

SCOMM

#23:49

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.170. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES.

(8) tax, spend, and regulate for the purpose of promoting industrial development.

The rest of the section is the same.

EXPLANATION: This is added as a specific power which need not be assumed under AS 29.36.180. A first class borough may exercise this power under AS 29.36.160, the general grant of power to first class boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.270. SERVICE AREAS. (a) (First two sentences the same). Except as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the voters residing within the service area and voting on the question at a regular or special election, unless all owners of real property within the service area consent in writing to the exercise of the power.

No other changes to this section.

EXPLANATION: Change in (a) to avoid the necessity of an election if there is no opposition by property owners who will be affected by the service area.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1960

Sec. 29.39.060. PLANNING AND LAND USE REGULATION. (a)
Home rule and first class cities outside first and second class
boroughs shall, and second class cities outside first and second
class boroughs may in whole or part, provide for planning, platting
and land use regulation within their boundaries, as provided by
AS 29.42.010-29.42.245 for boroughs.

(b) Home rule and first class cities within third
class boroughs shall, and second class cities within third class
boroughs may in whole or part provide for planning, platting and
land use regulation, as provided by AS 29.42.010-29.42.150 for
boroughs.

EXPLANATION; Clarifies that a city may only plan for the
area within its boundary. Adds the provision that second
class cities may plan "in whole or part" as provided for
boroughs, so that it is clear that they are not forced into
an all or nothing situation.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES.

Repeal.

Sec. 29.39.070. ENFORCEMENT OF CURFEWS. Repeal.

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

EXPLANATION: It is felt that these provisions are unnecessary and would be properly placed in the criminal code. (NOTE: These were in the criminal code as AS 11.60.250, 11.60.260, and 11.60.270 and moved to Title 29 effective January 1, 1980.)

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD:

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.27.080. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$1,000 or imprisonment for 90 days, or both. By ordinance mandatory nonsuspendable imprisonment not to exceed five days may be imposed for violation of an ordinance. However, the punishment authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at cost.

(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Every day upon which a violation of an ordinance continues shall constitute a separate violation.

EXPLANATION: In (a) the fine and the term of imprisonment have been increased to match the penalty imposed under the criminal code for a class B misdemeanor. (d) and (c) have been added to provide municipalities with additional remedies for the violation of ordinances, matching recommended remedies for enforcement of land use regulations.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 37.30.100. PROHIBITED BIDDING ON BONDS. Repeal.

EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. It creates a hardship on the smaller communities who may have only one financial advisor available. The municipality is protected by SEC disclosure requirements and by the fact that a "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there is always a possibility that they are void if the wrong person provided marketing assistance.

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a)

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskim or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 Section 12 of the Alaska Constitution.

(The rest of this section is the same.)

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to
(M, type all of (7) above)

(The rest of this section is the same.)

EXPLANATION: Change proposed by Mike Walleri to avoid taxation of land which is not taxable under state and federal law.

Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES. Repeal

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Sec. 29.39.060. PLANNING AND LAND USE REGULATION. (a) Home rule and first class cities outside first and second class boroughs shall, and second class cities outside first and second class boroughs may in whole or part, provide for planning, platting and land use regulation within their boundaries, as provided by AS 29.42.010-29.42.245 for boroughs.

(b) Home rule and first class cities within third class boroughs shall, and second class cities within third class boroughs may in whole or part, provide for planning, platting and land use regulation, as provided by AS 29.42.010-29.42.150 for boroughs.

EXPLANATION: Clarifies that a city may only plan for the area within its boundary. Adds the provision that third class cities may plan "in whole or part" as provided for boroughs, so that it is clear that they are not forced into an all or nothing situation.

Sec. 29.36.270 SERVICE AREAS. (a) (First two sentences the same.)
EXCEPT AS PROVIDED IN (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the voters residing within the service area and voting on the question at a regular or special election, unless all owners of real property within the service area consent/^{in writing}to the exercise of the power.

(No other changes in this section.)

EXPLANATION: Change in (a) to avoid the necessity of an election if there is no opposition by property owners who will be affected by the service area.

Sec. 29.36.170. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES.

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(The rest of the section is the same.)

EXPLANATION: This is added as a specific power which need not be assumed under AS 29.36.180. A first class borough may exercise this power under AS 29.36.160, the general grant of power to first class boroughs.

Sec. 29.27.080. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of and mandatory imprisonment not to exceed five days \$1,000 or imprisonment for 90 days, or both, / However, the punishment authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at cost.

(b)

Sec. 29.27.080. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$1,000 or imprisonment for 90 days, or both. ^{By ordinance non-suspendable} Mandatory imprisonment not to exceed five days may be imposed ~~by ordinance~~ for violation of an ordinance. However, the punishment authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at cost.

(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy.

Every day upon which a violation of an ordinance continues shall constitute a separate violation.

EXPLANATION: In (a) the fine ~~has been increased~~ and the term of imprisonment ^{have been} increased to match the penalty imposed under the criminal code for a class B misdemeanor. (d) and (c) have been added to provide municipalities with additional remedies for the violation of ordinances, ^{matching recommended remedies for enforcement of land use regulations.}

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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an all or nothing situation.

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

Frank John M...er

1. ^{51.250} Sec. 29.58.205 should be left in without change.

2. ^{51.300} Sec. 29.58.110 should be amended to read:

OK

^{51.370}
Sec. 29.58.310. INTEREST RATE. The interest rate pay-
able on a bond or note shall be determined by the
governing body
assembly or council and is not subject to the usury
rate limitations of A.S. 45.45.010. [NO MUNICIPAL BOND
OR NOTE MAY BEAR AN INTEREST RATE EXCEEDING THE CON-
TRACT USURY RATE OR INTEREST PROVIDED BY LAW.]

3. ^{51.370} Sec. 29.58.300 should be amended to read:

OK →

Sec. 29.58.300. [PUBSEC] SALE. Bonds and notes issued
under this chapter may be sold by the municipality in
the manner and at the price it determines at either
public or private sale. ~~{THE MUNICIPALITY SHALL SELL~~
~~ALL BONDS AT A PUBLIC OR PRIVATE SALE AS PROVIDED BY~~
~~ORDINANCE, NO BONDS MAY BE SOLD AT LESS THAN PAR VALUE.}~~

OK → Also repeal ^{29.51.050, 29.51.150} A.S. 29.58.060, 29.58.140 and ~~29.58.200.~~ ^{use}

4. A new Section A.S. 29.58.305 to read as follows:

^{51.375}
Sec. 29.58.305. FORMS AND TERMS. The ^{governing body} assembly or
council may by ordinance or resolution fix the date,

TO: Melissa Fouss

From: John Messenger

1. ^{51.250} Sec. 29.58.205 should be left in without change.

29.51.050
29.51.150

Also repeal A.S. 29.58.060, 29.58.140 and ~~29.58.200~~ *use*

.050 .150

29.51.200
29.51.270
170.

Repeal the following provisions--A.S. 29.58.220, 29.58.

29.51.270, 29.51.200

5. A.S. 29.58.200^{51.240} is amended to read:

240
OK

Sec. 29.58.200. REVENUE BONDS. (a) A municipality of the State may issue revenue bonds for a public enterprise or public corporation of the municipality where the only security is the revenues of the public enterprise or corporation. [A MUNICIPALITY MAY ACQUIRE, CONSTRUCT, IMPROVE AND EQUIP CAPITAL IMPROVEMENTS TO BE OPERATED UPON A REVENUE-PRODUCING BASIS, AND BONDS FOR THESE PURPOSES ARE PAYABLE SOLELY FROM UNPLEGGED REVENUE OF THE PUBLIC FACILITIES FOR WHICH THE BONDS ARE ISSUED.]

