Alaska Statutes: Title 29

Municipal Government

2018 Updates

from the

30th Legislature

2nd Session: January – April 2018

Bill Walker, Governor
State of Alaska

Mike Navarre, Commissioner
Department of Commerce, Community, and Economic Development

Katherine Eldemar, Director
Division of Community and Regional Affairs

The State of Alaska, Department of Commerce, Community, and Economic Development (DCCED), complies with Title II of the Americans with Disabilities Act of 1990. This publication is available in alternative communication formats upon request. Please contact Lorence Williams at 1-907-269-4560 or lorence.williams@alaska.gov to make any necessary arrangements. The Alaska Relay is 711 or 1-800-770-8973\TTY, 1-800-770-8255\Voice.

Table of Contents

Summary of Changes to Title 29

This summary contains changes made to Title 29 during the second session of the 30th Legislature. The summary includes a brief explanation of the change, followed by statutory language. Italicized text represents new language incorporated into the statute. Strike-through text in brackets represents language repealed from the statute. This summary is updated as of October 1, 2018.

Sec. 29.35.134. Multi-line telephone systems.

Amends AS 29.35.134

A municipality may by ordinance [~~elect to~~] require [~~an enhanced 911 system from~~] a multi-line telephone system *operator to comply with this section if, after January 1, 2019, the system operator*

(1) upgrades an existing multi-line telephone system; or

(2) installs a new multi-line telephone system [~~. A multi-line telephone system operator must arrange to update the automatic location identification database with an appropriate master street address guide, valid address, and callback number for each multi line telephone system telephone, so that the location information specifies the emergency response location of the caller. A multiline telephone system operator is considered to be in compliance with this section when the multi-line telephone system complies with enhanced 911 generally accepted industry standards as defined by the regulatory commission of Alaska. For purposes of this section;~~

~~(1) "callback number " means a number used by the public safety answering point to re contact the location from which a 911 call is placed; the number may or may not be the number of the station used to originate the 911 call;~~

~~(2) "Emergency response location" means the location to which a 911 emergency response team may be dispatched that is specific enough to provide a reasonable opportunity for the emergency response team to quickly locate a caller anywhere within it;~~

~~(3) "Master street address guide" means a database of formatted street names, numerical addresses or address ranges, and other parameters defining valid locations and emergency services zones, and their associated emergency services numbers, that enables the proper routing and response to 911 calls;~~

~~(4) "Multiple line telephone system" means a system made up of common control units, telephone sets, and control hardware and software, including network, and premises based systems such as Centrex and PBX, Hybrid, and Key telephone systems, as classified by the Federal Communications Commission under Part 68 Requirements and Including Systems Owned or Leased by Governmental Agencies or Nonprofit entities, as well as for Profit Entities;~~

~~(5) "Multi line telephone system operator" means an entity that owns, leases, or rents from a third party, and operates a multi-line telephone system through which a caller may place a 911 call through a public switched network~~].

(am § 1 ch 90 SLA 2018) Effective November 21, 2018.

Sec. 29.35.134. Multi-line telephone systems.

Amends AS 29.35.134 by adding new subsections

(b) The operator of a multi-line telephone system that is required to comply with this section shall ensure that the system

(1) allows a caller to call 911 directly without an additional code, digit, prefix, postfix, or trunk-access code;

(2) for every 911 call made using the system, provides to the public safety answering point receiving the call verified automated number and location information for the call, including

(A) the street name, valid address, and business name, if applicable;

(B) the direct call back telephone number;

(C) the office, unit, or building number as applicable;

(D) the room number or equivalent designation;

(E) if the multi-line telephone system operates for a building that has more than one floor, the building floor;

(F) if the multi-line telephone system operates for more than one building, the

(i) building number or equivalent designation; and

(ii) building floor; and

(3)has a location database that stores the information required under (2) of this subsection and that the system is updated

(A) as soon as practicable after the system is installed; and

(B) within one business day after completion of any changes made to the system or the physical characteristics of the facility where the system is used; this subparagraph does not apply to changes incurred during the installation of the system.

(c) Information in a location database created under (b)(3) of this section

(1) is owned by the multi-line telephone system operator that supplied the information;

(2) may not be shared, except as required by law; and

(3) may not be used by a public safety answering point for any purpose except to facilitate an emergency response to a 911 call.

(d) The operator of a multi-line telephone system that is not required by ordinance to comply with this section and that does not allow for direct 911 dialing shall post, in a visible place not more than five feet from each telephone that is connected to the multi-line telephone system, a notice that

(1) states that 911 services cannot be accessed by dialing 911 directly on the telephone;

(2) indicates how a caller may access 911 services through the telephone;

(3) is printed in contrasting colors in a bold font not smaller than 16 points;

(4) includes the following information, as applicable, about the location of the telephone:

(A) the street address and business name;

(B) the office, unit, or building number;

(C) the room number or equivalent designation.

(e) In this section,

(1) "multi-line telephone system" includes

(A) a network or premises-based telephone system

(i)installed at an end-use location that uses common control units, common telephone, and common control hardware and software to provide a connection to the public;

(ii) such as Centrex, Voice over Internet Protocol, and PBX, Hybrid, and Key Telephone Systems, as classified by the Federal Communications Commission under 47 C.F.R. Part 68 requirements; and

(B) systems owned or leased by government agencies and nonprofit and for profit entities;

(2) "multi-line telephone system operator" means an entity that owns, leases, or rents from a third party, and operates a multi-line telephone system by which a caller may place a 911 call through a public switched network.

(am § 2, ch 90 SLA 2018) Effective November 21, 2018.

Sec. 29.35.148. Regulation of transportation network companies or drivers.

Amends AS 29.35.148 (b) to require the collection and payment of a sales tax if so imposed.

(b) The prohibition on regulation under (a) of this section does not include

(1) imposition of a municipal sales tax on a transportation network company driver that taxes a trip originating in the municipality in the same manner that other services are taxed in the municipality*; in imposing a sales tax as permitted by this paragraph, a municipality may require the transportation network company to collect and pay the municipal sales tax on behalf of transportation network company drivers*;

(2) a municipal traffic ordinance

(am § 1, ch 31 SLA 18) Effective June 19, 2018.

Sec. 29.45.030. Required exemptions

Amends AS 29.45.030 (a) to provide a ten year tax exemption on shipyards and port facilities that were initially placed in service before January 1, 1999 except that lodging improvements are taxable (to be repealed November 30, 2027).

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84- 16 830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; *however, an interest created by an operating agreement or nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of a shipyard or an integrated transportation and port facility, if the shipyard or integrated transportation and port facility is owned by the authority and initially placed in service before January 1, 1999, is taxable only to the extent of, and for the value associated with, those specific improvements used for lodging purposes;*

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land granted to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the university under AS 14.40.365;

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

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

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

(5) money on deposit;

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

(7) real property or an interest in real property that is (A) exempt from taxation under 43 U.S.C. 1620(d), as amended or under 43 U.S.C. 1636(d), as amended; or (B) acquired from a municipality in exchange for land that is exempt from taxation under (A) of this paragraph, and is not developed or made subject to a lease; e subject to a lease;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest unless the property is located on a military base or installation and the property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing Enrolled Privatization Initiative), *if* [~~provided that~~] the leaseholder enters into an

agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency recognized by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest.

(am § 1, ch 64 SLA 18) Effective retroactively to November 30, 2017

ALASKA STATUTES

Title 29. Municipal Government

Chapter

Chapter 03. The Unorganized Borough.

Section

Sec. 29.03.010. Establishment.

Areas of the state that are not within the boundaries of an organized borough constitute a single unorganized borough (§ 2 ch 118 SLA 1972)

Sec. 29.03.020. Service areas.

Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, that may include schools, utilities, land use regulations, and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. (§ 2 ch 118 SLA 1972; am § 24, ch 3 SLA 2017)

Sec. 29.03.030. Platting authority.

The Department of Natural Resources is the platting authority for the state except within a municipality that has the power of land use regulation and that is exercising platting authority. (§ 2 ch 74 SLA 1985; am § 3 ch 40 SLA 1998)

Effect of amendments. The 2017 amendment, effective July 1, 2017, removed language. The 1998 amendment, effective August 18, 1998, rewrote this section.

Chapter 04. Classification of Municipalities.

Section

Sec. 29.04.010. Home rule.

A home rule municipality is a municipal corporation and political subdivision. It is a city or a borough that has adopted a home rule charter, or it is a unified municipality. A home rule municipality has all legislative powers not prohibited by law or charter. (§ 3 ch 74 SLA 1985)

Sec. 29.04.020. General law.

A general law municipality is a municipal corporation and political subdivision and is an unchartered borough or city. It has legislative powers conferred by law. (§ 3 ch 74 SLA 1985)

Sec. 29.04.030. Classes of general law.

General law municipalities are of five classes:

(1) first class boroughs;

(2) second class boroughs;

(3) third class boroughs;

(4) first class cities;

(5) second class cities. (§ 3 ch 74 SLA 1985)

Sec. 29.04.040. Reclassification of cities.

(a) A second class city may be reclassified as a first class city. A first class or home rule city may be reclassified as a second class city. Reclassification is proposed by filing a petition with the department. The department shall investigate the proposal and report its findings to the Local Boundary Commission with its recommendations. The commission shall hold at least one public hearing in the city on the proposal. The commission may amend the petition and may impose conditions on the reclassification. If the commission determines that the reclassification, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 for the class of city proposed in the reclassification petition, and is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition. The commission shall notify the city of its decision. The decision may be appealed under AS 44.62 (Administrative Procedure Act)

(b) A petition proposing reclassification may be filed by

(1) a number of voters equal to 15 percent of the number of votes cast in the city at the preceding regular election; or

(2) the council.

(c) *[Repealed, § 31 ch 58 SLA 1994]*

(d) The council shall, within 30 days after receiving notification from the Local Boundary Commission that a petition has been accepted, order an election on the question of reclassification. 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. If more than one question is to be voted on at the election, each shall appear separately on the ballot.

(e) The council shall certify the election results to the department. If the majority of votes cast is favorable, the city is reclassified 30 days after certification of the election results. (§ 3 ch 74 SLA 1985; am §§ 2–5 31 ch 58 SLA 1994; am §1 ch 86 SLA 1999)

Effect of amendments. The 1999 amendment, effective September 28, 1999, made changes to subsection (a). The 1994 amendment, effective August 22, 1994, in subsection (a), rewrote the first sentence, made a related stylistic change, and added the second through eighth sentences; in subsection (b), rewrote the introductory language, deleted "may file a petition with the council" following "regular election" in paragraph (1), and deleted "may propose reclassification" following "the council" from the end of paragraph (2); repealed subsection (c), relating to reclassification public hearings; in subsection (d), in the first sentence, substituted "after receiving notification from the Local Boundary Commission that a petition has been accepted" for "after its findings have been made public"; and, in subsection (e), in the second sentence, substituted "is reclassified 30 days after certification" for "shall be considered reclassified to first class status 30 days after certification."

Sec. 29.04.050. Reclassification of second class boroughs.

A second class borough may reclassify as a first class borough in the manner provided by AS 29.35.320 - 29.35.330 for the addition of an areawide power by a first or second class borough, except the petition or proposal requests reclassification instead of requesting addition of a power. (§ 3 ch 74 SLA 1985)

Sec. 29.04.060. Reclassification of third class boroughs.

(a) A third class borough may reclassify as a first or second class borough in the manner provided by AS 29.35.320 - 29.35.330 for the addition of an areawide power by a first or second class borough, except the petition or proposal requests reclassification instead of requesting addition of a power. At the time of voting on reclassification of a third class borough to first or second class status, voters shall vote also on whether the borough shall, on reclassification, retain a combined assembly and school board or elect a separate assembly and board as otherwise provided for first and second class boroughs.

(b) If a combined assembly and school board are approved at the reclassification election, the assembly serving at the time of the election continues to serve as the assembly and board on voter approval of reclassification and until terms of assembly members expire as provided before reclassification.

(c) If a separate assembly and school board are approved at the reclassification election, a school board shall be elected in conformity with AS 14.12.030 - 14.12.100 at the next regular election, if it occurs within 90 days of the date of the reclassification election, or otherwise at a special election within 90 days of the date of the reclassification election. Expiration dates of terms of school board members elected at a special election must coincide with the date of the regular election. Until a board is elected and qualified, the assembly continues to serve as the board. (§ 3 ch 74 SLA 1985)

Chapter 05. Incorporation.

Article

Article 1. Requirements.

Section

Sec. 29.05.011. Incorporation of a city.

(a) A community that meets the following standards may incorporate as a first class or home rule city:

(1) the community has 400 or more permanent residents;

(2) the boundaries of the proposed city include all areas necessary to provide municipal services on an efficient scale;

(3) the economy of the community includes the human and financial resources necessary to provide municipal services; in considering the economy of the community,

the Local Boundary Commission shall consider property values, economic base, personal income, resource and commercial development, anticipated functions, and the expenses and income of the proposed city, including the ability of the community to generate local revenue;

(4) the population of the community is stable enough to support city government;

(5) there is a demonstrated need for city government.

(b) A community that meets all the standards under (a) of this section except (a)(1) may incorporate as a second class city. (§ 4 ch 74 SLA 1985; am § 6 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, inserted "or home rule" in the introductory language in subsection (a).

Sec. 29.05.021. Limitations on incorporation of a city.

(a) A community in the unorganized borough may not incorporate as a city if the services to be provided by the proposed city can be provided by annexation to an existing city.

(b) A community within a borough may not incorporate as a city if the services to be provided by the proposed city can be provided on an areawide or nonareawide basis by the borough in which the proposed city is located, or by annexation to an existing city. (§ 4 ch 74 SLA 1985)

Sec. 29.05.031. Incorporation of a borough or unified municipality.

(a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

(b) An area may not incorporate as a third class borough. (§ 4 ch 74 SLA 1985; am § 7 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, in subsection (a), added ", or as a unified municipality" at the end of the introductory language and inserted "or unified municipality" in paragraphs (2) and (3).

Article 2. Procedure.

Section

Sec. 29.05.060. Petition.

Municipal incorporation is proposed by filing a petition with the department. The petition must include the following information about the proposed municipality:

(1) class;

(2) name;

(3) boundaries;

(4) maps, documents, and other information required by the department;

(5) composition and apportionment of the governing body;

(6) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation;

(7) for a borough or unified municipality, based on the number who voted in the respective areas in the last general election, the signature and resident address of 15 percent of the voters in

(A) home rule and first class cities in the area of the proposed borough or unified municipality; and

(B) the area of the proposed borough or unified municipality outside home rule and first class cities;

(8) for a first class borough or unified municipality, a designation of areawide powers to be exercised;

(9) for a second class borough, a designation of areawide and non-areawide powers to be exercised;

(10) for a first class, second class, or home rule city, a designation of the powers to be exercised;

(11) for a first class or home rule city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 50 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

(12) for a second class city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 25 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

(13) for a home rule city, home rule borough, or unified municipality a proposed home rule charter. (§ 4 ch 74 SLA 1985; am § 8 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, substituted “must” for “shall” in the second sentence of the introductory language, inserted “or unified municipality” in three places in paragraph (7) and in one place in paragraphs (8) and (13), substituted “first class, second class, or home rule city” for “first or second class city” in paragraph (10), inserted “or home rule” in paragraph (11), and inserted “city, home rule” in paragraph (13).

Sec. 29.05.070. Review.

The department shall review an incorporation petition for content and signatures and shall return a deficient petition for correction and completion. (§ 4 ch 74 SLA 1985)

Sec. 29.05.080. Investigation.

(a) If an incorporation petition contains the required information and signatures, the department shall investigate the proposal and shall hold at least one public informational meeting in the area proposed for incorporation. The department shall publish notice of the meeting.

(b) The department may combine incorporation petitions from the same general area.

(c) The department shall report its findings to the Local Boundary Commission with its recommendations regarding the incorporation. (§ 4 ch 74 SLA 1985)

Sec. 29.05.090. Hearing.

The Local Boundary Commission shall hold at least one public hearing in the area proposed to be incorporated for the purpose of receiving testimony and evidence on the proposal. (§ 4 ch 74 SLA 1985)

Sec. 29.05.100. Decision.

(a) After providing public notice of each proposed amendment or condition and an opportunity for public comment, the Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best interests of the state, it may accept the petition. Otherwise it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under the AS 44.62 (Administrative Procedure Act). (§ 4 ch 74 SLA 1985; am § 9 ch 58 SLA 1994; am §2 ch 86 SLA 1999; am §1 ch 46 SLA 2006)

Effect of amendments. The 2006 amendment, effective May 28, 2006, added "After providing public notice of each proposed amendment or condition and an opportunity for public comment," In the first sentence. The 1999 amendment, effective September 28, 1999, rewrote subsection (a). The 1994 amendment, effective August 22, 1994, in subsection (a), substituted "may accept" for "Shall accept" and inserted "or amend" in the second sentence, deleted "If the commission determines that the proposed municipal boundaries can be altered to meet the standards, it may alter the boundaries" preceding "and accept the petition" in the former third sentence, and made a related stylistic change.

Sec. 29.05.110. Incorporation election.

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of an incorporation petition. Within 30 days after notification, the director of elections shall order an election in the proposed municipality to determine whether the voters desire incorporation and, if so, to elect the initial municipal officials. If incorporation is rejected, no officials are elected. The election shall be held not less than 30 or more than 90 days after the date of the election order. The election order must

specify the dates during which nomination petitions for election of initial officials may be filed.

(b) A qualified voter who is registered to vote within the proposed municipality at least 30 days before the date of the election order may vote.

(c) Areawide borough powers included in an incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each non-areawide power to be exercised is placed separately on the ballot. Adoption of a non-areawide power requires a majority of the votes cast on the question, and the vote is limited to the qualified voters who are registered to vote in the proposed borough but outside all cities in the proposed borough.

(d) A home rule charter included in an incorporation petition under AS 29.05.060(13) is considered to be part of the incorporation question. The home rule charter is adopted if the voters approve incorporation of the city, borough, or unified municipality.

(e) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs under this section.

(f) In this section a qualified voter has the meaning given in AS 15.80.010. (§ 4 ch 74 SLA 1985; am § 10 ch 58 SLA 1994;.§§ 58 – 60 ch 2 FSSLA 2005)

Effect of Amendments. The 2005 amendment, effective September 22, 2005, substituted "qualified voter who is registered to vote" for "voter who has been a resident of the area" and substituted "at least" for "for" in subsection (b) and "qualified voter who is registered to vote" for "residing" in subsection "c"; and added subsection (f); The 1994 amendment, effective August 22, 1994, substituted "the city, borough, or unified municipality" for "the borough" in the second sentence in subsection (d).

Sec. 29.05.115. Incorporation with legislative review.

(a) If the Local Boundary Commission submits a proposal for borough incorporation to the legislature under art. X, sec. 12, Constitution of the State of Alaska, AS 29.05.060 - 29.05.110 do not apply. However, before the proposal is submitted to the legislature, the Local Boundary Commission shall hold at least two public hearings in the area proposed for incorporation.

(b) This section may not be construed as granting authority to the Local Boundary Commission to propose a borough incorporation under art. X, sec. 12, Constitution of the State of Alaska. (§2 ch 46 SLA 2006)

Sec. 29.05.120. Election of initial officials.

(a) Nominations for initial municipal officials are made by petition. The petition shall be in the form prescribed by the director of elections and must include the name and address of the nominee and a statement of the nominee that the nominee is qualified under the provisions of this title for the office that is sought. A person may file for and occupy more than one office, but may not serve simultaneously as

(1) borough mayor and as a member of the assembly; or

(2) city mayor and as a member of the council in a first class city.

(b) Except for a proposed second class city, petitions to nominate initial officials must include the signature and resident address of 50 voters in the area of the proposed municipality, or that area of the proposed municipality from which the officials are to be

elected under the composition and apportionment set out in the accepted incorporation petition.

(c) Petitions to nominate initial officials of a second class city must include the signature and resident address of 10 voters in the area of the proposed city.

(d) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(e) The initial elected officials take office on the first Monday following certification of their election.

(f) The initial elected members of the governing body shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected. (§ 4 ch 74 SLA 1985)

Sec. 29.05.130. Integration of special districts and service areas.

(a) A service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation. On integration the municipality succeeds to all the rights, powers, duties, assets, and liabilities of the service area. On integration all property in the service area subject to taxation to pay the principal and interest on bonds at the time of integration remains subject to taxation for that purpose.

(b) After integration, the municipality may exercise in a former service area all of the rights and powers exercised by the service area at the time of integration, and, as successor to the service area, may levy and collect special charges, taxes, or assessments to amortize bonded indebtedness incurred by the service area or by a municipality in which the service area was formerly located. (§ 4 ch 74 SLA 1985)

Sec. 29.05.140. Transition.

(a) The powers and duties exercised by cities and service areas that are succeeded to by a newly incorporated municipality continue to be exercised by the cities and service areas until the new municipality assumes the powers and functions, which may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, procedures, and orders in effect before the transfer remain in effect until superseded by the action of the new municipality.

(b) Before the assumption, the new municipality shall give written notice of its assumption of the rights, powers, duties, assets, and liabilities under this section and AS 29.05.130 to the city or service area concerned. Municipal officials shall consult with the officials of the city or service area concerned and arrange an orderly transfer.

(c) After the incorporation of a new municipality, a service area in it may not assume new bonded indebtedness, make a contract, or transfer an asset without the consent of the governing body.

(d) Upon incorporation, the home rule charter of a unified municipality operates to dissolve all municipalities in the area unified in accordance with the charter.

(e) Unless the incorporation takes effect on January 1, the newly incorporated municipality may not levy property taxes before January 1 of the year immediately following the year in which the incorporation takes effect.

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

Effect of amendments. The 2004 amendment, effective July 5, 2004 added subsection (f). The 1994 amendment, effective August 22, 1994, added present subsection (d).

Sec. 29.05.150. Challenge of legality.

A person may not challenge the formation of a municipality except within six months after the date of its incorporation. (§ 4 ch 74 SLA 1985)

Article 3. Transitional Assistance.

Section

Sec. 29.05.180. Organization grants to cities.

(a) To defray the cost of transition to city government and to provide for interim government operations, each city incorporated after December 31, 1985 is entitled to an organization grant of $50,000 for the first full or partial fiscal year after incorporation.

(b) To defray the cost of reclassification, each second class city in the unorganized borough incorporated before January 1, 1986 that reclassifies as a first class city or adopts a home rule charter after December 31, 1985 is entitled to an organization grant equal to $50,000 for the first full or partial fiscal year after reclassification.

(c) The department shall disburse an organization grant under (a) or (b) of this section within 30 days after certification of the incorporation, reclassification, or home rule charter election, or as soon after certification as money is appropriated and available for the purpose.

(d) A city entitled to an organization grant under (a) or (b) of this section is entitled to a second organization grant of $25,000. The department shall disburse the second organization grant within 30 days after the beginning of the city's second fiscal year after incorporation, reclassification, or adoption of a home rule charter or as soon after that time as money is appropriated and available for the purpose. (§ 4 ch 74 SLA 1985)

Sec. 29.05.190. Organization grants to boroughs and unified municipalities.

(a) For the purpose of defraying the cost of transition to borough government and to provide for interim governmental operations, each borough or unified municipality incorporated after December 31, 1985, is entitled to organization grants as follows:

(1) $300,000 for the municipality's first full or partial fiscal year;

(2) $200,000 for the municipality's second fiscal year; and

(3) $100,000 for the municipality's third fiscal year.

(b) The department shall disburse the first organization grant to a borough or unified municipality within 30 days after certification of the election favoring incorporation, or as soon after that as money is appropriated and available for the purpose. The second grant shall be disbursed within 30 days after the beginning of the municipality's second fiscal year, or as soon after that as money is appropriated and available for the purpose. The third grant shall be disbursed within 30 days after the

beginning of the municipality's third fiscal year, or as soon after that as money is appropriated and available for the purpose.

(c) Except as provided in (d) of this section, this section does not apply to a borough incorporated by consolidation or to a unified municipality that occupies the area formerly occupied by a borough.

(d) For the purpose of defraying the cost of government transition, each third class borough that merges or consolidates with a city after January 1, 2002, and each municipality that unifies after January 1, 2002, in an area formerly occupied by a third class borough is entitled to an organization grant of $200,000 for the municipality's first full or partial fiscal year after the merger or consolidation or after unification. (§ 4 ch 74 SLA 1985; am § 12 ch 58 SLA 1994; am §§ 1, 2 ch 53 SLA 2002)

Effect of amendments. The 2002 amendment, effective September 17, 2002, added the exception language at the beginning of subsection (c) and added subsection (d). The 1994 amendment, effective August 22, 1994, inserted “or unified municipality” in the introductory language of subsection (a) and in the first sentence of subsection (b); substituted “municipality’s” for “borough’s” in paragraphs (a)(1)-(a)(3) and in the second and third sentences of subsection (b); substituted “the election favoring incorporation” for “the incorporation election favoring incorporation of a borough” in the first sentence in subsection (b); and, in subsection (c), added “that occupies the area formerly occupied by a borough” to the end.

Sec. 29.05.200. Organization grant fund.

(a) The organization grant program is established in the department. An appropriation made to the program shall be used for organization grants to municipalities that qualify under AS 29.05.180 or 29.05.190.

(b) Before August 31 of each fiscal year the department shall submit a report to the office of management and budget indicating

(1) each municipality expected to qualify to receive an organization grant during the next fiscal year;

(2) the amount of money needed to cover all organization grants expected to be awarded during the next fiscal year. (§ 4 ch 74 SLA 1985; am § 1 ch 43 SLA 1997; am § 22 ch 12 SLA 2006)

Effect of amendments. The 2006 amendment, effective April 4, 2006, amended subsection (b) by deleting Department of Administration and inserting office of management and budget. The 1997 amendment, effective July 1, 1997, substituted “program” for “fund” in two places in subsection (a).

Sec. 29.05.210. Transitional assistance to boroughs and unified municipalities.

(a) Within 30 days after the date of incorporation of a borough or unified municipality incorporated after December 31, 1985, the department shall determine the population of the borough or unified municipality.

(b) The department shall provide assistance to each borough and unified municipality incorporated after December 31, 1985, in

(1) establishing the initial sales and use tax assessment and collection department if the borough or unified municipality has adopted a sales or use tax;

(2) determining the initial property tax assessment roll if the borough or unified municipality has adopted a property tax, including contracting for appraisals of property needed to complete the initial assessment.

(c) This section does not apply to a borough incorporated by consolidation or to a unified municipality that occupies the area formerly occupied by a borough. (§ 4 ch 74 SLA 1985; am § 13 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, inserted "or unified municipality" in two places in subsection (a) and in one place in paragraphs (b)(1) and (b)(2), inserted "and unified municipality" in the introductory language of subsection (b), and added "that occupies the area formerly occupied by a borough" at the end of subsection (c).

Chapter 06. Alteration of Municipalities.

Article

Article 1. Change of Name.

Section

Sec. 29.06.010. Change of municipal name.

(a) A municipality may change its official name by adopting an ordinance for the purpose that is ratified by the voters and filing the ordinance with the office of the lieutenant governor. Upon receipt of an ordinance ratified by the voters, the lieutenant governor shall issue an order to the municipality changing its name. The name change shall become effective on a date fixed in the order and occurring within 45 days after receipt of the ordinance. A copy of the order shall be transmitted to the department.

(b) If an ordinance adopted under (a) of this section that results in a change of the municipal name is subsequently repealed, the lieutenant governor shall issue an order reinstating the former name within 45 days after the date of the order, unless a different name is adopted as provided in (a) of this section.

(c) When a municipal name change takes effect by means of an order issued under (a) or (b) of this section, a civil or criminal suit, application, petition, hearing or other proceeding to which the municipality is a party and that is pending at or brought after the date the name change takes effect shall proceed in the municipal name as changed by the order.

(d) This section applies to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Article 2. Annexation and Detachment.

Section

Sec. 29.06.040. Municipal boundary changes.

(a) The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed changed. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under the AS 44.62 (Administrative Procedure Act).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

(1) a proposed annexation must be approved by a majority of votes on the question cast by voters residing in the annexing municipality;

(2) a proposed annexation or detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(3) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(4) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 5 ch 74 SLA 1985; am § 14 ch 58 SLA 1994; am § 36 ch 30 SLA 1996; am § 29 ch 58 SLA 1999; am §3 ch 86 SLA 1999; (§3 ch 46 SLA 2006))

Effect of amendments. The 2006 amendment, effective May 28, 2006, added a new subsection (c)(1) "a proposed annexation must be approved by a majority of votes on the question cast by voters residing in the annexing municipality;" renumbered subsection (c)(1) [now(c)(2)], renumbered subsection (c)(2) [now(c)(3)], renumbered subsection (c)(3) [now(c)(4)], and amended subsection (c)(2) to clarify annexation "or" detachment is subject to the provisions of (c)(2). The first 1999 amendment, effective July 1, 1999, substituted AS 44.33.812 for AS 44.47.567 in the first part of subsection (c) The second 1999 amendment, effective September 28, 1999, made changes to subsection (a). The 1996 amendment, effective May 16, 1996, inserted "must" in the second sentence of subsection (c). The 1994 amendment, effective August 22, 1994, in subsection (a), in the second sentence, substituted "amend" for "alter the boundaries" and deleted "as altered" at the end.

Sec. 29.06.050. Annexation of military reservations.

A military reservation may be annexed to a municipality in the same manner as prescribed for other territory under AS 29.06.040. If a city in a borough annexes a military reservation under this section, the area encompassing the military reservation automatically is annexed to the borough in which the city is located. (§ 5 ch 74 SLA 1985)

Sec. 29.06.055. Property taxes in annexed or detached areas.

(a) Unless the annexation takes effect on January 1, the annexing municipality may not levy property taxes in an annexed area before January 1 of the year immediately following the year in which the annexation takes effect. However, notwithstanding other provisions of law, the municipality may provide services in the annexed area that are funded wholly or partially with property taxes during the period before the municipality may levy property taxes in the annexed area.

(b) If an area is detached from a municipality, all property taxes that are levied by that municipality on property in the detached area based on an assessment that occurred before the effective date of the detachment remain valid. AS 29.45.290 - 29.45.500 apply to the enforcement of those taxes. (§ 2 ch 012 SLA 2004)

Sec. 29.06.060. Application.

AS 29.06.040 - 29.06.060 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Article 3. Merger and Consolidation.

Section

Sec. 29.06.090. Merger and consolidation.

(a) Two or more municipalities may merge or consolidate to form a single general law or home rule municipality, except a third class borough may not be formed through merger or consolidation.

(b) Two methods may be used to initiate merger or consolidation of municipalities:

(1) petition to the Local Boundary Commission under regulations adopted by the commission; or

(2) the local option method specified in AS 29.06.100 – 29.06.160. (§ 5 ch 74 SLA 1985; am § 15 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, inserted “general law or home rule” in subsection (a).

Sec. 29.06.100. Petition.

(a) Residents of two or more municipalities may file a merger or consolidation petition with the department. The petition must be signed by a number of voters of each existing municipality equal to at least 25 percent of the number of votes cast in each municipality's last regular election.

(b) The petition includes

(1) the name and class of each existing municipality;

(2) the name and class of the proposed municipality;

(3) the proposed composition and apportionment of the governing body;

(4) maps, documents, and other information that shows that the proposed municipality meets the standards for municipal incorporation;

(5) for a home rule municipality, a proposed home rule charter. (§ 5 ch 74 SLA 1985; am § 16 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, added paragraph (b)(5) and made a related stylistic change.

Sec. 29.06.110. Review.

(a) The department shall review a merger or consolidation petition for content and signatures and shall return a deficient petition for correction or completion.

(b) If the petition contains the required information and signatures, the department shall investigate the proposal.

(c) The department shall report its findings to the Local Boundary Commission with its recommendations regarding the merger or consolidation. (§ 5 ch 74 SLA 1985)

Sec. 29.06.120. Hearing.

After receipt of the report by the department on a merger or consolidation petition, the Local Boundary Commission shall hold at least one public hearing in each of the existing municipalities included in the petition, unless officials of the municipalities agree to a single hearing. (§ 5 ch 74 SLA 1985)

Sec. 29.06.130. Decision.

(a) The Local Boundary Commission may amend the petition and may impose conditions for the merger or consolidation. If the commission determines that the merger or consolidation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, the municipality after the merger or consolidation would meet the standards for incorporation under AS 29.05.011 or 29.05.031, and the merger or consolidation is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under the AS 44.62 (Administrative Procedure Act). (§ 5 ch 74 SLA 1985; am § 17 ch 58 SLA 1994; am §4 ch 86 SLA 1999)

Effect of amendments. The 1999 amendment, effective September 28, 1999, rewrote subsection (a). The 1994 amendment, effective August 22, 1994, in subsection (a), substituted "may accept the petition or amend" for "shall accept the petition" in the second sentence, deleted "If the commission determines that the proposed boundaries or the composition and apportionment of the governing body can be altered to meet the standards, it may alter the

proposal" preceding "and accept the petition" in the former third sentence, and made a related stylistic change.

Sec. 29.06.140. Election.

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a merger or consolidation petition. Within 30 days after notification, the director of elections shall order an election in the area to be included in the new municipality to determine whether the voters desire merger or consolidation. The election shall be held not less than 30 or more than 90 days after the election order. A voter who is a resident of the area to be included in the proposed municipality may vote.

(b) A home rule charter in a merger or consolidation petition submitted under AS 29.06.100(b)(5) is part of the merger or consolidation question. The charter is adopted if the voters approve the merger or consolidation. The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(c) The director of elections shall certify the election results. If merger or consolidation is approved, the director of elections shall, within 10 days, set a date for election of officials of the new municipality. The election date shall be not less than 60 or more than 90 days after the election order and it is the effective date for the merger or consolidation. (§ 5 ch 74 SLA 1985; am § 18 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, added the present first and second sentences in subsection (b).

Sec. 29.06.150. Succession to rights and liabilities.

(a) When two or more municipalities merge, one succeeds to the rights, powers, duties, assets, and liabilities of the others.

(b) When two or more municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets, and liabilities of the consolidated municipalities. (§ 5 ch 74 SLA 1985)

Sec. 29.06.160. Transition.

After merger or consolidation, the ordinances, resolutions, regulations, procedures, and orders of the former municipalities remain in force in their respective territories until superseded by the action of the new municipality. (§ 5 ch 74 SLA 1985)

Sec. 29.06.170. Application.

AS 29.06.090 - 29.06.170 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Article 4. Unification of Municipalities.

Section

Sec. 29.06.190. Unification of municipalities authorized.

(a) A borough and all cities in the borough may unite to form a single unit of home rule government by complying with AS 29.06.190 — 29.06.410.

(b) An area that is not incorporated as a borough, including any cities in the area, may incorporate as a unified municipality under AS 29.05.031. (§ 5 ch 74 SLA 1985; am § 19 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, added subsection (b).

Sec. 29.06.200. Unification petition.

(a) Formation of a charter commission to prepare a unification charter shall be proposed by resolution of the assembly or by petition. The question of formation of a charter commission may be submitted to the voters not more often than once every 24 months.

(b) An assembly, a council, or a person living in the area proposed for unification may initiate a unification petition.

(c) In a general law borough, a unification petition shall be prepared by the borough clerk upon receipt of an application meeting the requirements of AS 29.26.110, except that instead of containing an ordinance or resolution the application shall contain the question under AS 29.06.210(a). The petition shall be prepared in accordance with AS 29.26.120, except material required under (a)(1) and (2) of that section shall be replaced with the question under AS 29.06.210(a). The signature requirements of AS 29.26.130(a), (c), and (d) apply to a unification petition. The completed petition shall be submitted to the clerk who shall deliver it to the assembly with a report of the number of valid signatures determined by the clerk to be on the petition. (§ 5 ch 74 SLA 1985; am § 2 ch 80 SLA 1989; am § 1 ch 93 SLA 1989)

Effect of Amendments. The first 1989 amendment, effective August 30, 1989, added subsection (c). The second 1989 amendment, effective September 1, 1989, substituted "The question of" for "A resolution to propose," "submitted to the voters" for "adopted," and "24 months" for "12 months" in the second sentence of subsection (a).

Sec. 29.06.210. Petition requirements.

(a) A unification petition shall read: "PETITION FOR ELECTION OF CHARTER COMMISSION TO PROPOSE UNIFICATION CHARTER. We, the undersigned, qualified voters of the borough do hereby petition that the following proposition be placed before the voters as provided by law: 'Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting the borough and all cities within it as a single unit of home rule government having the powers, duties and functions of a unified municipality as authorized by law? Yes [ ] No [ ]'

		Inside First Class or	Outside First Class or
Signature	Address	Home Rule City [ ]	Home Rule City [ ]"

(b) The petition shall be signed by at least

(1) the number of voters residing outside all home rule and first class cities in the borough equal to 25 percent of the votes cast in that area in the last regular borough election; and

(2) the number of voters residing in each home rule and first class city in the borough equal to 25 percent of the votes cast in each of these cities in the last regular borough election. (§ 5 ch 74 SLA 1985; am § 2 ch 93 SLA 1989)

Effect of Amendments. The 1989 amendment, effective September 1, 1989, rewrote paragraph (2) of subsection (b).

Sec. 29.06.220. Review of petition.

The assembly shall review a unification petition within 15 days to determine whether it complies with AS 29.06.210. If the petition does not meet the designated requirements, it shall be immediately returned to the person who initiated the petition with a statement indicating which requirements have not been satisfied. (§ 5 ch 74 SLA 1985)

Sec. 29.06.230. Duties of charter commission.

The charter commission shall prepare, adopt, and submit to the voters for approval or rejection a proposed home rule charter for the area to be unified. (§ 5 ch 74 SLA 1985)

Sec. 29.06.240. Composition of charter commission.

The charter commission shall consist of 11 voters, three of whom are residents elected at large from the borough and eight of whom, proportionate to the population as determined by the department, are

(1) residents of and elected from the area outside all home rule and first class cities in the borough; or,

(2) residents of and elected from home rule or first class cities in the borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.250. Charter commission nominations.

(a) If the assembly determines that a unification petition meets the requirements of AS 29.06.210, or the assembly by its resolution proposes an election on formation of a charter commission, the assembly shall issue a call for the nomination of commission candidates, specifying the filing deadline and the procedure for making nominations.

(b) Charter commission candidates shall be nominated by petition signed by at least 50 voters of the area from which the candidate seeks election, or by a number of voters from that area equal to at least 10 percent of the number of votes cast from that area in the last regular borough election, whichever is less.

(c) Nomination petitions shall be filed with the borough clerk at least 30 days after notice of the call for nominations has been given and on or before a date fixed by the assembly.

(d) If at least one nomination of a qualified charter commission candidate for each available seat is not filed, the unification petition or resolution to propose formation of a charter commission is void and an election on the question may not be held. (§ 5 ch 74 SLA 1985)

Sec. 29.06.260. Qualifications of candidates.

A person is eligible to be nominated as a candidate for the charter commission if that person is a voter of the area from which election is sought and has been a voter of the area for at least one year immediately preceding the date the nomination petition is filed. (§ 5 ch 74 SLA 1985)

Sec. 29.06.270. Election of charter commission.

(a) After receipt of a valid unification petition or adoption of an assembly resolution to propose formation of a charter commission, the assembly shall submit to the voters the question of whether a charter commission shall be formed to prepare a proposed unification charter. The vote shall be held at the next regular borough election scheduled at least 90 days after receipt of the petition or adoption of the resolution. The ballot shall be worded exactly as in AS 29.06.210(a).

(b) The election of charter commission members shall take place at the same time as the election on the question of formation of the commission.

(c) All costs incurred in conducting an election under AS 29.06.190 - 29.06.410 shall be paid by the borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.280. Requirements for approval of formation and election of charter commission.

(a) The votes on the question of formation of a charter commission shall be tabulated in separate classifications. If the question is approved by majority vote in each home rule and first class city in the borough and by a majority vote in the area of the borough outside of all home rule or first class cities, the question is approved. If the question is not approved by majority vote in each home rule and first class city, a favorable vote by at least 55 percent of all the voters voting on the question in home rule and first class cities and by a majority of the voters outside those cities constitutes approval of the question.

