

ALABAMA LEGISLATIVE COMMISSION ON JUDICIAL BRANCH

2209 SCRA HB 172 / SB 333

2209

A change in assembly composition or apportionment subject to review under the Voting Rights Act of 1965, as amended, is effective beginning with the first regular election for members of the assembly that [WHICH] is held more than 60 days after

(1) receipt by the [BOROUGH] assembly of approval by the Attorney General of the United States of the proposed change in the composition or apportionment of the assembly;

(2) [RECEIPT BY THE BOROUGH ASSEMBLY OF A STATEMENT OF NON OBJECTION FROM THE ATTORNEY GENERAL OF THE UNITED STATES TO THE PROPOSED CHANGE IN THE COMPOSITION OR APPORTIONMENT OF THE ASSEMBLY; OR] the delivery to the mayor of a reapportionment order of the commissioner [OF COMMUNITY AND REGIONAL AFFAIRS] under AS 29.20.090(e); or

(3) the last day on which the Attorney General of the United States may review a proposed change in the composition or apportionment of the [BOROUGH] assembly.

EDITOR NOTE: The statutory reference in (1) is deleted since "unified municipality" is defined for the title. Statutory references are revised to reflect new numbering.

Sec. 29.20.120 [29.23.033]. APPLICABILITY OF APPORTIONMENT PROVISIONS. The provisions of AS 29.20.080 [29.23.025] - 29.20.110 [29.23.031] [DO NOT] apply to home rule and general law municipalities, except they do not apply to a

(1) unified municipality [INCORPORATED UNDER AS 29.68.240 - 29.68.440,];

(2) [TC A] home rule borough if the borough, by home rule charter, provides for reapportionment of the [BOROUGH] assembly.

EDITOR NOTE: No change.

Sec. 29.20.130. [29.23.200(a)] CITY COUNCIL COMPOSITION [ELIGIBILITY, ELECTION AND TERM]. 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.

EDITOR NOTE: This section is substantially rewritten to combine material concerning the qualifications for membership in assemblies with material concerning the qualifications for membership in councils.

(a) Rewritten, but no substantive change.

(b) Combines material currently found in different sections.

(c) This contains new material allowing a municipality to establish district residency requirements for members of the assembly or council. Current law allows an assembly man elected from one district who becomes a resident of another district to serve only until the next regular election. The subsection allows a municipality to provide otherwise by ordinance. It is also made applicable to city councils. Under existing law, a council may be elected by district rather than at-large, but no provision deals with the possibility that a councilman might change his district residency.

(d) New material prohibiting a municipality from limiting the number of terms or number of consecutive terms a voter may serve on the assembly or council, unless the limit is ratified.

(e) This is applicable to both home rule and general law municipalities. Under current law, the qualifications for assemblymen are applicable to home rule and general law municipalities but the qualifications for city councilmen are not.

Sec. 29.20.140 [29.23.050, 29.23.200(a),(b)]. 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 governing body who ceases to be a voter in the municipality immediately forfeits office.

(b) A municipality may by ordinance establish a durational residency requirement not to exceed three years for members of the governing body.

(c) A municipality may by ordinance establish district residency requirements for members of its governing body. A member of the governing body who represents a district and who becomes a resident of another district in the municipality continues to serve until the next regular election unless provided otherwise by ordinance. [A RESIDENT OF THE BOROUGH IS ELIGIBLE TO BE AN ASSEMBLYMAN IF HE IS A BOROUGH VOTER. AN ASSEMBLY MAN WHO CEASES TO BE A BOROUGH VOTER IMMEDIATELY FORFEITS HIS OFFICE. AN ASSEMBLY MAN ELECTED FROM OR SELECTED TO REPRESENT A RESIDENT OF ANOTHER AREA MAY CONTINUE TO SERVE ONLY UNTIL THE NEXT REGULAR ELECTION. THE ASSEMBLY MAY BY ORDINANCE ESTABLISH RESIDENCE REQUIREMENTS

FOR ASSEMBLYMEN NOT EXCEEDING THREE YEARS. A CITY VOTER IS ELIGIBLE TO HOLD OFFICE AS A MEMBER OF THE COUNCIL. THE COUNCIL MAY BY ORDINANCE ESTABLISH RESIDENCE REQUIREMENTS FOR COUNCIL MEMBERS NOT EXCEEDING THREE YEARS. A COUNCIL MEMBER WHO CEASES TO BE ELIGIBLE TO BE A CITY VOTER IMMEDIATELY FORFEITS THAT OFFICE.]

(d) Except by ordinance ratified by the voters, no limit may be placed on the total number of terms or number of consecutive terms a voter may serve on the governing body.

(e) This section applies to home rule and general law municipalities [BOROUGHs].

EDITOR NOTE: Combines material dealing with the term of office of members of the assembly with material dealing with the term of office of members of the council.

(a) This is substantially rewritten. However, the only substantive change is that members of the council may serve different terms when allowed by charter, as well as by ordinance.

(b) No substantive change.

(c) The material permitting a different date to be prescribed by charter or ordinance is made applicable to city councils.

(d) This is added as a home rule limitation with respect to city councils.

Sec. 29.20.150.[29.23.040(a),(b),(c), 29.23.200(c)] TERM OF OFFICE.

(a) A member of the governing body is elected [ASSEMBLYMEN ARE SELECTED] for a three-year term and until a [THEIR] successor [ARE SELECTED AND HAVE QUALIFIED] qualifies, unless a different term not exceeding four years is [ARE] prescribed by home rule [BOROUGH] charter or ordinance.

(b) Except when otherwise required by a change in [OF] composition or apportionment, if the term of a member of a governing body [AN ASSEMBLYMAN] is changed by charter or ordinance[,], the term of the member [AN ASSEMBLYMAN] holding office when [AT THE TIME] the change becomes effective [TAKES EFFECT] is not affected [BY THAT CHANGE].

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

(d) [(C)] This section applies to home rule and general law municipalities [BOROUGHs].

EDITOR NOTE: Combines material dealing with assemblies and with councils into one section.

(a) The last line dealing with the presiding officer is new material as it applies to the council.

(b) The material dealing with the calling of a special meeting is substantively changed. Under existing law, a special meeting may not be called unless all members receive 24 hours written notice or, if there is an emergency and all absent members waive the notice. As rewritten, a special meeting may be held if a majority of the members receive 24 hours notice and reasonable efforts are made to notify all members.

(c) A member of the governing body disqualified from voting is considered present for purposes of constituting a quorum. A majority of the membership of a council constitutes a quorum, while under existing law four councilmen constitute a quorum. This is not a substantive change, since a first class city has a council of six members and second class city has a council of seven members. Four councilmen are still required for a quorum.

(d) Actions are adopted by a majority of the total membership of the governing body, while under existing law actions are adopted by a majority of votes authorized on the question. All members vote and unless they are required to abstain by law, while under existing law a member may abstain if permitted by the governing body, and must abstain if he has a substantial financial interest in the question. This section is applicable to city councils as well as to assemblies.

(e) Specifically provides that the journal shall be a public record.

(f) Requires a governing body to determine by ordinance, its rules and order of business.

Sec. 29.20.160 [29.23.060(a),(b),(c),(d), 29.23.240, 29.23.210(a),(b),(c)].
PROCEDURES OF GOVERNING BODIES.

(a) [(B)] 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 [MANAGER PLAN] borough[S] that has adopted a manager form of government under AS 29.20.460 - 29.20.510 the [BOROUGH] mayor serves as presiding officer. In a city the mayor serves as presiding officer. If the presiding officer is not present or if the presiding officer is personally disqualified [DISQUALIFIES HIMSELF], the deputy presiding officer shall preside.

(b) [(A)] A governing body [THE ASSEMBLY] shall hold [MEET] at least one regular meeting [ONCE] each month unless otherwise provided by ordinance.

[ALL MEETINGS SHALL BE PUBLIC MEETINGS.] If 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[S] of the governing body may be held at [ON] the call of [THE CHAIRMAN,] the presiding officer[,] or at least one-third of the members. A special meeting may be conducted with less than 24 hours notice [SHALL BE A LEGAL MEETING] if all members are present or [THERE IS A QUORUM AND ALL] if absent members have waived in writing the required notice. [A] Waiver of notice can be made [MAY BE EITHER] before or after the special [TIME OF THE] meeting is held. A [THE] waiver of notice shall be [ATTACHED TO AND] made a part of the journal for the [THAT] meeting.

(c) A majority of the total membership of a governing body authorized by law constitutes 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 [LESS THAN A QUORUM] of members may recess or adjourn the meeting to a later date.

(d) Actions of a governing body [THE ASSEMBLY] are adopted by a majority of the total membership of the body [VOTES AUTHORIZED ON THE QUESTION]. Each member [ALL ASSEMBLYMEN] present shall vote on every question unless [THE ASSEMBLY FOR SPECIAL REASONS PERMITS A MEMBER TO] required to abstain from voting on a question by law [EXCEPT NO ASSEMBLYMAN MAY VOTE ON A QUESTION IN WHICH HE HAS A SUBSTANTIAL DIRECT OR INDIRECT FINANCIAL INTEREST]. [(E)] The final vote of each member on each ordinance, resolution, or substantive motion shall be [IS A] recorded "yes" or "no", except that if the vote is unanimous it may be recorded "unanimous" [IS NECESSARY ONLY SO TO STATE].

(F) REPEALED BY § 16 CH 118 SLA 1972.

(G) REPEALED BY § 16 CH 118 SLA 1972.

(H) REPEALED BY § 16 CH 118 SLA 1972.

(I) REPEALED BY § 16 CH 118 SLA 1972.

(J) REPEALED BY § 16 CH 118 SLA 1972.]

(e) [29.23.060. (C) THE ASSEMBLY SHALL DETERMINE ITS OWN RULES AND ORDER OF BUSINESS AND PROVIDE FOR KEEPING] A governing body shall maintain a journal of its official proceedings that shall be a public record. [THE ASSEMBLY IS THE JUDGE AND QUALIFICATION OF THE ELECTION AND QUALIFICATION OF ITS MEMBERS AND, WITH THE CONCURRENCE OF TWO THIRDS OF ITS MEMBERS, MAY EXPEL A MEMBER FOR A CORRUPT PRACTICE. THE ASSEMBLY SHALL CONSIDER A CONVICTION OF A MEMBER FOR A FELONY OR MISDEMEANOR DESCRIBED IN AS 15.56 AS A CORRUPT PRACTICE AT ITS FIRST MEETING FOLLOWING THE FINAL DETERMINATION OF THE CONVICTION.]

(f) [29.23.060 (C)] To the extent otherwise permitted by law, a governing body may [THE ASSEMBLY SHALL] determine by ordinance its own rules of procedure and order of business[AND PROVIDE FOR KEEPING A JOURNAL OF ITS PROCEEDINGS]. [THE ASSEMBLY IS THE JUDGE OF THE ELECTION AND QUALIFICATION OF ITS MEMBERS AND, WITH THE CONCURRENCE OF TWO THIRDS OF ITS MEMBERS, MAY EXPEL A MEMBER FOR A CONVICTION OF A FELONY OR MISDEMEANOR DESCRIBED IN AS 15.56 AS A CORRUPT PRACTICE. THE ASSEMBLY SHALL CONSIDER A CONVICTION OF A MEMBER FOR A FELONY OR MISDEMEANOR DESCRIBED IN AS 15.56 AS A CORRUPT PRACTICE AT ITS FIRST MEETING FOLLOWING THE FINAL DETERMINATION OF THE CONVICTION.]

EDITOR NOTE: This allows the governing body to prescribe the manner in which a vacancy occurs in any elected office, other than the office of mayor or member of the school board. The governing body is required to declare an elective office vacant under specific conditions, unless a municipality establishes otherwise by ordinance.

Sec. 29.20.170 [29.23.060(c), 29.23.080 29.23.210(b), 29.23.220, 29.23.570. ASSEMBLY] VACANCIES. The governing body may [ASSEMBLY SHALL] provide by ordinance the manner in which a vacancy [IN ASSEMBLY REPRESENTATION] occurs in any elected office except the office of mayor or school board member. [A VACANCY IS FILLED BY THE MAJORITY OF THE REMAINING ASSEMBLYMEN, WHO DESIGNATE A VOTER AND, IF THE ASSEMBLY SEAT VACATED IS OTHER THAN AN AT LARGE SEAT, A RESIDENT OF THE BOROUGH AREA TO WHICH THE SEAT WAS APPORTIONED, TO SERVE UNTIL THE NEXT REGULAR ELECTION. HOWEVER, IF UNDER A BOROUGH APPORTIONMENT CITY COUNCILMEN ARE APPOINTED AS ASSEMBLYMEN OR ELECTED TO DUAL ASSEMBLY-COUNCIL SEATS, A VACANCY IN A COUNCILMAN'S SEAT ON THE ASSEMBLY SHALL BE FILLED BY A COUNCILMAN DESIGNATED BY A MAJORITY OF THE REMAINING MEMBERSHIP OF THE COUNCIL TO SERVE UNTIL THE NEXT REGULAR ELECTION.] Unless otherwise provided by ordinance, the governing body shall declare an elective office, other than the office of mayor or school board member, vacant when the person elected

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

(2) is physically absent from the municipality for 90 consecutive days unless excused by the governing body;

(3) resigns and the [HIS] resignation is accepted;

(4) is physically or mentally unable to perform the duties of [HIS] office as determined by two-thirds vote of the governing body;

(5) is convicted of a felony or of an offense involving a violation of the [HIS] oath of office;

[(5) IS REMOVED FROM OFFICE;]

(6) is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds of the members of the governing body concur in expelling the person elected; THE ASSEMBLY IS THE JUDGE OF THE ELECTION AND QUALIFICATION OF ITS MEMBERS AND WITH THE CONCURRENCE OF TWO THIRDS OF ITS MEMBERS, MAY EXPEL A MEMBER FOR A CONVICTION OF A FELONY OR MISDEAMEANOR DESCRIBED IN AS 15.56 AS A CORRUPT PRACTICE. THE ASSEMBLY SHALL CONSIDER A CONVICTION OF A MEMBER FOR A FELONY OR MISDEAMEANOR DESCRIBED IN AS 15.56 AS A CORRUPT PRACTICE AT ITS FIRST MEETING FOLLOWING THE FINAL DETERMINATION OF THE CONVICTION.

(7) is convicted of a violation of AS 15.13;

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

(9) if a member of the governing body, misses three consecutive regular meetings and is not [UNLESS] excused.

EDITOR NOTE: (a) Requires a vacancy to be filled within 30 days unless a different period is established by ordinance. If less than 30 days remain in a term, a vacancy need not be filled, unless filling the vacancy is necessary to preserve a quorum. The material contained in AS 29.23.080 dealing filling a vacancy in dual assembly council seats has been deleted.

(b) This is new material requiring appointments within seven days if needed to preserve a quorum.

(c) No substantive change.

Sec. 29.20.180 [29.23.080, 29.23.220]. FILLING A VACANCY.

(a) If a vacancy occurs in a governing body [THE COUNCIL], the [THE COUNCIL BY VOTE OF A MAJORITY OF ITS] remaining members shall, within 30 days unless a different period is provided by ordinance, appoint [DESIGNATE] a qualified person to fill the vacancy [UNTIL THE NEXT REGULAR ELECTION, AND UNTIL A SUCCESSOR IS ELECTED AND HAS QUALIFIED]. If less than 30 days remain in a term, a vacancy may not be filled.

(b) Notwithstanding (a) of this section, 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.

(c) [29.23.080.] HOWEVER, IF UNDER A BOROUGH APPORTIONMENT CITY COUNCILMEN ARE APPOINTED AS ASSEMBLYMEN OR ELECTED TO DUAL ASSEMBLY-COUNCIL SEATS, A VACANCY IN A COUNCILMAN'S SEAT ON THE ASSEMBLY SHALL BE FILLED BY A COUNCILMAN DESIGNATED BY A MAJORITY OF THE REMAINING MEMBERSHIP OF THE COUNCIL TO} A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term.

ARTICLE 3 [4]. MUNICIPAL [CITY] EXECUTIVE AND ADMINISTRATOR.

EDITOR NOTE: This section is substantially rewritten to combine material dealing with the mayor of a city with material dealing with the mayor of a borough.

(a) This is a clear statement that the executive power is vested in a mayor, which is only implied with reference to cities under current law. The mayor of a home rule or unified municipality is elected by the voters, which is not a substantive change.

(b) This material currently exists with respect to city mayors but not with respect to borough mayors, although these duties may be implied for borough mayors. The language "and is responsible for additional duties and powers prescribed by this chapter or by home rule charter" is new, but is not a substantive change.

(c) This section is a limitation on home rule municipalities. Under existing law, it is not listed as a limitation.

Sec. 29.20.220 [29.23.200(a),(c), 29.23.240]. EXECUTIVE POWER [MAYOR].

(a) The executive power in a municipality is vested in a mayor. The mayor of a home rule or unified municipality is elected by the voters. The mayors of other municipalities are elected in accordance with AS 29.20.230.

(b) The [EACH CITY HAS A] mayor [AS EXECUTIVE WHO SHALL PRESIDE AT COUNCIL MEETINGS,] acts as ceremonial head of government [THE CITY], executes official documents on authorization of the governing body [THE CITY'S BEHALF UPON COUNCIL AUTHORIZATION.], [IN CITIES WHICH HAVE NOT ADOPTED A MANAGER PLAN, THE MAYOR] and is responsible for additional [THE] duties and powers prescribed by [LISTED IN § 290 OF] this chapter or by home rule charter.

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

EDITOR NOTE: This is substantially rewritten in order to combine material dealing with the election and term of a borough mayor and a city mayor.

(a) No substantive change.

(b) The reference in AS 29.23.250(a) to additional residency requirements prescribed by charter is eliminated, so a home rule municipality may prescribe additional residency requirements by charter without statutory authority.

Sec. 29.20.230 [29.23.130(c), 29.23.250(b),(c),(d)]. ELECTION AND TERM OF MAYOR.

(a) [(B)] The mayor of a borough or first class city is elected at large. The mayor of a borough or first class city serves [FOR] a term of three years, unless by ordinance a different term not to exceed four years is provided [AND UNTIL A SUCCESSOR IS ELECTED AND HAS QUALIFIED]. [THE COUNCIL MAY PROVIDE BY ORDINANCE FOR A DIFFERENT TERM NOT TO EXCEED FOUR YEARS, EXCEPT THAT] The current term of an incumbent mayor may not be altered. The regular term of a mayor of a borough or first class city begins on the first Monday following certification of the election.

(b) [(C)] The mayor of a second class city is elected by and from the council, and serves [FOR A TERM OF ONE YEAR AND] until a successor is elected and qualifies [HAS QUALIFIED]. [(D)] The council of a second class city shall meet on the first Monday after certification of the regular election and elect a mayor who takes office immediately. The mayor of a second class city serves a one-year term, unless a longer term is provided by ordinance. The mayor of a second class city may serve only while a member of the council regardless of the term established for the office of mayor.

(c) Except by ordinance ratified by the voters, no limit may be placed on the total number of terms or number of consecutive terms a mayor may serve.

EDITOR NOTE: Rewritten to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change.

(b) The reference in AS 29.23.250(a) to additional residency requirements prescribed by charter is eliminated. This section is not a limitation on home rule governments, so a home rule municipality may prescribe additional residency requirements by charter without statutory authority.

Sec. 29.20.240 [29.23.130(b), 29.23.250(a),(c)]. QUALIFICATIONS FOR THE OFFICE OF MAYOR [ELECTION AND TERM OF MAYOR].

(a) A voter of the municipality [A HOME RULE OR GENERAL LAW CITY] is eligible to hold the office of mayor in a borough or first class city [EXCEPT THAT A HOME RULE CITY MAY PRESCRIBE ADDITIONAL RESIDENCY REQUIREMENTS BY CHARTER.

THE COUNCIL FOR ALL OTHER CITIES, MAY BY ORDINANCE ESTABLISH RESIDENCE REQUIREMENTS FOR CANDIDATES FOR MAYOR NOT EXCEEDING THREE YEARS]. A member of the city council is eligible to hold the office of mayor in a second class city.

(b) [29.23.130. (B)] Residency requirements for the office of mayor not exceeding three years may be prescribed by ordinance. [A BOROUGH VOTER IS ELIGIBLE TO BE BOROUGH MAYOR. THE ASSEMBLY MAY BY ORDINANCE ESTABLISH RESIDENCE REQUIREMENTS FOR CANDIDATES FOR BOROUGH MAYOR NOT EXCEEDING THREE YEARS.]

EDITOR NOTE: This is rewritten to combine sections dealing with a city and sections dealing with a borough, and to achieve a clear statement of existing law.

(a) No substantive change.

(b) Authorizes the mayor of a borough with a manager form of government to vote in the case of a tie. The fact that a mayor may take part in discussions is not stated with respect to the mayor of a city under existing law.

Sec. 29.20.250 [29.23.130(a), 29.23.290, 29.23.160, 29.23.260]. POWERS AND DUTIES OF MAYOR [POWER GENERALLY].

(a) If a municipality [THE BOROUGH] has not adopted a manager plan of government, the mayor is the chief administrator and the mayor has the same powers and duties as those of a manager under AS 29.20.500. [THE BOROUGH EXECUTIVE AND ADMINISTRATIVE POWER IS VESTED IN AN ELECTED BOROUGH MAYOR. IF THE BOROUGH HAS ADOPTED A MANAGER PLAN, THE ADMINISTRATIVE POWER IS VESTED IN AN APPOINTED MANAGER AND THE EXECUTIVE POWER IN AN ELECTED BOROUGH MAYOR WHO HAS THE SAME FUNCTIONS AS THOSE OF THE MAYOR OF A MANAGER-PLAN CITY UNDER § 240 OF THIS CHAPTER.]

(b) [29.23.160. ASSEMBLY PARTICIPATION.] The [BOROUGH] mayor may take part in the discussion of a [ALL] matter[S] before the governing body. The mayor [ASSEMBLY BUT] may not vote [29.23.260. MAYOR'S VOTE.], except that the mayor of a first class city or the mayor of a borough with a manager form of government [IS NOT A COUNCIL MEMBER AND] may vote [ONLY] in the case of a tie. [(B)] The mayor of a second class city, as [IS] a council member, [AND] may vote on all matters.

