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Title 29 Technical Committee
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CHAPTER 33. MUNICIPAL POWERS AND DUTIES

(CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES)

Article 1. GENERAL POWERS

Sec. 29.33.010. (Sec. 29.48.010.) GENERAL POWERS.

Municipalities have the following general powers, subject to other provisions of law:

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

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

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

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

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

(6) to sue and be sued;

(7) to levy taxes and special assessments and to impose liens for the enforcement thereof;

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

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

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

29.33.090
a.

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

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

Sec. 29.33.020. (Sec. 29.48.037.) EXTRATERRITORIAL

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

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

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

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

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

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

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

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

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

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

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

Use:
Sec. 29.33.110. FRANCHISES AND PERMITS. (a) The assembly acting for the area outside cities and the council acting for the area within a city may grant franchises, including exclusive franchise privileges, *and may grant permits for the use of streets & other public places.*
(b) No exclusive franchise is valid until it has been ratified by a majority of the qualified voters voting on the question at a regular or special municipal election.

delete Sec. 29.33. (Sec. 29.48.060.) PUBLIC UTILITIES RATES. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a *delete* [municipally owned] utility *to the extent* not regulated under AS 42.05 and *delete* [may regulate and provide what is a reasonable deposit for meters and security for service to be given,] *provided* that interest *must be* paid on *any required* the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return in invested capital.

Sec. 29.33. MUNICIPAL PROPERTY.

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

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

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

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

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

Article 2. MANDATORY AREAWIDE POWERS

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

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

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

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

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

Sec. 29.33.____. LAND USE REGULATION.

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

Article 3. ADDITIONAL CITY AND BOROUGH POWERS

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

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

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

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

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

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

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

CR

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

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

MAKE consistent w/ 1st class wording (order)

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

acquired.

^{*} or in the area outside cities

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

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

In addition to powers conveyed by AS
Sec. 29.33. CITIES OUTSIDE ORGANIZED BOROUGHS. (a)

Cities outside an organized borough may exercise any power and ~~may provide any service or facility~~ not otherwise prohibited by law.

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

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

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

Sec. 29.33. ACQUISITION OF ADDITIONAL POWERS. (a) A

~~city or~~ borough ~~may~~ acquire ~~s~~ additional powers, ~~services or facilities~~ as provided by sec. _____ by holding an election on the question as provided by this section. For acquisition of areawide powers, the election shall be held areawide. For acquisition of powers in the area outside cities ~~or within a city~~ the election shall be held in the area outside cities ~~or within the city~~ *only.*

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

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

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

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

Article 4. CONSTRUCTION OF POWERS

(Chapter 48. Article 5. CONSTRUCTION OF POWERS)

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

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

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

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

3 ARTICLE 1. GENERAL POWERS.

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

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

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

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

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

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

17 (6) to sue and be sued;

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

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

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

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

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

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

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

To the extent... see notes

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

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

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

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

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

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

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

7 ARTICLE 2. FACILITIES, SERVICES AND REGULATION.

8 Sec. 29.33.070. MUNICIPAL FACILITIES AND SERVICES.

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

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

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

3 (19) parking and parking facilities;

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

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

7 **** (22) Repeal.

8 (23) emergency medical services and facilities.

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

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

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

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

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

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

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

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

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

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

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

8 **** (4) Repeal.

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

10 **** (6) Repeal.

11 **** (7) Repeal.

12 **** (8) Repeal.

13 **** (9) Repeal.

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

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

16 **** (12) Repeal.

17 **** (13) Repeal.

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

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

24 **** (16) Repeal.

25 (17) water pollution control;

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

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

(20) licensing of day care facilities.

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

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

****Sec. 29.33.100. MUNICIPALLY-OWNED UTILITIES. Repeal. *sub(c) missing*

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

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

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

7 ~~AS 42.05~~ (c) Public utilities regulated under AS 42.05 have the right to
 8 use the streets and other public places, upon payment of a reasonable permit
 9 fee and on reasonable terms and conditions and with reasonable exceptions
 10 the assembly or council requires. A dispute as to whether fees, terms,
 11 conditions, or exceptions are reasonable shall be decided by the Alaska
 12 Public Utilities Commission. R 42.05 6/11/25

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

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

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

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

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

26 ARTICLE 3. FISCAL DUTIES.

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

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

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1 **** (b) Repeal.

2 **** (c) Repeal.

See Berns draft

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

7 **** (e) Repeal.

8 **** (f) Repeal.

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

14 **** (b) Repeal.

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

18 **** (d) Repeal.

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

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

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

5 ARTICLE 4. CONSTRUCTION OF POWERS.

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

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

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

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

Upper Case Article 1. GENERAL POWERS .

