

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

778 SCOM123: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

#23:37

SCOMM

Section

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→ use
Sec. 29.42.010. Planning, platting, and land use regulation. (a) First and second class boroughs shall provide for planning, platting, and land use regulation on an areawide basis.

(b) the assembly by ordinance may delegate any of its powers and responsibilities under ^{under this chapter} ~~(a) of this section~~ to the council of a city of ~~any class~~ within the borough, ^{or a subordinate city} board or commission, ~~of a city~~ provided the city first consents by ordinance to ^{the} ~~that~~ delegation. The ~~Assembly~~ ^{Assembly} ~~with or without the consent of the council~~ may ^{at any time} ~~at any time~~ revoke any or ~~all~~ powers or responsibilities ~~delegated to a city council, or to~~ ^{only board or commission} ~~subordinate body~~ under this section, ^{without first obtaining the} ~~consent of the city,~~

EXPLANATION

use → This section is substantially similar to AS 29.33.070. A reference in subsection (a) to "zoning" has been changed to the more flexible term "land use regulation". Subsection (b) is a redrafted version of AS 29.33.070(b). The proposed language clarifies the issue of whether a city's consent is required before delegated powers are revoked by the ^a ~~Assembly~~.

(Alternate Section suggested by Joanne Shanley)

MINORITY RECOMMENDATION

use
(a)
next
page

CRP-26

Sec. 29.42.010. Planning, platting and land use regulation. (a) First and second class boroughs shall provide for planning, platting and land use regulation on an areawide basis.

(b) the assembly by ordinance may delegate any of its powers and responsibilities under ~~(a)~~ *DO NOT TYPE* of this section to the council of a city of any class within the borough or a subordinate board or commission of a city, provided the city first consents by ordinance to that delegation. The assembly, with or without the consent of the council may at any time revoke any or all powers or responsibilities delegated to a city council or subordinate body under this section.

Add as minority recommendation
(c) Notwithstanding the provisions of (b) of this section the functions of planning, platting, and land use regulation within a first class or home rule city located more than 25 miles from the boundary of the Borough seat may be assumed and exercised exclusively by that city upon ratification by the qualified voters residing in the city of an ordinance of the city council proposing exercise of those powers by the city.

EXPLANATION: Would allow a first class or home rule city located at a distance from the borough seat to take over planning without the consent of the borough.

New Page
use existing (a)
Sec. 29.42.020. (b) Planning commission. (a) By ordinance the assembly shall establish a planning commission consisting of not less than five ~~persons~~ *residents* appointed and confirmed as provided by law. *DO NOT TYPE* The assembly by ordinance shall also prescribe the qualifications, terms, and compensation of planning commissioners.

(b) In addition to ~~these~~ responsibilities prescribed by ~~law~~ *ordinance*, the planning commission shall

(in accordance with AS. 29.42.030)
(1) ~~prepare~~ *prepare* and recommend to the assembly a comprehensive plan ¹ for the systematic and organized development of the borough; ~~as defined in .030 of this chapter.~~

(2) ~~Prepare, recommend, and as required by law to administer these~~
measures necessary to implement the comprehensive plan, ~~including those~~
~~measures provided under 040 of this Chapter.~~ AS. 29.42.040.

EXPLANATION

This section is a shortened and revised version of AS 29.33.080. ^{Am} Major changes include: ~~elimination of apportionment requirements based on residency of specified members within first class cities; elimination of specific language regarding appointments, terms, and compensation of planning commissioners and substitution of more general language requiring the Assembly to prescribe by ordinance the qualifications, terms and compensation of commissioners; elimination of detailed and unnecessary specifications of the commission's duties in favor of a general statement requiring the commission to prepare and recommend measures necessary to implement the comprehensive plan; and elimination of public meetings and public records requirements as redundant.~~ ~~is eliminated since these requirements would attach in any case.~~ The requirement for a public hearing is eliminated because it is felt that the public is adequately protected. ~~A plan must be adopted by ordinance and is therefore subject to notice and hearing provisions.~~

New Page

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

(b) ^{by ordinance} The assembly shall adopt, ~~or may modify~~ the a comprehensive plan. ~~With the recommendations of the planning commission.~~ The assembly shall, ^{after receiving} ~~with the advice and recommendations of the planning commission,~~ ^{periodically} undertake an overall review of the plan and update the plan as necessary, ~~to ensure the continued validity and effectiveness of the plan.~~

EXPLANATION

This section is derived from AS 29.33.085. ~~Subsection (a) is identical to AS 29.33.085(a).~~ Subsection (b) is redrafted to eliminate the mandatory two year review requirement of AS 29.33.085(b) and contains a more flexible review requirement premised on a determination that the continued validity and effectiveness of the plan requires review.

INSERT

29.42.040

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

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

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

(3) ^{the variance} it is sought solely to relieve pecuniary hardship or inconvenience.

New page

Sec. 29.42.040. Land use regulation. In accordance with a comprehensive plan adopted under ~~Section 030~~ ^{AS 29.42.050} of this chapter and in order to implement ^{the} that plan, the assembly by ordinance ~~and~~ as a legislative act, ^{shall} ~~may~~ enact or amend ^{provisions} ~~regulatory measures~~ governing the use and occupancy of land, ^{which may} ~~including~~ but ^{one} not limited to

(1) ~~Zoning~~ regulations ~~which~~ ^{int} restrict ^{or govern} use of land and improvements by geographic districts;

(2) ~~Construction~~, fire and ~~life~~ safety codes governing placement, erection and occupancy of structures;

(3) ~~Land use permit~~ ^{requirements} ~~systems~~ designed to encourage ^{or discourage} specified uses and structures and to ~~discourage~~ ^{the construction of} others, or to minimize unfavorable ^{effects} ~~externalities~~ of certain uses and structures,

(4) ~~Other regulatory~~ measures ^{intended} reasonably necessary to further the goals and objectives of the comprehensive plan.

(5) ~~Measures defining and regulating public nuisances.~~ ^{powers section}

insert
(b)

b (3) (b) ~~in AS 29.42.050~~ ^{material on appeals from decisions, not just zoning}
EXPLANATION

The proposed Section 29.42.040 represents a substantial modification of AS 29.33.090. Present law requires implementation of the comprehensive plan through traditional zoning applicable to geographically defined districts, and allows so called "contract zoning." Although the present AS 29.33.090(b) contains a rather traditional enumeration of the purposes of zoning, the "including but not limited to" preface to that subsection renders the detailed laundry list legally meaningless. The suggested language of AS 29.42.040 preserves the requirement that all land use regulations comply with a comprehensive plan and recites the more important categories of land use regulations available to the borough. Passage of AS 29.42.040 would clearly enable second class boroughs to enact building and fire codes, ~~and to regulate public nuisances.~~ ^{Material on appeals from decisions}

New page

Sec. 29.42.050. Appeals from administrative decisions. (a) By ordinance the assembly shall provide for ^{an} appeal ^{from} ^{an} administrative decision of borough employees, ^{or} board, ^{or} commission made in the enforcement, administration, or application of land use regulations adopted ^{The assembly may provide for appeals} by the borough under this chapter, to a board of adjustment, hearing

one
variance
has been
moved
to the
section
from
AS 29.33.090

The Assembly shall provide for an appeal from a request for a
officer, or other ~~independent quasi-judicial~~ body established by the ~~Assembly~~ *Assembly*
~~Assembly~~ *From the terms of a land use regulation when literal enforcement*
~~Assembly~~ *would deprive a property owner of rights commonly enjoyed by*
other property in the district.

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

EXPLANATION

This section consolidates provisions of existing Section 29.33.110 and Section 29.33.120. The specific enumeration of the kinds of decisions from which appeals may be taken is eliminated; in its place is a more general requirement allowing appeals from administrative decisions of borough employees or boards made in enforcing or administering land use regulations. New language allows appointment of hearing officers, eliminates redundant public records and meeting requirements, and allows the Assembly to define proper parties, evidentiary rules, and standards of review rather than following more restrictive rules of the present AS 29.33.120.

