

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

769 SCOMM23: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

CONDITIONS OF USE OF COURT FACILITIES

1. No smoking material is permitted in the Courtroom.
2. No food or beverage is allowed in the Courtroom.
3. If borrowed, Courtroom key is to be returned to the Superior Court, Room 241 (or Building Security if after 4:30 p.m.)
4. Lights are to be turned off and all doors locked.
5. Furniture that has been rearranged is to be placed in its original position.
6. No use of Court System recording equipment.
7. Any writing materials, visual aids, or other equipment brought into the Courtroom must be removed.

I have reserved Room 320, Third Floor Grand Jury Room
for government use
(type of activity)

on January 17 and 18, 1981 (Saturday and Sunday)
(date and hours)

I agree to the conditions stated above. I acknowledge
that if one or more of the above described conditions are not
met, I may be denied further use of Court facilities.

Melissa Abur Foure
Name

Legislative Affairs Agency
Title Revision Commission
Organization

Pouch Y
Address

08 JAN 80
Date Signed

Phone Number: 465-3809 (Melissa)

Room capacity: 20 - with large conference table.

Coffee Pot available for your use.



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

December 9, 1980

The Honorable Arliss Sturgulewski, Senator
Chairman, Title 29 Revision Policy Committee
2957 Sheldon Jackson Street
Anchorage, Alaska 99504

File: Title 29 Revisions

Subject: Recall

Dear Senator Sturgulewski:

At the meeting held by your committee in Fairbanks just before the Alaska Municipal League meeting, a great deal of debate focused on the question of whether the grounds for the recall of a local official should be narrowly or broadly drawn. Mayor Larson requested from me a defense of narrowly drawn grounds and other procedures designed to provide the elected official with some measure of protection. Please consider this letter as that defense.

Many features of our democratic system of government are accepted as basic and necessary to the system. These ascertions are seldom examined critically as it is unpopular and distasteful for any one to seriously undertake criticism of what is popularly perceived to be the underpinnings of our democratic form of government. Recall is one such uncritically examined element of our democratic system of government.

First, we should note that our system of government is not a pure democracy but it is rather a democratic republic. Article IV, Section 4 of the U.S. Constitution guarantees to each state a republican form of government, not a democracy. That Constitution provides for neither an initiative or recall. Throughout the history of the United States, the states themselves have not universally provided for recall.

The upsurge of recall provisions came about during the government reform movement. While recall may be viewed as a procedure which strengthens democratic principles, it clearly accentuates one of the greatest weaknesses of the democratic system - its vulnerability to popular but ill-conceived whims of the public and its manipulation by a minority.

The Greek philosopher who first categorized the various forms which government could take, and who gave democracy its name, rated

democracy rather low as a form of government which would best serve the needs of its subjects. Being subject to the whims of a relatively uninformed populace made a democracy ill suited to consistently serve the needs of the public. The Federalist Papers and the U. S. Constitution clearly show that the thoughtful leaders of our country who drafted our Constitution had severe reservations about the democratic form of government and sought to overcome those perceived deficiencies. They provided us with an electoral college which, they hoped, would have the collective wisdom necessary to select a statesman worthy and capable of discharging the duties of President of the United States. They did not provide for his direct election by the populace as would have been the more "democratic" method. They provided us with two houses of Congress, one of which would be based upon population and which might reflect popular sentiment and a second house which would provide equal representation to all the states. This second house, it was hoped, would provide the mechanism for preventing the enactment of popular but ill-conceived measures. A further check upon both of these houses was given to the President who could veto measures he believed were inappropriate. The drafters of our Constitution believed that these and other checks, along with the probability that various interest groups would form different coalitions on different measures, would combine to overcome one of the more serious defects of the democratic form of government. They apparently did not feel that recall was either necessary or desirable. In fact, I suggest that the "open season" type of recall which has been proposed for Title 29 is contrary to the very principles which are reflected in our Constitution and the philosophy of those who drafted it.

Under our republican form of government, an elected official does not serve as a mere extension or agent of those who elected him. The elected official is expected to exercise his informed and considered judgment in providing for the public good. If it were reasonable to believe that the public could become adequately informed on all the public issues which face a legislative body, then it might also be reasonable to assume that the general public could also function in the manner of a town meeting and decide all public issues. Because few of us are able to devote the time necessary to become so informed, we delegate to our elected officials the responsibility to become adequately informed and to make decisions as to the public needs. If the public is dissatisfied with a policy decision made by public officials, the initiative and referendum may be used to correct what are perceived to be errors of decision making. When recall is used in such cases, it is not corrective in nature, it is vindictive and punitive.

As already noted, recall was a concept which became popular during the reform era. It was aimed not at governmental bodies which had

made decisions which were unpopular with various segments of populace but was aimed at corrupt individuals. The public good demands that persons be removed from office who are corrupt or dishonest in office, who fail to perform prescribed duties of the office or who are physically unable to perform the duties of the office. If there is no administrative or judicial procedure for removing such persons from office, it would be appropriate to provide a method for the electorate to effect such a removal. However, any such system should be strictly limited to removals for corruption, dishonesty affecting the public good, and inability or refusal to perform the duties of the office. It would be an abuse of the recall mechanism to permit recall of an elected official merely because the official had participated in making a decision which was unpopular with a large segment of the public. Any controversial matter is likely to be unpopular with a large segment of the public and public officials should not have the threat of recall hanging over their heads whenever their honestly held convictions compel them to vote in a certain manner. Unfortunately, a review of recall efforts will reveal that most, if not all recall efforts, are actually based upon an action taken by the entire body and have little or nothing to do with any of the legitimate grounds for recall. To make matters worse, the proponents of the recall often resort to slander or grossly exaggerated accusations in their recall petition.

It cannot be denied that there is currently a movement in the direction of single issue politics. When there are groups about which openly flaunt their "hit list," it behooves us to examine the elements of our political system in light of this new phenomenon. A recall provision which requires merely that someone be dissatisfied with an elected official's performance amounts to a declaration of open season on all elected officials. If the recall mechanism can be called into play for essentially no reason at all, the quality of persons who will run for public office will suffer as will the basic decision making process itself. At the municipal level, once a recall petition has been placed in circulation, and even more so after it has been filed, the proponents of the recall often become very forceful and vocal in airing their belief that the governing body should cease making important decisions until after the recall matter has been settled. As local elected officials are not insensitive to public demands, such demands do have an impact on the elected body. Unnecessary delay in decision making coupled with an overemphasis on the recall petitioners' position on matters before the body may combine to produce results which are not in the best interest of the public. The tension and turmoil which a recall petition creates within the elected body and the community is an undesirable but, nevertheless unavoidable, effect of a recall attempt. Therefore, every effort should be made to minimize the unnecessary exposure of a municipality to these effects. The "open season" type of recall will serve to maximize the number of occasions upon

which the local government will experience these effects. These negative effects can be minimized without destroying the right of recall if the grounds for recall are narrowly drawn to limit them to matters such as corruption in office and inability or refusal to perform the functions of the office. Not only does this narrow the grounds to those which are truly relevant to the purpose of recall but it also would reduce the ease with which a recall effort could be mounted against several members of a governing body based upon the way the body had voted.