(b) A municipality may issue its revenue bonds to finance the purchase of residential mortgage loans. The revenue bonds issued under this subsection are payable solely from the principal and interest of the mortgage loans and from any other amounts pledged by the municipality, except the pledge of revenues derived from taxes. Revenue bonds issued under this subsection do not constitute a general obligation of the municipality.

(c) A MUNICIPALITY MAY ALSO ISSUE REVENUE BONDS FOR ANY LAWFUL PURPOSE. THE BONDS ARE PAYABLE FROM ANY AMOUNTS PLEDGED BY THE MUNICIPALITY EXCEPT TAXES AND DO NOT CONSTITUTE GENERAL OBLIGATIONS OF THE MUNICIPALITY.]

Sec. 29.51.280. CONSTRUCTION. The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

EXPLANATION: The following provision is made inapplicable to the use of proceeds from revenue bonds:

Sec. 37.10.085. FINANCIAL AID TO CORPORATIONS BY STATE OR POLITICAL SUBDIVISION. Neither the state nor a political subdivision of the state may

(1) make a subscription to the capital stock of a corporation;

(2) lend its credit for the use of a corporation;

or

(3) borrow money for the use of a corporation.

It is felt by bond counsels that this section currently forbids a municipality to use proceeds of revenue bond sales for loans and other expenditures designed to encourage industrial development.

denominations, maturities, rate or rates of interest, redemption terms, registration privileges, manner of execution, signatures required, purchase price, manner of sale, and ~~all other details of the bonds or notes.~~ If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

Repeal the following provisions--A.S. ~~29.58.220~~, 29.58.

170.

51,240
✓ 5. A.S. ~~29.58.200~~ is amended to read:

OK
Sec. 29.58.200. REVENUE BONDS. (a) A municipality of the State may issue revenue bonds for a public enterprise or public corporation of the municipality where the only security is the revenues of the public enterprise or corporation. [A MUNICIPALITY MAY ACQUIRE, CONSTRUCT, IMPROVE AND EQUIP CAPITAL IMPROVEMENTS TO BE OPERATED UPON A REVENUE-PRODUCING BASIS, AND BONDS FOR THESE PURPOSES ARE PAYABLE SOLELY FROM UNPLEDGED REVENUE OF THE PUBLIC FACILITIES FOR WHICH THE BONDS ARE ISSUED.]

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

~~Sec. 29.51.370. PUBLIC SALE. Repeal.~~

*use
John's
latest
version*

EXPLANATION: This section is repealed as redundant since other provisions deal with the sale of bonds.

OK

Sec. 29.45.240.

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

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

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

(b) No change.

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

OK

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

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

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

OK

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

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


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

OK

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

EXPLANATION: Allows the return of excess money received over the amount needed for the tax when property is sold to satisfy a tax lien.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.320. REAL PROPERTY TAX COLLECTION. (a) No 
change.

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

EXPLANTION: The word "taxable" is substituted for "leasehold" so that any interest in tax exempt property which can be taxed can be enforced.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.45.400. REDEMPTION PERIOD. (a) No change.
(b) Repeal.

EXPLANATION: (b) is eliminated so that a person holding a lien on only part of a lot or parcel may no longer redeem just that part. This avoids the problem of splitting lots or parcels into what might be illegal subdivisions.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.410. EFFECT. Receipt of redemption money by the borough releases the judgment obtained under AS 29.45.380. The clerk or his designee shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The clerk or his designee shall collect the recording fee at the time of redemption and shall file the certificate with the record as part of the judgment roll.

EXPLANATION: Changed so that all claims of the borough are not released, i.e., improvement assessments. Redemption releases only the judgement obtained for delinquent taxes.

Sec. 29.45.440. EXPIRATION. (a) At least 30 days before the expiration of the redemption period the clerk or his designee shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration or the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the borough or city immediately in expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the borough or city. The notice is published once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough. If there is no newspaper of general circulation distributed within the borough, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against which a judgement of foreclosure has been taken and, if the assessed value of the property is more than \$100,000, to all holders of mortgages or other liens of record on the property. The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner and to the holder of a mortgage or recorded lien at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

(b) No change.

EXPLANATION: Based on recommendation of AAAO; raises assessed value of property which triggers duty of clerk to advise holders of security of judgement of foreclosure. Burden placed on lienholder to protect his interest.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) No change.

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

(c) No change.

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

EXPLANATION: (b) changes to clear title except for tax liens. (d) changed to include the interests in property of persons other than the owner within the limitation period. This clears the title.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.460. DISPOSITION AND SALE OF FORECLOSED PROPERTIES.

(a) No change.

(b) No change.

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

(d) No change.

EXPLANATION. Language of (a) inserted into last line of (c) for consistency. No substantive change.

OK

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

(b) No change.

(c) No change.

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

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

EXPLANATION: (a) changed to make it clear that tax can be levied on sales and rents, not just one or the other. (d) interest rate raised from eight to 15 percent. (e) added to allow liens for the collection of sales and use taxes.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

(b) no change.

EXPLANATION: Simplifies the section and eliminates the
provision that propositions may be brought only once a year.

OK

Sec. 29.48.010. ASSESSMENT AND PROPOSAL. The assembly or council may assess against the property of a governmental unit and private real property benefited all or a portion of the cost of acquiring, installing, or constructing [OR IMPROVING] capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under AS 29.48.020(a)(8). If a governmental unit other than the state benefited by an improvement [ASSESSMENT] refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

- (1) petition to the assembly or council of the owners of one-half in value of the property to be benefited or
- (2) the assembly or council.

EXPLANATION: This is primarily a technical revision although the language is broadened to make it clear that all costs of capital improvements may be paid for by assessments.

ok

Sec. 29.48.020. PROCEDURE. (a) The assembly or council may prescribe by ordinance the procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments and financing of the improvements [SPECIAL ASSESSMENT PROCEDURE FOR LOCAL IMPROVEMENTS], including and subject to the following:

- (1) a [THE] procedure for filing petitions;
- (2) no change;
- (3) no change;
- (4) a resolution or ordinance of the assembly or council determining to proceed or not to proceed with the proposed local improvement;
- (5) no change;
- (6) published notice of each public hearing required by this section and mailing notice to each [LEGAL OWNER OF] record owner of real property within the special assessment district;
- (7) a resolution or ordinance confirming the special assessment roll for the local improvement;
- (8) no change;

(b) To the extent that [IF] the assembly or council does not prescribe a procedure for special assessments as permitted by this section, the assembly or council shall comply with the special assessment procedures set out in AS 29.48.030-100.

EXPLANATION: This is primarily a technical revision except that those items required to be done by resolution under existing law may be done by ordinance.

OK

Sec. 29.48.030. Creation of District. [DECISION AND NOTICE].

(a) When an improvement proposal has been filed with the municipal clerk and presented to the assembly or council, the assembly or council shall find by resolution or ordinance whether (1) the improvement requested [REQUEST] is necessary and should be made, and (2) if by petition, the request has sufficient and proper petitioners. The findings of the assembly or council are conclusive.

(b) If the assembly or council approves with the necessary findings [PASSES A RESOLUTION APPROVING] an improvement proposal, it shall develop a proposed improvement plan including the estimate of total cost and amount of the improvement cost to be assessed against each property benefited. This plan is to be filed with the municipal clerk.

(c) The assembly or council shall set a time for public hearing on the improvement plan and the period for filing objections to the plan. The assembly or council shall publish a notice of the hearing and of the period during which objections may be filed at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

EXPLANATION: (b) changed to require an estimate of the amount to be assessed to each property rather than an estimate of the percentage of the total cost. (c) requires a period for filing of objections and notice of the period.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

X

Sec. 29 ⁴⁸68.040. RECORD OWNER. The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment roll may designate [BE MADE AGAINST] "unknown owner".

EXPLANATION: Technical clean-up. No substantive change.

