

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2
767 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

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

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

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

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

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

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

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

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

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

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

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

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

2 ARTICLE 1. CONFLICTS OF INTEREST, PUBLIC MEETINGS.

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

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

14 ARTICLE 2. GOVERNING BODIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (e) This section does not apply

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

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

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

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

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

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9 - 29.12.390

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13 later than two months after the official report of a federal decennial
14 census, the borough assembly shall determine and declare by resolution
15 whether the existing apportionment of the borough assembly meets the standards
16 of AS 29.24.060. If the borough assembly submits to the voters a form of
17 representation which includes election of borough assembly members under
18 AS 29.24.070(b)(2) or (b)(3) the assembly shall submit with the proposition
19 of a proposed plan of apportionment which corresponds to the form of represen-
20 tation proposed. The assembly shall describe the plan of apportionment in
21 the ballot proposition, and may present the plan in any manner which it
22 believes accurately describes the apportionment which is proposed under the
23 form of representation. If the borough assembly determines that its existing
24 apportionment meets the standards of AS 29.24.060 the assembly may include
25 the existing apportionment as a proposed plan of apportionment of assembly
26 seats which corresponds to a form of representation which is proposed.

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

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

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

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

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

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

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

10
11 (b) The commissioner of community and regional affairs shall
12 review the petition and may make the determination requested. The commissioner shall provide copies of his determination to the persons petitioning
13 for appeal and to borough officials not later than 60 days after he receives
14 the petition.

15
16 (c) If the commissioner of community and regional affairs determines that the proposed reapportionment ordinance approved by the voters
17 does not meet the standards of AS 29.24.060, or if he determines that the
18 decision of the borough assembly that the standards of AS 29.24.060 do not
19 require a change of apportionment is not correct, the commissioner shall, by
20 order, direct the borough assembly to prepare a reapportionment ordinance
21 which meets the standards of AS 29.24.060 and submit the ordinance to the
22 voters.

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24 (d) When the borough assembly has been directed by the commissioner of community and regional affairs to prepare reapportionment
25 ordinance under (c) of this section, the borough assembly shall, within two
26 months of its receipt of the commissioner's order, adopt an ordinance
27 providing for reapportionment. The borough assembly shall submit an
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1 ordinance adopted under this subsection to the voters at a regular election
2 or special election held within 60 days of the date of adoption of the
3 reapportionment ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) The provisions of (a) of this section do not apply to a
6 borough in which a change in assembly composition or apportionment is subject
7 to review and approval or determination of nonobjection by the Attorney
8 General of the United States under the Voting Rights Act of 1965, as amended,
9 (42 U.S.C. 1971 - 1974). A change in assembly composition or apportionment
10 subject to review under the Voting Rights Act of 1965, as amended, is effec-
11 tive beginning with the first regular election for members of the assembly
12 which is held more than 60 days after

13 (1) receipt by the borough assembly of approval by the
14 Attorney General of the United States of the proposed change in the composi-
15 tion or apportionment of the assembly; or

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

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

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

23 (1) to a unified municipality incorporated under AS 29.12.190 -
24 29.12.390;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) resigns and his resignation is accepted;

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

(5) if a member of the governing body, misses three consecutive regular meetings and is not excused;

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

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

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

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

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

5 ARTICLE 3. BOROUGH EXECUTIVE AND ADMINISTRATOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) The veto does not extend to

2 (1) appropriation items in a school budget ordinance;

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

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

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

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

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

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

15 (3) resigns and his resignation is accepted;

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

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

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

22 (7) is convicted of a felony or misdemeanor described in AS
23 15.56; or

24 (8) no longer physically resides in the municipality.

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

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

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

6 ARTICLE 4. CITY COUNCIL.

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

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

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

10 ARTICLE 5. CITY EXECUTIVE AND ADMINISTRATOR.

11 ****Sec. 29.24.330. Repeal

12 ****Sec. 29.24.340. Repeal.

13 ****Sec. 29.24.350. Repeal

14 ****Sec. 29.24.360. Repeal.

15 ****Sec. 29.24.370. Repeal.

16 ****Sec. 29.24.380. Repeal.

17 ****Sec. 29.24.390. Repeal.