Not only must the grounds be drawn narrowly to insure that the recall mechanism is not abused but the recall system should clearly provide for judicial review of the grounds stated. Failure to provide a clear right of judicial review renders the requirement for clear and narrow grounds a nullity.

Before any group should be permitted to force the public to undergo the expense of an election, there should be a very substantial showing that the public is indeed interested in voting on the proposed issue. Therefore, there should be a substantial signature requirement. Under state law, those seeking a recall petition for a state official must first submit an application containing the signatures of at least 10% of those who voted in the last election in the relevant district. If the Lieutenant Governor determines that the application is sufficient, a petition is issued and the petitioners must then obtain signatures equal to at least 25% of those who voted in the last general election in the relevant district. Thus, at the state level the legislature has provided for a recall system which places a significant burden upon the petitioners and thus may well filter out most of those recall efforts which would be unsuccessful. In addition, the grounds for recall (lack of fitness, incompetence, neglect of duties, and corruption) are all narrow enough that the political philosophy or the way a person voted would not be a sufficient basis for a recall. Further, the legislature has clearly provided for a mechanism for judicial review of a determination by the Lieutenant Governor.

Recall is not a matter to be taken lightly and is not one which should be easily initiated or carried out. A political system which provides for the relatively easy recall of an elected official for reason of the way that official voted on a particular matter is a system which has lost one of the essential characteristics of our republican form of government. We should not cater to the fickleness of the electorate if to do so would tend to reduce the effectiveness of local government without some significant, compensating good. Our system of government will function most smoothly, most effectively and for the benefit of the general good if we provide for a recall system with narrowly drawn grounds and with other mechanisms which are designed to prevent the abuse of the recall system. The "open season" system brings with it disruptions

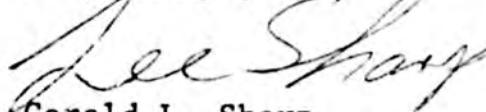
Senator Sturgulewski

-5-

December 9, 1980

which serve no legitimate or public purpose. The "open season" approach should be abandoned.

Very truly yours,



Gerald L. Sharp
City-Borough Attorney

GLS:jr

cc: Mayor Ron Larson
Mat-Su Borough

✓ Tam Cook, Esq.
Legislative Affairs



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT (907) 586-3300

December 9, 1980

The Honorable Arliss Sturgulewski
Senator, State of Alaska
Chairman, Title 29 Revision Policy
Committee
2957 Sheldon Jackson Street
Anchorage, Alaska 99504

FILE: Title 29 Revisions

SUBJECT: Initiative and Recall

Dear Senator Sturgulewski:

In reviewing the changes which the Policy Committee made to the proposed initiative and referendum proceedings, I note that a municipality will now be required to hold special elections for initiatives. Present law requires that initiatives be filed within 90 days of the next regular municipal election. This requirement eliminates the need for the municipality to ever have to hold a special election on an initiative. However, there seems to be little reason not to allow petitioners to file an initiative at any time they please so long as the municipality is not required to undergo the expense of special elections. It was this approach which the Technical Committee suggested.

The Legislature has seen fit to provide an initiative procedure at the state level which does not permit the filing of an initiative petition to generate the requirement for a special election. Further, an initiative petition could be filed with the State and not be placed on the ballot for almost two years. Municipalities have elections each year. If they are required to place initiatives on the next occurring regular or special election, initiatives at the local level will be voted on, in all cases, much more quickly than at the State level. If the State cannot be put to the expense of a special election for an initiative, it seems inappropriate to force municipalities to undergo the expense of special elections for initiatives.

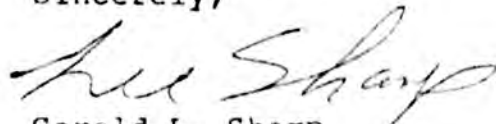
I also believe that if a referendum is filed, no special election should be held unless the referendum has been filed in such a

December 9, 1980

manner that the effect of the measure to be referred is suspended.

For the foregoing reasons, I strongly suggest that the Committee consider changing the election requirements for initiative and referendum to provide that initiatives are placed on the first regular or special municipal election held not sooner than 75 or 90 (or some other reasonable time) days after the initiative is submitted to the Legislative body. I would suggest that a referendum be treated in the same manner unless the filing of the referendum operates to effect a suspension of the matter to be referred. In such cases, a special election should be held if required.

Sincerely,



Gerald L. Sharp
City-Borough Attorney

GLS:phl

cc: ✓ Tam Cook, Esq.
Legislative Affairs

Approved w changes - Jan 11-18 meeting, Policy Group

TITLE 29 REVISION COMMISSION
Policy Advisory Group Meeting

Minutes of December 15, 16, & 17, 1980

The fourth meeting of the Policy Advisory Group - Title 29 Revision Commission was held December 15, 16, & 17, 1980 in the Adventure Room of the Captain Cook Hotel, Anchorage, Alaska. The meeting was called to order by Senator Arliss Sturgulewski, Chairman, at 9:00 a.m.

Present as members of the Policy Advisory Group were: Senator Arliss Sturgulewski, Senator-elect Charles Parr, Representative Margaret Branson, Ted Berns, Terry Cook, Marilyn Dimmick, Ronald Larson, Gene Moore, Russell Walker, James Kohler and Jonathan Solomon. Present substituting for Ex-Officio members were Patrick Poland for Palmer McCarter and Marilyn Miller for Ginny Chitwood. The Technical Committee was represented by Ted Berns and Russell Walker as members of both groups. Present from the staff of Legal Services was Tamara Brandt Cook, Legislative Counsel.

Guests and members of the public attending were: Stephanie Scott, Haines Borough; Cris Fowler, AOGA; Robert Walker, Exxon; Carl Mogli, Napakiak; David Dye, Community Planning, Department of Community and Regional Affairs; and Jim Gottstein.

There were no presentations by guests or members of the public.

Chairman Sturgulewski reported on attending the meeting of the Rural Development Council. She says they are concerned with the definitions of "rural" and the relationship of rural communities with Title 29.

The chair requested copies of the Alaska Municipal League Policy Statement issued as a result of its November convention in Fairbanks.

The minutes of the previous meetings were approved as distributed with no corrections or additions.

Under Old Business, Patrick Poland reported that the news release prepared by Legal Services had been distributed and was expected to appear in the December issue of the RuralCAP newsletter. The newsletter distributed by the University of Alaska at Fairbanks was not expected to be published in December but the news release would be included when it was published.

The subcommittee report regarding AS 29.09.180 (Organization Grants) as postponed due to Marilyn Dimmick not being present.

The subcommittee report on AS 29.30.040 (Voter Qualification) was postponed to 17 December.

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Ted Berns reported on the Technical Committee's three day meeting saying they had covered a great deal of material in those three days and he hoped that the Policy Group would be able to review all the material produced by that meeting.

Tamara Brandt Cook reported on the format of the presentation of the bill. She said that a draft would be prepared, going first to the revisor of statutes, then to the legal editor and would then be put into final form for presentation to the rules committee for introduction into the legislature.

Turning to the proposed drafting changes submitted by the Technical Committee, it was agreed that the original motion to approve all changes unless otherwise noted would be held in force.