(b) If formation of a charter commission is approved, the candidates who received the highest number of votes from their respective areas shall serve as members of the commission. (§ 5 ch 74 SLA 1985; am § 3 ch 93 SLA 1989)

Effect of amendments. The 1989 amendment, effective September 1, 1989, rewrote subsection (a).

Sec. 29.06.290. Charter commission organization and procedure.

(a) The charter commission shall hold its first meeting within 30 days after certification of its election. The commission shall elect from among its members a chairman and a deputy chairman.

(b) A majority of the total membership of the charter commission constitutes a quorum. A decision of the commission is not valid or binding unless approved by the number of members necessary to constitute a quorum.

(c) The charter commission may elect other officials from among its membership, adopt rules governing its procedures that are consistent with AS 29.06.190 - 29.06.410 and hire and discharge employees.

(d) Meetings of the charter commission shall be open to the public at all times. A journal of commission proceedings shall be kept and made available for public inspection at the borough office. (§ 5 ch 74 SLA 1985)

Sec. 29.06.300. Vacancies.

(a) Vacancies on the charter commission shall be filled by a majority vote of the commission, except the assembly shall appoint members to fill vacancies if, after a proposed charter is rejected by the voters, more than one-half of the members resign.

(b) A person who fills a vacancy on the charter commission must be a voter of the same area as the person succeeded and must have been a voter of that area for at least one year immediately preceding the date the vacancy is filled. (§ 5 ch 74 SLA 1985)

Sec. 29.06.310. Per diem.

The assembly may grant a per diem allowance to members of the charter commission and may reimburse the members for travel expenses incurred in carrying out the duties prescribed by AS 29.06.190 - 29.06.410. Costs, fees, and other expenses incurred by the commission are a debt of the borough and shall be paid upon proper verification. (§ 5 ch 74 SLA 1985)

Sec. 29.06.320. Charter provisions.

The charter must include

(1) provision for

(A) the adjustment of existing bonded indebtedness and other obligations in a manner that will assure a fair and equitable burden of taxation for debt service, subject to AS 29.06.380;

(B) the establishment of service areas;

(C) if election of members of the governing body is not areawide, the establishment of districts for the election of members of the governing body of the proposed unified municipality and procedures by which to reapportion the election districts;

(D) the reapportionment of districts if they are established;

(E) nonpartisan government, and the selection, organization, authority, and responsibilities of the governing body and its executive and administrator;

(F) the transfer or other disposition of property and other rights, claims, assets, and franchises of the municipalities to be unified under the charter;

(G) the exercise of the rights of initiative and referendum in accordance with AS 29.10.030;

(H) amending the charter in accordance with AS 29.10.100;

(2) the date on which the charter, if approved at the charter election, is effective;

(3) designation of the proposed unified municipality's official name; and

(4) other charter provisions that may be included in a home rule charter. (§ 5 ch 74 SLA 1985)

Sec. 29.06.330. Public hearings.

Both before and after drafting the proposed home rule charter, the charter commission shall hold a public hearing in each area represented on the assembly. Other public hearings may be held by the commission as it considers necessary. (§ 5 ch 74 SLA 1985)

Sec. 29.06.340. Filing of proposed charter.

Upon the adoption of a proposed home rule charter by the charter commission, the charter shall be signed by at least a majority of the total membership of the commission and shall be filed with the borough clerk. A copy of the charter with signatures affixed shall also be filed with the clerk of each city in the borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.350. Publication and posting of proposed charter.

Within 10 days after filing the proposed home rule charter, the borough clerk shall have it published. In addition, the clerk shall have a copy of the proposed charter posted in at least three public places in each city and each unincorporated community in the borough. Copies of the proposed charter shall be made available by the assembly to the public at both the office of the borough clerk and the office of the clerk of each city in the borough. The clerk shall have notice of the publication, posting, and availability of the proposed charter published. (§ 5 ch 74 SLA 1985)

Sec. 29.06.360. Election on charter.

(a) The proposed home rule charter adopted by the charter commission shall be submitted to the voters at a borough election held within 60 days of the date of publication and posting of the proposed charter. The borough clerk shall prepare the ballots for use in the election and shall give notice of the election by radio and television in a manner intended to apprise the entire borough population of the election. The election shall be conducted under procedures applicable to regular elections.

(b) A person who is a voter of the borough may vote in the election on the proposed charter.

(c) If the charter is approved by a majority of the votes in each home rule and first class city in the borough and the charter is approved by a majority of all the votes in the area of the borough outside all home rule or first class cities, the charter is ratified. If the

charter is not approved by a majority of the votes in each home rule and first class city, the charter is ratified only if at least 55 percent of all the voters voting on the question in home rule and first class cities approve it and if a majority of the voters outside those cities approve it. If the charter is ratified, election results shall be certified to the commission and two copies of the charter shall be filed with

(1) the lieutenant governor;

(2) the department;

(3) the district recorder for the area of the borough;

(4) the clerk of the borough;

(5) the clerk of each city in the borough.

(d) If a proposed charter is rejected, the charter commission shall prepare, adopt, and submit another proposed charter to the voters at a borough election held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the question of unification shall be treated as if it had never been proposed or approved. (§ 5 ch 74 SLA 1985; am § 4 ch 93 SLA 1989)

Effect of amendments. The 1989 amendment, effective September 1, 1989, in subsection (c), rewrote the first sentence and added the second sentence.

Sec. 29.06.370. Effect of the charter after ratification.

Upon ratification, the home rule charter of a unified municipality operates to dissolve all municipalities in the area unified in accordance with the charter. (§ 5 ch 74 SLA 1985)

Sec. 29.06.380. Succession to assets and liabilities; bonded indebtedness.

A unified municipality shall succeed to all the assets and liabilities of the municipalities it unified. A bonded indebtedness or other debt incurred before unification remains the tax obligation of the area that contracted the debt, except that by ordinance the tax obligation may be assumed by a larger area if the governing body determines that the asset for which the bonded indebtedness or other debt was incurred benefited the larger area before unification, or benefits the larger area after unification. However, bonded indebtedness or other debt for sewage collection systems, water distribution systems, and streets, even if determined to be benefiting a larger area than that which incurred the debt, remains the tax obligation of the area that incurred the debt. (§ 5 ch 74 SLA 1985)

Sec. 29.06.390. Transition.

Within two years after ratification of the home rule charter, the unified municipality shall revise, repeal, or reaffirm all municipal ordinances, resolutions, and orders in effect in the area of the unified municipality on the date of unification. Each ordinance, resolution, regulation, or order in effect on the date of unification remains in effect until superseded by action of the unified municipality. (§ 5 ch 74 SLA 1985)

Sec. 29.06.400. Right to state and federal aid.

All provisions of law authorizing aid from the state or federal government to a former municipality that was in the area of a unified municipality remain in effect after unification. (§ 5 ch 74 SLA 1985)

Sec. 29.06.410. Powers of a unified municipality.

A municipality unified under AS 29.06.190 – 29.06.410 has all powers

(1) not prohibited by law or charter; and

(2) granted to a home rule borough. (§ 5 ch 74 SLA 1985)

Sec. 29.06.420. Application.

AS 29.06.190 – 29.06.420 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Article 5. Dissolution.

Section

Sec. 29.06.450. Methods of dissolution.

(a) Two petition methods may be used to initiate dissolution of a municipality:

(1) petition to the Local Boundary Commission under regulations adopted by the commission; or

(2) the local option method specified in AS 29.06.460 - 29.06.510.

(b) The department shall investigate a municipality that it considers to be inactive and shall report to the Local Boundary Commission on the status of the municipality. The commission may submit its recommendation to the legislature that the municipality be dissolved in the manner provided for submission of boundary changes in art. X, sec. 12 of the state constitution.

(c) A borough is dissolved when its entire territory is included in a home rule or first class city or cities. A city is dissolved when all its powers become areawide borough powers. (§ 5 ch 74 SLA 1985)

Sec. 29.06.460. Petition.

(a) Voters of a municipality may file a dissolution petition with the department in the form prescribed by the department. The petition must be signed by a number of voters equal to at least 25 percent of the number of votes cast in the last regular election in that municipality.

(b) The petition must include

(1) the name of the municipality;

(2) maps, documents, and other information showing that the municipality meets the standards for dissolution. (§ 5 ch 74 SLA 1985)

Sec. 29.06.470. Standards.

(a) Except as provided in (b) of this section, voters of a municipality may petition for dissolution when the municipality is free of debt, or, if in debt, each of its creditors is satisfied with a method of repayment and

(1) the municipality no longer meets the minimum standards prescribed for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

(2) the municipality ceases to use each of its mandatory powers; or

(3) the dissolution petition filed under AS 29.06.460 is signed by a number of voters of the municipality proposed to be dissolved greater than 50 percent of the number of votes cast in the last regular election in that municipality.

(b) Voters of a city in a borough may petition for dissolution of the city if the borough consents to assume the city's rights, powers, duties, assets, and liabilities. The consent must be ratified by a majority of borough voters voting on the question. (§ 5 ch 74 SLA 1985; am § 1 ch 35 SLA 1988; am § 20 ch 58 SLA 1994)

Effect of Amendments. The 1994 amendment, effective August 22, 1994, substituted “last regular election” for “last general election” in paragraph (a)(3). The 1988 amendment, in subsection (a), substituted "the municipality" for "it" in paragraph (1), deleted "or" at the end of paragraph (1), added "or" at the end of paragraph (2), and added paragraph (3).

Sec. 29.06.480. Review.

(a) The department shall review a dissolution petition for content and signatures, and shall return a deficient petition for correction or completion.

(b) If the petition contains the required information and signatures, the department shall investigate the proposal. (§ 5 ch 74 SLA 1985)

Sec. 29.06.490. Report and hearing.

(a) The department shall report its findings to the Local Boundary Commission with its recommendation regarding the dissolution of a municipality.

(b) The Local Boundary Commission shall hold at least one public hearing in the municipality proposed to be dissolved. (§ 5 ch 74 SLA 1985)

Sec. 29.06.500. Decision.

(a) The Local Boundary Commission may amend the petition and may impose conditions for the dissolution. If the commission determines that the dissolution, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for dissolution under AS 29.06.470, and is in the best interests of the state, it may accept the petition. Otherwise it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under AS 44.62 (Administrative Procedure Act). (§ 5 ch 74 SLA 1985; am § 2 ch 35 SLA 1988; am § 21 ch 58 SLA 1994; am §5 ch 86 SLA 1999)

Revisor's notes. In 1988, preceding the phrase "meets the standards" in the third sentence of (a) of this section, the word "petition" was substituted for "municipality" to correct a manifest error in ch 35 SLA 1988.

Effect of amendments. The 1999 amendment, effective September 28, 1999, rewrote subsection (a). The 1988 amendment, in subsection (a), inserted "under AS 29.06.470(a)(1) or (2)" in the second sentence and added the third sentence. The 1994 amendment, effective

August 22, 1994, in subsection (a), deleted the former second sentence, relating to municipality standards under AS 29.06.470(a)(1) or (2), made a section reference substitution in the present second sentence, and added the last sentence.

Sec. 29.06.510. Election.

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of a dissolution petition. Within 30 days after notification, the director of elections shall order an election in the municipality to determine whether the voters desire dissolution. The election must be held at least 30 and not more than 90 days after the election order unless such timing would cause the election to be held between May 1 and November 1. If the director of elections receives notification after April 1, but before October 1, the election shall be held within 60 days after November 1. A person who is a voter of the municipality may vote in the dissolution election.

(b) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(c) The director of elections shall certify the election results. If dissolution is approved by a number of voters greater than 50 percent of the number of people registered to vote in the municipality, the director of elections shall declare that the municipality is dissolved effective on the date of certification. (§ 5 ch 74 SLA 1985; am §§ 3, 4 ch 35 SLA 1988)

Effect of amendments. The 1988 amendment inserted "by a number of voters greater than 50 percent of the number of people registered to vote in the municipality" in the second sentence in subsection (c) and, in subsection (a), added "unless such timing would cause the election to be held between May 1 and November 1" at the end of the third sentence and inserted the fourth sentence.

Sec. 29.06.520. Succession.

A municipality succeeding to a dissolved municipality succeeds to all rights, powers, duties, assets, and liabilities of the dissolved municipality. Otherwise, the state succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds to a dissolved municipality, the state may enter into a contract for the performance of duties or powers in the area of the dissolved municipality. However, a contract with an organization for the performance of duties or powers entered into under this section does not constitute recognition by the state of governmental powers of that organization. (§ 5 ch 74 SLA 1985; am § 5 ch 35 SLA 1988; am § 22 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, inserted “rights, powers, duties” in the first and second sentences and made related stylistic changes. The 1988 amendment added the last three sentences and rewrote the first sentence, which read "The government succeeding to a dissolved municipality succeeds to all its rights, powers, duties, assets, and liabilities."

Sec. 29.06.530. Application.

AS 29.06.450 – 29.06.530 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Chapter 10. Home Rule Municipalities.

Article 1. Charters.

Sec. 29.10.010. Municipal charter adoption.

(a) A general law borough or first class city may adopt a charter for its own government.

(b) *[Repealed, § 31 ch 58 SLA 1994]*

(c) At an incorporation, merger, or consolidation election a municipality may adopt a charter for its own government and incorporate, merge, or consolidate as a home rule city, borough, or unified municipality.

(d) A home rule municipality may adopt a new charter.

(e) A proposed charter for an existing municipality is prepared by a charter commission of seven elected members. A charter commission election is called by filing a petition with the governing body or by resolution of the governing body. The petition shall be signed by a number of voters equal to 15 percent of the votes cast in the last regular election in the municipality. The petition shall be prepared by the municipal clerk upon receipt of an application meeting the requirements of AS 29.26.110 except that instead of containing an ordinance or resolution the application shall request a charter commission election. The petition shall be prepared in accordance with AS 29.26.120, except material required under AS 29.26.120(a)(1) and (2) shall be replaced with the question of whether a charter commission shall be formed. The signature requirements of AS 29.26.130(a), (c), and (d) apply to the petition. The completed petition shall be submitted to the clerk who shall deliver it to the governing body with a report of a number of valid signatures determined by the clerk to be on the petition.

(f) The proposed charter for a home rule municipality to be formed by incorporation, merger, or consolidation shall be prepared by the petitioners and filed with the petition to incorporate, merge, or consolidate a home rule city, borough, or unified municipality. (§ 6 ch 74 SLA 1985; am § 3 ch 80 SLA 1989; am §§ 23, 24, 31 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, repealed subsection (b), relating to second class city charter adoptions and rewrote subsections (c) and (f). The 1989 amendment, effective August 30, 1989, added the last four sentences in subsection (e).

Sec. 29.10.020. Model charters.

The department shall prepare at least one model home rule charter for a city, borough, and unified municipality. The model charters shall be made available to persons interested in filing a petition to form a home rule municipality under AS 29.05.060 or AS 29.06.090. (§ 6 ch 74 SLA 1985; am § 25 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, substituted "for a city, borough, and unified municipality" for "for a borough" in the first sentence, and, in the second sentence, substituted "charters" for "charter," "form" for "incorporate," and "municipality" for "borough" and added a section reference.

Sec. 29.10.030. Initiative and referendum.

(a) A home rule charter shall provide procedures for initiative and referendum.

(b) A charter may not require an initiative or referendum petition to have a number of signatures greater than 25 percent of the total votes cast in the municipality at the last regular election.

(c) A charter may not permit the initiative and referendum to be used for a purpose prohibited by art. XI, § 7 of the state constitution. (§ 6 ch 74 SLA 1985)

Sec. 29.10.040. Charter commission candidates.

(a) A candidate for a charter commission of an existing municipality shall have been qualified to vote in municipality for at least one year immediately preceding the charter commission election.

(b) A charter commission candidate is nominated by a petition signed by at least 50 voters or the number of voters equal to 10 percent of the number of votes cast in the municipality during the last regular election, whichever is less. A nomination petition shall be filed with the municipal clerk on or before a date fixed by the governing body.

(c) If at least seven nominations for qualified charter commission candidates are not filed, the petition or resolution calling for a charter commission is void and an election on the question may not be held. (§ 6 ch 74 SLA 1985; am § 43 ch 37 SLA 1986)

Sec. 29.10.050. Charter commission election.

At a charter commission election the voters of an existing municipality shall consider the question "Shall a charter commission be elected to prepare a proposed charter?" and shall elect the members of the commission. If the question is approved, the seven candidates receiving the highest number of votes immediately organize as a charter commission. (§ 6 ch 74 SLA 1985)

Sec. 29.10.060. Preparation of charter by charter commission.

The charter commission shall, within one year, prepare a proposed home rule charter for an existing municipality. The proposed charter shall be signed by a majority of the members of the commission and filed in the office of the municipal clerk. Within 15 days, the clerk shall have the proposed charter published and make copies available. The commission shall give published notice of and hold at least one public hearing on the proposed charter before the signing and filing of the charter. (§ 6 ch 74 SLA 1985)

Sec. 29.10.070. Charter election.

The proposed home rule charter for an existing municipality shall be submitted to the voters at an election held not less than 30 days or more than 90 days after the proposed charter is published. The proposed home rule charter for a home rule municipality to be formed by incorporation, merger, or consolidation shall be submitted to the voters at an election held under AS 29.05.110 or AS 29.06.140. (§ 6 ch 74 SLA 1985; am § 26 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, in the second sentence, substituted "a home rule municipality to be formed by incorporation, merger, or consolidation" for "an area in the unorganized borough," deleted "incorporation" preceding "election," and added a section reference at the end.

Sec. 29.10.080. Charter adoption.

(a) If a majority of those voting in an existing municipality favor the proposed charter or if a majority of those voting to form a home rule municipality by incorporation, merger, or consolidation favor incorporation, merger, or consolidation, the proposed charter becomes the organic law of the municipality effective on the date the election is certified. Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall file the indicated number of copies of the charter with

(1) the lieutenant governor – two copies;

(2) the department – two copies;

(3) the district recorder – one copy;

(4) the municipal clerk – one copy.

(b) At the time of voting on the proposed charter in a third class borough, voters shall vote also on whether the borough shall, on adoption of the charter, retain a combined assembly and school board or elect a separate assembly and board as otherwise provided for home rule boroughs. If a combined assembly and school board are approved at the charter election, the assembly serving at the time of the election continues to serve as the assembly and board on voter approval of the charter and until terms of assembly members expire as provided before adoption of the charter. If a separate board and assembly are approved at the charter election, a school board shall be elected in conformity with AS 14.12.030 – 14.12.100 at the next regular election, if it occurs within 90 days of the date of the charter election, or otherwise at a special election within 90 days of the date of the charter election. Expiration dates of terms of school board members elected at a special election shall coincide with the date of the regular election. Until a board is elected and qualified, the assembly continues to serve as the board. (§ 6 ch 74 SLA 1985; am § 27 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, in subsection (a), in the first sentence of the introductory language, substituted "to form a home rule municipality by incorporation, merger, or consolidation" for "in an area in the unorganized borough" and ", merger, or consolidation" for "of a home rule borough."

Sec. 29.10.090. Charter rejection.

(a) If a proposed charter for an existing municipality is rejected, the charter commission shall prepare another proposed charter to be submitted to the voters at an election to be held within one year after the date of the first charter election. If the second proposed charter is also rejected, the charter commission shall be dissolved and the

question of adoption of a charter shall be treated as if it had never been proposed or approved.

(b) If incorporation, merger, or consolidation of a home rule municipality is rejected by the voters, the proposed charter is rejected. (§ 6 ch 74 SLA 1985; am § 28 ch 58 SLA 1994)

Effect of amendments. The 1994 amendment, effective August 22, 1994, in subsection (b), inserted ", merger, or consolidation," substituted "municipality" for "borough," and deleted "in an area in the unorganized borough" following "rejected by the voters."

Sec. 29.10.100. Charter amendment.

(a) A home rule charter may be amended as provided in the charter, except that no amendment is effective unless ratified by the voters.

(b) If a charter is amended, the municipality shall file the indicated number of copies of the revised charter with

(1) the lieutenant governor – two copies;

(2) the department – two copies;

(3) the district recorder – one copy;

(4) the municipal clerk – one copy.

(c) This section applies to home rule municipalities. (§ 6 ch 74 SLA 1985; am § 29 ch 58 SLA 1994)

Revisor's notes. Subsection (b) was enacted as (c). Relettered in 1994, at which time former (b) was relettered as (c).

Effect of amendments. The 1994 amendment, effective August 22, 1994, added present subsection (b).

Article 2. Home Rule Limitations.

Section

200. Limitation of home rule powers

Sec. 29.10.200. Limitation of home rule powers.

Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. These provisions supersede existing and prohibit future home rule enactments that provide otherwise:

(1) AS 29.05.140 (transition);

(2) AS 29.06.010 (change of municipal name);

(3) AS 29.06.040 – 29.06.060 (annexation and detachment);

(4) AS 29.06.090 – 29.06.170 (merger and consolidation);

(5) AS 29.06.190 – 29.06.420 (unification of municipalities);

(6) AS 29.06.450 – 29.06.530 (dissolution);

(7) AS 29.10.100 (charter amendment);

(8) AS 29.20.010 (conflict of interest);

(9) AS 29.20.020 (meetings public);

(10) AS 29.20.050 (legislative power);

(11) AS 29.20.060 – 29.20.120 (assembly composition and apportionment);

(12) AS 29.20.140 (qualifications of members of governing bodies);

(13) AS 29.20.150 (term of office);
(14) AS 29.20.220 (executive power);
(15) AS 29.20.270(e) (ordinance veto by mayor);
(16) AS 29.20.630 (prohibited discrimination);
(17) AS 29.20.640 (reports);
(18) AS 29.25.010(a)(10) (municipal exemption on contractor bond requirements);
(19) AS 29.25.050 (codification);
(20) AS 29.25.060 (resolutions);
(21) AS 29.25.070(e) and (g) (penalties);
(22) AS 29.25.074 (surcharge);
(23) AS 29.25.080 (breast-feeding);
(24) AS 29.26.030 (notice of elections);
(25) AS 29.26.050 (voter qualification);
(26) AS 29.26.250 – 29.26.360 (recall);
(27) AS 29.35.020 (extraterritorial jurisdiction);
(28) AS 29.35.030 (eminent domain);
(29) AS 29.35.050 (a) – (c) (garbage and solid waste services);
(30) AS 29.35.055 (local air quality control program);
(31) AS 29.35.060 (franchises and permits);
(32) AS 29.35.070 (public utilities);
(33) AS 29.35.080 (alcoholic beverages);
(34) AS 29.35.090(b) (certain vacations of rights-of-way prohibited);
(35) AS 29.35.120 (annual audit);
(36) AS 29.35.125 (fees for police protection services);
(37) AS 29.35.131 – 29.35.137 (enhanced 911 system);
(38) AS 29.35.141 (regulation of radio antennas);
(39) AS 29.35.144 (sprinkler fire protection systems);
(40) AS 29.35.145 (regulation of firearms and knives);
(41) AS 29.35.146 (images captured by unmanned aircraft systems);
(42) AS 29.35.147 (licensing of massage therapists);
(43) AS 29.35.148 (regulation of transportation network companies or drivers);
(44) AS 29.35.149 (regulation of dextromethorphan);
(45) AS 29.35.160 (education);
(46) AS 29.35.170(b) (assessment and collection of taxes);
(47) AS 29.35.180(b) (land use regulation);
(48) AS 29.35.250 (cities inside boroughs);
(49) AS 29.35.260 (cities outside boroughs);
(50) AS 29.35.340 (acquisition of areawide power);
(51) AS 29.35.450 (service areas);
(52) AS 29.35.500 – 29.35.590 (hazardous materials and wastes);
(53) AS 29.40.160(a) – (c) (title to vacated areas);
(54) AS 29.40.200 (subdivisions of state land);
(55) AS 29.45.010 – 29.45.560 and 29.45.800 (property taxes);
(56) AS 29.45.650(c), (d), (e), (f), (i), (j), and (k) (sales and use tax);
(57) AS 29.45.700(d) (e), and (g) (sales and use tax);

(58) AS 29.45.750 (taxation of mobile telecommunications)
(59) AS 29.45.810 (exemption from municipal taxation);
(60) AS 29.46.010(b) (exemption from municipal assessment);
(61) AS 29.47.200(b) (security for bonds);
(62) AS 29.47.260 (revenue bonds);
(63) AS 29.47.470 (air carriers);
(64) AS 29.55.100 - 29.55.165 (energy improvement assessment programs);
(65) AS 29.65 (general grant land);
(66) AS 29.71.040 (procurement preference for state agricultural and fisheries products);
(67) AS 29.71.050 (procurement preference for recycled Alaska products).

(§ 6 ch 74 SLA 1985; am §§ 1, 2 ch 38 SLA 1986; am § 6 ch 70 SLA 1986; am § 12 ch 80 SLA 1986; am § 3 ch 108 SLA 1986; am § 49 ch 14 SLA 1987; am § 1 ch 30 SLA 1988; am § 2 ch 63 SLA 1988; am § 1 ch 64 SLA 1988; am § 3 ch 57 SLA 1993; am § 5 ch 74 SLA 1993; am § 1 ch 29 SLA 1994; am § 1 ch 75 SLA 1997; am § 7 ch 56 SLA 1998; am § 3 ch 78 SLA 1998; am § 4 ch 104 SLA 1998; am § 1 ch 107 SLA 1998; am §2 ch 94 SLA 1999; am §1 ch 19 SLA 2001; am §1 ch 31 SLA 2001; am §1 ch 111 SLA 2002; am §5 ch 100 SLA 2002; am §§ 1, 2 Ch 117 SLA 2003; am §§1, 2 ch 80 SLA 2005; am §1 ch 55 SLA 2005; am § 14 ch 12 SLA 2008; am § ch 40 SLA 2009; am § 43 ch 41 SLA 2009; am § 1 ch 26 SLA 2011; am § 4 ch 54 SLA 2013; am §3, ch105 SLA 2014; am §6 ch 114 SLA 2014; am §111 ch36 SLA 2016; am §2 ch 16 SLA 2016; am § 7 ch 10 SLA 2017; am § 1, ch 25 SLA 2017)

Revisor's notes. Reorganized in 1986, 1998, 2001, 2002, 2011, 2014, and 2017 to retain numerical order of the referenced provisions.

The reference to "AS 29.25.074" in paragraph (22) was substituted for "AS 29.25.072" in 1998 to reflect the 1998 renumbering of that section.

Effect of amendments. The 2003 amendment, effective September 16, 2003, added subsection references in paragraphs (51) and (52) [now (52) and (53)].

The first 2005 amendment, effective September 22, 2005, added section references in paragraph (37).

The second 2005 amendment, effective July 20, 2005, inserted subsection references in paragraphs (51) and (52) [now (52) and (53)].

The 2008 amendment, effective April 9, 2008, repealed paragraphs (59) and (60) [now (60) and (61)], which referred to AS 29.60.050(a) and AS 29.60.120 (a) and (c), respectively.

The first 2009 amendment, effective September 18, 2009, in (29) substituted "AS 29.35.050(a)-(c)" for "AS 29.35.050".

The second 2009 amendment, effective June 21, 2009, in (46) [now (47)], deleted "voter approval of alteration or abolishment of" preceding "service areas"; in (50) [now (51)], substituted "AS 29.45.010 – 29.45.560 and 29.45.800" for "AS 29.45.010 – 29.45.570"; in (57) [now (58)], substituted "(revenue bonds)" for "(construction)"; in (59) and (60) [now (60) and (61)], deleted repeal information, and redesignated (61) through (63) [now (62)-(64)] as (59) through (61) [now (60) – (62)] respectively.

The 2011 amendment, effective October 11, 2011, added (39).

The 2013 amendment, effective September 18, 2013, amended paragraph (40) to include knives.

The 2014 amendment added paragraphs (41) effective October 26, 2014 and (42) effective July 1, 2015 and renumbered the subsequent paragraphs.

The first 2016 amendment, effective May 1, 2016, added paragraph (65) [now (44)].

The second 2016 amendment, effective July 1, 2016, amended paragraph 21 to include subparagraph (g).

The first 2017 amendment, effective June 16, 2017 added paragraph (66) [now 43].

The second 2017 amendment, effective September 8, 2017, added (66) [now 64] and made a related change.

Chapter 20. Municipal Officers and Employees.

Article

Article 1. Conflict of Interest and Public Meetings.

Section

Sec. 29.20.010. Conflict of interest.

(a) Each municipality shall adopt a conflict of interest ordinance that provides that

(1) a member of the governing body shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;

(2) the presiding officer shall rule on a request by a member of the governing body to be excused from vote;

(3) the decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the governing body; and

(4) a municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

(b) If a municipality fails to adopt a conflict of interest ordinance by June 30, 1986, the provisions of this section are automatically applicable to and binding upon that municipality.

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Sec. 29.20.020. Meetings public.

(a) Meetings of all municipal bodies shall be public as provided in AS 44.62.310. The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings.

(b) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Article 2. Governing Bodies.

Section

Sec. 29.20.050. Legislative power.

(a) The legislative power of a borough is vested in the assembly. The legislative power of a city is vested in the council.

(b) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Sec. 29.20.060. Assembly composition and apportionment.

(a) Assembly composition and apportionment shall be consistent with the equal representation standards of the Constitution of the United States.

(b) The assembly of a newly incorporated borough is, after incorporation and until the adoption of an ordinance providing for a change in composition or apportionment, composed of the number of members and apportioned as set out in the incorporation petition approved by the voters. If the borough is already incorporated, the assembly shall be composed and apportioned in a manner that is consistent with the requirements of this section and prescribed by charter or ordinance.

(c) An assembly may not provide for weighted voting.

(d) A member of the assembly may not be elected or appointed by and from the council of a city in the borough.

(e) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Sec. 29.20.070. Assembly composition and form of representation.

(a) The assembly shall provide for its composition and for the form of its representation.

(b) Not later than the first regular election that occurs after adoption of a final state redistricting plan under art. VI, sec. 10, Constitution of the State of Alaska, the assembly shall propose and submit to the voters of the borough, at that regular election or at a special election called for the purpose, one or more forms of assembly representation. The forms of representation that the assembly may submit to the voters are:

(1) election of members of the assembly at large by the voters throughout the borough;

(2) election of members of the assembly by district, including

(A) election at large by the voters throughout the borough, but with a requirement that a candidate live in an election district established by the borough for election of assembly members; or

(B) election from election districts established by the borough for the election of assembly members by the voters of a district;

(3) election of members of the assembly both at large and by district.

(c) A form of assembly representation that includes election of assembly members under (b)(2) or (b)(3) of this section shall be submitted to the voters of the borough with a plan of apportionment as required by AS 29.20.080.

(d) The assembly shall, within 30 days after certification of the results of the election held under this section, adopt an ordinance providing for

(1) composition of the assembly;

(2) the form of assembly representation that received the most votes; and

(3) if applicable, the apportionment of assembly seats in accordance with the form of representation that received the most votes.

(e) This section applies to home rule and general law municipalities, except it does not apply to a

(1) unified municipality;

(2) home rule borough if the home rule charter contains procedures for changing assembly composition and form of representation. (§ 7 ch 74 SLA 1985; am § 84 ch 82 SLA 2000)

Effect of amendments. The 2000 amendment, effective July 1, 2000, substituted "adoption of a final state redistricting plan under art. VI. Sec. 10, Constitution of the State of Alaska" for "the report of a federal decennial census" in (b).

Sec. 29.20.080. Assembly recomposition and reapportionment.

(a) Not later than two months after adoption of a final state redistricting plan under art. VI, sec. 10, Constitution of the State of Alaska, the assembly shall determine and declare by resolution whether the existing apportionment of the assembly meets the standards of AS 29.20.060. If the assembly submits to the voters a form of representation that includes election of assembly members under AS 29.20.070(b)(2) or (3), the assembly shall submit with the proposition a proposed plan of apportionment that corresponds to the form of representation proposed. The assembly shall describe the plan of apportionment in the ballot proposition, and may present the plan in any manner that it believes accurately describes the apportionment that is proposed under the form of representation. If the assembly determines that its existing apportionment meets the standards of AS 29.20.060, the assembly may include the existing apportionment as a proposed plan of apportionment of assembly seats that corresponds to a form of representation that is proposed.

(b) The assembly shall provide, by ordinance, for a change in an existing apportionment of the assembly whenever it determines that the apportionment does not meet the standards of AS 29.20.060. The assembly may provide, by ordinance, for a change in an existing apportionment of the assembly whenever a final state redistricting

plan is changed as a result of federal or court action. At the same time a change in apportionment is provided for under this subsection, the assembly may, by ordinance, change the composition of the assembly.

(c) If a petition signed by not less than 50 voters requests the assembly to determine whether the existing apportionment meets the standards for apportionment in AS 29.20.060, and the petition contains evidence that the existing apportionment does not meet those standards, the assembly may make the determination requested. The assembly shall make a determination required by this subsection within two months of receipt of a petition that meets the requirements of this subsection.

(d) An ordinance adopted by the assembly under (b) or (c) of this section shall be submitted to the voters for approval. In order for the ordinance to be approved it must receive the approval of a majority of the votes cast.

(e) Within six months after a determination by the assembly under (b) or (c) of this section that the current apportionment should be changed the assembly shall adopt an ordinance providing for reapportionment and submit the ordinance to the voters. If, at the end of the six-month time period, an ordinance providing for reapportionment has not been approved by the voters and if the current apportionment does not meet the standards of AS 29.20.060, the commissioner shall provide for the reapportionment in accordance with the standards of AS 29.20.060 by preparing an order of reapportionment and delivering the order to the borough mayor. (§ 7 ch 74 SLA 1985; am §§ 85, 86, 87 ch 82 SLA 2000)

Effect of amendments. The first 2000 amendment, effective July 1, 2000, substituted "adoption of a final state redistricting plan under art. VI. Sec. 10, Constitution of the State of Alaska" for "the official report of a federal decennial census" in (a). The second 2000 amendment, effective July 1, 2000, added the second sentence to (b) and inserted "a change in apportionment is provided for under this subsection" in the last sentence. The third 2000 amendment, effective July 1, 2000, substituted "should be changed" for "does not meet the standards of AS 29.20.060" in the first sentence of (e) and added "and if the current apportionment does not meet the standards of AS 29.20.060" to the last sentence in (e).

Sec. 29.20.090. Apportionment appeals.

(a) A reapportionment ordinance approved by the voters, or a decision of the assembly that the standards of AS 29.20.060 do not require a change in apportionment, may be appealed to the commissioner. Fifty voters may submit a petition to the commissioner requesting the commissioner to determine whether the proposed reapportionment ordinance approved by the voters meets the standards of AS 29.20.060 or whether a decision of the assembly that the standards of AS 29.20.060 do not require a change of apportionment is correct. If the petition asks the commissioner to review an ordinance approved by the voters under AS 29.20.080(e), the petition shall be delivered to the commissioner not later than 20 days after certification of the election. If the petition asks the commissioner to review a decision of the assembly under AS 29.20.080(c), the petition shall be delivered to the commissioner within 20 days of the decision of the assembly.

(b) The commissioner shall review the petition and may make the determination requested. The commissioner shall provide copies of the determination to the persons petitioning for appeal and to borough officials not later than 60 days after the commissioner receives the petition.

(c) If the commissioner determines that the proposed reapportionment ordinance approved by the voters does not meet the standards of AS 29.20.060, or if the commissioner determines that the decision of the assembly that the standards of AS 29.20.060 do not require a change of apportionment is not correct, the commissioner shall, by order, direct the assembly to prepare a reapportionment ordinance that meets the standards of AS 29.20.060 and submit the ordinance to the voters.

(d) When the assembly has been directed by the commissioner to prepare a reapportionment ordinance under (c) of this section, the assembly shall, within two months after its receipt of the commissioner's order, adopt an ordinance providing for reapportionment. The assembly shall submit an ordinance adopted under this subsection to the voters at an election held within 60 days after the date of adoption of the reapportionment ordinance.

(e) If at the end of the time period provided under (d) of this section an ordinance providing for reapportionment has not been approved by the voters, the commissioner shall provide for the reapportionment of the assembly in accordance with the standards of AS 29.20.060 by preparing an order of reapportionment and delivering the order to the borough mayor. (§ 7 ch 74 SLA 1985)

Sec. 29.20.100. Judicial review and relief.

(a) The commissioner may request the superior court to enforce a reapportionment order issued under AS 29.20.090(e).

(b) Each of the following is subject to judicial review:

(1) a plan of reapportionment approved by the voters under AS 29.20.080(a);

(2) a determination by the assembly under AS 29.20.080 that the standards of AS 29.20.060 do not require a change in apportionment;

(3) a reapportionment ordinance approved by the voters under AS 29.20.080(d);

(4) a reapportionment order of the commissioner made under AS 29.20.090(c);

(5) a reapportionment ordinance approved by the voters under AS 29.20.090(d); and

(6) a reapportionment order of the commissioner made under AS 29.20.090(e). (§ 7 ch 74 SLA 1985)

Sec. 29.20.110. Effective date of apportionment.

(a) A change in assembly apportionment or composition under AS 29.20.080 or 29.20.090 is effective beginning with the first regular election for members of the assembly that is held more than 60 days after the later of

(1) approval of a reapportionment ordinance by the voters under AS 29.20.080(a), 29.20.080(e), or 29.20.090(d); or

(2) the delivery to the mayor of a reapportionment order of the commissioner under AS 29.20.090(e).

(b) The provisions of (a) of this section do not apply to a borough in which a change in assembly composition or apportionment is subject to review and approval or determination of nonobjection by the Attorney General of the United States under 42 U.S.C. 1971 - 1974 (Voting Rights Act of 1965), as amended. A change in assembly composition or apportionment subject to review under the 42 U.S.C. 1971 - 1974 , as

amended, is effective beginning with the first regular election for members of the assembly that is held more than 60 days after

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

(2) the delivery to the mayor of a reapportionment order of the commissioner 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 assembly. (§ 7 ch 74 SLA 1985)

Sec. 29.20.120. Applicability of apportionment provisions.

The provisions of AS 29.20.080 – 29.20.110 apply to home rule and general law municipalities, except they do not apply to a

(1) unified municipality;

(2) home rule borough if the borough, by home rule charter, provides for reapportionment of the assembly. (§ 7 ch 74 SLA 1985)

Sec. 29.20.130. City council composition.

Each first class city has a council of six members elected by the voters at large. Each second class city has a council of seven members elected by the voters at large. The council of a first or second class city may by ordinance provide for election of members other than on an at-large basis for all members. (§ 7 ch 74 SLA 1985)

Sec. 29.20.140. Qualifications.

(a) A borough voter is eligible to be a member of the assembly and a city voter is eligible to be a member of the council. A member of the 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.

(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. (§ 7 ch 74 SLA 1985)

Sec. 29.20.150. Term of office.

(a) A member of the governing body is elected for a three-year term and until a successor qualifies, unless a different term not exceeding four years is prescribed by home rule charter or ordinance.

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

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

(d) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Sec. 29.20.160. Procedures of governing bodies.

(a) The assembly shall elect from among its members a presiding officer and a deputy presiding officer to serve at the pleasure of the members, except that in a borough that has adopted a manager form of government under AS 29.20.460 – 29.20.510 the 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, the deputy presiding officer shall preside.

(b) A governing body shall hold at least one regular meeting each month unless otherwise provided by ordinance. 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 of the governing body may be held at the call of the presiding officer or at least one-third of the members. A special meeting may be conducted with less than 24 hours notice if all members are present or if absent members have waived in writing the required notice. Waiver of notice can be made before or after the special meeting is held. A waiver of notice shall be made a part of the journal for the 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 of members may recess or adjourn the meeting to a later date.

(d) Actions of a governing body are adopted by a majority of the total membership of the body. Each member present shall vote on every question, unless required to abstain from voting on a question by law. The final vote of each member on each ordinance, resolution, or substantive motion shall be recorded "yes" or "no", except that if the vote is unanimous it may be recorded "unanimous".

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

(f) To the extent otherwise permitted by law, a governing body may determine by ordinance its own rules of procedure and order of business. (§ 7 ch 74 SLA 1985)

Sec. 29.20.170. Vacancies.