18 ARTICLE 6. SCHOOL BOARDS.

19 ****Sec. 29.24.⁴²⁰~~340~~. SCHOOL BOARDS. (a) Each municipal school district
20 has a school board. Members are elected at the regular election held
21 annually on the first Tuesday of October, unless a different election date
22 or interval of years is provided by ordinance. Members are elected for
23 three-year terms and until their successors take office. All board members
24 are elected at large unless a different method of election has been approved
25 by the voters in a regular election.

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

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

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

7 ARTICLE 7. UTILITY BOARDS.

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

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

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

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

24 (1) choose its chairman and secretary;

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

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

ARTICLE 8. OTHER OFFICERS AND EMPLOYEES.

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

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

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

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

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

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

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

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

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

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

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

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

24 ARTICLE 9. ADOPTION OR REPEAL OF MANAGER PLAN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ****Sec. 29.24.640. INTERGOVERNMENT APPOINTMENTS. A borough adopting a
19 manager plan, may by agreement with a city, enter into a contract providing
20 for the manager of a city located within the borough to serve also as borough
21 manager. A city adopting a manager plan, may by agreement with a borough,
22 enter into a contract providing for the manager of a borough within which
23 the city is located to serve also as city manager. Appointment and service
24 of the manager shall be as otherwise provided for managers in this chapter.
25 Nothing in this section affects the authority of the governing body to
26 provide for other dual officeholding if the dual offices held are compatible,
27 or otherwise to appoint officials and employees in accordance with law.
28
29

ARTICLE 10. MISCELLANEOUS PROVISIONS.

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

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

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

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

(b) Repeal.

(c) ^{Subject to 14.14.140,} No state employee or school district employee may be denied the right to serve as an elected municipal official because of his employment by the state or a school district, ~~unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election.~~ However, ~~no school district employee may serve on a school district board in the school district where he is employed.~~ ^{add cross-reference to 14.14.40}

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

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

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

amended

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

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

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

6 (4) repealed.

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

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

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

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

CHAPTER 27. MUNICIPAL ENACTMENTS.

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

(1) establish, alter or abolish municipal departments;

**** (2) Repeal.

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

(4) provide for the levying of taxes;

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

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

**** (7) Repeal.

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

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

(10) designate the borough seat;

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

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

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

Sec. 29.27.020. FORM OF ORDINANCES. Repeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 30. ELECTIONS.

ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

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

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

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

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

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

Sec. 29.30.040. VOTER QUALIFICATION. A person may vote only if he is a United States citizen who is qualified to vote in state elections and has been a resident of the municipality for 30 days immediately preceding the election and who ^{has} ~~is~~ registered to vote in state elections ^{at least 30 days before the municipal election} and is not disqualified under art. V of the state constitution. Voter registration by the municipality may not be required. This section applies to home rule and general law municipalities.

provided, however, that a municipality ~~but the municipality~~ may require by registered in ordinance that a person be ~~a~~ registered ~~resident~~ ~~resident~~ of the precinct in which he seeks to vote.

(re-draft so that registration is permitted in state election)

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

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

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

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

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

19 (c) Unless otherwise provided by ordinance, the governing body
20 shall declare the election results at the first meeting to canvass the
21 election and record the results in the minutes of that meeting *and authorize*
22 *the results to be certified.*
23 (d) The contestant shall pay all costs and expenses incurred in a
24 recount of an election demanded by the contestant if the recount fails to
25 reverse any result of the election or the difference between the winning and
26 a losing vote on the result contested is more than two percent.

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

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

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

9 ARTICLE 2. INITIATIVE AND REFERENDUM.

10 Sec. 29.30.090. RESERVATION OF POWERS. The powers of initiative and
11 referendum are reserved to the residents of municipalities except the powers
12 do not extend to matters restricted by Sec. 7, art. XI, of the state constitu-
13 tion.

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

23 (1) is not restricted by AS 29.30.090;

24 (2) includes only a single subject;

25 (3) relates to a legislative rather than to an administra-
26 tive matter; and

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

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

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

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

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

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

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

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

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

18 (6) contain a statement that the sponsor personally circu-
19 lated the petition, that all signatures were affixed in his presence, that
20 he believes the signatures to be those of the persons whose names they
21 purport to be;

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

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

27 (c) Copies of the petition shall be provided to each sponsor by
28 the clerk.
29

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

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

8 (1) 25 percent, when a municipality has fewer than 7,500
9 persons; or

10 (2) 15 percent, when a municipality has 7,500 persons or
11 more.

