

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

776 SCOMM123: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

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

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

Sec. 29.33.020. (Sec. 29.48.037.) EXTRATERRITORIAL

JURISDICTION. (a) A municipality may, to the extent otherwise authorized or permitted by law, provide parks, roads (including ice roads), trails, playgrounds, solid and septic waste disposal, wharves, harbors and other marine facilities, emergency medical services, cemeteries, airports, transportation systems and utility services outside its boundaries, and may regulate their use and operation. ^{(13) regulate operation and use of rights of way} ^{see pg 93N} A regulation adopted under this section must state that it applies outside the municipality.

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

Sec. 29.33.030 (Sec. 29.73.020.) EMINENT DOMAIN. A home rule or general law municipality may exercise the powers of eminent domain and declaration of taking in the performance of an authorized power or function of the municipality, in accordance with AS 09.55.250-09.55.460.

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

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

(c) Powers granted by this section must be initiated within a period of not more than five years from the date of

declaration of a natural disaster by the President ^{OK} or Governor, but these powers may be extended for an additional period of not more than three years.

Sec. 29.33. _____. (Sec. 29.48.033.) GARBAGE AND SOLID WASTE SERVICES. (a) A municipality may by ordinance provide for the establishment, maintenance and operation of a system of garbage and solid waste collection and disposal for the entire municipality or for districts or portions of it; require all persons within the municipality or district to use the system and to dispose of their garbage and solid wastes as provided in the ordinance, award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees; pay for garbage and solid waste collection and disposal from available funds; require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality and fix charges against the property owners or occupants of premises for the collection and disposal; provide that charges for collection and disposal shall be paid by the property owner or occupants of the premises; and provide penalties for violations of the ordinances.

Title 42
(b) The ~~council~~ governing body of any political subdivision may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or other related services in any area in the political subdivision if the certificate authorizes the collection and disposal of garbage, refuse, trash or other waste material and providing of other services in the area, and the certificate was originally issued before the political subdivision provided like or similar services. A political subdivision may not provide for a garbage, refuse, trash or other waste material collection and disposal service in any area to the extent it lies within an area granted to a garbage, refuse, trash or other waste material carrier by a certificate issued by the commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier

or that portion of the certificate which would be affected at fair market value and may exercise the right of eminent domain to determine fair market value.

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

use:
Sec. 29.33. 110. FRANCHISES AND PERMITS. (a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, *and may grant permits for the use of streets & other public places.*
(b) No exclusive franchise is valid until it has been ratified by a majority of the qualified voters voting on the question at a regular or special municipal election.

deleted
Sec. 29.33. . (Sec. 29.48.060.) PUBLIC UTILITIES RATES.
The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a *delete* *to the extent* *any required* *must be* *paid* *on the deposit.* *provided* that interest *is* paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return in invested capital.

Sec. 29.33. . MUNICIPAL PROPERTY.

The assembly or council shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land of the municipality. *Each disposal of land or an interest in land shall be by ordinance unless the assembly or council finds by resolution that the land or interest in land is without substantial value to the municipality.* *See Res. 100* *See NOTES*

Sec. 29.33. . (Sec. 29.48.190.) BUDGET AND CAPITAL PROGRAM. (a) The assembly or council shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve the budgets with or without amendments and shall appropriate the funds required for the approved budgets.

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

Repeal
Sec. 29.33. (Sec. 29.48.210.) EXPENDITURE OF BOROUGH REVENUES. Borough revenues levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes and levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only. This section does not apply to unified municipalities.

Sec. 29.33.230. (Sec. 29.48.320.) POST AUDIT. The assembly or council shall provide for an annual independent audit of the accounts and financial transactions of the municipality or in the case of a second class city an audit or statement of annual income and expenditures. To make the audit the assembly or council shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request. This section applies to home rule and general law municipalities.

Article 2. MANDATORY AREAWIDE POWERS

Sec. 29.33. (Sec. 29.33.010.) SCOPE OF AREAWIDE POWERS.
(a) First and second class boroughs shall exercise the powers as specified and in the manner specified in this article on an areawide basis, both inside and outside cities within their boundaries.

(b) No city may exercise an areawide power once that power is being exercised by a borough.

Sec. 29.33. (Sec. 29.33.050.) EDUCATION. Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation within an organized borough is not part of the borough school district until the military mission is terminated or until inclusion in the

borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110. If the military mission of a military reservation terminates or continued management and control by a regional educational attendance area is disapproved by the Department of Education, operation, management and control of schools on military reservation transfers to the borough school district in which the military reservation is located.

Sec. 29.33.____. (Sec. 29.33.030.) ASSESSMENT AND COLLECTION OF TAXES. (ASSESSMENT AND COLLECTION) Boroughs shall assess and collect property, sales and use taxes levied within their boundaries, subject to ~~ch 45~~ *ch 45 (b) (5B)* of this title. Taxes levied by a city and collected by a borough are returned in full to the levying city.

Sec. 29.33.____. LAND USE REGULATION.

First and second class boroughs shall provide for land use regulation in accordance with AS 29.42.____.