JK

Sec. 29.48.050. OBJECTIONS AND REVISION. (a) Objections to the improvement plan may be filed during a period of 60 days [NOT LESS THAN 30 NOR MORE THAN 60 DAYS] after publication of notice [ON A DATE SPECIFIED BY THE ASSEMBLY OR COUNCIL]. The assembly or council may by resolution or ordinance approve the plan and order [PROCEED WITH] the improvement subject to the limitation of (b) of this section [IF THE OWNERS OF ONE-HALF IN VALUE OF THE PROPERTY TO BE BENEFITED DO NOT OBJECT IN WRITING].

(b) If objections are made in writing during the period set for objections by the owners of property bearing one-half or more of the estimated cost of the improvement, the assembly or council may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 percent. A revised plan shall be approved and adopted as an original plan in accordance with AS 29.48.030.

EXPLANATION: Eliminates option of allowing objections for only 30 days in favor of a 60 day period. Requires objections by property owners under (b) to be in writing.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.48.060. ASSESSMENT ROLL. (a) At any time after project approval, the assembly or council shall assess the authorized percentage of the cost against property within the district [TRACTS] in proportion to benefit received. [ASSESSMENTS MAY NOT EXCEED ACTUAL COSTS.]

(b) The special assessment roll shall contain [CONTAINS] property descriptions, names of record owners [OF RECORD] and assessment amounts.

(c) No change.

EXPLANATION: Technical clean-up only. The last line of (a) is deleted as redundant.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.48.070. HEARING AND SETTLEMENT. After the public hearing, the assembly or council shall correct errors and any inequalities in the roll. If an assessment is increased, a new hearing shall be set and notice mailed, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objections to the increased assessment shall be limited to record owners of property on which the assessment was increased. When the roll is corrected, it shall be confirmed by resolution or ordinance of the assembly or council. [THE CLERK SHALL SO CERTIFY].

EXPLANATION: Provides an opportunity for a new hearing if assessments are increased. Requires the governing body to confirm a new assessment roll.

OK

Sec. 29.48.080. PAYMENT. (a) The assembly or council shall fix times of payment, penalty on delinquent payments and the rate of interest on the unpaid balance of the assessment [INSTALLMENTS AND DELINQUENCY OF ASSESSMENTS. PAYMENT MAY NOT BE REQUIRED SOONER THAN 60 DAYS AFTER ASSESSMENT]. Payment may be in one sum or by installments. [BUT A SUM OR INSTALLMENT MAY NOT EXCEED 25 PERCENT OF THE ASSESSED VALUE OF THE PROPERTY AFFECTED.] If payment is to be in one sum, payment may not be required sooner than 60 days after mailing of the assessment statement. The entire assessment may be prepaid without interest or penalty within 30 days after mailing of the assessment statement; and thereafter the assessment may be prepaid in whole or in part with interest to the payment date. [PENALTY AND INTEREST ARE THE SAME AS FOR REAL PROPERTY TAXES.]

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, method of payment, rate of interest on the unpaid balance of the assessment, the time of delinquency, and penalties on delinquent payments.

(c) No change.

(d) No change.

EXPLANATION: Removed the limitation that a payment not exceed 25 percent of the value of property. Allows a period of 30 days for payment without interest.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

Sec. 29.48.090. EXEMPTION. (a) No change.

(b) No exemption may be granted under this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors and in accordance with the following requirements:

(1) the claimant must file the initial application during the period of time between the date the assessment roll is confirmed [CERTIFIED] and the time of payment fixed by the assembly or council. Within one year of the date the assessment roll is confirmed [CERTIFIED] the assembly or council for good cause shown may waive the claimant's failure to make timely initial application for the exemption and authorize the assessor to accept the application as if timely filed.

The rest of the section is unchanged.

EXPLANATION: Change in (b)(1) to conform to the change in AS 29.48.070 providing that the assessment roll be confirmed by the governing body.

JK

Sec. 29.48.105. ALLOWABLE COSTS. (a) Whenever a special assessment district is created, there may be included in the assessments

(1) all of the cost of acquiring, installing, making or constructing the local improvement;

(2) the costs of all engineering and surveying to be done in connection with creating the district or improvement;

(3) the cost of mailing and publishing of notices;

(4) interest on interim financing;

(5) the cost of legal services and other expenses incurred in the formation of the special assessment district;

(6) The cost of completing the improvement and financing the improvement, including the issuance of any bonds.

(b) The total amount of the assessment roll may not exceed actual costs but actual costs may include reasonable estimates of the costs to be incurred in connection with issuance of any bonds.

EXPLANATION: This s a new section clarifying which costs may be paid for through assessments.

OK-

Sec. 29.48.115. INTERIM FINANCING. (a) The assembly or council may provide by resolution or ordinance for the issuance of notes in payment of the costs of any local improvement project, payable out of special assessments for the improvement. The notes shall bear interest at a rate or rates authorized by the resolution or ordinance and shall be redeemed either in cash or bonds for the improvement project.

(b) All notes issued against assessments shall be claims against the assessments which are prior and superior to a right, lien or claim of a surety upon the bond given to the municipality to secure the performance of its contract for a local improvement project or to secure the payment of persons who have performed work or furnished materials under the contract.

(c) The municipal treasurer may accept notes against special assessments upon conditions prescribed by the assembly or council in payment of

(1) assessments against which the notes were issued in order of priority;

(2) judgments rendered against property owners who have become delinquent in the payment of the assessments; and

(3) certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments.

EXPLANATION: This new section has been added at the suggestion of bond counsel because no authorization now exists for interim financing.

of

Sec. 29.48.120. SPECIAL ASSESSMENT BONDS. (a) No change.

(b) No change.

(c) Before the assembly or council may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. [INTEREST ON THE GUARANTEE FUNDS SHALL BE A COST OF THE IMPROVEMENT DISTRICT.]

EXPLANATION: It is felt that the last line of (c) makes no sense. Interest ought to be a credit to the district, if anything.

Sec. 29.51.280. CONSTRUCTION. The prohibitions of AS 37.10.085 shall not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality.

EXPLANATION: The following provision is made inapplicable to the use of proceeds from revenue bonds:

Sec. 37.10.085. FINANCIAL AID TO CORPORATIONS BY STATE OR POLITICAL SUBDIVISION. Neither the state nor a political subdivision of the state may

- (1) make a subscription to the capital stock of a corporation;
 - (2) lend its credit for the use of a corporation;
- or
- (3) borrow money for the use of a corporation.

It is felt by bond counsels that this section currently forbids a municipality to use proceeds of revenue bond sales for loans and other expenditures designed to encourage industrial development.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.340. SALE OF REFUNDING BONDS. General obligation refunding bonds or revenue refunding bonds may, at the discretion of the assembly or council, be exchanged for the bonds being refunded, or may be sold at public or private sale. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds.

EXPLANATION: It is felt by bond counsels that the flexibility of allowing a refunding bond to be exchanged or sold at other than par value ought to be provided. It is felt that the policy of notifying the public of the value of bonds should not become an hinderance to obtaining the best deals through discounting bonds. It has become difficult to market revenue bonds at par value according to bond counsels.

Keep

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.370. PUBLIC SALE. Repeal.

EXPLANATION: This section is repealed as redundant since other provisions deal with the sale of bonds.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.390. BOND ATTORNEYS, BOND AND FINANCIAL CONSULTANTS. *OK*

Repeal.

EXPLANATION: This section is repealed as unnecessary since the governing body has control through approving or disapproving the issuance of bonds. Arguably, contracting is an executive function.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.420. BONDED INDEBTEDNESS FOR SCHOOL CONSTRUCTION.

Repeal.