EDITOR NOTE: No change, except for minor rewording for clarity.

Sec. 29.20.260 [29.23.150]. EXECUTIVE ABSENCE. The borough mayor, subject to assembly approval, shall designate a person to act as mayor during the borough

mayor's temporary absence or disability. If a manager plan has been adopted, the assembly shall designate by resolution a borough administrative official [OFFICER] to act as manager during the manager's [HIS] absence or disability.

EDITOR NOTE: This is substantially rewritten in order to combine sections dealing with the mayor of a borough and the mayor of a city.

(a) No substantive change.

(b) The material requiring that a veto be overridden within 21 days after the exercise of the veto or during the next regular meeting is new. Current law does not specify a time period during which a veto may be overridden.

(c) A veto does not extend to actions of a city council sitting as a board of equalization or a board of adjustment, nor may the city mayor veto the adoption or repeal of a manager form of government. Current law is silent as to these issues with respect to a city.

Sec. 29.20.270 [29.23.170(a) & (b), 29.23.270(a) & (b)]. VETO.

(a) Except as provided in (c) and (d) [(B)] of this section, the [BOROUGH] mayor may veto an [ANY] ordinance, resolution, motion, or other action of the governing body [ASSEMBLY] and may [BY VETO] strike or reduce appropriation items [ITEMS IN APPROPRIATION ORDINANCES EXCEPT FOR SCHOOL BUDGET ITEMS].

(b) A veto must be exercised before the next regular meeting of the governing body and must be accompanied by a written explanation of the reasons for the veto. [HE SHALL SUBMIT TO THE ASSEMBLY AT ITS NEXT REGULAR MEETING A WRITTEN STATEMENT ADVISING OF HIS VETO AND GIVING HIS REASONS.] A [HIS] veto may be overridden by vote of two-thirds of [ALL THE VOTES TO WHICH THE ASSEMBLY IS ENTITLED ON THE QUESTION] the authorized membership of the governing 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 governing body sitting as the board of equalization or the board of adjustment;

(3) adoption or repeal of a manager plan of government.

(d) [29.23.270. VETO. (B)] The mayor of a second class city has no veto power.

EDITOR NOTE: (a) Under existing law the governing body has the option of declaring the office of mayor vacant when he is convicted of a corrupt practice.

(b) No substantive change.

(c) No substantive change.

Sec. 29.20.280 [29.23.130(f), 29.23.55, 29.23.570, 29.180, 29.23.280(a) & (b)]. VACANCY IN THE OFFICE OF MAYOR.

(a) The governing body shall [ASSEMBLY], by [WITH THE CONCURRENCE OF] two-thirds concurring vote [OF ITS MEMBERS], declare the [MAY REMOVE THE BOROUGH MAYOR FROM OFFICE FOR A CONVICTION OF A FELONY OR MISDEMEANOR DESCRIBED IN AS 15.56 AS A CORRUPT PRACTICE.] office of mayor vacant only when the person elected [29.23.570. VACANCIES.]

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

(2) unless excused by the governing body, is physically absent [FROM THE MUNICIPALITY] for [A] 90[-DAY] consecutive days[PERIOD UNLESS EXCUSED BY THE ASSEMBLY OR COUNCIL];

(3) resigns and the [HIS] resignation is accepted;

(4) is physically or mentally unable to perform the duties of [HIS] office;

(5) is convicted of a felony or of an offense involving a violation of the oath of office [IS REMOVED FROM OFFICE];

(6) is convicted of a felony or misdemeanor described in AS 15.56; [MISSES THREE CONSECUTIVE REGULAR MEETINGS UNLESS EXCUSED; OR]

(7) is convicted of a [FELONY OR OF AN OFFENSE INVOLVING A] violation of AS 15.13 [HIS OATH OF OFFICE];

(8) no longer physically resides in the municipality; or

(9) if a member of the governing body in a second class city, misses three consecutive regular meetings and is not excused.

(b) [29.23.180. FILLING A VACANCY.] A vacancy in the office of [THE BOROUGH] mayor occurring [WITHIN] six months before [OF] a regular election shall be filled by the governing body [GOVERNING BODY]. The person appointed [DESIGNATED SHALL] serves until the next regular election when a successor [AND UNTIL A SUCCESSOR] is elected to serve the balance of the term [AND HAS QUALIFIED]. If a member of the governing body [AN ASSEMBLYMAN] is appointed mayor [CHOSEN], the member [HE] shall resign the [HIS ASSEMBLY] seat on the governing body. If a vacancy occurs more than six months before a regular election, the governing body [ASSEMBLY] shall call a special election to fill the unexpired term.

(c) [29.23.280. FILLING A VACANCY. (B)] Notwithstanding (b) of this section [IN A SECOND CLASS CITY], a vacancy in the office of mayor of a second class city shall be [IS] filled by and from the council. A mayor appointed under this subsection serves the balance of the term to which appointed, except the mayor may serve only while a member of the council..

ARTICLE 4 [5]. [SCHOOL] BOARDS AND COMMISSIONS.

EDITOR NOTE: The statutory reference to a repealed section is deleted. School board members may be elected by area rather than at-large, if approved by the voters.

Sec. 29.20.300 [29.23.310]. SCHOOL BOARDS [ELECTION].

(a) Each municipal [BOROUGH AND CITY] school district has a school board. Except as provided in (b) of this section, members of a school board 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,] for three-year terms and until their successors take office. [ALL BOARD] Members are elected at large[, BUT SCHOOL ZONES FOR THE ELECTION OF BOROUGH SCHOOL BOARDS MAY BE ESTABLISHED, ALTERED, OR ABOLISHED AS PROVIDED BY § 100 OF THIS CHAPTER.] unless a different method of election has been approved by the voters in a regular election.

(b) The assembly is the school board for a third class borough. The mayor is the presiding officer of the assembly and president of the school board. However, the mayor may not veto an action of the school board.

EDITOR NOTE: No change, except for minor rewording so the usage is consistent throughout the title.

Sec. 29.20.310 [29.23.340]. UTILITY BOARDS.

(a) The governing body [ASSEMBLY OR COUNCIL] of a municipality operating a public utility may provide by ordinance for a utility [MANAGING] board of five members and define the board's powers and duties.

(b) As determined by ordinance, members of a utility [THE] board are either appointed by the mayor [MUNICIPAL EXECUTIVE] and confirmed by the governing body [ASSEMBLY OR COUNCIL] or are elected at a [THE] regular election [HELD ANNUALLY ON THE FIRST TUESDAY OF OCTOBER, UNLESS A DIFFERENT ELECTION DATE OR INTERVAL OF YEARS IS PROVIDED BY ORDINANCE]. The term of a utility board member is two years and until a successor is selected and qualifies [HAS QUALIFIED].

However, the governing body [ASSEMBLY OR COUNCIL] may by ordinance provide for a different term not to exceed four years. [AND NOT ALTERING] The current term of an elected incumbent may not be altered.

(c) Vacancies on a utility [IN THE] board are filled by the mayor [MUNICIPAL EXECUTIVE]. Executive appointments shall be confirmed by the governing body [ASSEMBLY OR COUNCIL]. A person appointed [SELECTED] to fill a vacancy on a utility board serves until the expiration of the term for which appointed and until a successor is elected and qualifies [HAS QUALIFIED].

(d) Unless otherwise provided by ordinance, a utility [THE] board shall

(1) choose its chairman and secretary;

(2) appoint the manager of the public utility for a term not longer than five years and set the manager's [HIS] salary;

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

[ARTICLE 7. OTHER OFFICES AND EMPLOYEES]

EDITOR NOTE: This is new material allowing the governing body to establish boards and commissions. Arguably, this power is implied to exist in current law as part of the ability of a governing body to delegate responsibility.

Sec. 29.20.320. OTHER BOARDS AND COMMISSIONS. [29.48.010(1). APPOINTMENT OF OFFICERS]

(a) The governing body may by ordinance establish advisory, administrative, technical, or quasi-judicial boards and commissions.

(b) [THE MUNICIPAL CLERK, ATTORNEY, TREASURER, AND POLICE CHIEF ARE APPOINTED BY THE CHIEF ADMINISTRATOR OR BY THE ASSEMBLY OR COUNCIL, AS DETERMINED BY ORDINANCE. OFFICERS SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY, SUBJECT TO ORDINANCE. 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 [APPOINTMENTS BY THE CHIEF ADMINISTRATOR ARE SUBJECT TO CONFIRMATION] by the governing body.

ARTICLE 5 [7]. OTHER OFFICIALS [OFFICERS] AND EMPLOYEES.

EDITOR NOTE: Certain officials shall be appointed by the chief administrator unless otherwise provided by ordinance. Under current law, these officials are appointed by the chief administrator or by the governing body as determined by ordinance. Current law provides that appointment by the chief administrator are

subject to confirmation, and this section allows a municipality to provide otherwise by ordinance.

Sec. 29.20.360 [29.23.360]. APPOINTMENT OF OFFICIALS [OFFICERS]. Unless otherwise provided by ordinance, the municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator [OR BY THE ASSEMBLY OR COUNCIL, AS DETERMINED BY ORDINANCE]. Unless otherwise provided by ordinance, an official described in this section [OFFICERS] serves at the pleasure of the appointing authority[, SUBJECT TO ORDINANCE] and, if appointed [APPOINTMENTS] by the chief administrator, must be confirmed [ARE SUBJECT TO CONFIRMATION] by the governing body.

EDITOR NOTE: No change, except for minor rewording to achieve consistent usage throughout the title.

Sec. 29.20.370 [29.23.370]. MUNICIPAL ATTORNEY. The municipal attorney is the legal advisor of the governing body [COUNCIL OR ASSEMBLY], the school board, and the other officials [OFFICERS] of the municipality. The municipal attorney [HE] represents the municipality as attorney in civil and criminal proceedings. The school board may [HAS THE RIGHT TO] hire independent counsel when in its judgment independent counsel is needed.

EDITOR NOTE: No change, except for minor rewording in order to achieve consistent usage.

Sec. 29.20.380 [29.23.380]. MUNICIPAL CLERK.

(a) The municipal clerk shall

(1) give notice of the time and place of meetings of the governing body to the governing body [TO THE ASSEMBLY OR THE COUNCIL] and to the public;

(2) attend meetings of the governing body and keep the journal;

(3) arrange publication of notices, ordinances, and resolutions;

(4) maintain and make available for public inspection an indexed file containing [INCLUDING THE] municipal ordinances, resolutions, rules, regulations, and codes;

(5) attest deeds and other documents;

(6) perform other duties specified in this title or prescribed by the chief administrator [EXECUTIVE] or by the governing body.

(b) The governing body [ASSEMBLY OR COUNCIL] may combine the office of clerk with that of treasurer. If the offices are combined, the clerk-treasurer [CLERK] shall, as required of the treasurer, give [HIS] bond to the municipality for the faithful performance of the [HIS] duties as clerk-treasurer.

EDITOR NOTE: The statutory reference is added to provide notice that, when a central treasury is established for the school board and the municipality, the treasurer is not custodian of the funds.

Sec. 29.20.390 [29.23.390]. MUNICIPAL TREASURER.

(a) Except as provided in AS 14.14.060, the treasurer is the custodian of all municipal funds. The treasurer [HE] shall keep an itemized account of money received and disbursed. The treasurer [HE] shall pay money on vouchers drawn against appropriations.

(b) The treasurer shall give bond to the municipality in a sum that [WHICH] the governing body [ASSEMBLY OR COUNCIL] directs.

EDITOR NOTE: Slightly reworded for clarity.

Sec. 29.20.400 [29.23.070]. DEPARTMENTS.

(a) The governing body [ASSEMBLY] may establish municipal departments and distribute functions among them.

(b) Each municipal department is administered by a department head. With the consent of the governing body [ASSEMBLY], the [BOROUGH] mayor may serve as [THE] head of one or more departments or a single administrator may serve [APPOINT ONE PERSON] as [THE] head of two or more departments.

EDITOR NOTE: Allows the governing body to provide for a classified service and to designate positions which are wholly or partially exempt from the classified service.

Sec. 29.20.410 [29.23.550]. PERSONNEL SYSTEM.

(a) Except as provided by (b) of this section, appointments and promotions of municipal employees are made on the basis of merit. The governing body may provide for a personnel system and classified service.

(b) By ordinance the governing body may designate confidential or managerial positions that are wholly or partially exempt from the classified service. A wholly or partially exempt position is filled by a person who serves at

the pleasure of the appointing authority and whose term of employment is determined by the appointing authority.

ARTICLE 6 [8].

[ADOPTION OR REPEAL OF] MANAGER PLAN.

EDITOR NOTE: No change except for minor rewording to achieve consistent usage.

Sec. 29.20.460 [29.23.410, 29.23.420]. MANAGER PLAN [APPLICATION]. A municipality may adopt a manager plan of government. Adoption of a manager plan may be initiated either by petition or by motion of the governing body [ASSEMBLY OR COUNCIL]. A petition for the adoption of a manager plan is submitted to the governing body [ASSEMBLY OR COUNCIL]. The petition must be signed by a number of [MUNICIPAL] voters equal to the following percentage of the votes cast at the preceding regular election:

(1) 25 percent if [WHEN] the municipality has fewer than 7,500 persons;

(2) 15 percent if [WHEN] the municipality has 7,500 persons or more.

EDITOR NOTE: The last line dealing with notice requirements is omitted because notice requirements for elections are now contained in Sec. 29.26.030. At least 20 days notice shall be provided, while under current law 30 days notice is required before an election to adopt a manager plan.

Sec. 29.20.470 [29.23.430]. ELECTION ON ADOPTION OF MANAGER PLAN. On [UPON] receipt of a [THE] petition to adopt a manager plan or on [UPON] its own motion to adopt a manager plan, the governing body [ASSEMBLY OR COUNCIL] shall provide by ordinance or resolution for a vote on the question at the next [REGULAR OR SPECIAL] election. [NOTICE OF THE ELECTION SHALL BE PUBLISHED AT LEAST 30 DAYS BEFORE THE ELECTION.]

EDITOR NOTE: No change, except for minor rewording to achieve consistent usage.

Sec. 29.20.480 [29.23.440]. ADOPTION OF MANAGER PLAN.

(a) If a [THE] manager plan is approved, the governing body shall, within 60 days, adopt the plan by ordinance or resolution.

(b) The governing body [ASSEMBLY OR COUNCIL] shall notify the department [DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS] of the adoption of a [THE] manager plan.

EDITOR NOTE: In the second line the word "solely" and the word "executive" have been omitted, so that the manager is to be chosen on the basis of his administrative qualifications. A member of the governing body may not be appointed manager until one year after leaving office unless authorized by more than a majority vote. Under existing law, this limitation applies to all elected municipal officials.

Sec. 29.20.490 [29.23.450, 29..23.460]. APPOINTMENT OF MANAGER.

(a) The governing body [ASSEMBLY OR COUNCIL] shall appoint a manager by a majority vote of its membership. A manager [HE] is chosen [SOLELY] on the basis of [HIS] [EXECUTIVE AND] administrative qualifications and receives the compensation set by the governing body [ASSEMBLY OR COUNCIL]. A member of the governing body [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 the [ITS] authorized membership[,], of the governing body [ASSEMBLY OR COUNCIL MAY AT ANY TIME APPOINT ONE OF ITS MEMBERS OR OTHER ELECTED MUNICIPAL OFFICIALS AS MANAGER].

(b) [29.23.460. TERM.] Subject to the contract of employment, the manager holds office at the pleasure of the governing body [ASSEMBLY OR COUNCIL].

EDITOR NOTE: This is substantially rewritten so that material dealing with duties of a city manager and material dealing with duties of a borough manager are combined. A statutory reference to the section concerning appointment of school employees is added for clarification. The requirement that the manager prepare and make available to the public an annual report on municipal affairs is deleted. AS 29.23.140(10)(A) and (C), requiring the borough manager to administer functions of borough employees and to administer public works is deleted because those requirements appear adequately covered by (1) and (5) of this section.

Sec. 29.20.500 [29.23.140, 29.23.290]. POWERS AND DUTIES OF A MANAGER [BOROUGH ADMINISTRATOR]. [THE BOROUGH MAYOR OR MANAGER AS THE CASE MAY BE, AS THE CHIEF ADMINISTRATIVE OFFICER, IS RESPONSIBLE FOR THE PROPER ADMINISTRATION OF ALL BOROUGH AFFAIRS. THE MAYOR OR MANAGER OF THE BOROUGH SHALL (1) APPOINT BOROUGH EMPLOYEES AND ADMINISTRATIVE OFFICERS, EXCEPT AS PROVIDED OTHERWISE IN § 360 OF THIS CHAPTER AND AS 29.33.050;] The manager [HE] may hire necessary administrative assistants and may authorize an [APPOINTIVE] administrative official [OFFICER] to appoint, suspend, or remove subordinates [IN HIS DEPARTMENT]. As chief administrator the manager shall

(1) [(2)] appoint, suspend, or remove [BY WRITTEN ORDER] municipal [BOROUGH] employees and administrative officials [OFFICERS], except as provided otherwise in this title and AS 14.14.065 [§ 360 OF THIS CHAPTER AND AS 29.33.050];

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

(3) [(4)] prepare and submit an [THE] annual budget and capital improvement[S] program for consideration by the governing body [THE ASS'MBLY], and execute the budget and capital improvement program adopted;

[(5) EXECUTE THE BUDGET AND CAPITAL IMPROVEMENT PROGRAM AS ADOPTED;]

(4) [(6)] make monthly financial reports and other reports [TO THE ASSEMBLY] on municipal [BOROUGH] finances and operations as required by the governing body;

(5) exercise custody over all real and personal property of the municipality, except property of the school district;

(6) perform other duties required by law or by the governing body; and

[(7) REPORT TO THE ASSEMBLY AT THE END OF EACH FISCAL YEAR ON THE FINANCES AND ADMINISTRATIVE ACTIVITIES OF THE BOROUGH;

(8) PREPARE AND MAKE AVAILABLE FOR PUBLIC DISTRIBUTION AN ANNUAL REPORT ON BOROUGH AFFAIRS;]

(7) [(9)] serve as [BOROUGH] personnel officer, unless the governing body [ASSEMBLY] authorizes the manager [HJM] to appoint a personnel officer.

[(10) DIRECT AND SUPERVISE THE ADMINISTRATION OF

(A) THE FUNCTIONS OF ALL BOROUGH OFFICERS AND EMPLOYEES EXCEPT AS PROVIDED OTHERWISE IN THIS TITLE:

(B) THE CARE AND CUSTODY OF ALL BOROUGH BUILDINGS AND OF ALL REAL AND PERSONAL PROPERTY OF THE BOROUGH, EXCEPT AS PROVIDED OTHERWISE BY AS 29.33.050;

(C) THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF ALL BOROUGH ROADS, BRIDGES, DRAINS, BUILDINGS AND OTHER PUBLIC WORKS;

(11) EXECUTE OTHER POWERS OR DUTIES SPECIFIED IN THIS TITLE OR LAWFULLY PRESCRIBED BY THE ASSEMBLY.]

Sec. 29.20.510.[29.23.130(e)] INTERGOVERNMENTAL APPOINTMENT OF MANAGER. [BOROUGH EXECUTIVE AND ADMINISTRATOR, POWER GENERALLY. (E)] A borough adopting a manager plan may, on [BY] agreement with a city in the borough, [ENTER INTO A CONTRACT PROVIDING FOR] provide that the manager of the [A] city [LOCATED WITHIN THE BOROUGH TO] serve also as borough manager. A city adopting a manager plan may, on [BY] agreement with the [A] borough in which it is located, provide that [ENTER INTO A CONTRACT PROVIDING FOR] the manager of the [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 AS 29.20.490 - 29.20.500 [AS 29.23.130 - 29.23.150 and AS 29.23.450 - 29.23.470]. Nothing in this section [SUBSECTION] affects the authority of the governing body [ASSEMBLY OR COUNCIL] to provide for other dual officeholding if the dual offices held are compatible, or otherwise to appoint officials [OFFICERS] and employees in accordance with law.

EDITOR NOTE: After repeal of a manager plan, the governing body has 60 days to reorganize the municipal executive and administrative functions. Under existing law, no time period is provided for reorganization.

Sec. 29.20.520 [29.23.480]. REPEAL OF MANAGER PLAN. A municipality may repeal a [THE] manager plan in the same manner used for its adoption. Within 60 days [AT ITS FIRST MEETING] after repeal of a manager plan, the governing body [ASSEMBLY OR COUNCIL] shall enact provisions for the reorganization of the municipal executive and administrative functions [CHIEF ADMINISTRATOR].

ARTICLE 7 [9]. MISCELLANEOUS PROVISIONS.

EDITOR NOTE: No change, except for rewording to achieve uniform usage.

Sec. 29.20.600 [29.23.500]. OATHS OF OFFICE. [MUNICIPAL OFFICERS] Before taking office[,] a municipal official shall affirm in writing that the duties of the office [THEY] will be honestly, faithfully, and impartially performed by the official [PERFORM THEIR DUTIES]. The oath is filed with the municipal clerk.

[Sec. 29.23.510. COMBINING OFFICES. THE ASSEMBLY OR COUNCIL MAY COMBINE TWO OR MORE APPOINTIVE OR ADMINISTRATIVE OFFICES;]

EDITOR NOTE: No change except for minor rewording to achieve uniform usage.

Sec. 29.20.610 [29.23.520]. BONDING. The manager [ADMINISTRATOR] and the other municipal officials [OFFICERS] or employees that [WHICH] the governing body [ASSEMBLY OR COUNCIL] may designate shall give bond in the amount and with the surety prescribed by the governing body [ASSEMBLY OR COUNCIL]. Premiums on bonds are paid by the municipality.

EDITOR NOTE: A method of determining salaries shall be provided by ordinance, while under current law the governing body fixes by ordinance the salaries of elected officials. The salary of the mayor may be reduced during his term of office if a manager plan is adopted. An elected official may not receive compensation for additional service to the municipality, unless provided otherwise by ordinance.