Article 3. ADDITIONAL CITY AND BOROUGH POWERS

Sec. 29.33.____. FIRST CLASS BOROUGH POWERS. (a) In addition to the powers granted by Sec. .010 ~~and~~ *through* _____, a first class borough in the areas outside cities, may exercise any power and may provide any service or facility not otherwise prohibited by law.

(b) A first class borough may, by ordinance, exercise the following powers ~~and provide the following services on~~ *MAY* an areawide basis:

1. *providing* Transportation ~~services~~ *systems*
2. Water pollution control
3. Air pollution control as provided in AS 46.03.140-.240
4. Licensing of day care facilities
5. ~~licensing~~ *regulation of animals;*

(c) In addition to powers conferred by (b) of this section, a first class borough may, ~~on an areawide basis,~~ exercise any ~~other~~ power and ~~may provide any other service or facility~~ *not otherwise prohibited by law provided that such power, service*

~~or facility~~ has been transferred by a city and approved by the borough assembly or has been acquired pursuant to sec. _____.

Sec. 29.33. _____. SECOND CLASS BOROUGH POWERS. (a) In addition to the powers granted by Sec. .010 and _____, a second class borough, in the area outside cities, may, by ordinance, exercise the following powers ~~and may provide the following services:~~

- CP
1. ^{providing systems} ~~Transportation services~~
 2. Regulation of fireworks
 3. Regulation of animals
 4. Regulation of drivers and motor vehicles, including snow vehicles and off highway vehicles, to the extent allowed under AS 28.01.010.
 5. Provision of garbage and solid waste collection and disposal.
 6. Air and water pollution control
 7. Participation in federal or state loan programs for housing rehabilitation and improvement for energy conservation.
 8. Economic development programs and activities.

(b) A second class borough may, by ordinance, exercise the following powers ~~and provide the following services or facilities~~ on an areawide basis:

1. Transportation services
2. Regulation of animals
3. Air and water pollution control
4. Licensing of day care facilities

MAKE consistent w/ 1st class wording (order)

(c) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis or in the area outside cities, exercise any other power ~~and may provide other services or facilities~~ not otherwise prohibited by law ^{on an areawide basis} provided that such power, ~~service or facility~~ has been transferred by a city and approved by the borough assembly for exercise within the city or ^{*} ~~has been~~ by election under Sec. _____.

acquired.

^{*} or in the area outside cities

In addition to powers conveyed by AS
Sec. 29.33. . CITIES WITHIN ORGANIZED BOROUGHES. (a) A

first or second class city within an organized borough may exercise any power ~~and may provide any service or facility~~ not otherwise prohibited by law. In accordance with Sec. _____, a city may not exercise a power once that power is being exercised by a borough.

Sec. 29.33. . CITIES OUTSIDE ORGANIZED BOROUGHES. (a)

In addition to powers conveyed by AS
Cities outside an organized borough may exercise any power and ~~may provide any service or facility~~ not otherwise prohibited by law.

(b) Cities outside an organized borough may assess, levy and collect a general property tax and a sales or use tax. A property, sales or use tax if levied must be assessed, levied and collected as provided by Chapter 45 of this title for boroughs. Cities may, by ordinance, establish, alter and abolish differential tax zones for property taxes for services not provided in the entire city or provided at a different level than provided generally within the city.

(c) Home rule and first class cities outside an organized borough shall constitute city school districts and shall establish, operate and maintain a system of public schools as provided by AS 29.36.040 for boroughs.

(d) Home rule and first class cities outside an organized borough shall, and second class cities outside an organized borough may, provide for land use regulation as provided by AS 29.42.010-.245 for boroughs.

Sec. 29.33. . ACQUISITION OF ADDITIONAL POWERS. (a) A ~~city or~~ borough ~~may~~ acquires additional powers, ~~services or facilities~~ as provided by sec. _____ by holding an election on the question as provided by this section. For acquisition of areawide powers, the election shall be held areawide. For acquisition of powers in the area outside cities ~~or within a city~~ the election shall be held in the area outside cities ~~or within the city~~ *only.*

the assembly or
(b) An election under this section may be initiated by a petition signed by a number of voters equal to 15% of the number of votes cast at the preceeding regular election in the area in

which the election is to be held, ~~or by an ordinance adopted by the assembly or council.~~ A petition under this section shall be filed with the borough or ~~city clerk~~ who shall certify to the assembly ~~or council~~ whether the petition contains sufficient signatures. Upon certification, the assembly ~~or council~~ shall, at the next regular meeting, order an election on the question to be held within 60 days of the order. If more than one power, service or facility is proposed, each shall appear separately on the ballot.

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

and other matters related to acquisition of the areawide powers. This subsection applies to home rule and general law cities.

Article 4. CONSTRUCTION OF POWERS

(Chapter 48. Article 5. CONSTRUCTION OF POWERS)

Sec. 29.33.. (Sec. 29.48.310.) GENERAL CONSTRUCTION. A liberal construction shall be given to all powers and functions of boroughs and cities conferred in this title.