The governing body may provide by ordinance the manner in which a vacancy occurs in any elected office except the office of mayor or school board member. 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 election or appointment;

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

(3) resigns and the resignation is accepted;

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

(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; this paragraph does not apply to a member of the governing body who forfeits office under AS 29.20.140(a); or

(9) if a member of the governing body, misses three consecutive regular meetings and is not excused. (§ 7 ch 74 SLA 1985; am § 37 ch 21 SLA 1991)

Effect of amendments. The 1991 amendment, effective June 11, 1991, inserted "this paragraph does not apply to a member of the governing body who forfeits office under AS 29.20.140(a)" in paragraph (8).

Sec. 29.20.180. Filling a vacancy.

(a) If a vacancy occurs in a governing body, the remaining members shall, within 30 days unless a different period is provided by ordinance, appoint a qualified person to fill the vacancy. 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) 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. (§ 7 ch 74 SLA 1985)

Article 3. Municipal Executive and Administrator.

Section

Sec. 29.20.220. Executive power.

(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 mayor acts as ceremonial head of government, executes official documents on authorization of the governing body, and is responsible for additional duties and powers prescribed by this chapter or by home rule charter.

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Sec. 29.20.230. Election and term of mayor.

(a) The mayor of a borough or first class city is elected at large. The mayor of a borough or first class city serves a term of three years, unless by ordinance a different term not to exceed four years is provided. 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) The mayor of a second class city is elected by and from the council, and serves until a successor is elected and qualifies. 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.

(d) Notwithstanding (b) of this section, a second class city may by ordinance provide that the mayor is elected, from the council, by the voters rather than by the council. If an ordinance is adopted under this subsection, the council shall meet on the first Monday after certification of each regular election and elect a council member to serve as mayor pro tempore who takes office immediately and exercises the powers and duties of mayor until the permanent mayor takes office. Within 45 days after certification of a regular election, a special election shall be held for the permanent mayor. The permanent mayor takes office on the first Monday following certification of the special election and serves until the first Monday after certification of the next regular election. The term of a mayor in office on the effective date of an ordinance adopted under this subsection may not be altered. (§ 7 ch 74 SLA 1985; am § 1 ch 79 SLA 1996)

Effect of amendments. The 1996 amendment, effective September 18, 1996, added subsection (d).

Sec. 29.20.240. Qualifications for the office of mayor.

(a) A voter of the municipality is eligible to hold the office of mayor in a borough or first class city. A member of the city council is eligible to hold the office of mayor in a second class city.

(b) Residency requirements for the office of mayor not exceeding three years may be prescribed by ordinance. (§ 7 ch 74 SLA 1985)

Sec. 29.20.250. Powers and duties of mayor.

(a) If a municipality 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.

(b) The mayor may take part in the discussion of a matter before the governing body. The mayor may not vote, except that the mayor of a first class city or the mayor of a borough with a manager form of government may vote in the case of a tie. The mayor of a second class city, as a council member, may vote on all matters. (§ 7 ch 74 SLA 1985)

Sec. 29.20.260. 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 to act as manager during the manager's absence or disability. (§ 7 ch 74 SLA 1985)

Sec. 29.20.270. Veto.

(a) Except as provided in (c) – (e) of this section, the mayor may veto an ordinance, resolution, motion, or other action of the governing body and may strike or reduce appropriation 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. A veto may be overridden by vote of two-thirds of 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) The mayor of a second class city has no veto power.

(e) The veto does not extend to an ordinance adopted under AS 04.11.501. This subsection applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985; am §§ 13, 14 ch 80 SLA 1986; am § 63 ch 101 SLA 1995)

Effect of amendments. The 1995 amendment, effective July 1, 1995, made a section reference substitution in subsection (e).

Sec. 29.20.280. Vacancy in the office of mayor.

(a) The governing body shall, by two-thirds concurring vote, declare the office of mayor vacant only when the person elected

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

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

(3) resigns and the resignation is accepted;

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

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

(6) is convicted of a felony or misdemeanor described in AS 15.56;

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

(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) A vacancy in the office of mayor occurring six months before a regular election shall be filled by the governing body. The person appointed serves until the next regular election when a successor is elected to serve the balance of the term. If a member of the governing body is appointed mayor, the member shall resign the seat on the governing body. If a vacancy occurs more than six months before a regular election, the governing body shall call a special election to fill the unexpired term.

(c) Notwithstanding (b) of this section, a vacancy in the office of mayor of a second class city shall be 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. (§ 7 ch 74 SLA 1985)

Article 4. Boards and Commissions.

Section

Sec. 29.20.300. School boards.

(a) Each municipal 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 for three-year terms and until their successors take office. Members are elected at large 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. (§ 7 ch 74 SLA 1985)

Sec. 29.20.310. Utility boards.

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

(b) As determined by ordinance, members of a utility board are either appointed by the mayor and confirmed by the governing body or are elected at a regular election. The term of a utility board member is two years and until a successor is selected and qualifies. However, the governing body may by ordinance provide for a different term not to exceed four years. The current term of an elected incumbent may not be altered.

(c) Vacancies on a utility board are filled by the mayor. Executive appointments shall be confirmed by the governing body. A person appointed 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.

(d) Unless otherwise provided by ordinance, a utility 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 salary;

(3) formulate and enforce the general rules and policies of the utility. (§ 7 ch 74 SLA 1985)

Sec. 29.20.320. Other boards and commissions.

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

(b) Members of boards and commissions, except for members of the board of adjustment and assembly members serving on the board of equalization, are appointed by the mayor and confirmed by the governing body. (§ 7 ch 74 SLA 1985)

Article 5. Other Officials and Employees.

Section

Sec. 29.20.360. Appointment of officials.

Unless otherwise provided by ordinance, the municipal clerk, attorney, treasurer, and police chief are appointed by the chief administrator. Unless otherwise provided by ordinance, an official described in this section serves at the pleasure of the appointing authority and, if appointed by the chief administrator, must be confirmed by the governing body. (§ 7 ch 74 SLA 1985)

Sec. 29.20.370. Municipal attorney.

The municipal attorney is the legal advisor of the governing body, the school board, and the other officials of the municipality. The municipal attorney represents the municipality as attorney in civil and criminal proceedings. The school board may hire independent counsel when in its judgment independent counsel is needed. (§ 7 ch 74 SLA 1985)

Sec. 29.20.380. Municipal clerk.

(a) The municipal clerk shall

(1) attend meetings of the governing body and its boards and committees as required and keep the journal;

(2) have custody of the official municipal seal;

(3) assure that notice and other requirements for public meetings are complied with and assure that public records are available for public inspection as required by law;

(4) manage municipal records and develop retention schedules and procedures for inventory, storage, and destruction of records as necessary;

(5) maintain an indexed file of all permanent municipal records, provide for codification of ordinances, and authenticate or certify records as necessary;

(6) prepare agendas and agenda packets as required by the governing body;

(7) administer all municipal elections;

(8) assure that the municipality complies with 42 U.S.C. 1971-1974 (Voting Rights Act of 1965, as amended);

(9) take oaths, affirmations, and acknowledgments as necessary;

(10) act as the parliamentary advisor to the governing body;

(11) perform other duties required by law, the governing body, or the chief administrator.

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

(c) The municipal clerk may act as an absentee voting official under AS 15.20.045(c) for the limited purpose of distributing absentee ballots to qualified voters or qualified voters' representatives under AS 15.20.072 in a municipality in which the

division of elections will not be operating an absentee voting station. (§ 7 ch 74 SLA 1985; am § 1 ch 11 SLA 1992; am § 43 ch 73 SLA 2013)

Effect of amendments. The 1992 amendment, effective July 28, 1992, rewrote subsection (a). The 2013 amendment added (c).

Sec. 29.20.390. Municipal treasurer.

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

(b) The treasurer shall give bond to the municipality in a sum that the governing body directs. (§ 7 ch 74 SLA 1985)

Sec. 29.20.400. Departments.

(a) The governing body 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, the mayor may serve as head of one or more departments or a single administrator may serve as head of two or more departments. (§ 7 ch 74 SLA 1985)

Sec. 29.20.410. 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. (§ 7 ch 74 SLA 1985)

Article 6. Manager Plan.

Section

Sec. 29.20.460. Manager plan.

(a) A municipality may adopt a manager plan of government. Adoption of a manager plan may be initiated either by petition or by motion adopted by the governing body.

(b) A petition for the adoption of a manager plan shall meet the requirements of AS 29.26.110 - 29.26.160 except, instead of containing an ordinance or resolution, the application submitted under AS 29.26.110(a) must contain the question of whether a

manager plan for the municipality should be adopted and material required under AS 29.26.120(a)(1) and (2) shall be replaced with the same question.

(c) If the clerk certifies under AS 29.26.140 that a petition is sufficient, the petition shall be submitted to the governing body. (§ 7 ch 74 SLA 1985; am § 4 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, rewrote this section.

Sec. 29.20.470. Election on adoption of manager plan.

The governing body shall provide by ordinance or resolution for a vote on the question of adopting a manager plan at the next election when it

(1) receives a petition to submit the question to the voters that has been certified as sufficient by the clerk; or

(2) adopts a motion to submit the question to the voters. (§ 7 ch 74 SLA 1985; am § 5 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, rewrote this section.

Sec. 29.20.480. Adoption of manager plan.

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

(b) The governing body shall notify the department of the adoption of a manager plan. (§ 7 ch 74 SLA 1985)

Sec. 29.20.490. Appointment of manager.

(a) The governing body shall appoint a manager by a majority vote of its membership. A manager is chosen on the basis of administrative qualifications and receives the compensation set by the governing body. A member of the governing body may not be appointed manager of the municipality sooner than one year after leaving office, except by a vote of three-fourths of the authorized membership of the governing body.

(b) Subject to the contract of employment, the manager holds office at the pleasure of the governing body. (§ 7 ch 74 SLA 1985)

Sec. 29.20.500. Powers and duties of a manager.

The manager may hire necessary administrative assistants and may authorize an administrative official to appoint, suspend, or remove subordinates. As chief administrator the manager shall

(1) appoint, suspend, or remove municipal employees and administrative officials, except as provided otherwise in this title and AS 14.14.065;

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

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

(4) make monthly financial reports and other reports on municipal 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) serve as personnel officer, unless the governing body authorizes the manager to appoint a personnel officer. (§ 7 ch 74 SLA 1985)

Sec. 29.20.510. Intergovernmental appointment of manager.

A borough adopting a manager plan may, on agreement with a city in the borough, provide that the manager of the city serve also as borough manager. A city adopting a manager plan may, on agreement with the borough in which it is located, provide that the manager of the borough serve also as city manager. Appointment and service of the manager shall be as provided in AS 29.20.490 - 29.20.500. Nothing in this section affects the authority of the governing body to provide for other dual officeholding if the dual offices held are compatible, or otherwise to appoint officials and employees in accordance with law. (§ 7 ch 74 SLA 1985)

Sec. 29.20.520. Repeal of manager plan.

A municipality may repeal a manager plan by following the procedures under AS 29.20.460 - 29.20.480 for adoption of a manager plan, except the question shall be whether the manager plan should be repealed. Within 60 days after certification of the election approving repeal of a manager plan, the governing body shall enact provisions for the reorganization of the municipal executive and administrative functions. (§ 7 ch 74 SLA 1985; am § 6 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, rewrote the first sentence and inserted "certification of the election approving" in the second sentence.

Article 7. Miscellaneous Provisions.

Section

Sec. 29.20.600. Oaths of office.

Before taking office a municipal official shall affirm in writing that the duties of the office will be honestly, faithfully, and impartially performed by the official. The oath is filed with the municipal clerk. (§ 7 ch 74 SLA 1985)

Sec. 29.20.610. Bonding.

The manager and the other municipal officials or employees that the governing body may designate shall give bond in the amount and with the surety prescribed by the governing body. Premiums on bonds are paid by the municipality. (§ 7 ch 74 SLA 1985)

Sec. 29.20.620. Compensation for elected officials.

The governing body shall by ordinance provide a method of determining the salaries of elected officials. The salary of the mayor may not be reduced during the term of office of the mayor, unless during the term a manager plan is adopted. An elected official may not receive 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. (§ 7 ch 74 SLA 1985)

Sec. 29.20.630. Prohibited discrimination.

(a) A person may not be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position or municipal employment because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

(b) 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. For purposes of this subsection a school district employee is not a municipal employee.

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985)

Sec. 29.20.640. Reports.

(a) A municipality shall file with the department

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

(2) a copy of the annual audit, or, for a second class city, an audit or statement of annual income and expenditures;

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

(4) 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 the municipality by operation of each of the exemptions.

(b) Compliance with the provisions of this section is a prerequisite to receipt of community assistance under AS 29.60.850 - 29.60.879. If a municipality does not comply with this section, the department shall withhold the allocations until the required reports are filed.

(c) This section applies to home rule and general law municipalities. (§ 7 ch 74 SLA 1985; am § 2 ch 75 SLA 1997; am § 2 ch 12 SLA 2008; am § 1 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, substitutes "community assistance" for "community revenue sharing". The 2008 amendment substitutes "Community revenue sharing" for "municipal tax resource equalization" in section (b). The 1997 amendment, effective July 1, 1997, in subsection (b), substituted "priority revenue sharing for municipal services" for "state aid for miscellaneous municipal services" in the first sentence.

Chapter 25. Municipal Enactments.

Section

Sec. 29.25.010. Acts required to be by ordinance.

(a) In addition to other actions that this title requires to be by ordinance, the governing body 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 regulations for violation of which a fine or other penalty is imposed;

(3) provide for the levying of taxes;

(4) make appropriations, including supplemental appropriations or transfer of appropriations;

(5) grant, renew, or extend a franchise;

(6) adopt, modify, or repeal the comprehensive plan, land use and subdivision regulations, building and housing codes, and the official map;

(7) approve the transfer of a power to a first or second class borough from a city;

(8) designate the borough seat;

(9) provide for the retention or sale of tax-foreclosed property;

(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 does not grant authority, but requires the governing body to use ordinances in exercising certain of its powers. (§ 8 ch 74 SLA 1985)

Sec. 29.25.020. Ordinance procedure.

(a) An ordinance is introduced in writing in the form required by the governing body.

(b) 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, or by the mayor or manager;

(2) an ordinance shall be set by the governing body for a public hearing by the 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;

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

(5) during the hearing the governing body shall hear all interested persons wishing to be heard;

(6) after the public hearing the governing body shall consider the ordinance, and may adopt it with or without amendment;

(7) the governing body shall print and make available copies of an ordinance that is adopted.

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

(d) This section does not apply to an ordinance proposed under AS 04.11.507(d). (§ 8 ch 74 SLA 1985; am § 15 ch 80 SLA 1986; am § 64 ch 101 SLA 1995)

Effect of amendments. The 1995 amendment, effective July 1, 1995, made a section reference substitution in subsection (d).

Sec. 29.25.030. Emergency ordinances.

(a) To meet a public emergency the governing body may adopt an emergency ordinance effective on adoption. Each emergency ordinance shall contain a finding by the governing body that an emergency exists and a statement of the facts upon which the finding is based. An emergency 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 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 is effective for 60 days. (§ 8 ch 74 SLA 1985)

Sec. 29.25.040. Codes of regulation.

The governing body may in a single ordinance adopt or amend by reference provisions of a published code of municipal regulations. The procedure under AS 29.25.020 applies to an ordinance adopted under this section, except that neither the ordinance or its amendments must 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 ordinance must be printed after it is adopted under this section. The governing body shall provide for an adopted code of regulations to be made available to the public at no more than cost. (§ 8 ch 74 SLA 1985)

Sec. 29.25.050. Codification.

(a) Each ordinance shall be codified after it is adopted.

(b) Within three years after incorporation of a municipality, the municipal clerk or the clerk's designee 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 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 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. (§ 8 ch 74 SLA 1985)

Sec. 29.25.060. Resolutions.

(a) The governing body 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. (§ 8 ch 74 SLA 1985)

Sec. 29.25.070. Penalties.

(a) For the violation of an ordinance, a municipality may by ordinance prescribe a penalty not to exceed a fine of $1,000 and imprisonment for 90 days, except as limited by (g) of this section. For a violation that cannot result in incarceration or the loss of a valuable license, a municipality may allow disposition of the violation without court appearance and establish a schedule of fine amounts for each offence.

(b) The municipality or an aggrieved person may institute a civil action against a person, including a minor as provided in AS 29.25.072, 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 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.

(d) This section does not apply to an ordinance adopted under AS 04.11.501(c).

(e) The municipality shall provide written notice to the commissioner of health and social services or to the commissioner’s designee of the commencement of a civil enforcement action for the violation of an ordinance under (b) of this section against a minor. Unless the commissioner and the municipality have negotiated an agreement making other arrangements for the municipality to provide the notice required by this subsection, the municipality shall provide the notice by mailing a copy of the citation or other document setting out the notice of the commencement of the civil enforcement action. This subsection applies to home rule and general law municipalities.

(f) In this section, “minor” means a person under 18 years of age.

(g) If a municipality prescribes a penalty for a violation of a municipal ordinance, including a violation under (a) of this section, and there is a comparable state crime under AS 11 or AS 28 with elements that are similar to the municipal ordinance, the

municipality may not impose a greater punishment than that imposed for a violation of the state crime. This subsection applies to home rule and general law municipalities. (§ 8 ch 74 SLA 1985; am § 16 ch 80 SLA 1986; am § 11 ch 76 SLA 1987; am § 65 ch 101 SLA 1995; am §§ 2, 3 ch 107 SLA 1998; am§§112 113, ch36 SLA 16; am § 24 ch 13 SLA 2017)

Effect of amendments. The 1998 amendment, effective July 1, 1998, inserted ", including a minor as provided in AS 29.25.072," in the first sentence in subsection (b) and added subsections (e) and (f). The 1995 amendment, effective July 1, 1995, made a section reference substitution in subsection (d) The 2016 amendment, effective July 1, 2016 added subsection (g) and made a reference to the new subsection in subsection (a). The 2017 amendment, effective June 20, 2017 in (g), in the first sentence, substituted "state crime" for "state offense" following "there is a comparable" and "state crime" for "state law" at the end.

Sec. 29.25.072. Civil penalties for violation of municipal ordinances by minors.

(a) Except as otherwise provided in this section, the enforcement under AS 29.25.070(b) of a civil penalty against a minor for violation of a municipal ordinance shall be heard in the district court in the same manner as for similar allegations brought against an adult, except that the minor's parent, guardian, or legal custodian shall be present at all proceedings unless the court excuses the parent, guardian, or legal custodian from attendance for good cause.

(b) If provision is made by ordinance for use of a hearing officer to decide enforcement of a civil penalty under AS 29.25.070(b), allegations against a minor for a civil penalty under a municipal ordinance may be assigned to a hearing officer for the municipality for decision.

(c) An action for a civil penalty filed against a minor under this section does not give rise to the right to a trial by jury or to counsel appointed at public expense. (§ 4 ch 107 SLA 1998)

Effective dates. Section 59 ch 107 SLA 1998 makes this section effective July 1, 1998.

Editor's note. Section 57 ch 107 SLA 1998 provides that this section applies "to all offenses committed on or after July 1, 1998."

Sec. 29.25.074. Surcharge.

(a) A municipality may not enforce a penalty for violation of an ordinance for which a surcharge is required to be imposed under AS 12.55.039 unless the municipality authorizes the imposition of and provides for the collection of the surcharge. The surcharge shall be deposited into the general fund of the state and accounted for under AS 37.05.142. Subject to appropriation, the legislature may reimburse a municipality that collects a surcharge required to be imposed under AS 12.55.039 for the cost to the municipality in collecting the surcharge and transmitting the surcharge to the state. The reimbursement may not exceed 10 percent of the surcharge collected and transmitted to the state.

(b) This section applies to home rule and general law municipalities. (§ 8 ch 56 SLA 1998; am § 2 ch 24 SLA 2000)

Revisor's notes. This section was enacted as AS 29.25.072. Renumbered in 1998.

Effect of amendments. The 2000 amendment, effective July 27, 2000, replaced "fine of $30 or more or imprisonment is prescribed as a penalty" with "surcharge is required to be imposed under AS 12.55.039" and made other changes to (a).

Effective dates. Section 8 ch 56 SLA 1998, which enacted this section, took effect on August 27, 1998.

Sec. 29.25.075. Collection of penalties.

The court may collect for a municipality any monetary penalty or surcharge or item to be forfeited as a result of the violation of an ordinance. The supreme court may prescribe by rule the fees to be charged by all courts to municipalities for providing collection services under this section. (§ 47 ch. 36 SLA 1990; am § 9 ch 56 SLA 1998)

Effect of amendments. The 1998 amendment, effective August 27, 1998, inserted "surcharge or" in the first sentence.

Sec. 29.25.080. Breast-feeding.

A municipality may not enact an ordinance that prohibits or restricts a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. In a municipal ordinance, "lewd conduct," "lewd touching," "immoral conduct," "indecent conduct," and similar terms do not include the act of a woman breast-feeding a child in a public or private location where the woman and child are otherwise authorized to be. Nothing in this section may be construed to authorize an act that is an offense under a municipal ordinance that establishes an offense with elements substantially equivalent to the elements of an offense under AS 11.61.123. This section is applicable to home rule and general law municipalities. (§ 4 ch 78 SLA 1998)

Effective dates. Section 4, ch. 78, SLA 1998, which enacted this section, took effect on September 6, 1998.

Chapter 26. Elections.

Article

Article 1. Regular and Special Elections.

Section

Sec. 29.26.010. Administration.

(a) The governing body shall prescribe the rules for conducting an election.

(b) For an election in which voters cast ballots at polling places in their precincts, the governing body shall appoint an election board composed of at least three judges for each precinct. If the governing body appoints an election board, a judge shall be a voter of the precinct for which appointed unless no voter is willing to serve.

(§ 9 ch 74 SLA 1985; § 2 ch 44 SLA 14)

Sec. 29.26.020. Nominations.

(a) Subject to other provisions of this title, the governing body shall provide by ordinance for nominations of elected officials 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 may not serve simultaneously as borough mayor and as a member of the assembly or, in a first class city, as city mayor and as a member of the council. (§ 9 ch 74 SLA 1985)

Sec. 29.26.030. Notice of elections.

(a) Subject to other provisions of this title, a municipality shall give at least 20 days notice of an election.

(b) This section applies to home rule and general law municipalities. (§ 9 ch 74 SLA 1985)

Sec. 29.26.040. Date of regular election.

The date of a regular election is the first Tuesday of October annually, unless a different date or interval of years is provided by ordinance. (§ 9 ch 74 SLA 1985)

Sec. 29.26.050. Voter qualification.

(a) A person may vote in a municipal election only if the person

(1) is qualified to vote in state elections under AS 15.05.010;

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

(3) is registered to vote in state elections at a residence address within a municipality at least 30 days before the municipal election at which the person seeks to vote; and

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

(b) Voter registration by the municipality may not be required. However, in order to vote for a candidate or on a ballot measure relating to a specific local election district or service area, a municipality may by ordinance require that a person be registered to vote in state elections at least 30 days before the municipal election at an address within the boundaries of that local election district or service area. The municipality has the responsibility to determine if a voter meets the requirements of the ordinance and this section.

(c) This section applies to home rule and general law municipalities. (§ 9 ch 74 SLA 1985; am §§ 7, 8 ch 80 SLA 1989; am § 88 ch 82 SLA 2000)

Effect of amendments. The 2000 amendment, effective July 1, 2000, added the last sentence in (b). The 1989 amendment, effective August 30, 1989, in subsection (a), rewrote paragraph (1) and inserted "at a residence address within a municipality at least 30 days before the municipal election at which the person seeks to vote" in paragraph (3); and in subsection (b), rewrote the second sentence.

Sec. 29.26.060. Runoff 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. (§ 9 ch 74 SLA 1985)

Sec. 29.26.070. Election contest and appeal.

(a) The governing body 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 filing a written affidavit with the municipal clerk specifying with particularity the grounds for the contest. 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 shall declare the election results at the first meeting to canvass the election, record the results in the minutes of that meeting, and authorize the results to be certified.

(d) A 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 result of the election, or the difference between the winning and losing vote on the result contested is more than two percent.

(e) A person may not appeal or seek judicial review of an election for any cause unless the person is a voter, has exhausted all administrative remedies before the governing body, and has commenced, within 10 days after the governing body has declared the election results, an action in the superior court in the judicial district in which the municipality is located. If court action is not commenced within the 10-day period, the election and election results are conclusive and valid. (§ 9 ch 74 SLA 1985)

Article 2. Initiative and Referendum.

Section

Sec. 29.26.100. 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. (§ 9 ch 74 SLA 1985)

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 name and address of a contact person and an alternate to whom 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. (§ 9 ch 74 SLA 1985; am § 9 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, substituted "name and address of a contact person and an alternate to whom" for "address to which" in the first sentence in subsection (a).

Sec. 29.26.120. Contents of petition.

(a) Within two weeks after certification of an application for an initiative or referendum petition, a petition 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;

(2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;

(3) the date on which the petition is issued by the clerk;

(4) notice that signatures must be secured within 90 days after the date the petition is issued;

(5) spaces for each signature, the printed name of each signer, the date each signature is affixed, 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 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 must contain the summary of the ordinance or resolution to be initiated or the ordinance or resolution to be referred.

(c) The clerk shall notify the contact person in writing when the petition is available. The contact person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed. (§ 9 ch 74 SLA 1985; am § 10 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, in subsection (c), added the first and second sentences and in the present third sentence inserted "by the clerk" and substituted the language beginning "who appears in the clerk's office" for "by the clerk."

Sec. 29.26.130. Signature requirements.

(a) The signatures on an initiative or referendum petition shall be secured within 90 days after the clerk issues the petition. The statement provided under AS 29.26.120(a)(6) shall be signed and dated 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 the contact person in writing. Except as provided in (e) of this section, 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 written notice is given to the contact person that the petition is available, equal to

(1) 25 percent of the votes cast if a municipality has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if a municipality has 7,500 persons or more.

(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 on written application to the clerk before certification of the petition.

(e) If the ordinance or resolution that is the subject of an initiative or referendum petition affects only an area that is less than the entire area of a municipality, only voters residing in the affected area may sign the petition. The clerk shall determine the number of signatures required on the petition and inform the contact person in writing. The petition shall be signed by a number of voters based on the number of votes cast in that area at the last regular election held before the date written notice is given to the contact person that the petition is available equal to

(1) 25 percent of the votes cast if the area has fewer than 7,500 persons; or

(2) 15 percent of the votes cast if the area has 7,500 persons or more. (§ 9 ch 74 SLA 1985; am §§ 11, 12 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, rewrote the introductory clause of subsection (b) and added subsection (e).

Sec. 29.26.140. 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

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

(2) if the petition is insufficient, identify the insufficiency and notify the contact person by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day after the date on which the petition is rejected.

(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. (§ 9 ch 74 SLA 1985; am § 13 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, substituted "contact person" for "sponsors at the address provided under AS 29.26.110(a)" in paragraph (2) of subsection (a).

Sec. 29.26.150. Protest.

If the municipal clerk certifies an initiative or referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the governing body. The governing body shall hear and decide the protest. (§ 9 ch 74 SLA 1985)

Sec. 29.26.160. 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. (§ 9 ch 74 SLA 1985)

Sec. 29.26.170. Initiative election.

(a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote, the clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after the certification of a petition and the governing body determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(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.

(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) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution. (§ 9 ch 74 SLA 1985; §§ 1, 2 ch 3 SLA 2005)

Effect of amendments. The 2005 amendments, effective June 20, 2005, amended subsection (a) to remove the special election mandate and authorize a best interest determination on whether to hold a special election on a certified initiative petition, order a special election by ordinance, change the timeline for conducting an election on an initiative petition, and made stylistic changes to subsection (b).

Sec. 29.26.180. Referendum election.

(a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote the clerk shall submit the matter to the voters at the next regular election or, if already scheduled, special election occurring not sooner than 60 days after certification of the petition. If no election is scheduled to occur within 75 days after certification of a petition and the governing body determines it is in the best interest of the municipality, the governing body may by ordinance order a special election to be held on the matter before the next election that is already scheduled, but not sooner than 60 days after certification of the petition.

(b) If a petition is certified before the effective date of the matter referred, the ordinance or resolution against which the petition is filed shall be suspended pending the referendum vote. During the period of suspension, the governing body may not enact an ordinance or resolution substantially similar to the suspended measure.

(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) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election. (§ 9 ch 74 SLA 1985; §3 ch 3 SLA 2005)

Effect of amendments. The 2005 amendment, effective June 20, 2005, amended subsection (a) to remove the special election mandate and authorize a best interest determination on whether to hold a special election on a certified referendum petition, order a special election by ordinance, and change the timeline for conducting an election on a referendum petition.

Sec. 29.26.190. Effect.

(a) The effect of an ordinance or resolution may not be modified or negated within two years 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 two years.

(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. (§ 9 ch 74 SLA 1985)

Article 3. Recall.

Section

Sec. 29.26.240. Recall.

An official who is elected or appointed to an elective municipal office may be recalled by the voters after the official has served the first 120 days of the term for which elected or appointed. (§ 9 ch 74 SLA 1985)

Sec. 29.26.250. Grounds for recall.

Grounds for recall are misconduct in office, incompetence, or failure to perform prescribed duties. (§ 9 ch 74 SLA 1985)

Sec. 29.26.260. Application for recall petition.

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

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

(2) the name and address of the contact person and an alternate to whom all correspondence relating to the petition may be sent; and

(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. (§ 9 ch 74 SLA 1985; am § 14 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, in paragraph (2) of subsection (a), substituted "name and address of the contact person and an alternate to whom" for "address to which" and added "and" to the end.

Sec. 29.26.270. Recall petition.

(a) If the municipal clerk determines that an application for a recall petition meets the requirements of AS 29.26.260, the clerk shall prepare a recall petition. All copies of the petition must contain

(1) the name of the official sought to be recalled;

(2) the statement of the grounds for recall as set out in the application for petition;

(3) the date the petition is issued by the clerk;

(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 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) The clerk shall notify the contact person in writing when the petition is available. That person is responsible for notifying sponsors. Copies of the petition shall be provided by the clerk to each sponsor who appears in the clerk's office and requests a petition, and the clerk shall mail the petition to each sponsor who requests that the petition be mailed. (§ 9 ch 74 SLA 1985; am § 15 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, in subsection (b), added the first two sentences and in the present third sentence inserted "by the clerk" and substituted the language beginning "who appears in the clerk's office" for "by the clerk."

Sec. 29.26.280. 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 the contact person in writing. 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 written notice is given to the contact person that the petition is available. 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 written notice is given to the contact person that the petition is available.

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

(d) A petition signer may withdraw the signer's signature upon written application to the clerk before certification of the petition. (§ 9 ch 74 SLA 1985; am § 16 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, in subsection (b), substituted "the contact person in writing" for "each sponsor" at the end of the first sentence, substituted "written notice is given to the contact person that the petition is available" for "the petition was issued" at the end of the second sentence, and substituted "written notice is given to the contact person that the petition is available" for "petition was issued" at the end of the third sentence.

Sec. 29.26.290. 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 contact person by certified mail.

(b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the 11th day 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. (§ 9 ch 74 SLA 1985; am § 17 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, substituted "contact person" for "sponsors at the address provided under AS 29.26.260(a)(2)" in paragraph (2) of subsection (a).

Sec. 29.26.300. New recall petition application.

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. (§ 9 ch 74 SLA 1985)

Sec. 29.26.310. Submission.

If a recall petition is sufficient, the clerk shall submit it to the governing body at the next regular meeting or at a special meeting held before the next regular meeting. (§ 9 ch 74 SLA 1985)

Sec. 29.26.320. 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, the governing body shall submit the recall at that election.

(b) If no regular election occurs within 75 days, the governing body 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.

(c) If a vacancy occurs in the office after a sufficient recall petition is filed with the clerk, the recall question may 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. (§ 9 ch 74 SLA 1985)

Sec. 29.26.330. Form of recall ballot.

A recall ballot must contain

(1) the grounds for recall as stated in 200 words or less on the recall petition;

(2) a 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 at least 20 days before the election;

(3) the following question: "Shall (name of person) be recalled from the office of (office)? Yes [ ] No [ ]". (§ 9 ch 74 SLA 1985; am § 18 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, substituted "at least 20 days" for " within 20 days" in paragraph (2).

Sec. 29.26.340. Effect.

(a) If a majority vote favors recall, the office becomes vacant upon certification of the recall election.

(b) If an official is not recalled at the election, and application for a petition to recall the same official may not be filed sooner than six months after the election. (§ 9 ch 74 SLA 1985)

Sec. 29.26.350. 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 who has been recalled may not be appointed under (a) or (b) of this section to the office from which the person was recalled. 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. (§ 9 ch 74 SLA 1985; am §19 ch 80 SLA 1989)

Effect of amendments. The 1989 amendment, effective August 30, 1989, added the first sentence in subsection (c).

Sec. 29.26.360. Application.

AS 29.26.250 - 29.26.360 apply to home rule and general law municipalities. (§ 9 ch 74 SLA 1985)

Chapter 35. Municipal Powers and Duties.

Article

Article 1. General Powers.

Section

Sec. 29.35.010. General powers.

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

(1) to establish and prescribe a salary for an elected or appointed municipal official or employee;

(2) to combine two or more appointive or administrative offices;

(3) to establish and prescribe the functions of a municipal department, office, or agency;

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

(5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;

(6) to levy a tax or special assessment, and impose a lien for its enforcement;

(7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;

(8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;

(9) to expend money for a community purpose, 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) to borrow money and issue evidences of indebtedness;

(12) to acquire membership in an organization that promotes legislation for the good of the municipality;

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

(14) to sue and be sued.

(15) provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners.

(16) to receive grants from and contract with the Department of Public Safety under AS 18.65.670.

(17) to provide by ordinance for the creation, recording, and notice of a lien on real or personal property to secure payment of past due utility fees, costs incurred by the municipality in the abatement of an unsafe or dangerous building, and other fees and charges provided for by ordinance; except as otherwise provided by state law, when recorded, a municipal lien under this paragraph has priority over all other liens except

(A) liens for property taxes, special assessments, and sales and use taxes;

(B) liens that were perfected before the recording of the lien under this paragraph;

(C) liens that, under state law, are prior, paramount, and superior to all other liens; and

(D) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this paragraph.

(§ 10 ch 74 SLA 1985; am § 2 ch 15 SLA 1998; am § 5 ch 49 SLA 2009; am § 3, ch 9 SLA 2017)

Effect of amendments. The 2009 amendment, effective October 5, 2009, added item (16).
The 1998 amendment, effective April 25, 1998, added item (15).
The 2017 amendment added item (17).

Sec. 29.35.015. Investment pools.

A municipality may invest money in investment pools for public entities as authorized under AS 37.23 only if that municipality has obtained the consent of its governing body through an ordinance authorizing the participation. (§ 2 ch 66 SLA 1992)

Sec. 29.35.020. 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 facilities for the confinement and care of prisoners, 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.

(b) A municipality may adopt an ordinance to exercise a power authorized by this subsection and may enforce the ordinance outside its boundaries. Before a power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance, and before a power authorized by this subsection may be exercised inside a village, as that term is defined by AS 46.08.900, the approval of the village must be given by resolution. A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to

(1) protect its water supply and watershed; or

(2) contain, clean up, or prevent the release or threatened release of oil or a hazardous substance that may pose an imminent or substantial threat to persons, property, or natural resources within the municipality's boundaries; however, this paragraph does not authorize a municipality to enforce an ordinance outside its boundaries to regulate exploration. development, production, or transportation of oil, gas, or minerals in a manner inconsistent with the state's management of those resources, and enforcement of the ordinance must be consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210; in this paragraph, "natural resources" has the meaning given in AS 46.03.826.

(c) A municipality may enter into agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons relating to development and enforcement of vessel traffic control and monitoring systems for oil barges and tank vessels carrying oil operating in or near the waters of the state.

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

(e) In this section, "village"

(1) means the area within a five-mile radius of the village post office or, if there is no post office, another site designated by the commissioner;

(2) does not include an area described in (1) of this subsection that is within a city or another village. (§ 10 ch 74 SLA 1985; am § 1 ch 191 SLA 1990; am §§ 2, 3 ch 83 SLA 1991; am § 3 ch 15 SLA 1998)

Revisor's notes. Subsection (c) was formerly subsection (d) and subsection (d) was formerly subsection (c). Relettered in 1991.

Effect of amendments. The 1998 amendment, effective April 25, 1998, inserted “facilities for the confinement and care of prisoners” in the first sentence in subsection (a). The 1991 amendment, effective June 28, 1991, rewrote subsection (b) and added subsection (e). The 1990 amendment, effective June 27, 1990, added subsection (c).

Sec. 29.35.030. Eminent domain.

(a) Except as provided in (b) of this section, a municipality may, only within its boundaries, exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the municipality under the procedures set out in AS 09.55.250 - 09.55.460. In the case of a second class city, the exercise of the power of eminent domain or declaration of taking must be by ordinance that is submitted to the voters at the next general election or at a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

(b) The power of eminent domain may not be exercised to acquire private property from a private person for the purpose of transferring title to the property to another private person for economic development, except as provided by AS 09.55.240(d)(1) - (6), and may not be exercised for purposes expressed in AS 09.55.240(e).

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

(d) In this section,

(1) "economic development" has the meaning given in AS 09.55.240;

(2) "private person" has the meaning given in AS 09.55.240.

(§ 10 ch 74 SLA 1985; §§ 4, 5 ch 84 SLA 2006)

Effect of amendments. The 2006 amendment, effective October 3, 2006, added the exception at the beginning of subsection (a); added a new subsection (c) [now (b)] to prohibit eminent domain taking of private property for economic development with exceptions; and added a new subsection (d) defining economic development and private person.

Sec. 29.35.040. Emergency disaster powers.

(a) A municipality that is wholly or partially in an area that 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.

(b) Powers granted by this section must be initiated within a period of not more than five years after 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. (§ 10 ch 74 SLA 1985)

Sec. 29.35.050. Garbage and solid waste services.

(a) Notwithstanding AS 29.35.200 – 29.35.220, 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 the municipality or district to use the system and to dispose of their garbage and solid waste 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;

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

(6) fix charges against the property owners or occupants of premises for the collection and disposal; and

(7) provide penalties for violations of the ordinances.

(b) The governing body of a municipality may not prohibit a person holding a valid certificate from the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska from continuing to collect and dispose of garbage, refuse, trash, or other waste material, or provide other related services in an area in the municipality 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 provided similar services. Except as provided in (c) of this section, a municipality may not provide for a garbage, refuse, trash, or other waste material collection and disposal service in an area to the extent it lies in an area granted to a garbage, refuse, trash, or other waste material carrier by a certificate issued by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska to the carrier until it has purchased the certificate, equipment and facilities of the carrier, or that portion of the certificate that would be affected, at fair market value. A municipality 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.

(c) A municipality may establish an intermediate transfer site for the collection and disposal of garbage, refuse, trash, or other waste material without purchasing the certificate, equipment, or facilities of a waste material carrier certificated by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska. The municipality may, without compensating a certificated waste carrier operating in the area, provide for or contract with a certificated or noncertificated entity to provide for the collection and disposal of waste material left at the intermediate transfer site.

(d) A municipality that owns or operates a landfill or dumping area for the disposal of waste material may, by ordinance, partially or totally exempt from a fee for the use of the landfill or dumping area the disposal of waste material generated from the substantial rehabilitation, renovation, demolition, removal, or replacement of a structure on deteriorated property. The exemption may apply to some or all types of deteriorated property, as provided in the ordinance. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for the fee exemption. In this subsection, "deteriorated property" has the meaning given in AS 29.45.050.

(e) Subsections (a) – (c) of this section apply to home rule and general law municipalities.

(§ 10 ch 74 SLA 1985; am §§ 1, 2 ch 176 SLA 1990; am § 38 ch 21 SLA 1991; am § 30 ch 25 SLA 1999; am §§ 1, 2, 3 ch 40 SLA 2009)

Revisor's notes. Subsection (c) was enacted as subsection (d) and relettered in 1990, at which time former subsection (c) was relettered as subsection (d).