Sec. 29.20.620 [29.23.530]. COMPENSATION FOR [SALARIES OF] ELECTED OFFICIALS [OFFICERS]. The governing body [ASSEMBLY OR COUNCIL] shall [FIX] by ordinance provide a method of determining the salaries of elected officials [OFFICERS]. The salary of the mayor may not be reduced during the [HIS] term of office of the mayor, unless during the term a manager plan is adopted. An elected official [OFFICER] may not receive [ANY OTHER] compensation for service to the municipality in addition to the salary received as an elected official, unless otherwise provided by ordinance. Per diem payments or reimbursements for expenses are not compensation under this section.

EDITOR NOTE: Material currently contained in AS 29.43.540(a) is deleted. Subject to requirements contained in the title dealing with education, a school district employee, or state employee may not be denied the right to serve as an elected municipal official. Current law allows a municipality to prohibit the right to serve by charter or ordinance.

Sec. 29.20.630 [29.23.540]. PROHIBITIONS.

(a) Subject to AS 14.14.140, a state employee or school district employee may not be denied the right to serve as an elected municipal official because of employment by the state or a school district [NO PERSON MAY BE

APPOINTED TO OR REMOVED FROM MUNICIPAL OFFICE OR IN ANY WAY FAVORED OR DISCRIMINATED AGAINST WITH RESPECT TO A MUNICIPAL POSITION BECAUSE OF HIS RACE, COLOR, SEX, CREED, NATIONAL ORIGIN OR, UNLESS OTHERWISE CONTRARY TO LAW, BECAUSE OF HIS POLITICAL OPINIONS OR AFFILIATIONS]. For purposes of this section a school district employee is not a municipal employee.

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

[(c) NO STATE EMPLOYEE OR SCHOOL DISTRICT EMPLOYEE MAY BE DENIED THE RIGHT TO SERVE AS AN ELECTED MUNICIPAL OFFICIAL BECAUSE OF HIS EMPLOYMENT BY THE STATE OR A SCHOOL DISTRICT UNLESS SPECIFICALLY PROHIBITED BY CHARTER OR ORDINANCE OF A MUNICIPALITY, ADOPTED AT A SPECIAL OR GENERAL ELECTION. HOWEVER, NO SCHOOL DISTRICT EMPLOYEE MAY SERVE ON A SCHOOL DISTRICT BOARD IN THE SCHOOL DISTRICT WHERE HE IS EMPLOYED. PROVISIONS OF THIS SECTION DO NOT APPLY TO TERM OF OFFICE IN EFFECT ON AUGUST 24, 1976.

(d) FOR PURPOSES OF THIS SECTION A SCHOOL DISTRICT EMPLOYEE IS NOT A MUNICIPAL EMPLOYEE.]

EDITOR NOTE: No changes, except for rewording for consistency and changes in statutory references to reflect renumbering.

Sec. 29.20.640 [29.23.560]. REPORTS.

(a) A municipality [HOME RULE AND GENERAL LAW MUNICIPALITIES] shall file with the department [DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS:]

(1) maps and descriptions of all annexed or detached [EXCLUDED] territory;

(2) a copy of the annual audit, or, for a [IN THE CASE OF] second class city [CITIES], an audit or statement of annual income and expenditures;

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

[(4) REPEALED BY § 37 CH 127 SLA 1974.]

(4) [(5)] a copy of the current annual budget of the municipality;

(5) a summary of the optional property tax exemptions authorized together with the estimate of the revenues lost to [IN] the municipality [,TOGETHER WITH THE MUNICIPALITY'S ESTIMATE OF THE REVENUES LOST TO IT] by operation of each of the exemptions.

(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.60.010 - 29.60.080 [AS 29.88] and state aid for miscellaneous municipal services under AS 29.60.100 - 29.60.180 [AS 29.89]. If a municipality does not comply with this section, the department [DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS] shall

withhold the [ANNUAL] allocations [UNDER THOSE CHAPTERS IN THE EVENT OF NONCOMPLIANCE] until [SUCH TIME AS] the [REPORT REQUIREMENTS ARE MET] required reports are filed.

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

* Section 7. AS 29 is amended by adding a new chapter to read:

CHAPTER 25. MUNICIPAL ENACTMENTS.

EDITOR NOTE: The governing body is no longer required to fix the compensation of members of the assembly or council by ordinance, nor is it required to regulate the rate charged by a public utility by ordinance.

Sec. 29.25.010. [29.48.130] ACTS REQUIRED TO BE BY ORDINANCE.

(a) In addition to other actions that [WHICH] this title requires to be by ordinance, the governing body [ASSEMBLY OR COUNCIL] of a municipality shall use ordinances to

(1) establish, alter, or abolish municipal departments;

(2) provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed; [FIX THE COMPENSATION OF MEMBERS OF THE ASSEMBLY OR COUNCIL;]

(3) provide for the levying of taxes; [PROVIDE FOR A FINE OR OTHER PENALTY, OR ESTABLISH RULES OR REGULATIONS FOR VIOLATION OF WHICH A FINE OR OTHER PENALTY IS IMPOSED;]

(4) make appropriations, including supplemental appropriations or transfer of appropriations; [PROVIDE FOR THE LEVYING OF TAXES;]

(5) grant, renew, or extend a franchise; [MAKE APPROPRIATIONS AND SUPPLEMENTAL APPROPRIATIONS OR TRANSFER APPROPRIATIONS;]

(6) adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map; [GRANT, RENEW, OR EXTEND A FRANCHISE;]

(7) approve the transfer of a power to a first or second class borough from a city; [REGULATE THE RATE CHARGED BY A PUBLIC UTILITY;]

(8) designate the borough seat; [ADOPT, MODIFY OR REPEAL THE COMPREHENSIVE PLAN, ZONING AND SUBDIVISION ORDINANCES, BUILDING AND HOUSING CODES, AND THE OFFICIAL MAP;]

(9) provide for the retention or sale of tax-foreclosed property; [APPROVE THE TRANSFER OF A POWER TO A BOROUGH FROM A CITY;]

(10) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in AS 36.25.025; this paragraph applies to home rule and general law municipalities.

(b) This section grants no authority but requires the governing body to use ordinances in exercising certain of its powers. [DESIGNATE THE BOROUGH SEAT;]

EDITOR NOTE: This is substantially reorganized, but contains no substantive changes.

Sec. 29.25.020 [29.48.140, 29.48.250]. ORDINANCE PROCEDURE [FORM OF ORDINANCES].

(a) An ordinance[S] is [ARE] introduced in writing in the form required by the governing body [ASSEMBLY OR COUNCIL].

(b) [(A)] The following procedure governs the enactment of all ordinances, except emergency ordinances:

(1) an ordinance may be introduced by a member or committee of the governing body [ASSEMBLY OR COUNCIL], or by the mayor [MUNICIPAL EXECUTIVE] or manager [CHIEF ADMINISTRATOR]; [.]

(2) an ordinance shall be set [FOR HEARING] by the governing body for a public hearing by the affirmative vote of a majority of the votes authorized on the question [AFFIRMATIVE VOTE OF A MAJORITY OF THE VOTES AUTHORIZED ON THE QUESTION];

(3) at least five days before the public hearing a summary of the ordinance shall be published together with a notice of the time and place for the hearing [A SUMMARY OF THE ORDINANCE AND ITS AMENDMENTS IS PUBLISHED TOGETHER WITH A NOTICE OF TIME AND PLACE FOR PUBLIC HEARING.];

(4) copies of the ordinance shall [MUST] be available to all persons present at the hearing, or the ordinance shall [MUST] be read in full;

(5) during the hearing the governing body [THE ASSEMBLY OR COUNCIL] shall hear all interested persons wishing to be heard;

(6) after the public hearing the governing body [THE ASSEMBLY OR COUNCIL] shall consider the ordinance, and may adopt it with or without amendment; [.]

(7) the governing body [THE ASSEMBLY OR COUNCIL] shall print and make available copies of an [ADOPTED] ordinance[S] that is adopted.

(c) [(B)] An ordinance[S] takes effect upon adoption or at a later date specified in the ordinance.

EDITOR NOTE: No change, except for minor word changes in order to achieve maximum clarity.

Sec. 29.25.030 [29.48.160]. EMERGENCY ORDINANCES.

(a) To meet a public emergency the governing body [ASSEMBLY OR COUNCIL] may adopt an emergency ordinance[S] effective on adoption. Each [EVERY] emergency ordinance shall [MUST] contain a finding by the governing body [ASSEMBLY OR COUNCIL] that an emergency exists and a statement of the facts upon which the finding is based. An emergency [THE] ordinance may be adopted, amended and adopted, or rejected at the meeting at which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption of an emergency ordinance. The governing body shall [ASSEMBLY MUST] print and make available copies of adopted emergency ordinances.

(b) An emergency ordinance may not be used to levy taxes, to grant, renew, or extend a franchise, or to regulate the rate charged by a public utility for its services.

(c) An emergency ordinance[S] is [ARE] effective for 60 days.

EDITOR NOTE: Requires the governing body to see that the adopted code is made available to the public at no more than cost while existing law requires the governing body to provide for the adopted code to be sold to the public.

Sec. 29.25.040 [29.48.170]. CODES OF REGULATION. The governing body [ASSEMBLY OR COUNCIL] may in a single ordinance adopt or amend by reference provisions of a [STANDARD] published code of municipal regulations. The [REGULAR ORDINANCE] procedure under AS 29.25.020 applies [EXCEPT THAT NEITHER THE] to an ordinance adopted under this section, except that neither the ordinance [N] or its amendments must [NEED] be distributed to the public or read in full at the public hearing. For a period of 15 days before adoption of an ordinance under this section, at least five copies of the code of regulations shall be made available for public inspection at a time and place set out in the hearing notice. Only the [ADOPTING] ordinance must [NEED] be printed after it is adopted under this section [ADOPTION]. The governing body [ASSEMBLY OR COUNCIL] shall provide for an [THE] adopted code of regulations to be made available [SOLD] to the public at no more than cost.

EDITOR NOTE: (b) Allows the designee of the municipal clerk to prepare a general codification of municipal ordinances and deletes the requirement that the codification be prepared with the assistance of a legal advisor. The rest of the section is unchanged.

Sec. 29.25.050 [29.48.180]. CODIFICATION.

(a) Each ordinance shall be codified after it is adopted [ADOPTION SHALL BE CODIFIED].

(b) Within three years after incorporation of a municipality, the municipal clerk or the clerk's designee [EXECUTIVE, WITH THE ADVICE AND ASSISTANCE OF A LEGAL ADVISOR,] shall have prepared a general codification of all municipal ordinances of general applicability having the force and effect of law. The municipal code shall be revised and printed at least every five years, unless the code is kept current by regular supplements.

(c) In (a) of this section, "codified" means

(1) the ordinance has been given a serial number or other permanent identifying number, and, bearing a notation of the date of adoption and [THE DESIGNATION OF] the adopting authority, it has been entered by the municipal clerk in a properly indexed book maintained for the purposes of organizing and recording the ordinances; or

(2) the ordinance is a provision that [WHICH] establishes a rule of conduct or behavior and that is included, or to be included, in a code of ordinances or other complete system of law enacted and kept current at reasonable intervals.

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

EDITOR NOTE: This has been made applicable as a home rule limitation.

Sec. 29.25.060 [29.48.185]. RESOLUTIONS.

(a) The governing body [ASSEMBLY OR COUNCIL] shall provide for the maintenance of a permanent file of resolutions that have been adopted.

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

EDITOR NOTE: A penalty not to exceed that imposed for a class E misdemeanor may be imposed for a violation of an ordinance. The maximum fine for a class B misdemeanor is \$1,000 and the maximum sentence of imprisonment is 90 days. Under existing law punishment not to exceed \$500 or imprisonment for 30 days is provided for. A mandatory, nonsuspendable term of imprisonment for 5 days may be imposed for violation of an ordinance. The municipality or aggrieved person may institute a civil action against a person who violates an ordinance, and a civil penalty of up to \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought and, upon a finding of a violation, the superior court shall grant the injunction. Each day that a violation of an ordinance continues is a separate violation. These penalties are authorized only if copies of the

ordinance are made available.

Sec. 29.25.070 [29.48.200]. PENALTIES.

(a) For the violation of an ordinance, a municipality [THE ASSEMBLY OR COUNCIL] may by ordinance prescribe penalties [PUNISHMENT] not to exceed those imposed for a class B misdemeanor [A FINE OF \$500 OR IMPRISONMENT FOR 30 DAYS, OR BOTH. HOWEVER, THE PUNISHMENT AUTHORIZED UNDER THIS SECTION MAY BE IMPOSED ONLY IF COPIES OF THE ORDINANCE ARE MAKE 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. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that [WHICH]a violation of an ordinance continues constitutes a separate violation.

(c) The penalties authorized under this section may be imposed only if copies of the ordinance are made available for distribution to the public at no more than cost.

* Section 8. AS 29 is amended by adding a new chapter to read:

CHAPTER 26. ELECTIONS.

ARTICLE 1. REGULAR AND SPECIAL ELECTIONS.

EDITOR NOTE: A judge shall be a voter of the precinct for which he is appointed unless no voter is willing to serve. The language "the municipality may not alter voter qualification requirements of this title" is deleted as unnecessary. This is no longer a limitation on home rule municipalities.

Sec. 29.26.010 [~~29.28.010~~]. ADMINISTRATION. [(A)] The governing body [BOROUGH ASSEMBLY OR CITY COUNCIL] shall prescribe the [GENERAL] rules for conducting an [MUNICIPAL] election[S] and shall appoint an election board composed of at least three judges for each precinct [POLLING PLACE]. A judge shall be a voter of the precinct for which appointed unless no voter is willing to serve. [THE MUNICIPALITY MAY NOT ALTER VOTER QUALIFICATION REQUIREMENTS OF THIS TITLE. [(B) THIS SECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES. (§ 2 CH 118 SLA 1972)]

EDITOR NOTE: The language "subject to other provisions of this title" is added because other sections in the title provide a procedure for the nomination of candidates, for example, see secs. 29.06.250 and 29.10.040.

Sec. 29.26.020 [~~29.28.015~~]. NOMINATIONS.

(a) Subject to other provisions of this title, the governing body [THE ASSEMBLY OR COUNCIL] shall provide by ordinance for nominations of elected officials [OFFICERS] by providing for declaration of candidacy or for petition requiring the signatures of not more than 10 voters, or for both.

(b) A person may be nominated for and occupy more than one office, but [HE] may not serve simultaneously as borough mayor and as a member of the [BOROUGH] assembly or, in a first class city, as city mayor and as a member of the council [OF A FIRST CLASS CITY].

EDITOR NOTE: At least 20 days notice of a regular or special election is required. This applies as a limitation on home rule municipalities, whereas under existing law only the notice requirement for a special election applies.

Sec. 29.26.030 [29.28.020(b)]. NOTICE OF ELECTIONS

[(B)]. (a) Subject to other provisions of this title, a municipality shall give [THE ASSEMBLY OF COUNCIL MAY CALL A SPECIAL ELECTION UPON] at least 20 days notice of an election.

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

EDITOR NOTE: No change except for minor rewording for clarity.

Sec. 29.26.040 [29.28.020(a)]. DATE [ELECTION DATES]. [(A)] The date of a regular [MUNICIPAL] election is the first Tuesday of October annually, unless a different [OR ON A] date [OF ELECTION] or [AT AN] interval of years is provided by ordinance.

EDITOR NOTE: This has been reorganized. A municipality may require a person to be registered to vote in the precinct in which he seeks to vote.

Sec. 29.26.050 [29.28.030]. VOTER QUALIFICATION.

(a) A person may vote in a municipal election only if the person [ONLY IF HE]

(1) is a United States citizen who is qualified to vote in state elections; [AND]

(2) has been a resident of the municipality for 30 days immediately preceding the election; [AND WHO]

(3) is registered to vote in state elections; and

(4) is not disqualified under art. V of the state constitution.

(b) Voter registration by the municipality may not be required. However, a municipality may by ordinance require that a person be registered to vote in state elections in the precinct in which that person seeks to vote in municipal elections.

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

EDITOR NOTE: The runoff election requirement is limited to the office of mayor, member of the governing body, or school board and the municipality may adopt an ordinance to alter this runoff requirement. A runoff election shall be held three weeks after the date of certification of the original election, rather than within two weeks.

Sec. 29.26.060 [29.28.040]. RUNOFF ELECTIONS [MAJORITY ELECTIONS].

(a) Unless otherwise provided by ordinance, a runoff election shall be held if no candidate receives over 40 percent of the votes cast for the office of

(1) mayor; or

(2) member of the governing body or school board if candidates run for a designated seat.

(b) Unless otherwise provided by ordinance, if candidates for the governing body or school board run at large, a runoff election for a seat shall be held if no candidate receives a number of votes greater than 40 percent of the total votes cast for all candidates divided by the number of seats to be filled.

(c) Unless otherwise provided by ordinance, a runoff election shall be held within three weeks after the date of certification of the election for which a runoff is required, and notice of the runoff election shall be published at least five days before the election date. The runoff election shall be between the two candidates receiving the greatest number of votes for the seat. [IF IN A MUNICIPAL ELECTION NO CANDIDATE RECEIVES IN EXCESS OF 40 PER CENT OF THE VOTES CAST FOR HIS RESPECTIVE OFFICE, THE ASSEMBLY OR COUNCIL SHALL HOLD A RUNOFF ELECTION WITHIN TWO WEEKS FROM THE DATE OF CERTIFICATION OF THE ELECTION BETWEEN THE TWO CANDIDATES RECEIVING THE GREATEST NUMBER OF VOTES FOR THE OFFICE. NOTICE OF A RUNOFF ELECTION SHALL BE PUBLISHED AT LEAST FIVE DAYS BEFORE THE ELECTION. THE ASSEMBLY OR COUNCIL MAY BY ORDINANCE REQUIRE A MAJORITY VOTE FOR ELECTION OF OFFICIALS. A RUNOFF ELECTION OR OTHER MEANS OF OBTAINING A MAJORITY MAY BE USED.]

Sec. 29.26.070 [29.28.050]. ELECTION CONTEST AND APPEAL.

(a) The governing body [ASSEMBLY OR COUNCIL] may provide by ordinance the time and procedure for the contest of an election.

(b) Unless otherwise provided by ordinance, an election may be contested only by a voter by [UPON THE] filing [BEFORE OR AT THE TIME OF THE FIRST CANVASS OF BALLOTS BY THE ASSEMBLY OR COUNCIL, BY A PERSON QUALIFIED TO VOTE IN THE MUNICIPALITY OF HIS] a written affidavit with the municipal clerk specifying with particularity the grounds for the contest. [OR INVALIDITY OF THE ELECTION.] An election may be contested before or during the first canvass of ballots by the governing body.

(c) Unless otherwise provided by ordinance, the governing body [ASSEMBLY OR COUNCIL] shall declare the election results at the first meeting to canvass the election, [AND] record the results in the minutes of that meeting, and authorize the results to be certified.

(d) A [THE] contestant shall pay all costs and expenses incurred in a recount of an election demanded by the contestant if the recount fails to reverse a [ANY] result of the election, or the difference between the winning and [A] losing vote on the result contested is more than two percent.

(e) A [NO] person may not appeal or seek judicial review of [A CITY OR BOROUGH] an election for any cause [OR REASON] unless the person is a voter [QUALIFIED TO VOTE IN THE MUNICIPALITY], has exhausted all [HIS] administrative remedies before the governing body [ASSEMBLY OR COUNCIL], and has commenced, within 10 days after the governing body [ASSEMBLY OR COUNCIL] has [FINALLY] declared the election results, an action in the superior court in the judicial district in which the municipality is located. If court [NO SUCH] action is not commenced within the 10-day period, the election and election results are [SHALL BE] conclusive[, FINAL] and valid [IN ALL RESPECTS].

[(F) NOTWITHSTANDING THE PROVISIONS OF (E) OF THIS SECTION, THE EXPULSION OF A MEMBER OF A BOROUGH ASSEMBLY UNDER AS 29.23.060(C), OF A MEMBER OF A CITY COUNCIL UNDER AS 29.23.210(B), OF A BOROUGH MAYOR UNDER AS 29.23.130(F), OR OF A CITY MAYOR UNDER AS 29.23.255 IS FINAL AND IS NOT SUBJECT TO JUDICIAL REVIEW.]

ARTICLE 2. INITIATIVE AND REFERENDUM.

EDITOR NOTE: No substantive change.

Sec. 29.26.100 [29.28.060]. RESERVATION OF POWERS. The powers of initiative and referendum are reserved to the residents of municipalities, except the powers do not extend to matters restricted by art. XI, sec. 7 of the state constitution.

EDITOR NOTE: This is new material establishing a process for applying for a petition for initiative or referendum. An application is signed by ten voters who sponsor the petition. If the clerk finds that an application is in proper form and that the four listed requirements are met, he shall certify the application. A decision by the clerk on an application for petition is subject to judicial review.

Sec. 29.26.110. APPLICATION FOR PETITION.

(a) An initiative or referendum is proposed by filing an application with the municipal clerk containing the ordinance or resolution to be initiated

or the ordinance or resolution to be referred and the address to which all correspondence relating to the petition may be sent. An application shall be signed by at least 10 voters who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk. Within two weeks the clerk shall certify the application if the clerk finds that it is in proper form and, for an initiative petition, that the matter

(1) is not restricted by AS 29.26.100;

(2) includes only a single subject;

(3) relates to a legislative rather than to an administrative matter; and

(4) would be enforceable as a matter of law.

(b) A decision by the clerk on an application for petition is subject to judicial review. [29.28.062. PETITION. A PETITION FOR INITIATIVE OR REFERENDUM IS FILED WITH THE MUNICIPAL CLERK AND AN INITIATIVE PETITION MUST BE FILED NOT LESS THAN 90 DAYS BEFORE THE NEXT REGULAR ELECTION.]

EDITOR NOTE: Within two weeks after certification of application, a petition is prepared by the municipal clerk. Signatures must be obtained within 60, rather than 90, days from the date the petition is first circulated. Spaces are provided for signatures, the printed name of each signer, the date signature is affixed, and the residence and mailing addresses of each signer. Each petition contains a statement that the sponsor circulated the petition, that all signatures were fixed in his presence, and that he believes the signatures to be those of the persons whose names they purport to be. Spaces are provided for indicating the total number of signatures on a petition. If the petition consists of more than one page, each page contains a summary of the matter to be initiated or referred. Copies of the petition are supplied to each sponsor.