Sec. 29.33.. (Sec. 29.48.320.) EXTENT OF POWERS. Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

Sec. 29.33.. (Sec. 29.48.330.) ENUMERATION OF POWERS. Specific examples within an enumerated power or function conferred upon boroughs or cities in this title area illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

1 CHAPTER 33. POWERS AND DUTIES APPLICABLE TO.

2 HOME RULE AND GENERAL LAW MUNICIPALITIES.

3 ARTICLE 1. GENERAL POWERS.

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

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

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

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

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

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

17 (6) to sue and be sued;

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

To the extent... see notes

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

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

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

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

organize

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

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

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

ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

Sec. 29.33.070. MUNICIPAL FACILITIES AND SERVICES.

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

(19) parking and parking facilities;

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

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

**** (22) Repeal.

(23) emergency medical services and facilities.

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

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

(13) pg 2
Been

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

(3) vehicle parking not inconsistent with AS 28.01.010;

**** (4) Repeal.

(5) ~~licensing, impounding and disposition~~ ^{regulation} of animals;

**** (6) Repeal.

**** (7) Repeal.

**** (8) Repeal.

**** (9) Repeal.

(10) alcoholic beverages as provided by AS 04.15.070;

(11) recreational devices as provided by AS 05.20.100;

**** (12) Repeal.

**** (13) Repeal.

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

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

**** (16) Repeal.

(17) water pollution control;

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

(20) licensing of day care facilities.

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

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

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

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

ARTICLE 3. FISCAL DUTIES.

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

1 ***** (b) Repeal.

2 ***** (c) Repeal.

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

7 ***** (e) Repeal.

8 ***** (f) Repeal.

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

14 ***** (b) Repeal.

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

18 ***** (d) Repeal.

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

5 ARTICLE 4. CONSTRUCTION OF POWERS.

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

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

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

Proofed 12-31

1 CHAPTER 33. POWERS AND DUTIES APPLICABLE TO
2 HOME RULE AND GENERAL LAW MUNICIPALITIES.

3 *Upper Case* Article 1. GENERAL POWERS.

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

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

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

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

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

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

17 (6) to sue and be sued;

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

to issue franchises and permits for the use of ?

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

(13) ?
Sec. 29.33.010(1) COMBINING OFFICES. The assembly or council may combine two or more appointive or administrative offices.

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

(19) parking and parking facilities;

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

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

**** (22) Repeal.

(23) emergency medical services and facilities.

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

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090-130^{29.36.} for areawide exercise or in the manner required under AS 29.36.160-29.36.200 for exercise in the borough area outside cities or are conferred by ~~X~~Sec.20~~X~~ of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17) and (20), in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

7 *upper case*
Article 2. FACILITIES, SERVICES AND REGULATION.

8 Sec. 29.33.070. MUNICIPAL FACILITIES AND SERVICES.

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

- 12 (1) streets and sidewalks;
- 13 (2) sewers and sewage treatment facilities;
- 14 (3) harbors, wharves, and other marine facilities;
- 15 (4) watercourse and flood control facilities;
- 16 (5) health services and hospital facilities;
- 17 (6) cemeteries;
- 18 (7) police protection and jail facilities;
- 19 (8) cold storage plants;
- 20 (9) telephone systems;
- 21 (10) light, power and heat;
- 22 (11) water;
- 23 (12) transportation systems;
- 24 (13) community centers;
- 25 (14) libraries, visual or performing arts centers, or museums;
- 26 (15) recreation facilities;
- 27 (16) airport and aviation facilities;
- 28 (17) garbage and solid-waste collection and disposal service

29 and facilities subject to Sec. 080 ~~(Sec. 33)~~ of this chapter;

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

8 **** (4) Repeal.

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

10 **** (6) Repeal.

11 **** (7) Repeal.

12 **** (8) Repeal.

13 **** (9) Repeal.

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

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

16 **** (12) Repeal.

17 **** (13) Repeal.

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

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

24 **** (16) Repeal.

25 (17) water pollution control;

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

27 X 46.03.230;

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

(20) licensing of day care facilities.

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

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

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

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

upper case
Article 3. FISCAL DUTIES.

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

**** (b) Repeal.

**** (c) Repeal.

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

**** (e) Repeal.

**** (f) Repeal.

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

**** (b) Repeal.

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

**** (d) Repeal.

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

5 *upper case* Article 4. CONSTRUCTION OF POWERS.

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

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

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.010. GENERAL POWERS. Section unchanged to:

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

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

Adds:

~~(13) issue franchises and permits for the use of municipal property; including in lease franchise purposes~~

All other paragraphs the same.

EXPLANATION: (7) allows for imposition of liens; (9) deletes material referring to purposes for which property may be acquired, managed, or disposed of, ~~(13) is new.~~

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 198

To the extent that a municipality may exercise the powers necessary to provide the service or facility

Sec. 29.33.020. EXTRATERRITORIAL JURISDICTION. (a) A municipality may provide parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries, ~~small boat harbors and marinas, and airports outside its boundaries,~~ *small boat harbors and marinas, and airports outside its boundaries,* subject to AS 29.36.010, and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) No change.

and other waste disposal

EXPLANATION: Adds ~~"small boat harbors and marinas"~~ and provides that jurisdiction in which a facility is located may regulate it.