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Sec. 29.42.060. Judicial review. (a) The assembly shall provide by ordinance for ^{an} appeal ^{from} ^a decision of the board of adjustment, hearing officer or other ~~quasi-judicial~~ ^{body} board or ~~others~~ named under Sec. 050 of this chapter to the Superior Court by a municipal officer or person, ~~jointly~~ or ~~severally~~ aggrieved.

(b) ^{An} appeal to the Superior Court under this section ~~are~~ ^{is an} administrative appeal and shall be governed by Rules of Court applicable to appeals from decisions of administrative agencies, ~~provided that~~ *and the*

~~The~~ ^{is} appeal ^{solely} are heard on the record established by the administrative agency, and the court may affirm, reverse, wholly or partly, the decision appealed from. Issues in proceedings under this section have preference over all other civil actions and proceedings.

INSERT

Sec 29.42.060. ADJUSTMENT PROCEDURE. Repeal.

EXPLANATION. A ^{simplified} appeal procedure is now provided in the prior section.

EXPLANATION

Based on AS 29.33.130, the proposed section makes several important changes in procedures governing administrative appeals to Superior Court. The "automatic stay" requirement of AS 29.33.130(c) is eliminated, allowing parties to follow more customary appellate rules governing injunctions pending appeal; the language ~~plainty~~ makes land use appeals administrative appeals under the Appellate Rules, and eliminates procedural requirements already governed by the Rules of Court.

Next page

Sec. 29.42.070⁹⁰ Platting jurisdiction and power. (a) ~~First and second class boroughs shall exercise the power to regulate platting and the subdivision of land on an areawide basis.~~ By ordinance the assembly shall ~~enact~~ ^{adopt} subdivision ~~regulations~~ ^{requirements} which may include, but are not limited to, the control of

- (1) ~~governing~~ the form, size and other aspects of subdivision, dedications, and vacations of land;
- (2) ~~regulating~~ dimensions and design ~~features~~ of lots or tracts;
- (3) ~~establishing~~ ^{street} width, arrangement, and right-of-way, including ~~allowance~~ ^{requirements} for public access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage and other public utility facilities and improvements;
- (4) ~~requiring~~ dedication of streets, rights of way, public utility easements and other areas deemed by the platting authority necessary for ~~future~~ ^{other} public use.

(b) The assembly by ordinance shall establish a platting board to administer subdivision regulations adopted by the borough and perform other duties, ~~prescribed by law.~~ The platting board may, ~~in whole or in part,~~ consist of members of the planning commission or of other municipal bodies, boards and commissions.

EXPLANATION

This section is derived from AS 29.33.150 and, ~~aside from stylistic changes,~~ makes the following modifications to existing law: requires adoption of subdivision regulations by ordinance; ~~clearly~~ allows the platting authority to require dedications; allows the Assembly to determine the composition of the platting board; and eliminates the provisions of ~~AS 29.33.150(b)~~ ^{AS 29.33.150(b)} ~~SLA 1979~~ which allow the State of Alaska to ignore capital improvement requirements of local subdivision regulations.

Sec. 29.42.080. Application to state and political subdivisions. All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to ^{+ this chapter AS 40.15.200.} ~~the provisions of this chapter or home rule ordinances or regulations governing subdivisions, and shall comply with ordinances and other local regulations adopted under this chapter or under home rule authority, in the same manner and to the same extent as subdivisions made by private landowners. The platting authority~~ ^{is to govern, override provision} in the area outside cities in the unrecognized borough and in third class boroughs is subject to ^{(this chapter and AS 40.15.075.} ~~AS 40.15.075.~~

EXPLANATION

^{new} This section contains the language of AS 40.15.200 and adds the word "private" preceding the word "landowners" in the last line. It is believed that the provisions of AS 40.15.200 are more appropriately placed here rather than in AS 40.15.

^{cross references to other statutes applicable}
to subdivisions and platting.

Sec. 29.42.090. Waiver in certain cases. (a) The platting authority shall, in individual cases, waive the preparation, submission for approval, and recording of a plat upon satisfactory evidence that:

- (1) each tract or parcel of land will have adequate legal and physical access by the public to a public highway or street;
- (2) each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;
- (3) the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;

Type

Sec. 29.42.100. WAIVER IN CERTAIN CASES. ^{Repeal}

Explanation: A short plat provision is added as AS 29.42.115, making the waiver provision no longer necessary.

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

(b) In other cases the platting authority ^{in a manner} may waive the preparation, submission for approval, and recording of a plat, if the transaction involved does not fall within the general intent of this chapter and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected subdivision development which constitutes an isolated transaction and no dedication of a street, alley, thoroughfare, park or other public area is involved or required.

EXPLANATION

This section contains one modification to its predecessor, AS 29.33.170. A reference to "adequate legal and physical access" is added to subsection (a)(1) which will guarantee public access to tracts or parcels created by waiver.

^{H5}
Sec. 29.42.095. Short plat procedure. (a) Notwithstanding ^{other} the ~~provisions~~ ^{requirements} of this chapter governing the submission, consideration, or approval of vacations, subdivisions, or resubdivisions, by ordinance the assembly may ^{by ordinance} establish a short or abbreviated plat procedure for plats which will only relocate or vacate lot lines, ^{or} subdivide a single tract, ~~parcel~~ or lot into not more than four tracts or lots ^{which} and will not:

(1) deny legal and physical ^{public} access to ~~and from~~ all lots or tracts created ~~by~~ or adjacent to ^{the} subdivision, or require construction or improvements necessary for access;

(2) alter a dedicated street or right-of-way, or require any ^{other than a dedication needed for an existing} dedication ~~except to match a half right-of-way~~;

(3) allow a change in the permitted use to which the lot or tract may be devoted ~~under existing law~~;

(4) require the granting of a vacation or ^avariance from the sub-
division regulations ^aenacted by the Borough.

(b) ~~Consistent with this section, Regulations governing the short plat~~
^{provide for}
procedure may ~~allow~~ an administrative official to review, consider, and
^{short}
approve ~~abbreviated~~ plats with such notice, hearing, and other procedural
requirements established by the Assembly.

EXPLANATION

New section allowing short plat procedure under such expedited
procedures ~~as the Assembly may adopt.~~ *adopted by the Assembly*
so that small subdivisions can be accomplished
without unduly complex procedural requirements.

Sec. 29.42.100 Procedure. (a) The platting board shall within 60
days of filing approve or disapprove the plat or shall return it to the
applicant for modification or correction. If the board fails to act, the
plat is considered approved and a certificate of approval shall be issued
by the board on demand. The applicant for plat approval may consent to the
extension of the period for action by the board. The board shall state on
its record and in writing to the applicant its reason for disapproval of a
plat.

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

EXPLANATION

Subsections (a) and (b) are identical to AS 29.33.160(a) and (b). The
proposed section eliminates AS 29.33.160(c) relating to submission of
preliminary plats for state disposals under AS 38.05 or 38.08, because the
proposed changes in Sections 29.42.070 require full state compliance with
local capital improvement requirements.

Sec. 29.42.110. Information required. A plat shall show initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of enclosure and all distances, angles and calculations required to determine initial point, corners and distances of the plat, as well as other information which may be required by ordinance.

Type → Sec. 29.42.120. PENALTIES. Repeal
EXPLANATION *provision now contained in this section have been moved to a more inclusive section dealing with remedies, AS*
Identical to AS 29.33. 0.

¹³⁰ OR
Sec. 29.42.120. Alteration or replat petition. No recorded plat may be altered or replatted except upon petition ^{(of the state, or the municipality, or a public utility, or} of the owners of a majority of the land ^{in the subdivision} affected by the application ^{or alteration of} replat, ^{or} by the platting board. ^{leave in} No platted street may be vacated, except upon petition of the ^{state, the municipality, a public utility,} municipality or owners of the majority of the front feet of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

EXPLANATION

Similar
Identical to AS 29.33.200. *except for change allowing the state, the municipality or a public utility to initiate a replat petition, as well as property owners. Petitions to vacate streets may be initiated by the state or a public utility, as well as the municipality or property owners.*
Sec. 29.42.140. Notice of hearing. The platting board shall fix a time for a hearing on the petition which shall not be more than 60 days after the filing. The board shall publish a notice stating when and by whom the petition was filed, *its purpose,* and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area. The board shall also mail a

copy of the notice to each affected property owner not signing the petition.