Sec. 29.26.120 [29.28.065]. CONTENTS OF PETITION.

(a) Within two weeks after certification of an application for an initiative or referendum petition, a [A] petition [FOR AN INITIATIVE OR REFERENDUM] shall be prepared by the municipal clerk. Each copy of the petition shall contain

(1) a summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred; [EMBRACE ONLY A SINGLE COMPREHENSIVE SUBJECT,]

(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors; [SET OUT FULLY THE ORDINANCE OR RESOLUTION SOUGHT BY THE PETITION:]

(3) [STATE UPON THE PETITION, WHEN CIRCULATED,] the date on which [OF FIRST CIRCULATION OF] the petition is issued by the clerk;

(4) notice [CONTAIN THE STATEMENT, WHEN CIRCULATED] that [THE] signatures [ON THE PETITION] must be secured within 60 [90] days after [FROM] the date the petition is issued [OF THE FIRST CIRCULATION];

(5) spaces for each [HAVE THE REQUIRED] signature[S], the printed name of each signer, the date[S] each [OF] signature[S], is affixed, and the residence [RESIDENT] and mailing addresses of each [THE] signer;

(6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

(7) space for indicating the total number of signatures on the petition.

(b) If a petition consists of more than one page, each page shall contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(c) Copies of the petition shall be provided to each sponsor by the clerk.

EDITOR NOTE: Signatures must be secured within 60, rather than 90 days. The clerk shall determine the number of signatures required on a petition and inform each sponsor. The number of signatures required remains identical to the number required under current law, except that no provision is made for signatures only from persons in services areas or outside cities when the matter to be initiated or referred applies only to the service area or area outside cities. Illegible signatures must be rejected by the clerk, whereas under existing law they may be rejected. A signer may withdraw his signature before certification of the petition, whereas under existing law he may only withdraw his signature within 7 days after the petition is filed.

Sec. 29.26.130 [29.28.070]. SIGNATURE REQUIREMENTS [REQUIRED SIGNATURES].

(a) The [NECESSARY] signatures on an initiative or referendum [A] petition shall be secured within 60 [90] days after the clerk issues [FROM THE

DATE OF THE FIRST CIRCULATION OF] the petition. The statement provided under AS 29.26.120(a)(6) shall be signed and dated by the sponsor. Signatures [THE PETITION] shall be [SIGNED] in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform each sponsor. A petition shall be signed by a number of voters based on the number of votes cast at the last regular election held before the date the petition was issued equal to [EVERY PETITION FOR EITHER THE INITIATIVE OR REFERENDUM IN THE GOVERNMENT OF A MUNICIPALITY SHALL BE SIGNED BY A NUMBER OF QUALIFIED VOTERS RESIDING WITHIN THE TERRITORIAL LIMITS OF THE MUNICIPALITY, OR, IF THE ACT SOUGHT TO BE INITIATED OR REFERRED PERTAINS EXCLUSIVELY TO THE AREA OUTSIDE CITIES OR TO A SERVICE AREA, BY A NUMBER OF QUALIFIED VOTERS RESIDING WITHIN THE AREA OUTSIDE CITIES OR WITHIN THE SERVICE AREA, AS THE CASE MAY BE, EQUAL TO THE FOLLOWING PER CENT OF THE TOTAL NUMBER OF VOTES CAST AT THE LAST GENERAL ELECTION IN THE CITY OR BOROUGH OR BOROUGH AREA CONCERNED, OR SPECIAL ELECTION CALLED FOR THE PURPOSE OF ELECTING CITY OR BOROUGH OFFICERS:]

(1) 25 percent[,] of the votes cast if a municipality [WHEN A CITY OR BOROUGH] has fewer than 7,500 persons; or

(2) 15 percent[,] of the votes cast if a municipality [WHEN A CITY OR BOROUGH] has 7,500 persons or more.

[(C) WHEN SIGNING A PETITION EACH VOTER SHALL WRITE OR PRINT AFTER HIS SIGNATURE THE DATE OF SIGNING THE PETITION AND HIS RESIDENT ADDRESS.]

(c) [(D)] Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name [MAY BE REJECTED BY THE MUNICIPAL CLERK]. Signatures not accompanied by a legible residence address shall be rejected.

(d) [(E)] A petition signer may withdraw the signer's signature on [HIS SIGNATURE UPON] written application to the clerk before certification of the petition [WITHIN SEVEN DAYS AFTER THE PETITION HAS BEEN FILED WITH THE CLERK].

EDITOR NOTE: All copies of a petition are filed as a single instrument. An insufficient petition may be supplemented only with signatures obtained within ten days after the date the petition is rejected, while under current law there is no requirement that the signatures be obtained during this period.

Sec. 29.26.140 [29.28.073]. SUFFICIENCY OF PETITION.

(a) All copies of an initiative or referendum petition shall be assembled and filed as a single instrument. Within 10 days after the date the petition is filed, the municipal clerk shall [WITHIN 10 DAYS FROM THE FILING DATE, THE MUNICIPAL CLERK]

(1) [SHALL] certify on the petition whether [OR NOT] it is sufficient; and

(2) [(B)] if the petition is insufficient, identify the insufficiency and notify the sponsors at the address provided under AS 29.26.110(a) by certified mail [IT MAY BE AMENDED OR].

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed within 10 days after the date on which the petition is rejected [AS INSUFFICIENT].

(c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after a supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

EDITOR NOTE: No change, except for minor rewording for consistency.

Sec. 29.26.150 [29.28.075]. PROTEST. If the municipal clerk certifies an initiative or referendum [THE] petition is insufficient, a signer of the petition may file a protest with the mayor [MUNICIPAL EXECUTIVE] within seven days after the certification. The mayor [AND THE MUNICIPAL EXECUTIVE] shall present the protest at the next regular meeting of [TO] the governing body. [ASSEMBLY OR COUNCIL] The governing body [WHICH] shall hear and decide the protest.

EDITOR NOTE: "On substantially the same matter" has been added so that it is clear that the waiting period for filing a new petition does not apply if the petition sought to be filed deals with a different subject.

Sec. 29.26.160 [29.28.077]. NEW PETITION. Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

EDITOR NOTE: Unless the same measure is adopted, the clerk submits a petition seeking an initiative vote to the voters at the next regular election occurring no sooner than 45 days after certification of the petition, or, if no regular election occurs within 75 days, a special election is held. If the governing body adopts the same measure, the petition is void and the subject is not placed before the voters, while under existing law the governing body may not adopt an ordinance or resolution within 10 days from the date of election. If the vote is

favorable, the ordinance or resolution becomes effective upon certification of the election unless a different effective date is provided in the ordinance or resolution, while under existing law an ordinance or resolution becomes effective when the election results are declared. There is no provision for governing body to reject a petition, as there is in current law.

Sec. 29.26.170 [29.28.080]. [PRESENTATION OF] INITIATIVE ELECTION.

(a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote [ENACTMENT OF AN ORDINANCE OR RESOLUTION WITHIN THE POWERS OF THE ASSEMBLY OR COUNCIL AND NOT OTHERWISE RESTRICTED BY § 60 OF THIS CHAPTER,] the clerk shall submit the matter to the voters at the next regular election occur ring no sooner than 45 days after certification of the petition. If no regular election occurs within 75 days after the certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification [PRESENT IT TO THE ASSEMBLY OR COUNCIL AT ITS NEXT MEETING AFTER CERTIFICATION. THE ASSEMBLY OR COUNCIL MAY REJECT THE PETITION IF THE SUBJECT MATTER OF THE INITIATIVE OR REFERENDUM IS WITHIN THE RESTRICTIONS OF § 60 OF THIS CHAPTER].

(b) If the governing body adopts substantially the same measure, the petition is void and the matter initiated may not be placed before the voters. [UNLESS THE PETITION IS GRANTED WITHIN 30 DAYS OF ITS SUBMISSION TO THE ASSEMBLY OR COUNCIL, THE CLERK SHALL, WITH THE ASSISTANCE OF THE MUNICIPAL ATTORNEY, PREPARE AN ORDINANCE OR RESOLUTION TO IMPLEMENT THE PETITION AND SHALL SUBMIT IT TO THE VOTERS AT THE NEXT REGULAR ELECTION. THE ORDINANCE OR RESOLUTION SHALL BE PUBLISHED IN FULL IN THE NOTICE OF ELECTION BUT MAY BE SUMMARIZED ON THE BALLOT TO INDICATE CLEARLY THE PROPOSAL SUBMITTED.]

(c) The ordinance or resolution initiated shall be published in full in the notice of the election, but may be summarized on the ballot to indicate clearly the proposal submitted.

(d) [(C)] If a majority vote [OF THOSE VOTING] favors the ordinance or resolution [PROPOSAL], it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution [WHEN THE ELECTION RESULTS ARE OFFICIALLY DECLARED].

[(D) THE ASSEMBLY OR COUNCIL MAY AT ANY TIME NOT LESS THAN 10 DAYS FROM THE DATE OF ELECTION ADOPT AN ORDINANCE OR RESOLUTION TO IMPLEMENT THE PETITION. IN THAT EVENT AN ELECTION SHALL NOT BE HELD.]

EDITOR NOTE: When a petition seeks a referendum vote, the clerk shall submit the matter to the voters in the same manner as provided for an initiative election. Under current law, the vote is held during the next regular or special election, or within 75 days of filing the petition. If a petition is certified before the effective date of the matter referred, the ordinance or resolution is suspended while under existing law the suspension occurs if a sufficient petition is filed within 30 days after passage of the ordinance or before the effective date of the ordinance. If the governing body repeals the ordinance or resolution, the petition is void and no election is held. If a majority vote does not favor repeal of the matter referred, it remains in effect, or, if it has been suspended becomes effective upon certification of the election. Existing law is silent as to the effective date of a suspended ordinance in this situation.

Sec. 29.26.180 [29.28.090]. [PRESENTATION OF] REFERENDUM ELECTION.

(a) Unless the ordinance or resolution is repealed, [W]hen a petition seeks a referendum vote [ON AN ORDINANCE OR RESOLUTION], the clerk shall submit the matter [ORDINANCE] to the voters [OF THE MUNICIPALITY] at the next [REGULAR OR SPECIAL] election occurring no sooner than 45 days after certification of the petition. If no [REGULAR OR SPECIAL] election occurs within 75 days of certification [THE FILING] of a [SUFFICIENT] petition [WITH THE CLERK], the governing body [ASSEMBLY OR COUNCIL] shall hold a special election within 75 days, but not sooner than 45 days after certification [OF FILING].

(b) If a [SUFFICIENT] petition [FOR REFERENDUM] is certified [FILED WITHIN 30 DAYS AFTER FINAL PASSAGE OF THE ORDINANCE, OR] before the effective date of the matter referred [ORDINANCE], the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote [ON THE ORDINANCE]. During the period of suspension, the governing body [ASSEMBLY OR COUNCIL] may not enact an ordinance or resolution substantially similar to the suspended measure [ORDINANCE BUT MAY REPEAL THE SUSPENDED ORDINANCE].

(c) If the governing body repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) [(E)] If a majority vote [OF THOSE VOTING] favors the repeal of the matter referred, it is repealed [REFERENDUM LEGISLATION; IT]. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election [. IF A MAJORITY REJECTS THE LEGISLATION, IT IS REPEALED. A MUNICIPAL CHARTER MAY BE AMENDED AS PROVIDED IN THE CHARTER OR BY INITIATIVE AND REFERENDUM AS PROVIDED IN §§ 60 - 110 OF THIS CHAPTER.]

EDITOR NOTE: If adopted in an initiative election or if adopted after a petition has been filed, an ordinance or resolution may not be repealed or amended within one year. If an ordinance or resolution is repealed in a referendum election, or after a petition has been filed, similar legislation may not be enacted for a period of one year. Existing law provides that the governing body may not act in any way within two years to modify or negate the effect of a successful initiative or referendum and if an ordinance has been repealed after a petition has been filed, the governing body may not enact similar legislation for one year.

Sec. 29.26.190 [29.28.110]. EFFECT.

(a) An ordinance or resolution may not be repealed or amended within one year after its effective date if adopted in an initiative election or if adopted after a petition that contains substantially the same measure has been filed.

(b) If an ordinance or resolution is repealed in a referendum election or by the governing body after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the governing body for a period of one year.

(c) If an initiative or referendum measure fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

[(A) THE ASSEMBLY OR COUNCIL MAY NOT, WITHIN TWO YEARS, ACT IN ANY WAY TO MODIFY OR NEGATE THE EFFECT OF A SUCCESSFUL INITIATIVE OR REFERENDUM. IF AN ORDINANCE AGAINST WHICH A REFERENDUM IS DIRECTED HAS BEEN REPEALED BY THE ASSEMBLY OR COUNCIL AFTER A PETITION HAS BEEN FILED BUT BEFORE THE REFERENDUM, THE COUNCIL OR ASSEMBLY MAY NOT ENACT SUBSTANTIALLY SIMILAR LEGISLATION FOR A PERIOD OF ONE YEAR AFTER REPEAL.

(B) AN UNSUCCESSFUL INITIATIVE OR REFERENDUM PRECLUDES THE FILING OF A NEW PETITION FOR THE SAME PURPOSE SOONER THAN SIX MONTHS AFTER VOTER DISAPPROVAL OF THE INITIATIVE OR REFERENDUM.]

ARTICLE 3. RECALL.

EDITOR NOTE: This is broadened to include an official appointed to elected office, because when a vacancy occurs an official may, in certain cases, be appointed. He will be subject to recall just as an elected person would be. An official may be recalled when he has served six months of a term for which

elected or appointed, while under existing law there is some ambiguity as to the status of an official who is re-elected to the same office.

Sec. 29.26.240 [29.28.130]. RECALL. An [ELECTED] official who is elected or appointed to an elective municipal office [OF A HOME RULE OR GENERAL LAW MUNICIPALITY] may be recalled by the voters after the official [HE] has served the first 120 days of the term for which elected or appointed [SIX MONTHS IN OFFICE].

EDITOR NOTE: No change.

Sec. 29.26.250 [29.28.140]. GROUND FOR RECALL. Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties.

EDITOR NOTE: This is new material establishing a procedure for applying for a recall petition. The application must contain information concerning 10 voters who will sponsor the petition, the address to which correspondence relating to the application may be sent, and a statement in 200 words or less of the grounds of the recall. Additional sponsors may be added.

Sec. 29.26.260. APPLICATION FOR RECALL PETITION.

(a) An application for a recall petition shall be filed with the municipal clerk and shall contain

(1) the signatures and residence addresses of at least 10 municipal voters who will sponsor the petition;

(2) the address to which all correspondence relating to the petition may be sent;

(3) a statement in 200 words or less of the grounds for recall stated with particularity.

(b) An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the clerk.

EDITOR NOTE: A recall petition is prepared by the clerk. It contains the names of the official sought to be recalled, the grounds for recall, the date the petition is issued by the clerk, notice that the signatures are secured within 60 days after the date the petition is issued (while under existing law a petition must be filed within 60 days after the date of the earliest signature on it), spaces for signatures, printed name, date of each signature, and residence and mailing addresses of each signor, a statement that the sponsor personally

circulated the petition, all signatures were fixed in his presence, and he believes the signatures to be those of the persons they purport to be, and space for indicating the number of signatures on the petition. Copies of the petition are provided to each sponsor.

Sec. 29.26.270 [29.28.150]. RECALL PETITION.

(a) If the municipal clerk determines that [WHICH] an application for a recall petition meets the requirements of AS 29.26.260, the clerk shall prepare a recall petition [A PETITION SEEKING RECALL OF ONE OR MORE MUNICIPAL OFFICIALS IS FILED WITH THE MUNICIPAL CLERK]. [THE] All copies of the petition shall contain

(1) the name of the official sought to be recalled [THE SIGNATURES AND RESIDENT ADDRESSES OF A NUMBER OF VOTERS AS PRESCRIBED IN § 70(B) OF THIS CHAPTER FOR INITIATIVE AND REFERENDUM];

(2) the statement of the grounds for recall as set out in the application for petition; [THE DATE EACH VOTER SIGNED THE PETITION; AND]

(3) the date the petition is issued by the clerk [A STATEMENT OF THE GROUNDS OF THE RECALL STATED WITH PARTICULARITY AS TO SPECIFIC INSTANCES.];

(4) notice that signatures must be secured within 60 days after the date the petition is issued;

(5) spaces for each signature, the printed name of each signer, the date of each signature, and the residence and mailing addresses of each signer;

(6) a statement, with space for the sponsor's sworn signature and date of signing, that [WHICH] the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

(7) space for indicating the number of signatures on the petition.

(b) Copies of the petition shall be provided to each sponsor by the clerk.

EDITOR NOTE: Signatures are secured within 60 days after a recall petition is issued. Signatures not accompanied by a legible residence address are rejected. The clerk determines the number of signatures required and informs each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office. If a petition seeks to recall an

official who represents a district, the petition shall be signed by a number of voters residing in the district equal to 25 percent of the number of votes cast in that district for the office. Under existing law, signature requirements are identical to the requirements for initiative and referendum.

Sec. 29.26.280 [29.28.160, 29.28.150]. SIGNATURE REQUIREMENTS.

(a) The signatures on a recall petition shall be secured within 60 days after the date the clerk issues the petition. The statement provided under AS 29.26.270(a)(6) shall be completed and signed by the sponsor. Signatures shall be in ink or indelible pencil.

(b) The clerk shall determine the number of signatures required on a petition and inform each sponsor. If a petition seeks to recall an official who represents the municipality at large, the petition shall be signed by a number of voters equal to 25 percent of the number of votes cast for that office at the last regular election held before the date the petition was issued. If a petition seeks to recall an official who represents a district, the petition shall be signed by a number of the voters residing in the district equal to 25 percent of the number of votes cast in the district for that office at the last regular election held before the date the petition was issued.

(c) Illegible signatures shall be rejected by the clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.

(d) A petition signer may withdraw the signer's signature upon written application to the clerk before certification of the petition. [EXAMINATION FOR SUFFICIENCY. THE MUNICIPAL CLERK SHALL REVIEW THE PETITION FOR CONTENT AND SIGNATURES AND SHALL CERTIFY ON THE PETITION WITHIN 10 DAYS OF THE FILING DATE WHETHER IT IS ACCEPTED OR REJECTED. UNTIL THE PETITION IS ACCEPTED, A PETITION SIGNER MAY WITHDRAW HIS SIGNATURE UPON WRITTEN APPLICATION TO THE CLERK.]

EDITOR NOTE: Copies of a recall petition are filed as a single instrument. An insufficient petition may be supplemented with additional signatures obtained within ten days after the date on which the petition is rejected, while under existing law there is no requirement that the signatures be obtained during that time period. A petition which does not contain an adequate number of signatures, both valid and invalid signatures, may not be supplemented and this is a new provision not contained in existing law.

Sec. 29.26.290 [29.28.170, 29.28.160]. SUFFICIENCY OF PETITION.

(a) The copies of a recall petition shall be assembled and filed as a single instrument. A petition may not be filed within 180 days before the end of the term of office of the official sought to be recalled. Within 10 days after the date a petition is filed, the municipal clerk shall

(1) certify on the petition whether it is sufficient; and

(2) if the petition is insufficient, identify the insufficiency and notify the sponsors at the address provided under AS 29.26.260(a)(2) by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed within 10 days after the date on which the petition is rejected if

(1) the petition contains an adequate number of signatures, counting both valid and invalid signatures; and

(2) the supplementary petition is filed more than 180 days before the end of the term of office of the official sought to be recalled.

(c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within 10 days after the supplementary filing the clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

[SUPPLEMENTAL PETITION. (A) IF THE PETITION IS REJECTED BECAUSE OF INSUFFICIENT SIGNATURES, IT MAY BE SUPPLEMENTED BY ADDITIONAL SIGNATURES WITHIN 10 DAYS AFTER THE DATE OF REJECTION. IF THE PETITION IS INSUFFICIENT FOR ANY OTHER REASON, IT SHALL BE REJECTED AND FILED AS A PUBLIC RECORD.

(B) WITHIN 10 DAYS AFTER SUPPLEMENTARY FILING, THE CLERK SHALL RECERTIFY THE PETITION. IF IT IS STILL INSUFFICIENT, THE PETITION IS REJECTED AND FILED AS A PUBLIC RECORD.]

EDITOR NOTE: Reworded so that it is clear that the six-month waiting period before a new petition may be obtained applies only to a petition seeking to recall the same official.

Sec. 29.26.300 [29.28.180]. NEW RECALL PETITION APPLICATION. [FAILURE TO SECURE SUFFICIENT SIGNATURES DOES NOT PREVENT THE FILING OF A NEW RECALL PETITION. HOWEVER, A [a] new application for a petition to recall the same official may not be filed sooner than six months after a petition is rejected as insufficient.

EDITOR NOTE: No change, except for minor rewording for consistency.

Sec. 29.26.310 [29.28.190]. SUBMISSION. If a recall petition is sufficient, the clerk shall [IMMEDIATELY] submit it to the governing body [ASSEMBLY OR COUNCIL] at the next regular meeting or at a special meeting held before the next regular meeting.

EDITOR NOTE: The requirement that an election to recall an official not be held sooner than 45 days after submission of the petition to the governing body is added. The governing body may not appoint to the same office an official who resigns after a petition is filed.

Sec. 29.26.320 [29.28.200]. ELECTION.

(a) If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body [OF THE SUBMISSION], the governing body [ASSEMBLY OR COUNCIL] shall submit the recall at that election.

(b) If no regular election occurs within 75 days, the governing body [ASSEMBLY OR COUNCIL] shall hold a special election on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the governing body [OF SUBMISSION].

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question may [PETITION SHALL] not be submitted to the voters. The governing body may not appoint to the same office an official who resigns after a sufficient recall petition is filed naming that official.

EDITOR NOTE: The grounds for recall must be stated in 200 words or less.

Sec. 29.26.330 [29.28.210]. FORM OF RECALL BALLOT. A recall ballot shall contain[S]

(1) the grounds for recall as stated in 200 words or less on the recall petition; [AS STATED IN THE RECALL PETITION]

(2) a [THE OFFICER'S] statement by the official named on the recall petition of 200 words or less, if the statement is filed with the clerk for publication and public inspection within 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [] No []".