To the extent that a municipality may provide services and public facilities in support of the service

from public housing and utilities
public docks

set up, harbor and other marine facilities

the municipality may exercise the powers necessary to provide the service or facility

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

EXPLANATION: The limitation imposed on a second class city is eliminated broadening its power to exercise eminent domain.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

To the extent that a municipality may exercise the powers necessary to provide service, or facility and
Sec. 29.33.070. FACILITIES AND PROGRAMS. (a) ~~Subject to~~ other provisions of law, a municipality may exercise the powers necessary to provide the following:

The same to:

(22) Repeal.

Add:

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

The rest of this section is the same.

EXPLANATION: (22) is more properly a regulatory power. Covered under AS 29.33.090(a)(11); (24) is added so that a municipality is not "limited" by the laundry list.

*was
long. if this
section in
no way
antithetical
24.11*

Sec. 29.33.090. REGULATORY POWERS. (a) No change.

(1) No change.

(2) No change.

(3) No change.

(4) Repeal.

(5) No change.

(6) Repeal.

(7) Repeal.

(8) Repeal.

(9) Repeal.

(10) No change.

(11) No change.

(12) Repeal.

(13) Repeal.

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

(15) ~~Repeal~~/ No change.

(16) Repeal.

(17) No change.

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

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

(20) No change.

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

(M. continue with (b))

✓
INSERT
(14)
But Not
A) & (B)

Sec. 29.33.090. REGULATORY POWERS. (a) No change.

- (1) No change
- (2) No change
- (3) ^{No change} licensing, impounding and disposition of animals;
- (4) ^{No change} alcoholic beverages as provided by AS 04.15.070;
- (5) ^{No change} recreational devices as provided by AS 05.20.100;
- (6) condemnation and abatement of public nuisances and hazards;
- (7) water pollution control;
- (8) air pollution control as provided in AS 46.03.140-46.03.240;
- ~~(9)~~ ^{No change} municipally owned utilities to the extent not prohibited by 42.05; ^{to the extent not otherwise prohibited,}
- (10) any activity affecting the general health, safety, well-being and welfare of its inhabitants.

(b) First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090-29.36.130 for areawide exercise or in the manner required under AS 29.36.160-29.36.200 for exercise in the borough area outside cities or are conferred by Sec. 020 of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(1), (6), (7), ~~(8)~~ and ~~(9)~~ of this section, exercise of the powers areawide or, as to (a)(3), (6) and ~~(9)~~, in the borough area outside cities is at the option of the borough and is not subject to those restrictions on the acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

EXPLANATION: Laundry list shortened to include only those items containing cross-references and those specifically treated under (b). (10) is new. ~~(8) dealing with air pollution control~~ is added to (b) so that the power ~~must be exercised on an areawide basis.~~

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

29.33.100 *Repeal.*

~~Sec. 29.33.110. FRANCHISES AND PERMITS. Repeal.~~

~~EXPLANATION: The right to issue franchises and permits has
been added to the general powers section, AS 29.33.010 (13)
It is not felt that it is necessary to circumscribe this power.~~

Not accepted

*use 29.33.110, but strike some
language*

(b) change to 'a majority'

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

(b) No franchise is valid until it has been submitted to the voters of the city or borough area outside cities in which it applies, and at least a majority of the votes cast are in favor of the franchise. (The rest of the section remains the same)

Explanation:

revised by ordinance

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

~~Sec. 29.33.120. PUBLIC UTILITIES RATES. Repeal.~~ *have in only*

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

Sec. 29.33.140. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY.

Repeal.

Sec. 29.33.150. FURTHER PROCEEDINGS. Repeal.

Sec. 29.33.160. APPLICATION. Repeal.

EXPLANATION: The regulation of municipally owned utilities is allowed under the new draft of AS 29.33.010 as (10). It is felt that it is not necessary to include elaborate details concerning that regulation.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.190. CENTRALIZED PURCHASING. Repeal.

EXPLANATION: Not needed. A municipality has this power without this provision.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

(b) Repeal.

(c) Repeal.

(d) The assembly or council shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality. ~~If a competitive process for the acquisition and disposal of land and interests in land by the municipality is not provided by ordinance, each land transaction by the municipality shall be approved by ordinance.~~

(e) Repeal.

(f) Repeal.

EXPLANATION: Since other laws, both federal and state, which provide land to municipalities contain conflicting requirements for use and disposal it is felt that this section created undue complexities as it now reads. It is eliminated in favor of a simple requirement that a procedure be established by ordinance.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

- Sec. 29.33.210. BUDGET AND CAPITAL PROGRAM. (a) No change.
(b) Repeal.
(c) No change.
(d) Repeal.

EXPLANATION: (a) and (d) are repealed as misleading. Bonds may only be used to finance capital projects.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

EXPLANATION: Technical drafting clean-up. The last sentence added to make it clear that areawide/nonareawide distinctions do not apply to unified municipalities.