Approved by the Policy Group without changes were: AS 29.24.050, 29.24.125, 29.24.160, 29.24.206, 29.24.210, 29.24.240. Approved with minor wording changes were: AS 29.24.140, 29.24.145, 29.24.150, 29.24.175, 29.24.200, 29.24.250. Sections with substantive changes made by the Policy Group were: AS 29.24.170 and 29.24.205.

The meeting was recessed at 4:30 p.m. until 8:30 a.m. 16 December.

At 8:30 a.m. the meeting was called to order at the Captain Cook Hotel in the Quarterdeck 19 conference room. Policy Advisory Group members attending were: Senator Arliss Sturgulewski, Senator-elect Charles Parr, Representative Margaret Branson, Ted Berns, Terry Cook, Marilyn Dimmick, Ronald Larson, Gene Moore, Russell Walker, and Jonathan Solomon. Representing Ex-Officio members were Patrick Poland for Palmer McCarter and Marilyn Miller for Ginny Chitwood. Guests and members of the public attending were Stephanie Scott, Haines Borough; Robert Walker, Exxon; Cris Fowler, AOGA; David Dye, Community Planning, Department of Community and Regional Affairs, and Carl Mogli, Napakiak.

There were no presentations by guests or members of the public.

Approved by the Policy Group without changes were: AS 29.24.160, 29.24.200(e), 29.24.210, 29.24.390, 29.24.430, 29.24.450, 29.24.480, 29.24.510, 29.24.515, 29.24.570, 29.24.620, 29.24.630, 29.24.640, 29.24.670, 29.33.030, 29.33.190, 29.33.210, 29.33.220, 29.42.020, 29.42.030, 29.42.060, 29.42.070, 29.42.085, 29.42.090, 29.42.100, 29.42.115, 29.42.120, 29.42.130, 29.42.150. Accepted by the Policy Group with wording changes were: AS 29.24.010, 29.24.530, 29.24.680, 29.24.690, 29.33.090, 29.42.010, 29.42.050, 29.42.080, 29.42.160. Sections with substantive changes made by the Policy Group were: 29.24.420, 29.33.010, 29.33.020, 29.33.070, 29.33.130, 29.33.140, 29.33.150, 29.33.160, 29.33.200, 29.29.060, 29.42.040. A drafted section sent back to the Technical Committee for further review was 29.42.040. Drafted changes not accepted by the Policy Group were AS 29.33.120 and 29.33.110.

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Section 29.39.060 (Planning & Land Use Regulation) was earmarked as a policy issue to be reviewed later.

The meeting was recessed at 4:30 p.m. due to lack of a quorum.

At 8:30 a.m. 17 December 1980 the Policy Advisory Group meeting was again called to order in the Captain Cook Hotel, Quarterdeck 19 conference room. Members attending were: Senator Arliss Sturgulewski, Representative Margaret Eranson, Ted Berns, Terry Cook, Marilyn Dimmick, Ronald Larson, Gene Moore, Russell Walker, and Jonathan Solomon. Representing Ex-Officio members were Patrick Poland for Palmer McCarter and Marilyn Miller for Ginny Chitwood. Guests and members of the public attending were Stephanie Scott, Haines Borough; Robert Walker, Exxon; Cris Fowler, AOGA; Carl Mogli, Napakiak; David Dye, Community Planning, Department of Community and Regional Affairs; and Timothy Troll, City Manager of St. Mary's. John Messenger represented the Technical Committee briefly, explaining the changes to the sections regarding bonding.

Sections accepted without changes by the Policy Advisory Group were: AS 29.39.060, 29.39.070, 29.39.080, 29.45.010, 29.45.020, 29.45.050, 29.45.100, 29.45.140, 29.45.150, 29.45.220, 29.45.240, 29.45.250, 29.45.260, 29.45.300, 29.45.310, 29.45.320, 29.45.400, 29.45.410, 29.45.440, 29.45.450, 29.45.460, 29.45.570, 29.45.590, 29.48.010, 29.48.020, 29.48.030, 29.48.040, 29.48.050, 29.48.060, 29.48.070, 29.48.080, 29.48.090, 29.48.105, 29.48.115, 29.48.120, 29.51.280, 29.51.340, 29.51.370, 29.51.390, 29.51.420, 29.51.430, 29.51.440, 29.51.250, 29.51.380, 29.51.370, 29.51.050, 29.51.150, 29.51.305, 29.51.240, 29.51.350, 37.30.100. Sections accepted with wording changes were: AS 29.27.080, 29.36.170, 29.36.270, 29.45.210, 29.51.410. Sections accepted with substantive changes made by the Policy Group were: AS 29.45.030, 29.45.545. Sections not accepted were AS 29.45.030 and 29.48.090. A section sent back to the Technical Committee for new language was 29.45.610. The Policy Group moved to repeal AS 29.45.060.

The chair directed the Technical Committee to review the following: Can a city be inside/a part of a service area? Staff is to review service area language throughout the Title. The Technical Committee is to bring back wording to allow the transition from any class of ~~city~~ ^{municipality} to Home Rule.

Stephanie Scott representing the Haines Borough spoke in defense of third class boroughs. The Haines Borough objects to the recommendation that third class boroughs be eliminated. She distributed a letter from the mayor of the Haines Borough asking what the basis for the recommendation was. The Haines borough wants a list of the reasons for the elimination of the third class borough. Marilyn Miller said that the Alaska Municipal League concurred with the elimination of third class boroughs, or at least opposed the formation of any more third class boroughs. The City of Haines also concurs with the elimination of third

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class boroughs. Ted Berns made a motion that the Policy Group go on the record as concurring with the Alaska Municipal League's position that third class boroughs be eliminated. The motion carried. The chair directed the Technical Committee to draft language which eliminates the formation of third class boroughs but which does not alter the status of the Haines Borough.

The question of Organization Grants is to be held for the next meeting of the Policy Group.

The chair directed the Department of Community and Regional Affairs to look into dissemination of information regarding non-taxable property to state assessors.

Tim Troll says the 14c3 negotiations are affected by the current municipal properties statute and approves of the recommended change.

The dates of the next Policy Advisory Group meeting were set for the 17th and 18th of January, 1981 in Juneau. The Technical ~~Group~~ will have one more meeting as well.

Committee

The meeting was adjourned at 4:30 p.m. 17 December 1980.

*No
change*

Respectfully submitted,



Melissa Aber Fouse
Secretary, Title 29 Revision Commission

AGENDA

TITLE 29 REVISION COMMISSION Policy Group Meeting

January 17th:

1. Introduction of guests and members of the public attending.
2. Presentation by guests and members of the public of areas of concern or proposed items for consideration.
 - a. Presentation by Larry Kimball, Director, Division of Community Planning, Department of Community and Regional Affairs: "Planning for Small Communities."
3. Old Business:
 - a. Approval of Minutes.
 - b. Report by subcommittee chairman on AS 29.09.180. (Organizational Grants).
 - c. Report by subcommittee chairman on AS 29.30.040 (Voter Qualifications).
 - d. Presentation of proposed drafts by the Technical Committee.
 - e. Other Old Business.
4. New Business:
 - a. Presentation of proposed items for consideration by members of the Policy Advisory Group.
 - b. Presentation of proposed items for consideration by Ex-Officio Members.
 - c. Presentation of proposed items for consideration by the Technical Revision Committee.
 - d. Other new business.