Effect of amendments. The 2009 amendment, effective September 18, 2009, revised subsection (d) [now (e)], and added new subsection (e) [now (d)]. The 1999 amendment, effective July 1, 1999, replaced “by the Alaska Public Utilities Commission” with “by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska” in two places in subsection (b) and once in (c). The 1991 amendment, effective June 11, 1991, inserted "Notwithstanding AS 29.35.200 - 29.35.220, a" at the beginning of subsection (a). The 1990 amendment, effective June 22, 1990, in subsection (b), inserted "or other" before "waste material" in the first sentence, added the exception at the beginning of the second sentence, and made a punctuation change in the third sentence; and added present subsection (c).

Editor's notes. Section 4 ch 176 SLA 1990 provides that the amendments made to this section by §§ 1 and 2 ch 176 SLA 1990 do not apply to a municipality with a population of less than 50,000 until July 1, 1991.

Sec. 29.35.055. Local air quality control program.

A municipality may establish a local air quality control program as provided in AS 46.14.400 only if the municipality has obtained the consent of its governing body through an ordinance authorizing the participation. This section applies to home rule and general law municipalities. (§ 6 ch 74 SLA 1993)

Sec. 29.35.060. Franchises and permits.

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may grant franchises, including exclusive franchise privileges, to a person, corporation, organization, or utility not certificated by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska and may

permit 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 former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska shall be valid only if approved by a majority of the voters at an election.

(c) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 30 ch 25 SLA 1999)

Effect of amendments. The 1999 amendment, effective July 1, 1999, replaced "by the Alaska Public Utilities Commission" with "by the former Alaska Public Utilities Commission or by the Regulatory Commission of Alaska" in subsection (a) and (b).

Sec. 29.35.070. Public utilities.

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a), (d) – (k), (o), (p), or (r), or is exempted under regulations adopted under AS 42.05.810 from complying with all or part of AS 42.05.141 - 42.05.721.

(b) A municipality may provide for a reasonable deposit for meters and service to be given 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 permit a fair return on invested capital.

(d) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 3 ch 93 SLA 1990; am § 1 ch 4 SLA 2001; am § 1 ch 26 SLA 2006; am § 1 ch 37 SLA 2010)

Revisor's notes. In 1999, in subsection (a) "AS 42.05.141" was substituted for "AS 42.05.010" to reflect the 1999 repeal of former AS 42.05.010 – 42.05.131.

Effect of amendments. The 2010 amendment, effective August 31, 2010, substituted "or (r)" for "or (q)" in subsection (a) to reflect the 2010 relettering of that subsection. The 2006 amendment, effective August 9, 2006, inserted "or (p)" near the end of subsection (a). The 2001 amendment, effective June 25, 2001, inserted "or (o)" near the end of subsection (a). The 1990 amendment, effective June 7, 1990, added the language beginning "or is exempted" at the end of subsection (a).

Sec. 29.35.080. Alcoholic beverages.

(a) A municipality may regulate the possession, barter, sale, importation, and consumption of alcoholic beverages under AS 04.11.480 – 04.11.509 and AS 04.21.010.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 17 ch 80 SLA 1986; am § 66 ch 101 SLA 1995)

Effect of amendments. The 1995 amendment, effective July 1, 1995, made a section reference substitution and a minor stylistic change in subsection (a).

Sec. 29.35.085. Curfew.

(a) A municipality may, by ordinance, provide for a curfew for persons under 18 years of age for whom the disabilities of minority have not been removed for general purposes under AS 09.55.590 and who have not arrived at the age of majority under AS 25.20.020.

(b) Notwithstanding AS 29.25.070(a), for a violation of this section, the court may impose a fine of not more than $250.

(c) The community work provisions of AS 47.12.030(b)(6) apply to punishment for a minor's conviction of a violation of a curfew ordinance for which a penalty is provided under AS 29.25.070(a). (§ 7 ch 59 SLA 1996; am § 1 ch 72 SLA 1997)

Effect of amendments. The 1997 amendment, effective September 9, 1997, added subsections (b) and (c).

Sec. 29.35.090. Municipal property; rights-of-way.

(a) The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality.

(b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This subsection applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985; am § 3 ch 94 SLA 1999)

Effect of amendments. The 1999 amendment, effective July 10, 1999 added subsection (b).

Sec. 29.35.100. Budget and capital program.

(a) The governing body shall establish the manner for the preparation and submission of the budget and capital program. After a public hearing, the governing body may approve the budget with or without amendments, and shall appropriate the money required for the approved budget.

(b) The governing body may make supplemental and emergency appropriations. Payment may not be authorized or made and an obligation may not be incurred except in accordance with appropriations. (§ 10 ch 74 SLA 1985)

Sec. 29.35.110. Expenditure of borough revenues.

(a) Borough revenues received through taxes collected on an areawide basis by the borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes collected on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough.

(b) Use of borough revenues from a sales tax levied upon room rentals for a tourism marketing campaign is not subject to (a) of this section.

(c) Notwithstanding (a) of this section, a borough that has entered into an agreement with a city located in the borough to cooperatively or jointly provide for economic development may use borough revenue from taxes, whether collected on an areawide or nonareawide basis, to carry out the terms of the agreement. (§ 10 ch 74 SLA 1985; am § 1 ch 14 SLA 2001; am § 1 ch 005 SLA 2004)

Effect of amendments. The 2004 amendment, effective June 3, 2004 added subsection (c). The 2001 amendment, effective April 24, 2001, added subsection (b).

Sec. 29.35.120. Annual audit.

(a) The governing body 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 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. (§ 10 ch 74 SLA 1985)

Sec. 29.35.125. Fees for police protection services.

(a)A municipality may by ordinance impose a fee on the owner of residential property, including multi-family housing, if a member of the municipal police department goes to the property an excessive number of times during a calendar year in response to a call for assistance, a complaint, an emergency, or a potential emergency. The number of responses considered to be excessive and the amount of the fee shall be set out in the ordinance that establishes the fee. The fee may not exceed the actual cost to the municipality for the excessive responses. A fee may not be imposed under this subsection for responses to calls that involve potential child neglect, potential domestic violence, as defined in AS 18.66.990, or potential stalking under AS 11.41.260 or 11.41.270.

(b) An ordinance enacted under this section shall require actual notice to the property owner of police contacts and a warning that failure to take appropriate corrective action may result in the imposition of a fee. The ordinance must also define "appropriate corrective action" to include written notice to quit under AS 09.45.100 - 09.45.110 in appropriate situations as well as other types of corrective action, and provide that the property owner is not liable for the fee if that action is promptly taken.

(c) A municipality may provide that a fee imposed under (a) of this section is a lien on the property to which the municipal police have been called an excessive number of times and may provide for the recording and notice of the lien. When recorded, a lien under this subsection has priority over all other liens except

(1) liens for property taxes, special assessments, and sales and use taxes;

(2) liens that were perfected before the recording of the lien under this subsection; and

(3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the lien under this subsection.

(d) This section applies to home rule and general law municipalities. (§ 2 ch 111 SLA 2002)

Sec. 29.35.130. 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;

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

(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) "state agency" means a department, division, or office in the executive branch of state government. (§ 10 ch 74 SLA 1985)

Sec. 29.35.131. 911 Surcharge.

(a) A municipality may, by resolution or ordinance, elect to provide an enhanced 911 system at public safety answering points and may purchase or lease the enhanced 911 equipment or service required to establish or maintain an enhanced 911 system at public safety answering points from a local exchange telephone company or other qualified vendor. The municipality may impose an enhanced 911 surcharge within the enhanced 911 service area. An enhanced 911 surcharge may not exceed $2 per month for each wireless telephone number and $2 per month for each local exchange access line for wireline telephones. The maximum surcharge amount of $2 provided for in this subsection may be increased above that level if the surcharge amount is approved by the voters of the enhanced 911 service area. The amount of surcharge imposed for each wireless telephone number must equal the amount imposed for each local exchange access line for a wireline telephone. An enhanced 911 service area may be all of a city, all of a unified municipality, or all or part of the area within a borough and may include the extraterritorial jurisdiction of a municipality in accordance with AS 29.35.020. The governing body of a municipality shall review an enhanced 911 surcharge annually to determine whether the current level of the surcharge is adequate, excessive, or

insufficient to meet anticipated enhanced 911 system needs. When a municipality imposes an enhanced 911 surcharge or the amount of the surcharge is changed, the municipality shall notify in writing the telephone customers subject to the surcharge and provide an explanation of what the surcharge will be used for.

(b) A local exchange telephone company providing service in a municipality that has imposed an enhanced 911 surcharge shall bill each month and collect the surcharge from customers in the enhanced 911 service area. A wireless telephone company that provides telephone service to wireless telephone customers with billing addresses within the enhanced 911 service area shall impose an enhanced 911 surcharge each month and collect the surcharge from customers in the enhanced 911 service area. A local exchange telephone customer may not be subject to more than one enhanced 911 surcharge on a local exchange access line for a wireline telephone. A wireless telephone customer may not be subject to more than one enhanced 911 surcharge for each wireless telephone number. A customer that has more than 100 local exchange access lines from a local exchange telephone company in the municipality is liable for the enhanced 911 surcharge only on 100 local exchange access lines.

(c) A local exchange telephone company or wireless telephone company shall include the appropriate enhanced 911 surcharge, stated separately and included in the total amount owed, in the bills delivered to its customers. The Regulatory Commission of Alaska may not consider the enhanced 911 surcharge as revenue of the telephone company and has no jurisdiction over an enhanced 911 system. A customer is liable for payment of the enhanced 911 surcharge in the amounts billed by the telephone company until the amounts have been paid to the telephone company.

(d) A local exchange telephone company or wireless telephone company that has collected the enhanced 911 surcharge shall remit the amounts collected to the municipality no later than 60 days after the end of the month in which the amount was collected. From each remittance made in a timely manner under this subsection, the telephone company is entitled to deduct and retain the greater of one percent of the collected amount or $150 as the cost of administration for collecting the enhanced 911 surcharge. In addition, a wireless telephone company is entitled to full recovery of the recurring and nonrecurring costs associated with implementation and operation of Phase I E911 service as allowed under Federal Communications Commission proceedings entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 9-1-1 Emergency Calling Systems" (CC Docket No. 94 - 102; RM - 8143).

(e) A local exchange telephone company or wireless telephone company is not obligated to take legal action to enforce collection of the enhanced 911 surcharge. However, if a telephone company is attempting to collect an unpaid debt from a customer, the telephone company shall also attempt to collect any unpaid enhanced 911 surcharge that the customer owes. If a customer pays a portion of a bill that includes an enhanced 911 surcharge, the amount paid shall be prorated between the telephone company and the enhanced 911 surcharge. The telephone company shall annually provide the municipality with a list of the amounts due for the nonpayment of enhanced 911 surcharges, together with the names and addresses of those customers who carry a balance that can be determined by the telephone company to be for the nonpayment of the enhanced 911 surcharges. The telephone company is not liable for uncollected amounts.

(f) The municipality may, at its own expense, require an annual audit of a local exchange telephone company's or wireless telephone company's books and records concerning the collection and remittance of the enhanced 911 surcharge.

(g) A village, as defined in AS 09.65.070(e), or a public corporation established by a municipality has the powers granted to a municipality under this section.

(h) *[Repealed, § 6 ch 55 SLA 2005]*

(i) A municipality may only use the enhanced 911 surcharge revenue for those costs of the enhanced 911 system that are authorized in this subsection. The surcharge revenue may not be used for any capital or operational costs for emergency responses that occur after the call is dispatched to the emergency responder. The surcharge revenue may not be used for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for the modification of an existing building to the extent that is necessary to maintain the security and environmental integrity of the public safety answering point and equipment rooms. The surcharge revenue may be used for the following costs to the extent the costs are directly attributable to the establishment, maintenance, and operation of an enhanced 911 system:

(1) the acquisition, implementation, and maintenance of public safety answering point equipment and 911 service features;

(2) the acquisition, installation, and maintenance of other equipment, including call answering equipment, call transfer equipment, automatic number identification controllers and displays, automatic location identification controllers and displays, station instruments, 911 telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf, public safety answering point backup power systems, consoles, automatic call distributors, and hardware and software interfaces for computer-aided dispatch systems;

(3) the salaries and associated expenses for 911 call takers for that portion of time spent taking and transferring 911 calls;

(4) training costs for public safety answering point call takers in the proper methods and techniques used in taking and transferring 911 calls;

Sec. 29.35.131. 911 Surcharge. (5) expenses required to develop and maintain all information necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the 911 call-taking and transferring function, including automatic location identification and automatic number identification databases.

(j) If a city in an enhanced 911 service area established by a borough incurs costs described under (i) of this section for the enhanced 911 system, before the borough may use revenue from an enhanced 911 surcharge, the borough and city must execute an agreement addressing the duties and responsibilities of each for the enhanced 911 system and establishing priorities for the use of the surcharge revenue. If the Department of Public Safety also provides services as part of the enhanced 911 system or uses the enhanced 911 system in that enhanced 911 service area, the department must be a party to the agreement.

(k) For purposes of (i) of this section, "call taker" means a person employed in a primary or secondary answering point whose duties include the initial answering of 911 or enhanced 911 calls and routing the calls to the agency or dispatch center responsible for dispatching appropriate emergency services and a person in a primary or secondary answering point whose duties include receiving a 911 or enhanced 911 call either directly

or routed from another answering point and dispatching appropriate emergency services in response to the call; the term "call taker" is synonymous with the term "dispatcher" in that it is inclusive of the functions of both answering the 911 or enhanced 911 calls and dispatching emergency services in response to the calls. (§ 4 ch 57 SLA 1993; am § 1 ch 8 SLA 1995; am § 30 ch 25 SLA 1999; am §§ 1— 6 ch 82 SLA 2001; am §§ 2,3,6 ch 55 SLA 2005)

Effect of amendments. The 2005 amendment, effective September 22, 2005, rewrote subsection (a) to establish process by resolution or ordinance to elect to provide enhanced 911 service, establish a maximum surcharge and provision for a higher amount upon voter approval, repealed subsection (h), and added subsections i – k imposing limits on what surcharge money can be used for. The 2001 amendment, effective October 1, 2001, rewrote subsections (a)-(f) to include changes relating to enhanced 911 surcharges. The 1999 amendment, effective July 1, 1999, substituted “Regulatory Commission of Alaska” for “Alaska Public Utilities Commission” in subsection (c). § 1 ch 8 SLA 1995, effective July 19, 1995, repealed the sunset of the enhanced 911 emergency reporting systems.

Sec. 29.35.133. Immunity for 911 systems.

(a) The establishment, funding, use, operation, or maintenance of enhanced 911 systems and all activities associated with those actions are specifically found to be within the ambit of AS 09.50.250(1) and AS 09.65.070(d)(6). Except for intentional acts of misconduct or gross negligence, a service supplier, local exchange telephone company, or wireless telephone company and their employees and agents are also immune from tort liability that might otherwise be incurred in the course of installing, training, maintaining, or providing enhanced 911 systems or transmitting or receiving calls on the system.

(b) An individual, telephone company, or employee of a telephone company who operates or maintains an emergency 911 service is not liable for civil damages in a tort action as a result of an act, omission, failure of service, or incorrect information done or given in good faith.

(c) In this section, "service supplier" means a person that provides or offers to provide telecommunications equipment or services necessary for the establishment, maintenance, or operation of an enhanced 911 system. (§ 4 ch 57 SLA 1993; am § 7 ch 82 SLA 2001)

Effect of amendments. The 2001 amendment, effective October 1, 2001, substituted “wireless telephone company” for “mobile telephone company, including a cellular service company” in the second sentence in subsection (a).

Sec. 29.35.134. Multi-line telephone systems.

A municipality may by ordinance require a multi-line telephone system operator to comply with this section if, after January 1, 2019, the

system operator

(1) upgrades an existing multi-line telephone system; or

(2) installs a new multi-line telephone system

(b) The operator of a multi-line telephone system that is required to comply with this section shall ensure that the system

(1) allows a caller to call 911 directly without an additional code, digit, prefix, postfix, or trunk-access code;

(2) for every 911 call made using the system, provides to the public safety answering point receiving the call verified automated number and location information for the call, including

(A) the street name, valid address, and business name, if applicable;

(B) the direct call back telephone number;

(C) the office, unit, or building number as applicable;

(D) the room number or equivalent designation;

(E) if the multi-line telephone system operates for a building that has more than one floor, the building floor;

(F) if the multi-line telephone system operates for more than one building, the

(i) building number or equivalent designation; and

(ii) building floor; and

(3)has a location database that stores the information required under (2) of this subsection and that the system is updated

(A) as soon as practicable after the system is installed; and

(B) within one business day after completion of any changes made to the system or the physical characteristics of the facility where the system is used; this subparagraph does not apply to changes incurred during the installation of the system.

(c) Information in a location database created under (b)(3) of this section

(1) is owned by the multi-line telephone system operator that supplied the information;

(2) may not be shared, except as required by law; and

(3) may not be used by a public safety answering point for any purpose except to facilitate an emergency response to a 911 call.

(d) The operator of a multi-line telephone system that is not required by ordinance to comply with this section and that does not allow for direct 911 dialing shall post, in a visible place not more than five feet from each telephone that is connected to the multi-line telephone system, a notice that

(1) states that 911 services cannot be accessed by dialing 911 directly on the telephone;

(2) indicates how a caller may access 911 services through the telephone;

(3) is printed in contrasting colors in a bold font not smaller than 16 points;

(4) includes the following information, as applicable, about the location of the telephone:

(A) the street address and business name;

(B) the office, unit, or building number;

(C) the room number or equivalent designation.

(e) In this section,

(1) “multi-line telephone system” includes

(A) a network or premises-based telephone system

(i)installed at an end-use location that uses common control units, common telephone, and common control hardware and software to provide a connection to the public;

(ii) such as Centrex, Voice over Internet Protocol, and PBX, Hybrid, and Key Telephone Systems, as classified by the Federal Communications Commission under 47 C.F.R. Part 68 requirements; and

(B) systems owned or leased by government agencies and nonprofit and for profit entities;

(2) “multi-line telephone system operator” means an entity that owns, leases, or rents from a third party, and operates a multi-line telephone system by which a caller may place a 911 call through a public switched network.
(§ 4 ch 55 SLA 2005; § 1,2 ch 90 SLA 2018)

Effective dates. § 4 ch 55 SLA 2005 is effective September 22, 2005.

Effect of amendments. The 2018 amendment, effective November 21, 2018, changed wording and added subsections (b)-(e).

Sec. 29.35.135. Waiver of privacy by local exchange telephone company subscribers.

Local exchange telephone company subscribers waive the privacy afforded by unlisted or unpublished telephone numbers to the extent that the name and address associated with the telephone number may be furnished to the enhanced 911 system for call routing or for automatic retrieval of location information in response to a call initiated to the system. (§ 4 ch 57 SLA 1993)

Sec. 29.35.137. Definitions.

In AS 29.35.131 – 29.35.137,

(1) "enhanced 911 equipment" means the equipment dedicated to the operation of, or use in, the establishment, operation, or maintenance of an enhanced 911 system, including customer premises equipment, automatic number identification or automatic location identification controllers and display units, printers, cathode ray tubes, recorders, software, and other essential communication equipment required by the system;

(2) "enhanced 911 service area" means the area within a municipality's jurisdiction that has been designated to receive enhanced 911 service; the designation of an area to receive an enhanced 911 system under AS 29.35.131(a) does not designate the area as a "service area" for purposes of art. X, sec. 5, Constitution of the State of Alaska;

(3) "enhanced 911 system" means a telephone system consisting of network, database, and enhanced 911 equipment that uses the single three digit number, 911, for reporting a police, fire, medical, or other emergency situation, and that enables the users of a public telephone system to reach a public safety answering point to report emergencies by dialing 911; an enhanced 911 system includes the personnel required to acquire, install, operate, and maintain the system and its facilities and to dispatch the calls generated by the system;

(4) "local exchange access line" means a telephone line that connects a local exchange service customer to the local exchange telephone company switching office and has the capability of reaching local public safety agencies, but does not include a line used by a carrier to provide interexchange services;

(5) "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a local exchange telephone company within a local exchange area, including access to enhanced 911 systems; in this paragraph, "local

exchange area" means a geographic area encompassing one or more political subdivisions as described in maps, tariffs, or rate schedules filed with the Regulatory Commission of Alaska, where local exchange rates apply;

(6) "local exchange telephone company" means a telephone utility certificated under AS 42.05 to provide local exchange service;

(7) "municipality" has the meaning given in AS 29.71.800 and includes a public corporation established by a municipality and a village as that term is defined in AS 09.65.070(e);

(8) "public safety answering point" means a 24-hour local jurisdiction communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency;

(9) "wireless telephone" means a telephone that is not a wireline telephone and includes cellular and mobile telephones; each wireless telephone number is considered to be a separate wireless telephone;

(10) "wireless telephone company" means a telephone utility that provides telephone service for wireless telephone customers who receive monthly or periodic bills sent to an address within a designated enhanced 911 service area;

(11) "wireline telephone" means a telephone that uses a local exchange access line. (§ 4 ch 57 SLA 1993; am § 1 ch 8 SLA 1995; am §§ 2, 30 ch 25 SLA 1999; am §§ 8 — 10 ch 82 SLA 2001)

Revisor's notes. Reorganized in 2001 to maintain alphabetical order.

Effect of amendments. The 2001 amendment, effective October 1, 2001, deleted "'911 service area' or" from the beginning of paragraph (2); in paragraph (3), deleted "or 'system' " preceding "means" and added "and its facilities and to dispatch the calls generated by the system" at the end; and added paragraphs (9), (10) and (11). The 1999 amendment, effective July 1, 1999, replaced words in paragraph (6) with "AS 42.05" and substituted "Regulatory Commission of Alaska" for "Alaska Public Utilities Commission" in paragraph (5). § 1, ch. 8, SLA 1995, effective July 19, 1995, repealed the sunset of the enhanced 911 emergency reporting systems.

Sec. 29.35.138. Application.

AS 29.35.131 – 29.35.137 apply to home rule and general law municipalities. (§ 5 ch 55 SLA 2005)

Effective dates. § 5 ch 55 SLA 2005 is effective September 22, 2005.

Sec. 29.35.140. Regulation of transportation carriers.

A municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, former AS 42.07, or former AS 42.10. (§ 10 ch 74 SLA 1985)

Sec. 29.35.141. Regulation of radio antennas.

(a) A municipality that regulates the placement, screening, or height of radio antennas must reasonably accommodate amateur radio antennas. A municipality may require reasonable and customary engineering practices to be followed in the erection of amateur radio antennas. A municipality may impose only the minimum requirements

relating to amateur radio antennas that are necessary to accomplish the legitimate purposes intended to be served by the requirements.

(b) A municipality may not restrict the number of support structures for an amateur radio antenna. Based on the most recently published United States census, a municipal restriction on amateur radio antenna height may not be lower than

(1) 200 feet above ground level as permitted by the Federal Communications Commission in an area with a population density of 120 or less per square mile;

(2) 75 feet above ground level in an area with a population density of more than 120 per square mile for an antenna on a lot that is smaller than one acre; or

(3) 140 feet above ground level in an area with a population density of more than 120 per square mile for an antenna on a lot that is one acre or larger.

(c) Subject to (a) and (b) of this section, a municipality may, by ordinance, impose requirements to meet clearly defined objectives relating to screening, placement, aesthetic, and health and safety factors with respect to the erection, maintenance, and operation of amateur radio antennas.

(d) An ordinance regulating or restricting radio antennas adopted under this section may not apply to a radio antenna that was erected before the effective date of this Act.

(e) This section applies to home rule and general law municipalities. (§ 2 ch 19 SLA 2001)

Effective dates. Section 2, ch 19, SLA 2001, which enacted this section, took effect on July 26, 2001.

Sec. 29.35.144. Sprinkler systems in certain residential buildings.

(a) Except as provided by (b) of this section, a municipality may not require a sprinkler fire protection system to be included in the construction of all new single-family residential buildings or in the construction of all new residential buildings with not more than two dwelling units.

(b) A municipality may, by ordinance, require a sprinkler fire protection system to be included in the construction of all new single-family residential buildings, in the construction of all new residential buildings with not more than two dwelling units, or in both types of buildings. Before adopting an ordinance to implement this subsection, or before amending an ordinance to extend its coverage to residential buildings described in this subsection, in addition to complying with the other requirements relating to the adoption of an ordinance, the governing body of the municipality shall

(1) notwithstanding the publication requirement in AS 29.25.020(b)(3) or a comparable notice publication requirement of a home rule municipality, at least 30 days before the first scheduled public hearing for the ordinance, publish

(A) a summary of the ordinance or the ordinance amendment; and

(B) a notice of the time and place of each scheduled public hearing on the proposed ordinance or amendment; and

(2) notwithstanding the public hearing schedule requirement of AS 29.25.020(b)(6) or comparable public hearing scheduling requirement of a home rule municipality, schedule at least three public hearings on the proposed ordinance or ordinance amendment to be held within a period of not less than 60 days and not more than 180 days.

(c) This section applies to home rule and general law municipalities. (§1 ch 26 SLA 2011)

Sec. 29.35.145. Regulation of firearms and knives.

(a) The authority to regulate firearms and knives is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms or knives

(b) Municipalities may enact and enforce ordinances

(1) that are identical to state law and that have the same penalty as provided for by state law;

(2) restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized; ordinances enacted or enforced under this paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19, Constitution of the State of Alaska, to bear arms in defense of self or others;

(3) restricting the areas in their respective jurisdictions in which firearms or knives may be sold; a business selling firearms or knives may not be treated more restrictively that other businesses located within the same zone; and

(4) prohibiting the possession of firearms or knives in the restricted access area of municipal government buildings; the municipal assembly shall post notice of the prohibition against possession of firearms or knives at each entrance to the restricted access area.

(c) The prohibition on taxation in (a) of this section does not include imposition of a sales tax that is levied on all products sold within a municipality.

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

(e) In this section,

(1) "firearms" includes firearms, or any other element relating to firearms or parts thereof including ammunition and reloading components;

(2) "restricted access area" means the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public. (§ 10 ch 74 SLA 1985; §§ 2 and 3 Chap 82 SLA 05; am §§ 5, 6 ch 54 SLA 13)

Revisor's notes. Subsection (b) was enacted as subsection (c), subsection (c) was enacted as subsection (e), subsection (d) was formerly subsection (b), and subsection (e) was enacted as subsection (d). Relettered in 2005. In 2008, in paragraph (b)(3), "than" was substituted for "that" to correct a manifest error.

Effect of amendments. The 2005 amendment, effective October 19, 2005, repealed and reenacted subsection (a) to reserve to the state the authority to regulate firearms and added new subsections authorizing municipalities to enact ordinances identical to state law, to enact ordinances restricting discharge, sales, and possession with certain limitations, and added definitions. The 2005 amendment also added subsections (c) [now(b)], (d) [now (e)], and (e) [now (c)]. The 2013 amendment, effective September 18, 2013, amended subsection (a) and (b) to reserve to the state the authority to regulate knives in the same manner as firearms.

Sec. 29.35.146. Regulation of unmanned aircraft systems.

(a). A municipality may not adopt an ordinance that permits the release of images

captured by an unmanned aircraft system in a manner inconsistent with AS 18.65.903.

(b) In this section, "unmanned aircraft system" has the meaning given in AS 18.65.909. (§ 4 ch 105 SLA 14)

Sec. 29.35.147. Licensing of massage therapists.

(a). The authority to license massage therapists is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance requiring professional licensure of massage therapists.

(b) This section applies to home rule and general law municipalities.
(§ 7 ch 114 SLA 14)

Sec. 29.35.148. Regulation of transportation network companies or drivers.

(a) The authority to regulate transportation network companies and transportation network company drivers is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating transportation network companies or transportation network company drivers.

(b) The prohibition on regulation under (a) of this section does not include

(1) imposition of a municipal sales tax on a transportation network company driver that taxes a trip originating in the municipality in the same manner that other services are taxed in the municipality; in imposing a sales tax as permitted by this paragraph, a municipality may require the transportation network company to collect and pay the municipal sales tax on behalf of transportation network company drivers;

(2) A municipal traffic ordinance

(c) Not withstanding AS 28.01.010 or (a) of this section, a municipality may by ordinance ratified by the voters in a regular municipal election prohibit transportation network companies from conducting activities under AS 28.23 within the municipality.

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

(e) In this section,

(1) "transportation network company" has the meaning given in AS 28.23.180;

(2) "transportation network company driver" has the meaning given in AS 28.23.180

(§ 8 ch10 SLA 17; am § 1, ch 31 SLA 2018)

Effect of amendment. The 2018 amendment, effective June 19, 2018 allows imposing and collection of municipal sales tax.

Sec. 29.35.149. Regulation of dextromethorphan.

(a) The authority to regulate dextromethorphan is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating the possession or sale of dextromethorphan.

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

(§3 ch16 SLA 16)

Article 2. Mandatory Areawide Powers.

Section

Sec. 29.35.150. Scope of areawide powers.

A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 - 29.35.180 on an areawide basis. (§ 10 ch 74 SLA 1985)

Sec. 29.35.160. 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 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. (§ 10 ch 74 SLA 1985)

Sec. 29.35.170. Assessment and collection of taxes.

(a) A borough shall assess and collect property, sales, and use taxes that are levied in its boundaries, subject to AS 29.45.

(b) Taxes levied by a city shall be collected by a borough and returned in full to the levying city. This subsection applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

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. (§ 10 ch 74 SLA 1985)

Article 3. Additional Powers.

Section

Sec. 29.35.200. First class borough powers.

(a) A first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law.

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

(1) provide transportation systems;

(2) provide water pollution control;

(3) provide air pollution control in accordance with AS 46.14.400;

(4) license day care facilities;

(5) license, impound, and dispose of animals.

(6) establish an energy improvement assessment program under AS 29.55.100 - 29.55.165.

(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.

(d) A first class borough that exercises power necessary to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210. (§ 10 ch 74 SLA 1985; am § 4 ch 83 SLA 1991; am § 7 ch 74 SLA 1993; am § 2, ch 25 SLA 2017)

Effect of amendments. The 1993 amendment, effective June 26, 1993, made a section reference substitution in paragraph (b)(3). The 1991 amendment, effective June 28, 1991, added subsection (d). In 2000, in subsection (d), "and exercises" was substituted for "and exercise" to correct a manifest error in ch. 83, SLA 1991. The 2017 amendment, effective September 8, 2017 established (b)(6).

Sec. 29.35.210. Second class borough powers.

(a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

(1) provide transportation systems;

(2) regulate the offering for sale, exposure for sale, sale, use, or explosion of fireworks;

(3) license, impound, and dispose of animals;

(4) subject to AS 29.35.050, provide garbage, solid waste, and septic waste collection and disposal;

(5) provide air pollution control under AS 46.14.400;

(6) provide water pollution control;

(7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation;

(8) provide for economic development;

(9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 — 19.30.251;

(10) establish an emergency services communication center under AS 29.35.130;

(11) subject to AS 28.01.010, regulate the licensing and operation of motor vehicles and operators;

(12) engage in activities authorized under AS 29.47.460;

(13) contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this paragraph in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210.

(14) establish an energy improvement assessment program under AS 29.55.100 - 29.55.165.

(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 under AS 46.14.400;

(4) provide water pollution control;

(5) license day care facilities.

(6) establish an energy improvement assessment program under AS 29.55.100 - 29.55.165.

(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. (§ 10 ch 74 SLA 1985; am § 1 ch 118 SLA 1988; am § 39 ch 21 SLA 1991; am § 5 ch 83 SLA 1991; am §§ 8, 9 ch 74 SLA 1993; am §§ 3,4 ch 25 SLA 2017)

Effect of amendments. The 1993 amendment, effective June 26, 1993, made section reference substitutions in paragraphs (a)(5) and (b)(3). The second 1991 amendment, effective June 28, 1991, added paragraph (a)(13). The first 1991 amendment, effective June 11, 1991, in paragraph (a)(4), added "subject to AS 29.35.050," at the beginning. The 1988 amendment, effective June 8, 1988, inserted paragraph (a)(12). The 2017 amendments, effective September 8, 2017, inserted paragraphs (a)(14), and (b)(6).

Sec. 29.35.220. Third class borough powers.

(a) A third class borough may borrow money and issue negotiable or nonnegotiable bonds or other evidences of indebtedness as provided by AS 29.47.

(b) Areawide exercise of a power by a third class borough other than education and tax assessment and collection is not authorized.

(c) A third class borough may acquire the power to provide for planning, platting, and land use regulation as provided in AS 29.40 for first and second class boroughs, except the power may only be exercised within a service area.

(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.

(e) A third class borough may by ordinance exercise power necessary to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09, but the power authorized by this subsection may be exercised only on a nonareawide basis.

The borough shall exercise its authority under this subsection in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210. (§ 10 ch 74 SLA 1985; am § 6 ch 83 SLA 1991)

Effect of amendments. The 1991 amendment, effective June 28, 1991, added subsection (e).

Article 4. City Powers.

Section

Sec. 29.35.250. Cities inside boroughs.

(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 boroughs. 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. (§ 10 ch 74 SLA 1985)

Sec. 29.35.260. Cities outside boroughs.

(a) A city outside a borough may exercise a power not otherwise prohibited by law. A provision that is incorporated by reference to laws governing boroughs applies to home rule cities outside boroughs only if the provision is made applicable to home rule boroughs.

(b) A home rule or first class city outside a borough is a city school district and shall establish, operate, and maintain a system of public schools as provided by AS 29.35.160 for boroughs. A second class city outside a borough is not a school district and may not establish a system of public schools.

(c) A home rule city outside a borough shall provide for planning, platting, and land use regulation as provided by AS 29.35.180(b) 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. (§ 10 ch 74 SLA 1985)

Article 5. Acquisition of Additional Powers.

Section

Sec. 29.35.300. Additional powers.

(a) A first class borough acquires an additional areawide power by transfer of the power by a city or by holding an areawide election on the question.

(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). (§ 10 ch 74 SLA 1985)

Sec. 29.35.310. Transfer by city.

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

(b) A first or second class borough shall exercise all powers transferred to it by a city. (§ 10 ch 74 SLA 1985)

Sec. 29.35.320. 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. (§ 10 ch 74 SLA 1985)

Sec. 29.35.330. Election.

(a) If more than one power is proposed for acquisition under AS 29.35.320, each shall appear 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) A 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 cities located in the borough. The other shall consist of all votes cast in the 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 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. (§ 10 ch 74 SLA 1985)

Sec. 29.35.340. Effect of acquiring an areawide power.

(a) On 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 assembly may levy and collect special charges, taxes, or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by a city or service area for exercising an areawide power acquired by the borough. When a city or service area had previously incurred bonded indebtedness, all property that was in the city or service area at the time the bonds were issued remains subject to taxation to pay the principal of and interest on the bonds.

(c) On acquisition of an additional areawide power 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 section applies to home rule and general law cities. (§ 10 ch 74 SLA 1985)

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. (§ 10 ch 74 SLA 1985)

Article 6. Construction of Powers.

Section

Sec. 29.35.400. General construction.

A liberal construction shall be given to all powers and functions of a municipality conferred in this title. (§ 10 ch 74 SLA 1985)

Sec. 29.35.410. Extent of powers.

Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title. (§ 10 ch 74 SLA 1985)

Sec. 29.35.420. Enumeration of powers.

Specific examples in an enumerated power or function conferred upon a municipality in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function. (§ 10 ch 74 SLA 1985)

Article 7. Service Areas.

Section

Sec. 29.35.450. Service areas.

(a) A service area to provide special services in a borough or unified municipality may be established, operated, altered, or abolished by ordinance, subject to (c) of this section. Special services include services not provided by the unified municipality or a higher or different level of services. Special services include services not provided by a borough on an areawide or nonareawide basis in the borough or a higher or different level of services than that provided on an areawide or nonareawide basis. A 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.

(c) If voters reside within a service area that provides road, fire protection, or parks and recreation services, abolishment of the service area is subject to approval by the majority of the voters residing in the service area who vote on the question. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be abolished and replaced by a larger service area unless that proposal is

approved, separately, by a majority of the voters who vote on the question residing in the existing service area and by a majority of the voters who vote on the question residing in the area proposed to be included within the new service area but outside of the existing service area. A service area that provides road, fire protection, or parks and recreation services in which voters reside may not be altered or combined with another service area unless that proposal is approved, separately, by a majority of the voters who vote on the question and who reside in each of the service areas or in the area outside of service areas that is affected by the proposal. This subsection does not apply

(1) to a proposed change to a service area that provides fire protection services

(A) that would result in increasing the number of parcels of land in the service area or successor service area if the increase is not more than six percent and would add not more than 1,000 residents;

(B) in a second class borough that would result in

(i) decreasing the number of parcels of land in the service area or successor service area if the owner of the property to be removed from the area requests removal and the removal meets criteria adopted by ordinance; or

(ii) increasing or decreasing the number of parcels of land in the service area or successor service area if the parcel is transferred to a service area that provides more accessible fire protection services to the transferred parcel;

(2) in a second class borough to abolishment of a road service area or consolidation of two or more road service areas if

(A) taxes have not been levied in the service area for road maintenance or construction during the last 12 months and there is no balance in any account available to pay for these road services for the service area;

(B) during the last 12 months, the service area board has not met with a quorum present and in accordance with law; or

(C) there are no road maintenance contracts in effect for the service area or the existing road maintenance contracts fail to provide for minimum road standards required by law that are necessary to protect the borough from civil liability;

(3) to require approval by the voters residing in a subdivision or parcel proposed to be added to a road service area if roads maintained by the service area provide the only access to the subdivision or parcel or provide access to the subdivision or parcel that is required by the subdivision plat or by other regulation or ordinance;

(4) to a change in the boundaries of a road service area to exclude a subdivision or parcel that does not rely on the use of roads maintained by the service area for the subdivision's or parcel's only access or for access that is required by the subdivision plat or by other regulation or ordinance;

(5) to a change in the boundaries of a road service area to include or exclude a parcel that is located in more than one service area so that the parcel is only located in one road service area;

(6) to a change in the boundaries of a road service area to include a parcel that is partially located in the road service area if roads maintained by the service area provide the only access to the parcel.

(d) This section applies to a home rule or general law municipality.

(§ 10 ch 74 SLA 1985; am §§ 2, 3 ch 31 SLA 2001; §§ 1, 2 ch 29 SLA 2005; am § 1 ch 21 SLA 2007; am § 2 ch 84 SLA14; am§1, ch14 SLA 15)

Effect of amendments. The 2014 amendment amends subsection (c) by adding paragraphs (5) and (6) providing new exemptions from the provision of subsection (c). The 2014 amendment provided further clarification to section (c). The 2007 amendment, effective September 4, 2007, made stylistic changes to Section 1(c) by indenting and labeling items (1) and (2) which formerly ran within the text and added new subsections (3) and (4). Further, under (c)(2), items formerly identified as (1), (2), (3) are now labeled (A), (B), and (C). The 2005 amendment, effective May 27, 2005, made stylistic changes and amended subsection (c) to provide for consolidating or abolishing certain road service areas in certain second class boroughs; and providing for an effective date. The 2005 amendment, in subsection (c) added the last sentence in the introductory language, added paragraphs (1) – (3), and made stylistic changes. The 2001 amendment, effective August 22, 2001, made substantial changes to subsection (a) and added subsections (c) and (d).

Sec. 29.35.460. Service area boards.

The assembly may provide for an appointed or elected board to supervise the furnishing of special services in a service area. (§ 10 ch 74 SLA 1985)

Sec. 29.35.470. Financing.

(a) 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.

(b) The assembly may by ordinance establish, alter, and abolish differential tax zones within a service area to provide and levy property taxes for a different level of services than that provided generally in the service area. Taxes levied within a differential tax zone that exceed the amount that would have otherwise been levied may only be used for the services provided in that zone. (§ 10 ch 74 SLA 1985; am § 4 ch 31 SLA 2001)

Effect of amendments. The 2001 amendment, effective August 22, 2001, added subsection (b).