CHAPTER 33. POWERS AND DUTIES APPLICABLE TO

HOME RULE AND GENERAL LAW MUNICIPALITIES

~~(CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES)~~

Article 1. GENERAL POWERS

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

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

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

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

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

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

(6) to sue and be sued;

(7) to levy taxes and special assessments; *impose liens on the enforcement thereof.*

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

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

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

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

(12) to borrow money and issue evidences of indebtedness.
 (13) *ISSUE FRANCHISES & PERMITS FOR THE USE OF MUNICIPALITY*
 Sec. ~~29.33.010(1)~~ (Sec. 29.23.510.) COMBINING OFFICES. The assembly or council may combine two or more appointive or administrative offices.

Sec. 29.33.020. (Sec. 29.48.037.) EXTRATERRITORIAL JURISDICTION. (a)
 A municipality may provide parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries, *harbors & marinas* and airports outside its boundaries, subject to AS 29.36.010 (AS 29.33.010), and may regulate their use and operation. *provided w/in boundaries of another mun must* A regulation adopted under this section must state that it applies outside the municipality. *transportation instead.*

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

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

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

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

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

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

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

20 Article 2. FACILITIES, SERVICES AND REGULATION ^{RELEASING}

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

22 (a) A municipality may exercise the powers necessary to provide the following
23 ~~public facilities and services:~~

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

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

How (22) consumer protection;

(23) emergency medical services and facilities.

(24) perform public purpose
(b) First and second class boroughs may exercise the powers

conferred by (a) of this section only after they have been assumed in the manner required under A. 29.36.090-130 (AS 29.33.250-29.33.290) for areawide exercise or in the manner required under AS 29.36.160-29.36.200 (AS 29.38.010-29.38.050) for exercise in the borough area outside cities or are conferred by (Sec.20) of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17) and (20),

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

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

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

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

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

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

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

Sec. 29.33.090. (Sec. 29.43.035.) REGULATORY POWERS. (a) A municipality may regulate the operation and use of its public rights-of-way, public facilities and services. It may also regulate the following:

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

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

(3) vehicle parking not inconsistent with AS 28.01.010;

(4) transportation fares;

(5) licensing, impounding and disposition of animals;

(6) selling of goods;

(7) selling of food;

(8) abandoned property;

~~(9) dangerous and disorderly conduct; Delete~~

(10) alcoholic beverages as provided by AS 04.15.070;

(11) recreational devices as provided by AS 05.20.100;

(12) control of insects and rodents;

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

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

(A) exceptions to requirements of the codes may be made in the codes among other reasons, in order to provide for the preservation, maintenance and protection of historic sites, buildings and monuments;

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

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

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

(17) water pollution control;

(18) air pollution control as provided in AS 46.03.140-46.03.240;

(19) other powers and functions affecting the general health, safety, well-being and welfare of its inhabitants;

(20) licensing of day care facilities.

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

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

sub(c) missg REPEALED OK
 Sec. 29.33.100. (Sec. 29.48.040.) *MOVE TO EXTRA TERRITORIAL JURISDICTION* MUNICIPALLY-OWNED UTILITIES. A non

municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. ~~For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits.~~ This section applies to home rule and general law municipalities.

MOVE TO GEN POWERS
 Sec. 29.33.110. (Sec. 29.48.050.) FRANCHISES AND PERMITS. (a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, *Beens amend: free motion* for the construction, operation and maintenance of bus transportation systems and public utilities not regulated under AS 42.05 and may permit them the use of streets and other public places under regulations prescribed by ordinance. *municipal public property!*

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

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

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

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

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

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

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

DELETE

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

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

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

17 Article 3. FISCAL DUTIES

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

22 Sec. 29.33.200. *see 10 have to call list BOB* (Sec. 29.48.260.) MUNICIPAL PROPERTIES. (a) A
23 municipality may acquire and hold real and personal property or interest in
24 property, and may sell, lease or otherwise dispose of property no longer
25 required for municipal purposes.

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

LA-Lad 20 advantageous to the municipality to do so.

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

(d) The assembly or council ~~may~~ ^{shall} by ordinance establish a formal procedure for acquisition ~~from the state of land or rights in land and the disposal of the land or rights in land. in which event the provisions of (c) of this section do not apply.~~ ^{interests} *see Tam's notes re: competitive ordinance selling prop*

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

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

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

Sec. 29.33.210. (Sec. 29.48.190.) BUDGET AND CAPITAL PROGRAM. (a) The assembly or council shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve ~~the~~ *the* budgets with or without amendments and shall appropriate the funds required for the approved budgets.

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

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

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

Sec. 29.33.220. (~~Sec. 29.48.210.~~) EXPENDITURE OF BOROUGH REVENUES.

Received through taxes
Borough revenues ~~levied and~~ collected on an areawide basis by a home rule or
general law borough may be expended on general administrative costs and on
areawide functions only. *Borough* Revenues ~~levied and~~ collected in the area outside
cities only may be expended on general administrative costs and functions
which render service to the area outside cities only. *This section does not apply to unified municipalities.*

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

Article 4. CONSTRUCTION OF POWERS

~~(Chapter 43. Article 5. CONSTRUCTION OF POWERS)~~

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

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

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

Fm Waller

Sec. 29.33.200 MUNICIPAL PROPERTIES. (a) A municipality may acquire and hold real or personal property or interest in real or personal property. A municipality may sell lease or otherwise dispose of property no longer required for municipal purposes or to achieve a public purpose.