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

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

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

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

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

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

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

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

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

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

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

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

25 ****Sec. 29.30.170. PRESENTATION OF REFERENDUM. (a) Unless the ordinance
26 or resolution is repealed, when a petition seeks a referendum vote the clerk
27 shall submit the matter to all of the municipal voters at the next regular
28 or special election occurring no sooner than 45 days after certification of
29 the petition. If no regular or special election occurs within 75 days of

1 certification of a petition, the governing body shall hold a special election
2 within 75 days, but not sooner than 45 days after certification.

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

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

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

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

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

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

26 ARTICLE 3. RECALL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ****Sec. 29.30.250. SUFFICIENCY OF PETITION. (a) The copies of a petition
26 shall be assembled and filed as a single instrument. Within ten days after
27 the date the petition is filed, the municipal clerk shall certify on the
28 petition whether it is sufficient.
29

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (b) If all members of the governing body are recalled, the gover-
19 nor shall appoint at least three qualified persons to the governing body.
20 The appointees shall, by an affirmative vote of the majority, appoint
21 additional members to fill remaining vacancies.

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

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

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

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

11 (g) Nominations for a successor may be filed until seven days
12 prior to the last date upon which a first notice of the election must be
13 published. Nominations may not be filed before the certification of the
14 recall election.
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1 CHAPTER 33. POWERS AND DUTIES APPLICABLE TO.

2 HOME RULE AND GENERAL LAW MUNICIPALITIES.

3 ARTICLE 1. GENERAL POWERS.

4 Sec. 29.33.010. GENERAL POWERS. ^{All}~~Municipalities~~ have the following
5 general powers, subject to other provisions of law:

6 (1) to establish and prescribe the functions of municipal depart-
7 ments, offices or agencies;

8 (2) to establish and prescribe salaries for the elected and ap-
9 pointed municipal officers and employees;

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

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

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

17 (6) to sue and be sued;

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

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

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

26 (10) to acquire membership in organizations which promote legis-
27 lation for the good of the municipality;

28 (11) to expend funds for ~~community~~ ^{public} purposes for the good of the
29 municipality;

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

Sec. 29.33.010(1) COMBINING OFFICES. ^{Repeal.} The assembly or council may

combine two or more appointive or administrative offices.

* Sec. 29.33.020. EXTRATERRITORIAL JURISIDITION. ****(a) A municipality

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

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

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

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

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

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

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

ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

Sec. 29.33.070. MUNICIPAL FACILITIES AND SERVICES.

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

- (1) streets and sidewalks;
- (2) sewers and sewage treatment facilities;
- (3) harbors, wharves, and other marine facilities;
- (4) watercourse and flood control facilities;
- (5) health services and hospital facilities;
- (6) cemeteries;
- (7) police protection and jail facilities;
- (8) cold storage plants;
- (9) telephone systems;
- (10) light, power and heat;
- (11) water;
- (12) transportation systems;
- (13) community centers;
- (14) libraries, visual or performing arts centers, or museums;
- (15) recreation facilities;
- (16) airport and aviation facilities;
- (17) garbage and solid-waste collection and disposal service and facilities subject to Sec. 080 of this chapter;

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

3 (19) parking and parking facilities;

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

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

7 **** (22) Repeal.

8 (23) emergency medical services and facilities.

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

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

24 Sec. 29.33.080. GARBAGE AND SOLID WASTE SERVICES. (a) A municipality
25 may by ordinance provide for the establishment, maintenance and operation of
26 a system of garbage and solid waste collection and disposal for the entire
27 municipality or for districts or portions of it; require all persons within
28 the municipality or district to use the system and to dispose of their
29 garbage and solid wastes as provided in the ordinance; award contracts for

1 collection and disposal, or provide for the collection and disposal of
2 garbage and solid waste by municipal officials and employees; pay for garbage
3 and solid waste collection and disposal from available funds; require prop-
4 erty owners or occupants of premises to use the garbage and solid waste
5 collection and disposal system provided by the municipality and fix charges
6 against the property owners or occupants of premises for the collection and
7 disposal; provide that charges for collection and disposal shall be paid by
8 the property owner or occupants of the premises; and provide penalties for
9 violations of the ordinances.

