53.350.) EXPIRATION. (a) At least 30 days
2 before the expiration of the redemption period the clerk shall publish a
3 redemption period expiration notice. The notice shall contain the date of
4 judgment, the date of expiration of the period of redemption and a warning
5 to the effect that all properties ordered sold under the judgment, unless
6 redeemed, shall be deeded to the borough or city immediately on expiration
7 of the period of redemption and that every right or interest of any person
8 in the properties will be forfeited forever to the borough or city. The
9 notice is published once a week for four consecutive weeks in a newspaper of
10 general circulation distributed within the borough. If there is no
11 newspaper of general circulation distributed within the borough, the notice
12 is posted in three public places for at least four consecutive weeks. The
13 clerk shall send a copy of the published notice by certified mail to each
14 record owner of property against which a judgment of foreclosure has been
15 taken and, if the assessed value of the property is more than \$10,000, to
16 all holders of mortgages or other liens of record on the property. The
17 notice shall be mailed within five days of the first publication. The
18 mailing shall be sufficient if mailed to the property owner and to the
19 holder of a mortgage or recorded lien at the last address of record. The
20 right of redemption shall expire 30 days after the date of the first
21 publication notice.

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

26 Sec. 29.45.450. (Sec. 29.53.360.) DEED TO BOROUGH OR CITY. (a)
27 Unredeemed properties in the area of the borough outside cities are deeded
28 to the borough by the clerk of the court. Unredeemed properties within a
29 city are deeded to the city subject to the payment by the city of unpaid

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

1 borough taxes and costs of foreclosure levied against the property before
2 foreclosure. The deeds shall be recorded in the recording district in which
3 the property is located.

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

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

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

17 Sec. 29.45.460. (Sec. 29.53.370.) DISPOSITION AND SALE OF FORECLOSED
18 PROPERTIES. (a) The assembly of a borough or council of a city shall
19 determine by ordinance whether foreclosed property deeded to the
20 municipality under Sec. 360 of this chapter shall be retained by the
21 municipality for a public purpose. The ordinance shall contain the legal
22 description of the property, the address or a general description of the
23 property sufficient to provide the public with notice of its location, and
24 the name of the last record owner of the property as his name appears on the
25 assessment rolls of the municipality.

26 (b) Tax-foreclosed properties conveyed to a borough or city by
27 tax foreclosure and not required for a public purpose may be sold. Before
28 the sale of tax-foreclosed property held for a public purpose, the assembly
29 or council, by ordinance, shall determine that a public need does not exist.
LA-LTR0 ordinance shall contain the information required in (a) of this section.

1 (c) The clerk shall send a copy of the published notice of
2 hearing of an ordinance to consider a determination required by (a) or (b)
3 of this section by certified mail to the former record owner of the parcel
4 of property which is the subject of the ordinance. The notice shall be
5 mailed within five days of its first publication and shall be sufficient if
6 mailed to the property owner at the last address of record.

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

10 Sec. 29.45.470. (Sec. 29.53.375.) REPURCHASE BY RECORD OWNER. (a)
11 The record owner at the time of tax foreclosure of property acquired by a
12 borough or city, or his assigns, may, at any time before the sale or
13 contract of sale of the tax-foreclosed property by the borough or city,
14 repurchase the property. The borough or city shall sell the property for
15 the full amount applicable to the property under the judgment and decree,
16 with interest at the rate of eight percent a year from the date of entry of
17 the judgment of foreclosure to the date of repurchase, delinquent taxes
18 assessed and levied as though it had continued in private ownership, and
19 costs of foreclosure and sale, including, but not limited to, costs of
20 publication of notice and any costs associated with the determination of
21 holders of mortgages and other liens of record under Sec. 350(a) of this
22 chapter.

23 (b) After adoption of an ordinance providing for the retention of
24 a parcel of tax-foreclosed property by the municipality for a public
25 purpose, the right of the former record owner to repurchase the property
26 ceases.

27 Sec. 29.45.480. (Sec. 29.53.380.) PROCEEDS OF TAX SALE.

28 (a) Upon sale of foreclosed real or personal property the borough or city
29 shall divide the proceeds less cost of collection, between the borough and

1 the city having unpaid taxes against the property. The division is in
2 proportion to the respective municipal taxes against the property at the
3 time of foreclosure.