JK

Sec. 29.51.430. BOND GUARANTEE FUND. Repeal

EXPLANATION: These sections have never been used and appear to serve no useful purpose. They are repealed at the request of the State Assessor.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.440. SERVICE AREA DEBT. The indebtedness of a service area acquired under AS 29.51.410 shall remain the indebtedness of the area which incurred the debt notwithstanding a subsequent court determination that the service area was not validly formed under law or by virtue of a defect in the proceedings creating the service area. All the property within the service area remains subject to taxation to pay the bonded indebtedness.

EXPLANATION: This is a new section. The Alaska Constitution prohibits the establishment of service areas when the function can be performed by a city or another service area. No guidelines have been established, leaving the legality of some service areas in doubt. This provides for the continuation of a debt should a service area subsequently be declared invalid, creating a de facto service area for purposes of the debt.

From: John Mawzyer

1. ^{51.250} Sec. 29.58.295 should be left in without change.

2. Sec. 29.58.310 should be amended to read:

^{51.380}
Sec. ~~29.58.310~~ INTEREST RATE. The interest rate payable on a bond or note shall be determined by the assembly or council and is not subject to the usury rate limitations of A.S. 45.45.010. [NO MUNICIPAL BOND OR NOTE MAY BEAR AN INTEREST RATE EXCEEDING THE CONTRACT USURY RATE OR INTEREST PROVIDED BY LAW.]

3. Sec. 29.58.300 should be amended to read:

^{51.370}
Sec. ~~29.58.300~~ [PUBLIC] SALE. Bonds and notes issued under this chapter may be sold by the municipality in the manner and at the price it determines at either public or private sale. [THE MUNICIPALITY SHALL SELL ALL BONDS AT A PUBLIC OR PRIVATE SALE AS PROVIDED BY ORDINANCE, NO BONDS MAY BE SOLD AT LESS THAN PAR VALUE.]

Also repeal A.S. ^{51.050} 29.58.060, ^{51.150} 29.58.140 and ^{51.310} 29.58.280.

ALL DRAFTED CHGS

4. A new Section A.S. 29.58.305 to read as follows:

↓ ^{51.}
Sec. 29.58.305. FORMS AND TERMS. The assembly or council may by ordinance or resolution fix the date,

denominations, maturities, rate or rates of interest, redemption terms, registration privileges, manner of execution, signatures required, purchase price, manner of sale, and all other details of the bonds or notes. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature is valid as if he had remained in office until delivery.

Repeal the following provisions--A.S. 29.58.220, 29.58.

170.

5. A.S. ~~29.58.200~~^{51.240} is amended to read: OK

Sec. 29.58.200. REVENUE BONDS. (a) A municipality of the State may issue revenue bonds for a public enterprise or public corporation of the municipality where the only security is the revenues of the public enterprise or corporation. [A MUNICIPALITY MAY ACQUIRE, CONSTRUCT, IMPROVE AND EQUIP CAPITAL IMPROVEMENTS TO BE OPERATED UPON A REVENUE-PRODUCING BASIS, AND BONDS FOR THESE PURPOSES ARE PAYABLE SOLELY FROM UNPLEDGED REVENUE OF THE PUBLIC FACILITIES FOR WHICH THE BONDS ARE ISSUED.]

(b) A municipality may issue its revenue bonds to finance the purchase of residential mortgage loans. The revenue bonds issued under this subsection are payable solely from the principal and interest of the mortgage loans and from any other amounts pledged by the municipality, except the pledge of revenues derived from taxes. Revenue bonds issued under this subsection do not constitute a general obligation of the municipality.

[(c) A MUNICIPALITY MAY ALSO ISSUE REVENUE BONDS FOR ANY LAWFUL PURPOSE. THE BONDS ARE PAYABLE FROM ANY AMOUNTS PLEDGED BY THE MUNICIPALITY EXCEPT TAXES AND DO NOT CONSTITUTE GENERAL OBLIGATIONS OF THE MUNICIPALITY.]

6. A new section ^{51.350} ~~29.58.290~~ as follows: *ok*

Sec. 29.58.290. OTHER MUNICIPAL FINANCING. (a) A municipality may authorize by ordinance or resolution the issuance of revenue bonds to finance any public purpose project or program, which bonds shall be secured and payable solely from the revenue and property of such project or program.

(b) Bonds issued under this section are not a debt or liability of the municipality and do not create or

constitute an indebtedness, liability or obligation of the municipality nor do they constitute a pledge of faith, credit or taxing power of the municipality. Each bond must contain on its face a statement to the effect that the principal and interest on the bond are payable solely from the revenues and property of the project or program being financed and that the municipality is not obligated to pay the principal of or the interest on the bonds except for those sources of the project or program and that neither the faith and credit nor the taxing power of the municipality is pledged to the payment of such principal of or interest on the bond.

(d) A municipality may in connection with the issuance of bonds under this section

- (1) loan the proceeds of the bonds;
- (2) pledge, mortgage or assign money, leases, agreements, property or other assets of the project or program being financed;
- (3) make and enter into any and all covenants and agreements which the municipality may determine to be necessary or desirable;

(4) provide for any other matter which in any way effect the security or protection of the bonds.

(e) In this section the word "bonds" includes bonds, notes or other evidence of indebtedness. In this section, the words "project" or "program" shall include without limitation commercial, manufacturing, agricultural, industrial, residential housing, recreation, tourism and medical projects and programs.

(5)

ARTICLE 2. MUNICIPAL LEGISLATIVE BODIES

Sec. 29.24.050. GENERAL LEGISLATIVE POWER. The legislative power of a borough is vested in the assembly. The legislative power of a city is vested in the council.

EXPLANATION: The second sentence is added. Rather than dealing with assemblies in one article and councils in another, this article will deal with both legislative bodies. No substantive change.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.24.125. CITY COUNCIL COMPOSITION. Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The council of a first or second class city may by ordinance provide for election of members other than on an at-large basis for all members.

EXPLANATION: This section contains material now found in AS 29.23.200(a). The material currently in (b) has been moved to the section on qualifications. No substantive change.

Sec. 29.24.160. DEPARTMENTS. Repeal

ok

EXPLANATION: The material contained in this section is placed in an article dealing with municipal departments and employees.

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

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

OK

EXPLANATION: This section contains material now appearing in AS 29.23.130(b) and 29.23.250. No substantive change.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

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

(b) The mayor may take part in the discussion of all matters before the assembly or council.

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

EXPLANATION: This section contains material currently found in AS 29.23.130(a), AS 29.23.260, and AS 29.23.160. No substantive change.

OK

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

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

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

(c) The veto does not extend to

- (1) appropriation items in a school budget ordinance;
- (2) actions of the Board of Equalization or the

Board of Adjustment;

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

(d) The mayor of a ~~first~~^{SECOND} class city has no veto power.

EXPLANATION: Contains material currently found in AS 29.23.170, 29.23.260, and 29.23.270. Adds a time period within which a veto must be overridden.

Sec. 29.24.140. QUALIFICATIONS. (a) A borough voter is eligible to be a member of the assembly and a city voter is eligible to be a member of the council. A member of the assembly who ceases to be a qualified borough voter ~~forfeits his~~ ^{immediately} office. A member of the council who ceases to be a qualified city voter ~~forfeits his~~ ^{immediately} office. ^{when?} ^{LARSON} (b) A legislative body may by ordinance establish a durational residency requirement for its members not to exceed three years.

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

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

*Pam
Mowles*

EXPLANATION: The qualification for members of the council or assembly are combined since they are identical. Subsection (c) has been altered to allow a municipality the flexibility of providing otherwise by ordinance. Subsection (d) has been added to allow a municipality to impose additional district residency requirements.

*See
vacancies
section*

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.24.145. TERM OF OFFICE. (a) Assembly and council members are elected for three year terms and until their successors have qualified* unless different terms are prescribed by charter or ordinance.

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

(c) The regular term of office begins on the first Monday following certification of the election, unless a different date is prescribed by charter or ordinance.