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

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

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

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

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

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

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

8 **** (4) Repeal.

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

10 **** (6) Repeal.

11 **** (7) Repeal.

12 **** (8) Repeal.

13 **** (9) Repeal.

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

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

16 **** (12) Repeal.

17 **** (13) Repeal.

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

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

24 **** (16) Repeal.

25 (17) water pollution control;

26 (18) air pollution control as provided in AS 46.03.140 -
27 46.03.230;

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

1 (20) licensing of day care facilities.

2 **** (21) municipally owned utilities to the extent not pro-
3 hibited by AS 42.05.

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

18 ****Sec. 29.33.100. MUNICIPALLY-OWNED UTILITIES. Repeal.

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

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

1 ordinance granting a franchise shall provide for its submission for ratifica-
2 tion to the qualified voters of the city or borough area outside cities at
3 either a regular or special election, and the result of the election shall
4 be canvassed publicly by the council or assembly and spread upon the records
5 of the minutes and the result declared and certified in the same manner as
6 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
10 the 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. PUBLIC UTILITIES RATES. The assembly acting for the
14 area outside cities and the council acting for the area within a city may
15 regulate, fix, establish and change, as it considers proper, the rates and
16 charges imposed for utilities services given to the municipality or its
17 inhabitants by a municipally owned utility not regulated under AS. 42.05 and
18 may regulate and provide what is a reasonable deposit for meters and security
19 for service to be given, provided that interest is paid on the deposit. All
20 rates, charges and regulations shall be reasonable and shall permit a fair
21 and reasonable return on invested capital.

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

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

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

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

26 ARTICLE 3. FISCAL DUTIES.

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

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

1 **** (b) Repeal.

2 **** (c) Repeal.

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

7 **** (e) Repeal.

8 **** (f) Repeal.

9 Sec. 29.33.210. BUDGET AND CAPITAL PROGRAM. (a) The ~~assembly or~~ ^{governing body}
10 ~~council~~ shall establish the manner for the preparation and submission of the
11 budgets and capital programs by the executive. After public hearing, the
12 assembly or council may approve the budgets with or without amendments and
13 shall appropriate the funds required for the approved budgets.

14 **** (b) Repeal.

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

18 **** (d) Repeal.

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

26 Sec. 29.33.230. POST AUDIT. The governing body shall provide for an
27 annual independent audit of the accounts and financial transactions of the
28 municipality or in the case of a second class city an audit or statement of
29 annual income and expenditures. To make the audit the governing body

1 shall designate a public accountant who has no personal interest, direct or
2 indirect, in the fiscal affairs of the municipality. Copies of the audit
3 shall be available to the public upon request. This section applies to home
4 rule and general law municipalities.

5 ARTICLE 4. CONSTRUCTION OF POWERS.

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

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

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

CHAPTER 36. AREAWIDE BOROUGH POWERS AND DUTIES.

ARTICLE 1. SCOPE.

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

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

ARTICLE 2. MANDATORY AREAWIDE POWERS AND DUTIES.

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

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

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

ARTICLE 3. ACQUISITION OF ADDITIONAL AREAWIDE POWERS.

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

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

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

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

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

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

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

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

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

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

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

23 ARTICLE 4. BOROUGH POWERS AND DUTIES IN THE AREA

24 OUTSIDE CITIES.

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

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

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

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

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

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

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

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

17 (6) provide for water pollution control;

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

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

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

26 (1) a number of voters equal to 15 percent of the number of votes
27 cast in the area outside cities at the preceding regular election may file a
28 petition with the assembly, or
29

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

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

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

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

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

ARTICLE 5. POWERS OF THIRD CLASS BOROUGHES.

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

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

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

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

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

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

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

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

ARTICLE 6. SERVICE AREAS.

****Sec. 29.36.270. SERVICE AREAS. (a) Service areas to provide special services within a borough may be established, operated, altered or abolished by the assembly by ordinance. ^{Addition} Special services include services not provided on an areawide basis within the borough or the borough area outside cities or a higher or different level of service than that provided on an areawide basis or in the borough area outside cities. In a first class borough the

1 assembly may exercise within a service area any power granted a first class
2 city by general law. Except as provided in (f) of this section, a second
3 class borough may exercise the powers granted a first class city by general
4 law but the exercise of the powers must be approved by a majority of the
5 qualified voters residing within the service area and voting on the question
6 at a regular or special election, or if no voters reside within the area,
7 all owners of real property within the service area must consent in writing
8 to the exercise of the power.