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

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

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

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

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

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

(6) to sue and be sued;

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

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

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

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

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

to issue franchises and permits for the use of ?

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

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

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

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

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

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

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

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

3 (19) parking and parking facilities;

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

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

7 **** (22) Repeal.

8 (23) emergency medical services and facilities.

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

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

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

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

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

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

8 Sec. 29.33.070. MUNICIPAL FACILITIES AND SERVICES.

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

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

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

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

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

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

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

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

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

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

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

8 **** (4) Repeal.

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

10 **** (6) Repeal.

11 **** (7) Repeal.

12 **** (8) Repeal.

13 **** (9) Repeal.

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

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

16 **** (12) Repeal.

17 **** (13) Repeal.

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

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

24 **** (16) Repeal.

25 (17) water pollution control;

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

27 X46.03.230;

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

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1 (20) licensing of day care facilities.

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~Upper case~~ Article 3. FISCAL DUTIES •

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

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

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1 **** (b) Repeal.

2 **** (c) Repeal.

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

7 **** (e) Repeal.

8 **** (f) Repeal.

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

14 **** (b) Repeal.

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

18 **** (d) Repeal.

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

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

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

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

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

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

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.010. GENERAL POWERS. Section unchanged to:

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

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

Adds:

~~(13) issue franchises and permits for the use of municipal property;~~ *including ~~issuance~~ franchise ~~permits~~*

All other paragraphs the same.

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 198

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

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

(b) No change.

and other waste disposal

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

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

from parks (including trails, playgrounds, etc.)

set up harbor and other marine facilities

the jurisdiction in which a facility is located may regulate it

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

*To the extent that a municipality may
provide the powers necessary to provide service, or
facilities and*

Sec. 29.33.070. FACILITIES AND PROGRAMS. (a) Subject to other provisions of law, a municipality may exercise the powers necessary to provide the following:

The same to:

(22) Repeal.

Add:

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

The rest of this section is the same.

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

*was
long
section in
no
amendment*

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

(1) No change.

(2) No change.

(3) No change.

(4) Repeal.

(5) No change.

(6) Repeal.

(7) Repeal.

(8) Repeal.

(9) Repeal.

(10) No change.

(11) No change.

(12) Repeal.

(13) Repeal.

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

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

(16) Repeal.

(17) No change.

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

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

(20) No change.

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

(M. continue with (b))

↓
INSERT
(14)
But Not
A & B

- Sec. 29.33.090. REGULATORY POWERS. (a) No change.
- (1) No change
 - (2) No change
 - (3) ^{No change} licensing, impounding and disposition of animals;
 - (4) ^{No change} alcoholic beverages as provided by AS 04.15.070;
 - (5) ^{No change} recreational devices as provided by AS 05.20.100;
 - (6) condemnation and abatement of public nuisances and hazards;
 - (7) water pollution control;
 - (8) air pollution control as provided in AS 46.03.140-46.03.240;
 - ~~(9)~~ ^{No change} municipally owned utilities to the extent not prohibited by 42.05; ^{to the extent not otherwise prohibited,}
 - (10) any activity affecting the general health, safety, well-being and welfare of its inhabitants.

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

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

29.33.100 ¹ Repeal.

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

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

Not accepted

*use 29.33.110, but strike some
language*

(b) change to 'a majority'

Revised by ordinance

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

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

Explanation:

[Faint handwritten notes and scribbles, possibly including the word "approach" and other illegible text.]

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

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

Sec. 29.33.140. RIGHT TO PARTICIPATE AND COMPEL TESTIMONY.

Repeal.

Sec. 29.33.150. FURTHER PROCEEDINGS. Repeal.

Sec. 29.33.160. APPLICATION. Repeal.

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.190. CENTRALIZED PURCHASING. Repeal.

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

(b) Repeal.

(c) Repeal.

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

(e) Repeal.

(f) Repeal.

Handwritten notes:
1/22 -> 10/2
1/22 -> 10/2
1/22 -> 10/2

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

Handwritten notes:
Depend on...
Should be by ordinance.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

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

CHAPTER 33. POWERS AND DUTIES APPLICABLE TO

HOME RULE AND GENERAL LAW MUNICIPALITIES

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

Article 1. GENERAL POWERS

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

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

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

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

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

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

(6) to sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 *How* (22) consumer protection;

22 (23) emergency medical services and facilities.

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

24 conferred by (a) of this section only after they have been assumed in the

25 manner required under A. 29.36.090-130 (AS 29.33.250-29.33.290) for areawide

26 exercise or in the manner required under AS 29.36.160-29.36.200 (AS

27 29.38.010-29.38.050) for exercise in the borough area outside cities or are

28 conferred by (Sec.20) of this chapter for exercise in the borough area

29 outside cities. However, as to powers conferred under (a)(5), (17) and (20),

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

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

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

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

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

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

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

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

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

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

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

21 (4) transportation fares;

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

23 (6) selling of goods;

24 (7) selling of food;

25 (8) abandoned property;

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

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

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

1 (12) control of insects and rodents;

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

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

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

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

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

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

19 (17) water pollution control;

20 (18) air pollution control as provided in AS
21 46.03.140-46.03.240;

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

24 (20) licensing of day care facilities.