EDITOR NOTE: The provision that an office becomes vacant upon certification of the election is added.

Sec. 29.26.340 [29.28.230, 29.28.240]. EFFECT [MAJORITY REQUIRED].

(a) If a [A] majority vote favors recall, the office becomes vacant upon certification of the recall election [ON THE QUESTION IS REQUIRED TO RECALL AN OFFICER].

(b) [29.28.240.] If an official [INCUMBENT] is not recalled at the [RECALL] election, an application for a petition to recall the same official [INCUMBENT] may not be filed sooner than six months after the [RECALL] election.

EDITOR NOTE: When an official is recalled, his office is filled in accordance with the provision dealing with vacancies. If all members of a governing body are recalled the governor appoints three persons and they appoint additional members needed to fill vacancies in accordance with the provisions dealing with vacancies. If all members of the school board are recalled the governor appoints three persons and they appoint additional members to fill remaining vacancies. A person appointed by the governor serves until a successor is elected. After an official is recalled, the clerk conducts an election for a successor. The election shall not more than 60 days from the date the recall election is certified unless a regular election is held within 75 days, in which case the successor is chosen at the regular election. Nominations may be filed until seven days before the last date upon which notice of the election must be published, but they may not be filed until the election is certified. Under existing law the election of successor shall be held at least ten but not more than 45 days from the date of the recall election and there are no provisions dealing with a situation involving the recall of all members of the governing body or school board.

Sec. 29.26.350 [29.28.250]. [ELECTION OF] SUCCESSORS.

(a) If an official is recalled from the governing body, the office of that official is filled in accordance with AS 29.20.180. If all members of the governing body are recalled, the governor shall appoint three qualified persons to the governing body. The appointees shall appoint additional members to fill remaining vacancies in accordance with AS 29.20.180.

(b) If a member of the school board is recalled, the office of that member is filled in accordance with AS 14.12.070. If all members are recalled from a school board, the governor shall appoint three qualified persons to the

school board. The appointees shall appoint additional members to fill remaining vacancies in accordance with AS 14.12.070.

(c) A person appointed under (a) or (b) of this section serves until a successor is elected and takes office.

(d) If an official other than a member of the governing body or school board is recalled, a successor shall be elected to fill the unexpired portion of the term. The election shall be held not more than 60 days after the date the recall election is certified, except that if a regular election occurs within 75 days after certification the successor shall be chosen at that election.

(e) Nominations for a successor may be filed until seven days before the last date on which a first notice of the election must be given. Nominations may not be filed before the certification of the recall election. [IF THE VOTERS RECALL AN OFFICER, THE CLERK SHALL CONDUCT AN ELECTION FOR A SUCCESSOR TO FILL THE UNEXPIRED TERM. THE ELECTION SHALL BE HELD AT LEAST 10 BUT NOT MORE THAN 45 DAYS FROM THE DATE OF THE RECALL ELECTION. HOWEVER, IF A REGULAR OR SPECIAL ELECTION OCCURS WITHIN 75 DAYS OF THE RECALL ELECTION, THE SUCCESSOR TO THE RECALLED OFFICIAL SHALL BE CHOSEN AT THAT REGULAR OR SPECIAL ELECTION. THE PROCEDURES AND REQUIREMENTS FOR THE REGULAR ELECTION FOR THE OFFICE FROM WHICH THE INCUMBENT IS RECALLED APPLY TO THE ELECTION CONDUCTED UNDER THIS SECTION.]

EDITOR NOTE: The sections dealing with recall are made applicable as limitations on home rule municipalities and are currently limitations under AS 29.13.100(9).

Sec. 29.26.360. APPLICATION. AS 29.26.250 - 29.26.360 apply to home rule and general law municipalities.

* Section 9. AS 29 is amended by adding a new chapter to read:

CHAPTER 35 [48]. MUNICIPAL POWERS AND DUTIES [APPLICABLE TO ALL MUNICIPALITIES].

ARTICLE 1. GENERAL POWERS.

EDITOR NOTE: (1) No change.

(2) No change, except for rewording due to a change in organization.

(3) No change.

(4) Minor rewording.

(5) Minor rewording.

(6) "and impose liens for their enforcement" is added.

(7) No change.

(8) "for a purpose authorized under this title, federal law, or other law, or in accordance with such law" is deleted as excessive verbage.

(9) "facility or service" is added.

(10) This is added as a general power. Under existing law, the power may be exercised by a first class borough on a non-areawide basis, so long as the borough seeks to have it transferred from cities or proposes joint city/borough exercise of the power. A first class borough may exercise the power on an areawide basis if it is assumed. A second class borough may exercise the power on an areawide or non-areawide basis if it is assumed.

(11) No change.

(12) Minor rewording.

(13) Minor rewording.

(14) No change.

Sec. 29.35.010 [29.48.010, 29.23.510, 29.38.010, 29.48.035(a),(b)]. GENERAL POWERS. All municipalities have the following general powers, subject to other provisions of law:

(1)[2] to establish and prescribe a [FOR] salary [SALARIES] for an [THE] elected or [AND] appointed municipal official or [OFFICER AND] employee;

(2)[29.23.510] [THE ASSEMBLY OR COUNCIL MAY] to combine two or more appointive or administrative offices;

(3)[1] to establish and prescribe the functions of a municipal department[s], office[s], or agency [AGENCIES];

(4)[5] to require periodic and special reports from a municipal department to be submitted through the mayor [MUNICIPAL EXECUTIVE];

(5)[3] to [MAKE] investigate [INVESTIGATION OF THE] an affair[s] of the municipality and make inquiries into the conduct of a municipal department;

(6)[7] to levy a tax[es] or [AND] special assessment[s], and impose a lien for its enforcement;

(7)[8] to enforce an ordinance[s] and to prescribe a penalty [PENALTIES] for violation[s] of an ordinance;[TO LEVY TAXES AND SPECIAL ASSESSMENTS;]

(8)[9] to acquire, manage, control, use, and dispose of real and personal property, whether [OR NOT] the property is situated inside [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 established [CREATED] under AS 29.35.450 [29.63.090(f)];

(9)[11] to expend money [FUNDS] for a community purpose[s], facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;

(10) to regulate the operation and use of a municipal right-of-way, facility, or service;

(11)[12] to borrow money and issue evidences of indebtedness;

(12)[10] to acquire membership in an organization[s] that [WHICH] promotes legislation for the good of the municipality;

(13)[4] to enter into an agreement[s], including an [THOSE] agreement for cooperative or joint administration of any function[s] or power[s] with a municipality [LOCAL GOVERNMENT], [WITH] the state, or [WITH] the United States;

(14) [6] to sue and be sued.

EDITOR NOTE: A municipality may not exercise outside of its boundaries a power which it may not exercise within its boundaries. The word "roads" has been changed to "streets" which is defined for the title. The following have been included within the list of facilities which a municipality may provide outside its boundaries: solid and septic waste facilities, utility services, transportation facilities, wharves, harbors and other marine facilities. A municipality which provides a facility outside its boundaries may regulate its use to the extent that the jurisdiction in which the facility is located does not regulate it. Existing law provides that a municipality may regulate a facility

outside its boundaries, and provides no right for the municipality within which the facility is located to regulate it.

Sec. 29.35.020 [29.48.037]. EXTRATERRITORIAL JURISDICTION.

(a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries 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. [A MUNICIPALITY MAY PROVIDE PARKS ROADS (INCLUDING ICE ROADS), TRAILS, PLAYGROUNDS, EMERGENCY MEDICAL SERVICES, CEMETERIES AND AIRPORTS OUTSIDE ITS OPERATION. A REGULATION ADOPTED UNDER THIS SECTION MUST STATE THAT IT APPLIES OUTSIDE THE MUNICIPALITY.]

(b) A municipality may adopt an ordinance[S] to protect its water supply and watershed, and may enforce the ordinance [THEM] outside its boundaries. Before this power may be exercised inside [WITHIN] the boundaries of another municipality, the approval of the other [THAT] municipality must be given by ordinance.

(c) This section applies to home rule [GENERAL LAW] and general law [HOME RULE] municipalities.

EDITOR NOTE: Allows all classes of municipalities to exercise eminent domain and declaration of taking. Under existing law, a second class city may not exercise the power without formal approval of the Department of Community and Regional Affairs, and must exercise the power by ordinance approved by the voters. This is a limitation on home rule municipalities, and is an existing limitation under AS 29.13.100(29).

Sec. 29.35.030 [29.73.020]. EMINENT DOMAIN.

(a) A [HOME RULE OR GENERAL LAW] municipality may exercise the powers of eminent domain and declaration of taking in the performance of a [AN AUTHORIZED] power or function of the municipality[,] under the procedures set out in AS 09.55.250 - 09.55.460 [IN ACCORDANCE WITH AS 90.55.250 - 09.55.460. IN THE CASE OF A SECOND CLASS CITY, BEFORE EXERCISING THE POWER, THE COUNCIL SHALL REQUEST OR PETITION THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS FOR PERMISSION TO EXERCISE THE POWER. THE COUNCIL MAY NOT EXERCISE THE POWER OF EMINENT

DOMAIN OR DECLARATION OF TAKING WITHOUT THE FORMAL APPROVAL OF THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. THE EXERCISE OF THE POWER OF EMINENT DOMAIN OR DECLARATION OF TAKING SHALL BE BY ORDINANCE WHICH SHALL BE SUBMITTED TO THE QUALIFIED VOTERS VOTING ON THE QUESTION IS REQUIRED FOR APPROVAL OF THE ORDINANCE.]

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

EDITOR NOTE: This becomes applicable when a disaster is declared by the governor as well as by the President. Since (s) allows a municipality within a disaster area to exercise the powers in the same manner as a home rule city, the subsection providing that differences between areawide and non-areawide powers do not apply has been eliminated as redundant.

Sec. 29.35.040 [29.48.270]. EMERGENCY DISASTER POWERS.

(a) A municipality that [WHICH] is wholly or partially in [WITHIN] an area that [WHICH] is declared by the President or governor to be a disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. The exercise of these powers by a borough shall be on a nonareawide basis, except a borough may exercise the powers transferred to it by a city as provided by AS 29.35.310 [IS LIMITED TO THE AREA OUTSIDE A CITY IN THE BOROUGH].

[(B) [A BOROUGH MAY EXERCISE THE POWERS FOR A HOUSING OR URBAN RENEWAL AND REDEVELOPMENT PROJECT TRANSFERRED TO IT BY A CITY LOCATED IN THE BOROUGH AS PROVIDED BY AS 29.33.260.

(C) AS 29.38.020 - 29.38.050 ARE NOT APPLICABLE TO THE HOUSING AND URBAN RENEWAL AND REDEVELOPMENT POWERS GRANTED BY THIS SECTION.]

(b) [(D)] Powers granted by this section must be initiated within a period of not more than five years after [FROM] the date of declaration of a natural disaster by the President or governor, but these powers may be extended for an additional period of not more than three years.

EDITOR NOTE: This is reorganized and minor changes are made to the wording for clarity. The phrase "provide the charges for collection and disposal shall be paid by the property owner or occupants of the premises" is eliminated as implied within the specified ability to fix charges.

Sec. 29.35.050 [29.48.033]. GARBAGE AND SOLID WASTE SERVICES.

(a) A municipality may by ordinance

(1) provide for the establishment, maintenance, and operation of

a system of garbage and solid waste collection and disposal for the entire municipality, or for districts or portions of it;

(2) require all persons in [WITHIN] the municipality or district to use the system and to dispose of their garbage and solid wastes as provided in the ordinance;

(3) award contracts for collection and disposal, or provide for the collection and disposal of garbage and solid waste by municipal officials and employees;

(4) pay for garbage and solid waste collection and disposal from available money [FUNDS];

(5) require property owners or occupants of premises to use the garbage and solid waste collection and disposal system provided by the municipality; [AND]

(6) fix charges against the property owners or occupants of premises for the collection and disposal; and [PROVIDE THAT CHARGES FOR COLLECTION AND DISPOSAL SHALL BE PAID BY THE PROPERTY OWNER OR OCCUPANTS OF THE PREMISES]

(7) [AND] provide penalties for violations of the ordinances.

(b) The [COUNCIL OR] governing body of a municipality [ANY POLITICAL SUBDIVISION] may not prohibit a person holding a valid certificate from the Alaska Public Utilities Commission from continuing to collect and dispose of garbage, refuse, trash, waste material, or provide other related services in an [ANY] area in the municipality [POLITICAL SUBDIVISION] if the certificate authorizes the collection and disposal of garbage, refuse, trash, or other waste material and providing of other services in the area, and the certificate was originally issued before the municipality [POLITICAL SUBDIVISION] provided [LIKE OR] similar services. A municipality [POLITICAL SUBDIVISION] may not provide for a garbage, refuse, trash, or other waste material collection and disposal service in an [ANY] area to the extent it lies in [WITHIN] an area granted to a garbage, refuse, trash, or other waste material carrier by a certificate issued by the Alaska Public Utilities Commission to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that [WHICH] would be affected, at fair market value. A municipality [AND] may exercise the right of eminent domain to acquire the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected [DETERMINE FAIR MARKET VALUE].

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

[REPEALED BY § 6 CH 76 SLA 1973.]

EDITOR NOTE: (a) The language "for the construction, operation and maintenance of bus transportation systems and public utilities" is eliminated, so that franchises and permits may be granted without restrictions as to type of franchise involved. This applies only to an entity not certificated by the Alaska Public Utilities Commission.

(b) Unless a grant of a franchise or permanent permit is made on a competitive basis, the grant of any exclusive right to use a public street or right-of-way for more than five years to a utility or transportation system which is not certificated is valid only if approved by vote. Under existing law, no franchise is valid unless it is submitted to the qualified voters for approval. The material dealing with use of streets by utilities contained in AS 29.48.040(c) is deleted.

Sec. 29.35.060 [29.48.050(a)(b)]. FRANCHISES AND PERMITS.

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in [WITHIN] a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the Alaska Public Utilities Commission [FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF BUS TRANSPORTATION SYSTEMS AND PUBLIC UTILITIES NOT REGULATED UNDER AS 42.05] and may permit [THEM] the use of streets and other public places by the franchise holder under regulations prescribed by ordinance.

(b) Unless the grant is made on a competitive basis, the grant of an exclusive right to use a public street or right-of-way for more than five years to a utility or a transportation system not certificated by the Alaska Public Utilities Commission or by the Alaska Transportation Commission shall be valid only if approved by a majority of the voters at an election. [NO FRANCHISE IS VALID UNTIL IT HAS BEEN SUBMITTED TO THE QUALIFIED VOTERS OF THE CITY OR BOROUGH AREA OUTSIDE CITIES IN WHICH IT APPLIES AND AT LEAST 55 PER CENT OF THE VOTES CAST ARE IN FAVOR OF THE FRANCHISE. AT LEAST 30 DAYS NOTICE OF A FRANCHISE REFERENDUM ELECTION SHALL BE GIVEN IN THE SAME MANNER AS IS PROVIDED FOR NOTICE OF REGULAR MUNICIPAL ELECTIONS, AND THE NOTICE SHALL SPECIFY THE PURPOSE OF THE ELECTION. THE ORDINANCE GRANTING A FRANCHISE SHALL PROVIDE FOR ITS SUBMISSION FOR RATIFICATION TO THE QUALIFIED VOTERS OF THE CITY OR BOROUGH AREA OUTSIDE CITIES AT EITHER A REGULAR OR SPECIAL ELECTION, AND THE RESULT OF THE ELECTION SHALL BE CANVASSED PUBLICLY BY THE COUNCIL OR ASSEMBLY AND SPREAD UPON THE RECORDS OF THE MINUTES AND THE RESULT DECLARED AND CERTIFIED IN THE SAME MANNER AS IN A REGULAR ELECTION.]

[(C) PUBLIC UTILITIES REGULATED UNDER AS 42.05 HAVE THE RIGHT TO USE THE STREETS AND OTHER PUBLIC PLACES, UPON PAYMENT OF A REASONABLE PERMIT FEE AND ON REASONABLE TERMS AND CONDITIONS AND WITH REASONABLE EXCEPTIONS THE ASSEMBLY OR COUNCIL REQUIRES. A DISPUTE AS TO WHETHER FEES, TERMS, CONDITIONS, OR EXCEPTIONS ARE REASONABLE SHALL BE DECIDED BY THE ALASKA PUBLIC UTILITIES COMMISSION.]

EDITOR NOTE: The governing body may regulate a utility rate to the extent that it is not subject to regulation by the state and to the extent not otherwise prohibited by law. Under existing law, a municipality may regulate only a municipally owned utility which is not regulated by the state. This section applies as a home rule limitation, and is an existing limitation under AS 29.13.100(7).

Sec. 29.35.070 [29.48.060]. PUBLIC UTILITIES [RATES].

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in [WITHIN] a city may regulate, fix, establish, and change[, AS IT CONSIDERS PROPER,] the rates and charges imposed for a utility service provided [UTILITIES SERVICES GIVEN] to the municipality or its inhabitants by a [MUNICIPALLY OWNED] utility to the extent [NOT REGULATED UNDER AS 42.05 AND MAY REGULATE AND]

- (1) that it is not subject to regulation under AS 42.05; and
- (2) not otherwise prohibited by law.

(b) A municipality may provide for [WHAT IS] a reasonable deposit for meters and [SECURITY FOR] service to be given if [, PROVIDED THAT] if interest is paid on the deposit.

(c) Unless the utility is owned by the municipality, all rates, charges, and regulations established under this section shall be established by ordinance and shall be reasonable and [SHALL] permit a fair [AND REASONABLE] return on invested capital.

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

EDITOR NOTE: Requires municipal regulation of alcoholic beverages to conform to state requirements and is made a home rule limitation.

Sec. 29.35.080 [29.48.035(a)(10)]. ALCOHOLIC BEVERAGES.

(a) A municipality may regulate the barter, sale, importation, and consumption of alcoholic beverages in accordance with AS 04.11.480 - 04.11.506 and AS 04.21.010. [29.48.035. REGULATORY POWERS. (A) (10) ALCOHOLIC BEVERAGES AS PROVIDED BY AS 04.15.070;]

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

EDITOR NOTE: The governing body is required by ordinance to establish a formal procedure for acquisition and disposal of land. The provisions authorizing a municipality to acquire, hold and dispose of real property are deleted as unnecessary. The provisions dealing with the requirements which must be met in the formal procedure established for disposal of land have been eliminated to provide more flexibility. The provisions dealing with restricting land to agricultural use have been deleted.

Sec. 29.35.090 [29.48.260]. MUNICIPAL PROPERTY. The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality.

[Sec. 29.48.260. MUNICIPAL PROPERTIES.

(A) A MUNICIPALITY MAY ACQUIRE AND HOLD REAL AND PERSONAL PROPERTY OR INTEREST IN PROPERTY, AND MAY SELL, LEASE OR OTHERWISE DISPOSE OF PROPERTY NO LONGER REQUIRED FOR MUNICIPAL PURPOSES.

(B) NOTWITHSTANDING THE PROVISIONS OF (C) OF THIS SECTION, A MUNICIPALITY MAY SELL, LEASE, DONATE OR EXCHANGE WITH THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION REAL ESTATE OR OTHER PROPERTY, OR INTEREST IN PROPERTY, WHEN IN THE JUDGEMENT OF THE ASSEMBLY OR COUNCIL IT IS ADVANTAGEOUS TO THE MUNICIPALITY TO DO SO.]

[(C) THE ASSEMBLY OR COUNCIL SHALL BY ORDINANCE ESTABLISH A FORMAL PROCEDURE FOR THE SALE, LEASE OR DISPOSITION OF REAL PROPERTY OR INTEREST IN REAL PROPERTY. THE ORDINANCE SHALL REQUIRE

(1) AN ESTIMATED VALUE OF THE PROPERTY BY A QUALIFIED APPRAISER OR THE ASSESSOR;

(2) A NOTICE OF SALE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION DISTRIBUTED WITHIN THE MUNICIPALITY AT LEAST 30 DAYS BEFORE THE DATE OF THE SALE, LEASE, OR DISPOSITION, OR POSTED WITHIN THAT TIME IN AT LEAST THREE PUBLIC PLACES IN THE MUNICIPALITY;

(3) PUBLIC AUCTION OR OPENING OF SEALED BIDS, IF ANY; AND

(4) OTHER TERMS AND CONDITIONS FIXED BY THE ASSEMBLY OR COUNCIL.

HOWEVER, NO ORDINANCE FOR THE SALE, LEASE, OR DISPOSITION OF REAL PROPERTY OR INTEREST IN REAL PROPERTY VALUED AT \$25,000 OR MORE IS VALID UNLESS RATIFIED BY A MAJORITY OF THE QUALIFIED VOTERS VOTING AT A REGULAR OR SPECIAL ELECTION AT WHICH THE QUESTION OF THE RATIFICATION OF THE ORDINANCE IS SUBMITTED. THIRTY DAYS NOTICE SHALL BE GIVEN OF THE ELECTION AND DURING THAT PERIOD THE ASSEMBLY OR

COUNCIL SHALL HAVE PUBLISHED AT LEAST ONCE A WEEK IN A NEWSPAPER OF GENERAL CIRCULATION DISTRIBUTED WITHIN THE MUNICIPALITY A NOTICE STATING THE TIME OF THE ELECTION AND THE PLACE OF VOTING, DESCRIBING THE PROPERTY TO BE SOLD, LEASED OR DISPOSED OF, GIVING A BRIEF STATEMENT OF THE TERMS AND CONDITIONS OF THE SALE AND THE CONSIDERATION, IF ANY, AND STATING THE TITLE AND DATE OF PASSAGE OF THE ORDINANCE. NOTICE SHALL ALSO BE GIVEN BY POSTING A COPY OF IT IN AT LEAST THREE PUBLIC PLACES IN THE MUNICIPALITY AT LEAST 30 DAYS BEFORE THE ELECTION. IF NO NEWSPAPER OF GENERAL CIRCULATION IS DISTRIBUTED WITHIN THE MUNICIPALITY A NOTICE STATING THE TIME OF THE ELECTION AND THE PLACE OF VOTING, DESCRIBING THE PROPERTY TO BE SOLD, LEASED OR DISPOSED OF, GIVING A BRIEF STATEMENT OF THE TERMS AND CONDITIONS OF THE SALE AND THE CONSIDERATION, IF ANY, AND STATING THE TITLE AND DATE OF PASSAGE OF THE ORDINANCE. NOTICE SHALL ALSO BE GIVEN BY POSTING A COPY OF IT IN AT LEAST THREE PUBLIC PLACES IN THE MUNICIPALITY AT LEAST 30 DAYS BEFORE THE ELECTION. IF NO NEWSPAPER OF GENERAL CIRCULATION IS DISTRIBUTED WITHIN THE MUNICIPALITY, THE NOTICE GIVEN BY POSTING IS SUFFICIENT FOR THE PURPOSES OF THE SECTION.