EXPLANATION: The term of both assembly and council members is combined into one section. Under existing law different terms not exceeding four years may be prescribed. The four year maximum has been eliminated for greater flexibility. The section is no longer mandatory for home rule municipalities.

Pass: Add "council" to existing

** add - wording "not to exceed 4 yrs"*

motion seconded & carried

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

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

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

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

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

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

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

Sec. 29.24.150.

EXPLANATION: Combines the procedures to be followed by both assemblies and councils. Allows a special meeting to be held if a majority of members receive actual notice whereas existing law allows for a meeting only if all members receive notice and if an emergency exists. Reference to the fact that meetings are public is deleted because that requirement is contained in AS 29.24.020. A requirement that the journal maintained by the legislative body be public was added in (e). The material concerned with the expulsion of members for committing a corrupt practice was moved to AS 29.23.070.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.24.175. FILLING A VACANCY. If a vacancy occurs in a legislative body, the remaining members shall within 30 days, ^{WOPBO,} appoint a qualified person to fill the vacancy. The person shall serve until the next regular election, at which time a successor shall be elected to serve the balance of the term. If less than 30 days remain in a term, a vacancy shall not be filled.

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

EXPLANATION: Contains material currently found in AS 29.23.080^{24.170} and 29.23.220. Provides that no appointment shall be made where less than 30 days remain in a term. Subsection (b) was added to insure that a legislative body will be able to continue to function if the number of vacancies which occur destroys the possibility of achieving a quorum.

* ~~KOHLER MOTION - to 60 days - WD.~~
~~LARSON 2ND~~

Larson motion: WOPBO added
carries.

ARTICLE 3. MUNICIPAL EXECUTIVE

OK

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

(b) The mayor shall act as ceremonial head of government, execute official documents upon authorization of the legislative body and is responsible for additional duties and powers prescribed by ordinance.

45

Larson motion*

OK

Administrative
Walker amendment.
chapter.
which is adopted
In a municipality the head of gov't
shall be the president of the
Beens see pg 41

EXPLANATION: Under current law the executive and administrator are dealt with in one article. It is proposed that one article deal with executive functions and a separate article deal with administrative functions. Therefore, this section eliminates the material dealing with administrative functions.

Sec. 29.24.250. VACANCY IN THE OFFICE OF MAYOR. (a) ~~The~~

*Beers
HOT
Dimmick
QAD*
assembly or council shall provide by ordinance the manner in which a vacancy occurs in the office of mayor. ~~Unless otherwise provided by ordinance the legislative body may~~ *shall* upon two-thirds concurring vote, declare the office of mayor vacant when the person elected

- physically ✓*
- (1) fails to qualify or take office within 30 days after his election or appointment;
 - (2) unless excused by the assembly or council, is absent for 90 days;
 - (3) resigns and his resignation is accepted;
 - (4) is physically or mentally unable to perform the duties of his office;
 - he* ✓ (5) ~~is a member of the assembly or council,~~ misses three consecutive regular meetings unless excused;
 - (6) is convicted of a felony or of an offense involving a violation of his oath of office; or
 - (7) is convicted of a felony or misdemeanor described in AS 15.56 as a corrupt practice.

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

(c) In a second class city, the office of mayor is filled by and from the council.

✓ (8) physically reside

EXPLANATION: This section is enlarged to deal with a vacancy occurring in the office of city as well as borough mayor. Allows the legislative body to establish the manner in which a vacancy occurs in the office of mayor and supplies situations which may result in vacancy if the body does not provide an alternative.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 10 OCTOBER 1980

Sec. 29.24.170. VACANCIES. The legislative body ~~shall~~ ^{MAY CARRIES} provide by ordinance the manner in which a vacancy occurs in any elected office except the office of mayor. Unless otherwise provided by ordinance the legislative body ~~may~~ ^{shall} declare an elective office vacant when the person elected

OTHER THAN THE OFFICE OF MAYOR

KOFFER/COOK "shall" CARRIES

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

(2) unless excused by the assembly or council, is absent for 90 days;

Walker: phy motion

90 consecutive

CARRIES

(3) resigns and his resignation is accepted;

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

LARSON moves:

2/3 vote determination/carries

(5) if a member of the assembly or council, misses three consecutive regular meetings unless excused;

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

(7) is convicted ~~of a felony or~~ ^{Beers sugg} misdemeanor described in AS 15.56 as a corrupt practice and two-thirds of the members concur in expelling him.

2 to 1 who decides when 90 days starts?

Brannon uniform motion: "governing body" & defined as referring to both CARRIES

governing body refers to both (always) ASSY = ASSY Council = council

EXPLANATION: Allows the legislative body to provide the manner in which a vacancy occurs for all elected offices except for the office of mayor. If the body does not provide by ordinance situations which result in the vacancy of an office, the seven listed situations will result in a vacancy.

Add: (8) Pan motion - Solomon 2nd Larson ~~motion~~ to add language re: moving from district w limit to time gone.

not physically residing in municipality 2/3 vote no intent to return declares seat vacant.

Beers Walker Pan - subcommittee "shall & may" felonies categories

Walker motion: *

CARRIES

Sec. 29.24.205. ELECTION AND TERM OF MAYOR. (a) The mayor of a borough or first class city is elected at large. The mayor of a second class city is elected by and from the council.

*1 yr
wdg
OK*

(b) A mayor shall serve a term of three years unless by ordinance a different term not to exceed four years is provided, except that the current term of an incumbent mayor may not be altered. The regular term of a mayor commences on the first Monday following certification of his election. The council of a second class city shall meet on the first Monday after certification of the regular election and elect a mayor who takes office immediately.

PARRE MOTION (c) Leg. body may not ~~by ord~~ limit the numbr of mayor terms of the office

EXPLANATION: This new section contains material currently found in AS 29.23.130(c) and 29.23.250. No substantive changes.

Maybe limited by ord ^{only} RATIO by majority ^{of} votes. Subcommittee

LARSON-RECONSIDER
Kohler - 2

LARSON: MOTION - CARRIED.

(c) Leg body may not ~~by ord~~ limit # of terms a mayor may serve.

*add to
ord (b)*

Term of mayor of a 2nd class city shall be 1 yr unless a diff term not to exceed the unexpired term of the member's current term.

(d) The mayor of 2nd cc shall serve until exp. of current term unless a shorter period of not less

than one year is provided
by ordinance)

Upon the expiration of
the mayor's term, the council

LARSON Amendment - carries
d. A person elected for mayor
will serve a 1yr term starting
1st reg mtg, at 1st reg mtg
following certification, unless
mov 1gr term by ord.

to
Tech

Sec. 29.45.610. POWER OF LEVY. (a) A city within a borough which levies and collects a sales or use tax for areawide functions may levy a sales or use tax upon all sources taxed by the borough in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

(b) A city within a borough which does not levy and collect a sales or use tax for areawide functions may levy and collect a sales or use tax in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

Sec. 29.45.620. POWER OF LEVY AND COLLECTION. Repeal.

EXPLANATION: Material contained in AS 29.45.620 has been combined into AS 29.45.610. The section has been altered to insure that a city may create a lien to secure payment of a sales and use tax as is recommended in AS 29.45.570 for boroughs.

A city may collect a sales or use tax in the manner provided for a borough.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD: *NOT ACCEPTED*

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

OK

Sec. 29.45.545. COMBINING PROPERTY TAX WITH INCORPORATION.
A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails.

EXPLANATION: This is a new section similar to the provision in 29.45.630 allowing an incorporation petition to be tied to imposition of a sales tax.

Walker
29.45.510.) carries
add:

OK

(c) The assembly may correct
manifest clerical errors.
at any time.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.27.060. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$1,000 or imprisonment for 90 days, or both. By ordinance mandatory nonsuspendable imprisonment not to exceed five days may be imposed for violation of an ordinance. (However, ^{sub(c)} the punishment authorized under this ^{sub} section may be imposed only if copies of the ordinance are made available for distribution to the public at cost, ~~free~~)

(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Every day upon which a violation of an ordinance continues shall constitute a separate violation.