Sec. 29.35.480. Service areas in first class boroughs.

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 may be exercised by a first class borough. (§ 10 ch 74 SLA 1985)

Sec. 29.35.490. Service areas in second and third class boroughs.

(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 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 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.

(d) A second class borough may establish a service area for the provision of emergency services within a state highway corridor if no voters reside in the service area. A second class borough may provide emergency services in a service area established under this subsection by ordinance. Notwithstanding any other provision of law, a second class borough may not authorize or levy a property tax for the provision of emergency services in a service area established under this subsection. The boundaries of a service area established under this subsection may only include the highway corridor and publicly owned property adjacent to the highway corridor necessary to house emergency response equipment and personnel for the service area.

(§ 10 ch 74 SLA 1985; am § 4, ch 9 SLA 2017)

Effect of amendments. The 2017 amendment, effective June 13, 2017, added subsection (d).

Article 8. Hazardous Chemicals, Materials, and Wastes.

Section

Sec. 29.35.500. Reporting.

(a) If a municipality establishes a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes, then the municipality shall require a business or a government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes to submit to a designated person or office of the municipality, on a form approved by the Alaska State Emergency Response Commission, an inventory of the hazardous chemicals, hazardous materials, and hazardous wastes the business or government agency handles. Notwithstanding other provisions of this title, a municipality that establishes a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes may not

(1) use a form other than the one required under this section or use a form in addition to the one required under this section;

(2) require a business or government agency to submit an inventory of hazardous chemicals, hazardous materials, and hazardous wastes unless the business or government agency is required to do so by the Alaska State Emergency Response Commission;

(3) require reporting under this section of a substance not listed in (c) of this section unless it is added by the commission under (c) of this section;

(4) require reporting under this section of a substance that is in smaller quantities than provided under (c) of this section unless the reporting of smaller quantities is approved by the commission under (c) of this section.

(b) An inventory required under this section must include

(1) the name and address of a facility, and of the owner and operator of the facility, at which the hazardous chemicals, hazardous materials, or hazardous wastes are handled;

(2) the names and telephone numbers of persons connected with the facility who are to be contacted in an emergency;

(3) the chemical name or other descriptive information about each hazardous chemical, hazardous material, or hazardous waste handled;

(4) the location and maximum estimated quantity of the hazardous chemicals, hazardous materials, and hazardous wastes handled in a single day;

(5) with respect to a transshipment facility; instead of the information required under (3) and (4) of this subsection, the following information:

(A) a list of the classes of hazardous chemicals, hazardous materials, and hazardous wastes handled;

(B) a site layout and floor plan showing the usual locations of the hazardous chemicals, hazardous materials, and hazardous wastes handled at the facility; and

(C) the method of marking or warning used for hazardous chemicals, hazardous materials, and hazardous wastes at the facility.

(c) Unless the Alaska State Emergency Response Commission or a municipality, after public hearing, removes a substance listed in this subsection from the reporting requirements within its jurisdiction, or unless the commission, after public hearing, adds a substance to the reporting requirements of this subsection or requires the reporting of smaller quantities of the substances listed in this subsection, either on a statewide basis or for reporting within particular municipalities, the following quantities of hazardous chemicals, hazardous materials, and hazardous wastes shall be reported in an inventory required under this section:

(1) any quantity of a hazardous material of the hazard class identified in federal placarding regulations as

(A) Poison Gas Hazard Division No. 2.3 and Poisons 6.1;

(B) Explosives 1.1;

(C) Explosives 1.2 and 1.3, excluding smokeless gunpowder, black powder, and ammunition;

(D) Flammable solid Divisions 4.1, 4.2, and 4.3; or

(E) Radioactive Hazard Class 7;

(2) a hazardous chemical, or a hazardous material other than one described in (1) of this subsection, if handled in a single day in an amount equal to or greater than 10,000 pounds;

(3) extremely hazardous substances in a quantity equal to or more than 500 pounds or the threshold planning quantity, whichever is less; and

(4) compressed gasses equal to or more than 1,000 cubic feet at standard temperature and pressure.

(d) A business or government agency required to submit an inventory under this section shall submit the first inventory within 90 days after the municipality's reporting requirements take effect or within 30 days after beginning to engage in the handling of hazardous chemicals, hazardous materials, or hazardous wastes. Thereafter, the business or government agency shall submit an inventory annually. With respect to transshipments, the first inventory shall be an estimate of transshipments by the business

or government agency during the next 12 months. Subsequent annual inventories shall reflect actual transshipments during the previous 12 months.

(e) A municipality that establishes a program for the reporting of hazardous chemicals, hazardous materials, or hazardous wastes shall also require a business or government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes to report

(1) significant change in the general location of hazardous chemicals, hazardous materials, or hazardous wastes by telephone or other means adequate to convey the information within 24 hours, and in writing within 10 working days, after moving the chemicals, materials, or wastes;

(2) names and other descriptive information of additional hazardous chemicals, hazardous materials, or hazardous wastes being handled since the last inventory or report if they meet the criteria for reporting under (c) of this section, by telephone or other means adequate to convey the information within 24 hours, and in writing within 10 working days, after making the additions;

(3) with respect to a transshipment facility, instead of the information required under (1) and (2) of this subsection, the following:

(A) an additional class of hazardous chemicals, hazardous materials, or hazardous wastes handled at the facility, or a change in the method of marking or warning used for hazardous chemicals, hazardous materials, or hazardous wastes at the facility, within 30 days after the addition or change; and

(B) a change to the site layout or floor plan submitted under (b)(5)(B) of this section, by telephone or other means adequate to convey the information within 24 hours, and in writing within 30 days after the change.

(f) A municipality that establishes a program for the reporting of hazardous chemicals or hazardous materials may require a business or government agency that handles hazardous chemicals or hazardous materials to submit a federal Occupational Safety and Health Administration (OSHA) Material Safety Data Sheet or equivalent information for each of the chemicals and materials handled.

(g) The requirements of this section may be imposed by a municipality on a business or government agency that handles hazardous chemicals, hazardous materials, or hazardous wastes outside of the boundaries of the municipality if a fire or other emergency involving the chemicals, materials, or wastes would be

(1) likely to adversely affect persons or property in the municipality; or

(2) responded to by emergency response personnel whose service area includes all or a part of the municipality. (§ 4 ch 108 SLA 1986; am §§ 5 - 11 ch 143 SLA 1988; am §§ 5, 6 ch 71 SLA 1997)

Effect of amendments. The 1997 amendment, effective September 9, 1997, rewrote subsections (a) and (c). The 1988 amendment, in subsection (a), inserted "hazardous chemicals" throughout the subsection, substituted "approved" for "provided," and made a series of minor punctuation changes; repealed and reenacted subsection (b), which formerly related to the same subject matter; in subsection (c), inserted "hazardous chemicals" in the introductory language and "of a hazardous material" in paragraph (2), substituted present paragraph (3) for former paragraph (3), relating to the same subject matter, deleted "and" at the end of paragraph (4) and "another" at the beginning of paragraph (5), added paragraphs (6) and (7), and made a minor punctuation change in the introductory language; repealed and reenacted subsections (d) and (e), which formerly related to the same subject matter; in subsection (f), inserted "hazardous chemicals or" twice, and substituted "(OSHA) Material Safety Data Sheet

or" for "(OSHA) form 20 (Material Safety Data Sheet) or" and "chemicals and materials" for "materials or wastes"; and, in the introductory language of subsection (g), inserted "hazardous chemicals" near the beginning and "chemicals" near the end, and made a series of minor punctuation changes.

Sec. 29.35.510. Inspections; penalties.

A municipality may conduct inspections, and establish and impose penalties, necessary to ensure compliance with reporting requirements adopted under AS 29.35.500. (§ 4 ch 108 SLA 1986; am § 7 ch 71 SLA 1997)

Effect of amendments. The 1997 amendment, effective September 9, 1997, deleted "and placarding requirements adopted under AS 18.70.310" from the end.

Sec. 29.35.520. Fees.

A municipality may impose appropriate fees to fully or partially compensate for the cost of processing reports and administering inspections under AS 29.35.500 - 29.35.510. (§ 4 ch 108 SLA 1986; am § 12 ch 143 SLA 1988; am § 8 ch 71 SLA 1997)

Effect of amendments. The 1997 amendment, effective September 9, 1997, deleted "and the cost of providing placards under AS 18.70.310. The municipality may establish a fee schedule different from the schedule established by the Department of Public Safety under AS 18.70.310" from the end. The 1988 amendment added the second sentence and added "and the cost of providing placards under AS 18.70.310" at the end of the first sentence. The 1997 amendment removed words at the end of the first sentence and removed the second sentence.

Sec. 29.35.530. Duties of municipalities; powers of other agencies.

(a) The municipality, at the request of a business or government agency required to submit an inventory under AS 29.35.500, shall provide

(1) a descriptive summary of the hazardous chemicals, hazardous materials, and hazardous wastes that are required to be included in an inventory; and

(2) inventory forms approved by the Alaska State Emergency Response Commission.

(b) *[Repealed, § 15 ch 71 SLA 1997]*

(c) The division of fire prevention, the Department of Environmental Conservation, the Department of Health and Social Services, or the Department of Labor may

(1) request copies of inventories submitted under AS 29.35.500; and

(2) provide educational materials related to hazardous chemicals, hazardous materials, and hazardous wastes. (§ 4 ch 108 SLA 1986; am § 13 ch 143 SLA 1988; am §§ 9, 15 ch 71 SLA 1997)

Effect of amendments. The 1997 amendment, effective September 9, 1997, rewrote subsection (a) and repealed subsection (b). The 1988 amendment inserted "hazardous chemicals" in subsections (a)(1), (b), and (c)(2), and made a series of minor punctuation changes throughout those same subsections.

Sec. 29.35.540. Public access to information.

Information obtained by a municipality under AS 29.35.500, 29.35.510, and 29.35.530 shall be made readily available to the public for inspection and copying. (§ 4 ch 108 SLA 1986)

Sec. 29.35.550. Application.

AS 29.35.500 - 29.35.590 apply to home rule and general law municipalities. (§ 4 ch 108 SLA 1986)

Sec. 29.35.560. Municipal liability.

The establishment by a municipality of a program for the reporting of hazardous chemicals, hazardous materials, and hazardous wastes does not increase the liability that may otherwise be imposed on the municipality for damages resulting from hazardous chemicals, hazardous materials, or hazardous waste. (§ 4 ch 108 SLA 1986; am § 14 ch 143 SLA 1988)

Effect of amendments. The 1988 amendment inserted "hazardous chemicals" twice and made a series of minor punctuation changes.

Sec. 29.35.590. Definitions.

In AS 29.35.500 – 29.35.590,

(1) "acute hazardous waste" means a waste listed by the administrator or the Environmental Protection Agency in accordance with the criteria in 40 C.F.R. 261.11(a)(2);

(2) "extremely hazardous substance" means a substance listed in 40 C.F.R. Part 355, Appendix A and B;

(3) "handles" includes disposes of, generates, processes, stores, treats, transships, and uses hazardous chemicals, materials, or wastes, but does not include the handling of hazardous chemicals, hazardous materials, or hazardous wastes while they are in transit and before they reach the final destination indicated on the shipping paper accompanying the shipment, except while they are at a transshipment facility; in this paragraph, "shipping paper" has the meaning given in 49 C.F.R. 171.8;

(4) "hazard class" means the class of a hazardous material defined in 49 C.F.R. 173;

(5) "hazardous chemical" has the meaning given in 29 C.F.R. 1910.1200(c) except that it does not include

(A) a food, food additive, color additive, drug, or cosmetic regulated by the federal Food and Drug Administration;

(B) a substance present as a solid in a manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

(C) a substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

(D) a substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or

(E) a substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer;

(6) "hazardous material" means a material or substance, as defined in 49 C.F.R. 171.8, and any other substance determined by the Alaska State Emergency Response Commission in regulations to pose a significant health and safety hazard; "hazardous material" does not include food, drugs, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for personal consumption;

(7) "hazardous waste" means

(A) a hazardous waste as defined in AS 46.03.900;

(B) a hazardous waste as identified by the Environmental Protection Agency under 40 C.F.R. 261; and

(C) any other hazardous waste defined by the Alaska State Emergency Response Commission in regulations;

(8) "quantity" means the total amount of a material or waste handled at a time and includes the aggregate of a material or waste that is divided among multiple containers;

(9) "threshold planning quantity" means the quantity listed in the column "threshold planning quantity" for a substance listed in 40 C.F.R. Part 355, Appendix A and B;

(10) "transshipment facility" means a building, dock, yard or other structure or area at which hazardous chemicals, hazardous materials, or hazardous wastes are held, or transferred from one vehicle, vessel, or container to another, for the purpose of reshipment within seven days after arriving at the facility, if regularly holding or transferring within that period of time is the principal business of the facility. (§ 4 ch 108 SLA 1986; am §§ 15, 16 ch 143 SLA 1988; am §§ 10 —12 , 15 ch 71 SLA 1997)

Effect of amendments. The 1997 amendment, effective September 9, 1997, repealed paragraph (2); rewrote paragraph (6); in paragraph (7), substituted “Alaska State Emergency Response Commission in regulations” for “Division of Fire Prevention, or by a municipality for purposes of its own reporting program,”; and rewrote paragraph (8). The 1988 amendment inserted paragraph (3); in paragraph (4), substituted "transships, and uses hazardous chemicals, materials" for "and uses hazardous materials," inserted "hazardous chemicals" following "handling of" and "except while they are at a transshipment facility," and made a series of minor punctuation changes; inserted paragraph (6); and added paragraphs (10) and (11). Reorganized in 1988 to alphabetize the defined terms and in 2008 to reflect the repeal of former paragraph (2).

Article 9. Port Authorities.

Section

Sec. 29.35.600. Purpose of authorities.

The purpose of a port authority is to provide for the development of a port or ports for transportation related commerce within the territory of the authority. (§ 2 ch 97 SLA 1992)

Sec. 29.35.605. Establishment of port authorities.

(a) A port authority may be created by one of the following means:

(1) the governing body of a municipality may create by ordinance a port authority as a public corporation of the municipality;

(2) the governing bodies of two or more municipalities may create by parallel ordinances adopted by each of the governing bodies a port authority as a public corporation of the municipalities.

(b) One or more municipalities may join an authority established under (a)(l) or (2) of this section upon the adoption of parallel ordinances by the governing bodies of each affected municipality.

(c) A port authority created under this section is a body corporate and politic and an instrumentality of the municipality or municipalities creating it but having a separate and independent legal existence.

(d) Creation of a port authority under AS 29.35.600 – 29.35.730 is an exercise of a municipality's transportation system powers.

(e) The enabling ordinance by which a port authority is established must specify the powers, boundaries, and limitations of the port authority.

(f) An ordinance creating a port authority shall require approval by the voters of the municipality or municipalities participating in the authority in order for the authority to be established.

(g) Nothing in AS 29.35.600 – 29.35.725 prevents a municipality or municipalities from creating or participating in a public corporation, including a port authority, in any form or manner not prohibited by law. However, the provisions of AS 29.35.600 – 29.35.725 only apply to and may only be utilized by a port authority created under this section. (§ 2 ch 97 SLA 1992)

Sec. 29.35.610. Dissolution of a port authority.

(a) The enabling ordinance by which a port authority is created must provide for the manner by which a port authority may be dissolved.

(b) If an authority ceases to exist, its assets shall be distributed to the municipalities that participated in the authority in proportion to the difference between their contributions to the authority and any outstanding debt or obligation of that municipality to the authority, provided that any obligation to bondholders then outstanding shall first be satisfied in full. (§ 2 ch 97 SLA 1992)

Sec. 29.35.615. Municipal property.

(a) A municipality may transfer and otherwise convey or lease real property, and any improvements to it, to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.605.

(b) A municipality may transfer and otherwise assign or lease personal property to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.605. (§ 2 ch 97 SLA 1992)

Sec. 29.35.620. Powers.

If provided in the enabling ordinance, an authority may

(1) sue and be sued;

(2) have a seal and alter it at pleasure;

(3) acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift, or lease;

(4) lease to others a project acquired by it and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for purchase or renewal;

(5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it, or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of the authority's purposes;

(6) accept gifts, grants, or loans, under the terms and conditions imposed under the gift, grant, or loan, and enter into contracts, conveyances or other transactions with a federal agency or an agency or instrumentality of the state, a municipality, private organization, or other person;

(7) deposit or invest its funds, subject to agreements with bondholders;

(8) purchase or insure loans to finance the costs of projects;

(9) provide for security within the boundaries of the authority;

(l0) enter into loan agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;

(11) acquire, manage, and operate projects as the authority considers necessary or appropriate to serve the authority's purposes;

(12) assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;

(13) charge fees or other forms of remuneration for the use or possession of projects in accordance with the agreements described in this section, other agreements relating to the projects, covenants, or representations made in bond documents relating to the projects, or regulations of the authority relating to the projects;

(14) exercise the powers of eminent domain and declaration of taking within its physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes;

(15) regulate land use within the boundaries of the authority;

(16) defend and indemnify a current or former member of the board, employee, or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with civil or criminal action in which the person is involved as a result of the person's affiliation with the authority if the person acted in good faith on behalf of the authority and within the scope of the person's official duties and powers;

(17) purchase insurance to protect and hold harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance,

purported performance, or failure to perform in good faith, of duties for, or employment with the authority and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance is subject to the discretion of the board; insurance purchased under this paragraph may not be considered compensation to the insured person; and

(18) protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions; an authority may also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the authority or a municipality for bodily injury, death or disability, and property damage that may arise from or be related to authority operations and activities. (§ 2 ch 97 SLA 1992)

Sec. 29.35.625. Bonds of a port authority; superior court jurisdiction.

(a) If authorized by the enabling ordinance, an authority may borrow money and may issue bonds on which the principal and interest are payable

(1) exclusively from the income and receipts of, or other money derived from, the project financed with the proceeds of the bonds;

(2) exclusively from the income and receipts of, or other money derived from, designated projects or other sources whether or not they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts generally or a designated part or parts of them.

(b) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times that the authority may determine.

(c) Before issuing bonds, an authority shall provide for consideration at least sufficient, in the judgment of the authority, to pay the principal and interest on the bonds as they become due and to create and maintain the reserves for the payment that the authority considers necessary or desirable and meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(d) Bonds shall be authorized by resolution of the authority, be dated, and shall mature as the resolution may provide, except that a bond may not mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption that the resolution or a subsequent resolution may provide.

(e) All bonds issued under this section, regardless of form or character, are negotiable instruments for all of the purposes of AS 45.01 – AS 45.09, AS 45.12, and AS 45.14 (Uniform Commercial Code).

(f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or security of a holder of the authority's bonds or by a trustee for or other representative of the holders. (§ 2 ch 97 SLA 1992)

Sec. 29.35.630. Bonds eligible for investment.

Bonds issued under AS 29.35.625 are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banks, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose that the deposit of bonds of the state is authorized by law. (§ 2 ch 97 SLA 1992)

Sec. 29.35.635. Validity of pledge.

The pledge of revenue of an authority to the payment of the principal or interest on bonds or notes of the authority is valid and binding from the time the pledge is made, and the revenue is immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the authority irrespective of whether those parties have notice of the lien of the pledge. (§ 2 ch 97 SLA 1992)

Sec. 29.35.640. Credit of state or a municipality not pledged.

(a) The state and municipalities participating in an authority are not liable for the debts of that authority. Bonds issued under AS 29.35.625 are payable solely from the revenue of the authority and do not constitute a

(1) debt, liability, or obligation of the state or a municipality; or

(2) pledge of the faith and credit of the state or a municipality.

(b) An authority may not pledge the credit or the taxing power of the state or its municipalities. A bond issued under AS 29.35.625 must contain on its face a statement that

(1) the authority is not obligated to pay it or the interest on it except from the revenue pledged for it; and

(2) the faith and credit of the taxing power of the state or of a political subdivision of the state is not pledged to the payment of it. (§ 2 ch 97 SLA 1992)

Sec. 29.35.645. Pledges of the state and municipalities.

The state and municipalities participating in the authority pledge to and agree with the holders of bonds issued under AS 29.35.625 and with the federal agency, if any, that loans or contributes funds in respect to a project of the authority, that the state and the municipalities participating in the authority will not limit or alter the rights and powers vested in the authority by its enabling ordinance or other law so that it is unable to fulfill the terms of a contract made by the authority with those holders or that federal agency, or in any way impair the rights and remedies of those holders or that federal agency until the bonds, together with the interest on them and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of those holders or that federal agency, are fully met and discharged. An authority is authorized to include this pledge and agreement of the state and the municipalities participating in the authority, insofar as it refers to holders of bonds of the authority, in a contract with those holders, and insofar as it relates to a federal agency, in a contract with that federal agency. (§ 2 ch 97 SLA 1992)

Sec. 29.35.650. Limitation of liability.

A liability incurred by an authority shall be satisfied exclusively from the assets or revenue of the authority. A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority. (§ 2 ch 97 SLA 1992)

Sec. 29.35.655. Limitation on personal liability.

A board member or employee of an authority is not subject to personal liability or accountability because of the execution or issuance of bonds. (§ 2 ch 97 SLA 1992)

Sec. 29.35.660. Fidelity bond.

An authority shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure in office of the bonded person. (§ 2 ch 97 SLA 1992)

Sec. 29.35.665. No taxing authority.

An authority may not levy an income or other tax. (§ 2 ch 97 SLA 1992)

Sec. 29.35.670. Exemption from taxation.

(a) An authority exercising the powers granted by the enabling ordinance under AS 29.35.600 – 29.35.730 is in all respects for the benefit of the people of the municipalities participating in the authority and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition. The real and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds issued by the authority under AS 29.35.625 are issued for an essential public and governmental purpose; therefore, the bonds, interest and income from them, and all fees, charges, funds, revenue, income, and other money pledged or available to pay or secure the payment of the bonds or interest on them are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) Notwithstanding the provisions of (a) of this section, an authority and the municipalities participating in the authority may enter into agreements under which the authority agrees to pay the participating municipalities' payments in lieu of taxes and special assessments on real and personal property of the authority that is within the taxing jurisdiction of the municipality.

(d) Nothing in this section creates a tax exemption with respect to the interests of a business enterprise or other person, other than the authority, in property, assets, income, or receipts, whether or not financed under AS 29.35.600 – 29.35.730. (§ 2 ch 97 SLA 1992)

Sec. 29.35.675. Development plan.

In the enabling ordinance establishing the authority under AS 29.35.605 the authority shall be

(1) required to submit a development plan to the governing body of the municipality or municipalities participating in the authority; and

(2) prohibited from undertaking the construction or acquisition of a project unless the project appears in a development plan submitted to and approved by the governing body of the municipality or municipalities participating in the authority. (§ 2 ch 97 SLA 1992)

Sec. 29.35.680. Administration of port authorities; board.

(a) An authority shall be governed by a board of directors, which shall exercise the powers of the authority. The enabling ordinance establishing the authority under AS 29.35.605 must specify the number, qualifications, manner of appointment or election, and terms of members of the board.

(b) The board shall appoint a chief executive officer of the authority who serves at the pleasure of the board. The board shall fix the compensation of the chief executive officer. (§ 2 ch 97 SLA 1992)

Sec. 29.35.685. Continuation of collective bargaining agreements; application of AS 23.40.070 – 23.40.260.

(a) A collective bargaining agreement for employees of the state or its political subdivisions who are transferred to an authority under AS 29.35.600 – 29.35.730 shall remain in effect for the term of the agreement or for a period of one year, whichever is longer, and shall be binding on the authority unless the parties agree to the contrary before the expiration of the agreement. A labor-management negotiation impasse declared after a transfer of employees under this subsection but before the negotiation of a new collective bargaining agreement shall be resolved as provided in the collective bargaining agreement, except that if the collective bargaining agreement does not provide for a resolution, then as provided in AS 23.40.070 – 23.40.260.

(b) Employees of the state or a political subdivision of the state transferred to an authority shall retain, for a period of one year following the date of transfer or for the duration of a collective bargaining agreement transferred under (a) of this section, whichever is greater, all rights of participation in fringe benefit programs available to the employees on the day before the transfer, or in programs substantially equivalent.

(c) AS 23.40.070 – 23.40.260 apply to employees of an authority established under AS 29.35.600 – 29.35.730 unless all municipalities participating in the authority are exempt under § 4 ch 113 SLA 1972. (§ 2 ch 97 SLA 1992)

Sec. 29.35.690. Bylaws and regulations.

(a) A board shall adopt bylaws and appropriate regulations consistent with the enabling ordinance to carry out its functions and purposes.

(b) A board shall adopt bylaws as soon after the establishment of the authority as possible and may from time to time, amend those bylaws. The bylaws may contain any provision not in conflict with law for the management of the business of the authority and for the conduct of the affairs of the authority, including

(1) the time, place, and manner of calling, conducting, and giving notice of meetings of the board and committees of the board, if any;

(2) the compensation of directors, if any;

(3) the appointment and authority of committees of the board, if any;

(4) the appointment, duties, compensation, and tenure of officers, directors, chief executive officer, and other employees, if any;

(5) procedures for adopting regulations;

(6) procedures for adopting bylaws;

(7) procedures for making annual reports and financial statements; and

(8) other matters for the conduct of business by the board. (§ 2 ch 97 SLA 1992)

Sec. 29.35.695. Authority subject to public records and open meetings laws.

An authority established under AS 29.35.605 is subject to AS 09.25.110 – 09.25.220 and to AS 44.62.310 – 44.62.319 (Open Meetings Act). (§ 2 ch 97 SLA 1992)

Sec. 29.35.700. Annual report.

Within 90 days following the end of the fiscal year of an authority, the board shall distribute to the mayor and governing body of each municipality participating in the authority a report describing the operations and financial condition of the authority during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers, or duties of the authority or operation of facilities of the authority. The report must itemize the cost of providing each category of service offered by the authority and the income generated by each category. (§ 2 ch 97 SLA 1992)

Sec. 29.35.705. Audits.

(a) The board shall have the financial records of an authority audited annually by an independent certified public accountant.

(b) An authority shall make all of its financial records available to an auditor appointed by a municipality participating in the authority for examination. (§ 2 ch 97 SLA 1992)

Sec. 29.35.710. Remedies.

A holder of bonds or notes or coupons attached to the bonds issued by an authority under AS 29.35.625, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under AS 29.35.600 – 29.35.730, the trust agreement or resolution, or another contract executed by the authority; and

(2) compel the performance of all duties of the authority required by AS 29.35.600 – 29.35.730 or the trust agreement or resolution. (§ 2 ch 97 SLA 1992)

Sec. 29.35.715. Claims.

For the purpose of judicial and regulatory proceedings by and against an authority, an authority and its board members and employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers. (§ 2 ch 97 SLA 1992)

Sec. 29.35.720. Conflicting laws inapplicable.

If provisions of AS 29.35.600 – 29.35.730 conflict with other provisions of this title, the provisions of AS 29.35.600 – 29.35.730 prevail. (§ 2 ch 97 SLA 1992)

Sec. 29.35.722. Ownership or operation of certain state facilities prohibited.

The state may not, without the approval of the legislature,

(1) convey or transfer the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state asset, except undeveloped state land as provided in AS 38.05.810 or surplused property, to an authority; or

(2) enter into an agreement with an authority under which the authority would operate the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state facility, system, or function that employs one or more employees. (§ 2 ch 97 SLA 1992)

Sec. 29.35.725. Definitions.

In AS 29.35.600 – 29.35.730, unless the context otherwise requires,

(1) "authority" means a port authority established under AS 29.35.605;

(2) "board" means the board of directors of an authority;

(3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or other forms of indebtedness of the authority;

(4) "bylaws" or "bylaws of the authority" means the guidelines adopted by and amended by the board from time to time in accordance with AS 29.35.600 – 29.35.730;

(5) "port" means a facility of transportation related commerce located within the state;

(6) "project" means a port, dock, and administrative facilities, including property necessary in connection with the operation of a port;

(7) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by an authority to be necessary to finance the construction or acquisition of a project, including without limitation to the cost of acquiring real property, the cost of constructing buildings and improvements, the cost of financing the project, including, without limitation, interest charges before, during, or after construction or acquisition of the project, costs related to the determination of the feasibility, planning, design, or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation or rehabilitation of a port, and all other costs, charges, fees, and expenses that may be determined by the authority to be necessary to finance the construction or acquisition;

(8) "real property" or "land" means any interest in real property, including tidal and submerged land, and any right appurtenant to the interest, and without limitation, interests less than full title such as easements, uses, leases, and licenses;

(9) "regulation" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or make specific the law enforced or administered by it or to govern its procedure. (§ 2 ch 97 SLA 1992)

Sec. 29.35.730. Short title.

AS 29.35.600 – 29.35.730 may be referred to as the Municipal Port Authority Act. (§ 2 ch 97 SLA 1992)

Article 10. Regional Solid Waste Management Authorities.

Section

Sec. 29.35.800. Purpose of authorities.

The purpose of a regional solid waste management authority is to provide environmentally sound and cost-effective management of solid waste, including storage, collection, transportation, separation, processing, recycling, and disposal, to protect the public health, safety, and welfare; improve the environment of the state; recover resources and energy; and prevent pollution. (§ 2 ch 26 SLA 2006)

Sec. 29.35.805. Establishment of regional solid waste management authorities.

(a) A regional solid waste management authority may be created in one of the following ways:

(1) the governing body of a municipality may, by ordinance, create a regional solid waste management authority as a public corporation of the municipality;

(2) the governing bodies of two or more municipalities may, by substantially identical ordinances adopted by each of the governing bodies, create a regional solid waste management authority as a public corporation of the municipalities.

(b) One or more municipalities may join an authority established under (a)(1)or (2) of this section upon the adoption of substantially identical ordinances by the governing bodies of each affected municipality.

(c) A regional solid waste management authority created under this section is a body corporate and politic and an instrumentality of the municipality or municipalities creating it but has a separate and independent legal existence.

(d) Creation of a regional solid waste management authority under AS 29.35.800 – 29.35.925 is an exercise of a municipality's extraterritorial jurisdiction under AS 29.35.020.

(e) The enabling ordinance by which a regional solid waste management authority is established must specify the powers, boundaries, and limitations of the regional solid waste management authority.

(f) An ordinance creating a regional solid waste management authority must be approved by the voters of the municipality or municipalities participating in the authority for the authority to be established.

(g) Nothing in AS 29.35.800 – 29.35.925 prevents a municipality or municipalities from creating or participating in a public corporation, including a regional solid waste management authority, in any form or manner not prohibited by law. However, AS 29.35.800 – 29.35.925 only apply to and may only be used by a regional solid waste management authority created under this section. (§ 2 ch 26 SLA 2006)

Sec. 29.35.810. Dissolution of a regional solid waste management authority.

(a) The enabling ordinance creating a regional solid waste management authority must provide for the manner by which a regional solid waste management authority may be dissolved.

(b) If an authority ceases to exist, its assets shall be distributed to each municipality that was participating in the authority on the day before the date of dissolution in proportion to the municipality's contribution to the authority less any outstanding debt or obligation of that municipality to the authority. Any obligation to bondholders then outstanding shall first be satisfied in full.

(c) A municipality that is participating in an authority with one or more other municipalities may withdraw from participation without dissolving the authority. The contributions to the authority made by the withdrawing municipality remain the property of the authority, and the municipality remains liable for obligations under any agreement with the authority or other participating municipalities unless the agreement is changed by the contractual parties. A municipality withdraws from participation in an authority by repealing the ordinance adopted under AS 29.35.805(a)(2) or (b). (§ 2 ch 26 SLA 2006)

Sec. 29.35.815. Municipal property.

(a) A municipality may transfer and otherwise convey or lease real property and improvements to real property to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.805.

(b) A municipality may transfer and otherwise assign or lease personal property to an authority for use by the authority for the purposes set out in the ordinance adopted under AS 29.35.805. (§ 2 ch 26 SLA 2006)

Sec. 29.35.820. Powers and duties.

(a) If provided in the enabling ordinance, an authority may

(1) sue and be sued;

(2) have a seal and alter it;

(3) acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift, or lease;

(4) lease to others a project acquired by the authority on the terms and conditions the authority may consider advisable, including, without limitation, provisions for purchase or renewal;

(5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of the authority's purposes;

(6) accept gifts, grants, or loans, under the terms and conditions imposed under the gift, grant, or loan, and enter into contracts, conveyances, or other transactions with a federal agency or an agency or instrumentality of the state, a municipality, a private organization, or another person;

(7) deposit or invest its funds, subject to agreements with bondholders;

(8) purchase or insure loans to finance the costs of projects;

(9) provide for security within the boundaries of the authority;

(10) enter into loan agreements for one or more projects on the terms and conditions the authority considers advisable;

(11) acquire, manage, and operate projects the authority considers necessary or appropriate to serve the authority's purposes;

(12) assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;

(13) charge fees or other forms of remuneration for the use or possession of projects under the agreements described in this subsection; other agreements relating to the projects, covenants, or representations made in bond documents relating to the projects; or regulations of the authority relating to the projects;

(14) exercise the powers of eminent domain and declaration of taking within its physical boundaries under AS 29.35.030 to acquire land or materials for authority purposes; the powers of eminent domain shall be no greater than those enjoyed by the state under AS 09.55 and shall only be utilized upon prior approval by the governor;

(15) regulate land use within the boundaries of the authority;

(16) defend and indemnify a current or former member of the board employee, or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed on that person in connection with a civil or criminal action in which the person is involved because of the person’s affiliation with the authority if the person acted in good faith on behalf of the authority and within the scope of the person's official duties and powers;

(17) purchase insurance to protect and hold harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance of, purported performance of, or failure to perform in good faith, duties for the authority or arising out of employment with the authority and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance is subject to the discretion of the board; insurance purchased under this paragraph is not compensation to the insured person; and

(18) protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions.

(b) An authority shall maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the authority or a municipality for bodily injury, death or disability, and property damage that arise from or are related to authority operations and activities. (§ 2 ch 26 SLA 2006)

Sec. 29.35.825. Bonds of a regional solid waste management authority; superior court jurisdiction.

(a) If authorized by the enabling ordinance, an authority may borrow money and issue bonds on which the principal and interest are payable

(1) exclusively from the income and receipts of, or other money derived from, the project financed with the proceeds of the bonds; exclusively from the income and receipts of, or other money derived from, designated projects or other sources, whether they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(2) exclusively from the income and receipts of, or other money derived from, designated projects or other sources, whether they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts or a designated part or parts of them.

(b) All bonds shall be sold at public or private sale in the manner, for the price or prices, and at the time or times the authority may determine.

(c) Before issuing bonds, an authority shall provide for consideration at least sufficient, in the judgment of the authority, to

(1) pay the principal of and interest on the bonds as they become due;

(2) create and maintain the reserves for the payment that the authority considers necessary or desirable; and

(3) meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(d) Bonds shall be authorized by resolution of the authority and shall be dated and mature as the resolution may provide, except that a bond may not mature more than 40 years after the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption that the resolution or a subsequent resolution may provide.

(e) All bonds issued under this section, regardless of form or character, are negotiable instruments for all the purposes of AS 45.01 – AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (Uniform Commercial Code).

(f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or security of a holder of the authority's bonds or by a trustee for or other representative of the holders. (§ 2 ch 26 SLA 2006)

Sec. 29.35.830. Bonds eligible for investment.

Bonds issued under AS 29.35.825 are securities in which public officers and public bodies of the state and its political subdivisions, insurance companies, trust companies, banks, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds of the state is authorized by law. (§ 2 ch 26 SLA 2006)

Sec. 29.35.835. Validity of pledge.

The pledge of revenue of an authority to the payment of the principal of or interest on bonds or notes of the authority is valid and binding from the time the pledge is made, and the revenue is immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the authority irrespective of whether those parties have notice of the lien of the pledge. (§ 2 ch 26 SLA 2006)

Sec. 29.35.840. Credit of state or a municipality not pledged.

(a) The state and municipalities participating in an authority are not liable for the debts of that authority. Bonds issued under AS 29.35.825 are payable solely from the revenue of the authority and do not constitute a

(1) debt, liability, or obligation of the state or a municipality; or

(2) pledge of the faith and credit of the state or a municipality.

(b) An authority may not pledge the credit or the taxing power of the state or its municipalities. A bond issued under AS 29.35.825 must contain on its face a statement that

(1) the authority is not obligated to pay it or the interest on it except from the revenue pledged for it; and

(2) the faith and credit of the taxing power of the state or of a political subdivision of the state is not pledged to the payment of it. (§ 2 ch 26 SLA 2006)

Sec. 29.35.845. Pledges of the state and municipalities.

The state and municipalities participating in an authority pledge to and agree with the holders of bonds issued under AS 29.35.825 and with the federal agency, if any, that loans or contributes funds for a project of the authority that the state and the municipalities participating in the authority will not limit or alter the rights and powers vested in the authority by its enabling ordinance or other law so that it is unable to fulfill the terms of a contract made by it with those holders or that federal agency or in any way impair the rights and remedies of those holders or that federal agency until the bonds, together with the interest on them and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of those holders or that federal agency, are fully met and discharged. An authority may include this pledge and agreement of the state and the municipalities participating in the authority, to the extent that it refers to holders of bonds of the authority, in a contract with those holders, and to the extent that it relates to a federal agency, in a contract with that federal agency. (§ 2 ch 26 SLA 2006)

Sec. 29.35.850. Limitation of liability.

A liability incurred by an authority shall be satisfied exclusively from the assets or revenue of the authority. A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority. (§ 2 ch 26 SLA 2006)

Sec. 29.35.855. Limitation on personal liability.

A board member or employee of an authority is not subject to personal liability or accountability because of the execution or issuance of bonds. (§ 2 ch 26 SLA 2006)

Sec. 29.35.860. Fidelity bond.

An authority shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure in office of the bonded person. (§ 2 ch 26 SLA 2006)

Sec. 29.35.865. No taxing authority.

An authority may not levy an income or other tax. (§ 2 ch 26 SLA 2006)

Sec. 29.35.870. Exemption from taxation.

(a) An authority exercising the powers granted by the enabling ordinance under AS 29.35.800 – 29.35.925 is in all respects for the benefit of the people of the municipalities participating in the authority and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition. The real and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds issued by the authority under AS 29.35.825 are issued for an essential public and governmental purpose; therefore, the bonds, the interest and income from them, and all fees, charges, funds, revenue, income, and other money pledged or available to pay or secure the payment of the bonds or interest on them are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) Notwithstanding the provisions of (a) of this section, an authority and the municipalities participating in the authority may enter into agreements under which the authority agrees to pay the participating municipalities' payments in lieu of taxes and special assessments on real and personal property of the authority that is within the taxing jurisdiction of the municipality.

(d) Nothing in this section creates a tax exemption with respect to the interests of a business enterprise or other person, other than the authority, in property, assets, income, or receipts, whether or not financed under AS 29.35.800 – 29.35.925. (§ 2 ch 26 SLA 2006)

Sec. 29.35.875. Administration of regional solid waste management authorities; board.

(a) An authority shall be governed by a board of directors, which shall exercise the powers of the authority. The enabling ordinance establishing the authority under AS

29.35.805 must specify the number, qualifications, manner of appointment or election, and terms of members of the board.

(b) The board shall appoint a chief executive officer of the authority, who serves at the pleasure of the board. The board shall fix the compensation of the chief executive officer. (§ 2 ch 26 SLA 2006)

Sec. 29.35.880. Continuation of collective bargaining agreements; application of AS 23.40.070 – 23.40.260.

(a) A collective bargaining agreement for employees of the state or its political subdivisions who are transferred to an authority under AS 29.35.800 – 29.35.925 remain in effect for the term of the agreement or one year, whichever is longer, and are binding on the authority unless the parties agree to the contrary before the agreement expires. A labor-management negotiation impasse declared after a transfer of employees under this subsection but before the negotiation of a new collective bargaining agreement shall be resolved as provided in the collective bargaining agreement or, if the collective bargaining agreement does not provide for a resolution, as provided in AS 23.40.070 – 23.40.260.