(D) THE ASSEMBLY OR COUNCIL MAY BY ORDINANCE ESTABLISH A FORMAL PROCEDURE FOR ACQUISITION FROM THE STATE OF LAND OR RIGHTS IN LAND AND THE DISPOSAL OF THE LAND OR RIGHTS IN LAND, IN WHICH EVENT THE PROVISIONS OF (C) OF THIS SECTION DO NOT APPLY.

(E) A MUNICIPALITY, IN ORDER TO MAKE SITES AVAILABLE FOR BENEFICIAL NEW INDUSTRIES, MAY ACQUIRE AND HOLD REAL PROPERTY, EITHER INSIDE OR OUTSIDE THE CORPORATE LIMITS, AND MAY SELL, LEASE OR DISPOSE OF IT TO PERSONS WHO AGREE TO OPERATE A BENEFICIAL NEW INDUSTRY UPON THE TERMS AND CONDITIONS THE ASSEMBLY OR COUNCIL CONSIDERS ADVANTAGEOUS TO THE MUNICIPALITY.

(F) A DEED, CONTRACT OF SALE, LEASE, OR OTHER INSTRUMENT EVIDENCING DISPOSITION BY A BOROUGH OF LAND OR INTEREST IN LAND CLASSIFIED BY THE BOROUGH AS AGRICULTURAL LAND SHALL INCLUDE, AMONG OTHER TERMS, CONDITIONS AND LIMITATIONS WHICH MAY BE REQUIRED BY LAW OR WHICH THE ASSEMBLY MAY ELECT TO INCLUDE, A CONDITION THAT THE LAND IS RESTRICTED TO AGRICULTURAL USE. THE ASSEMBLY MAY NOT BY SUBSEQUENT ACTION WAIVE OR ABROGATE THE CONDITION FOR A PERIOD OF 50 YEARS. AN ABROGATION OF THE RESTRICTION TO AGRICULTURAL USE AFTER THE 50-YEAR PERIOD REQUIRES THE CONSENT OF ANY PARTY HAVING AN INTEREST IN THE LAND. THE ASSEMBLY SHALL PROVIDE FOR ENFORCEMENT BY APPROPRIATE LEGAL MEANS, INCLUDING BUT NOT LIMITED TO FORFEITURE OF THE PURCHASER'S INTEREST FOR VIOLATION OF THE CONDITION.]

EDITOR NOTE: Under existing law, obligations requiring payment of funds from appropriations of later years must be approved by ordinance. This has been eliminated as misleading in that it could be construed to suggest that bonded indebtedness may be acquired, whether or not for a capital project, so long as the indebtedness is approved by ordinance. AS 29.48.190(d) is eliminated as unnecessary.

Sec. 29.35.100 [29.48.190]. BUDGET AND CAPITAL PROGRAM.

(a) The governing body [ASSEMBLY OR COUNCIL] shall establish the manner for the preparation and submission of the budget[S] and capital program[S BY THE EXECUTIVE]. After a public hearing, the governing body [ASSEMBLY OR COUNCIL] may approve the bud get[S] with or without amendments, and shall appropriate the money [FUNDS] required for the approved budget.

[(B) A BOND, CONTRACT, LEASE, OR OTHER OBLIGATION REQUIRING THE PAYMENT OF FUNDS FROM THE APPROPRIATIONS OF A LATER FISCAL YEAR OR OF MORE THAN ONE FISCAL YEAR SHALL BE MADE OR APPROVED BY ORDINANCE ADOPTED BY A MAJORITY OF THE VOTES AUTHORIZED ON THE QUESTION.]

(b) [(C)] The governing body [ASSEMBLY OR COUNCIL] may make supplemental and emergency appropriations. [NO] Payment may not be authorized or made and an [NO] obligation may not be incurred except in accordance with appropriations.

[(D) NOTHING IN THIS SECTION IS INTENDED TO PREVENT THE AUTHORIZING OF PAYMENT OR MAKING OF CONTRACTS FOR CAPITAL IMPROVEMENTS TO BE FINANCED WHOLLY OR PARTLY BY THE ISSUANCE OF BONDS.]

EDITOR NOTE: This is rewritten for clarity.

Sec. 29.35.110 [29.48.210]. EXPENDITURE OF BOROUGH REVENUES. Borough revenues received through taxes [LEVIED AND] collected on an areawide basis by the [A HOME RULE OR GENERAL LAW] borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected on a nonareawide basis [LEVIED AND COLLECTED IN THE AREA OUTSIDE CITIES ONLY] may be expended on general administrative costs and functions that [WHICH] render service only to the area outside all cities in the borough [ONLY].

EDITOR NOTE: No change, except for minor rewording to achieve consistent usage throughout the title.

Sec. 29.35.120 [29.48.220]. POST AUDIT.

(a) The governing body [ASSEMBLY OR COUNCIL] shall provide for an annual independent audit of the accounts and financial transactions of the municipality or, in the case of a second class city, an audit or statement of annual income and expenditures. To make the audit the governing body [ASSEMBLY OR COUNCIL] shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the municipality. Copies of the audit shall be available to the public upon request.

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

EDITOR NOTE: No substantive change.

Sec. 29.35.130 [29.73.080]. EMERGENCY SERVICES COMMUNICATIONS CENTERS.

(a) A municipality may establish an emergency services communications center with one or more other municipalities and one or more state, federal, or private agencies that provide emergency service communications to the same geographic area. An emergency services communications center established under this section may be organized and operated as a public nonprofit corporation under AS 10.20.

(b) An emergency services communications center under this section may be governed by a board of directors. A member of a board of directors of an emergency services communications center serves without compensation but is entitled to per diem and travel expenses. If an emergency services communications center is organized as a nonprofit corporation, a member of its board of directors may not be employed by the nonprofit corporation.

(c) An emergency services communications center may assess the feasibility and desirability of providing emergency services communications for the geographic area in which it is located through one central office. An emergency services communications center may

(1) combine or coordinate the existing emergency services communications programs of the participating municipalities and agencies;

(2) operate a dispatch center to receive all requests for emergency services and dispatch those services;

(3) study the need for improvement in the timely delivery of emergency services to residents of the participating municipalities;

(4) hold public hearings to obtain information concerning the timely delivery of emergency services;

(5) apply for and accept federal, state, municipal, and private money, property, or assistance for use in providing the timely delivery of

emergency services;

(6) enter into contracts to carry out the provisions of this section [CHAPTER];

(7) employ personnel necessary to carry out the provisions of this section [CHAPTER].

(d) In this section

(1) "emergency services" means services provided by law enforcement agencies, fire departments, ambulance services, and other organizations that are intended to respond to emergency situations of imminent danger to life or property;

[(2) "EMERGENCY SERVICE AGENCY" MEANS AN AGENCY THAT PROVIDES EMERGENCY SERVICES;]

(2) [(3)] "state agency" means a department, division, or office in the executive branch of state government.

ARTICLE 2. MANDATORY AREAWIDE POWERS.

[ARTICLE 1. SCOPE.]

EDITOR NOTE: Statutory references have been added to reflect reorganization. Subsection (b) is applicable as a home rule limitation, and exists as a home rule limitation under AS 29.13.100(10).

Sec. 29.35.150 [29.33.010, 29.41.010(d)]. SCOPE OF AREAWIDE POWERS. A [(A) FIRST AND SECOND CLASS] borough[S] shall exercise the powers as specified and in the manner specified in AS 29.35.150 - 29.35.180 [THIS CHAPTER] on an areawide basis [BOTH INSIDE AND OUTSIDE CITIES WITHIN THEIR BOUNDARIES].

[(B) NO CITY, WHETHER HOME RULE OR NOT, MAY EXERCISE AN AREAWIDE POWER ONCE THAT POWER IS BEING EXERCISED BY A BOROUGH.]

[Sec. 29.41.010. POWERS OF THIRD CLASS BOROUGHS.

(D) A MILITARY RESERVATION WITHIN A THIRD CLASS BOROUGH IS NOT PART OF THE BOROUGH SCHOOL DISTRICT UNTIL THE MILITARY MISSION IS TERMINATED OR UNTIL INCLUSION IN THE BOROUGH SCHOOL DISTRICT IS APPROVED BY THE DEPARTMENT OF EDUCATION. HOWEVER, OPERATION OF THE MILITARY RESERVATION SCHOOLS BY THE BOROUGH SCHOOL DISTRICT MAY BE REQUIRED BY THE DEPARTMENT OF EDUCATION UNDER AS 14.14.110. OF THE MILITARY MISSION OF A MILITARY RESERVATION TERMINATES OR CONTINUED MANAGEMENT AND CONTROL BY A REGIONAL EDUCATION ATTENDANCE AREA IS DISAPPROVED BY THE DEPARTMENT OF EDUCATION, OPERATION, MANAGEMENT AND CONTROL OF SCHOOLS ON THE MILITARY RESERVATION TRANSFERS TO THE BOROUGH SCHOOL DISTRICT IN WHICH THE MILITARY RESERVATION IS LOCATED.]

EDITOR NOTE: No change, except for minor rewording to achieve consistent usage. This is a home rule limitation, and exists as a limitation under AS 29.13.100(34).

Sec. 29.35.160 [29.33.050]. EDUCATION.

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

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

EDITOR NOTE: The subsection dealing with collection by a borough of taxes levied by a city is made applicable as a limitation on home rule municipalities.

Sec. 29.35.170 [29.33.030]. ASSESSMENT AND COLLECTION OF TAXES.

(a) A borough[S] shall assess and collect property, sales, and use taxes that are levied in its boundaries, subject to AS 29.53 [WITHIN THEIR BOUNDARIES, SUBJECT TO CH 53 OF THIS TITLE].

(b) Taxes levied by a city shall be [AND] collected by a borough and [ARE] returned in full to the levying city. This subsection applies to home rule and general law municipalities.

EDITOR NOTE: This is a new statement requiring first and second class boroughs to provide for planning and land use regulation under provisions of Chapter 40 so that this article will contain a complete list of areawide powers. A home rule borough is required to provide for planning, platting, and land use regulation.

Sec. 29.35.180. LAND USE REGULATION.

(a) A first or second class borough shall provide for planning, platting, and land use regulation in accordance with AS 29.40.

(b) A home rule borough shall provide for planning, platting, and land use regulation.

ARTICLE 3. ADDITIONAL POWERS.

EDITOR NOTE: (a) Allows a first class borough to exercise on a non-areawide basis any power not otherwise prohibited by law. Under existing law, a first class borough may exercise on a non-areawide basis any general law municipal power, but before exercising the power, the borough must seek to have it transferred from cities or propose joint city/borough exercise.

(b) No change.

(c) Allows a first class borough to exercise on an areawide basis any power not prohibited by law if it has been acquired. Under existing law, a first class borough may acquire additional areawide municipal powers, but only the powers listed in Title 29. The authority to acquire powers which is granted in this bill is broader, since a borough may acquire any power not specifically prohibited by statute whether or not it is identified as a municipal power in Title 29.

Sec. 29.35.200 [29.38.010, 29.48.030, 29.48.035(b), 29.33.250]. [FIRST CLASS BOROUGH] POWERS.

(a) A [THE] first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law [IN THE AREA OUTSIDE CITIES ANY GENERAL LAW MUNICIPAL POWER. BEFORE EXERCISING A POWER OUTSIDE CITIES ONLY, TH BOROUGH SHALL SEEK TO HAVE THE IDENTICAL POWER TRANSFERRED FROM CITIES WITHIN THE BOROUGH OR PROPOSE JCINT BOROUGH CITY EXERCISE OF THE POWER].

(b) [29.48.030 MUNICIPAL FACILITIES AND SERVICES.] A first class borough [MUNICIPALITY] may by ordinance exercise the following powers [NECESSARY TO PROVIDE THE FOLLOWING PUBLIC FACILITIES AND SERVICES] on an areawide basis:

- (1) provide transportation systems;
- (2) provide water pollution control;
- (3) provide air pollution control in accordance with AS 46.03.140 - 46.03.230;
- (4) license day care facilities;
- (5) license, impound, and dispose of animals.

(c) In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.

EDITOR NOTE: (a) Allows a second class borough to exercise certain powers on a non-areawide basis. Under existing law before a non-areawide power may be exercised, the borough must seek to have it transferred from cities or propose joint borough/city exercise of the power, and the requirement is not contained in this bill.

(1) No change.

(2) No substantive change.

(3) No change.

(4) Under existing law, this power is subject to the section dealing with garbage and solid waste, sec. 29.35.050 of this bill.

(5) Under existing law, providing air pollution control is permitted on an areawide basis only.

(6) No change.

(7) Minor rewording.

(8) This is new material.

(9) No change.

(10) No change.

Under existing law, a second class borough may exercise the following additional nonareawide powers not specified in this bill:

(1) Powers approved at incorporation.

(2) Regulate snow vehicles, subject to other law.

(3) Licensing of day car facilities.

(b) (1) No change.

(2) No change.

(3) No change.

(4) No change.

(5) No change.

(c) Allows a second class borough to exercise a nonareawide power not otherwise prohibited by law if the exercise of the power is approved by the voters living in the borough area outside the cities. Under existing law, a second class borough may acquire additional nonareawide powers upon approval of the voters. However, the powers which may be acquired are limited to those itemized in Title 29, so under this bill broader authority to acquire powers is provided.

(d) Allows a second class borough to exercise an areawide power not otherwise prohibited by law if the exercise of the power is approved by the voters or transferred by the cities in the borough. Under existing law, a borough may acquire only the powers authorized in Title 29.

Sec. 29.35.210 [29.38.020(1)&((2)&(4)&(5)&(6)&(7)&(8)&(9), 29.48.030(a)(12), 29.48.035(a)(5)(17)(18)(20)&(b), 29.38.030, 29.38.040, 29.38.050, 29.33.250].
SECOND CLASS BOROUGH POWERS.

(a) A [THE] second class borough may by ordinance exercise the following powers on a nonareawide basis: [IN THE AREA OUTSIDE CITIES MUNICIPAL POWERS APPROVED AT INCORPORATION, CONFERRED BY AS 29.48.020, OR ADDED AS PROVIDED IN THIS CHAPTER. BEFORE EXERCISING A POWER OUTSIDE CITIES ONLY, THE BOROUGH SHALL SEEK TO HAVE THE IDENTICAL POWER TRANSFERRED FROM CITIES WITHIN THE BOROUGH OR PROPOSE JOINT BOROUGH-CITY EXERCISE OF THE POWER.]

- (1) provide transportation systems; [STREETS AND SIDEWALKS;]
- (2) regulate the offering for sale, exposure for sale, sale, use or explosion of fireworks; [SEWERS AND SEWAGE TREATMENT FACILITIES;]
- (3) license, impound, and dispose of animals; [HARBORS, WHARVES, AND OTHER MARINE FACILITIES;]
- (4) provide garbage, solid waste, and septic waste collection and disposal; [WATER COURSE AND FLOOD CONTROL FACILITIES;]
- (5) provide air pollution control in accordance with AS 46.03.140 - 46.03.230; [HEALTH SERVICES AND HOSPITAL FACILITIES;]
- (6) provide water pollution control; [CEMETERIES;]
- (7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation; [POLICE PROTECTION AND JAIL FACILITIES;]
- (8) provide for economic development; [COLD STORAGE PLANTS;]
- (9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 - 19.30.251; [TELEPHONE SYSTEMS;]
- (10) establish an emergency services communications center under AS 29.35.130. [LIGHT, POWER AND HEAT;]

(b) A second class borough may by ordinance exercise the following powers on an areawide basis:

- (1) provide transportation systems;
- (2) license, impound, and dispose of animals;
- (3) provide air pollution control in accordance with AS 46.03.140 - 46.03.230;
- (4) provide water pollution control;
- (5) license day care facilities.

(c) In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the power has been approved at an election by a majority of voters living in the borough but outside all cities in the

borough.

(d) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.

[(11) WATER;

(12) TRANSPORTATION SYSTEMS;

(13) COMMUNITY CENTERS;

(14) LIBRARIES, VISUAL OR PERFORMING ARTS CENTERS, OR MUSEUMS;

(15) RECREATION FACILITIES;

(16) AIRPORT AND AVIATION FACILITIES;

(17) GARBAGE AND SOLID WASTE COLLECTION AND DISPOSAL SERVICE AND FACILITIES SUBJECT TO § 33 OF THIS CHAPTER;

(18) FIRE PROTECTION SERVICE AND FACILITIES, NOT IN CONFLICT WITH AS 18.70.075, BUT NOT LIMITED TO AS 18.70.075;

(19) PARKING AND PARKING FACILITIES;

(20) HOUSING AND URBAN RENEWAL, REHABILITATION AND DEVELOPMENT;

(21) PRESERVATION, MAINTENANCE AND PROTECTION OF HISTORIC SITES, BUILDINGS AND MONUMENTS;

(22) CONSUMER PROTECTION;

(23) EMERGENCY MEDICAL SERVICES AND FACILITIES.]

EDITOR NOTE: (a) No substantive change.

(b) No substantive change.

(c) No substantive change.

(d) A third class borough may acquire any power not prohibited by law for exercise in a service area.

Sec. 29.35.220 [29.41.010]. [POWERS OF] THIRD CLASS BOROUGH[S] POWERS.

(a) [(C)] A third class borough may borrow money and issue negotiable or non-negotiable [GENERAL OBLIGATION, REVENUE OR REFUNDING] bonds or [AND] other evidences of indebtedness as provided by AS 29.47 [FOR FIRST AND SECOND CLASS BOROUGH[S] IN AS 29.58.150 - 29.58.340].

(b) [(A)] A THIRD CLASS BOROUGH SHALL EXERCISE THE AREAWIDE POWERS OF EDUCATION AND TAX ASSESSMENT AND COLLECTION IN THE MANNER PROVIDED FOR SECOND CLASS BOROUGH[S].] Areawide exercise of a power[S] by a third class borough other than education and tax assessment and collection is not authorized.

(c) [(B)] A third class borough may acquire the power to [BY A MAJORITY VOTE OF THE VOTERS IN A GENERAL OR SPECIAL ELECTION] provide for planning,

planning, and land use regulation as provided in AS 29.40 [ZONING IN ACCORDANCE WITH AS 29.33.070 - 29.33.245] for first and second class boroughs, except the power may only be exercised within a service area [AND MAY EXERCISE ANY GENERAL LAW MUNICIPAL POWER WHICH A SECOND CLASS BOROUGH IS AUTHORIZED TO ASSUME BY THIS TITLE. POWERS ASSUMED BY A THIRD CLASS BOROUGH UNDER THIS SECTION MAY BE EXERCISED ONLY WITHIN SERVICE AREAS. A THIRD CLASS BOROUGH MAY ESTABLISH, OPERATE, ALTER OR ABOLISH SERVICE AREAS IN THE MANNER PROVIDED BY AS 29.63.090 FOR SECOND CLASS BOROUGHES. THE ACQUISITION OF ADDITIONAL POWERS ON A SERVICE AREA BASIS MAY BE INITIATED IN EITHER OF TWO WAYS:

(1) A NUMBER OF VOTERS EQUAL TO 15 PER CENT OF THE NUMBER OF VOTES CAST IN THE PROPOSED SERVICE AREA AT THE PRECEDING REGULAR ELECTION MAY FILE A PETITION WITH THE ASSEMBLY; OR

(2) THE ASSEMBLY MAY PLACE THE QUESTION ON THE BALLOT.]

(d) A third class borough may acquire any power not otherwise prohibited by law, except the power may only be exercised within a service area.

ARTICLE 4. CITY POWERS.

EDITOR NOTE: This expands the authority of the city to exercise powers, since under existing law a city may only exercise listed municipal powers. A city may not exercise a power once that power has been exercised on an areawide basis by the borough. Existing law is in conflict as to whether a city may exercise a power being exercised on an areawide basis by the borough. In one section, existing law provides that the city may not do so while in another section it provides that a city may exercise the power if the borough by ordinance permits exercise of the power by the city or ceases to exercise the power.

Sec. 29.35.250 [29.33.010(b), 29.43.040(b), 29.48.035(b)]. CITIES INSIDE BOROUGHES.

(a) A city inside a borough may exercise any power not otherwise prohibited by law.

(b) On adoption of a borough ordinance to provide for areawide exercise of a power, no city may exercise the power unless the borough ordinance provides otherwise or the borough by ordinance ceases to exercise the power.

(c) A home rule city in a third class borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(b) for home rule boroughes. A first class city in a third class borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(a)

for first and second class boroughs. A second class city in a third class borough may provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs.

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

[SEC. 29.33.010. SCOPE OF AREAWIDE POWERS. (B) NO CITY, WHETHER HOME RULE OR NOT, MAY EXERCISE AN AREAWIDE POWER ONCE THAT POWER IS BEING EXERCISED BY A BOROUGH.]

[SEC. 29.43.040. PLANNING AND ZONING. (B) HOME RULE AND FIRST CLASS CITIES WITHIN THIRD CLASS BOROUGHSHALL, AND SECOND CLASS CITIES WITHIN THIRD CLASS BOROUGHSHALL, MAY, PROVIDE FOR PLANNING, PLATTING AND ZONING, AS PROVIDED BY AS 29.33.070 - 29.33.245 FOR BOROUGHSHALL.]