January 18th:

1. Introduction of guests and members of the public attending.
2. Presentations by guests and members of the public of areas of concern or proposed items for consideration.
3. Old Business.
4. New Business.

HAINES BOROUGH

P.O. BOX 4
HAINES, ALASKA 99827
(907) 766-2711

January 5, 1980

Tamara Cook
Legislative Affairs
Pouch Y
Juneau, Alaska 99811

RE: Title 29 Revisions with respect to a third class borough

Dear Tam:

Now that the Commission has agreed to "grandfather" the Haines Borough we need to look at the statutes and revisions to the statutes which are a problem for the third class borough and which, in some cases, just forget the third class borough.

First of all, we suggest that you simplify 29.41.020 Assembly to Serve as School Board by striking the sentence "Where applicable weighted voting shall apply to board decisions." This sentence is profoundly misleading because weighted voting is prohibited by AS 29.23.021(c).

In order to assert the applicability of 29.48.010 General Powers to the third class borough, we suggest that a sub-section (e) be added to 29.41.010 stating that the general powers conferred by 29.48.010 apply to the third class borough. This would clarify the question posed by Marie Matsuno in her letter of 9/4/80 to Jon Halliwill, Mayor, City of Haines, as to whether the general powers are applicable to the third class borough area-wide or only on a specifically granted service area basis. We believe that our interpretation of 29.48.010 as applicable to the third class borough carte blanche is in line with the interpretation provided in Femmer v. City of Juneau 9 Alaska 175(1937) as foot noted in the present Title 29.

During the revision process I noticed that the third class borough seems to be at odds with 29.33.310 (new section 29.23.420) School Boards. This section states that all board members are elected at large. As you know, the third class borough assembly is the school board. The assembly may elect to be composed other than at large as outlined in 29.23.023 Composition and Form of Representation. It seems that neither the existing 29.23.310 nor the revised version recognize the special relationship between the third class borough assembly and the school board. Does the statement in 29.41.020 that the third class borough assembly is the school board supercede 29.23.310 which mandates an at large election

Tamara Cook

January 5, 1980

of school board members or is it necessary to write a clarifying subsection to 29.23.310 indicating that the members of the third class borough school board are the members of the assembly and are elected and composed in accordance with 29.23.023 for assemblies. I would appreciate it if you would take a look at this situation.

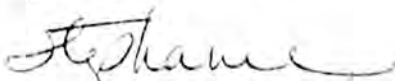
For ease of use, new section 29.24.240 Veto should contain a subsection (e) stating that the mayor of a third class borough has no veto power. The mayor is denied the veto power in 29.41.020 (old section number).

Similarly, in new section 29.24.150 Procedures of Legislative Bodies the first sentence should read

...except that in a borough which has adopted the manager form of government under AS 29.25.550, or in the third class borough, the mayor serves as presiding officer.

Thank you for looking at these four items. See you in Juneau on the 17th.

Sincerely yours,


Stephanie K. Scott
Administrative Secretary

Received 7/10
cc Policy Group

WINGREN ENTERPRISES

(907) 225-4365
P.O. BOX 5197
KETCHIKAN, ALASKA 99901

10 January, 1981

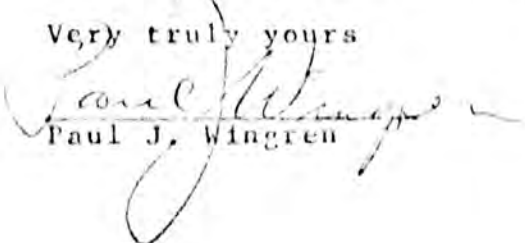
Senator Arliss Sturgulewski
Alaska State Senate
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Senator Sturgulewski

I quote Alaska Statute 29.53.025. It reads, in part as follows:
(b) Municipalities may by ordinance
(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certified net tonnage; a tax based upon a tonnage valuation shall not exceed \$5 a year for a boat or vessel of less than five net tons and shall not exceed \$15 a year for a boat or vessel of more than five net tons;

The City of Ketchikan and the Ketchikan Gateway Borough has chosen to listen to the hue and cry from boat owners that if their taxes are increased, they will take their boats and their business elsewhere. I, along with numerous other taxpayers feel that boats should be taxed on assessed valuation, the same as other real property, including airplanes. It is very unlikely that our local government will change to assessed valuation, as long as they have another option. It is also very unlikely that our local state legislators will ever push to amend the state law to make taxation on assessed valuation mandatory. I therefore appeal to you, whom I understand has given this matter some study, to introduce such legislation.

Very truly yours


Paul J. Wingren

Received 7/14 cc Policy Group

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

**DEPT. OF COMMUNITY &
REGIONAL AFFAIRS**
DIVISION OF LOCAL GOVERNMENT ASSISTANCE

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4707

July 15, 1980

Haines Borough Assembly
Box H
Haines, Alaska 99827

Dear Assembly Members:

Title 29, which contains the Alaska Statutes on municipal government, specifies that the mayor of a third class borough must be elected at-large for that position. An assemblyman cannot assume the position of mayor since the assemblyman was elected as a voting member of the borough's governing body and the mayor cannot vote. Each assembly member elected to that position has an obligation to vote.

As the mayor of a third class borough cannot vote or exercise the veto power, the assembly need not be concerned about affecting the present borough apportionment by the election of a mayor in addition to the assembly members. There would be no change to the present apportionment.

These comments are offered for your consideration as the Haines Borough prepares for its regular election this fall.

Sincerely,


Palmer McCarter
Director

PMc:MF:jh

cc: Stephanie Scott, Haines Borough
Thomas Flanton, Borough Attorney

Received 7/17/80 SKS

MEMORANDUM

FROM: FOLTA & ASPER, Borough Attorneys
TO: HAINES BOROUGH ASSEMBLY
RE: Voting By Borough Mayor
DATE: September 18, 1973

A question has come up under the new municipal code regarding the vote of the Borough Mayor in a Third-class Borough. Third-class Borough questions are difficult to resolve because Chapter 41 of Title 29, which refers to them, only briefly indicates what they can and cannot do. For questions not answered in Chapter 41 we assume that provisions governing First and Second class boroughs apply. The fact that Haines is the only Third class Borough in the state means that no guidance can be had on these questions from the experience of other municipalities in Alaska.

At the present time the assembly has chosen a mayor from among its members and the mayor is following section 29.23.160 which says that the mayor shall participate in assembly decisions but may not vote. Since Mr. Olerud, the present mayor, is a representative of the city of Haines he carries a weighted vote which is lost to city voters by his seeming inability to use it. Although to date the Mayors' non-voting has not affected the outcome of borough consideration on any matter, it is quite possible that this could happen in the future.