4 (b) The former record owner of tax-foreclosed real property which
5 has been held by a municipality for less than 10 years after the close of
6 the redemption period and never designated for a public purpose which is
7 sold at a tax-foreclosure sale is entitled to the portion of the proceeds of
8 the sale which exceeds the amount sufficient to satisfy unpaid taxes,
9 delinquent taxes assessed and levied as if the property had continued in
10 private ownership, penalty, interest and costs of property sold, including
11 costs incurred under Sec. 350(a) of this chapter. If the proceeds of the
12 sale of tax-foreclosed property exceed the total of unpaid and delinquent
13 taxes, penalty, interest, and costs, the borough or city shall provide the
14 former owner of the property written notice advising of the amount of the
15 excess and the manner in which a claim for the balance of the proceeds may
16 be submitted. Notice is sufficient under this subsection if mailed to the
17 former owner at his last address of record. Upon presentation of a proper
18 claim, the municipality shall remit the excess to the former record owner. A
19 claim for the excess filed after six months of the date of sale is forever
20 barred.

21 Sec. 29.45.490. (Sec. 29.53.385.) PAYMENT OF TAXES UPON PUBLIC
22 UTILIZATION. If a city or borough holds or takes title to tax-foreclosed
23 property for a public purpose, the city or borough shall satisfy unpaid
24 taxes and assessments against the property held by other municipalities,
25 with accrued interest but without penalty. If the amount required to
26 satisfy the unpaid taxes and assessments exceeds the assessed valuation of
27 the property, the city or borough shall pay the other municipalities the
28 assessed valuation, which shall be divided between the other municipalities
29 in proportion to their respective taxes and assessments against the property
LA-L 20 at the time of foreclosure.

1 Sec. 29.45.510. (Sec. 29.53.390.) REFUND OF TAXES. (a) If a taxpayer
2 pays taxes under protest, he may bring suit in the superior court against
3 the borough for recovery of the taxes. If judgment for recovery is given
4 against the borough, the borough shall refund the amount of the taxes to the
5 taxpayer with interest at eight percent from the date of payment plus costs.

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

12 ARTICLE 3. CITY PROPERTY TAX.

13 Sec. 29.45.530. (Sec. 29.53.400.) POWER OF LEVY. Home rule and first
14 class cities within boroughs may levy a general property tax. A property
15 tax, if levied, shall be levied in the manner provided for borough levies in
16 Sec. 170(a) of this chapter and is subject to Secs. 10-25, 50-55 and 310-350
17 of this chapter. The council shall by June 15 of each year present to the
18 borough assembly a statement of the city's rate of levy, unless a different
19 date is agreed upon by the borough and city.

20 Sec. 29.45.540. (Sec. 29.53.410.) LIMITED PROPERTY TAXING POWER FOR
21 SECOND CLASS CITIES. A second class city may by referendum levy real and
22 personal property taxes as provided for first class cities. However, levy
23 by a second class city may not exceed one-half of one percent of the
24 assessed valuation of the property taxed, except that the limit does not
25 apply to a levy necessary to avoid a default upon payment of principal and
26 interest of bonded or other indebtedness which is secured by a pledge to
27 levy ad valorem or other taxes without limit to meet debt payments.

28 Sec. 29.45.570. (Sec. 29.53.415.) SALES AND USE TAX. (a) A borough
29 may levy and collect a sales tax not exceeding six percent on sales or

rents, and on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

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

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

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

Sec. 29.45.590. (Sec. 29.53.420.) REFERENDUM, ADOPTION AND MODIFICATION. (a) The assembly shall hold a referendum vote on the question of enacting a sales tax or increasing the rate of levy of sales taxes. Borough sales tax propositions may be presented only once in any 12-month period. A sales tax proposition may be submitted to the voters at a regular or special election or at a general election of the state.

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

ARTICLE 5. CITY SALES AND USE TAXES

1 Sec. 29.45.610. (Sec. 29.53.440.) POWER OF LEVY. Cities within a
2 borough which levies and collects sales or use taxes for areawide borough
3 functions may levy sales or use taxes upon all sources taxed by the borough
4 in the manner provided for boroughs.
5

6 Sec. 29.45.620. (Sec. 29.53.450.) POWER OF LEVY AND COLLECTION.
7 Cities within a borough which does not levy and collect sales or use taxes
8 for areawide borough functions may levy and collect sales or use taxes in
9 the manner provided for boroughs.