[SEC. 29.48.035. REGULATORY POWERS. (B) FIRST AND SECOND CLASS BOROUGHSHALL MAY EXERCISE THE POWERS CONFERRED BY (A) OF THIS SECTION ONLY AFTER THEY HAVE BEEN ASSUMED IN THE MANNER REQUIRED UNDER AS 29.33.250 - 29.33.290 FOR AREAWIDE EXERCISE OR IN THE MANNER REQUIRED UNDER AS 29.38.010 - 29.38.050 FOR EXERCISE IN THE BOROUGH AREA OUTSIDE CITIES OR ARE CONFERRED BY § 29 OF THIS CHAPTER FOR EXERCISE IN THE BOROUGH AREA OUTSIDE CITIES. HOWEVER, AS TO POWERS CONFERRED UNDER (A)(5), (17), AND (20), IN THE BOROUGH AREA OUTSIDE CITIES IS AT THE OPTION OF THE BOROUGH AND IS NOT SUBJECT TO THOSE RESTRICTIONS ON ACQUISITION OF ADDITIONAL BOROUGH POWERS. UPON ADOPTION OF A BOROUGH ORDINANCE TO PROVIDE FOR AREAWIDE EXERCISE OF THE POWERS SPECIFIED, NO HOME RULE OR GENERAL LAW CITY WITHIN THE BOROUGH MAY EXERCISE THE POWERS, UNLESS THE BOROUGH ORDINANCE PROVIDES OTHERWISE OR THE BOROUGH BY SUBSEQUENT ORDINANCE CEASES TO EXERCISE THE POWER.]

EDITOR NOTE: (a) A city outside a borough may exercise a power not otherwise prohibited by law. Under existing law, a city is granted only enumerated powers, so this is a broader authorization.

(b) Minor rewording.

(c) Requires a home rule city to provide for planning, platting, and land use regulation but it does not have to comply with Chapter 40. General law cities that provide for land use regulation must do so in accordance with Chapter 40.

(d) This is new making the section applicable as a home rule limitation. Under existing law, material contained in (c) is not a limitation on home rule municipalities.

Sec. 29.35.260 [29.43.010, 29.43.030, 29.43.040]. CITIES OUTSIDE BOROUGHS.

(a) [ADDITIONAL POWERS. IN ADDITION TO THE POWERS GRANTED BY CH. 48 OF THIS TITLE,] A city [CITIES] outside a borough[S] may exercise a [ARE GRANTED THE] power[S] not otherwise prohibited by law [SPECIFIED IN THIS CHAPTER]. A provision that is [POWERS OF THIS CHAPTER WHICH ARE] incorporated by reference to laws governing boroughs applies[Y] to home rule cities outside boroughs only if the provision is [IN THOSE CASES IN WHICH THEY ARE] made applicable to home rule boroughs [IN THE PROVISIONS INCORPORATED].

(b) [29.43.030. EDUCATION.] A home rule or [AND] first class city[IES] outside a borough[S] is a [CONSTITUTE] city school district[S] and shall establish, operate, and maintain[, AND OPERATE] a system of public schools as provided by AS 29.35.160 [AS 29.33.050] for boroughs. A second class city outside a borough is not a school district and may not establish a system of public schools.

(c) [29.43.040. PLANNING AND ZONING. (A)] A home rule [AND FIRST CLASS] city[IES] outside a [FIRST AND SECOND CLASS] borough[S] shall[, AND SECOND CLASS CITIES OUTSIDE FIRST AND SECOND CLASS BOROUGHS MAY,] provide for planning, platting, and land use regulation [ZONING] as provided by AS 29.35.180(b) [AS 29.33.070 - 29.33.245] for home rule boroughs. A first class city outside a borough shall, and a second class city outside a borough may, provide for planning, platting, and land use regulation as provided by AS 29.35.180(a) for first and second class boroughs.

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

ARTICLE 5. ACQUISITION OF ADDITIONAL [AREAWIDE] POWERS.

EDITOR NOTE: Combines material dealing with the acquisition of areawide and nonareawide powers.

Sec. 29.35.300 [29.33.250, 29.41.010]. ADDITIONAL [AREAWIDE] POWERS.

(a) A first [AND SECOND] class borough[S] acquires an additional areawide [MUNICIPAL] power[S] by transfer of the power by [FROM] a city or by holding an areawide election on the question[, EXCEPT AS PROVIDED OTHERWISE IN AS 29.48.030 AND 29.48.035(B)].

(b) A second class borough acquires an additional power by transfer of the power by a city or by holding an election on the question. For acquisition of an areawide power, the election shall be held areawide. For acquisition of a nonareawide power, the election shall be held nonareawide.

(c) A third class borough acquires an additional power to exercise in a service area by forming a service area in accordance with AS 29.35.490(b) or (c).

EDITOR NOTE: No change, except for minor rewording for consistent usage.

Sec. 29.35.310 [29.33.260]. TRANSFER BY CITY.

(a) A city in a first or second class borough may transfer to the [FIRST OR SECOND CLASS] borough in which it is located any of its powers or functions, subject to the approval of the [BOROUGH] assembly.

(b) A first or [AND] second class borough[S] shall exercise all powers transferred to it [THEM] by a city[IES].

EDITOR NOTE: Provides that a petition shall be filed with the borough clerk who certifies whether it contains sufficient signatures. After certification, the assembly orders an election to be held within 60 days of the order, while under existing law, the election is held at least 30 days after the order, but not later than the next regular election.

Sec. 29.35.320 [29.33.270, 29.33.280, 29.33.290(a), 29.38.030, 29.38.040, 29.38.050(a), 29.41.010(b)]. INITIATION OF ACQUISITION OF POWER.

(a) An election on the question of adding an areawide power in a first class borough or of adding an areawide or nonareawide power in a second class borough may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in the area, either areawide or nonareawide, in which the election is to be held may file a petition with the borough clerk; or

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

(b) An election on the question of adding a power in a third class borough for exercise in a service area may be initiated in two ways:

(1) a number of voters equal to 15 percent of the number of votes cast at the preceding regular election in a proposed service area in which the power is sought to be exercised may file a petition with the assembly; or

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

(c) The borough clerk shall certify whether a petition filed under (a) or (b) of this section contains the required number of signatures.

(d) Within 30 days after a petition is certified as containing the

required number of signatures or the assembly proposes the acquisition of a power, at least one public hearing shall be held in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the power and make its findings public. Within 60 days after its findings have been made public, the assembly shall order an election on the question.

[Sec. 29.33.270. PETITION FOR POWER. AN ELECTION ON THE QUESTION OF ADDING AN AREAWIDE POWER MAY BE INITIATED IN TWO WAYS:

(1) A NUMBER OF VOTERS EQUAL TO 15 PER CENT OF THE NUMBER OF VOTES CAST IN THE BOROUGH AT THE PRECEDING REGULAR ELECTION MAY FILE A PETITION WITH THE ASSEMBLY, OR

(2) THE ASSEMBLY MAY PROPOSE THE ACQUISITION OF THE POWER.

SEC. 29.33.280. INVESTIGATION. THE ASSEMBLY SHALL HOLD AT LEAST ONE PUBLIC HEARING IN THE BOROUGH ON THE QUESTION. THE ASSEMBLY SHALL THEN EVALUATE THE ABILITY OF THE BOROUGH TO EXERCISE THE POWERS AND MAKE ITS FINDINGS PUBLIC.

SEC. 29.33.290. ELECTION

(A) THE ASSEMBLY SHALL, WITHIN 30 DAYS AFTER ITS FINDINGS HAVE BEEN MADE PUBLIC, ORDER AN ELECTION TO BE HELD ON THE QUESTION. THE ELECTION SHALL BE HELD AT LEAST 30 DAYS AFTER THE ORDER AND NOT LATER THAN THE NEXT REGULAR ELECTION OCCURRING AFTER THE 30-DAY PERIOD.

SEC. 29.38.030. ADDITIONAL POWERS. THE SECOND CLASS BOROUGH MAY INITIATE THE ACQUISITION OF ADDITIONAL POWERS OUTSIDE CITIES IN EITHER OF TWO WAYS:

(1) A NUMBER OF VOTERS EQUAL TO 15 PER CENT OF THE NUMBER OF VOTES CAST IN THE AREA OUTSIDE CITIES AT THE PRECEDING REGULAR ELECTION MAY FILE A PETITION WITH THE ASSEMBLY, OR

(2) THE ASSEMBLY MAY PLACE THE QUESTION ON THE BALLOT.

SEC. 29.38.040. INVESTIGATION. THE ASSEMBLY SHALL HOLD AT LEAST ONE PUBLIC HEARING IN THE BOROUGH ON THE QUESTION. THE ASSEMBLY SHALL THEN EVALUATE THE ABILITY OF THE BOROUGH TO EXERCISE THE POWERS AND MAKE ITS FINDINGS PUBLIC.

SEC. 29.38.050. ELECTION.

(A) THE ASSEMBLY SHALL, WITHIN 30 DAYS AFTER ITS FINDINGS HAVE BEEN MADE PUBLIC, ORDER AN ELECTION ON THE QUESTION IN THE BOROUGH AREA OUTSIDE CITIES. THE ELECTION SHALL BE HELD AT LEAST 30 DAYS AFTER THE ORDER AND NOT LATER THAN THE NEXT REGULAR ELECTION OCCURRING AFTER THE 30-DAY PERIOD.

SEC. 29.41.010. POWERS OF THIRD CLASS BOROUGHS.

(B) A THIRD CLASS BOROUGH MAY BY A MAJORITY VOTE OF THE VOTERS IN A GENERAL OR SPECIAL ELECTION PROVIDE FOR PLANNING, PLATTING AND ZONING IN ACCORDANCE WITH AS 29.33.070 - 29.33.245 FOR BOROUGHS AND MAY EXERCISE ANY GENERAL LAW MUNICIPAL POWER WHICH A SECOND CLASS BOROUGH IS AUTHORIZED TO ASSUME

BY THIS TITLE. POWERS ASSUMED BY A THIRD CLASS BOROUGH UNDER THIS SECTION MAY BE EXERCISED ONLY WITHIN SERVICE AREAS. A THIRD CLASS BOROUGH MAY ESTABLISH, OPERATE, ALTER OR ABOLISH SERVICE AREAS IN THE MANNER PROVIDED BY AS 29.63.090 FOR SECOND CLASS BOROUGHES. THE ACQUISITION OF ADDITIONAL POWERS ON A SERVICE AREA BASIS MAY BE INITIATED IN EITHER OF TWO WAYS:

(1) A NUMBER OF VOTERS EQUAL TO 15 PERCENT OF THE NUMBER OF VOTES CAST IN THE PROPOSED SERVICE AREA AT THE PRECEDING REGULAR ELECTION FILE A PETITION WITH THE ASSEMBLY; OR

(2) THE ASSEMBLY MAY PLACE THE QUESTION ON THE BALLOT.]

EDITOR NOTE: No change, except for minor rewording to achieve consistent usage.

Sec. 29.35.330 [29.33.290(b)(c), 29.38.050(b)(c)]. ELECTION.

(a) [(B)] If more than one power is proposed for acquisition under AS 29.35.320, each shall appear[S] separately on the ballot.

(b) If a power is proposed for exercise by a third class borough in a service area, only voters residing in the proposed service area may vote.

(c) [THE BOROUGH MAYOR SHALL CERTIFY THE ELECTION RESULTS TO THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS] A [THE] vote on the question of adding an areawide power in a first or second class borough shall be tabulated in two separate classifications. One shall consist of all votes cast in all [THE HOME RULE AND FIRST CLASS] cities located in [OF] the borough. The other shall consist of all votes cast in the [REMAINING] borough area outside all cities. If the majority of the votes cast in each classification is favorable, the borough shall assume the added power within 30 days after [OF] certification of the election results.

(d) If a majority of the votes cast on the question of adding a nonareawide power in a second class borough or a power to be exercised in a service area in a third class borough is favorable, the borough shall assume the added power within 30 days after certification of the election results.

(e) The borough mayor shall certify the election results to the department. [UPON ACQUISITION OF AN AREAWIDE POWER THE BOROUGH SUCCEEDS TO ALL OF THE RIGHTS, POWERS AND DUTIES OF ANY CITY OR SERVICE AREA WITH RESPECT TO THAT POWER. THE BOROUGH SUCCEEDS TO CLAIMS, FRANCHISES AND OTHER CONTRACTUAL OBLIGATIONS, LIABILITY FOR BONDED AND ALL OTHER INDEBTEDNESS AND TO ALL OF THE RIGHT, TITLE AND INTEREST IN THE REAL AND PERSONAL PROPERTY HELD BY THE CITY OR SERVICE AREA FOR THE EXERCISE OF THE POWER. THE BOROUGH ASSEMBLY MAY LEVY AND COLLECT SPECIAL CHARGES, TAXES OR ASSESSMENTS INCLUDING INTEREST FOR THE PURPOSE OF

AMORTIZING BONDED INDEBTEDNESS PREVIOUSLY INCURRED BY THE CITY OR SERVICE AREA FOR CONTINUING SERVICES IN THE AREA. WHEN A CITY OR SERVICE AREA HAD PREVIOUSLY INCURRED BONDED INDEBTEDNESS, NO LESS THAN ALL PROPERTY THAT WAS WITHIN THE CITY OR SERVICE AREA AT THE TIME THE BONDS WERE ISSUED SHALL REMAIN SUBJECT TO TAXATION TO PAY THE PRINCIPAL OF AND INTEREST ON THE BOND FOR AS LONG AS THEY REMAIN OUTSTANDING. UPON ACQUISITION OF ADDITIONAL AREAWIDE POWERS THE BOROUGH, IN CONSULTATION WITH THE CITY OR SERVICE AREA PERSONNEL, SHALL ARRANGE FOR AN ORDERLY AND EQUITABLE TRANSFER OF RIGHTS, ASSETS, LIABILITIES, POWERS, DUTIES AND OTHER MATTERS RELATED TO ACQUISITION OF THE AREAWIDE POWERS. THIS SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW CITIES.

Sec. 29.38.050. ELECTION.

(B) IF MORE THAN ONE POWER IS PROPOSED, EACH APPEARS SEPARATELY ON THE BALLOT.

(C) THE BOROUGH MAYOR SHALL CERTIFY THE ELECTION RESULTS TO THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. IF THE MAJORITY OF THE VOTES CAST ON THE QUESTION IS FAVORABLE, THE BOROUGH SHALL ASSUME THE ADDED POWER WITHIN 30 DAYS OF CERTIFICATION OF ELECTION RESULTS.]

EDITOR NOTE: Reorganized, but no substantive change.

Sec. 29.35.340 [29.33.290(c)]. EFFECT OF ACQUIRING AN AREAWIDE POWER [ELECTION].

(a) [(C) THE BOROUGH MAYOR SHALL CERTIFY THE ELECTION RESULTS TO THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. THE VOTE ON THE QUESTION OF ADDING AN AREAWIDE POWER SHALL BE TABULATED IN TWO SEPARATE CLASSIFICATIONS. ONE SHALL CONSIST OF ALL VOTES CAST IN THE HOME RULE AND FIRST CLASS CITIES OF THE BOROUGH. THE OTHER SHALL CONSIST OF ALL VOTES CAST IN THE REMAINING BOROUGH AREA. IF THE MAJORITY OF THE VOTES CAST IN EACH CLASSIFICATION IS FAVORABLE, THE BOROUGH SHALL ASSUME THE ADDED POWER WITHIN 30 DAYS OF CERTIFICATION OF THE ELECTION RESULTS.] On [UPON] acquisition of an areawide power the first or second class borough succeeds to all of the rights, powers, and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises, and other contractual obligations, liability for bonded and all other indebtedness, and to all of the right, title, and interest in the real and personal property held by a city or service area for the exercise of the power.

(b) The [BOROUGH] assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by a [THE] city or service area for exercising an areawide power acquired by the borough [CONTINUING SERVICES IN THE AREA].

When a city or service area had previously incurred bonded indebtedness, [NO LESS THAN] all property that was in [WITHIN] the city or service area at the time the bonds were issued [SHALL] remains subject to taxation to pay the principal of and interest on the bonds [FOR AS LONG AS THEY REMAIN OUTSTANDING].

(c) On [UPON] acquisition of an additional areawide power[S] the first or second class borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties, and other matters related to acquisition of the areawide powers.

(d) This [SUB]section applies to home rule and general law cities.

EDITOR NOTE: This is new and provides a definition of "power".

Sec. 29.35.350. DEFINITION. In AS 29.35.200 - 29.35.350 "power" means the provision of a public facility or service, or the exercise of a regulatory power.

ARTICLE 6. CONSTRUCTION OF POWERS.

EDITOR NOTE: No substantive change.

Sec. 29.35.400 [29.48.310]. GENERAL CONSTRUCTION. A liberal construction shall be given to all powers and functions of a municipality [BOROUGH AND CITIES] conferred in this title.

EDITOR NOTE: No substantive change.

Sec. 29.35.410 [29.48.320]. EXTENT OF POWERS. Unless otherwise limited by law, a municipality has [BOROUGH AND CITIES HAVE] and may exercise all powers and functions necessarily or fairly implied in or incident to the [OBJECT OR] purpose of all powers and functions conferred in this title.

EDITOR NOTE: No substantive change.

Sec. 29.35.420 [29.48.330]. ENUMERATION OF POWERS. Specific examples in [WITHIN] an enumerated power or function conferred upon a municipality [BOROUGH OR CITIES] in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

ARTICLE 7 [2]. SERVICE AREAS.

EDITOR NOTE: (a) Allows a borough to include a city in a service area if the city council agrees by ordinance or if approval is granted by a majority of voters residing in the city and by a majority of voters residing outside the city, but within the service area boundaries. Existing law is silent as to whether a city may be included within a service area.

(b) No change.

Sec. 29.35.450 [SEC 29.63.090(a), (d)]. SERVICE AREAS.

(a) A service area[S] to provide special services in [WITHIN] a borough may be established, operated, altered, or abolished by [THE ASSEMBLY BY] ordinance. Special services include services not provided on an areawide or nonareawide basis in [WITHIN] the borough [OR THE BOROUGH AREA OUTSIDE CITIES], or a higher or different level of service than that provided on an areawide or nonareawide basis [OR IN THE BOROUGH AREA OUTSIDE CITIES. IN A FIRST CLASS BOROUGH THE ASSEMBLY MAY EXERCISE WITHIN A SERVICE AREA ANY POWER GRANTED A FIRST CLASS CITY BY GENERAL LAW. EXCEPT AS PROVIDED IN (F) OF 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 QUALIFIED VOTERS RESIDING WITHIN THE SERVICE AREA AND VOTING ON THE QUESTION AT A REGULAR OR SPECIAL ELECTION.] The borough may include a city in a service area if

(1) the city agrees by ordinance; or

(2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city.

(b) A new service area may not be established if, consistent with the purposes of art. X of the state constitution, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

EDITOR NOTE: No substantive change.

Sec. 29.35.460 [29.63.090(c)]. SERVICE AREA BOARDS. The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area.

EDITOR NOTE: No substantive change.

Sec. 29.35.470 [29.63.090(b)(e)]. FINANCING. The assembly may levy or authorize the levying of taxes, charges, or assessments in a service area to finance the special services. If the assembly authorizes the levying of taxes, charges, or assessments, the rate of taxation and the issuance of bonds are subject to assembly approval.

EDITOR NOTE: No substantive change.

Sec. 29.35.480 [29.63.090(a)(e)]. SERVICE AREAS IN FIRST CLASS BOROUGHES. In a first class borough, the assembly may exercise in a service area any power granted a first class city by law. The assembly may exercise in a service area any nonareawide power that [WHICH] may be exercised by a first class borough.

EDITOR NOTE: New material has been added to allow owners of real property within a service area to consent in writing to the exercise of a power if no voters reside within the service area.

(b) No change.

Sec. 29.35.490 [29..41.010(b), 29.63.090(a),(e), 29.68.010(f)]. SERVICE AREAS IN SECOND AND THIRD CLASS BOROUGHES.

(a) A second class borough may exercise in a service area any power granted a first class city by law or a nonareawide power that [WHICH] may be exercised by a first class borough if

(1) the exercise of the power is approved by a majority of the voters residing in the service area; or

(2) all owners of real property in the service area consent in writing to the exercise of the power if no voters reside in the service area.

(b) If the exercise of the power is approved by a majority of the voters residing in the service area, a third class borough may exercise in a service area any power not otherwise prohibited by law.

(c) A second or third class borough may establish a service area that includes only vacant, unappropriated, and unreserved land owned by the borough. A second or third class borough may establish a service area, with the concurrence of the commissioner of natural resources, that [WHICH] includes only vacant, unappropriated, and unreserved land owned by the state and classified for disposal to individuals. By ordinance a second or third class borough may provide the services in a service area established under this subsection necessary to

develop state or municipal land as required by the planning, platting, and land use regulations of the borough.

* Sec. 10. AS 29 is amended by adding a new chapter to read:

CHAPTER 40. PLANNING, PLATTING, AND LAND USE REGULATION.

EDITOR NOTE: The word "zoning" has been replaced by the phrase "land use regulation" throughout the title in order to confer broader planning powers on municipalities. The term "land use regulation" allows a municipality to use a variety of planning tools which might not necessarily be regarded as falling within traditional "zoning" practices.

The assembly may delegate any of its planning responsibilities to a city if the city consents by ordinance. The assembly may, without obtaining the consent of the city, revoke the power delegated. Under existing law, there is no requirement that a city consent to the delegation of planning power.

Sec. 29.40.010 [29.33.070]. PLANNING, PLATTING, AND LAND USE REGULATION.

(a) A first or [AND] second class borough[s] shall provide for planning, platting, and land use regulation [ZONING] on an areawide basis.

(b) If a city in a borough consents by ordinance, [(1)]the assembly may by ordinance delegate any of its powers and duties under this chapter to the city [DESIGNATE THE COUNCIL OF A CITY WITHIN THE BOROUGH AS A BOARD OF ADJUSTMENT WITHIN THE CITY]. [(2) DELEGATE OTHER PLANNING AND ZONING POWERS CONFERRED BY THIS CHAPTER TO A CITY WITHIN THE BOROUGH.] [(3)] The assembly may by ordinance, without first obtaining the consent of the city, revoke [OR MODIFY] any [PART OR ALL OF THE] power[s] or duty delegated under this [SUB]section.