(c).

EXPLANATION: In (a) the fine and the term of imprisonment have been increased to match the penalty imposed under the criminal code for a class B misdemeanor. (d) and (c) have been added to provide municipalities with additional remedies for the violation of ordinances, matching recommended remedies for enforcement of land use regulations.

1. BRANSON: CARRIES
2ND not to exceed the penalty, prescribed by CLASS B Misdemeanor
2. COOK: CARRIES
2ND OR at not ~~cost~~ charge, as determined by the assembly or council.

Beers

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.170. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES.

(8) tax, spend, and regulate for the purpose of promoting ~~industrial~~ development.

1. *ECONOMIC*

The rest of the section is the same.

1. *LARSON MOTION: CARRIES*
2ND

EXPLANATION: This is added as a specific power which need not be assumed under AS 29.36.180. A first class borough may exercise this power under AS 29.36.160, the general grant of power to first class boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.270. SERVICE AREAS. (a) (First two sentences the same). Except as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the voters residing within the service area and voting on the question at a regular or special election, ¹ unless all owners of real property within the service area consent in writing to the exercise of the power.

No other changes to this section.

EXPLANATION: Change in (a) to avoid the necessity of an election if there is no opposition by property owners who will be affected by the service area.

²¹⁰ Berns amendment: ^{carries} qualified voter.
1. OR if no ~~one~~ resides in the area,

OK

Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the assembly¹ or other municipal residents. The assembly shall by ordinance establish the qualifications for membership.

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

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

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

1. Walker, add
amend:) ~~private and~~^{individuals} or a combination thereof.
carries) municipal residents,

9/2

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.51.410. BOROUGH INDEBTEDNESS. (a) A borough may incur indebtedness

(1) on an areawide basis for areawide functions;

or

(2) on a noncity basis for functions performed in the area outside cities only; or

(3) on a service area basis for functions performed in a service area only.

(b) Payment of debt principal and interest as well as other costs shall be derived from the area incurring the debt under (a)(2) or (a)(3) of this section, except that the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest.

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide; if the full faith and credit of the area outside cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area which will benefit from the improvement; if the bonded indebtedness to be incurred is limited to areas outside cities only or to service areas, the vote is limited to voters in those areas and the full faith and credit of the area is pledged for the payment of the debt.

(d) no change.

1. Walker motion
2nd CARRIES

is to be pledged
1. 1
1. voting on the indebtedness

EXPLANATION: Minor technical clean-up in (a) and (b). Language at the end of (c) added to make it clear that a service area general obligation bond can be issued.

See
TEXT 11/6/80

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 37.30.100. PROHIBITED BIDDING ON BONDS. Repeal.

EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. It creates a hardship on the smaller communities who may have only one financial advisor available. The municipality is protected by SEC disclosure requirements and by the fact that a "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there is always a possibility that they are void if the wrong person provided marketing assistance.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.170. SECOND CLASS BOROUGH POWERS OUTSIDE CITIES.

(8) tax, spend, and regulate for the purpose of promoting industrial development.

The rest of the section is the same.

EXPLANATION: This is added as a specific power which need not be assumed under AS 29.36.180. A first class borough may exercise this power under AS 29.36.160, the general grant of power to first class boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.36.270. SERVICE AREAS. (a) (First two sentences the same). Except as provided in (f) of this section, a second class borough may exercise the powers granted a first class city by general law but the exercise of the powers must be approved by a majority of the voters residing within the service area and voting on the question at a regular or special election, unless all owners of real property within the service area consent in writing to the exercise of the power.

No other changes to this section.

EXPLANATION: Change in (a) to avoid the necessity of an election if there is no opposition by property owners who will be affected by the service area.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.39.060. PLANNING AND LAND USE REGULATION. (a) Home rule and first class cities outside first and second class boroughs shall, and second class cities outside first and second class boroughs may in whole or part, provide for planning, platting and land use regulation within their boundaries, as provided by AS 29.42.010-29.42.245 for boroughs.

(b) Home rule and first class cities within third class boroughs shall, and second class cities within third class boroughs may in whole or part provide for planning, platting and land use regulation, as provided by AS 29.42.010-29.42.150 for boroughs.

EXPLANATION; Clarifies that a city may only plan for the area within its boundary. Adds the provision that second class cities may plan "in whole or part" as provided for boroughs, so that it is clear that they are not forced into an all or nothing situation.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES.

Repeal.

Sec. 29.39.070. ENFORCEMENT OF CURFEWS. Repeal.

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

EXPLANATION: It is felt that these provisions are unnecessary and would be properly placed in the criminal code. (NOTE: These were in the criminal code as AS 11.60.250, 11.60.260, and 11.60.270 and moved to Title 29 effective January 1, 1980.)

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD:

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.27.080. PENALTIES. (a) For the violation of an ordinance, the assembly or council may prescribe punishment not to exceed a fine of \$1,000 or imprisonment for 90 days, or both. By ordinance mandatory nonsuspendable imprisonment not to exceed five days may be imposed for violation of an ordinance. However, the punishment authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at cost.

(b) The municipality or an aggrieved person may institute a civil action against a person who violates an ordinance. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. Every day upon which a violation of an ordinance continues shall constitute a separate violation.

EXPLANATION: In (a) the fine and the term of imprisonment have been increased to match the penalty imposed under the criminal code for a class B misdemeanor. (d) and (c) have been added to provide municipalities with additional remedies for the violation of ordinances, matching recommended remedies for enforcement of land use regulations.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 37.30.100. PROHIBITED BIDDING ON BONDS. Repeal.

EXPLANATION: It is felt that this section should be repealed because it unduly restricts the selling of bonds. It creates a hardship on the smaller communities who may have only one financial advisor available. The municipality is protected by SEC disclosure requirements and by the fact that a "person" can't buy bonds without permission of the municipality. Also (b) created a cloud on bonds, since there is always a possibility that they are void if the wrong person provided marketing assistance.

✓ Sec. 29.24.160. DEPARTMENTS. Repeal.

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

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

EXPLANATION: This new section is virtually identical to AS 29.24.160 except that stylistic changes apply this section to both cities and boroughs.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

OK

✓ Sec. 29.24.200 (e) Repeal.

✓ Sec. 29.24.640. INTERGOVERNMENT APPOINTMENTS. A borough adopting a manager plan may, by agreement with a city, enter into a contract providing for the manager of a city located within the borough to serve also as borough manager. A city adopting a manager plan, may by agreement with a borough, enter into a contract providing for the manager of a borough within which the city is located to serve also as city manager. Appointment and service of the manager shall be as otherwise provided for managers in this chapter. Nothing in this subsection affects the authority of the assembly or council to provide for other dual officeholding if the dual offices held are compatible, or otherwise to appoint officers and employees in accordance with law.

EXPLANATION: This section is derived intact from AS 29.24.200(e).

OK

✓ Sec. 29.24.210. POWERS AND DUTIES OF A BOROUGH ADMINISTRATOR.
Repeal.

✓ Sec. 29.24.390. POWERS AND DUTIES OF A CITY MANAGER.
Repeal.

✓ Sec 29.24.630. POWERS AND DUTIES OF A MANAGER. As chief
administrative officer the manager shall

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

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

(3) prepare and submit an annual budget and
capital improvement program for consideration by the governing
body and execute the budget and capital improvement program
adpcted;

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

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

(6) perform other duties required by law or by
action of the governing body.