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

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

sub(c) missa REPEALED OK

11 Sec. 29.33.100. (Sec. 29.48.040.) *MOVE TO EXTRA TERRITORIAL JURISDICTION* MUNICIPALLY-OWNED UTILITIES. A *NON*

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

17 Sec. 29.33.110. (Sec. 29.48.050.) *(MOVE TO GEN POWERS)* FRANCHISES AND PERMITS. (a) The

18 assembly acting for the area outside cities and the council acting for the
 19 area within a city may grant franchises, including exclusive franchise priv-
 20 *Beens amend: free motion*ileges, for the construction, operation and maintenance of bus transportation
 21 systems and public utilities not regulated under AS 42.05 and may permit them
 22 the use of streets and other public places under regulations prescribed by
 23 ordinance. *Municipal public property!*

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

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

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

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

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

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

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

DELETE

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

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

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

17 Article 3. FISCAL DUTIES

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

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

see (d) have to comply with both

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

LA-La20 advantageous to the municipality to do so.

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

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

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

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

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

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

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

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

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

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

2 Borough revenues ~~levied and~~ ^{RECEIVED THROUGH TAXES} collected on an areawide basis by a home rule or
 3 general law borough may be expended on general administrative costs and on
 4 areawide functions only. ^{Borough} Revenues ~~levied and~~ ^{RECEIVED THROUGH TAXES} collected in the area outside
 5 cities only may be expended on general administrative costs and functions
 6 which render service to the area outside cities only. ^{This section does not}
^{APPLY TO UNIFIED}
^{MUNI.}

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

15 Article 4. CONSTRUCTION OF POWERS

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

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

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

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

Fm Waller

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

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

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

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

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

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

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

COMMENTS

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

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

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November 4, 1980

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Juneau, Alaska 99811

Attn: Tamara Cook

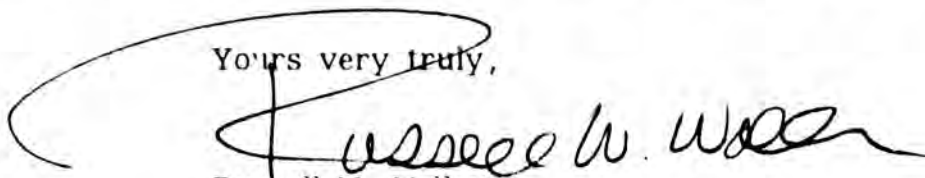
Re: Title 29 Review - Inclusion of Harbors and
Marinas under Extraterritorial Jurisdiction

Dear Tamara:

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

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

Yours very truly,



Russell W. Walker
Municipal Attorney

RWW:sf

Enclosure

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

Notes
OK

Sec. 29.33.020. Extraterritorial jurisdiction.

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

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

Formerly: As 29.48.037

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

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

(CHAPTER 48. POWERS APPLICABLE TO ALL MUNICIPALITIES)

Article 1. GENERAL POWERS

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

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

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

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

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

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

(6) to sue and be sued;

(7) to levy taxes and special assessments, *as a part of the library*

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

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

(13) issue franchises and permits for the use of municipal property;
 (14) ~~regulate utilities owned by the municipality.~~
 (all other paragraphs to be deleted)
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(10) to acquire membership in organizations which promote legislation for the good of the municipality;

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

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

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

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

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

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

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

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

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

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

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

20 Article 2. FACILITIES, SERVICES AND REGULATION

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

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

- 24 (1) streets and sidewalks;
- 25 (2) sewers and sewage treatment facilities;
- 26 (3) harbors, wharves, and other marine facilities;
- 27 (4) watercourse and flood control facilities;
- 28 (5) health services and hospital facilities;
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- 1 (6) cemeteries;
- 2 (7) police protection and jail facilities;
- 3 (8) cold storage plants;
- 4 (9) telephone systems;
- 5 (10) light, power and heat;
- 6 (11) water;
- 7 (12) transportation systems;
- 8 (13) community centers;
- 9 (14) libraries, visual or performing arts centers, or museums;
- 10 (15) recreation facilities;
- 11 (16) airport and aviation facilities;
- 12 (17) garbage and solid-waste collection and disposal service
- 13 and facilities subject to Sec. 080 (Sec. 33) of this chapter;
- 14 (18) fire protection service and facilities, not in conflict
- 15 with AS 18.70.075, but not limited to AS 18.70.075;
- 16 (19) parking and parking facilities;
- 17 (20) housing and urban renewal, rehabilitation and
- 18 development;
- 19 (21) preservation, maintenance and protection of historic
- 20 sites, buildings and monuments;
- 21 (22) ^{Act 26} consumer protection;
- 22 (23) ~~emergency medical services and facilities.~~