EXPLANATION

Identical to AS 29.33.210.

Sec. 29.42.⁵⁰~~140~~. Hearing and determination. ~~At the hearing~~ The platting board shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street may be made without the consent of the city council. No vacation of a street in the borough area outside cities may be made without the consent of the borough assembly. The assembly or council shall have 30 days from the decision in which to veto the board decision. If no veto is received by the board within the 30-day period, the consent of the city or borough shall be considered to have been given to the vacation.

EXPLANATION

Identical to AS 29.33.220.

Sec. 29.42.¹⁶⁰~~150~~. Recording. If the alteration or replat is approved, the revised plat must be recorded by the ^{borough} platting board and is thereafter the lawful plat.

EXPLANATION

~~Identical to AS 29.33.240.~~

Sec. 29.42.160. Title to vacated area. (a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering

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

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

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate those streets, alleys, crossings, sidewalks or other public ways that may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for

another public purpose does not vest as provided in (a) of this section but remains in the city.

EXPLANATION

Identical to AS 29.33.240.

TYPE

~~AS 29.42.150. DELEGATIONS. Repeal~~
~~AS 29.42.150. DELEGATIONS. Repeal~~
~~Ex: Since the assembly is able to establish powers and duties of the planning commission and platting board, this section is redundant.~~
Sec. 29.42.150. Remedies. (a) It shall be unlawful for the owner or agent of the owner of land located within a subdivision to transfer, sell, offer to sell, or to enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded in accordance with ^{this chapter and ordinances adopted} applicable municipal subdivision regulations enacted under this chapter. It shall be unlawful for ^a any person to file or record ^{a document} a subdivision plat or other instrument depicting subdivided land in any public recorder's office unless ^{the} that plat or document ^{has been approved by} bears the approval of the municipal platting authority. Every ^{act prohibited by this chapter or the maintenance of any condition prohibited by municipal subdivision regulations adopted in accordance with this chapter is unlawful and the willful commission of such act or maintenance of such condition is a misdemeanor.} Every person convicted of ^{violating} a ^a violation of ^a any provision of ^{chapter} this title or ^a any municipal subdivision regulation adopted under this ^{chapter} title or ^a the terms, conditions, or limitations imposed by a municipal platting authority in the exercise of its powers under this ^{chapter} title is guilty of a misdemeanor and may be punished by a fine not to exceed \$500.

(b) If ^{any platting provisions} there is a violation of the terms of this chapter, municipal subdivision regulations adopted under this chapter, or any terms, conditions, or limitations imposed by a platting authority in the exercise of its powers under this chapter, ^{a municipality} the borough or ^{an} any aggrieved citizen may institute ^a or cause to be instituted any appropriate civil action ^{against} against a person who violates a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority.

~~prevent, abate, enjoin, estop, remove or punish such violation and to obtain monetary damages suffered by that party.~~ In addition to injunctive and compensatory relief each violation shall be subject to a civil penalty not to exceed \$1,000. An action to enjoin ~~any~~ violation ~~to this title~~ may be brought notwithstanding the availability of any other remedy. ~~Upon application for injunctive relief and a finding of an existing or threatened violation, the Superior Court shall grant injunctive relief to restrain that violation.~~

(c) Every day upon which an unlawful act or condition ^{continue} ~~shall~~ occur shall constitute a separate violation.

(d) The ^{enough} ~~planning~~ authority may enjoin any partition, lease, transfer, or sale of land which would result in an unlawful subdivision. Following an unlawful ~~partition~~, transfer, lease or sale, the platting authority may enjoin any further transfer, sale of all unlawfully subdivided parcels until such time as the parcels are dully subdivided or returned to common ownership.

EXPLANATION

^{new} This section is derived in part from AS 29.33.190 and contains certain new provisions which strengthen remedies available to municipalities seeking to enforce subdivision regulations. ~~The new section~~ prohibits persons from offering to sell unsubdivided land in violation of local subdivision regulations; authorizes injunctive relief to restrain violations of subdivision regulations, allows imposition of civil penalties, and makes daily occurrences of unlawful acts separate violations.

Sec. 29.42.010. PLANNING, PLATTING, AND LAND USE REGULATION.

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

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

Tam - one numbering & references are missing applies to pages?
use new numbers
EXPLANATION: This section is substantially similar to AS ~~29.33.070~~ ^{existing}. A reference in subsection (a) to "zoning" has been changed to the more flexible term "land use regulation". Subsection (b) is a redrafted version of ~~AS 29.33.070(b)~~ ^{consent language}. The proposed language clarifies the issue of whether a city's consent is required before delegated powers are revoked by the assembly.

MINORITY RECOMMENDATION:

(c) Notwithstanding the provisions of (b) of this section the functions of planning, platting, and land use regulation within a first class or home rule city located more than 25 miles from the boundary of the borough seat may be assumed and exercised exclusively by that city upon ratification by the qualified voters residing in the city of an ordinance of the city council proposing exercise of those powers by the city.

?
No change

EXPLANATION: Would allow a first class or home rule city located a distance from the borough seat to take over planning without the consent of the borough.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.020. PLANNING COMMISSION. (b) In addition to responsibilities prescribed by ordinance, the planning commission shall

(1) prepare and recommend to the assembly a comprehensive plan in accordance with AS 29.42.030 for the systematic and organized development of the borough;

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

29.42.020 EXPLANATION: This section is a shortened version of ~~29.33.000~~ ^{*the existing*} ~~18~~. A major change is the elimination of detailed and unnecessary specifications of the commission's duties in favor of a general statement requiring the commission to prepare and recommend measures necessary to implement the comprehensive plan. The public meetings and public records requirement is eliminated since these requirements would attach in any case. The requirement for a public hearing is eliminated because it is felt that the public is adequately protected. A plan must be adopted by ordinance and is therefore subject to notice and hearing provisions.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

(a) *No change.*
Sec. 29.42.030 COMPREHENSIVE PLAN. (b) With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan. The assembly shall, after receiving the recommendations of the planning commission, periodically undertake an overall review of the plan and update the plan as necessary.

~~Handwritten signature~~
EXPLANATION: ~~This section is derived from AS 29.35.005.~~
Subsection (b) is redrafted to eliminate the mandatory two year review requirement and substitute a more flexible review requirement.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.040. LAND USE REGULATION. (a) In accordance with a comprehensive plan adopted under AS 29.42.030 and in order to implement the plan, the assembly by ordinance as a legislative act, shall ~~enact~~ or amend provisions governing the use and occupancy of land which may include but are not limited to

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

(2) construction, fire and safety codes governing placement, erection and occupancy of structures;

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

(4) measures to further the goals and objectives of the comprehensive plan.

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

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

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

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

EXPLANATION: Present law requires implementation of the comprehensive plan through traditional zoning applicable to geographically defined districts, and allows so-called "contract zoning." Although the present AS 29.33.090(b) contains a rather traditional enumeration of the purposes of zoning, the "including but not limited to" preface to that subsection renders the detailed laundry list legally meaningless. The suggested language of AS 29.42.040 preserves the requirement that all land use regulations comply with a comprehensive plan and recites the more important categories of land use regulations available to the borough. Passage of AS 29.42.040 would enable second class boroughs to enact building and fire codes. Material on variances has been moved to the section from AS 29.33.110.

29.42.050

Sec. 29.42.050. APPEALS FROM ADMINISTRATIVE DECISIONS. (a)

By ordinance the assembly shall provide for an appeal from an administrative decision of a borough employee, board, or commission made in the enforcement, administration, or application of a land use regulation adopted under this chapter. The assembly may provide for ^{an} appeals to a court, board of adjustment, hearing officer, or other body. The assembly shall provide for an appeal from a decision on a request for a variance from the terms of a land use regulation when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the district.