EDITOR NOTE: Membership on the planning commission shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing in those cities. Under existing law, membership is apportioned so that the number of members from first class cities reflects the proportion of borough population residing in first class cities, but the population of home rule cities is not taken into account. The planning commission shall prepare measures necessary to implement the comprehensive plan, while under existing law the planning commission is required to prepare a zoning ordinance to implement the plan. Under this bill, the planning commission has authority to utilize methods other than zoning to implement a plan.

Sec. 29.40.020 [29.33.080(a) and (b)]. PLANNING COMMISSION.

(a) Each first and second class borough shall establish a planning commission consisting of five residents unless a greater number is required by ordinance. [THE BOROUGH PLANNING COMMISSION CONSISTS OF FIVE RESIDENTS UNLESS A GREATER NUMBER IS OTHERWISE PROVIDED BY ORDINANCE.] Commission membership shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of borough population residing [WITH]in [THOSE] home rule and first class cities located in the borough. A member[s] shall be appointed by the borough mayor [EXECUTIVE] for a term of three years subject to confirmation by the assembly, except that a member from a home rule or first class city shall be selected [APPOINTMENTS OF MEMBERS FROM FIRST CLASS CITIES ARE SELECTED] from a list of recommendations submitted by the [CITY] council. Members first appointed shall draw lots for one, two, and three year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the assembly.

(b) In addition to the duties prescribed by ordinance, the planning commission shall

(1) prepare and submit [RECOMMEND] to the assembly a proposed comprehensive plan in accordance with AS 29.40.030 CONSISTING OF MAPS AND RELATED TEXTS] for the systematic and organized development of the borough;

(2) review, recommend, and administer measures necessary to implement the comprehensive plan, including measures provided under AS 29.40.040.

[(2) A ZONING ORDINANCE TO IMPLEMENT THE PLAN;

(3) A SUBDIVISION ORDINANCE;

(4) THE OFFICIAL MAP OF THE BOROUGH;

(5) MODIFICATIONS TO THE DOCUMENTS SPECIFIED IN (1) - (4) OF THIS

SECTION.

EDITOR NOTE: This is reorganized and reworded for clarity. After receiving the recommendations of the planning commission, the assembly is required periodically to undertake an overall review of the plan and update it as necessary. Under existing law, the planning commission is required to undertake an overall review of the plan at least once every two years and present recommendations to the assembly.

Sec. 29.40.030 [29.33.085]. COMPREHENSIVE PLAN.

(a) The comprehensive plan is a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the first or second class borough, and may include, but is not limited to, the following:

- (1) statements of policies, goals, and standards;
- (2) a land use plan;
- (3) a community facilities plan;
- (4) a transportation plan; and
- (5) recommendations for [PLAN] implementation of the compre-
hensive plan.

(b) With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan [BASED UPON THE RECOMMENDATIONS OF THE PLANNING COMMISSION]. The assembly shall, after receiving the recommendations of the planning commission, periodically undertake an overall review of the comprehensive plan and update the plan as necessary. [THE ASSEMBLY MAY MODIFY THE PLAN, PROVIDED THAT IT FIRST OBTAINS THE RECOMMENDATIONS OF THE PLANNING COMMISSION. THE PLANNING COMMISSION SHALL UNDERTAKE AN OVERALL REVIEW OF THE PLAN AT LEAST ONCE EVERY TWO YEARS AND SHALL PRESENT RECOMMENDATIONS BASED ON THE REVIEW TO THE ASSEMBLY.]

EDITOR NOTE: (a) This is substantially new material. It requires the assembly to implement a comprehensive plan through zoning regulations, land use permit requirements, or other methods. The material dealing with "contract zoning" has been eliminated. The list of items for which zoning may be used in AS 29.33.090(b) and (c) has been eliminated. The material contained in AS 29.33.090(e), allowing a business licensed by the Alcoholic Beverage Control Board to continue to operate before the adoption of the zoning ordinance, is eliminated.

(b) No substantive change.

Sec. 29.40.040 [29.33.090(a), 29.33.110(c)]. LAND USE REGULATION [ZONING].

(a) In accordance with a [THE] comprehensive plan adopted under AS 29.40.030 and in order to implement the plan, the assembly by ordinance shall [REGULATE AND RESTRICT] adopt or amend provisions governing the use and occupancy of land [AND IMPROVEMENTS BY DISTRICTS OR CONTRACT ZONING TO PERMIT SPECIFIC USES PROVIDED FOR IN THE CONTRACT] that may include, but are not limited to,

- (1) zoning regulations restricting the use of land and improve-
ments by geographic districts;

(2) 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;

(3) measures to further the goals and objectives of the comprehensive plan. [REGULATIONS SHALL BE UNIFORM FOR EACH CLASS OR KIND OF BUILDING, STRUCTURE, LAND OR WATER AREA WITHIN EACH DISTRICT, BUT THE REGULATIONS MAY DIFFER AMONG DISTRICTS AND EXCEPTIONS MAY BE MADE IN ORDER TO PROVIDE FOR THE PRESERVATION, MAINTENANCE AND PROTECTION OF HISTORIC SITES, BUILDINGS AND MONUMENTS. IN THIS SECTION, "CONTRACT ZONING" MEANS A ZONING RECLASSIFICATION TO A LESS RESTRICTED USE WHEN THE OWNER OF THE REZONED PROPERTY, EITHER THROUGH AND AGREEMENT WITH THE ASSEMBLY OR A COVENANT IN FAVOR OF THE BOROUGH, PLACES RESTRICTIONS ON THE USE OF THE LAND BEYOND THE ZONING REQUIREMENTS GENERALLY ATTACHING TO THE NEW DISTRICT IN WHICH THE PROPERTY HAS BEEN PLACED. THE ASSEMBLY SHALL HOLD A PUBLIC HEARING ON THE PROPOSED CONTRACT ZONING.]

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

(1) special conditions that 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.

[(c) A VARIANCE SHALL NOT BE GRANTED BECAUSE OF SPECIAL CONDITIONS CAUSED BY ACTIONS OF THE PERSON SEEKING RELIEF OR FOR REASONS OF PECUNIARY HARDSHIP OR INCONVENIENCE. A VARIANCE SHALL NOT BE GRANTED WHICH WILL PERMIT A LAND USE IN A DISTRICT IN WHICH THAT USE IS PROHIBITED.]

EDITOR NOTE: (a) Requires the assembly to provide for an appeal from the application of a land use regulation. Under existing law, the board of adjustment hears appeals.

(b) Allows the assembly to provide for the appointment of hearing officers or of a board of adjustment to hear appeals. Under existing law, the assembly is the board of adjustment, but may delegate its functions.

Sec. 29.40.050 [29.33.110 (a),(b)]. APPEALS FROM ADMINISTRATIVE DECISIONS.
[BOARD OF ADJUSTMENT]

(a) [(B)] By ordinance the assembly shall provide for an appeal from an administrative decision of a municipal 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, hearing officer, board of adjustment, 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. [THE BOARD OF ADJUSTMENT SHALL HEAR AND DECIDE

(1) APPEALS REGARDING ALLEGED ERRORS IN ENFORCEMENT OF ZONING ORDINANCES AND BUILDING CODES;

(2) APPEALS FROM THE DECISIONS OF THE PLANNING COMMISSION ON REQUESTS FOR CONDITIONAL USES;

(3) APPEALS FROM THE DECISIONS OF THE PLANNING COMMISSION ON REQUESTS FOR VARIANCES FROM THE TERMS OF THE ZONING ORDINANCE WHICH ARE NOT CONTRARY TO THE PUBLIC INTEREST, WHEN A LITERAL ENFORCEMENT WOULD DEPRIVE A PROPERTY OWNER OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME DISTRICT.]

(b) [(A)] By ordinance the assembly may provide for appointment of a hearing officer, or for the composition, appointment, and terms of office of a board of adjustment or other body established to hear appeals from administrative actions. The assembly may define proper parties and prescribe evidentiary rules, standards of review, and remedies available to the hearing officer, board of adjustment, or other body. [THE ASSEMBLY IS THE BOARD OF ADJUSTMENT BUT MAY DELEGATE BY RESOLUTION OR ORDINANCE PART OR ALL OF ITS FUNCTIONS TO A CITY WITHIN THE BOROUGH FOR THE AREA WITHIN CITY BOUNDARIES IN ACCORDANCE WITH AS 29.33.070(B)(1) IN ADDITION TO MAKING DELEGATIONS AS PROVIDED FOR AN ASSEMBLY UNDER AS 29.33.245. MEETINGS OF THE BOROUGH BOARD ARE HELD AT THE CALL OF THE PRESIDING OFFICER AND OF THE CITY BOARD BY THE MAYOR. THE PRESIDING OFFICER OR MAYOR MAY ADMINISTER OATHS AND COMPEL ATTENDANCE OF WITNESSES. MEETINGS AND HEARINGS OF THE BOARD SHALL BE OPEN TO THE PUBLIC AND THE BOARD SHALL KEEP MINUTES OF ITS PROCEEDINGS AS A PUBLIC RECORD.]

EDITOR NOTE: (a) Allows for an appeal from a decision dealing with land use regulation. Under existing law, appeals are limited to decisions from the board of adjustment.

(b) An appeal from a land use regulation is an administrative appeal. The provision in AS 29.33.130(c), that an appeal stays enforcement proceeding unless the court issues an enforcement order, has been eliminated.

Sec. 29.40.060 [29.33.130 (a),(b)(c),(d),(e)]. JUDICIAL REVIEW.

(a) The assembly shall provide by ordinance for an appeal[S] by a municipal officer or person aggrieved from a decision of a hearing officer, [FROM THE] board of adjustment, or other body to the superior court.

[(B) A MUNICIPAL OFFICER, A TAXPAYER, OR A PERSON, JOINTLY OR SEVERALLY AGGRIEVED, MAY APPEAL AN ACTION OF THE BOARD TO THE SUPERIOR COURT BY FILING WITH THE BOROUGH CLERK WITHIN THE TIME FIXED BY ORDINANCE, A NOTICE OF APPEAL SPECIFYING GROUNDS. WHEN THE NOTICE OR APPEAL IS FILED, THE BOARD SHALL AT ONCE TRANSMIT TO THE SUPERIOR COURT CLERK COPIES OF ALL THE PAPERS CONSTITUTING THE RECORD IN THE CASE.]

(C) AN APPEAL FROM THE BOARD OF ADJUSTMENT STAYS ENFORCEMENT PROCEEDINGS UNLESS THE COURT ISSUES AN ENFORCEMENT ORDER BASED ON A CERTIFICATE OF IMMINENT PERIL TO LIFE OR PROPERTY MADE BY THE BOARD.]

(b) An appeal to the superior court under this section is an administrative appeal heard solely on the record established by the hearing officer, board of adjustment, or other body.

[(D) THE APPEAL IS HEARD UPON THE RECORD BY THE SUPERIOR COURT, AND THE COURT MAY REVERSE OR AFFIRM, WHOLLY OR PARTLY, THE DECISION APPEALED FROM.]

(E) ISSUES IN PROCEEDINGS UNDER THIS SECTION HAVE PREFERENCE OVER ALL OTHER CIVIL ACTIONS AND PROCEEDINGS. AN APPEAL LIES FROM THE DECISION OF THE SUPERIOR COURT AS IN OTHER CIVIL CASES.]

EDITOR NOTE: Material in paragraph (4) dealing with dedication of rights-of-way and easements is added.

Sec. 29.40.070 [29.33.150(a)]. PLATTING REGULATION [JURISDICTION AND POWER].

[(A) THE PLANNING COMMISSION ACTING AS THE PLATTING BOARD HAS JURISDICTION OVER PLATTING AND] By ordinance the assembly shall adopt platting requirements that may include [AND PUBLISH RULES AND REGULATIONS TO IMPLEMENT THIS POWER. JURISDICTION INCLUDES], but are [IS] 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 [ALLOWANCE] 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 considered necessary by the platting authority for other public uses.

EDITOR NOTE: This is new material requiring the assembly to establish a platting authority. Under existing law, the planning commission acts as platting authority. The material contained in AS 29.33.150(b) dealing with subdivisions of state land, is eliminated.

Sec. 29.40.080 [29.33.150(a)]. PLATTING AUTHORITY. [PLATTING JURISDICTION AND POWER]

(B)] (a) The assembly by ordinance shall establish a platting authority to administer subdivision regulations and to perform other duties as required by the assembly. The platting authority may consist of members of the planning commission or of other municipal residents.

(b) The assembly may by ordinance provide for an administrative official to act as the platting authority with regard to abbreviated plats. [(B) THE REGULATIONS ADOPTED UNDER (A) OF THIS SECTION APPLY TO SUBDIVISION PLATS OF UNDEVELOPED STATE LAND FOR DISPOSAL UNDER AS 38.05 OR AS 38.08 FILED WITH THE PLATTING BOARD. THE PLATTING BOARD MAY NOT DISAPPROVE THE SUBDIVISION PLAT ON THE BASIS OF REGULATIONS WHICH REQUIRE CAPITAL IMPROVEMENTS ON OR TO STATE LAND INCLUDED IN THE SUBDIVISION PLAT. REGULATIONS ADOPTED AFTER THE PLATTING BOARD IS NOTIFIED BY THE COMMISSIONER OF NATURAL RESOURCES OF A PROPOSED SALE OF SUBDIVIDED STATE LAND UNDER AS 38.05 OR AS 38.08 DO NOT APPLY TO THE STATE LAND IN THE PROPOSED SALE.]

EDITOR NOTE: (a) This is new and requires the assembly to establish an abbreviated plat procedure for plats meeting certain requirements.

(b) Authorizes waiver of plat requirements if a subdivisor meets requirements for an abbreviated plat and each lot is five acres or larger.

Sec. 29.40.090 [29.33.170]. ABBREVIATED PLATS AND WAIVERS [IN CERTAIN CASES].

(a) Notwithstanding other provisions of this chapter, the assembly shall by ordinance establish an abbreviated plat procedure for a plat that will [THE PLATTING AUTHORITY SHALL, IN INDIVIDUAL CASES, WAIVE THE PREPARATION, SUEMISSION FOR APPROVAL, AND RECORDING OF A PLAT UPON SATISFACTORY EVIDENCE THAT]

(1) subdivide a single lot into not more than four lots; [EACH TRACT OR PARCEL OF LAND WILL HAVE ADEQUATE ACCESS TO A PUBLIC HIGHWAY OR STREET;]

(2) provide legal and physical access to a public highway or street for each lot created by the subdivision; [EACH PARCEL CREATED IS FIVE ACRES IN SIZE OR LARGER AND THAT THE LAND IS DIVIDED INTO FOUR OR FEWER PARCELS;]

(3) not contain or require a dedication of a street, right-of-way, or other area; [THE CONVEYANCE IS NOT MADE FOR THE PURPOSE OF, OR IN CONNECTION WITH, A PRESENT OR PROJECTED SUBDIVISION DEVELOPMENT;]

(4) not require a vacation of a public dedication of land or a variance from a subdivision regulation. [NO DEDICATION OF A STREET, ALLEY, THOROUGHFARE OR OTHER PUBLIC AREA IS INVOLVED OR REQUIRED.]

(b) [IN OTHER CASES] The platting authority shall [MAY] waive the preparation, submission for approval, and recording of a plat on satisfactory evidence that the subdivision meets the requirements of (a) of this section and each lot created by the subdivision is five acres or larger [, IF THE TRANSACTION INVOLVED DOES NOT FALL WITHIN THE GENERAL INTENT OF §§ 29.33.150 - 29.33.240 OF THIS CHAPTER AND AS 40.15 IF IT IS NOT MADE FOR THE PURPOSE OF, OR IN CONNECTION WITH, A PRESENT OR PROJECTED SUBDIVISION DEVELOPMENT AND NO DEDICATION OF A STREET, ALLEY, THOROUGHFARE, PARK OR OTHER PUBLIC AREA IS INVOLVED OR REQUIRED.]

EDITOR NOTE: Rewritten for clarity.

Sec. 29.40.100 [29.33.180]. INFORMATION REQUIRED. A plat shall show

(1) initial point of survey;

(2) original or reestablished corners and their descriptions;

(3) [AND] actual traverse showing area of closure and all distances, angles, and calculations required to determine initial point, corners, and distances of the plat; and [,]

(4) [AS WELL AS] other information that may be required by ordinance.

EDITOR NOTE: This is rewritten for clarity. Material dealing with filing a preliminary subdivision plat contained in AS 29.33.160(c) has been eliminated.

Sec. 29.40.110 [29.33.160(a),(b),(c)]. PLAT PROCEDURE.

(a) The platting authority [BOARD] shall [WITHIN 60 DAYS OF FILING] approve or disapprove a [THE] plat within 60 days after it is filed, or shall return it to the applicant for modification or correction. Unless the applicant

for plat approval consents to an extension of time, [IF THE BOARD FAILS TO ACT,] the plat is considered approved and a certificate of approval shall be issued by the platting authority [BOARD] on demand if the platting authority fails to act within 60 days. [THE APPLICANT FOR PLAT APPROVAL MAY CONSENT TO THE EXTENSION OF THE PERIOD FOR ACTION BY THE BOARD. THE BOARD SHALL STATE ON ITS RECORD AND IN WRITING TO THE APPLICANT ITS REASON FOR DISAPPROVAL OF A PLAT.]

(b) The platting authority shall state in writing its reasons for disapproval of a plat. If the platting authority [BOARD SHALL SUBMIT AN] approves[D] a plat, the plat shall be acknowledged and filed [TO THE DISTRICT RECORDER] in accordance [COMPLIANCE] with AS 40.15.010 - 40.15.020.

EDITOR NOTE: Allows a plat to be altered upon petition of the state, the borough, a public utility, or the owners of a majority of the land affected. Existing law allows a plat to be altered only upon petition of the owners of a majority of the land or by the platting board. A platted street may be vacated upon petition of the state, the borough, a public utility, or owners of the majority of the land fronting the portion of the street sought to be vacated. Under existing law, only the municipality or owners of the majority of the land fronting the part of the street sought to be vacated may petition to vacate a street.

Sec. 29.40.120 [29.33.200]. ALTERATION OR [OF] REPLAT PETITION. A [NO] recorded plat may not be altered or replatted except [UPON PETITION OF THE OWNERS OF A MAJORITY OF THE LAND AFFECTED BY THE ALTERATION OR REPLAT OR] by the platting authority [BOARD] on petition of the state, the borough, a public utility, or the owners of a majority of the land affected by the alteration or replat. A [NO] platted street may not be vacated, except on [UPON] petition of the state, the borough, a public utility, [MUNICIPALITY] or owners of a [THE] majority of the [FRONT FEET OF THE] land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority and [BOARD. IT] shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

EDITOR NOTE: Requires the platting authority to publish notice of a hearing for a replat petition. "Published" is defined to require publication once in a newspaper of general circulation or posting in three public places. Under existing law, notice is required to be published once a week for two consecutive weeks.

Sec. 29.40.130 [29.33.210]. NOTICE OF HEARING. The platting authority [BOARD] shall fix a time for a hearing on an alteration or replat [THE] petition that may [WHICH SHALL] not be more than 60 days after the petition is filed [FILING]. [THE] Notice shall be published by the platting authority stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. [THE NOTICE SHALL BE PUBLISHED ONCE A WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA.] The platting authority [BOARD] shall also mail a copy of the notice to each affected property owner who did not sign [ING] the petition.

EDITOR NOTE: Rewritten for clarity.

Sec. 29.40.140 [29.33.220]. HEARING AND DETERMINATION.

(a) [AT THE HEARING] The platting authority [BOARD] shall consider the alteration or replat petition at a hearing and make its decision on the merits of the proposal.

(b) [NO] Vacation of a city street may not be made without the consent of the [CITY] council. [NO] Vacation of a street in the borough area outside all cities may not be made without the consent of the [BOROUGH] assembly. The governing body [ASSEMBLY OR COUNCIL] shall have 30 days from the decision of the platting authority in which to veto a vacation of a street [THE BOARD DECISION]. If no veto is received by the platting authority [BOARD] within the 30-day period, [THE] consent is [OF THE CITY OR BOROUGH SHALL BE] considered to have been given to the vacation.

EDITOR NOTE: Requires a plat to be acknowledged and filed by the recorder with a certificate that taxes have been paid.

Sec. 29.40.150 [29.33.230]. RECORDING. If the alteration or replat is approved, the revised plat shall be acknowledged and filed in accordance with AS 40.15.010 - 40.15.020 [MUST BE RECORDED BY THE PLATTING BOARD AND IS THEREAFTER THE LAWFUL PLAT].

EDITOR NOTE: Minor rewording. The material in (a)-(c) has been applied as a home rule limitation. None of this section is a limitation under existing law.

Sec. 29.40.160 [29.33.240]. TITLE TO VACATED AREA.

(a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering [ON] the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area that [WHICH] lies on one side of the boundary line shall attach to the abutting property on that side, and the street area that [WHICH] lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street that [WHICH] lies inside [WITHIN] the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in a [THE] city if it lies inside [WITHIN] the city, and in [TO] the borough if it lies inside [WITHIN] the borough but outside all [A] cities[Y]. If the property vacated is a lot [OR TRACT], title vests in the rightful owner.

(b) If the municipality [BOROUGH OR CITY] acquired the street or other public area vacated for legal consideration or by express dedication to [AND ACCEPTANCE BY] the municipality [BOROUGH OR CITY] other than as a [REQUIRED] subdivision platting requirement, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid to [OVER TO] the municipality [BOROUGH OR CITY] on final vacation.

(c) The provisions of (a) and (b) of this section apply to home rule and general law municipalities.

(d) [(C)] [THE PROVISIONS OF (A) OF THIS SECTION NOTWITHSTANDING,] The council of a second class city located outside a [AN ORGANIZED] borough may vacate [THOSE] streets, alleys, crossings, sidewalks, or other public ways that may have been previously dedicated or established when the council[, IN ITS DISCRETION,] finds that the streets, alleys, crossings, sidewalks, or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (a) of this section but remains in the city.

EDITOR NOTE: Rewritten for clarity.

Sec. 29.40.170 [29.33.245]. DELEGATIONS. [THE ASSEMBLY MAY BY ORDINANCE AUTHORIZE] The planning commission and [,] the platting authority [BOARD AND THE BOARD OF ADJUSTMENT] may, as authorized by ordinance, [TO] delegate powers to