After reading the statutes it seems apparant that the problem lies in the fact that the mayor is also a member of the assembly. We have concluded, and our conclusion is agreed on by attorneys in the Local Affairs Agency, that the new municipal code

requires that there be a borough mayor, even in Third-class Boroughs, but that the mayor be a separately elected official, who is not a member of the assembly (Section 29.23.130). This official would be elected at large in the Borough and would be the chief administrator for the Borough, but would not vote. In a first or second class Borough the Mayor has a veto power to overrule the assembly, but this power is specifically denied the mayor in a third class Borough. (Section 29.41.020) The Assembly would continue in its present form but would choose a presiding officer to manage assembly meetings. (Section 29.23.060 (b))

Our recommendation at this time is that a Borough Mayor be elected in the Haines Borough whenever possible and in the meantime that Mr. Olerud resume voting with the understanding that his office is really that of Presiding Officer of the Assembly rather than the Borough Mayor as contemplated by the municipal code.

We would point out that the Borough Mayor scheme was primarily written into the municipal code for the use of the larger First and Second class Boroughs and may be too much government for this Third Class Borough, which is operating in good order now without a separately elected mayor. If the Borough must elect a mayor, as the statute seems to require then perhaps this presents a good opportunity to once again consider alternate forms of government for this area. The third class Borough has some very good points but this question and others indicate that it is a sort of Legislative afterthought which will continue to present problems which were never considered by the lawmakers when they enacted the municipal code.



*received Jan 14/1981
cc: Policy Group*

City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

January 13, 1981

Mr. Steve Van Sant, President
Alaska Assoc. of Assessing Officers
c/o Matanuska-Susitna Borough
Box B
Palmer, Alaska 99645

Re: Chapter 45
Municipal Taxation

Dear Steve:

I have reviewed the above draft and had our Municipal Attorney review it also. The following comments are submitted for your review and pass through to the legislative committee.

- P. 119 - Line 13 - "Exclusive for classroom space" - Amongst the various exempted uses, the above single use of any space appears unworkable.
- P. 129 - Line 29-30 - Assessor seek production of records? What records?
- P. 132 - Line 17 - "Which are consistant with general rules of administrative procedure." It appears to us that this ambiguous wording opens the door to suit by claim of "rules". This section should be specific.
- P. 134 - Line 18 - 20%
Line 26 - 10% Should these not be the same?
- P. 141 - Line 23 - "His assigns". We have had problems with this one where a person pays \$1.00 or \$2 for releases from old, old property foreclosed against then claims the property for only \$80 - \$60 back taxes. We feel this will specifically create problems unless a definite time period placed in this section. It has happened to us in Sitka. It could certainly happen elsewhere! Perhaps the way to handle it would be to add a paragraph "c" between lines 6 & 7 on page 142, to read;

January 13, 1981

- (c) the right of the former owner and his assigns to repurchase the property ceases 10 years after the end of the redemption period.

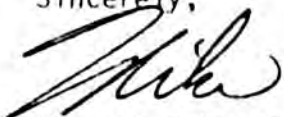
Page 143 - Line 21 - 15% interest. Paragraph (b) states if a remittance is made by a taxpayer even through error, the Borough must refund at 15% interest. Doesn't this open the door to allow deliberate over-payment to get 15% - that's better than any bank, time C.D., etc. Maybe I'm getting paranoid, but that seems like opening Pandora's Box. We need some sort of limitation clause.

Page 145 - Lines 4-7. Should also include a late filing penalty the same as real/personal property taxes.

Page 145 - Line 10 - Should include a statement--on that or any other property or item owned by the same person. This would make it clear a lien would not be just on specific property taxes not paid on, but could hamper other property. We have had instances where persons specifically attempt to apply taxes to only partial holdings rather than the total obligations.

Thank you for the opportunity to comment.

Sincerely,



Michael Schmidt
Planning Director/Assessor

cc: Fermin Gutierrez
Peter Hallgren
Earley - State Assessor
Tom Cook, Leg. Affairs
MIKE WORLEY

— Real/Personal prop near during back sessions - Can they differ

— relationship between H.R. boroughs and cities - should they be limitations.

Femmes v City of Juncos 9 AK 315

3rd class borough veto problem

Letters from Stephanie Scott, Palmer McCarter

29.24.240. VETO. (p. 60 wk Draft)

(a) the borough mayor may veto any ordinance, resolution or other action of the assembly

"borough" subsequently defined to include 3rd class, making this apply.

29.36.240. ASSEMBLY TO SERVE AS SCHOOL BOARD.

(p. 106) "The borough executive has all powers of a borough executive except on the veto power."

Does this apply only when executive is acting as president of the school board?

Home Rule limitations - Rogers MacLain, City Manager, Barrow

Should more sections bind home rule boroughs in their relationship with cities?

per Ted
yes
no
no
no

29.33.030 - 29.36.050, 100 - Assessment & Collection.

29.33.110 29.42.050 Board of Adjustment

29.53.520 29.45.450 Rent & Borough of City

city should have authority to bind H.R.

Taxes

29.45.010. General property tax. "A tax if levied on real and personal property must be assessed, levied and collected as provided in this chapter."

(Changes H.R. 3 Approved Change ...)

"A tax if levied on real property, personal property or both must be assessed, levied and collected as provided in this chapter." This may be a substantive change.

29.45.010.29.45.050

29.45.010.29.45.050
personal property

SCOMM

#23:21

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DRAFT NO. 2

DISCUSSION ON

CHAPTER 03. THE UNORGANIZED BOROUGH

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

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

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CHAPTER 06. CLASSIFICATION OF MUNICIPALITIES

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

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

Sec 29.06.030. CLASSES OF GENERAL LAW. General law municipalities are of ^{five} ~~five~~ classes:

- (1) first class boroughs;
- (2) second class boroughs;
- (3) ~~third class boroughs~~; *Repeal*
- (4) first class cities;
- (5) second class cities.

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

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

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

(2) the council may propose reclassification.

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

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

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

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

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

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

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

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

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

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

16 ****Sec. 29.06.050. TRANSITION. ~~Repeal.~~

17 *Repeal*
 18 *effective dates 1-10-1990 for provisions*
 19 *to be adopted when passed by voters*

20
 21 (a) Third class boroughs existing on the effective
 22 date of this Act shall continue as third class boroughs
 23 under the established law prior to the effective
 24 date of this Act.

CHAPTER 09. INCORPORATION

Article 1. REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 2. PROCEDURES

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

(1) class;

(2) name;

(3) boundaries;

(4) [Effective until January 1, 1981] composition and apportionment of the assembly or council; [Effective January 1, 1981] composition and apportionment of the assembly or council;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (b) Nominations for initial officers are made by petition. The
16 petition is in the form prescribed by the lieutenant governor and includes
17 the name and address of the nominee and a statement of the nominee that he
18 is qualified under the provisions of this title for the office that he
19 seeks. A person may file for and occupy more than one office, but he may not
20 serve simultaneously as borough mayor and as a member of the borough assembly
21 or as mayor and as a member of the council of a home rule or first class
22 city. Petitions to nominate officers of a second class city must include the
23 signature and resident address of 10 voters in the area of the proposed
24 city. Petitions to nominate elected municipal officers must include the
25 signature and resident address of 50 voters in the area of the proposed
26 municipality, or that area of the proposed municipality from which the
27 officers are to be elected under the composition and apportionment set out
28 in the accepted incorporation petition.
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1 (c) The lieutenant governor shall supervise the election in the
2 general manner prescribed by the Alaska Election Code (AS 15.05 - 15.60).
3 The state shall pay all election costs under (a) - (c) of this section.