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

EXPLANATION: This section consolidates provisions of existing Sec. 29.33.110 and Sec. 29.33.120. The specific enumeration of the kinds of decisions from which appeals may be taken is eliminated; in its place is a more general requirement allowing appeals from administrative decisions of borough employees or boards made in enforcing or administering land use regulations. New language allows appointment of hearing officers, eliminates redundant public record and meeting requirements, and allows the assembly to define proper parties, evidentiary rules, and standards of review rather than following more restrictive rules of the present AS 29.33.120.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

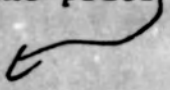
(b) An appeal to the superior court under this section is an administrative appeal and the appeal is heard solely on the record established by the ~~administrative agency~~ *board of adjustment, hearing officer or other body*. ~~Issues in A~~ proceedings under this section ~~have~~ *has* preference over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

EXPLANATION: ~~Based on AS 29.33.130, the proposed section~~ *This language* makes several important changes in procedures governing administrative appeals to the superior court. The "automatic stay" requirement ~~of AS 29.33.130~~ is eliminated, allowing parties to follow more customary appellate rules governing injunctions pending appeal; the language makes land use appeals administrative appeals under the Appellate Rules, and eliminates procedural requirements already governed by the Rules of Court.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.060. ADJUSTMENT PROCEDURE. Repeal

EXPLANATION: A simplified procedure is now provided in the prior sec



DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

(2) dimensions and design of lots or tracts;

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

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

(b) The assembly by ordinance shall establish a platting board to administer subdivision regulations adopted by the borough and perform other duties. The platting board may consist of members of the planning commission or of other municipal bodies, boards and commissions.

This proposed change

EXPLANATION: ~~This section is derived from AS 29.33.150 and~~ makes the following modifications to existing law: it requires adoption of subdivision regulations by ordinance; allows the platting authority to require dedications; allows the assembly to determine the composition of the platting board; and eliminates the provisions ~~of AS 29.33.150(b)~~, which allows the state of Alaska to ignore capital improvement requirements of local subdivision regulations.

new no.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.085. APPLICATION TO STATE AND POLITICAL SUBDIVISIONS.?

All subdivisions of land made by the state, its agencies, instrumentalities and political subdivisions are subject to this chapter and AS 40.15.200. The platting authority in the area outside cities in the unorganized borough and in third class boroughs is subject to this chapter and to AS 40.15.075. ↑
ok

EXPLANATION: This new section contains cross references to other statutes applicable to subdivisions and platting.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.100. WAIVER IN CERTAIN CASES. Repeal.

EXPLANATION: A short plat provision is added as AS 29.42.115, making the waiver provision no longer necessary.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

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

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

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

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

EXPLANATION: New section allowing short plat ^{filing} ~~procedure~~ under expedited procedures adopted by the assembly so that small subdivisions can be accomplished without unduly complex ~~procedure~~ requirements.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

new EXPLANATION: ~~Subsections (a) and (b) are identical to AS 29.33.160(a) and (b). The proposed section eliminates AS 29.33.160(c) relating to~~ *change* submission of preliminary plats for state disposals under AS 38.05 or 38.08, because the proposed changes in Sec. 29.42.070 requires full state compliance with local capital improvement requirements.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.120. PENALTIES. Repeal.

EXPLANATION: Provisions now contained in this section have been moved to a more inclusive section dealing with remedies; AS 29.42.140.

Thanks!

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.130. ALTERATION OR REPLAT PETITION. No recorded plat may be altered or replatted except by the platting board upon petition of the state, the municipality, a public utility, or the owners of a majority of the land affected by the alteration or replat. No platted street may be vacated, except upon petition of the state, municipality, or a public utility, or owners of the majority of the front feet of land fronting the part of the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat. *Ha!*

current language
EXPLANATION: Similar to ~~asked in 200~~ except for a change allowing the state, the municipality or a public utility to initiate a replat petition, as well as property owners. Petitions to vacate streets may be initiated by the state and a public utility, as well as the municipality or property owners.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.150. DELEGATIONS. Repeal.

EXPLANATION: Since the assembly is able to establish powers and duties of the planning commission and platting board, this section is redundant.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.160. REMEDIES. (a) It shall be unlawful for the owner of land located within a subdivision to transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded in accordance with this chapter ^{with or} ordinance adopted ✓ under this chapter. It shall be unlawful for a person to record a plat or other document depicting subdivided land in any public recorder's office unless the plat or document has been approved by the municipal authority. A person convicted of violating a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority in the exercise of its powers under this chapter is guilty of a misdemeanor and may be punished by a fine not to exceed \$500.

(b) The municipality or an aggrieved person may institute civil action against a person who violates a provision of this chapter, a municipal subdivision ✓ regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority.

(c) Every day upon which an unlawful act or condition continues shall constitute a separate violation.

*New
no. 29.42.120*
EXPLANATION: This new section is derived in part from AS 29.33.190 and contains new provisions which strengthen remedies available to municipalities seeking to enforce subdivision regulations. It prohibits persons from offering to sell unsubdivided land in violation of local subdivision regulations, authorizes injunctive relief to restrain violations of subdivision regulations, allows imposition of civil penalties, and makes daily occurrences of unlawful acts separate violations.

SCOMM

#23:38

CHAPTER 45. MUNICIPAL TAXATION

Article 1. MUNICIPAL PROPERTY TAX

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

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

"NOTICE TO TAXPAYER"

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

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE

(AS 14.17) \$

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

\$

MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE

(AS 29.88) \$

STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.89)

\$

TOTAL AID \$

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

MILLAGE EQUIVALENT

	PREVIOUS YEAR	THIS YEAR
--	---------------	-----------

PUBLIC SCHOOL FOUNDATION PROGRAM		
----------------------------------	--	--

ASSISTANCE	MILLS	MILLS
------------	-----------	-----------

STATE AID FOR RETIREMENT OF		
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SCHOOL CONSTRUCTION DEBT	MILLS	MILLS
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MUNICIPAL TAX RESOURCE EQUALI-		
--------------------------------	--	--

ZATION ASSISTANCE	MILLS	MILLS
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STATE AID FOR MISCELLANEOUS		
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MUNICIPAL SERVICES	MILLS	MILLS
--------------------	-----------	-----------

TOTAL MILLAGE EQUIVALENT	MILLS	MILLS
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Notice shall be provided

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

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

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

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

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

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

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

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

16 ***** (2) household furniture of the head of a family or house-
17 hold;

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

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

25 (5) money on deposit;

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

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

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

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

**** (3) Repeal.

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

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

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

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

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

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

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

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

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

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

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

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

16 Sec. 29.45.040. PROPERTY TAX EQUIVALENCY PAYMENTS. (a) A resident of
17 the state 65 years of age or older who rents a permanent place of abode is
18 eligible for tax equivalency payments from the state through the Department
19 of Community and Regional Affairs.

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

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

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

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

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

12 (a) Municipalities may exclude or exempt or partially exempt residential
13 property from taxation by ordinance ratified by the voters at a regular or
14 special election. An exclusion or exemption authorized by this section may
15 not exceed \$10,000 for any one residence.

16 (b) Municipalities may by ordinance

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

20 (2) classify and exempt from taxation

21 **** (A) Repeal.

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

27 (C) historic sites, buildings and monuments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (b) The appellant shall, within 30 days from the date of mailing
26 of notice of assessment, submit to the assessor a written appeal specifying
27 grounds in the form which the board may require. Otherwise, the right of
28 appeal ceases unless the board finds that the taxpayer was unable to comply.
29

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

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

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

9 ****Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a
10 board of equalization for the purpose of hearing an appeal from a determination
11 of the assessor, or it may delegate this authority to one or more boards
12 appointed by it. An appointed board may be composed of not less than three
13 persons, who may be members of the assembly, municipal residents, or a
14 combination of assembly members and residents. The assembly shall be ordinance
15 establish the qualifications for membership.

16 (b) The board is governed in its proceedings by rules adopted by
17 ordinance which are consistent with general rules of administrative procedure.
18 The board may alter an assessment of a lot or parcel only pursuant to an
19 appeal filed as the the particular lot or parcel.

20 (c) Notwithstanding other provisions in this section, a determina-
21 tion of the assessor as to whether property is taxable under law shall be
22 appealed directly to the superior court.

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

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

26 **** (c) The only grounds for adjustment are proof of unequal, excessive,
27 improper, or undervaluation based on facts which are stated in a valid
28 written appeal or proven at the appeal hearing. If a valuation is found to
29 be too low, the board of equalization may raise the assessment.

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

3 **** (e) Except as to supplementary assessments, the assessor shall
4 enter the changes and certify the final assessment roll by June 1.