10 Sec. 29.45.630. (Sec. 29.53.460.) COMBINING SALES TAX WITH
11 INCORPORATION. A petition for second class city incorporation may request
12 that a sales tax proposal be placed on the same ballot. The petition must
13 state the proposed tax rate. The petition may request that incorporation be
14 dependent upon the passage of the sales tax proposition. If so, the
15 incorporation proposition fails if the sales tax fails.
16
17
18
19
20
21
22
23
24
25
26
27
28
29

CHAPTER 48. SPECIAL ASSESSMENTS

(CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS)

ARTICLE 1. SPECIAL ASSESSMENTS

Sec. 29.48.010. (Sec. 29.63.010.) ASSESSMENT AND PROPOSAL. The assembly or council may assess against the property of a governmental unit and private real property benefited all or a portion of the cost of constructing or improving capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under Sec. 15(a)(8) of this chapter. If a governmental unit other than the state benefited by an assessment refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

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

(2) the assembly or council.

Sec. 29.48.020. (Sec. 29.63.015.) PROCEDURE. (a) The assembly or council may prescribe by ordinance the complete special assessment procedure for local improvements, including and subject to the following:

(1) the procedure for filing petition;

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

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

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

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

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

4 (7) a resolution confirming the special assessment roll for
5 the local improvement;

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

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

16 Sec. 29.48.030. (Sec. 29.63.020.) DECISION AND NOTICE. (a) When an
17 improvement proposal has been filed with the municipal clerk and presented
18 to the assembly or council, the assembly or council shall find by resolution
19 whether (1) the improvement request is necessary and should be made, and (2)
20 the request has sufficient and proper petitioners. The findings of the
21 assembly or council are conclusive.

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

27 (c) The assembly or council shall set a time for public hearing
28 on the improvement plan. The assembly or council shall publish a notice at
29 least once a week for four consecutive weeks in a newspaper of general

1 circulation if distributed within the municipality and shall send notice by
2 mail to every record owner of property within the special assessment
3 district.

4 Sec. 29.48.040. (Sec. 29.63.025.) RECORD OWNER. The person in whose
5 name property is listed on the municipal property tax roll as owner is
6 conclusively presumed to be the legal owner of record. If the owner is
7 unknown, the assessment may be made against "unknown owner."

8 Sec. 29.48.050. (Sec. 29.63.030.) OBJECTIONS AND REVISION. (a)
9 Objections to the improvement plan may be filed not less than 30 nor more
10 than 60 days after publication of notice on a date specified by the assembly
11 or council. The assembly or council may by resolution approve the plan and
12 proceed with the improvement if the owners of one-half in value of the
13 property to be benefited do not object in writing.

14 (b) If objections are made by the owners of property bearing
15 one-half of the estimated cost of the improvement, the assembly or council
16 may not proceed with the improvement unless it revises the plan to meet the
17 objections and the objections are reduced to less than 50 per cent. A
18 revised plan shall be approved and adopted as an original plan.

19 Sec. 29.48.060. (Sec. 29.63.040.) ASSESSMENT ROLL. (a) At any time
20 after project approval, the assembly or council shall assess the authorized
21 percentage of the cost against tracts in proportion to benefit received.
22 Assessments may not exceed actual costs.

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

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

1 Sec. 29.48.070. (Sec. 29.63.050.) HEARING AND SETTLEMENT. After the
2 public hearing, the assembly or council shall correct errors and any
3 inequalities in the roll. When the roll is corrected, the clerk shall so
4 certify.

5 Sec. 29.48.080. (Sec. 29.63.060.) PAYMENT. (a) The assembly or
6 council shall fix times of payment, rate of interest on unpaid installments,
7 and delinquency of assessments. Payment may not be required sooner than 60
8 days after assessment. Payment may be in one sum or by installments, but a
9 sum or installment may not exceed 25 percent of the assessed value of the
10 property affected. Penalty and interest are the same as for real property
11 taxes.

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

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

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

22 Sec. 29.48.090. (Sec. 29.63.065.) EXEMPTION. (a) The real property
23 owned and occupied by a resident 65 years of age or over, or the spouse,
24 widow, widower, or minor heir of the original applicant, on which is located
25 only his permanent abode which is a single-family residence^e, is exempt from
26 (1) special sewer assessments levied by a home rule or general law
27 municipality after September 2, 1975 and (2) special water assessments
28 levied by a home rule or general law municipality after September 2, 1975.
29 Only one exemption may be granted with respect to the same property, and, if

WORK DRAFT COPY

two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the municipality determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the municipality is appealable under AS 44.62.560-44.62.570.

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

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

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

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