SEE TAM'S NOTES

EXPLANATION: This new section is derived from AS 29.24.210
and 29.24.390 dealing with the duties of the borough administrator
and with the duties of the city manager. Provisions relating
to appointment and discipline of municipal employees have
been consolidated into paragraph (1). Paragraph (5) is
derived from AS 29.23.140 allowing the manager to exercise
care and custody over municipal property. A similar provision
does not appear now with reference to the city manager and
it is felt that this duty ought to apply. The language of
AS 29.23.140(c)(10) relating to construction, maintenance,
and operation of roads and public works is felt to be
adequately covered by paragraph (3) directing the manager to
execute the budget and capital improvement program.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.430. OTHER BOARDS AND COMMISSIONS. (a) The assembly or council of a municipality may, by ordinance, establish advisory, administrative, technical, or quasi-judicial boards and commissions.

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

EXPLANATION: This is a new section authorizing the assembly or council to establish boards and commissions.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.450. APPOINTMENT. The assembly or council shall appoint a manager by a majority vote of its membership. He is chosen solely on the basis of his executive and administrative qualifications and receives the compensation set by the assembly or council. An elected municipal official may not be appointed manager of the municipality sooner than one year after leaving office, except that, by a vote of three-fourths of its authorized membership, the assembly or council may at any time appoint one of its members or other elected municipal official as manager.

EXPLANATION: The word "officials" in the last line is changed to "official" so that it is clear that a committee of officials may not serve as manager.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

EXPLANATION: This section has been technically redrafted. The only substantive change is that the confirmation of officers appointed by the administrator is not required if an ordinance is adopted directing otherwise. This section determines a method of appointment if none is provided by ordinance.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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

(b) The treasurer shall give bond to the municipality in a sum which the assembly or council directs.

OK

EXPLANATION: Reference to 14.14.060 is added since that section demands that the custodian of a centralized treasury containing school money be the borough administrator.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.570. ELECTION. Upon receipt of the petition or upon its own motion, the assembly or council shall provide by ordinance or resolution for a vote on the question at the next regular or special election.

JK

EXPLANATION: Last line of existing section deleted due to possible confusion over notice requirements for elections contained in other sections which conflict.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.620. REPEAL. A municipality may repeal the manager plan in the same manner used for its adoption. Within 60 days after repeal, the assembly or council shall enact provisions for the reorganization of the municipal executive and administrative functions.

OK

EXPLANATION: To allow for notice, 60 days is added. Otherwise this section may not comply with notice requirements for ordinances.

OK

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

EXPLANATION: This change allows a local government the flexibility of establishing a salary commission or other method of determining salaries. Allows the mayor's salary to be reduced to reflect the change in his duties if a manager form of government is adopted. Grants flexibility to a municipality to allow an officer to receive other compensation for service to the municipality. This is important in small communities where the mayor, for example, may be the only electrician in town.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

JK

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

OK

Sec. 29.33.190. CENTRALIZED PURCHASING. Repeal.

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

OK

- 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.

See text

*See section 27.010
regarding ordinances*

OK
see TAN

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

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.020. ^{NO CHANGE.} PLANNING COMMISSION. (b) In addition to responsibilities prescribed by ordinance, the planning commission shall

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

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

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.030 COMPREHENSIVE PLAN. (a) No change. DJS

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

EXPLANATION: Subsection (b) is redrafted to eliminate the mandatory two year review requirement and substitute a more flexible review requirement.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.060. ADJUSTMENT PROCEDURE. Repeal

[Handwritten signature]

EXPLANATION: A simplified procedure is now provided in the prior section.

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

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

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

9/

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

EXPLANATION: The proposed change eliminates submission of preliminary plats for state disposals under AS 38.05 or 38.08, because the proposed changes in Sec. 29.42.010 requires full state compliance with local ~~capital improvements~~ subdivision requirements.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.100. WAIVER IN CERTAIN CASES. Repeal.

OK

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

OK

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

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

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

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

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

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.120. PENALTIES. Repeal.

ok

EXPLANATION: Provisions now contained in this section have been moved to a more inclusive section dealing with remedies - AS 29.42.160.

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.150. DELEGATIONS. Repeal.

OK

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

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.24.420. SCHOOL BOARDS. Each borough and city school district has a school board. *Members are elected at the regular election held annually on the first Tuesday of October, unless a different election date or interval of years is provided by ordinance. Members are elected for three-year terms and until their successors take office. All board members are elected at large, unless a different method of election ^{carries} has been approved by the voters in a reg. elect.

The election of board members shall be the same as for assembly members unless changed by ord rat. by voters.

EXPLANATION; The provision that school zones may be established as provided by Sec. 100 is deleted. AS 29.23.100 was repealed in 1972.

#1 The # of members shall be determined ^{provided for} by ord, sub to vote app.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
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ok

Sec. 29.39.060. EXTENSION OF CURFEWS OUTSIDE CITIES.

Repeal.

Sec. 29.39.070. ENFORCEMENT OF CURFEWS. Repeal.

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

EXPLANATION: It is felt that these provisions are unnecessary and would be properly placed in the criminal code. (NOTE: These were in the criminal code as AS 11.60.250, 11.60.260, and 11.60.270 and moved to Title 29 effective January 1, 1980.)

OK

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

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

(2) household furniture of the head of a family or household;

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

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

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

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

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

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

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

1. Dinnick moves to delete: ALL of (b)(3)
2ND

ok

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

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

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

Sec. 29.42.160. REMEDIES. (a) It shall be unlawful for the owner of land located within a subdivision to transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded in accordance with this chapter or with an ordinance adopted under this chapter. It shall be unlawful for a person to record a plat or other document depicting subdivided land in any public recorder's office unless the plat or document has been approved by the municipal authority. A person convicted of violating a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority in the exercise of its powers under this chapter is guilty of a misdemeanor and may be punished by a fine not to exceed \$1,000.

(b) The municipality or an aggrieved person may institute civil action against a person who violates a provision of this chapter, a municipal subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a municipal platting authority. [In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation.] An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. 2

(4) (c) Every day upon which an unlawful act or condition continues shall constitute a separate violation. ^{Free.}

Free Motion: delete fail as
2nd

5. Entry of judgment finding a violation exists has occurred

EXPLANATION: This new section is derived in part from AS 29.42.120 and contains new provisions which strengthen remedies available to municipalities seeking to enforce subdivision regulations. It prohibits persons from offering to sell unsubdivided land in violation of local subdivision regulations, authorizes injunctive relief to restrain violations of subdivision regulations, allows imposition of civil penalties, and makes daily occurrences of unlawful acts separate violations.

2. Beers Amend: add Sup. ct. injunctive relief / proof - injunctive carries upon app inj relief, finding
4). delete (C).
2 Add: After the violator has ~~92~~ notified.

NOT
Accept

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).

^{amend}
Beens delete:

Adds:

(13) issue franchises and permits ^{*₂ *₃} ~~for the use of municipal property;~~

All other paragraphs the same.

^{delete}
*Par motion: carries

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.

^{add:}
Walker amend: *₂ including exclusive franchises & permits.

^{delete:}
Beens amend *₃ delete: for the use of mun. prop.

Par motion: do not accept this change. } carries
2ND. DIMMICK amend: strike (13). }
supg 93 for alternate sugg. }
Walker amend: to be deleted & the same

Sec. 29.33.020. EXTRATERRITORIAL JURISDICTION. ^{Tamendment.} (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, 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.

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

carries
Dimmick motion *, ~~ADD: ports, docks.~~ substitute:
governs sec language:
harbors, wharves & other marine facilities,
~~TECHNICAL~~ ^{services,}
ADD TRANSPORTATION & utilities services

Par add: carries
solid & septic waste disposal

Dimmick motion: carries
1 To the extent that a munic. ~~may~~
see Tam] may ex pwr rec to
provide ~~it~~ or fac.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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) carry out any public purpose.

The rest of this section is the same.

provide any other facility or service necessary
Burns motion: carries to —

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.