5 **** (f) An appellant or the assessor may appeal the board's deter-
6 mination to the superior court as provided by rules of court applicable to
7 appeals from the decisions of administrative agencies. Appeals are heard on
8 the record established at the hearing before the board of equalization.

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

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

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

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

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

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

3 **** (e) In this section "disaster" means a major disaster declared by
4 the President of the United States under the provisions of the Federal
5 Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g, or
6 other federal law, or a disaster declared by the governor under AS 26.23.010
7 26.23.110.

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

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

16 Sec. 29.45.260. RATES OF PENALTY AND INTEREST. ****(a) If the taxpayer
17 is required to pay the entire tax on the due date set by the assembly, a
18 penalty not to exceed 20 percent may be added to all delinquent taxes, and
19 interest at the rate of 15 percent a year shall accrue upon all unpaid
20 taxes, not including penalty, from the due date until paid in full. If the
21 taxpayer is given the right to pay the tax in two installments penalty and
22 interest on an unpaid installment accrues from the date the installment
23 becomes due.

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

28 **** (c) Repeal.
29

ARTICLE 2. ENFORCEMENT OF TAX LIENS

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

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

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

Sec. 29.45.310. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly shall provide the procedure for distraint and sale by ordinance. No seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice is given by posting or publication. The seizure is made by virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty and interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale. If the property is sold for more money than is needed to satisfy the tax, upon presentation of a proper claim, the municipality shall remit the excess to the former record owner. A claim for the excess filed after six months of the date of sale is forever barred.

1 Sec. 29.45.320. REAL PROPERTY TAX COLLECTION. (a) The borough shall
2 enforce delinquent real property tax liens by annual foreclosure, unless
3 otherwise provided by ordinance.

4 **** (b) If the tax on property described in AS 29.45.080 or on a
5 taxable interest in tax exempt property is not paid when due, a borough may
6 enforce the tax by a personal action against the delinquent taxpayer brought
7 in the district or superior court, in addition to other remedies available
8 to the borough to enforce the lien.

9 Sec. 29.45.330. FORECLOSURE LIST. (a) The borough shall

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

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

17 (3) within 10 days after the first publication or posting,
18 mail to the last known owner of each property as his name and address appear
19 on the list a notice advising of the foreclosure proceeding in which a
20 petition for judgment of foreclosure has been filed and describing the
21 property and the amount due as stated on the list.

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

24 (1) the last known owner;

25 (2) the property description as stated on the assessment
26 roll;

27 (3) years and amounts of delinquency;

28 (4) penalty and interest due;
29

1 (5) a statement that the list is available for public inspection
2 at the clerk's office;

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

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

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

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

16 Sec. 29.45.360. GENERAL FORECLOSURE. The borough shall bring one
17 general foreclosure proceeding in rem against the properties included in the
18 list. If the owner is unknown, the property is proceeded against as belonging
19 to "unknown owner." Tax foreclosure proceedings have priority over all other
20 civil proceedings except board of adjustment appeals as provided in AS
21 29.33.130(e).

22 Sec. 29.45.370. ANSWER AND OBJECTION. A person having an interest in
23 a tract on the foreclosure list may file an answer within 30 days of the
24 date of last publication, specifying his objection. The court shall make
25 its decision in summary proceedings. The foreclosure list is prima facie
26 evidence that the assessment and levy of the tax is valid and that the tax
27 is unpaid.

28 Sec. 29.45.380. JUDGEMENT. The court shall in a proper case give
29 judgment and decree that the tax liens be foreclosed. It is a several
judgment against and a lien on each parcel.

1 Sec. 29.45.390. TRANSFER AND APPEAL. (a) Foreclosed properties are
2 transferred to the borough for the lien amount. When answers are filed the
3 court may enter judgment against and order the transfer to the borough of
4 all other properties on the list pending determination of the matters in
5 controversy. The court shall hear and determine the issues raised by the
6 complaint and answers in the same manner and under the same rules as it
7 hears and determines other actions.

8 (b) The court clerk shall deliver a certified copy of the judgment
9 and decree to the borough clerk. The certified judgment and decree consti-
10 tutes a transfer to the borough.

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

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

16 Sec. 29.45.400. REDEMPTION PERIOD. (a) Properties transferred to the
17 borough are held by the borough for at least one year. During the redemption
18 period a party having an interest in the property may redeem it by paying
19 the lien amount plus penalties, interest and costs, including all costs
20 incurred under Sec. 350(a) of this chapter. Property redeemed is subject to
21 all taxes, assessments, liens and claims as though it had continued in
22 private ownership. Only the amount applicable under the judgment and decree
23 must be paid in order to redeem the property.

24 **** (b) Repeal.

25 ****Sec. 29.45.410. EFFECT. Receipt of redemption money by the borough
26 releases the judgment obtained under AS 29.45.380. The clerk or his designee
27 shall record the redemption and issue a certificate containing a property
28 description, the redemption amount, and the dates of judgment and decree of
29 foreclosure. The clerk or his designee shall collect the recording fee at

1 the time or redemption and shall file the certificate with the record as
2 part of the judgment roll.

3 Sec. 29.45.420. ADDITIONAL LIENS. If a property included in a fore-
4 closure list is removed after payment of delinquencies or redemption by
5 another lienholder, the payment represented by receipt for payment constitutes
6 an additional lien on the property, collectible by the lienholder in the
7 same manner as the original lien.

8 Sec. 29.45.430. POSSESSION DURING REDEMPTION PERIOD. Foreclosure
9 does not affect the former owner's right to possession during the redemption
10 period. In the event that waste is committed by the former owner, or by
11 anyone acting under his permission or control, the borough may declare an
12 immediate forfeiture of the right to possession.

13 Sec. 29.45.440. EXPIRATION. ****(a) At least 30 days before the
14 expiration of the redemption period the clerk or his designee shall publish
15 a redemption period expiration notice. The notice shall contain the date of
16 judgment, the date of expiration of the period of redemption and a warning
17 to the effect that all properties ordered sold under the judgment, unless
18 redeemed, shall be deeded to the borough or city immediately on expiration
19 of the period of redemption and that every right or interest of any person
20 in the properties will be forfeited forever to the borough or city. The
21 notice is published once a week for four consecutive weeks in a newspaper of
22 general circulation distributed within the borough. If there is no newspaper
23 of general circulation distributed within the borough, the notice is posted
24 in three public places for at least four consecutive weeks. The clerk shall
25 send a copy of the published notice by certified mail to each record owner
26 of property against which a judgment of foreclosure has been taken and, if
27 the assessed value of the property is more than \$100,000, to all holders of
28 mortgages or other liens of record on the property. The notice shall be
29 mailed within five days of the first publication. The mailing shall be

1 sufficient if mailed to the property owner and to the holder of a mortgage
2 or recorded lien at the last address of record. The right of redemption
3 shall expire 30 days after the date of the first publication notice.

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

8 Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) Unredeemed properties
9 in the area of the borough outside cities are deeded to the borough by the
10 clerk of the court. Unredeemed properties within a city are deeded to the
11 city subject to the payment by the city of unpaid borough taxes and costs of
12 foreclosure levied against the property before foreclosure. The deeds shall
13 be recorded in the recording district in which the property is located.

14 **** (b) Conveyance gives the borough or the city clear title except
15 for prior recorded tax liens of the United States and the state.

16 (c) If unredeemed property lies within a city and if the city has
17 no immediate public use for the property but the borough does have an immediate
18 public use, the city shall deed the property to the borough. If unredeemed
19 property lies within the borough outside a city and if the borough does not
20 have an immediate public use for the property but the city does have an
21 immediate public use, the borough shall deed the property to the city.

22 **** (d) No deed is invalid for irregularities, omissions or defects
23 in the proceedings under this chapter unless the former owner has been
24 misled to his injury. After two years from the date of the deed, its validity
25 is conclusively presumed and any claim of the former owner or other person
26 having an interest in the property is forever barred.