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

(c) When in the judgment of the assembly or council it is advantageous to the municipality, a municipality may by ordinance:

- 1) sell, lease, donate or exchange with the United States, the state, a Native village government or political subdivisions thereof real estate or other property or interests in such property;
- 2) establish a formal procedure for acquisition of real property or interests in real property from the state, or a village corporation formed pursuant to the Alaska Native Claims Settlement Act (43 USC 1601 et. seq.); or
- 3) sell, lease or dispose of real property or interests in real property to persons who agree to operate a beneficial new industry upon the terms and conditions the assembly or council considers advantageous to the municipality.

The provisions of this section shall not apply to acquisitions and disposals of real property or interests in real property made pursuant to this subsection.

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

(e) For the purposes of this section, a Native village government is a government organized under the Indian Reorganization Act (49 Stat. 1250 as amended) or a traditional Native government for a community eligible for benefits under the Alaska Native Claims Settlement Act. (43 USC 1601 et. seq.).

COMMENTS

This redraft of 29.48.260 solves several problems which occur under current law.

- 1) The new section is reorganized to state a general principle governing disposals (subsection b) and gathers together all the exceptions (subsection c). Under this version, the ambiguity which arose in the Libby case is eliminated and it becomes clear that the rule regarding disposals does not apply to any exception.
- 2) Adds disposals for public purposes to current authorization for surplus disposals.
- 3) Clarifies that posting notice is acceptable only when no newspapers of general circulation exists.
- 4) Clarifies that disposals accepted from the general rule must also be made pursuant to an ordinance.
- 5) Clarifies that disposals of land to a Native government is authorized in light of controversy as to whether a Native Government is a federal instrumentality.
- 6) Provides for exception for management of 14(c)(3) lands similar to municipal land grants. Currently existing and future cities for ANCSA communities will not receive municipal land grants. Instead they will receive 14(c)(3) reconveyances. There is no logical reason to distinguish the two types of municipal land grants.
- 7) Overrules Libby case.

OFFICE OF THE MUNICIPAL ATTORNEY

KETCHIKAN GATEWAY BOROUGH

AND

CITY OF KETCHIKAN

334 FRONT STREET

P. O. BOX 7300

KETCHIKAN, ALASKA 99901

(907) 225-3111 EX. 327

November 4, 1980

State of Alaska
Legislative Affairs Agency
Pouch Y, State Capitol
Juneau, Alaska 99811

Attn: Tamara Cook

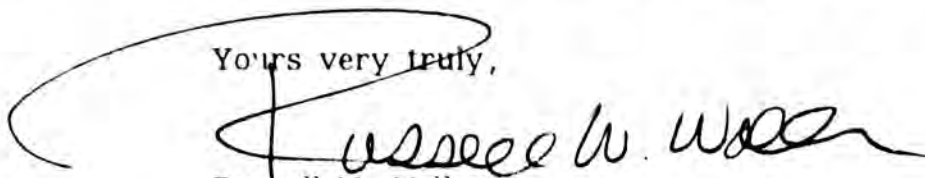
Re: Title 29 Review - Inclusion of Harbors and
Marinas under Extraterritorial Jurisdiction

Dear Tamara:

Please find enclosed a proposed amendment to existing Section 29.48.037 [Extraterritorial Jurisdiction] (new 29.33.020) to clarify the authority of municipalities to provide harbors and marinas outside their boundaries.

As we have mentioned, the City of Ketchikan has for many years leased from the State of Alaska, and operates and regulates, several small but important boat harbors and marinas outside the boundaries of the City.

Yours very truly,



Russell W. Walker
Municipal Attorney

RWW:sf

Enclosure

cc: City Manager
Ted Berns, Esq.
Lee Sharp, Esq.
Allen Tesche, Esq.
Jim Nordale, Esq.
Ginny Chitwood

Notes
OK

Sec. 29.33.020. Extraterritorial jurisdiction.

(a) A municipality may provide parks, roads, trails, playgrounds, cemeteries, harbors, marinas, and airports outside its boundaries, subject to AS 29.33.010, and may regulate their use and operation. A regulation adopted under this section must state that it applies outside the municipality.

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

Formerly: As 29.48.037

Comments: Expands existing law to include harbors and marinas as facilities a municipality may acquire, operate and regulate outside its boundaries.