*see services/systems
consistent wording*

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. ~~It~~² a competitive process for the acquisition and disposal of land and interests in land by the municipality is not provided by ordinance, ~~each~~³ land transaction by the municipality shall be approved by ordinance.]

(e) Repeal.

(f) Repeal.

3. Each disposal of land
OR
interest in land
shall be by ordinance.

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.

BEENS: subs. ~~or~~ sentence:
Disp of land & int by other than
comp. process shall be by ordinance.

[2] BRANSON moves to delete.
LWD:

Hold

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

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

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

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

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

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

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

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

EXPLANATION: Present law requires implementation of the comprehensive plan through traditional zoning applicable to geographically defined districts, and allows so-called "contract zoning." Although the present Sec. 29.42.040 (b) contains a rather traditional enumeration of the purposes of zoning, the "including but not limited to" preface to that subsection renders the detailed laundry list legally meaningless. The suggested language of AS 29.42.040 preserves the requirement that all land use regulations comply with a comprehensive plan and recites the more important categories of land use regulations available to the borough. Passage of AS 29.42.040 would enable second class boroughs to enact building and fire codes. Material on variances has been moved to the section from AS 29.42.050.

Motion by Paer: NOT TO ACCEPT.

No second.

J. Beens
2ND

Elim: (a) carries
TECH GRP REVIEW
80

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.33.110. FRANCHISES AND PERMITS. Repeal.

*NOT
ACCEPTED
See
33.110*

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.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Diminutive motion: carries.

RETAIN:

Sec. 29.33.120. PUBLIC UTILITIES RATES. Repeal.

42.05 CR

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 29.33.090 as (109). It is felt that it is not necessary to include elaborate details concerning that regulation.

STATE RECO. Add

DV

Sec. 29.39.060. PLANNING AND LAND USE REGULATION. (a)
Home rule and first class cities ^{*}outside ~~first and second class~~
boroughs shall, and second class cities outside ~~first and second~~
~~class~~ boroughs may in ^{*}whole or part, provide for planning, platting
and land use regulation within their boundaries, as provided by
AS 29.42.010-29.42.245 for boroughs.

(b) Home rule and first class cities within third
class boroughs shall, and second class cities within third class
boroughs may ^{*}in whole or part provide for planning, platting and
land use regulation, as provided by AS 29.42.010-29.42.150 for
boroughs.

EXPLANATION; Clarifies that a city may only plan for the
area within its boundary. Adds the provision that second
class cities may plan "in whole or part" as provided for
boroughs, so that it is clear that they are not forced into
an all or nothing situation.

*^{2ND} Dimmick motion: carries
Beens deletion: see above

*² Policy issue: carries
Dimmick motion: delete "whole or part"
Cook 2ND

Policy issue for later!

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

(2) dimensions and design of lots or tracts;

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

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

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

EXPLANATION: This proposed change makes the following modifications to existing law: it requires adoption of subdivision regulations by ordinance; allows the platting authority to require dedications; allows the assembly to determine the composition of the platting board; and eliminates the provisions which allow the state of Alaska to ignore capital improvement requirements of local subdivision regulations.

Parr motion: NOT ACCEPT^{chg} WITH REGARD TO STATE LAND DISPOSAL CONFORMANCE.

Walker motion: make consistent w Title 40

Title 38 requires state comply w unless excepted (change deletes exception).

ST

Sec. 29.24.680. PROHIBITIONS. (a) Repeal.

(b) Repeal.

(c) No change. *- see text. ✓ when Sharp.*

(d) No change. *(delete 1st line)*

EXPLANATION: (a) and (b) are deleted because other state and federal laws mandate nondiscrimination and those provisions may not be identical to (a), which could create confusion. For example, (a) does not cover age, handicaps, or marital status. (a) might also create constitutional problems if interpreted to forbid affirmative action programs.

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Sec. 29.24.010. CONFLICT OF INTEREST. Each home rule and general law municipality shall adopt a conflicts-of-interest ordinance which, ^{as the E & G L mun} other provisions of this chapter notwithstanding, includes provision that an officer or employee shall ^{disqualify} himself from participating in any official action in which he has a substantial financial interest.

EXPLANATION: The second sentence is deleted as redundant.

A provision that a member of legislative body shall declare before the body and ask to be excused by a majority or the presiding officer, the ruling may be appealed shall be final unless overturned by majority

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✓Sec. 29.24.690. PERSONNEL SYSTEM. Repeal

✓Sec. 29.24.530. PERSONNEL SYSTEM. (a) Except as provided by (b) of this section, all appointments and promotions of municipal employees are made on the basis of merit. The assembly or council may provide for a personnel system and classified service.

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

EXPLANATION: Subsection (a) is essentially the same as the existing provisions of AS 29.24.690 except that officers are no longer required to be appointed on the basis of merit. Subsection (b) is new; this subsection allows the governing body to designate certain positions as executive positions and exempt persons occupying those positions from the classified service. This addition would allow municipalities to enact so called "executive plans" governing the wages, hours, and other terms and conditions of employment of high level executive employees.

* ~~Administrative~~
Managerial or
Confidential
Potentially
Senior

OK

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

- (1) No change
- (2) No change
- (3) licensing, impounding and disposition of animals;
- (4) alcoholic beverages as provided by AS 04.15.070;
- (5) 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 (10) municipally owned utilities to the extent not prohibited by 42.05; *Walker memo: careers*
10 (N) any activity affecting the general health, safety, well-being and welfare of its inhabitants, *to the extent not otherwise prohibited,*

7
(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)(3), (6), (7), (8) and ~~(10)~~ of this section, exercise of the powers areawide or, as to (a)(3), (6) and ~~(10)~~, 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 TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

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

*1. Walker Recc. Carries
MOTION
delete*

D/K

EXPLANATION: This section is substantially similar to the existing AS 29.42.010. A reference in subsection (a) to "zoning" has been changed to the more flexible term "land use regulation". Subsection (b) has been redrafted to clarify the issue of whether a city's consent is required before delegated powers are revoked by the assembly.

MINORITY RECOMMENDATION:

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

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

W

C

OK

DRAFTED CHANGES RECOMMENDED BY TECHNICAL COMMITTEE - 06 DECEMBER 1980

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

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

EXPLANATION: This section consolidates provisions of existing Sec. 29.42.050. and Sec. 29.42.060. The specific enumeration of the kinds of decisions from which appeals may be taken is eliminated; in its place is a more general requirement allowing appeals from administrative decisions of borough employees or boards made in enforcing or administering land use regulations. New language allows appointment of hearing officers, eliminates redundant public record and meeting requirements, and allows the assembly to define proper parties, evidentiary rules, and standards of review rather than following more restrictive rules of the present AS 29.42.060.

~~DELETE: A COURT~~

OK

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

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

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OK

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

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

OK

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

(b) A municipality may by ordinance

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

(2) classify and exempt from taxation

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

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

OK

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

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

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

OK

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

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

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

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OK

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

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

OK

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

(b) No change.

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

(d) No change.

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

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

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

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rejected

Sec. 29.45.030. REQUIRED EXEMPTIONS. (a) ADD:

(7) property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

Sec. 29.48.090. EXEMPTION.

(d) An exemption from a special assessment shall be granted to property held by an Indian, Eskimo or Aleut or by a community of Indians, Eskimos or Aleuts for which title is subject to a restriction against alienation; or property held by the United States in trust for the benefit of an Indian, Eskimo or Aleut or a community of Indians, Eskimos or Aleuts; or other property defined in section 4 of the Alaska Statehood Act, (72 Stat 339) or Article 12 section 12 of the Alaska Constitution.

The rest of this section is the same.

EXPLANATION: Change proposed by Mike Walleri of Tanana Chiefs Corporation to avoid taxation of land which is not taxable under state and federal law.

*Proposed
includes
proposed
state of Alaska
to state of Alaska
to state of Alaska
145*

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.