27 Sec. 29.45.460. DISPOSITION AND SALE OF FORECLOSED PROPERTIES. (a)
28 The assembly of a borough or council of a city shall determine by ordinance
29 whether foreclosed property deeded to the municipality under Sec. 360 of

1 this chapter shall be retained by the municipality for a public purpose.
2 The ordinance shall contain the legal description of the property, the
3 address or a general description of the property sufficient to provide the
4 public with notice of its location, and the name of the last record owner of
5 the property as his name appears on the assessment rolls of the municipality.

6 (b) Tax-foreclosed properties conveyed to a borough or city by
7 tax foreclosure and not required for a public purpose may be sold. Before
8 the sale of tax-foreclosed property held for a public purpose, the assembly
9 or council, by ordinance, shall determine that a public need does not exist.
10 The ordinance shall contain the information required in (a) of this section.

11 **** (c) The clerk or his designee shall send a copy of the published
12 notice of hearing of an ordinance to consider a determination required by
13 (a) or (b) of this section by certified mail to the former record owner of
14 the parcel of property which is the subject of the ordinance. The notice
15 shall be mailed within five days of its first publication and shall be
16 sufficient if mailed to the last record owner of the property as his name
17 appears on the assessment rolls of the municipality.

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

21 Sec. 29.45.470. REPURCHASE BY RECORD OWNER. (a) The record owner at
22 the time of tax foreclosure of property acquired by a borough or city, or
23 his assigns, may, at any time before the sale or contract of sale of the
24 tax-foreclosed property by the borough or city, repurchase the property.
25 The borough or city shall sell the property for the full amount applicable
26 to the property under the judgment and decree, with interest at the rate of
27 eight percent a year from the date of entry of the judgment of foreclosure
28 to the date of repurchase, delinquent taxes assessed and levied as though it
29 had continued in private ownership, and costs of foreclosure and sale,

1 including, but not limited to, costs of publication of notice and any costs
2 associated with the determination of holders of mortgages and other liens of
3 record under Sec. 350(a) of this chapter.

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

7 Sec. 29.45.480. PROCEEDS OF TAX SALE. (a) Upon sale of foreclosed
8 real or personal property the borough or city shall divide the proceeds less
9 cost of collection, between the borough and the city having unpaid taxes
10 against the property. The division is in proportion to the respective
11 municipal taxes against the property at the time of foreclosure.

12 (b) The former record owner of tax-foreclosed real property which
13 has been held by a municipality for less than 10 years after the close of
14 the redemption period and never designated for a public purpose which is
15 sold at a tax-foreclosure sale is entitled to the portion of the proceeds of
16 the sale which exceeds the amount sufficient to satisfy unpaid taxes, delin-
17 quent taxes assessed and levied as if the property had continued in private
18 ownership, penalty, interest and costs of property sold, including costs
19 incurred under Sec. 350(a) of this chapter. If the proceeds of the sale of
20 tax-foreclosed property exceed the total of unpaid and delinquent taxes,
21 penalty, interest, and costs, the borough or city shall provide the former
22 owner of the property written notice advising of the amount of the excess
23 and the manner in which a claim for the balance of the proceeds may be
24 submitted. Notice is sufficient under this subsection if mailed to the
25 former owner at his last address of record. Upon presentation of a proper
26 claim, the municipality shall remit the excess to the former record owner. A
27 claim for the excess filed after six months of the date of sale is forever
28 barred.
29

1 Sec. 29.45.490. PAYMENT OF TAXES UPON PUBLIC UTILIZATION. If a city
2 or borough holds or takes title to tax-foreclosed property for a public
3 purpose, the city or borough shall satisfy unpaid taxes and assessments
4 against the property held by other municipalities, with accrued interest but
5 without penalty. If the amount required to satisfy the unpaid taxes and
6 assessments exceeds the assessed valuation of the property, the city or
7 borough shall pay the other municipalities the assessed valuation, which
8 shall be divided between the other municipalities in proportion to their
9 respective taxes and assessments against the property at the time of fore-
10 closure.

11 ****Sec. 29.45.510. REFUND OF TAXES. (a) If a taxpayer pays taxes under
12 protest, he may bring suit in the superior court against the borough for
13 recovery of the taxes. If judgment for recovery is given against the borough,
14 or, if in the absence of suit, it becomes obvious to the assembly that
15 judgment for recovery of the taxes would be obtained if legal proceedings
16 were brough, the borough shall refund the amount of the taxes to the taxpayer
17 with interest at eight percent from the date of payment plus costs.

18 (b) If, in payment of taxes legally imposed, a remittance by a
19 taxpayer through error or otherwise exceeds the amount due, and the borough,
20 on audit of the account in question, is satisfied that this is the case, the
21 borough shall refund the excess to the taxpayer with interest at 15 percent
22 from the date of payment. A claim for refund filed after one year of the
23 due date of the tax is forever barred.

24 (c) The assembly may correct manifest clerical errors at anytime.

25 ARTICLE 3. CITY PROPERTY TAX.

26 Sec. 29.45.530. POWER OF LEVY. Home rule and first class cities
27 within boroughs may levy a general property tax. A property tax, if levied,
28 shall be levied in the manner provided for borough levies in Sec. 170(a) of
29 this chapter and is subject to Secs. 10-25, 50-55 and 310-350 of this chapter.

1 The council shall by June 15 of each year present to the borough assembly a
2 statement of the city's rate of levy, unless a different date is agreed upon
3 by the borough and city.

4 Sec. 29.45.540. LIMITED PROPERTY TAXING POWER FOR SECOND CLASS CITIES.

5 A second class city may by referendum levy real and personal property taxes
6 as provided for first class cities. However, levy by a second class city
7 may not exceed one-half of one percent of the assessed valuation of the
8 property taxed, except that the limit does not apply to a levy necessary to
9 avoid a default upon payment of principal and interest of bonded or other
10 indebtedness which is secured by a pledge to levy ad valorem or other taxes
11 without limit to meet debt payments.

12 **** Sec. 29.45.545. COMBINING PROPERTY TAX WITH INCORPORATION. A petition
13 for second class city incorporation may request that a property tax proposal
14 be placed in the same ballot. The petition must state the proposed tax
15 rate. The petition may request that incorporation be dependent upon the
16 passage of the property tax proposition. If so, the incorporation proposi-
17 tion fails if the property tax fails.

18 ARTICLE 4. BOROUGH SALES AND USE TAX

19 Sec. 29.45.570. SALES AND USE TAX. ****(a) A borough may levy and
20 collect a sales tax not exceeding six percent on sales, rents, and on services
21 made within the borough. The sales tax may apply to any or all of these
22 sources. Exemptions may be granted by ordinance.

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

27 (c) A person who furnishes proof, in the form required by the
28 borough tax collector, that he has paid a sales tax on the source on which a
29 use tax is levied by the borough is required to pay the use tax only to the

1 extent of the difference between the amount of the sales tax paid and the
2 amount of the use tax levied by the borough. This subsection applies to a
3 sales tax levied in any taxing jurisdiction whether in or outside the state.

4 **** (d) If the assembly of a home rule or general law borough charges
5 interest on sales taxes not paid when due, the rate of interest may not
6 exceed 15 percent a year upon the delinquent taxes and shall be charged from
7 the due date until paid in full.

8 **** (e) A borough may provide for the creation, recording, and notice
9 of a lien on real or personal property to secure the payment of a sales or
10 use tax, and for interest, penalties and administration costs in the event
11 of delinquencies. A lien established under this section has the force,
12 priority and duration of a judgment lien.

13 Sec. 29.45.590. REFERENDUM, ADOPTION AND MODIFICATION. ****(a) A new
14 sales tax or an increase in the rate of levy of a sales tax approved by the
15 assembly by ordinance shall not take effect until ratified by a majority of
16 the voters voting on the question at a regular or special election.

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

22 ARTICLE 5. CITY SALES AND USE TAXES

23 Sec. 29.45.610. POWER OF LEVY. ^(a) Cities within a borough which levies
24 and collects ^{areawide} sales or use taxes ~~[for areawide borough functions]~~ ^{delete} may levy
25 sales or use taxes upon all sources taxed by the borough in the manner
26 provided for boroughs. *New sentence (1)*

27 ~~Sec. 29.45.620. POWER OF LEVY AND COLLECTION.~~ ^(b) Cities within a borough
28 which does not levy and collect ^{areawide} sales or use taxes ~~for areawide borough~~
29 ~~functions~~ may levy and collect sales or use taxes in the manner provided for
boroughs.