(b) Employees of the state or a political subdivision of the state transferred to an authority shall retain, for one year following the date of transfer or for the duration of a collective bargaining agreement transferred under (a) of this section, whichever is greater, all rights of participation in fringe benefit programs available to the employees on the day before the transfer, or in substantially equivalent programs.

(c) AS 23.40.070 – 23.40.260 apply to employees of an authority established under AS 29.35.800 – 29.35.925 unless all municipalities participating in the authority are exempt under AS 23.40.255(a). (§ 2 ch 26 SLA 2006)

Sec. 29.35.885. Bylaws and regulations.

(a) A board shall adopt bylaws and appropriate regulations consistent with the enabling ordinance to carry out its functions and purposes.

(b) A board shall adopt bylaws as soon after the authority is established as possible and may, from time to time, amend those bylaws. The bylaws may contain any provision not in conflict with law for managing the business of the authority and for conducting the affairs of the authority, including provisions relating to

(1) the time, place, and manner of calling, conducting, and giving notice of meetings of the board and committees of the board, if any;

(2) the compensation of directors, if any;

(3) the appointment and authority of committees of the board, if any;

(4) the appointment, duties, compensation, and tenure of officers, directors, the chief executive officer, and other employees, if any;

(5) procedures for adopting regulations;

(6) procedures for adopting bylaws;

(7) procedures for making annual reports and financial statements; and

(8) other matters for the conduct of business by the board. (§ 2 ch 26 SLA 2006)

Sec. 29.35.890. Authority subject to public records and open meetings laws.

An authority established under AS 29.35.805 is subject to AS 40.25.110 – 40.25.220 and to AS 44.62.310 and 44.62.319 (Open Meetings Act). (§ 2 ch 26 SLA 2006)

Sec. 29.35.895. Annual report.

Within 90 days following the end of the fiscal year of an authority, the board shall distribute to the mayor and governing body of each municipality participating in the authority a report describing the operations and financial condition of the authority during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers, or duties of the authority or operation of facilities of the authority. The report must itemize the cost of providing each category of service offered by the authority and the income generated by each category. (§ 2 ch 26 SLA 2006)

Sec. 29.35.900. Audits.

(a) The board shall have the financial records of an authority audited annually by an independent certified public accountant.

(b) An authority shall make all of its financial records available to an auditor appointed by a municipality participating in the authority for examination. (§ 2 ch 26 SLA 2006)

Sec. 29.35.905. Remedies.

A holder of bonds or notes or coupons attached to the bonds issued by an authority under AS 29.35.825, and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under AS 29.35.800 – 29.35.925, the trust agreement or resolution, or another contract executed by the authority; and

(2) compel the performance of all duties of the authority required by AS 29.35.800 – 29.35.925 or the trust agreement or resolution. (§ 2 ch 26 SLA 2006)

Sec. 29.35.910. Claims.

In judicial and regulatory proceedings by and against an authority, an authority and its board members and employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers. (§ 2 ch 26 SLA 2006)

Sec. 29.35.915. Conflicting laws inapplicable.

If a provision of AS 29.35.800 – 29.35.925 conflicts with another provision of this title, the provision of AS 29.35.800 – 29.35.925 prevails. (§ 2 ch 26 SLA 2006)

Sec. 29.35.920. Definitions.

In AS 29.35.800 – 29.35.925, unless the context otherwise requires,

(1) "authority" means a regional solid waste management authority established under AS 29.35.805;

(2) "board" means the board of directors of an authority;

(3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or other forms of indebtedness of the authority;

(4) "bylaws" means the guidelines adopted by and amended by the board from time to time under AS 29.35.800 – 29.35.925;

(5) "costs of projects" means all or any part of the aggregate costs determined by an authority to be necessary to finance the construction or acquisition of a project, including, without limitation, the cost of acquiring real property; the cost of constructing buildings and improvements; the cost of financing the project, including, without limitation, interest charges before, during, or after construction or acquisition of the project; costs related to determining the feasibility of, planning, design of, or engineering of the project and, to the extent determined necessary by the authority, administrative expenses; the costs of machinery or equipment to be used in the operation or rehabilitation of a solid waste management facility or operation; and all other costs, charges, fees, and expenses that the authority determines necessary to finance the construction or acquisition;

(6) "land" or "real property" means any interest in real property, including tidal and submerged land, any right appurtenant to the interest, and, without limitation, interests less than full title, such as easements, uses, leases, and licenses;

(7) "project" means a solid waste management facility, and administrative facilities, including property necessary for solid waste management;

(8) "regulation" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or make specific the law enforced or administered by it or to govern its procedure. (§ 2 ch 26 SLA 2006)

Sec. 29.35.925. Short title.

AS 29.35.800 – 29.35.925 may be cited as the Regional Solid Waste Management Authority Act. (§ 2 ch 26 SLA 2006)

Chapter 40. Planning, Platting, and Land Use Regulation.

Section

Sec. 29.40.010. Planning, platting, and land use regulation.

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

(b) If a city in a borough consents by ordinance, the assembly may by ordinance delegate any of its powers and duties under this chapter to the city. The assembly may by ordinance, without first obtaining the consent of the city, revoke any power or duty delegated under this section. (§ 11 ch 74 SLA 1985)

Sec. 29.40.020. 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. 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 in home rule and first class cities located in the borough. A member shall be appointed by the borough mayor 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 from a list of recommendations submitted by the 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 to the assembly a proposed comprehensive plan in accordance with AS 29.40.030 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. (§ 11 ch 74 SLA 1985)

Sec. 29.40.030. 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 implementation of the comprehensive plan.

(b) With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan. The assembly shall, after receiving the recommendations of the planning commission, periodically undertake an overall review of the comprehensive plan and update the plan as necessary. (§ 11 ch 74 SLA 1985)

Sec. 29.40.040. Land use regulation.

(a) In accordance with a comprehensive plan adopted under AS 29.40.030 and in order to implement the plan, the assembly by ordinance shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to,

(1) zoning regulations restricting the use of land and improvements 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.

(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. (§ 11 ch 74 SLA 1985)

Sec. 29.40.050. Appeals from administrative decisions.

(a) 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.

(b) 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. (§ 11 ch 74 SLA 1985)

Sec. 29.40.060. Judicial review.

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

(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. (§ 11 ch 74 SLA 1985)

Sec. 29.40.070. Platting regulation.

By ordinance the assembly shall adopt platting requirements that may include, but are not limited to, the control of

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

(2) dimensions and design of lots;

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

(4) dedication of streets, rights-of-way, public utility easements and areas considered necessary by the platting authority for other public uses. (§ 11 ch 74 SLA 1985)

Sec. 29.40.080. Platting authority.

(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. (§ 11 ch 74 SLA 1985)

Sec. 29.40.090. Abbreviated plats and waivers.

(a) Notwithstanding other provisions of this chapter, the assembly shall by ordinance establish an abbreviated plat procedure for a plat that will

(1) subdivide a single lot into not more than four lots;

(2) provide legal and physical access to a public highway or street for each lot created by the subdivision;

(3) not contain or require a dedication of a street, right-of-way, or other area;

(4) not require a vacation of a public dedication of land or a variance from a subdivision regulation.

(b) The platting authority shall waive the preparation, submission for approval, filing, 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. (§ 11 ch 74 SLA 1985; am § 3 ch 161 SLA 1988)

Effect of amendments. The 1988 amendment, effective January 1, 1989, inserted "filing" in subsection (b).

Sec. 29.40.100. Information required.

A plat must show

(1) initial point of survey;

(2) original or reestablished corners and their descriptions;

(3) 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) other information that may be required by ordinance. (§ 11 ch 74 SLA 1985)

Sec. 29.40.110. Plat procedure.

(a) The platting authority shall approve or disapprove a 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, the plat is considered approved and a certificate of approval shall be issued by the platting authority on demand if the platting authority fails to act within 60 days.

(b) The platting authority shall state in writing its reasons for disapproval of a plat. If the platting authority approves a plat, the plat shall be acknowledged, filed, and recorded in accordance with AS 40.15.010 - 40.15.020. (§ 11 ch 74 SLA 1985; am § 4 ch 161 SLA 1988)

Effect of amendments. The 1988 amendment, effective January 1, 1989, substituted "acknowledged, filed, and recorded" for "acknowledged and filed" in the second sentence in subsection (b).

Sec. 29.40.120. Alteration or replat petition.

A recorded plat may not be altered or replatted except by the platting authority 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 platted street may not be vacated, except on petition of the state, the borough, a public utility, or owners of a majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority and shall be accompanied by a copy of the existing plat showing the proposed alteration or replat. (§ 11 ch 74 SLA 1985)

Sec. 29.40.130. Notice of hearing.

The platting authority shall fix a time for a hearing on an alteration or replat petition that may not be more than 60 days after the petition is filed. 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 must generally describe the alteration or replat sought. The platting authority shall also mail a copy of the notice to each affected property owner who did not sign the petition. (§ 11 ch 74 SLA 1985)

Sec. 29.40.140. Hearing and determination.

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

(b) Vacation of a city street may not be made without the consent of the council. Vacation of a street in the borough area outside all cities may not be made without the consent of the assembly. The governing body shall have 30 days from the decision of the platting authority in which to veto a vacation of a street. If no veto is received by the platting authority within the 30-day period, consent is considered to have been given to the vacation. (§ 11 ch 74 SLA 1985)

Sec. 29.40.150. Recording.

If the alteration or replat is approved, the revised plat shall be acknowledged, filed, and recorded in accordance with AS 40.15.010 - 40.15.020. (§ 11 ch 74 SLA 1985; am § 5 ch 161 SLA 1988)

Effect of amendments. The 1988 amendment, effective January 1, 1989, substituted "acknowledge, filed, and recorded" for "acknowledged and filed."

Sec. 29.40.160. Title to vacated area.

(a) The title to the street or other public area vacated on a plat attaches to the lot or lands bordering 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 lies on one side of the boundary line shall attach to the abutting property on that side, and the street area that lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street that lies inside 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 city if it lies inside the city, and in the borough if it lies inside the borough but outside all cities. If the property vacated is a lot, title vests in the rightful owner.

(b) If the municipality acquired the street or other public area vacated for legal consideration or by express dedication to the municipality other than as a 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 the municipality on final vacation.

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

(d) The council of a second class city located outside a borough may vacate streets, alleys, crossings, sidewalks, or other public ways that may have been previously dedicated or established when the council 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. (§ 11 ch 74 SLA 1985)

Sec. 29.40.170. Delegations.

The planning commission and the platting authority may, as authorized by ordinance, delegate powers to hear and decide cases under this chapter, including, delegations to

(1) one or more members of the planning commission or platting authority;

(2) other boards or commissions;

(3) a hearing officer designated by the planning commission or platting authority. (§ 11 ch 74 SLA 1985; am § 25, ch 3 SLA 2017)

Effect of amendments. The 2017 amendment, effective July 1, 2017, removed language.

Sec. 29.40.180. Prohibited acts; criminal penalties.

(a) The owner of land located in a subdivision may not transfer, sell, offer to sell, or enter into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved, filed, and recorded in accordance with this chapter. A person may not file or record a plat or other document depicting subdivided land in a public recorder's office unless the plat or document has been approved by the platting authority.

(b) For the violation of a provision of this chapter, a subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a platting authority in the exercise of its powers under this chapter, a municipality may by ordinance prescribe a penalty not to exceed a fine of $1,000 and imprisonment for 90 days. (§ 11 ch 74 SLA 1985; am § 6 ch 161 SLA 1988)

Effect of amendments. The 1988 amendment, effective January 1, 1989, deleted "It is unlawful for" at the beginning of the first and second sentences; and substituted "may not" for "to" and "filed, and recorded" for "and filed" in the first sentence, and "may not file or record" for "to file" in the second sentence.

Sec. 29.40.190. Civil remedies and penalties.

(a) The municipality or an aggrieved person may institute a civil action against a person who violates a provision of this chapter, a subdivision regulation adopted under this chapter, or a term, condition, or limitation imposed by a platting authority. In addition to other 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. Upon application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.

(b) Each day that an unlawful act or condition continues constitutes a separate violation. (§ 11 ch 74 SLA 1985)

Sec. 29.40.200. Subdivisions of state land.

(a) The subdivision requirements adopted under this chapter apply to a subdivision plat of undeveloped state land for disposal under AS 38.05 or AS 38.08 filed with the platting authority. Subdivision ordinances and regulations adopted after the platting authority 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.

(b) The platting authority shall approve and sign a subdivision plat of state land within 60 days after its receipt from the commissioner of natural resources unless the platting authority

(1) determines that the plat does not comply with subdivision requirements; and

(2) notifies the commissioner of each determination of noncompliance within the 60-day period established in this subsection.

(c) The commissioner of natural resources may withdraw the subdivision plat and amend it in response to the determination of noncompliance by the platting authority under (b) of this section. The platting authority shall respond within 30 days to the amendment or response from the commissioner of natural resources.

(d) Nothing in this section relieves the Department of Natural Resources of its obligations to provide legal access to a subdivision.

(e) This section applies to home rule and general law municipalities. (§ 11 ch 74 SLA 1985)

Chapter 45. Municipal Taxation.

7. General Provisions (§ 29.45.800 – 29.45.820)

Article 1. Municipal Property Tax.

Section

Sec. 29.45.010. Property tax.

(a) A unified municipality may levy a property tax. A borough may levy

(1) an areawide property tax for areawide functions;

(2) a nonareawide property tax for functions limited to the area outside cities;

(3) a property tax in a service area for functions limited to the service area.

(b) A home rule or first class city may levy a property tax subject to AS 29.45.550 - 29.45.560. A second class city may levy a property tax subject to AS 29.45.590.

(c) If a tax is levied on real property or on personal property, the tax must be assessed, levied, and collected as provided in this chapter. (§ 12 ch 74 SLA 1985)

Sec. 29.45.020. Taxpayer notice.

(a) If a municipality levies and collects property taxes, the governing body shall provide the following notice:

"NOTICE TO TAXPAYER

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

PUBLIC SCHOOL FUNDING PROGRAM (AS 14.17)	$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 14.11.100)	$
COMMUNITY ASSISTANCE PROGRAM (AS 29.60.850 - 29.60.879)	$
TOTAL AID	$

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

	MILLAGE EQUIVALENT	
	PREVIOUS YEAR	THIS YEAR
PUBLIC SCHOOL FUNDING PROGRAM ASSISTANCE	. . . MILLS	. . . MILLS
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT	. . . MILLS	. . . MILLS
COMMUNITY ASSISTANCE PROGRAM	. . .MILLS	. . .MILLS
TOTAL MILLAGE EQUIVALENT	. . .MILLS	. . . MILLS"

Notice shall be provided

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

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

(b) Compliance with the provisions of this section is a prerequisite to receipt of community assistance under AS 29.60.850 - 29.60.879. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985; am § 3 ch 75 SLA 1997; am § 33 ch 83 SLA 1998; am § 3 ch 12 SLA 2008; am § 2 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance". The 2008 amendment, effective April 9, 2008, updates language, replacing "municipal tax resource equalization" with "community revenue sharing." The 1998 amendment, effective July 1, 1998, in subsection (a) substituted "funding" for "foundation" in two places and made minor stylistic changes. The 1997 amendment, effective July 1, 1997, rewrote this section.

Sec. 29.45.030. Required exemptions.

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, state property, property of the University of Alaska, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 STAT. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by an operating agreement or nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of a shipyard or an integrated transportation and port facility, if the shipyard or integrated transportation and port facility is owned by the authority and initially placed in service before January 1, 1999, is taxable only to the extent of, and for the value associated with, those specific improvements used for lodging purposes;

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure

and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, to other land granted to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the university under AS 14.40.365;

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

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

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

(5) money on deposit;

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

(7) real property or an interest in real property that is

(A) exempt from taxation under 43 U.S.C. 1620(d), as amended or under 43 U.S.C. 1636(d), as amended; or

(B) acquired from a municipality in exchange for land that is exempt from taxation under (A) of this paragraph, and is not developed or made subject to a lease;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest unless the property is located on a military base or installation and the property interest is created under 10 U.S.C 2871 – 2885 (Military Housing Privatization Initiative), if the leaseholder enters into an agreement to make a payment in lieu of taxes to the political subdivision that has taxing authority;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber;

(10) property not exempt under (3) of this subsection that

(A) is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency by the Council for Higher Education Accreditation or the United States Department of Education, or both; and

(B) was subject to a private leasehold, contract, or other private interest on January 1, 2010, except that a holder of a private leasehold, contract, or other interest in the property shall be taxed to the extent of that interest.

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of an educator in a private religious or parochial school or a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization; for purposes of this paragraph, “minister” means an individual who is

(A) ordained, commissioned, or licensed as a minister according to standards of the religious organization for its ministers; and

(B) employed by the religious organization to carry out a ministry of that religious organization;

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

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

(c) Property described in (a)(3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

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

(e) The real property owned and occupied as the primary residence and permanent place of abode by a resident who is (1) 65 years of age or older; (2) a disabled veteran; or (3) at least 60 years of age and a widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection is exempt from taxation on the first $150,000 of the assessed value of the real property. A municipality may by ordinance approved by the voters grant the exemption under this subsection to the widow or widower under 60 years of age of a person who qualified for an exemption under (2) of this subsection or to a resident who is the widow or widower of a person who dies from a service-connected cause sustained while serving as a member of the United States armed forces or as a member of the National Guard. A municipality may, in case of hardship, provide for exemption beyond the first $150,000 of assessed value in accordance with regulations of the department. Only one exemption may be granted for the same property, and, if two or more persons are eligible for an exemption for the same property, the parties shall decide between or among themselves who is to receive the benefit of the exemption. Real property may not be exempted under this subsection of the assessor determines, after notice and hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560 – 44.62.570. In this subsection, "widow or widower" means a person whose spouse has died and who has not remarried. A municipality shall determine the eligibility requirements and application procedure for an optional exemption provided under this subsection.

(f) To be eligible for an exemption under (e) of this section for a year, a municipality may by ordinance require that an individual also be eligible for a permanent fund dividend under AS 43.23.005 for that same year or, if the individual does not apply for the permanent fund dividend, that the individual would have been eligible for the permanent fund dividend had the individual applied. An exemption may not be granted under (e) of this section except upon written application for the exemption. Each municipality shall, by ordinance, establish procedures and deadlines for filing the application. The governing body of the municipality for good cause shown may waive the claimant's failure to make timely application for exemption and authorize the assessor to

accept the application as if timely filed. If an application is filed within the required time and is approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of (e) of this section. If the application for exemption is approved after taxes have been paid, the amount of tax that the claimant has already paid for the property exempted shall be refunded to the claimant. The assessor shall require proof in the form the assessor considers necessary of the right to and amount of an exemption claimed under (e) of this section, and shall require a disabled veteran claiming an exemption under (e) of this section to provide evidence of the disability rating. The assessor may require proof under this subsection at any time.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section. However, reimbursement may be made to a municipality for revenue lost to it only to the extent that the loss exceeds an exemption that was granted by the municipality, or that on proper application by an individual would have been granted under AS 29.45.050(a). If appropriations are not sufficient to fully fund reimbursements under this subsection, the amount available shall be distributed pro rata among eligible municipalities.

(h) Except as provided in (g) of this section, nothing in (e) – (j) of this section affects similar exemptions from property taxes granted by a municipality on September 10, 1972, or prevents a municipality from granting similar exemptions by ordinance as provided in AS 29.45.050.

(i) In (e) – (i) of this section,

(1) "disabled veteran" means a disabled person

(A) separated from the military service of the United States under a condition that is not dishonorable who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as 50 percent or more by the branch of service in which that person served or by the United States Department of Veterans Affairs; or

(B) who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as 50 percent or more;

(2) "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes.

(j) One motor vehicle per household owned by a resident 65 years of age or older on January 1 of the assessment year is exempt either from taxation on its assessed value or from the registration tax under AS 28.10.431. An exemption may be granted under this subsection only upon written application on a form prescribed by the Department of Administration.

(k) The department shall adopt regulations to implement the provisions of (g) and (j) of this section.

(l) *[Repealed, § 8, ch 9, SLA 17]*

(m) For the purpose of determining property exempt under (a)(7)(A) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) unless superseded by applicable federal law, and for the purpose of determining property exempt under (a)(7)(B) of this section, the following definitions apply:

(1) "developed" means a purposeful modification of the property from its original state that effectuates a condition of gainful and productive present use without further

substantial modification; surveying, construction of roads, providing utilities or other similar actions normally considered to be component parts of the development process, but that do not create the condition described in this paragraph, do not constitute a developed state within the meaning of this paragraph; developed property, in order to remove the exemption, must be developed for purposes other than exploration, and be limited to the smallest practicable tract of the property actually used in the developed state;

(2) "exploration" means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources;

(3) "lease" means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor; with respect to a lease that conveys rights of exploration and development, this exemption shall continue with respect to that portion of the leased tract that is used solely for the purpose of exploration.

(n) If property or an interest in property that is determined not to be exempt under (a)(7) of this section reverts to an undeveloped state, or if the lease is terminated, the exemption shall be granted, subject to the provisions of (a)(7) and (m) of this section. (§ 12 ch 74 SLA 1985; am §§ 1, 2 ch 91 SLA 1985; am § 44 ch 37 SLA 1986; am §§ 2 — 4 ch 70 SLA 1986; am § 3 ch 66 SLA 1991; am § 1 ch 85 SLA 1991; am § 14 ch 93 SLA 1991; am § 1 ch 54 SLA 1992; am § 4 ch 97 SLA 1992; am E.O. 99 § 71 (1997); am § 81 ch 21 SLA 2000; am § 2 ch 117 SLA 2000; am § 8 ch 136 SLA 2000; am § 1 ch 23 SLA 2001; am § 1 ch 42 SLA 2002; am § 2 ch 74 SLA 2003; am § 1 ch 140 SLA 2004; am § 1 ch 44 SLA 2006; am § 3 ch 101 SLA 2008; am § 1, 2 ch 101 SLA 2008; am §§ 1,4 ch 10 SLA 2010; am § 1 ch 71 SLA 2010; am § 1 ch 29 SLA 13; am § 1 ch 64 SLA 2018)

Delayed amendment of subparagraph (a)(1)(a). Effective November 30, 2012, subparagraph (a)(1)(A) will read: “a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;”. The words after that phrase in subparagraph (a)(1)(A) will be deleted under §§ 2 and 8, ch. 10, SLA 2010, and §§ 2 and 10, ch. 71, SLA 2010.

Delayed amendment of paragraph (a)(10). Under §§ 3 and 9, ch. 10. SLA 2010, effective December 31, 2035, paragraph (a)(10) of this section will read: “property not exempt under (3) of this subsection that is owned by a private, nonprofit college or university that is accredited by a regional or national accrediting agency by the Council for Higher Education Accreditation or the United States Department of Education, or both; except that a private leasehold, contract, or other interest in the property shall is taxable to the extent of that private interest.”

Effect of amendments. The 2018 amendment provided for a ten year tax exemption on shipyard, transportation, and port facilities owned or operated by Alaska Industrial Development and Export Authority, and also changed wording in (a)(8). The 2017 amendment repealed (l), effective June 13, 2017. The 2013 amendment of subsection (e), effective January 1, 2013, includes widows and widowers of those deceased from a service connected cause sustained while serving in the United States armed forces or as a member of the National Guard. The 2008 amendments (section (a)(7) and section (m)) add new language, are retroactive to January 1, 2008, and take effect immediately. The 2006 amendment to subsection (b)(1) added educator’s residence and defined minister, effective August 23, 2006. The 2004 amendments rewrote subsection (a)(8) to address property on military installations and payment in lieu of taxes and provided for an immediate effective date. The 2002 amendment, effective September 5, 2002, added the first sentence in subsection (f); in the third sentence from the end of the subsection removed "a failure to timely file has been waived as provided in this subsection and" and, added "after taxes have been paid" to the sixth sentence. The 2001 amendment, effective January 1, 2002, rewrote subsection (f). The first 2000

amendment, effective April 28, 2000, in (i)(1)(A) substituted "United States Department of Veterans Affairs" for "Veterans' Administration." The second 2000 amendment, retroactivity effective to January 1, 1999, added the last part of the last sentence of (a)(1)(A). Note: This change will be in effect until July 1, 2004, when it will be repealed. The third 2000 amendment, effective July 20, 2000, in paragraph (a)(1) added "property of the University of Alaska," and in paragraph (a)(1)(B) added "or to land conveyed by the state to the university under AS 14.40.365" to the text. The 1997 amendment, effective March 16, 1997, substituted "Department of Administration" for "Department of Public Safety" in the second sentence in subsection (j). The first 1992 amendment, effective January 1, 1993, added paragraph (a)(9) and made a related stylistic change. The second 1992 amendment, effective June 20, 1992, inserted "property, including property held by a public corporation of a municipality," in paragraph (a)(1).The first 1991 amendment, effective January 1, 1992, in paragraph (a)(1), deleted "or federally owned" following "state" in the introductory language, added the subparagraph designations, and the language in subparagraphs (B) and (C); and added paragraph (a)(8). The second 1991 amendment, effective September 30, 1991, in paragraph (i)(1), added the subparagraph designations, added subparagraph (B), and made a related stylistic change.

Editor's notes. The Superior Court has held that HCS CSSB 7(FIN), which has been designated as ch 136, SLA 2000, and which amended (a) of this section, was not validly enacted. Alaska Legislative Council v. Knowles, 1-JU-00-1237 CI (First Jud. Dist. At Juneau; August 17, 2001). However, it is possible that the decision will be appealed to the Alaska Supreme Court.

Sec. 29.45.040. Property tax equivalency payments.

(a) A resident of the state who rents a permanent place of abode is eligible for a tax equivalency payment from the state through the department if the resident is:

(1) at least 65 years old;

(2) a disabled veteran; or

(3) at least 60 years old and the widow or widower of a person who was eligible for payment under (1) or (2) of this subsection.

(b) For purposes of determining the amount of a payment to an eligible person, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain a tax equivalency payment the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. The department for good cause shown may waive an applicant's failure to make timely application for a tax equivalency payment and accept the application as if timely filed. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid. A disabled veteran shall submit with the application evidence of the disability rating.

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

(e) If appropriations are not sufficient to fully fund tax equivalency payments under this section, the amount available shall be distributed pro rata among eligible residents.

(f) In this section "disabled veteran" has the meaning given in AS 29.45.030(i). (§ 12 ch 74 SLA 1985; am §§ 3, 4 ch 91 SLA 1985)

Sec. 29.45.046. River habitat protection tax credit.

(a) Unless prohibited by municipal charter, a municipality may by ordinance provide for a river habitat protection credit to be applied to offset a portion of the property taxes due on land, or an interest in land taxable under this chapter, upon which an improvement has been constructed that aids in

(1) protecting a river from degradation of fish habitat due to public or private use; or

(2) restoring riparian fish habitat along or in a river that has been damaged by land use practices.

(b) The amount of a river habitat protection credit shall be based upon a percentage of the verifiable costs of the improvement and may not exceed 50 percent of the total amount of taxes levied upon the land or upon the taxable interest in the land during a single tax year, but the credit may be granted for more than one year. If the credit is granted for more than one year and the land or taxable interest in the land is conveyed, the portion of the credit remaining is extinguished. The ordinance may limit the availability of a credit to some, but not all types of improvements for which a credit may be granted under this section and to some, but not all areas of the municipality. A credit may only be granted for an improvement that has been constructed in compliance with state and federal laws. A credit may not be granted for an improvement

(1) required under state or federal law; or

(2) located more than 150 feet from the mean high tide line or ordinary high water line; in this paragraph, "ordinary high water line" means that line on the shore of the nontidal portion of a river or stream that reflects the highest level of water during an ordinary year and is established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area.

(c) *[Repealed, § 3 ch 41 SLA 1995]*

(d) Before an ordinance is adopted under (a) of this section, it must be approved by the commissioner of fish and game. The commissioner of fish and game shall approve a proposed ordinance if the improvements for which a credit is authorized aid in protecting or restoring habitat as required under this section without regard to the percentage of the total protection or restoration that could be achieved by ideal improvement measures. Within 60 days after receipt of a proposed ordinance, the commissioner of fish and game shall notify the municipality in writing as to whether the proposed ordinance is approved or disapproved and, if the proposed ordinance is disapproved, shall state the basis for that determination. (§ 1 ch 40 SLA 1994; am §§ 1-3 ch 41 SLA 1995; am § 1 ch 34 SLA 2000)

Effect of amendments. The 2000 amendment, effective August 9, 2000, substituted “a river” for “the Kenai River or a tributary of the Kenai River” in (a)(1) and (a)(2). The 1995

amendment, effective August 23, 1995, deleted "and certified by the Department of Fish and Game under (c) of this section" from the end of the next-to-last sentence in subsection (b); repealed former subsection (c), relating to criteria by the department in determining whether an improvement is effective in accomplishing the purposes listed in (a)(1) or (a)(2); and added subsection (d).

Sec. 29.45.048. Air quality improvement tax credit.

A municipality that includes within its boundaries an area that fails to meet federal or state air quality standards for fine particles that are less than or equal to 2.5 micrometers in diameter may, by ordinance, provide for an air quality improvement tax credit to offset a portion of the property taxes due on property that, during the immediately preceding tax year, has been improved in a way that aids in improving the air quality in the municipality. The municipality shall establish eligibility, conditions, and other criteria for the credit in the ordinance adopted under this section. AS 29.45.048 is repealed January 1, 2016. (§ 1 ch 26 SLA 2009)

Delayed repeal of section. Under § 2, ch 26, SLA 2009, this section is repealed January 1, 2016.

Effect of amendments. The 2009 amendment which took effect on August 23, 2009, added this new section to AS 29.45.

Sec. 29.45.050. Optional exemptions and exclusions.

(a) A municipality may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. An exclusion or exemption authorized by this subsection may be applied with respect to taxes levied in a service area to fund the special services. An exclusion or exemption authorized by this subsection may not exceed the assessed value of $50,000 for any one residence except that a municipality may, by ordinance, annually adjust their voter-authorized exemption by the amount calculated by the State Assessor to reflect the increase, if any, in the annual average cost of living, using the U.S. Department of Labor CPI-U for Anchorage.

(b) A municipality may by ordinance

(1) classify and exempt from taxation

(A) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes if the income derived from rental of that property does not exceed the actual cost to the owner of the use by the renter;

(B) historic sites, buildings, and monuments;

(C) land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this subparagraph may be conveyed by the state only in accordance with AS 38.05.069(c);

(D) all or any portion of private ownership interests in property that, based upon a written agreement with the University of Alaska, is used exclusively for student housing for the University of Alaska; property may be exempted from taxation under this subparagraph for no longer than 30 years unless the exemption is specifically extended by ordinance adopted within the six months before the expiration of that period;

(E) a residential renewable energy system that is used to develop means of energy production using energy sources other than fossil or nuclear fuel, including windmills and water and solar energy devices located in the municipality;

(2) classify as to type and exempt or partially exempt some or all types of personal property from ad valorem taxes.

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

(1) a borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city in the borough, including adjustments excluding personal property from taxation, establishing exemptions, and extending the redemption period;

(2) a home rule or first class city has the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes if

(A) the exemptions or exclusions have been adopted as to city taxes; and

(B) the city appropriates to the borough sufficient money to equal revenue lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly;

(3) a city in a borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax that have been granted by a home rule municipality in addition to exemptions authorized or required by law, and that are in effect on September 10, 1972, and not later withdrawn, are not affected by this chapter.

(e) A municipality may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. The easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property, so that the property owner is compensated at a rate that does not reflect the easement grant. The municipality may provide by ordinance that, if the area subject to the easement is sold, leased, or otherwise disposed of for uses incompatible with the easement or if the easement is conveyed to the owner of the property, the owner must pay to the municipality all or a portion of the amount of the tax exempted, with interest.

(f) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land, or new maintenance, repair, or renovation of an existing structure, and if the alteration, maintenance, repair, or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. An exemption may not be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use in the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed, or from the date of approval for the exemption by the local assessor, whichever is later.

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

(h) A municipality may by ordinance partially or wholly exempt land from a tax for fire protection service and fire protection facilities and may levy the tax only on improvements, including personal property affixed to the improvements.

(i) A municipality may by ordinance approved by the voters exempt from taxation the assessed value that exceeds $150,000 of real property owned and occupied as a permanent place of abode by a resident who is

(1) 65 years of age or older;

(2) a disabled veteran, including a person who was disabled in the line of duty while serving in the Alaska Territorial Guard; or

(3) at least 60 years old and a widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection.

(j) A municipality may by ordinance approved by the voters exempt real or personal property in a taxing unit used in processing timber after it has been delivered to the processing site from up to 75 percent of the rate of taxes levied on other property in that taxing unit. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration. In this subsection "taxing unit" means a municipality and includes

(1) a service area in a unified municipality or borough;

(2) the entire area outside cities in a borough; and

(3) a differential tax zone in a city.

(k) A municipality may by ordinance approved by the voters exempt from taxation pollution control facilities that meet requirements of the United States Environmental Protection Agency or the Department of Environmental Conservation. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration.

(l) A municipality may by ordinance exempt from taxation an interest, other than record ownership, in real property of an individual residing in the property if the property has been developed, improved, or acquired with federal funds for low-income housing and is owned or managed as low-income housing by the Alaska Housing Finance Corporation under AS 18.55.100 – 18.55.960 or by a regional housing authority formed under AS 18.55.996. However, the corporation may make payments to the municipality or political subdivision for improvements, services, and facilities furnished by it for the benefit of a housing project, and this subsection does not prohibit a municipality from receiving those payments or any payments in lieu of taxes authorized under federal law.

(m) A municipality may by ordinance partially or totally exempt all or some types of economic development property from taxation for a designated period. Except as otherwise provided by an ordinance enacted by the municipality before January 1, 2017, a municipality that is a school district may only exempt all or a portion of the amount of taxes that exceeds the amount levied on other property for the school district's required local contribution under AS 14.17.410(b)(2). A municipality may by

ordinance permit deferral of payment of taxes on all or some types of economic development property for a designated period. A municipality may not apply an exemption or deferral under this subsection to taxes levied for special services in a service area that is supervised by a board under AS 29.35.460 A municipality may adopt an ordinance under this subsection only if, before it is adopted, copies of the proposed ordinance made available at a public hearing on it contain written notice that the ordinance, if adopted, may be repealed by the voters through referendum. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. In this subsection, "economic development property" means real or personal property, including developed property conveyed under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act),

(1) to which one or more of the following apply*:*

(A) the property has not previously been taxed as real or personal property by the municipality;

(B) the property is used in a trade or business in a way that

(i) creates employment in the municipality;

(ii) generates sales outside of the municipality of goods or services produced in the municipality; or

(iii) materially reduces the importation of goods or services from outside the municipality;

(C) an exemption or deferral on the property enables a significant capital investment in physical infrastructure that

(i) expands the tax base of the municipality; and

(ii) will generate property tax revenue after the exemption expires; or

(2) that has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.

(n) A municipality may by ordinance classify as to type inventories intended for export outside the state and partially or totally exempt all or some types of those inventories from taxation. The ordinance may provide for different levels of exemption for different classifications of inventories. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application, which shall be a public document, for each exemption.

(o) A municipality may by ordinance partially or totally exempt all or some types of deteriorated property from taxation for up to 10 years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins. A municipality may by ordinance permit deferral of payment of taxes on all or some types of deteriorated property for up to five years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins. However, if the entire ownership of property for which a deferral has been granted is transferred, all tax payments deferred under this subsection are immediately due, and the deferral ends.

Otherwise, deferred tax payments become due as specified by the municipality at the time the deferral is granted. The amount deferred each year is a lien on that property for that year. Only one exemption and only one deferral may be granted to the same property under this subsection, and, if an exemption and a deferral are granted to the same property, both may not be in effect on the same portion of the property during the same time. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. An application for a deferral must specify when payment of taxes for each year of deferral will become due, together with an explanation of the reasons for each proposed date for consideration by the municipality. In this subsection, "deteriorated property" means real property that, either at the time of application for exemption or deferral or at the time of completion of the project for which an exemption or deferral is requested, is

(1) residential property located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality, if the property is owned by an entity that owns at least two residential properties and eight or more residential units among those properties in that deteriorating or deteriorated area; or

(2) commercial property not used for residential purposes or that is 20 multi-unit residential property with at least eight residential units, and that meets one of the following requirements:

(A) within the last five years, has been the subject of an order by a government agency requiring environmental remediation of the property or requiring the property to be vacated, condemned, or demolished by reason of noncompliance with laws, ordinances, or regulations;

(B) has a structure on it not less than 15 years of age that has not undergone substantial rehabilitation, renovation, demolition, removal, or replacement, subject to any conditions prescribed in the ordinance; or

(C) is located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality.

(p) A municipality may by ordinance partially or totally exempt from taxation a private leasehold, contract, or other interest held by or through an applicant or proposed applicant in any property, assets, project, or development project owned by the Alaska Industrial Development and Export Authority under AS 44.88. Nothing in this subsection prohibits a municipality from entering into an agreement and receiving payments in lieu of taxes authorized under AS 44.88.140(b).

(q) A municipality may by ordinance partially or totally exempt from taxation land from which timber is harvested that is infested by insects or at risk of being infested by insects due to an infestation in the area in which the land is located. A municipality may provide that an exemption for land under this subsection applies only to increases in assessed value that result from the timber harvest. A municipality may by ordinance partially or totally exempt from taxation improvements to real property, including personal property affixed to the improvements, if the improvements are

(1) located on land from which timber is harvested that is infested by insects or at risk of being infested by insects due to an infestation in the area in which the land is located; and

(2) used for or necessary to the harvest of the timber that is infested by insects or in danger of insect infestation.

(r) A municipality may by ordinance exempt from taxation an amount not to exceed $10,000 of the assessed value of real property owned and occupied as a permanent place of abode by a resident who provides in the municipality volunteer (1) fire fighting services and is certified as a fire fighter by the Department of Public Safety, or (2) emergency medical services and is certified under AS 18.08.082. If two or more individuals are eligible for an exemption for the same property, not more than two exemptions may be granted.

(s) A municipality may by ordinance partially or wholly exempt from taxation the real property owned and occupied as a permanent place of abode by a resident who is the widow or widower of a member of the armed forces of the United States injured serving on active duty while eligible for hostile fire or imminent danger pay who dies because of the injury or complications related to the injury or its treatment. The ordinance must include requirements for determining eligibility for the exemption and a procedure for applying for the exemption.

(t) A municipality may by ordinance approved by the voters partially or totally exempt from taxation a farm structure used exclusively for farming activity, or purposes directly related to farming activity, if the farm structure is owned or leased by a person that is actively engaged in farming and that derives at least 10 percent of the person's yearly gross income from farming activity, and the structure is used for

(1) the growing, storage, or processing of grains, fruits, vegetables, or other crops intended for human consumption and produced by the owner's or lessee's farming activity;

(2) the storage or processing of

(A) feed for livestock, poultry, or other animals used in the owner's or lessee's farming activity;

(B) milk or milk products produced by the owner's or lessee's farming activity; or

(3) stabling or milking the owner's or lessee's dairy animals.

(u) In this section, "farming activity" means raising and harvesting crops; feeding, breeding, and managing livestock; dairying; or any combination of those activities.

(v) A municipality may by ordinance exempt or partially exempt from taxation for up to 10 years property in a military facility zone that creates or supports industry, development, or educational or training opportunities beneficial to a facility. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption. In this subsection, "facility" and "military facility zone" have the meaning given in AS.26.30.900.

(w) A municipality may by ordinance classify and exempt or partially exempt from taxation all or a portion of privately owned real property rented or leased for use as a charter school established under AS 14.03.250

(x) A municipality may by ordinance partially or wholly exempt from taxation all or a portion of the increase in assessed value directly attributable to the subdivision of a single parcel of property into three or more parcels and any improvements made to the property necessitated by its subdivision. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration. A municipality may also by ordinance provide that

(1) the exemption is terminated when

(A) a lot in the subdivision is sold; or

(B) a residential or commercial use is established on a lot in the subdivision; or

(2) the exemption continues for the unsold lots in the subdivision after

(A) a lot in the subdivision is sold; or

(B) a residential or commercial use is established on a lot in the subdivision.