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

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

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

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

23 (f) A second class borough may establish a service area by
24 ordinance which may include only vacant, unappropriated and unreserved land
25 owned by the municipality. A second class borough may establish a service
26 area, with the concurrence of the commissioner of natural resources, which
27 may include only vacant, unappropriated and unreserved land owned by the
28 state and classified for disposal to individuals. A second class borough
29 may provide those services in a service area established under this

1 subsection necessary to develop state or municipal land as required by the
2 planning and platting ordinances of the borough. Exercise of the powers
3 authorized by this subsection shall be by ordinance.

1 CHAPTER 39. POWERS OF CITIES OUTSIDE BOROUGHS.

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

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

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

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

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

22 (b) Home rule and first class cities within third class boroughs
23 shall, and second class cities within third class boroughs may provide for
24 planning, platting and land use regulation, as provided by AS 29.42.010 -
25 29.42.150 for boroughs.

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

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

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

29

1 CHAPTER 42. PLANNING, PLATTING, AND LAND USE REGULATION

2
3 ****Sec. 29.42.010. PLANNING, PLATTING, AND LAND USE REGULATION. (a)
4 First and second class boroughs shall provide for planning, platting, and
5 land use regulation on an areawide basis.

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

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

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

25 (1) prepare and recommend to the assembly a comprehensive
26 plan in accordance with AS 29.42.030 for the systematic and organized develop-
27 ment of the borough;

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

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

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

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

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

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

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

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

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

27 (2) the variance will permit a land use in a district in
28 which that use is prohibited; or
29

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

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

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

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

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

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

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

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

6 (2) dimensions and design of lots or tracts;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 ****Sec. 29.42.130. ALTERATION OR REPLAT PETITION. No recorded plat may
28 be altered or replatted except by the platting authority upon petition of
29 the state, the municipality, a public utility, or the owners of a majority

1 of the land affected by the alteration or replat. No platted street may be
2 vacated, except upon petition of the state, municipality, or a public utility,
3 or owners of the majority of the land fronting the part of the street sought
4 to be vacated. The petition shall be filed with the platting authority. It
5 shall be accompanied by a copy of the existing plat showing the proposed
6 alteration or replat.

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

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

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

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

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

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

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

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

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

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

23 (c) Every day upon which an unlawful act or condition continues
24 shall constitute a separate violation.
25
26
27
28
29

CHAPTER 45. MUNICIPAL TAXATION

Article 1. MUNICIPAL PROPERTY TAX

****Sec. 29.45.010. GENERAL PROPERTY TAX. A general law or home rule borough other than a unified municipality, may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. A tax if levied on real property, personal property, or both, must be assessed, levied and collected as provided in this chapter.

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

"NOTICE TO TAXPAYER"

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

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE

(AS 14.17) \$

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

\$

MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE

(AS 29.88) \$

STATE AID FOR MISCELLANEOUS MUNICIPAL

SERVICES (AS 29.89) \$

TOTAL AID \$

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

MILLAGE EQUIVALENT

	PREVIOUS YEAR	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 and state aid for miscellaneous municipal services under AS 29.62.
8 The Department of Community and Regional Affairs shall withhold annual
9 allocations under those chapters until municipal officials demonstrate that
10 the requirements of this section have been met.

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

13 **** (1) municipal, state or federally owned property, except
14 that a private leasehold, contract 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 house-
17 hold;

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

20 **** (4) property of a nonbusiness organization or its auxiliary
21 composed entirely of persons with 90 days or more of active service in the
22 armed forces of the United States whose conditions of service and separation
23 were 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) Repeal.