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

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

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

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

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

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

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

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

12 Article 03. TRANSITIONAL ASSISTANCE

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

24 (b) Within 30 days after the date of incorporation of a borough
25 or city after September 10, 1972, the Department of Community and Regional
26 Affairs shall determine the number of voters in the borough or city who
27 voted in the incorporation election.
28
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1 (c) Within 30 days after the completion of its findings, or as
2 soon thereafter as money is appropriated to it for the purpose, the Depart-
3 ment of Community and Regional Affairs shall transmit to the borough or city
4 the total amount of money to which the borough or city is entitled.
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CHAPTER 12. ALTERATION OF MUNICIPALITIES

Article 01. CHANGE OF NAME

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

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

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

Article 02. ANNEXATION AND EXCLUSION

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

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

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

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

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

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

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

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

26 Article 03. MERGER AND CONSOLIDATION

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

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

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

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

(b) The petition includes

(1) the name and class of each municipality;

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

(3) the proposed composition and apportionment of the assembly or council;

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

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

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

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

(b) The Local Boundary Commission shall hold at least one public hearing in each of the municipalities included in the merger or consolidation petition, unless officials of the municipalities agree to a single hearing.

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

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

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

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

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

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

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(b) When two or more municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets and liabilities of the consolidated municipalities.

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

Article 04. UNIFICATION OF LOCAL GOVERNMENTS

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

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

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

Sec. 29.12.210. PETITION REQUIREMENTS. (a) The petition shall read:
 "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER
 We, the undersigned, qualified voters of the Borough do hereby petition that the following proposition be placed before the voters as provided by law:
 'Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the Borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified government as authorized by law? Yes [] No []'

Inside First Class	Outside First Class
or	or

Signature	Address	Home Rule City	Home Rule City
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1 (b) The petition shall be signed by at least

2 (1) that number of qualified voters of the borough living
3 outside all first class and home rule cities in the borough equal to 25
4 percent of the qualified voters who voted in the last regular borough elec-
5 tion; and

6 (2) that number of qualified voters residing in each first
7 class and home rule city located in the borough equal to 25 percent of the
8 qualified voters who voted in the last regular borough election in each
9 city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (2) provisions for

23 (A) the establishment of service areas; and

24 (B) the establishment of districts or sections for
25 the election of members of the legislative body of the unified
26 municipality, if election of members of the legislative body is
27 not areawide, and procedures by which to reapportion the election
28 districts or sections;
29

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

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

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

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

10 (6) a method of amending the charter;

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

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

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

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

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

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

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

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

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

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

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1 (1) lieutenant governor;

2 (2) commissioner of the Department of Community and Regional
3 Affairs;

4 (3) district recorder for the area of the borough;

5 (4) clerk of the borough;

6 (5) clerk of each city in the borough.

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

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

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

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

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

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

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

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

(1) not prohibited by law or charter;

(2) granted to ^{home rule} ~~organized~~ boroughs, and first class cities.

Article 05. DISSOLUTION

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

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

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

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

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

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

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

10 (b) The petition includes

11 (1) the name of the municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 1. CHARTERS

~~A city or~~ ^{or 2nd}

Sec. 29.15.010. MUNICIPAL CHARTER ADOPTION. A first class municipality ¹ or ~~second class borough~~ may adopt a charter for its own government. A home rule municipality may amend its charter or adopt a new one. A charter is framed by a charter commission of seven members chosen by the municipal voters at a regular or special election. A candidate for the commission shall be a qualified voter of the municipality and a resident of the municipality for three years immediately preceding the election. A charter commission election is called by filing a petition with the borough assembly or the city council, or by resolution of the borough assembly or city council. The petition shall be signed by a number of municipal voters equal to 15 percent of the votes cast in the last regular election of the municipality.

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

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

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

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

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

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

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

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

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

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

24 (1) lieutenant governor - two copies;

25 (2) Department of Community and Regional Affairs - two
26 copies;

27 (3) district recorder - one copy;

28 (4) municipal clerk - one copy.
29

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

Sec. 29.15.080. CHARTER AMENDMENT. A municipal charter may be amended as provided in the charter ~~or by initiative referendum as provided in~~ ^{AS 29.30.090-29.30.180} ~~AS 29.30.090-29.30.180, except that no amendment shall be effective unless~~ ^{ratified by the voters.}

Article 2 HOME RULE LIMITATIONS

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

- (1) AS 29.09.140 Borough Transition
- (2) AS 29.12.010 Municipal Name Change
- (3) AS 29.12.040 Annexation and Exclusion
- (4) AS 29.12.080 - 29.12.160 Merger and Consolidation
- (5) AS 29.12.420 - 29.12.500 Dissolution
- (6) AS 29.15.080 ~~Charter Amendment~~ ^(repealed)
- (7) AS 29.24.010 Conflict of Interest
- (8) AS 29.24.020 Meetings Public
- (9) (Effective until January 1, 1981) AS 29.23.020 - 29.23.050
Borough Assembly Representation
(Effective January 1, 1981) AS 29.24.060; 29.24.080 - 29.24.140
(29.23.021; 29.23.025 - 29.23.050) Borough assembly composition
and Apportionment; Borough Assembly Members

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1 ~~(10) AS 29.24.150(c) Expulsion of Borough Assemblymen~~

2 ~~(11) AS 29.24.200(f) Removal of Borough Mayor from~~
3 Office

4 ~~(12) AS 29.24.290(b) Expulsion of City Councilman~~
5 from Office

6 **** (13) AS 29.24.340(a) Repeal

7 ~~(14) AS 29.24.350 Removal of Mayor from Office~~

8 ~~(15) AS 29.24.680 Prohibitions Respecting Appointment~~
9 and Removal of Personnel

10 ~~(16) AS 29.24.700 Municipal Reports~~

11 ~~(17) AS 29.27.010(a)(12) Municipal Exemption~~
12 on Contractor Bond Requirements

13 (18) AS 29.27.060 Codification

14 (19) AS 29.30.010, 29.30.030(b) - 29.30.040 Municipal Elections

15 ~~(20) AS 29.30.060(f) Expulsion, Removal from Office~~

16 (21) AS 29.30.210 - 29.30.330 Recall

17 ~~(22) AS 29.33.020 Extraterritorial Jurisdiction~~

18 ~~(23) AS 29.33.030 Eminent Domain~~

19 (24) AS 29.33.080 Garbage and Solid Waste Services

20 (25) AS 29.33.090(b) Effect of Areawide Exercise
21 of Borough Power *for*

22 ~~(26) AS 29.33.090(c) Borough Building Code~~
23 Jurisdiction within Cities *for*

24 (27) AS 29.33.100 - 29.33.160 Utilities

25 **** (28) AS 29.33.220 Repeal

26 (29) AS 29.33.230 Post Audit

27 ~~(30) AS 29.36.010(b) Areawide Borough Powers~~

28 (31) AS 29.36.040, AS 29.35.230(d), AS 14.12.020(a) Responsibility
29 for education on Military Reservations