(y) A municipality may by ordinance exempt from taxation up to two percent of the assessed value of a structure if the structure contains a fire protection system that is approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. An exemption under this subsection is limited to an amount that does not exceed two percent of the value of the structure based on the assessment

(1) for 1981, if the fire protection system was a fixture of the structure on January 1, 1981; or

(2) as of January 1 of the year immediately following the installation of the fire protection system, if the fire protection system became a fixture of the structure after January 1, 1981.

(§ 12 ch 74 SLA 1985; am § 1 ch 103 SLA 1985; am § 5 ch 70 SLA 1986; am § 1 ch 151 SLA 1988; am § 2 ch 73 SLA 1989; am § 1 ch 98 SLA 1989; am § 15 ch 93 SLA 1991; am § 107 ch 4 FSSLA 1992; am § 1 ch 66 SLA 1993; am § 1 ch 7 SLA 1994; am § 1 ch 65 SLA 1994; am § 1 ch 40 SLA 1995; am § 1 ch 70 SLA 1998; am § 1, 2 ch 8 SLA 1999; am § 4 ch 117 SLA 2000; am § 1 ch 64 SLA 2002; am § 1 ch 54 SLA 2002; am §§ 2, 3, 4, 5 ch 140 SLA 2004; am § 40 ch 56 SLA 2005; am §§ 2, 4 ch 44 SLA 2006; am § 1 ch 89 SLA 2008; am § 10 ch 83 SLA 2010; am § 1 2012 Primary Election Ballot Measure 1; am § 1 ch 66 SLA 2013; am § 1 ch 57 SLA 2014; am § 35 ch 15 SLA 2014; am§§ 1, 2 ch36 SLA 2015; am§ 26, ch3 SLA 2017; am §§ 5, 6 ch 9 SLA 2017)

Effect of amendments. The 2017 amendments effective June 13, 2017 make changes to (m) and add (y). The 2017 amendment, effective July 1, 2017, amends language in subsection (c). The 2015 amendment amends subsection (o) by adding paragraph (1) providing an optional exemption from and deferral of payment of municipal taxes on deteriorated property and.added subsection X. The 2014 amendment added subsections (v) effective October 5, 2014 and (w) effective July 1, 2014. The 2013 amendment, effective September 26, 2013, added subsections (t) and (u) for a ten year period. Subsections (t) and (u) will be repealed September 26, 2023. The 2012 amendment, effective December 1, 2012, amended subsection (a) by voter initiative. The amendment changed the maximum value of residential property tax a municipality can exempt, from $20,000 to $50,000 by ordinance and voter ratification. The amendment also permits the municipality to annually adjust the exemption to reflect inflation as measured by the consumer price index (CPI-U) for Anchorage. The 2010 amendment, effective June 17, 2010, added subparagraph (E) to subsection (b). The 2008 amendment added subsection (s). The 2006 amendment effective August 23, 2006, amended subsection (o) to require payment of deferred taxes upon transfer of 'entire' ownership of a tax deferred property; added "Otherwise, deferred tax payments become due as specified by the municipality at the time the deferral is granted"; added "An application for a deferral must specify when payment of taxes for each year of deferral will become due, together with an explanation of the reasons for each proposed date for consideration by the municipality"; and repealed the delayed repeal clause as amended. The 2005 amendment effective June 25, 2005 amended subsection (m) to modify the ANCSA citation. The 2004 amendments effective June 30, 2004 amended subsection (a) to address exemptions in a service area to fund special services and raised the exemption from $10,000 to $20,000; amended subsection (o) to extend the exemption for deteriorated property from 5 years to 10 years, extended the exemption to include demolition or removal, expanded the definition of deteriorated property. The first 2002 amendment, effective January 1, 2003,

added subsection (r). The second 2002 amendment, effective June 30, 2002 , added the subsection (q) and provided that it is retroactive to January 1, 2001. The 2000 amendment, effective July 1, 2000, added subsection (p). The 1999 amendment, effective July 1, 1999, made substantive changes to subsection (o). The 1998 amendment, effective July 1, 1998, added subsection (o). The 1995 amendment, effective August 23, 1995, rewrote subsection (b). The first 1994 amendment, effective July 5, 1994, added paragraphs (b)(6)-(b)(9) and made a related stylistic change. The second 1994 amendment, effective August 23, 1994, added former subparagraph (b)(2)(D). The 1993 amendment, effective September 22, 1993, in subsection (n), deleted the former second and third sentences. The 1992 amendment, effective July 1, 1992, rewrote subsection (l). The 1991 amendment, effective September 30, 1991, inserted "including a person who was disabled in the line of duty while serving in the Alaska Territorial Guard" in paragraph (i)(2). The first 1989 amendment, effective May 31, 1989, in subsection (e), deleted "However" from the beginning of the third sentence and added the present last sentence. The second 1989 amendment, effective September 10, 1989, added subsections (m) and (n). The 1988 amendment, effective January 1, 1989, added subsection (l).

Sec. 29.45.051. Tax deferral for certain subdivided property.

(a) A municipality may by ordinance permit deferral of payment of taxes on all or a portion of the increase in assessed value directly attributable to

(1) the subdivision of a single parcel of property into three or more parcels; and

(2) any improvements made to the property necessitated by its subdivision.

(b) A deferral from taxation allowed under (a) of this section shall be limited to a maximum period of five years. A municipality may by ordinance provide for the deferral of payment of taxes permitted under (a) of this section to be of a shorter duration.

(c) Subject to (b) of this section, a municipality may also by ordinance provide that

(1) the deferral is terminated when

(A) a lot in the subdivision is sold; or

(B) a residential or commercial building is built on a lot in the subdivision; or

(2) the deferral continues for the unsold lots in the subdivision after

(A) a lot in the subdivision is sold; or

(B) a residential or commercial building is constructed on a lot in the subdivision. (§ 22 ch 64 SLA 2012)

Effective dates. Section 22, ch. 64, SLA 2012, which enacted this section, took effect on July 1, 2012.

Sec. 29.45.052. Tax deferral for primary residences.

(a) A municipality may by ordinance provide for the deferral of all taxes on property that is owned, in whole or in part, by an individual

(1) who occupies and has occupied the property for at least 10 consecutive years as the individual's primary residence;

(2) whose income is at or below federal poverty guidelines for the state set by the United States Department of Health and Human Services.

(b) An individual must apply for each year that a deferral is sought and supply proof of eligibility for the deferral for that year in accordance with requirements set out in the ordinance that authorizes the deferral. Taxes for a year that are deferred do not become payable until ownership of the property is transferred from the individual who obtained the deferral. A municipality that provides for a deferral of property taxes under

this subsection may not impose interest on the taxes deferred between the time the deferral is granted and the time the taxes become payable. (§ 3 ch 44 SLA 2006)

Sec. 29.45.053. Exemption for certain residences of law enforcement officers.

(a) A municipality may, by ordinance, provide for the designation of areas within its boundaries that are eligible for tax exemptions on parcels of residential property. The amount of the tax exemption provided in the ordinance may not exceed $150,000 of the assessed value of a parcel. The exemption may be granted for a parcel only if it is

(1) entirely within an eligible area;

(2) primarily used for residential purposes; and

(3) owned and occupied as the primary place of abode by a law enforcement officer.

(b) Only one exemption may be granted for the same parcel under an ordinance adopted under (a) of this section, and, if two or more individuals are eligible for an exemption for the same parcel, the individuals shall decide between or among themselves who is to receive the benefit of the exemption.

(c) The municipality that adopts the ordinance under (a) of this section may not request state funds to cover any loss of revenue to the municipality caused by the ordinance.

(d) The ordinance adopted under (a) of this section must define "law enforcement officer" to include only some or all positions listed in the definition of "peace officer" in AS 01.10.060 or in the definition of "police officer" in AS 18.65.290. The ordinance may include other eligibility requirements for an area; however, an eligible area must

(1) meet the eligibility requirements under a federal program of special assistance for urban development, neighborhood revitalization, or law enforcement, without regard to whether an application for the federal assistance on behalf of the area has been made or whether the area has received or is receiving the federal assistance;

(2) have a statistically higher occurrence of crime than the municipality as a whole; the crime rate for an eligible area must be established in the ordinance; or

(3) meet the requirements of (1) and (2) of this subsection.

(e) The municipality may establish a specific area as an eligible area for purposes of this section only in the ordinance adopted under (a) of this section or by adopting a separate ordinance. The municipality is not required to establish as an eligible area for purposes of this section every area that meets the requirements of the ordinance that is adopted under (a) of this section. (§ 5 ch 10 SLA 2010)

Effective dates. Section 5, ch. 10, SLA 2010, which enacted this section, is effective July 30, 2010.

Sec. 29.45.055. Levy of flat tax on personal property.

(a) A municipality may by ordinance levy a flat tax on personal property that has been totally exempted from ad valorem taxes under AS 29.45.050(b). A municipality that levies a flat tax may classify the property as to type based on any characteristic and tax each item of property of the same type at a specific amount. A flat tax may be levied on all or on only some types of personal property. The flat tax ordinance must include a procedure under which the taxpayer may appeal the determination of ownership or classification of property subject to the tax. The municipality may establish procedures necessary to collect the tax.

(b) Except as provided in (a) of this section, adoption of a flat tax does not affect the authority of a municipality to levy other taxes or impose fees on the same or other personal property or on the use, possession, sale, or lease of the same or other personal property. (§ 2 ch 40 SLA 1995)

Sec. 29.45.060. Farm or agricultural land.

(a) Farm use land included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use and may not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the land for both full and true value and farm use value. If the land is sold, leased, or otherwise disposed of for uses incompatible with farm use or converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (d) of this section for the preceding seven years. The balance of the payment shall be made to the municipality.

(b) An owner of farm use land must, to secure the assessment under this section, apply to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor, and must include information that may reasonably be required to determine the entitlement of the applicant. If the land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested. This subsection does not apply to a person with an interest in land that is classified by the state for agricultural use or that is restricted by the state for agricultural purposes.

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

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

(e) All land that is classified by the state for agricultural use or that is restricted by the state for agricultural purposes shall be assessed on the basis of full and true value based upon that restricted use.

(f) This section does not apply to land for which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the land. Failure to make the filing required in this subsection forfeits the exemption.

(g) In this section "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or

another agricultural use, or any combination of these. To be farm use land, the owner or lessee must be actively engaged in farming the land, and derive at least 10 percent of yearly gross income from the land.
(§ 12 ch 74 SLA 1985; am §§ 1 and 2 ch 117 SLA 2002)

Effect of amendments. The 2002 amendment, effective January 1, 2003, substituted the word "must" for the word "shall" in the second sentence of subsection (b); added the last sentence of subsection (b); renumbered section e to f, and added a new subsection (e).

Sec. 29.45.062. Land subject to a conservation easement.

(a) Land that is subject to a conservation easement created under AS 34.17.010 – 34.17.060 and used consistent with the conservation easement shall be assessed on the basis of full and true value for use subject to the conservation easement and may not be assessed as though it was not subject to the conservation easement. The assessor shall maintain records valuing the land for both full and true value and value subject to the conservation easement. The municipality may, by ordinance, require that if the land is sold, leased, or otherwise disposed of for uses incompatible with the conservation easement or if the conservation easement is conveyed to the owner of the property, the owner shall pay to the municipality an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding 10 years, as though the land had not been assessed subject to the conservation easement.

(b) To secure the assessment under this section, an owner of land subject to a conservation easement must apply to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the assessor and shall include information that may reasonably be required to determine the entitlement of the applicant. (§ 3 ch 73 SLA 1989)

Effect of amendments. In 2008, under § 5, ch. 116, SLA 2008 “AS 34.17.010 – 34.17.060” was substituted for “this chapter”.

Sec. 29.45.065. Assessment of private airports open for public use.

(a) A municipality may provide by ordinance that airports located on private land and open and available for public use may be assessed at full and true value for airport use and not as if subdivided or used for some other nonairport use. The assessor shall maintain records valuing the land at both full and true value and airport use value. If the land is sold, leased, or otherwise disposed of for uses incompatible with airport use by the public or if the owner converts the land to a use incompatible with airport use by the public, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest from the time of the incompatibility, as if the land had not been assessed for airport use. Payment of the additional tax and interest shall be made to the municipality.

(b) To secure the assessment under this section, the owner of the airport shall show that the airport is on private land, is open and available for public use, and is of benefit to the public or municipality. The owner shall apply to the assessor before May 15 of each year that the assessment is desired on forms to be prescribed by the municipality for use of the local assessor and shall include information reasonably required to determine the entitlement of the applicant. If the land is leased for airport purposes, the applicant shall furnish the assessor with a copy of the lease bearing the signature of both the lessee and lessor for the period that the exemption is requested.

(c) In this section, "airport" means an area of land or water that is used for the landing, takeoff, movement, or parking of aircraft, and the appurtenant areas that are used for airport buildings or other airport facilities or right-of-way, together with airport buildings and facilities at the location. (§ 1 ch 16 SLA 1987)

Sec. 29.45.070. Mobile homes.

Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential, office, or commercial purposes and permanently affixed to real property under AS 34.85.150 are classified as real property for tax purposes unless expressly classified as personal property by ordinance. This section does not apply to house trailers and mobile homes that are unoccupied and held for sale by persons engaged in the business of selling mobile homes. In this section “mobile home” has the meaning given to “manufactured home” in AS 45.29.102. (§ 12 ch 74 SLA 1985; am § 23 ch 64 SLA 2012)

Effective dates. Section 23, ch. 64, SLA 2012, which enacted this section, takes effect on January 1, 2013.

Sec. 29.45.080. Tax on oil and gas production and pipeline property.

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

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to $1,500 a year for each person residing in its boundaries.

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which value, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of the percentage determined in (f) of this section of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

(d) Each assessment year, a taxing municipality shall inform the Department of Revenue, by

(1) February 1, which method of taxation the municipality will use; and

(2) May 1, the

(A) total value of the municipality’s locally assessed property tax base; and

(B) payment amount for the principal of and interest on bonds that the municipality intends to apply in its mill rate calculation for the fiscal year corresponding to the tax year for which the assessment method selected by the municipality under this section will apply.

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

(f) The percentage in (c) of this section is based on the total tax established by the municipality and levied each year under AS 43.56.010(b) and is as follows:

If the tax rate determined under AS 43.56.010(b) is:	The percentage is:
Not more than 18.0 mills	375 percent

More than 18.0 mills but no more than 19.0 mills	300 percent
More than 19.0 mills	225 percent

(§ 12 ch 74 SLA 1985; § 1,2,3 ch 14 SLA 14)

Effect of amendments. The 2014 amendment, effective July 1, 2104, modified subsections (c) and (d) and added subsection (f).

Sec. 29.45.090. Tax limitation.

(a) A municipality may not, during a year, levy an ad valorem tax for any purpose in excess of three percent of the assessed value of property in the municipality. All property on which an ad valorem tax is levied shall be taxed at the same rate during the year.

(b) A municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may not levy taxes

(1) that will result in tax revenues from all sources exceeding $1,500 a year for each person residing within the municipal boundaries; or

(2) on value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of the percentage determined in (e) of this section of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

(c) The commissioner shall apportion the lawful levy and equitably divide the tax revenues on the basis of need, services performed, and other conditions in the public interest if two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax

(1) the combined levy of which would result in tax revenues from all sources exceeding $1,500 a year for each person residing within the municipal boundaries; or

(2) on value that, when combined with the value of property otherwise taxable by the municipality, exceeds the product of the percentage determined in (e) of this section of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality.

(d) For the purpose of (b) and (c) of this section, population shall be determined by the commissioner based on the latest statistics of the United States Bureau of the Census or on other reliable population data.

(e) The percentage in (b) and (c) of this section is based on the total tax rate established by the municipality and levied each year under AS 43.56.010(b) and is as follows:

If the tax rate determined under AS 43.56.010(b) is:	The percentage is:
Not more than 18.0 mills	375 percent
More than 18.0 mills but not more than 19.0 mills	300 percent
More than 19.0 mills	225 percent

(§ 12 ch 74 SLA 1985; am § 3 ch 40 SLA 1995; am § 4,5,6 ch 14 SLA 14)

Effect of amendments. The 2014 amendment, effective July 1, 2014, modified sections (b) and (c) and added section (e). The 1995 amendment, effective August 23, 1995, inserted references to ad valorem taxes in two places in subsection (a).

Sec. 29.45.100. No limitations on taxes to pay bonds.

The limitations provided for in AS 29.45.080 - 29.45.090 do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay

or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of default. (§ 12 ch 74 SLA 1985)

Sec. 29.45.101. Limitation on taxation of fuel.

A municipality may not levy or collect a property tax under AS 29.45.010 or 29.45.055 on refined fuel unless the fuel has been physically loaded, unloaded, or stored in the municipality. (§ 3 Chap 117 SLA 2003)

Sec. 29.45.103. Taxation records.

(a) Municipal records dealing with assessment, valuation, or taxation may be inspected by the state assessor or a designee.

(b) If a municipality's assessment and valuation has been done by a private contractor, records concerning the municipality's valuation and assessment shall be made available to the state assessor or a designee on request.

(c) Upon request, a record described in (a) or (b) of this section shall promptly be made available to the child support services agency created in AS 25.27.010 or the child support enforcement agency of another state. If the record is prepared or maintained in an electronic data base, it may be supplied by providing the requesting agency with a copy of the electronic records and a statement certifying its contents. The agency receiving information under this subsection may use the information only for child support purposes authorized under law. (§ 12 ch 74 SLA 1985; am § 141 ch 87 SLA 1997; am § 15 ch 54 SLA 2001)

Effect of amendments. The 1997 amendment, effective July 1, 1997, added subsection (c). In 2004, "child support enforcement agency created in AS 25.27.010" was changed to "child support services agency created in AS 25.27.010" in (c) of this section in accordance with § 12(a), ch. 107, SLA 2004.

Editor's notes. The delayed repeal of (c) of this section by § 148(c) ch 87 SLA 1997, as amended by § 53 ch 132 SLA 1998, which was to take effect July 1, 2001, was repealed by § 15 ch 54 SLA 2001.

Sec. 29.45.105. Errors in taxation procedures.

(a) If a municipality receives a notice from the State Assessor that major errors have been found in its assessment, valuation or taxation procedures, the municipality shall correct its procedures before the beginning of the next fiscal year or file an appeal under (b) of this section.

(b) A municipality may appeal a notice from the State Assessor that it has made a major error in assessment, valuation or taxation procedures by filing an appeal with the commissioner within 30 days after receipt of notice of error.

(c) The commissioner, after consulting with the Alaska Association of Assessing Officers, shall render a decision within 60 days after the receipt of a request under (b) of this section. If the commissioner determines that a major error has been made in assessment, valuation or taxation procedures the commissioner shall notify the municipality of changes that must be made and the municipality shall correct its procedures before the beginning of the next fiscal year.

(d) If errors in its assessment, valuation or taxation procedures have resulted in a loss of revenue to the state, the municipality shall reimburse the state for the amount of revenues lost. (§ 12 ch 74 SLA 1985)

Sec. 29.45.110. Full and true value.

(a) The assessor shall assess property at its full and true value as of January 1 of the assessment year, except as provided in this section, AS 29.45.060, and 29.45.230. The full and true value is the estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

(b) Assessment of business inventories may be based on the average monthly method of assessment rather than the value existing on January 1. The method used to assess business inventories shall be prescribed by the governing body.

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

(d) The provisions of this subsection apply to determine the full and true value of property that qualifies for a low-income housing credit under 26 U.S.C. 42:

(1) when the assessor acts to determine the full and true value of property that qualifies for a low-income housing credit under 26 U.S.C. 42, instead of assessing the property under (a) of this section, the assessor shall base assessment of the value of the property on the actual income derived from the property and may not adjust it based on the amount of any federal income tax credit given for the property; for property the full and true value of which is to be determined under this paragraph, to secure an assessment under this subsection, an owner of property that qualifies for the low-income housing credit shall apply to the assessor before May 15 of each year in which the assessment is desired; the property owner shall submit the application on forms prescribed by the assessor and shall include information that may reasonably be required to determine the entitlement of the applicant;

(2) the governing body of the municipality shall determine by ordinance whether the full and true value of all property within the municipality that first qualifies for a low-income housing credit under 26 U.S.C. 42 on and after the effective date of this subsection shall be exempt from the requirement of assessment under (1) of this subsection; thereafter, for property that first qualifies for a low-income housing credit under 26 U.S.C. 42 on and after the effective date of this subsection and that, by ordinance, is exempt from the requirement of mandatory assessment under (1) of this subsection, the governing body

(A) may determine, by parcel, whether the property shall be assessed under (a) of this section or on the basis of actual income derived from the property without adjustment based on the amount of any federal income tax credit given for the property, as authorized by (1) of this subsection; and

(B) may not, under (A) of this paragraph, change the manner of assessment of the parcel of property if debt relating to the property incurred in conjunction with the

property's qualifying for the low-income housing tax credit remains outstanding. (§ 12 ch 74 SLA 1985; am § 1 ch 79 SLA 2000)

Effect of amendments. The 2000 amendment, effective January 1, 2001, added subsection (d).

Sec. 29.45.120. Returns.

(a) The municipality may require each person having ownership or control of or an interest in property to submit a return in the form prescribed by the assessor, based on property values of property subject to an ad valorem tax existing on January 1, except as otherwise provided in this chapter.

(b) The assessor may, by written notice, require a person to provide additional information within 30 days. (§ 12 ch 74 SLA 1985; am § 4 ch 40 SLA 1995)

Effect of amendments. The 1995 amendment, effective August 23, 1995, inserted "of property subjected to an ad valorem tax" in subsection (a).

Sec. 29.45.130. Independent investigation.

(a) The assessor is not bound to accept a return as correct. The assessor may make an independent investigation of property returned or of taxable property on which no return has been filed. In either case, the assessor may make the assessor's own valuation of the property subject to an ad valorem tax and this valuation is prima facie evidence of the value of the property.

(b) For investigation, the assessor or the assessor's agent may enter real property during reasonable hours to examine visible personal property and the exterior of a dwelling or other structure on the real property. The assessor or the assessor's agent may enter and examine the interior of a dwelling or other structure or the personal property in it only (1) if the structure is under construction and not yet occupied; (2) with the permission of a person in actual possession of the structure; or (3) in accordance with a court order to compel the entry and inspection. The assessor or the assessor's agent may examine all property records involved. A person shall, on request, furnish to the assessor or the assessor's agent assistance for the investigation and permit the assessor or the assessor's agent to enter a dwelling or other structure to examine the structure or personal property in it during reasonable hours. The assessor may seek a court order to compel entry and production of records needed for assessment purposes.

(c) An assessor may examine a person on oath. On request, the person shall submit to examination at a reasonable time and place selected by the assessor. (§ 12 ch 74 SLA 1985; am § 5 ch 40 SLA 1995; am § 1 ch 4 SLA 1999)

Effect of amendments. The 1999 amendment, effective March 27, 1999, made substantive changes to subsection (b). The 1995 amendment, effective August 23, 1995, substituted "property subjected to an ad valorem tax" for "taxable property" in subsection (a).

Sec. 29.45.140. Violations; authorization to prescribe penalties by ordinance.

For knowingly failing to file a tax statement required by ordinance or knowingly making a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind, or value of property subject to taxation with intent to evade the taxation, a municipality may by ordinance prescribe a penalty not to exceed a fine of $1,000 or imprisonment for 90 days. (§ 12 ch 74 SLA 1985)

Sec. 29.45.150. Reevaluation.

A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the municipality directing a systematic reevaluation of all taxable property in the municipality over the shortest period of time practicable, as fixed in the resolution or act. (§ 12 ch 74 SLA 1985)

Sec. 29.45.160. Assessment roll.

(a) The assessor shall prepare an annual assessment roll. The roll must contain

(1) a description of all property subject to an ad valorem tax;

(2) the assessed value of all property subject to an ad valorem tax;

(3) the names and addresses of persons with property subject to an ad valorem tax.

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the record owner. The district recorder shall at least monthly provide the assessor a copy of each recorded change of ownership showing the name and mailing address of the owner and the name and mailing address of the person recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal record owner. If the property owner is unknown, the property may be assessed to "unknown owner". An assessment is not invalidated by a mistake, omission, or error in the name of the owner, if the property is correctly described. (§ 12 ch 74 SLA 1985; am § 6 ch 40 SLA 1995)

Effect of amendments. The 1995 amendment, effective August 23, 1995, in subsection (a), substituted “property subjected to an ad valorem tax” for “taxable property” in paragraphs (1) and (2) and for “property subject to assessment and taxation” in paragraph (3).

Sec. 29.45.170. Assessment notice.

(a) The assessor shall give each person named in the assessment roll a notice of assessment showing the assessed value of the person's property that is subject to an ad valorem tax. On each notice is printed a brief summary of the dates when taxes are payable, delinquent, and subject to penalty and interest, and the dates when the board of equalization will sit.

(b) Sufficient assessment notice is given if mailed by first class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing. (§ 12 ch 74 SLA 1985; am § 7 ch 40 SLA 1995)

Effect of amendments. The 1995 amendment, effective August 23, 1995, in subsection (a), added “that is subject to an ad valorem tax” at the end of the first sentence and made a minor stylistic change.

Sec. 29.45.180. Corrections.

(a) A person receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of the person's property. The assessor may correct errors or omissions in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board of equalization. (§ 12 ch 74 SLA 1985)

Sec. 29.45.190. Appeal.

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

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

(c) The assessor shall notify an appellant by mail of the time and place of hearing.

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

(e) A city in a borough may appeal an assessment to the borough board of equalization in the same manner as a taxpayer. Within five days after receipt of the appeal, the assessor shall notify the person whose property assessment is being appealed by the city. (§ 12 ch 74 SLA 1985)

Sec. 29.45.200. Board of equalization.

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

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

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court. (§ 12 ch 74 SLA 1985)

Sec. 29.45.210. Hearing.

(a) If an appellant fails to appear, the board of equalization may proceed with the hearing in the absence of the appellant.

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

(c) The board of equalization shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(d) An appellant or the assessor may appeal a determination of the board of equalization to the superior court as provided by rules of court applicable to appeals from

the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization. (§ 12 ch 74 SLA 1985)

Sec. 29.45.220. Supplementary assessment rolls.

The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll. (§ 12 ch 74 SLA 1985)

Sec. 29.45.230. Tax adjustments on property affected by a natural disaster.

(a) The municipality may by ordinance provide for assessment or reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a disaster.

(b) An assessment or reassessment under this section may be made by the assessor only upon the receipt of a sworn statement of the taxpayer that losses exceed $1,000. A reduction of taxes may be made only on losses in excess of $1,000 for the remainder of the year following the disaster. On reassessment, the municipality shall recompute this tax and refund taxes that have already been paid.

(c) The municipality shall give notice of assessment or reassessment under this section and shall hold an equalization hearing as provided in this chapter, except that a notice of appeal must be filed with the board of equalization within 10 days after notice of assessment or reassessment is given to the person appealing. Otherwise, the right of appeal ceases unless the board finds that the taxpayer is unable to comply.

(d) In an ordinance authorized by this section the municipality shall establish criteria for the reduction of taxes on property damaged, destroyed, or otherwise reduced in value as a result of disaster, and may, consistent with this section, prescribe procedures, restrictions, and conditions for assessing or reassessing property and for remitting, refunding, or forgiving taxes. (§ 12 ch 74 SLA 1985; am § 50 ch 14 SLA 1987; am §§ 1—3 ch 1 SLA 2004)

Effect of amendments. The 2004 amendments effective May 13, 2004, amended subsection (a) to insert 'by ordinance' and deleted the word 'natural'; amended subsection (d) by deleting the words 'enacting' and 'or resolution,' rewrote portions of subsection (d) to require that property tax reduction criteria be established in an ordinance; and repealed subsection (e) defining disaster.

Sec. 29.45.240. Establishment of levy and determination of rate.

(a) The power granted to a municipality to assess, levy, and collect a property tax shall be exercised by means of an ordinance. The rate of levy, the date of equalization, and the date when taxes become delinquent shall be fixed by resolution.

(b) A municipality shall annually determine the rate of levy before June 15. By July 1 the tax collector shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest. (§ 12 ch 74 SLA 1985)

Sec. 29.45.250. Rates of penalty and interest.

(a) A penalty not to exceed 20 percent of the tax due may be added to all delinquent taxes, and interest not to exceed 15 percent a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. A municipality may impose a penalty not to exceed 20 percent of the tax due upon the late return of personal

property assessment forms. A penalty under this section may be imposed according to a formula that increases the amount of the penalty as the length of time increases during which payment is delinquent or assessment forms are not returned.

(b) If a taxpayer is given the right to pay the tax in two installments, penalty and interest on an unpaid installment accrues from the date the installment becomes due. (§ 12 ch 74 SLA 1985)

Article 2. Enforcement of Tax Liens.

Section

Sec. 29.45.290. Validity.

Certified assessment and tax rolls are valid and binding on all persons, notwithstanding a defect, error, omission, or invalidity in the assessment rolls or proceedings pertaining to the assessment roll. (§ 12 ch 74 SLA 1985)

Sec. 29.45.295. Collection of delinquent taxes on certain governmental property.

AS 29.45.300 – 29.45.490 do not apply to property taxable under AS 29.45.030(a)(1)(B) or (C) or to federal property not exempted under AS 29.45.030(a)(8). A municipality may bring an action in the superior court to compel payment of property taxes due from the state, municipal, or federal entity if the entity does not pay the amount due within six months after the date that the taxes are due. (§ 2 ch 85 SLA 1991)

Sec. 29.45.300. Tax liability.

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

(b) Property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property. (§ 12 ch 74 SLA 1985)

Sec. 29.45.310. Enforcement of personal property tax liens by distraint and sale.

(a) A lien for personal property taxes may be enforced by distraint and sale of the property. The municipality shall provide the procedure for distraint and sale by

ordinance. A seizure, levy, or distraint is not legal unless demand is first made of the person assessed for the amount of the tax, penalty, and interest, and a sale is not valid unless made at public auction no sooner than 15 days after notice is published. The seizure is made by virtue of a warrant issued by the municipal clerk to a peace officer.

(b) If the personal property sold is not sufficient to satisfy the tax, penalty, and interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest, and costs of sale. If the property is sold for more money than is needed to satisfy the tax, the municipality shall remit the excess to the former record owner upon presentation of a proper claim. A claim for the excess filed after six months of the date of sale is forever barred. (§ 12 ch 74 SLA 1985)

Sec. 29.45.320. Real property tax collection.

(a) The municipality shall enforce delinquent real property tax liens by annual foreclosure, unless otherwise provided by ordinance.

(b) If the tax on property described in AS 29.45.070 or on a taxable interest in tax-exempt property is not paid when due, a municipality may enforce the tax by a personal action against the delinquent taxpayer brought in the district or superior court, in addition to other remedies available to enforce the lien. (§ 12 ch 74 SLA 1985)

Sec. 29.45.330. Foreclosure list.

(a) A municipality shall

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

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

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

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

(1) the last known owner;

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

(3) years and amounts of delinquency;

(4) penalty and interest due;

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

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

(c) Completion of the requirements of (a) of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of summons to foreclose a lien against each property described on the foreclosure list. (§ 12 ch 74 SLA 1985)

Sec. 29.45.340. Clearing delinquencies.

During the publication or posting of the foreclosure list and up to the time of transfer to the municipality a person may pay the taxes, together with the penalty, interest, and costs. The collector shall note payment on the foreclosure list. (§ 12 ch 74 SLA 1985)

Sec. 29.45.350. List to lienholder.

A holder of a mortgage or other lien on real property may request the clerk to send by certified mail notice of a foreclosure list that includes the real property. (§ 12 ch 74 SLA 1985)

Sec. 29.45.360. General foreclosure.

A municipality shall bring one general foreclosure proceeding in rem against the properties included in the foreclosure list. If the owner is unknown, the property is proceeded against as belonging to "unknown owner." (§ 12 ch 74 SLA 1985)

Sec. 29.45.370. Answer and objection.

A person having an interest in a lot on the foreclosure list may file an answer within 30 days after the date of last publication, specifying the person's objection. The court shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the tax is valid and that the tax is unpaid. (§ 12 ch 74 SLA 1985)

Sec. 29.45.380. Judgment.

The court shall in a proper case give judgment and decree that the tax liens be foreclosed. It is a several judgment against each lot and a lien on each lot. (§ 12 ch 74 SLA 1985)

Sec. 29.45.390. Transfer and appeal.

(a) Foreclosed properties are transferred to the municipality for the lien amount. When answers are filed the court may enter judgment against and order the transfer to the municipality of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

(b) The court clerk shall deliver a certified copy of the judgment and decree to the municipal clerk. The certified judgment and decree constitutes a transfer to the municipality.

(c) The judgment and decree stops objections to it that could have been presented before judgment and decree. Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be taken in a manner provided for appeals in civil actions. (§ 12 ch 74 SLA 1985)

Sec. 29.45.400. Redemption period.

Properties transferred to the municipality are held by the municipality for at least one year. During the redemption period a party having an interest in the property may

redeem it by paying the lien amount plus penalties, interest, and costs, including all costs incurred under AS 29.45.440(a). Property redeemed is subject to all accrued taxes, assessments, liens, and claims as though it had continued in private ownership. Only the amount applicable under the judgment and decree must be paid in order to redeem the property. (§ 12 ch 74 SLA 1985)

Sec. 29.45.410. Effect.

Receipt of redemption money by the municipality releases the judgment obtained under AS 29.45.380. The clerk or the clerk's designee shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The clerk or the clerk's designee shall collect the recording fee at the time of redemption and shall file the certificate with the record as part of the judgment roll. (§ 12 ch 74 SLA 1985)

Sec. 29.45.420. Additional liens.

If a property included in a foreclosure list is removed after payment of delinquencies or redemption by another lienholder, the payment represented by receipt for payment constitutes an additional lien on the property, collectible by the lienholder in the same manner as the original lien. (§ 12 ch 74 SLA 1985)

Sec. 29.45.430. Possession during redemption period.

Foreclosure does not affect the former owner's right to possession during the redemption period. If waste is committed by the former owner or by anyone acting under the permission or control of the former owner, the municipality may declare an immediate forfeiture of the right to possession. (§ 12 ch 74 SLA 1985)

Sec. 29.45.440. Expiration.

(a) At least 30 days before the expiration of the redemption period the clerk or the clerk's designee shall publish a redemption period expiration notice. The notice must contain the date of judgment, the date of expiration of the period of redemption, and a warning that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the municipality immediately on expiration of the period of redemption and that every right or interest of a person in the properties will be forfeited forever to the municipality. The notice appears once a week for four consecutive weeks in a newspaper of general circulation distributed in the municipality. If there is no newspaper of general circulation distributed in the municipality, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the notice by certified mail to each record owner of property against which a judgment of foreclosure has been taken and, if the assessed value of the property is more than $10,000, to all holders of mortgages or other liens of record on the property. The notice shall be mailed within five days after the first publication. The mailing shall be sufficient if mailed to the property owner and to the holder of a mortgage or recorded lien at the last address of record.

(b) The right of redemption expires 30 days after the date of the first notice publication.

(c) Costs incurred in the determination of holders of mortgages and other liens of record and costs of notice publication incurred by a municipality under (a) of this section are a lien on the property and may be recovered by the municipality. (§ 12 ch 74 SLA 1985)

Sec. 29.45.450. Deed to borough or city.

(a) Unredeemed property in the area of the borough outside all cities is deeded to the borough by the clerk of the court. Unredeemed property in a city is deeded to the city subject to the payment by the city of unpaid borough taxes and costs of foreclosure levied against the property before foreclosure. The deed shall be recorded in the recording district in which the property is located.

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

(c) If unredeemed property lies in a city and if the city has no immediate public use for the property but the borough does have an immediate public use, the city shall deed the property to the borough. If unredeemed property lies in the borough outside all cities and if the borough does not have an immediate public use for the property but a city does have an immediate public use, the borough shall deed the property to the city.

(d) A deed is not invalid for irregularities, omissions, or defects in the proceedings under this chapter unless the former owner has been misled so as to be injured. Two years after the date of the deed, its validity is conclusively presumed and a claim of the former owner or other person having an interest in the property is forever barred. (§ 12 ch 74 SLA 1985)

Sec. 29.45.460. Disposition and sale of foreclosed property.

(a) The municipality shall determine by ordinance whether foreclosed property deeded to the municipality shall be retained for a public purpose. The ordinance must contain the legal description of the property, the address or a general description of the property sufficient to provide the public with notice of its location, and the name of the last record owner of the property as the name appears on the assessment rolls.

(b) Tax-foreclosed property conveyed to a municipality by tax foreclosure and not required for a public purpose may be sold. Before the sale of tax-foreclosed property held for a public purpose, the municipality, by ordinance, shall determine that a public need does not exist. The ordinance must contain the information required under (a) of this section.

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

(d) The provisions of (c) of this section do not apply with respect to property that has been held by the municipality for a period of more than 10 years after the close of the redemption period. (§ 12 ch 74 SLA 1985)

Sec. 29.45.470. Repurchase by record owner.

(a) The record owner at the time of tax foreclosure of property acquired by a municipality, or the assigns of that record owner, may, within 10 years and before the sale or contract of sale of the tax-foreclosed property by the municipality, repurchase the property. The municipality shall sell the property for the full amount applicable to the property under the judgment and decree plus

(1) interest not to exceed 15 percent a year from the date of entry of the judgment of foreclosure to the date of repurchase;

(2) delinquent taxes assessed and levied as though it had continued in private ownership;

(3) costs of foreclosure and sale incurred by the municipality; and

(4)costs of maintaining and managing the property incurred by the municipality including insurance, repairs, association dues, and management fees, that exceed amounts received by the municipality for the use of the property.

(b) After adoption of an ordinance providing for the retention of tax-foreclosed property by the municipality for a public purpose, the right of the former record owner to repurchase the property ceases. (§ 12 ch 74 SLA 1985; am § 1 ch 192 SLA 1990)

Effect of amendments. The 1990 amendment rewrote the second sentence of subsection (a).

Sec. 29.45.480. Proceeds of tax sale.

(a) On sale of foreclosed real or personal property the municipality shall divide the proceeds less cost of collection, between the borough and the city having unpaid taxes against the property. The division is in proportion to the respective municipal taxes against the property at the time of foreclosure.

(b) If tax-foreclosed real property that has been held by a municipality for less than 10 years after the close of the redemption period and never designated for a public purpose is sold at a tax-foreclosure sale, the former record owner is entitled to the portion of the proceeds of the sale that exceeds the amount of unpaid taxes, the amount equal to taxes that would have been assessed and levied after foreclosure if the property had continued in private ownership, penalty, interest, and costs to the municipality of foreclosing and selling the property, and costs to the municipality of maintaining and managing the property that exceed amounts received by the municipality for the use of the property. If the proceeds of the sale of tax-foreclosed property exceed the total of unpaid and delinquent taxes, penalty, interest, and costs, the municipality shall provide the former owner of the property written notice advising of the amount of the excess and the manner in which a claim for the balance of the proceeds may be submitted. Notice is sufficient under this subsection if mailed to the former record owner at the last address of record of the former record owner. On presentation of a proper claim, the municipality shall remit the excess to the former record owner. A claim for the excess filed after six months of the date of sale is forever barred. (§ 12 ch 74 SLA 1985; am § 2 ch 192 SLA 1990)

Effect of amendments. The 1990 amendment, in subsection (b), added all of the language of the first sentence beginning "and costs to the municipality."

Sec. 29.45.490. Payment of taxes upon public utilization.

If a municipality takes title to tax-foreclosed property for a public purpose, the municipality shall satisfy unpaid taxes and assessments against the property held by other municipalities, with accrued interest but without penalty. If the amount required to satisfy the unpaid taxes and assessments exceeds the assessed value of the property, the municipality shall pay the other municipalities the assessed value, which shall be divided between the other municipalities in proportion to their respective taxes and assessments against the property at the time of foreclosure. (§ 12 ch 74 SLA 1985)

Sec. 29.45.500. Refund of taxes.