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

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

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

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

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

1 for the exemption on a form prescribed by the state assessor for use by
2 local assessors. The claimant must file the application no later than
3 January 15 or a date provided by ordinance which is not later than March 31,
4 of the assessment year for which the exemption is sought, but during the
5 same year the governing body of the municipality for good cause shown may
6 waive the claimant's failure to make timely application for exemption for
7 that year and authorize the assessor to accept the application as if timely
8 filed. The claimant must file a separate application for each assessment
9 year in which the exemption is sought. If an application is filed within
10 the required time and is approved by the assessor, he shall allow an exemption
11 in accordance with the provisions of this section. If a claimant whose
12 failure to file by January 15 or a date provided by ordinance which is not
13 later than March 31, of the assessment year has been waived as provided in
14 this subsection and the application for exemption is approved, the amount of
15 tax which the claimant may have already paid for the assessment year with
16 respect to the property exempted shall be refunded to him. The assessor may
17 at any time require proof in the form he considers necessary of the right
18 and amount of an exemption claimed under (e) of this section.

19 (g) The state shall reimburse a borough or city, as appropriate,
20 for the real property tax revenues lost to it by the operation of (e) of
21 this section. However, reimbursement will be made to a borough or city for
22 revenue lost to it only to the extent that the loss exceeds an exemption
23 which was granted by the borough or city, or which upon proper application
24 by an individual would have been granted by the borough or city, under AS
25 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. PROPERTY TAX EQUIVALENCY PAYMENTS. (a) A resident of
17 the state 65 years of age or older who rents a permanent place of abode is
18 eligible for tax equivalency payments from the state through the Department
19 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 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 property from taxation by ordinance ratified by the voters at a regular or
14 special election. An exclusion or exemption authorized by this section may
15 not exceed \$10,000 for any one residence.

16 (b) Municipalities may by ordinance

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

20 (2) classify and exempt from taxation

21 ***** (A) Repeal.

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

27 (C) historic sites, buildings and monuments;

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

1 conveyance includes a covenant restricting use of the land to agricul-
2 tural purposes only; rights conveyed to the state under this sub-
3 paragraph may be conveyed by the state only in accordance with AS
4 38.05.069(c).

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

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

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

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

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

26 (e) Municipalities may by ordinance classify and exempt or par-
27 tially exempt from taxation privately owned land, wet land and water areas
28 for which a scenic, conservation, or public recreation use easement is
29 granted to a governmental body. To be eligible for a tax exemption, or

1 partial exemption, the easement must be in perpetuity. However, the easement
2 is automatically terminated before an eminent domain taking of fee simple
3 title or less than fee simple title to the property so that the property
4 owner is compensated at a rate which does not reflect the easement grant.

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

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

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

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

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

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

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

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

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

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

Sec. 29.45.090. TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROPERTY.

(a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

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

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

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

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

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

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

*All property - real/personal
to be taxed at same
rate.*

23 **** (b) No municipality, or combination of municipalities occupying
24 the same geographical area, in whole or in part, may levy taxes (1) which
25 will result in tax revenues from all sources exceeding \$1,500 a year for
26 each person residing within their boundaries or (2) upon values which, when
27 combined with the value of property otherwise taxable by the municipality,
28 exceed the product of 225 percent of the average per capita assessed full
29 and true value of property in the state multiplied by the number of

1 residents of the taxing municipality. If two or more municipalities occupying
2 the same geographical area, in whole or in part, attempt to levy a tax (1)
3 the combined levy of which would result in tax revenues from all sources
4 exceeding \$1,500 a year for each person residing within their boundaries or
5 (2) upon value which, when combined with the value of property otherwise
6 taxable by the municipality, exceed the product of 225 per cent of the
7 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 commis-
9 sioner of community and regional affairs shall apportion the lawful levy and
10 equitably divide these revenues on the basis of need, services performed and
11 other considerations in the public interest. For the purpose of this subsection
12 population shall be determined by the commissioner of community and regional
13 affairs based on the latest statistics of the United States Bureau of the
14 Census or on other reliable population data. For purposes of this subsection
15 the average per capita assessed full and true value of property in the state
16 shall be calculated without regard to the assessed value of taxable property
17 under AS 43.58.

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

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

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 average
4 monthly method of assessment rather than the value existing on January 1.
5 The method used to assess business inventories shall be prescribed by the
6 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. RETURNS. (a) The assembly may require every person
15 having ownership or control of or an interest in property to submit a return
16 in the form prescribed by the assessor, based on property values existing on
17 January 1, except as otherwise provided in this chapter.

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

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

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

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

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

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

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

- 18 (1) a description of all taxable property;
19 (2) the assessed value of all taxable property;
20 (3) the names and addresses of persons with property subject
21 to assessment and taxation.

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

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

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

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

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

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

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

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