1 Sec. 29.45.630. COMBINING SALES TAX WITH INCORPORATION. A petition
2 for second class city incorporation may request that a sales tax proposal be
3 placed on the same ballot. The petition must state the proposed tax rate.
4 The petition may request that incorporation be dependent upon the passage of
5 the sales tax proposition. If so, the incorporation proposition fails if
6 the sales tax fails.

COMMENTS FOR CONSIDERATION ON THE PROPOSED CHAPTER 45
ON MUNICIPAL TAXATION

29.45.010. The authority to levy a property tax should be extended to unified municipalities.

29.45.020. The use of the disjunctive in the phrase "real or personal property" implies that a municipality may levy either real or personal property taxes. This conflicts with the requirement set forth in the preceding section that if a property tax is levied it must be levied on real and personal property.

* 29.45.020(c). I suggest that an additional clause be added to the last sentence of this subsection which would provide that if DCRA has not notified a municipality of the amount it will receive under the equalization and state aid programs at least 30 days prior to the date the municipality gives final approval to its budget, the municipality need not include the mill or tax equivalent attributable to the program and DCRA will not withhold allocations for such failure to provide notice.

29.45.030(a)(3). Shouldn't we add the requirement that property under this section be owned by and used exclusively for the nonprofit religious, charitable, etc?

29.45.030(b)(3). If a lot which is adjacent to the residence of of a pastor is a 10 acre lot and a quarter acre of that lot is used to support the residence, is the entire lot exempt? If not, perhaps the substitution of the word "property" or a similar word for the word "lot" would provide some justification for prorating in such cases. The other alternate would be to make it clear that the entire lot must be used to support the structure in order order to obtain an exemption.

29.45.030(b)(4). Same comment here as above. The exemption probably should not go to any more property then is actually required to meet off-street parking requirements. Either the entire lot should be required and devoted to off-street parking or the language should be changed to indicate that a proration may occur.

- 29.45.030(c). The reference to section (b) is probably superfluous as the property which is set forth in (b) is merely a definition of property which falls under (a).
- 29.45.030(j). Although this was just enacted by the Legislature, I would like to see it dropped as personally, I don't think that such tax incentives are significant in causing persons to install fire protection systems. If fire protection systems are needed they should be required by code.
- 29.45.040. I think we ought to find a different place for this section as it has nothing to do with the levying or collection of taxes.
- 29.45.050(b)(1). The \$5 and \$15 tonnage-based tax on vessels should be raised to something that makes it worthwhile to administer the tax; that, or the dollar limitation should be deleted to permit municipalities to establish the tax rate per ton.
- 29.45.060. If patented and unpatented mining claims are to be made exempt then this subject should be dealt with under the exemption section and not a separate section. Also, I do not believe that nonproducing patented mining claims should be exempt from property any more than any other nonproductive, privately owned property is exempt. Also, if mining claims valued at \$200 are to much trouble, perhaps raising the value from \$200 to \$1000 could be considered.
- 29.45.090(b) and 100(b). Section 90(b) apparently sets a limit from property tax of \$1500 per person. Section 100(b) sets a per capita limit in terms of "tax revenues from all sources." The "all sources" phrase is used twice in Section 100(b). The sections should be clarified to indicate whether the limitation is one which looks to all tax revenues or only to property tax revenues.
- 29.45.110. The references to Sections 45 and 50 in line 19 should be changed to 90 and 100.
- 29.45.120. The reference to Section 60 should be deleted if mining claims are exempted and moved to the exemption section. Also, would it be worthwhile to attempt to address the method of evaluation of property which is in the jurisdiction for only part of a year and property which is involved in inter-borough and inter-state commerce. CSSB 582 (though not adopted) addressed this matter as to transient aircraft.

- 29.45.120(b). I suggest this section be rewritten to delete the last sentence and to indicate that a municipality may provide by ordinance for the assessment (valuation) of business inventories based on the average monthly method etc.
- 29.45.120(). The method evaluation of a possessory interest in tax exempt property is not addressed in the statutes. While we have a Superior Court case or two which indicate that it is the feeless reversion method, it might not hurt to have this established by statute. Some states go so far as to say that the value of a possessory interest in tax exempt land is the value of the fee. This latter approach is probably much simpler to apply, it might have an equal protection weakness.
- 29.45.140(b). I suggest dropping the phrase "if refused entry" and adding at the end of the sentence "or production of records."
- 29.45.150. I suggest we raise the fine to something more in keeping with inflation.
- 29.45.180(a). I question the wisdom of requiring notice on the assessment notice of a summary of when unlevied taxes are payable delinquent and subject to penalty and interest (all of which is unrelated to the assessment proceedings) but not requiring the inclusion of a date when the Board of Equalization will sit (something very directly related to the assessment proceeding). I think we are asking for more administrative problems by not requiring that the date be set prior to the sending of assessment notices than we would be eliminating to accommodate those assessors and councils or assemblies which can't seem to get their act together well enough to establish a hearing date sometime 45 or so days down the road.
- 29.45.180(b). I suggest that if in the preceding Section 170 we are going to allow any person having an interest in the property to be listed on the records that it be made clear that notice is sufficient if sent to the record owner, the first person listed as grantee on a multiple grantee deed or if sent to a person designated by such first grantee or record owner.

- 29.45.210. Should we change the first sentence to read "The assembly, or council of a city outside a borough, sits. . . ." or have we dealt elsewhere with the applicability of these procedures to such cities? In the third line we could delete the word "borough" and I believe we should add the word "it" before the word "may". If we are going to include reference to city councils, there are two additional references to assembly in this section which should be modified appropriately.
- 29.45.220 (and 210). Section 210 speaks to appeals from "determinations" of the assessor. Section 220, however, appears to deal with assessment (value) determinations of the assessor. I suggest we clarify whether or not the Board of Equalization will hear appeals on the assessor's determination of the taxability of property.
- 29.45.220(e). I suggest that if assessors are concerned over the June 1 certification date applying to supplemental roles that Section (e) be rewritten to delete the reference to June 1 and merely require that the assessor enter the changes and certify the final assessment role immediately upon receipt of certification of the board changes.
- 29.45.230. I suggest that the assessing officer's suggestion not be included. I would hope that merely because the state assessor requires certain assessment information for reports, revenue sharing, etc. a municipality not be foreclosed from establishing a supplementary assessment role for property which comes to its attention during the latter part of the year. The assessing officer's suggestion would effectively preclude supplemental assessment roles for property which is discovered much later than the first of July.
- 29.45.250. I suggest that the reference to the date of equalization be deleted so that this may be set by motion. This will also provide a little more flexibility in the event a municipality appoints a board as the board should be the one which sets its date of hearing. As to the rate of levy and the date when taxes become delinquent, I suggest that we change the language to indicate that these may be fixed by ordinance or resolution.

- 29.45.260(a). The penalty and interest should be raised substantially. I just noticed that in the territorial days, as far back as the 1940's when interest rates and inflation were unbelievably low, the penalty limit for property tax delinquencies was 15% and the interest limit was 12% per year. I'd suggest we shoot for 20% penalty and a 15% interest limit. The penalty and interest appear in several places in Section 260.
- 29.45.300(a). I suggest that the phrase "assessed against" in line 22 should be "levied on" as property is assessed (valued) while taxes are levied.
- 29.45.300(b). I suggest that we permit the collection of taxes levied on trailers, mobile homes, etc. which are classed as real property to be collected in either or both an action against the property or a personal action against the owner. By the time the municipality gets around to collecting its delinquencies, the trailer may well have been sold and even removed from the taxing jurisdiction.
- 29.45.310. Would it be appropriate to stick a tactful reminder in the second sentence of this section that the procedure for distraint and sale include a hearing to which the owner is invited?
- 29.45.330(b). The reference to Section 40 should be changed to 80. Also, I believe the reference to "leasehold interest in tax exempt property" should be changed to "private interest in tax exempt property" as a leasehold is not the only type of taxable interest in tax exempt property.
- 29.45.350. I would suggest that this section be changed so that it is clear that failure to notify the lienholder does not defeat any of the rights of the municipality to foreclose on and sell the property. I would also suggest the deletion of the requirement that the notice be sent by certified mail.
- 29.45.400(a). The reference to Section 350(a) should be 440(a).