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- 1 - (32) AS 29.36.130(c) Acquisition of Additional
- 2 Areawide Powers
- 3 - (33) AS 29.39.020 - 29.39.060 Powers of Cities Outside Boroughs
- 4 ~~(34) AS 29.42.040(d) Zoning of State Land for~~
- 5 Hom site Entry *(Repeal)*
- 6 ~~(35) AS 29.42.080(b) Applicability of Local *(Repeal)*~~
- 7 Platting Regulations to State Land in a Municipality
- 8 - (36) AS 29.45.010 - 29.45.530 Borough
- 9 and City Property Taxes
- 10 ~~(37) AS 29.45.020 *Exposure N/A*~~
- 11 ~~(38) AS 29.45.580(d) Interest on Sales~~
- 12 Tax
- 13 - (39) AS 29.48.090 Exemption from Special Assessment
- 14 ~~(40) AS 29.51.420 - 29.51.430 Bonded Debt for~~
- 15 School Construction *(Repeal)*
- 16 - (41) AS 29.51.210(b) Security for Bonds
- 17 ~~(42) AS 29.51.390 Bond attorneys, Bond and Financial~~
- 18 Consultants *(Repeal)*
- 19 (43) AS 29.62. Municipal Tax Resource Equalization
- 20 (44) AS 29.62. State Aid for Miscellaneous Municipal
- 21 Services
- 22 (45) AS 29.71.010 Adverse Possession
- 23 (46) AS 29.71.020 Taxation of Municipalities
- 24
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CHAPTER 18. DEVELOPMENT CITIES

**** Repeal.

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CHAPTER 21. CAPITAL CITY

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

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

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

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

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

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

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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
7 governor based on the best information available, the lieutenant governor
8 shall notify the council of this determination. The lieutenant governor
9 shall specify an election date which shall be the first Tuesday of October
10 following the notification, except that if it is less than six months from
11 the date of the certification to the first Tuesday of October then the
12 election date shall be the first Tuesday of October of the year following.
13 The elected 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

20 one council member holding office on the date of the election to remain a
21 member of the council for a single three-year term commencing on the date
22 the elected council members take office. The successors to the appointed
23 council members shall be elected by the residents, except that if the
24 appointed council member leaves office during the three years, the governor
25 may appoint a successor. The terms of all other appointed or designated
26 council members expire when the elected council members take office. The
27 term of elected council members is as provided in AS 29.24.280 except that
28 three of the members are elected for an initial term of one 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

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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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CHAPTER 24. MUNICIPAL OFFICERS AND EMPLOYEES

Article 1. CONFLICT OF INTERESTS, PUBLIC MEETINGS

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

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

Article 2. ^{Governing Bodies} BOROUGH ASSEMBLY

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

~~Sec. 29.24.055. PRIVATE~~
Sec. 29.24.060. ASSEMBLY COMPOSITION AND APPORTIONMENT. [Effective January 1, 1981].

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) This section does not apply

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

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

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

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

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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. AP PORTIONMENT 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

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

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

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

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

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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:

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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

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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. ^{Delete} REGULAR TERM OF OFFICE.~~ ^{Repeal.} (a) Assemblymen are selected
4 for three-year terms and until their successors are selected and have quali-
5 fied, unless different terms not exceeding four years are prescribed by
6 borough charter or ordinance. Except when otherwise required by a change of
7 composition or apportionment, if the term of an assemblyman is changed by
8 charter or ordinance, the term of an assemblyman holding office at the time
9 the change takes effect is not affected by that change.

10 (b) The regular term of office begins on the first Monday fol-
11 lowing certification of the election, unless a different date is prescribed
12 by borough charter or ordinance.

13 (c) This section applies to home rule and general law boroughs.

14 ****Sec. 29.24.140 QUALIFICATIONS. (a) A borough voter is eligible to be
15 a member of the assembly and a city voter is eligible to be a member of the
16 council. A member of the assembly who ceases to be a qualified voter im-
17 mediately forfeits his office. A member of the council who ceases to be a
18 qualified city voter immediately forfeits his office.

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

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

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

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

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

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

8 ****Sec. 29.24.150. PROCEDURES OF GOVERNING BODIES. (a) The assembly
9 shall elect from among its members a presiding officer and a deputy presiding
10 officer to serve at the pleasure of the members, except that in a borough
11 which has adopted the manager form of government under AS 29.24.550, the
12 mayor serves as presiding officer. In a city the mayor serves as presiding
13 officer. If the presiding officer is not present or disqualifies himself,
14 the deputy presiding officer shall preside.

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

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

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

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

(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^{and school board}. Unless otherwise provided by ordinance the governing body shall declare an elective office, other than the office of mayor^{or school board}, 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

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1 (7) is convicted of a felony or misdemeanor described in AS
2 15.56 ~~as a corrupt practice~~ and two-thirds of the members of the governing
3 body concur in expelling him;

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

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

12 (b) Notwithstanding subsection (a), if the membership is reduced
13 to fewer than the number required to constitute a quorum, the remaining
14 members shall within seven days appoint a number of qualified persons to
15 constitute a quorum.

16 Article 3. BOROUGH EXECUTIVE AND ADMINISTRATOR

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

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

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

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

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

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

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

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

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

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

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

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Delete
 1 Sec. 29.24.230. ASSEMBLY PARTICIPATION. The borough mayor may take
 2 part in the discussion of all matters before the assembly but may not vote.

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

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

11 (c) The veto does not extend to

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

13 (2) actions of ^{governing body} the board of equalization or the board of
 14 adjustment;

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

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

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

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

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

25 (3) resigns and his resignation is accepted;

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

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

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

(7) is convicted of a felony or misdemeanor described in AS 15.56 ~~as a corrupt~~ practice; or *(ok this reference) are these corrupt practices*

(8) no longer physically resides in the municipality.

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

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

Article 4. CITY COUNCIL

Sec. 29.24.280. COMPOSITION, ELIGIBILITY, ELECTION AND TERM. *Out (all article) Rep. (a)*

Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The council of a first or second class city may by ordinance provide for election of members other than on an at-large basis for all members.

(b) A city voter is eligible to hold office as a member of the council. The council may by ordinance establish residence requirements for council members not exceeding three years. A council member who ceases to be eligible to be a city voter immediately forfeits that office.

(c) Councilmen are selected for three-year terms and until their successors are elected and have qualified. The regular term of office begins on the first Monday following certification of the election. The council may

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1 provide by ordinance for different terms not to exceed four years, except
2 that the current term of incumbent councilmen may not be altered.

3 ~~Sec. 29.24.290.~~ ^{Revised} PROCEDURE. (a) The council shall meet at least once
4 every month, unless otherwise provided by ordinance. Special meetings may
5 be held on the call of the mayor or two councilmen upon not less than 24
6 hours written or oral notice communicated to each member. In an emergency, a
7 special meeting called on less than 24 hours notice is a legal meeting if
8 all members are present or there is a quorum and all absent members have
9 waived in writing the required notice. A waiver may be made either before or
10 after the time of the meeting. The waiver shall be attached to and made a
11 part of the journal for that meeting.