CHAPTER 33. POWERS AND DUTIES APPLICABLE TO

HOME RULE AND GENERAL LAW MUNICIPALITIES

(CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES)

Article 1. GENERAL POWERS

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

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

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

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

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

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

(6) to sue and be sued;

(7) to levy taxes and special assessments, *as a city or town*

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

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

(13) issue franchises and permits for the use of municipal property;
~~(14) regulate utilities owned by the municipality.~~
 (all other paragraphs to be deleted material)
 (15) delete material
 (16) delete material
 (17) delete material
 (18) delete material
 (19) delete material
 (20) delete material
 (21) delete material
 (22) delete material
 (23) delete material
 (24) delete material
 (25) delete material
 (26) delete material
 (27) delete material
 (28) delete material
 (29) delete material
 (30) delete material
 (31) delete material
 (32) delete material
 (33) delete material
 (34) delete material
 (35) delete material
 (36) delete material
 (37) delete material
 (38) delete material
 (39) delete material
 (40) delete material
 (41) delete material
 (42) delete material
 (43) delete material
 (44) delete material
 (45) delete material
 (46) delete material
 (47) delete material
 (48) delete material
 (49) delete material
 (50) delete material
 (51) delete material
 (52) delete material
 (53) delete material
 (54) delete material
 (55) delete material
 (56) delete material
 (57) delete material
 (58) delete material
 (59) delete material
 (60) delete material
 (61) delete material
 (62) delete material
 (63) delete material
 (64) delete material
 (65) delete material
 (66) delete material
 (67) delete material
 (68) delete material
 (69) delete material
 (70) delete material
 (71) delete material
 (72) delete material
 (73) delete material
 (74) delete material
 (75) delete material
 (76) delete material
 (77) delete material
 (78) delete material
 (79) delete material
 (80) delete material
 (81) delete material
 (82) delete material
 (83) delete material
 (84) delete material
 (85) delete material
 (86) delete material
 (87) delete material
 (88) delete material
 (89) delete material
 (90) delete material
 (91) delete material
 (92) delete material
 (93) delete material
 (94) delete material
 (95) delete material
 (96) delete material
 (97) delete material
 (98) delete material
 (99) delete material
 (100) delete material

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

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

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

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

Sec. 29.33.020. (Sec. 29.48.037.) EXTRATERRITORIAL JURISIDITION. (a)
 A municipality may provide parks, roads (including ice roads), trails, playgrounds, emergency medical services, cemeteries and airports outside its boundaries, subject to AS 29.36.010 (AS 29.33.010), and may regulate their use and operation. A regulation adopted under this section must state that it applies outside the municipality.

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

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

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

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

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

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

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

20 Article 2. FACILITIES, SERVICES AND REGULATION

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

22 (a) A municipality may exercise the powers necessary to provide the following
23 public facilities and services:

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

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

(b) ~~First~~ ^{(24) only with the power of the borough} and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090-130 (AS 29.33.250-29.33.270) for areawide exercise or in the manner required under AS 29.36.160-29.36.200 (AS 29.38.010-29.38.030) for exercise in the borough area outside cities or are conferred by (Sec.20) of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)(5), (17) and (20),

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

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

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

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

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

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

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

Sec. 29.33.090. (Sec. 29.48.035.) REGULATORY POWERS. (a) ^{no change} ~~municipality~~ may regulate the operation and use of its public rights-of-way, public facilities and services. It may also regulate the following:

(1) ^{no change} ~~vehicle~~, pedestrian, and other traffic, and licensing and operation of motor vehicles, including snow vehicles and off-highway vehicles, and operators not inconsistent with AS 28.01.010;

(2) ^{no change} ~~licensing~~ of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers or baggage not inconsistent with AS 28.01.010;

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

(4) ~~transportation fares~~;

³
(5) ~~licensing~~, impounding and disposition of animals;

(6) ~~selling~~ of goods;

(7) ~~selling~~ of food;

(8) ~~abandoned property~~;

(9) ~~dangerous and disorderly conduct~~;

⁴
(10) ~~alcoholic beverages~~ as provided by AS 04.15.070;

⁵
(11) ~~recreational devices~~ as provided by AS 05.20.100;

(12) control of insects and rodents;

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

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

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

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

~~(15)~~ ⁶ condemnation and abatement of public nuisances and
hazards;

~~(16)~~ ⁷ garbage and solid-waste collection and disposal;

~~(17)~~ ⁸ water pollution control;

~~(18)~~ ⁹ air pollution control as provided in AS

46.03.140-46.03.240;

~~(19)~~ ¹⁰ other powers and functions affecting the general health,
safety, well-being and welfare of its inhabitants;

~~(20)~~ ¹¹ licensing of day care facilities.

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

or are conferred by (Sec. 20) of this chapter for exercise in the borough area outside cities. However, as to powers conferred under (a)³(~~18~~), (~~19~~)⁶, (~~20~~)⁷ and (~~21~~)⁹ of this section, exercise of the powers areawide or, as to (a)¹(~~18~~), (~~19~~)⁶ and (~~20~~)⁹, in the borough area outside cities is at the option of the borough and is not subject to those restrictions on acquisition of additional borough powers. Upon adoption of a borough ordinance to provide for areawide exercise of the powers specified, no home rule or general law city within the borough may exercise the powers, unless the borough ordinance provides otherwise or the borough by subsequent ordinance ceases to exercise the power.

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

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

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

Explanation: The right to use the streets and other public places is not a franchise. It is not his own street to use or public place. It is not felt that it is necessary to include this power.