29.45.400(b). I think this section should be deleted as it appears to attempt to create a situation whereby a lienholder can carve out an interest in foreclosed property by merely paying his prorata share of the amounts due. If we are going to allow a lienholder to establish an interest in foreclosed property which is not extinguished by sale of the property, why aren't we allowing those persons who have a partial interest in the fee to do the same thing? There is no need for this section. A lienholder who redeems the property by paying the amounts due is given a lien for that amount under Section 420. Section 420 could be changed to make such lien paramount to others.

29.45.410 and 400(a). Section 400(a) provides that redeemed property is still subject to all taxes, assessments, liens, etc. as though it had continued in private ownership but that only the amount set forth in the judgment and decree must be paid in order to redeem the property. Section 410 then provides that upon payment of the redemption money all claims of the municipality are released. This is in conflict with the provision that taxes, assessments, liens, etc. accrue as though the property had continued in private ownership. The release language should be limited to claims which are the subject of the judgment and decree.

29.45.460(a). The reference to Section 360 in line 20 should be to 450.

29.45.460 and 470. I think these two sections ought to be dropped. The owner of the property has had ample opportunity to redeem his property and notice at every turn. There is no reason to allow his existence to create a cloud on property which the municipality may wish to use or later dispose of. If we are going to retain these sections, the interest rate in Section 470 ought to be raised to the same as is established for delinquent taxes and the municipality ought also to be able to collect interest on the taxes which would have been levied and paid had the property remained in private ownership. This interest increment does not appear to be authorized under Section 470.

29.45.480(b). I believe the reference in line 11 to Section 350(a) should be to 440(a).

- 29.45.510. Would it be worthwhile to add a subsection here or a new section relating to the right of a person who has paid taxes on the wrong property.
- 29.45.570. I believe the word "or" between the word "sales" and "rents" should be a comma.
- 29.45.570(d). I suggest the 8% limit on delinquent tax payment is a bit low.
- 29.45.590(a). I suggest the last two sentences of this section be dropped. I also suggest that subsection (b) be dropped. Perhaps the entire section can be written in a single sentence reading "A new sales tax or an increase in the rate of levy of a sales tax approved by the assembly by ordinance shall not take effect until ratified by a majority of the voters voting on the question of approval at a regular or a special election called for that purpose."

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

EXPLANATION: This section has been clarified as the fact that a unified municipality may levy both areawide and nonareawide taxes. Limiting the use of areawide taxes to areawide functions and nonareawide taxes to nonareawide functions makes little sense. It is made clear that taxes may be levied on personal and real property or either.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

EXPLANATION: The language "real and personal property taxes, or either", was added to conform to 29.45.010.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

(1) municipal, state or federally owned property, except that a private leasehold, contract, or other interest in the property shall be taxable to the extent of the interest;

(2) household furniture of the head of a family or household; (3) *No change* (5) *No change* (6) *No change*

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

Repeal (b) (3) lots or portions of lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use; *← out repeal*

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

(f) No exemption may be granted under (e) of this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 or a date provided by ordinance which is not later than March 31, of the assessment year for which the exemption is sought, ...
...If a claimant whose failure to file by January 15, or a date provided by ordinance which is not later than March 31...

EXPLANATION: Based on Alaska Association of Assessing Officers (AAAO) recommendations:

1. (a)(2): deletes \$500 limit on exemption of household furniture.

2. (b)(3): narrows the language so that only portions of lots necessary to convenient use are exempt.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

3. (c): clarifies that "exclusively for classroom space" limitations on rental income under (c) only applies to rental use by an "educational group" and does not preclude the exemption when the income is derived from use by nonprofit religious, charitable, or hospital groups.

4. (f): clarifies that filing of a claim for exemption is a requirement for only the senior citizen exemption under (e), and not for the other exemptions addressed in the section. Adds flexibility so that a local government may establish a date later than January 15 for filing for a senior citizen exemption.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.050. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a) No change.

(b) A municipality may by ordinance

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

(2) classify and exempt from taxation

(A) ... [THE HOUSEHOLD FURNITURE OVER \$500 IN VALUE AND THE EFFECTS OF THE HEAD OF A FAMILY OR A HOUSEHOLDER]... (the rest of the subparagraph is left intact.)

EXPLANATION: Eliminates in (b)(1) the \$5 and \$15 limitations, since with these limits, collecting a tax on boats does not pay administrative costs. Modifies and expands existing (a)(2)(A) relating to optional exemption of household furniture and effects, based on recommendations of AAAO, since assessors currently do not include household furnishings and personal effects of family members.

Sec. 29.45.100. TAX LIMITATIONS. (a) No change.

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding \$1,500 a year for each person residing within their boundaries or (2) upon value which, when combined with the value of the property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States bureau of the census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of the property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

EXPLANATION: Change requested by AAAO raising \$1000 to \$1500. No recommendation by the Technical Group.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.140. INDEPENDENT INVESTIGATION. (a) No change.

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

(c) No change

EXPLANATION: It was felt that the assessor ought to be able to seek production of records, as well as to compel entry, whether refused entry or not.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

EXPLANATION: This section was changed to classify the misdemeanor to conform with the criminal code. A class B misdemeanor carries a possible fine of \$1,000 and term of imprisonment of 90 days, somewhat more severe than existing law.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be ^{of assembly} members of the assembly, ^{or a combination of} ~~or other~~ municipal residents. The assembly shall by ordinance establish the qualifications for membership.

(b) The board is governed in its proceedings by rules adopted by ordinance which are consistent with general rules of administrative procedure. The board may alter an assessment of a lot or parcel only pursuant to an appeal filed as to the particular lot or parcel.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law ^{shall} ~~may~~ be appealed directly to the superior court.

EXPLANATION: Removes the requirement that the board consist of a number over that required for a quorum of the assembly in favor of requiring not less than three members. Requires that an assessment be altered only as a result of an appeal filed as to the lot in question. Allows a determination of the taxability of property (for example, land held by Indians or in trust for Indians may not be taxable at all under federal law) to be appealed to the superior court.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.220. HEARING. (a) No change.

(b) No change.

(c) The only grounds for adjustment ^{are} ~~is~~ proof of unequal, excessive, improper, or under valuation based on facts which are stated in a valid written appeal or proven at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(d) No change.

(e) Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(f) The appellant or the assessor may appeal the board's determination to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

EXPLANATION: Change in (c) makes it clear that an assessment can be raised as the result of an appeal. Change in (e) to allow for supplementary assessments after June 1. Change in (f) so that appeals to the superior court will be heard on the record rather than de novo, as is now the case.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.240.

(e) In this section "disaster" means a major disaster declared by the President of the United States under the provisions of the Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g or other federal law, or a disaster declared by the governor under AS 26.23.010-110.

EXPLANATION: Makes provision for special treatment of property affected by a disaster applicable if the governor, as well as the president, declares a disaster.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.250. TAX LEVY AND RATE. (a) The power granted to the assembly to assess, levy and collect a general property tax shall be exercised by means of a general ordinance. The rate of levy, the date of equalization and the date when taxes become delinquent shall be fixed by ordinance or resolution.

(b) No change.

EXPLANATION: Allows rate of levy, date of equalization, date of delinquency to be fixed by ordinance as well as resolution.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.260. RATES OF PENALTY AND INTEREST. (a) If the taxpayer is required to pay the entire tax on the due date set by the assembly, a penalty not to exceed 20 percent may be added to all delinquent taxes, and interest at the rate of 15 percent a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. If the taxpayer is given the right to pay the tax in two installments penalty and interest on an unpaid installment accrues from the date the installment becomes due.

- (b) No change.
- (c) Repeal.

EXPLANATION: The penalty and interest rates are raised, so that people will not deliberately avoid paying taxes due to the high cost of borrowing from other sources. Penalty and interest on an unpaid installment accrues only from the date the installment is due. (c) is repealed as redundant. Since (a) provides for interest and penalty on all types of taxes, there is no need for special treatment of property taxes.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.300. TAX LIABILITY. (a) No change.

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

EXPLANATION: The change makes it clear that a lien exists on personal as well as real property.