12 (b) The council shall determine its own rules and order of business
13 and provide for keeping a journal of its proceedings. The council is the
14 judge of the election and qualification of its members and, with the concur-
15 rence of two-thirds of its members, may expel a member for a conviction of a
16 felony or misdemeanor described in AS 15.56 as a corrupt practice. The
17 council shall consider that conviction during its first meeting following
18 final determination of the conviction.

19 (c) Four councilmen constitute a quorum. Four affirmative votes
20 are required for the passage of an ordinance, resolution, or motion.

21 (d) The final vote on each ordinance, resolution, or substantive
22 motion is a recorded roll call vote. All councilmen present shall vote
23 unless the council, for special reasons, permits a member to abstain.

24 Sec. 29.24.300. FILLING A VACANCY. If a vacancy occurs in the council,
25 the council by vote of a majority of its remaining members shall designate a
26 person to fill the vacancy until the next regular election, and until a
27 successor is elected and has qualified.
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Article 5. CITY EXECUTIVE AND ADMINISTRATOR

****Sec. 29.24.330. Repeal

****Sec. 29.24.340. Repeal.

****Sec. 29.24.350. Repeal

****Sec. 29.24.360. Repeal.

****Sec. 29.24.370. Repeal.

****Sec. 29.24.380. Repeal.

****Sec. 29.24.390. Repeal.

Article 6. SCHOOL BOARDS

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

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

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

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

Article 7. UTILITY BOARDS

* Sec. 29.24.450. UTILITY BOARDS. (a) The ~~assembly or council~~ *governing body* of a municipality operating a public utility may provide by ordinance for a managing board of five members and define the board's powers and duties.

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1 * (b) As determined by ordinance, members of the board are appointed
 2 by the municipal executive and confirmed by the ^{governing body} ~~assembly or council~~ or are
 3 elected at the regular election held annually on the first Tuesday of October,
 4 unless a different election date or interval of years is provided by ordin-
 5 ance. The term of a utility board member is two years and until a successor
 6 is selected and has qualified. However, the ^{governing body} ~~assembly or council~~ may by
 7 ordinance provide for a different term not to exceed four years and not
 8 altering the current term of an elected incumbent.

9 * (c) Vacancies in the board are filled by the municipal executive.
 10 Executive appointments shall be confirmed by the ^{governing body} ~~assembly or council~~. A
 11 person selected to fill a vacancy on a utility board serves until the
 12 expiration of the term and until a successor is elected and has qualified.

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

14 (1) choose its chairman and secretary;

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

17 (3) formulate and enforce the general rules and policies of
 18 the utility.

19 Article 8. OTHER OFFICERS AND EMPLOYEES

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

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

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

2 (1) give notice of the time and place of meetings to the
3 ~~assembly or the council~~ ^{governing body} and to the public;

4 (2) attend meetings and keep the journal;

5 (3) arrange publication of notices, ordinances, and resolu-
6 tions;

7 (4) maintain and make available for public inspection an
8 indexed file including the municipal ordinances, resolutions, rules, regula-
9 tions, and codes;

10 (5) attest deeds and other documents;

11 (6) perform other duties specified in this title or pre-
12 scribed by the chief executive or by the governing body.

13 * (b) The ~~assembly or council~~ ^{governing body} may combine the office of clerk with
14 that of treasurer. If the offices are combined, the clerk shall, as required
15 of the treasurer, give his bond to the municipality for the faithful perfor-
16 mance of his duties as clerk-treasurer.

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

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

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

25 (b) Each department is administered by a department head. With
26 the consent of the governing body, the mayor may serve as head of one or
27 more departments or a single administrator may serve as head of two or more
28 departments.
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Delete
 1 ~~XX~~ Sec. 29.24.520. APPOINTMENT TO MUNICIPAL BOARDS AND COMMISSIONS. *Repeal.* (a)
 2 Notwithstanding AS 39.05.100 or a provision of law relating to age, the
 3 municipal appointing authority for a municipal board or commission may
 4 appoint a 17-21 year old municipal resident to the board or commission if
 5 recommended by the commission, established in AS 29.68.020 of this chapter.

6 (b) A young person recommended by the commission may be appointed
 7 to a municipal board or commission having special qualifications for member-
 8 ship if the proposed nominee, except for his age, meets the required qualifi-
 9 cations set by law.

10 (c) An individual appointed to a municipal board or commission
 11 under this section is entitled to the rights, privileges and responsibilities
 12 of other members, and his appointment is subject to confirmation by the
 13 governing body when required by law.

14 (d) No additional seat on a municipal board or commission is
 15 created by virtue of AS 29.68.

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

20 (b) By ordinance the governing body may designate *positions which*
 21 are wholly or partially exempt from the classified service filled by persons
 22 who serve at the pleasure of their appointing authority and whose terms of
 23 employment are determined by their appointing 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 ~~X~~ Sec. 29.24.560. PETITION. Adoption of a manager plan may be initiated
 28 either by petition or upon motion of the ~~assembly or council~~. A petition
 29 for the adoption of a manager plan is submitted to the ~~assembly or council~~.

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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 ~~assembly or council~~ shall, within 60 days, adopt the plan by ordinance or
10 resolution.

11 + (b) The ~~assembly or council~~ shall notify the Department of Com-
12 munity 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
20 official as manager. *Manager not being elected*

21 Sec. 29.24.600. TERM. Subject to the contract of employment, the
22 manager holds office at the pleasure of the ~~assembly or council~~.

23 *Delete* Sec. 29.24.610. APPOINTMENT OF TEMPORARY OR NEW MANAGER. *1* In the
24 absence or disability of the manager, the assembly or council shall appoint
25 a temporary manager. If the office becomes vacant, the assembly or council
26 shall appoint a new manager.

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

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

3 (1) appoint, suspend, or remove municipal employees and
4 administrative officials, except as provided otherwise in this title and AS
5 14.14.065; he may hire necessary administrative assistants and may authorize
6 an administrative official to appoint suspend, or remove subordinates;

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

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

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

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

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

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

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

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Article 10. MISCELLANEOUS PROVISIONS

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

*Sec. 29.24.660. BONDING. The administrator and the other municipal officials or employees which the ~~assembly or council~~ ^{board will have} may designate shall give bond in the amount and with the surety prescribed by the ~~assembly or council~~ ^{board}. 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.

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

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

^{Delete} Sec. 29.24.690. PERSONNEL SYSTEM. ^{Repeal} All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system.

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

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

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

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

8 (4) repealed.

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

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

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

19 Sec. 29.24.710. VACANCIES. *Report delete 710* An elected municipal office is vacated
20 under the following conditions and upon the declaration of vacancy by the
21 assembly or council. The assembly or council shall declare an elective
22 office vacant when the person elected

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

25 (2) is physically absent from the municipality for a 90-day
26 period unless excused by the assembly or council;

27 (3) resigns and his resignation is accepted;

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

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1 (5) is removed from office;

2 (6) misses three consecutive regular meetings unless excused;

3 or

4 (7) is convicted of a felony or of an offense involving a
5 violation of his oath of office.

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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 ~~assembly~~ ^{or council} 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 ~~regulations~~ ^{ordinances} and subdivision ~~ordinances~~, 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.

NP 20 (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 ~~assembly or~~ ^{or council} 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 assembly or council.