23 (b) ~~First~~ ^{(24) my first class boroughs} and second class boroughs may exercise the powers
 24 conferred by (a) of this section only after they have been assumed in the
 25 manner required under AS 29.36.090-130 (AS 29.33.250-29.33.270) for areawide
 26 exercise or in the manner required under AS 29.36.160-29.36.200 (AS
 27 29.38.010-29.38.030) for exercise in the borough area outside cities or are
 28 conferred by (Sec.20) of this chapter for exercise in the borough area
 29 outside cities. However, as to powers conferred under (a)(5), (17) and (20),

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

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

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

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

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

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

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

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

(1) ^{no change} ~~operation of motor vehicles~~, and other traffic, and licensing and ~~vehicles~~, and operators not inconsistent with AS 28.01.010;

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

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

(4) ~~transportation fares~~;

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

(6) ~~selling of goods~~;

(7) ~~selling of food~~;

(8) ~~abandoned property~~;

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

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

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

(12) ~~control of~~ insects and rodents;

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

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

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

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

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

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

~~(17)~~ ⁸ water pollution control;

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

46.03.140-46.03.240;

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

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

(b) ~~(10)~~ ¹² First and second class boroughs may exercise the powers conferred by (a) of this section only after they have been assumed in the manner required under AS 29.36.090-29.36.130 (AS 29.33.250-29.33.290) for areawide exercise or in the manner required under AS 29.36.160-29.36.200 (AS 29.38.010-29.38.050) for exercise in the borough area outside cities

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

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

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

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

Explanation: The right to use the streets and other public places has been added to the ordinance. It is not felt that it is necessary to amend this portion.

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

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

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

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

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

7 Sec. 29.33.140. (~~Sec. 29.48.080.~~) RIGHT TO PARTICIPATE AND COMPEL
8 TESTIMONY. ^{Not in} At a hearing held under Sec. 70 of this chapter, all public
9 service corporations, associations, or individuals affected by or interested
10 in the matters to be heard may be present and may be represented by counsel.
11 The municipality and all interested parties may produce witnesses and examine
12 them and introduce evidence to prove or disprove the facts in issue or
13 matters to be established or inquired into at the hearing. All parties may
14 compel the attendance of witnesses, and subpoenas requiring attendance shall
15 be issued by the municipal clerk under his hand and the seal of the
16 municipality. Subpoenas duces tecum requiring the production of books and
17 papers shall be issued in like manner upon request. If a person fails to
18 obey a subpoena, the party at whose request the subpoena issued may petition
19 the superior court for an order compelling the attendance of the disobedient
20 witness or the production of the books or papers referred to in a subpoena
21 duces tecum. The superior court shall order the witness to appear and
22 testify or compel the production of the books or papers. A violation of the
23 order of the court is a contempt of court. If a witness appears and refuses
24 to testify concerning a matter material to the facts inquired about at the
25 hearing and to establish or determine which the hearing was had, an
26 application may be made to the superior court to compel the witness to
27 testify and answer questions put to him concerning the matters inquired
28 about, and the court shall make an order compelling the witness to testify.
29 Violation of the order is contempt of court.

→ Explanation of AS 29.33.010 is allowed for utilities of municipality and utilities AS 29.33.010 or (10).

Repeal

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

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

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

17 Article 3. FISCAL DUTIES

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

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

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

LA-La30 advantageous to the municipality to do so.

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Repeal.

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

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

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

Explanation: Since state laws, both federal and state, which provide for the disposal of land for use and disposal it is felt that this section is not needed as it may be to be considered as a separate request that a portion be used for other purposes.

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

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

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

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

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

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

Explanations: ... added to ... areawide/nonareawide functions ...

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

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

Sec. 29.33.230. (Sec. 29.48.220.) POST AUDIT. The assembly or council

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

Article 4. CONSTRUCTION OF POWERS

(Chapter 48. Article 5. CONSTRUCTION OF POWERS)

Sec. 29.33.260. (Sec. 29.48.310.) GENERAL CONSTRUCTION. A liberal

construction shall be given to all powers and functions of boroughs and cities conferred in this title.

Sec. 29.33.270. (Sec. 29.48.320.) EXTENT OF POWERS. Unless otherwise

limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

Sec. 29.33.280. (Sec. 29.48.330.) ENUMERATION OF POWERS. Specific

examples within an enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.