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

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

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

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

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

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

Explanation of amendments to AS 29.33.010 as
is ~~in~~ attached. Report

Sec. 29.33.150. (Sec. 29.48.090.) FURTHER PROCEEDINGS. *Report* (A hearing

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

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

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

Article 3. FISCAL DUTIES

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

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

(b) Notwithstanding the provisions of (c) of this section, a municipality may sell, lease, donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, when in the judgment of the assembly or council it is

Repeal.

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

(d) The assembly or council ~~may~~ by ordinance establish a formal procedure for acquisition ~~from the state~~ of land ~~or rights in land~~, and the disposal of the land or rights in land, in which event the provisions of (c) of this section do not apply.

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

Explanation: Since state laws, both federal and state, which provide for the disposal of public lands are not uniform, it is felt that this section is not uniform for use and disposal of public lands. It is recommended that a further study be made of the requirements for use and disposal of public lands.

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

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

Sec. 29.33.210. (Sec. 29.48.190.) BUDGET AND CAPITAL PROGRAM. (a) ¹ ~~The assembly or council~~ shall establish the manner for the preparation and submission of the budgets and capital programs by the executive. After public hearing, the assembly or council may approve the budgets with or without amendments and shall appropriate the funds required for the approved budgets.

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

(c) ^{Repeal} ~~The~~ assembly or council may make supplemental and emergency appropriations. No payment may be authorized or made and no obligation incurred except in accordance with appropriations.

(d) ^{Repeal} ~~Nothing~~ in this section is intended to prevent the authorizing of payment or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds.

Explanations: The word "areawide" is added to the list of functions to include areawide/nonareawide functions.

Sec. 29.33.220. (~~Sec. 29.48.210.~~) EXPENDITURE OF BOROUGH REVENUES.

Borough revenues levied and collected on an areawide basis by a home rule or general law borough may be expended on general administrative costs and on areawide functions only. Revenues levied and collected in the area outside cities only may be expended on general administrative costs and functions which render service to the area outside cities only.

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

Article 4. CONSTRUCTION OF POWERS

(Chapter 48. Article 5. CONSTRUCTION OF POWERS)

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

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

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

#23:34

wwwomm

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

*See
Berns
drafts*

CHAPTER 36. AREAWIDE BOROUGH POWERS AND DUTIES.

ARTICLE 1. SCOPE
Consolidated to Berns chap 33

Sec. 29.36.010. SCOPE OF AREAWIDE POWERS. (a) First and second class

boroughs shall exercise the powers as specified and in the manner specified in this chapter on an areawide basis, both inside and outside cities within their boundaries.

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

ARTICLE 2. MANDATORY AREAWIDE POWERS AND DUTIES.

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

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

****Sec. 29.36.060. PLANNING, PLATTING, AND ZONING.

ARTICLE 3. ACQUISITION OF ADDITIONAL AREAWIDE POWERS.

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

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

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

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

23 ARTICLE 4. BOROUGH POWERS AND DUTIES IN THE AREA

24 OUTSIDE CITIES.

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

1 Sec. 29.36.170. SECOND CLASS BOROUGH. (a) The second class borough
2 may exercise in the area outside cities municipal powers approved at incorpora-
3 tion, conferred by AS 29.36.170 or added as provided in this chapter.

4 Before exercising a power outside cities only, the borough shall seek to
5 have the identical power transferred from cities within the borough or
6 propose joint borough-city exercise of the power.

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

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

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

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

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

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

17 (6) provide for water pollution control;

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

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

17 ARTICLE 5. POWERS OF THIRD CLASS BOROUGHES.

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

7 (c) A third class borough may borrow money and issue negotiable
8 general obligation, revenue or refunding bonds and other evidences of indebt-
9 edness as provided for first and second class boroughs in AS 29.51.200 -
10 29.51.510

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

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

22 ARTICLE 6. SERVICE AREAS.

23 Sec. 29.36.270. SERVICE AREAS. ****(a) Service areas to provide
24 special services within a borough may be established, operated, altered or
25 abolished by the assembly by ordinance. Special services include services
26 not provided on an areawide basis within the borough or the borough area
27 outside cities or a higher or different level of service than that provided
28 on an areawide basis or in the borough area outside cities. In a first
29 class borough the assembly may exercise within a service area any power
granted a first class city by general law. Except as provided in (f) of

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

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

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

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

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

*Proofed 12-31*CHAPTER 36. AREAWIDE BOROUGH POWERS AND DUTIES.u.c.
Article 1. SCOPE.

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

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

u.c.
Article 2. MANDATORY AREAWIDE POWERS AND DUTIES.

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

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

****Sec. 29.36.060. ~~(New Section)~~ PLANNING, PLATTING, AND ZONING.

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

U.C.
Article 3. ACQUISITION OF ADDITIONAL AREAWIDE POWERS.

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

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

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

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

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

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

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

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

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

(c) The borough mayor shall certify the election results to the Department of Community and Regional Affairs. The vote on the question of

WORK DRAFT COPY

WORK DRAFT COPY

WORK DRAFT COPY

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

24 ^{U.C.}
Article 4. BOROUGH POWERS AND DUTIES IN THE AREA
 25 OUTSIDE CITIES •

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