(a) If a taxpayer pays taxes under protest, the taxpayer may bring suit in the superior court against the municipality for recovery of the taxes. If judgment for recovery is given against the municipality, or, if in the absence of suit, it becomes obvious to the governing body that judgment for recovery of the taxes would be obtained if legal proceedings were brought, the municipality shall refund the amount of the taxes to the taxpayer with interest at eight percent from the date of payment plus costs.

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

(c) The governing body may correct manifest clerical errors at any time. (§ 12 ch 74 SLA 1985)

Article 3. City Property Tax.

Section

Sec. 29.45.550. Cities outside boroughs.

Home rule and first class cities outside boroughs may assess, levy, and collect a property tax. A property tax if levied must be assessed, levied, and collected as provided by AS 29.45.010 – 29.45.500. (§ 12 ch 74 SLA 1985)

Sec. 29.45.560. Cities inside boroughs.

Home rule and first class cities inside boroughs may levy a property tax. A property tax, if levied, is subject to AS 29.45.010 – 29.45.050, 29.45.090 – 29.45.100, 29.45.250, 29.45.400 – 29.45.440 and 29.45.460 – 29.45.500. The council shall by June 15 of each year present to the assembly a statement of the city's rate of levy unless a different date is agreed upon by the borough and city. (§ 12 ch 74 SLA 1985)

Sec. 29.45.580. Differential tax zones.

A city may by ordinance establish, alter, and abolish differential tax zones to provide and levy property taxes for services not provided generally in the city or a different level of service than that provided generally in the city. (§ 12 ch 74 SLA 1985)

Sec. 29.45.590. Limited property taxing power for second class cities.

A second class city may by referendum levy property taxes as provided for first class cities. However, levy of an ad valorem tax by a second class city may not exceed two percent of the assessed value of the property taxed, except that the limit does not apply to a levy necessary to avoid a default upon payment of principal and interest of bonded or other indebtedness that is secured by a pledge to levy ad valorem or other taxes without limit to meet debt payments. (§ 12 ch 74 SLA 1985; am § 1 ch 123 SLA 1994; am § 8 ch 40 SLA 1995)

Effect of amendments. The 1995 amendment, effective August 23, 1995, inserted "of an ad valorem tax" near the beginning of the second sentence. The 1994 amendment, effective September 26, 1994, substituted "two percent" for "one-half of one percent" near the beginning of the second sentence.

Sec. 29.45.600. Combining property tax with incorporation of a second class city.

A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails. (§ 12 ch 74 SLA 1985)

Article 4. Borough Sales and Use Tax.

Section

Sec. 29.45.650. Sales and use tax.

(a) Except as provided in AS 04.21.010(c), AS 29.45.750, and in (f), (h), (i), and (j) of this section, a borough may levy and collect a sales tax on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Notwithstanding other statutes, exemptions may be granted by ordinance. A borough may wholly or partially exempt a source from a borough sales tax that is taxed by a city in that borough under AS 29.45.700.

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

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the

amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether inside or outside the state.

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

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, the sales tax lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien. This subsection applies to home rule and general law municipalities.

(f) A borough may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other type of allotment issued under 7 U.S.C. 2011 – 2036 (Food Stamp Program); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 – 2036 (Food Stamp Program). This subsection applies to home rule and general law municipalities.

(g) *[Repealed, § 2 ch 159 SLA 1990]*

(h) A borough may not levy or collect a sales tax on sales, rents, and services, or a use tax on the storage, use, or consumption of personal property on the following activities:

(1) the sale, lease, rental, storage, consumption, or distribution in this state of or the provision of services relating to an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components of them;

(2) the sale, lease, rental, storage, consumption, or use of tangible personal property placed on or used aboard an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, regardless of whether the tangible personal property is returned to this state for subsequent use, storage, or consumption; an exemption under this paragraph is not affected by the failure of a launch to occur, or the destruction of a launch vehicle or a component of a launch vehicle.

(i) A borough may not levy or collect a sales or use tax on (1) the physical transfer of refined fuel, unless the transfer is made in connection with a sale or use in the borough, or (2) wholesale sales or transfers of fuel refined in the borough. A sale is in the borough if the fuel is delivered to the buyer in the borough. A use is in the borough if the fuel is consumed in the borough. This subsection applies to home rule and general law municipalities.

(j) The prohibitions on the levy and collection of a sales or use tax on refined fuel in (i) of this section do not apply to a borough if, on the effective date of (i) of this section, the borough is

(1) levying and collecting a sales or use tax on the sale, use, or transfer of refined fuel under an ordinance adopted before January 1, 2003; or

(2) receiving payments in lieu of a sales or use tax on the sale, use, or transfer of refined fuel under an agreement entered into before January 1, 2003.

(k) A borough may not levy or collect a sales or use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract. This subsection applies to home rule and general law municipalities. (§ 12 ch. 74, SLA 1985; am §§ 3 and 4 ch 38 SLA 1986; am § 1 ch 20 SLA 1987; am § 2 ch. 30 SLA 1988; am §§ 1 and 2 ch 96 SLA 1989; am §§ 1 and 2 ch 159 SLA 1990; am §§ 4 and 5 ch 88 SLA 1991; am § 3 ch 100 SLA 2002; am § 4 ch 69 SLA 2002; am §§ 4, 5, and 9 ch 117 SLA 2003; am § 3 ch 80 SLA 2005; am §§ 1 and 2 ch 30 SLA 2005)

Effect of amendments. The first 2005 amendment, effective July 20, 2005, added subsection (k). The second 2005 amendment, effective August 24, 2005, amended subsection (a) to change the exemption wording, authorize exemption of borough sales tax that is also taxed by a city in the borough, and delete reference to AS 29.45.750. . The 2003 amendment effective September 16, 2003, added reference to subsection (i) and (j) in subsection (a) and added new subsections (i) and (j); and provided a conditional amendment of Sec 4, ch. 100, SLA 2002 repealing the reference to AS 29.45.750 once the appeal period of the court's decision has run out. The first 2002 amendment, effective August 1, 2002, added ", AS 29.45.750," to subsection (a). The act also provides that in the case of a court ruling nullifying the effects of the Mobile Telecommunications Act, the law is repealed. The second 2002 amendment, effective July 1, 2002, made substantive changes to subsection (f). The 1991 amendment, effective July 2, 1991, inserted "and (h)" in the first sentence in subsection (a) and added subsection (h). The 1990 amendment substituted "in AS 04.21.010(c) and in (f)" for "in (f) and (g)" and deleted "not exceeding six percent" after "sales tax" in the first sentence of subsection (a); and repealed subsection (g), which provided that the limitation on the rate of levy specified in subsection (a) did not apply to taxes imposed on sales of cigarettes and tobacco products at retail. The 1989 amendment, effective September 10, 1989, inserted "and (g)" in the first sentence in subsection (a) and added subsection (g). The 1988 amendment, effective July 1, 1988, in subsection (e), substituted the present last two sentences for the former second sentence, which read "When recorded, a lien authorized under this section has priority over other liens except those for property taxes and special assessments."

Sec. 29.45.660. Notice of sales and use tax.

(a) If the borough levies and collects only a sales tax and use tax, the assembly shall provide a notice substantially in the form set out in AS 29.45.020. In providing notice under this subsection, the assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in AS 29.45.020. Notice shall be provided

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

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

(b) Compliance with the provisions of this section is a prerequisite to receipt of community assistance under AS 29.60.850 – 29.60.879. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985; am § 4 ch 75 SLA 1997; am § 4 ch 12 SLA 2008; am § 3 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance". The 2008 amendment updates language and statute citation in subsection (b). "Community revenue sharing" has replaced "municipal tax resource equalization." The 1997 amendment, effective July 1, 1997, rewrote the first sentence of subsection (b).

Sec. 29.45.670. Referendum, adoption, and modification.

A new sales and use tax or an increase in the rate of levy of a sales tax approved by ordinances does not take effect until ratified by a majority of the voters at an election. (§ 12 ch 74 SLA 1985)

Sec. 29.45.680. Combining sales and use tax with incorporation of a borough.

A petition for incorporation of a borough may request that a sales and use tax proposition be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the tax proposition; if so, the incorporation proposition fails if the tax proposition fails. (§ 1 ch 3 SLA 1989)

Article 5. City Sales and Use Tax.

Section

Sec. 29.45.700. Power of levy.

(a) A city in a borough that levies and collects areawide sales and use taxes may levy sales and use taxes on all sources taxed by the borough in the manner provided for boroughs. Except as provided in (d) and (e) of this section, the assembly may by ordinance authorize a city to levy and collect sales and use taxes on other sources

(b) A city in a borough that does not levy and collect sales and use taxes for areawide borough functions may levy and collect sales and use taxes in the manner provided for boroughs.

(c) A city outside a borough may levy and collect sales and use taxes in the manner provided for boroughs.

(d) A city that levies and collects sales and use taxes under (a) of this section may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other types of allotments issued under 7 U.S.C. 2011 – 2036 (Food Stamp Program); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program). This subsection applies to home rule and general law municipalities.

(e) A city that levies and collects sales and use taxes may not levy and collect a sales or use tax on (1) the physical transfer of refined fuel, unless the transfer is made in connection with a sale or use in the city, or (2) wholesale sales or transfers of fuel refined in the city. A sale is in the city if the fuel is delivered to the buyer in the city. A use is in the city if the fuel is consumed in the city. This subsection applies to home rule and general law municipalities.

(f) The prohibitions on the levy and collection of a sales or use tax on refined fuel in (e) of this section do not apply to a city if, on the effective date of (e) of this section, the city is

(1) levying and collecting a sales or use tax on the sale, use, or transfer of refined fuel under an ordinance adopted before January 1, 2003; or

(2) receiving payments in lieu of a sales or use tax on the sale, use, or transfer of refined fuel under an agreement entered into before January 1, 2003.

(g) A city may not levy or collect a sales or use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract. This subsection applies to home rule and general law cities. (§ 12 ch 74 SLA 1985; am § 5 ch 38 SLA 1986; am §§ 51 and 52 ch 14 SLA 1987; am § 2 ch 20 SLA 1987; am § 5 ch 69 SLA 2002; am §§ 6 and 7 ch 117 SLA 2003; am § 4 ch 80 SLA 2005)

Effect of amendments. The 2005 amendment effective July 20, 2005 added subsection (g). The 2003 amendment effective September 16, 2003 amended subsection (a) to reference subsection (e) and added new subsection (e) and (f). The 2002 amendment, effective July 1, 2002, made substantive changes to subsection (d).

Sec. 29.45.710. Combining sales and use tax with incorporation of a second class city.

A petition for incorporation of a second class city may request that a sales and use tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the tax proposition. If so, the incorporation proposition fails if the tax fails. (§ 12 ch 74 SLA 1985)

Article 6. Mobile Telecommunications Sourcing Act.

Section

Sec. 29.45.750. Mobile Telecommunications Sourcing Act.

(a) The provisions of 4 U.S.C. 116 – 126 (Mobile Telecommunications Sourcing Act) are incorporated in this chapter by reference and have effect as though fully set out in this chapter.

(b) A municipality that levies and collects a sales tax on mobile telecommunications services shall do so in accordance with the provisions of 4 U.S.C. 116 – 126 (Mobile Telecommunications Sourcing Act).

(c) The procedures and remedies for correcting a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction are as follows:

(1) if a customer believes that an amount of tax, charge, or fee or an assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider; the customer shall notify the home service provider of the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request;

(2) within 60 days after receiving a notice under this section, the home service provider shall review the records and the electronic database or enhanced zip code used according to 4 U.S.C. 116 – 126 to determine the customer's taxing jurisdiction; if this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge, or fee erroneously collected from the customer for a period of up to two years; if this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer;

(3) the procedures in this subsection are the first course of remedy available to a customer seeking correction of assignment of place of primary use or taxing jurisdiction or a refund of or other compensation for taxes, charges, and fees erroneously collected by the home service provider.

(d) For purposes of this section, if a customer does not have a street address, the home service provider may accept from the customer as the customer's place of primary use an address that is not a street address if the address gives effect to the intent of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act). (§ 5 ch 100 SLA 2002)

Effect of amendments. The act also provides that in the case of a court ruling nullifying the effects of the Mobile Telecommunications Act, the law is repealed.

Article 7. General Provisions.

Section

Sec. 29.45.800. Applicability of AS 29.45.010 – 29.45.560.

AS 29.45.010 – 29.45.560 apply to home rule and general law municipalities. (§ 12 ch 74 SLA 1985)

Sec. 29.45.810. Exemption from municipal taxation.

(a) A party to a contract approved by the legislature as a result of submission of a proposed contract developed under AS 43.82 or as a result of acts by the legislature in implementing the purposes of AS 43.82, and the property, gas, products, and activities

associated with the approved qualified project that is subject to the contract, are exempt, as specified in the contract, from all taxes identified in the contract that would be levied and collected by a municipality under state law as a consequence of the participation by the party in the approved qualified project.

(b) This section applies to home rule and general law municipalities. (§ 5 ch 104 SLA 1998)

Effective dates. Section 11 ch 104 SLA 1998 makes this section effective June 18, 1998, in accordance with AS 01.10.070(c).

Sec. 29.45.820. Taxes or fees on transportation by certain air carriers prohibited.

Notwithstanding other provisions of law, a municipality may not levy or collect a tax or fee on the air transportation of individuals or goods by a federally certificated air carrier other than a tax or fee authorized under 49 U.S.C. 40116(e) or 40117. This section applies to home rule and general law municipalities. (§ 2 ch 29 SLA 1994; am § 82 ch 21 SLA 2000)

Revisor's notes. Formerly AS 29.47.470. Renumbered in 2008.

Chapter 46. Special Assessments.

Section

Sec. 29.46.010. Assessment and proposal.

(a) The municipality may assess against the property of a state or federal governmental unit and private real property to be benefited by an improvement all or a portion of the cost of acquiring, installing, or constructing capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under AS 29.46.020(b). If a governmental unit other than the state benefited by an improvement refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

(1) petition to the governing body of the owners of one-half in value of the property to be benefited; or

(2) the governing body.

(b) Notwithstanding (a) of this section, a party to a contract approved by the legislature as a result of submission of a proposed contract developed under AS 43.82 or as a result of acts by the legislature in implementing the purposes of AS 43.82, is exempt, as specified in the contract, from assessment under this chapter against real property associated with the approved qualified project that is subject to the contract. This subsection applies to home rule municipalities. (§ 13 ch 74 SLA 1985; am § 6 ch 104 SLA 1998; am § 44 ch 41 SLA 2009)

Effect of amendments. The 2009 amendment, effective June 21, 2009, in (b), added the last sentence. The 1998 amendment, effective June 18, 1998, added subsection (b).

Sec. 29.46.020. Procedure.

(a) The municipality may prescribe by ordinance the procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments, and financing improvements, including the following:

(1) a procedure for filing petitions;

(2) a survey and report by the mayor concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;

(3) a public hearing on the necessity for the proposed local improvement;

(4) a resolution or ordinance determining to proceed or not to proceed with the proposed local improvement;

(5) a public hearing by the governing body on the special assessment roll for the proposed local improvement;

(6) published notice of each public hearing required by this section and mailing notice to each record owner of real property in the special assessment district;

(7) a resolution or ordinance confirming the special assessment roll for the proposed local improvement.

(b) If protests as to the necessity of a proposed local improvement are made by owners of property that will bear 50 percent or more of the estimated cost of the improvement, the governing body may not proceed with the improvement until the objections have been reduced to less than 50 percent, except on approval of not fewer than three-fourths of the governing body.

(c) To the extent that the municipality does not prescribe a procedure for special assessments as permitted by this section, the municipality shall comply with the special assessment procedures set out in AS 29.46.030 - 29.46.100.

(d) A municipality may by ordinance provide for deferral of payment of all or part of the assessments on real property owned and occupied as the primary residence and permanent place of abode by a resident who is economically disadvantaged as determined under criteria established in the ordinance. The assessment becomes due when the property ceases to be owned by the resident who qualified for the deferral. (§ 13 ch 74 SLA 1985; am § 1 ch 115 SLA 1998)

Effect of amendments. The 1998 amendment, effective September 17, 1998, added subsection (d).

Sec. 29.46.030. Consideration of improvement proposals for special assessment district.

(a) When an improvement proposal is filed with the municipal clerk and presented to the governing body, the municipality shall find by resolution or ordinance whether (1) the improvement requested is necessary and should be made, and (2) if by petition, the request has sufficient and proper petitioners. The findings under this subsection are conclusive.

(b) If the municipality approves an improvement proposal, it shall develop a proposed improvement plan including the total cost estimate and the percentage of the cost to be assessed against the benefited property. The improvement plan shall be filed with the municipal clerk.

(c) The governing body shall set a time for public hearing on the improvement plan and the period for filing objections to the plan. The governing body shall publish a notice of the hearing and of the period during which objections may be filed at least once a week for four consecutive weeks in a newspaper of general circulation if distributed in the municipality and shall send notice by mail to every record owner of property in the special assessment district. (§ 13 ch 74 SLA 1985; am § 45 ch 41 SLA 2009)

Effect of amendments. The 2009 amendment, part of the Revisor's Bill, effective June 21, 2009, in (a), substituted "subsection" for "section" in the last sentence.

Sec. 29.46.040. Record owner.

The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment roll may designate "unknown owner". (§ 13 ch 74 SLA 1985)

Sec. 29.46.050. Objections and revision.

(a) Objections to an improvement plan may be filed during a period of 60 days after publication of notice. The municipality may by resolution or ordinance approve the plan and order the improvement subject to the limitation of (b) of this section.

(b) If objections are made in writing during the period set for objections by the owners of property bearing 50 percent or more of the estimated total cost of the improvement, the governing body may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 percent. A revised plan shall be approved and adopted as an original plan in accordance with AS 29.46.030. (§ 13 ch 74 SLA 1985)

Sec. 29.46.060. Assessment roll.

(a) At any time after approval of an improvement plan, the governing body shall assess the authorized percentage of the cost against property in the district included in the plan in proportion to the benefit received.

(b) The special assessment roll shall contain property descriptions, names of record owners, and assessment amounts.

(c) The governing body shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed property not less than 15 days before the hearing. (§ 13 ch 74 SLA 1985)

Sec. 29.46.070. Hearing and settlement.

After the public hearing, the governing body shall correct errors and inequalities in the roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objections to the increased assessment shall be limited to record owners of property on which the assessment was increased. When the roll is corrected, it shall be confirmed by resolution or ordinance. (§ 13 ch 74 SLA 1985)

Sec. 29.46.080. Payment.

(a) The governing body shall fix times of payment, penalties on delinquent payments, and the rate of interest on the unpaid balance of the assessment. Payment may be in one sum or by installments. If payment is to be in one sum, payment may not be required sooner than 60 days after mailing of the assessment statement. The entire assessment may be prepaid without interest or penalty within 30 days after mailing of the assessment statement, and thereafter the assessment may be prepaid in whole or in part with interest to the payment date.

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

(c) Assessments are liens on the property assessed and are prior and paramount to all liens except municipal tax liens. They may be enforced as provided in AS 29.45.320 – 29.45.470 for enforcement of property tax liens. (§ 13 ch 74 SLA 1985)

Sec. 29.46.100. Reassessment.

(a) The governing body shall within one year correct any deficiency in a special assessment found by a court. Notice and hearing must conform to the initial assessment procedures.

(b) Payments on the initial assessment are credited to the property upon reassessment. The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure. (§ 13 ch 74 SLA 1985)

Sec. 29.46.110. Allowable costs.

(a) When a special assessment district is created, there may be included in the assessments

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

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

(3) the cost of mailing and publishing notices;

(4) interest on interim financing;

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

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

(b) The total amount of the assessment roll may not exceed actual costs, but actual costs may include reasonable estimates of the costs to be incurred in connection with issuance of bonds. (§ 13 ch 74 SLA 1985)

Sec. 29.46.120. Objection and appeal.

(a) The validity of an assessment may not be contested by a person who did not file with the municipal clerk a written objection to the assessment roll before its confirmation.

(b) The decision of the governing body on an objection may be appealed to the superior court within 30 days after the date of confirmation of the assessment roll. If no objection is filed or appeal taken within that time, the assessment procedure is considered valid in all respects. (§ 13 ch 74 SLA 1985)

Sec. 29.46.130. Interim financing.

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

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

(c) The municipal treasurer may accept notes against special assessments on conditions prescribed by the governing body in payment of

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

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

(3) certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments. (§ 13 ch 74 SLA 1985)

Sec. 29.46.140. Special assessment bonds.

(a) The municipality may by ordinance authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds issued shall be payable solely from the levy of special assessments against the property to be benefited. The assessments shall constitute a sinking fund for the payment of principal and interest on the bonds. The benefited property may be pledged by the governing body to secure a payment.

(b) On default in a payment due on a special assessment bond, a bondholder may enforce payment of principal, interest, and costs of collection in a civil action in the same manner and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure shall be against all property on which assessments are in default. The period for redemption is the same as for a mortgage foreclosure on real property.

(c) Before the governing body may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in meeting payments of principal and interest on bonds if the reason for the deficiency is nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. (§ 13 ch 74 SLA 1985)

Chapter 47. Municipal Debt.

Article 1. Revenue Anticipation Notes.

Sec. 29.47.010. Borrowing in anticipation of revenue.

A municipality that is authorized to incur indebtedness may borrow money to meet appropriations for any fiscal year in anticipation of the collection of the revenues for that year, but all debt so contracted shall be paid before the end of the next fiscal year. Negotiable or nonnegotiable revenue anticipation notes may be issued as evidence of the borrowing. (§ 14 ch 74 SLA 1985)

Sec. 29.47.020. Issuance of notes.

A municipality may by ordinance or resolution authorize the issuance of revenue anticipation notes. The governing body may delegate to its chief fiscal officer the power to issue the notes from time to time under the terms and conditions of the ordinance or resolution that provides for the manner of their sale. (§ 14 ch 74 SLA 1985)

Sec. 29.47.030. Issuance of notes in anticipation of state or federal grants.

(a) A municipality, on adoption of a long-range capital improvement budget by ordinance or resolution, may by resolution provide for negotiable or nonnegotiable revenue anticipation notes in an amount not to exceed the total amount of any state or federal grants finally committed for these projects. The notes mature no later than the end of the next fiscal year. The notes may be for single or multiple projects outlined in the adopted capital improvement budget.

(b) If the state or federal grants for capital improvement projects have not been paid to the municipality before maturity of the notes issued in anticipation of the receipt of the revenue, the governing body may issue new notes in order to meet payment of the notes then maturing or may renew the outstanding revenue anticipation notes. New notes issued or renewals of outstanding revenue anticipation notes mature not later than the end of the next fiscal year. (§ 14 ch 74 SLA 1985)

Sec. 29.47.040. Priority of repayment.

The payment of the principal and interest on revenue anticipation notes is payable from revenues, and their payment additionally shall be secured by a pledge of the full faith and credit of the municipality issuing them. (§ 14 ch 74 SLA 1985)

Article 2. Bond Anticipation Notes.

Section

Sec. 29.47.080. Bond anticipation borrowing.

A municipality may borrow money in anticipation of the sale of general obligation and revenue bonds if

(1) the general obligation bonds to be sold have been authorized by ordinance and ratified by a majority vote at an election;

(2) the revenue bonds to be sold have been authorized by ordinance. (§ 14 ch 74 SLA 1985)

Sec. 29.47.090. Issuance of notes.

The governing body shall issue negotiable or nonnegotiable notes for the amounts borrowed with a maturity date not to exceed one year from the date of issue. All notes and the interest on them are payable at fixed places on or before a fixed time from the proceeds of the sale of bonds in anticipation of which the original note or notes were issued, unless the bonds have not been sold by the maturity date of the notes. (§ 14 ch 74 SLA 1985)

Sec. 29.47.100. Issuance of new notes.

If the sale of the bonds has not occurred before the maturity of the notes issued in anticipation of the sale, the governing body shall issue new notes in order to meet payment of the notes then maturing, or shall renew the outstanding bond anticipation notes. New notes issued or renewals of outstanding bond anticipation notes bear a maturity date not to exceed one year from the date of issue. Notes, new notes, and renewals of notes may not be outstanding for a total elapsed time of more than three years. (§ 14 ch 74 SLA 1985)

Sec. 29.47.110. Repayment of notes.

Every note is payable from the proceeds of the sale of bonds that the notes anticipated or from the proceeds of the sale of new bond anticipation notes. (§ 14 ch 74 SLA 1985)

Sec. 29.47.120. Security.

(a) Notwithstanding other provisions of this chapter as to payment of notes, notes issued in anticipation of the sale of general obligation bonds and the interest on them are

secured by the full faith and credit of the municipality. The municipality may levy ad valorem taxes for payment without limitation of rate or amount.

(b) Notes issued in anticipation of the sale of revenue bonds and the interest on them are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued. (§ 14 ch 74 SLA 1985)

Sec. 29.47.130. Limitation.

The total amount of notes issued and outstanding may at no time exceed the total amount of bonds authorized to be issued. (§ 14 ch 74 SLA 1985)

Sec. 29.47.140. Use of proceeds.

The proceeds from the sale of notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used, or to meet payment of outstanding bond anticipation notes. (§ 14 ch 74 SLA 1985)

Article 3. General Obligation Bonds.

Section

Sec. 29.47.180. General obligation bonds.

A municipality may acquire, construct, improve, and equip capital improvements and issue negotiable or nonnegotiable general obligation bonds for these purposes. (§ 14 ch 74 SLA 1985)

Sec. 29.47.190. Vote and notice of existing indebtedness required.

(a) A municipality may incur general obligation bond debt only after a bond authorization ordinance is approved by a majority vote at an election. Any municipal voter may vote in the bond election, except as otherwise provided by law.

(b) Before a general obligation bond issue election, the governing body shall have published a notice of the total existing bond indebtedness at least once a week for three consecutive weeks. The first notice shall be published at least 20 days before the date of the election. A notice must include

(1) the current total general obligation bonded indebtedness, including authorized but unsold bonds of the municipality;

(2) the cost of the debt service on the current indebtedness;

(3) the total assessed value of property in the municipality. (§ 14 ch 74 SLA 1985)

Sec. 29.47.200. Payment.

(a) The full faith and credit of a municipality are pledged for the payment of principal and interest on general obligation bonds. The municipality may levy ad valorem taxes for payment without limitation of rate or amount to pay or secure the payment of the principal and interest on bonds, regardless of whether the bonds are in default or in danger of default.

(b) General obligation bonds issued for acquiring, constructing, improving and equipping a municipally owned utility or other revenue-generating enterprise may be additionally secured by a pledge of the revenue derived from operation. Bonds so secured are not subject to a debt limitation imposed by a home rule charter. This subsection applies to home rule and general law municipalities. (§ 14 ch 74 SLA 1985)

Article 4. Revenue Bonds.

Section

Sec. 29.47.240. Revenue bonds.

(a) A municipality may issue negotiable or nonnegotiable revenue bonds for a public enterprise or public corporation of the municipality where the only security is the revenue of the public enterprise or corporation.

(b) A municipality may issue its revenue bonds to finance the purchase of residential mortgage loans. The revenue bonds issued under this subsection are payable solely from the principal and interest of the mortgage loans and from other amounts pledged by the municipality, except the pledge of revenues derived from taxes. Revenue bonds issued under this subsection do not constitute a general obligation of the municipality. (§ 14 ch 74 SLA 1985)

Sec. 29.47.250. No election required.

An election is not required to authorize the issuance and sale of revenue bonds, unless otherwise provided by ordinance. (§ 14 ch 74 SLA 1985)

Sec. 29.47.260. Applicability of AS 37.10.085.

The prohibitions of AS 37.10.085 do not apply to the issuance of revenue bonds or the use of proceeds from revenue bonds by a home rule or general law municipality. (§ 14 ch 74 SLA 1985)

Article 5. Refunding Bonds.

Section

Sec. 29.47.300. Authorization.

If a municipality has outstanding general obligation or revenue bonds and the governing body determines that it would be financially advantageous to refund the bonds, the municipality may provide by ordinance or resolution for the issuance of negotiable or nonnegotiable

(1) general obligation refunding bonds; or

(2) revenue refunding bonds. (§ 14 ch 74 SLA 1985)

Sec. 29.47.310. Effect of refunding bonds.

The refunding bonds may take up and refund all or part of outstanding bonds at or before their maturity or redemption date. The governing body may include various series and issues of bonds in a single issue of refunding bonds. (§ 14 ch 74 SLA 1985)

Sec. 29.47.320. No election required.

An election is not required to authorize the issuance and sale of refunding bonds. Their issuance may be authorized and all proceedings with reference to them prescribed by ordinance. However, when it is desirable to use general obligation bonds to refund a revenue bond issue, the governing body shall call an election on the question. (§ 14 ch 74 SLA 1985)

Sec. 29.47.330. Payment of refunding bonds.

General obligation refunding bonds are payable according to AS 29.47.200. Revenue refunding bonds are payable according to AS 29.47.240. (§ 14 ch 74 SLA 1985)

Sec. 29.47.340. Sale of refunding bonds.

General obligation or revenue refunding bonds may, at the discretion of the governing body, be exchanged for the bonds being refunded, or may be sold at public or private sale. They may be issued and delivered at any time before the date of maturity or redemption of the refunded bonds. (§ 14 ch 74 SLA 1985)

Article 6. Miscellaneous Provisions.

Section

Sec. 29.47.390. Other municipal financing.

(a) A municipality may authorize by ordinance or resolution the issuance of negotiable or nonnegotiable revenue bonds to finance any project that serves a public purpose, and the bonds shall be secured and payable from any source except revenues, including tax revenue, of the municipality.

(b) Bonds issued under this section are not a debt or liability of the municipality and do not create or constitute an indebtedness, liability, or obligation of the municipality, nor do they constitute a pledge of faith, credit, or taxing power of the municipality. Each bond must contain on its face a statement that the municipality is not obligated to pay the principal or the interest on the bonds except from those sources indicated, and that neither the faith and credit nor the taxing power of the municipality is pledged to the payment of principal or interest on the bond.

(c) A municipality may

(1) loan the proceeds of the bonds issued under this section;

(2) pledge, mortgage or assign money, leases, agreements, property, or other assets of the project being financed;

(3) enter into covenants and agreements concerning bonds issued under this section that the municipality determines to be desirable;

(4) provide for any matter that affects the security of the bonds.

(d) In this section

(1) "bonds" means bonds, notes, or other evidence of indebtedness;

(2) "project" includes commercial, manufacturing, agricultural, industrial, residential housing, recreation, tourism, and medical projects and programs. (§ 14 ch 74 SLA 1985)

Sec. 29.47.400. Sale.

Bonds and notes issued under this chapter may be sold at either public or private sale by the municipality in the manner and at the price it determines. (§ 14 ch 74 SLA 1985)

Sec. 29.47.410. Forms and terms.

The municipality may by ordinance or resolution fix the date, denominations, maturities, rate or rates of interest, redemption terms, registration privileges, manner of execution, signatures required, purchase price, manner of sale, and other requirements for issuing bonds or notes under this chapter. If an official whose signature appears on the bonds or coupons ceases to be an official before delivery of the bonds, the signature of the former official is valid as if the former official had remained in office until delivery. (§ 14 ch 74 SLA 1985)

Sec. 29.47.420. Interest rate.

The interest rate payable on a bond or note issued under this chapter shall be determined by the municipality and is not subject to the usury rate limitations of AS 45.45.010. (§ 14 ch 74 SLA 1985)

Sec. 29.47.430. Redemption before maturity.

A bond or note issued under this chapter may be made subject to redemption before maturity as stated in the authorization or in the bond or note. (§ 14 ch 74 SLA 1985)

Sec. 29.47.440. Borough indebtedness.

(a) A borough may incur indebtedness

(1) on an areawide basis for areawide functions; or

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

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

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

(c) If the bonded debt to be incurred by a borough is an areawide debt, the vote is areawide. If the full faith and credit of the entire borough is pledged for the payment of the debt of the borough area outside all cities or of a service area, an areawide election is held and the proposition must pass both areawide and in the area that will benefit from the improvement. If the bonded indebtedness to be incurred is limited to the borough area outside all cities, the vote is limited to voters outside all cities. If the indebtedness to be incurred is limited to a service area, the vote is limited to voters in the service area. Only the full faith and credit of the area voting on the indebtedness is pledged for the payment of the debt.

(d) The indebtedness of a municipality reclassified under AS 29.04.040 - 29.04.060 is not affected by reclassification. All property in a municipality that is reclassified remains subject to taxation to amortize bonded or other indebtedness affecting the municipality and authorized on the effective date of reclassification. (§ 14 ch 74 SLA 1985)

Sec. 29.47.450. Service area debt.

The indebtedness of a service area acquired under AS 29.47.440 remains the indebtedness of the area that incurred the debt, notwithstanding a subsequent court determination that the service area was not validly formed under law or by virtue of a defect in the proceedings creating the service area. All property in the service area remains subject to taxation to pay the bonded indebtedness. (§ 14 ch 74 SLA 1985)

Sec. 29.47.460. Debt for improvement area projects.

(a) A municipality may issue bonds to finance or to make loans to finance the acquisition, construction, rehabilitation, or development of public improvements in improvement areas. The municipality may issue the bonds as general obligation bonds or

as revenue bonds or as a combination of revenue bonds, general obligation bonds, and other forms of indebtedness. The municipality may pledge revenues described in (b) of this section, payments to be made by users and owners of the improvements, payments to be made by borrowers of the proceeds of the bonds, and any other revenues available to the municipality to the payment of bonds issued under this subsection. To the extent that the municipality issues general obligation bonds under this subsection, the provisions of AS 29.47.180 - 29.47.200 apply to the bonds. To the extent that the municipality issues revenue bonds under this subsection, the provisions of AS 29.47.250 and 29.47.260 apply to the bonds.

(b) A municipality may provide by ordinance that the tax increment from the taxes levied each year by or on behalf of the municipality on the property in an improvement area shall be issued to pay the principal and interest on bonds issued under (a) of this section for improvements in that improvement area, and may irrevocably pledge the tax increment from the area for that purpose. The area described in the ordinance may be a service area. Nothing in this section obligates a municipality that has issued bonds under (a) of this section and pledged a tax increment to the payment of those bonds under this subsection to levy any tax in the improvement area or any other area or to levy a tax at any particular rate within the improvement area or any other area.

(c) The power granted by this section is in addition to other powers granted to municipalities and does not restrict or limit the powers municipalities may have under other provisions of law.

(d) In this section,

(1) "bonds" means bonds, notes, and other forms of indebtedness;

(2) "improvement area" means an area that a municipality determines to be

(A) a blighted area on the basis of the substantial presence of factors such as excessive vacant land on which structures were previously located, abandoned or vacant buildings, substandard structures, and delinquencies in payment of real property taxes; or

(B) an area that is capable of being substantially improved based on the property value within the area;

(3) "tax increment" means the portion of a tax that is attributable to the difference between the value of property within an improvement area shown on the taxing agency's assessment roll for the year when the taxes are levied and the value of the property shown on the taxing agency's last assessment roll that was equalized before the improvements in the improvement area were authorized. (§ 2 ch 118 SLA 1988; am § 1 ch 20 SLA 2001; am § 1 ch 126 SLA 2002)

Effect of amendments. The 2002 amendment, effective October 3, 2002, rewrote this section.

Sec. 29.47.480. Accrued actuarial liabilities of retirement systems.

(a) A municipality, or two or more municipalities jointly, may enter into a lease or other contractual agreement with a trustee, or the Alaska Municipal Bond Bank Authority or a subsidiary of the authority, a subsidiary of the Alaska Housing Finance Corporation, the state bond committee, or the Alaska Pension Obligation Bond Corporation in connection with the issuance of obligations by a state entity to prepay all or a portion of each participating municipality's share of the accrued actuarial liabilities of retirement systems. Obligations issued for purposes described in this subsection must be secured and

payable as provided in the agreement or under an authorizing ordinance. The agreement or ordinance may provide for reserves and for protective covenants.

(b) Amounts paid by a participating municipality in connection with obligations issued by a state entity under this section, together with proceeds of the obligations and interest or earnings, may be pooled into one or more funds or accounts, including one or more debt service funds. The assets in any of the funds or accounts may be pledged to the holders of the obligations.

(c) A municipality may enter into a funds diversion agreement with a state agency regarding payment of money on behalf of the municipality that may be applied to payments under a lease, other agreement, or obligation issued under this section. The funds diversion agreement must provide, subject to any conditions set out in the funds diversion agreement, that all or a portion of the funds otherwise payable to the municipality by the state agency shall be paid directly to the trustee, the Alaska Municipal Bond Bank Authority, or its subsidiary, a subsidiary of the Alaska Housing Finance Corporation, the state bond committee, or the Alaska Pension Obligation Bond Corporation, to satisfy, in whole or part, the municipality's payments under the lease, other agreement, or obligations. Nothing in this subsection or in a funds diversion agreement entered into under this subsection obligates the state or a state agency to pay any amount to or on behalf of a municipality that the municipality is not otherwise entitled to receive or to make any payments of principal or interest on the obligations.

(d) For purposes of this section, "obligations" means bonds, notes, commercial paper, certificates of participation, or other contractual obligations. (§ 6 ch 35 SLA 2008)

Effective dates. Section 20, ch. 35, SLA 2008, makes this section effective May 23, 2008 in accordance with AS 01.10.070(c).

Chapter 55. Municipal Programs.

Section

Sec. 29.55.010. Creation of local historical district commissions.

The governing body of a municipality may establish a local historical district commission or designate the planning commission or itself to serve as the historical district commission. (§ 15 ch 74 SLA 1985)

Sec. 29.55.020. Establishment of historical districts.

(a) In addition to existing municipal authority providing for the preservation, protection, and maintenance of historic sites, the local historical district commission, in consultation with the Alaska Historical Commission in the Department of Natural Resources, may establish historical districts within the boundaries of the municipality.

(b) A historical district shall be a reasonably compact area of historical significance in which two or more structures important in state or national history, and related by physical proximity or historical association, are located. For purposes of this

section, "structures important in state or national history" means properties recommended by historical district commissions that are listed in the National Register of Historic Places or are characteristic of the Russian-American period before October 18, 1867, the early territorial period before 1930, or early Native heritage, reflecting the indigenous characteristics of Native culture in Alaska. On recommendation of the governing body of a municipality and the Alaska Historical Commission, the Department of Natural Resources may by regulation formulate additional criteria for the establishment of historical districts not inconsistent with this subsection.

(c) The establishment of a historical district under this section shall be consistent with any applicable comprehensive plan for the municipality. (§ 15 ch 74 SLA 1985; am E.O. No. 83 §§ 2 and 3, 1993)

Effect of amendments. The 1993 amendment, effective July 1, 1993, in subsections (a) and (b), substituted "Alaska Historical Commission" for "Historic Sites Advisory Committee."

Article 2. Municipal Property Assessed Clean Energy Act.

Section

Sec. 29.55.100. Establishment of program.

(a) A municipality may establish an energy improvement assessment program under AS 29.55.100 - 29.55.165 to finance the installation or modification of permanent improvements that are

(1) fixed to existing privately owned commercial or industrial property; and

(2) intended to reduce energy consumption or demand, energy costs, or emissions affecting local air quality, including a product, device, or interacting group of products or devices that use energy technology to generate electricity, provide thermal energy, or regulate temperature.

(b) To establish a program under AS 29.55.100 - 29.55.165, the governing body of a municipality shall take the following actions in the following order:

(1) adopt a resolution of intent that includes

(A) a finding that financing energy improvement projects through assessments serves a valid public purpose;

(B) a statement that the municipality intends to allow privately owned commercial or industrial property owners to make assessments to repay financing for energy improvement projects;

(C) a description of energy improvement projects that may be subject to assessments;

(D) a description of the boundaries of a region within the municipality's boundaries in which the program is available;

(E) a description of any proposed arrangements to make third-party financing available or any financing the municipality will provide for energy improvement projects; and

(F) a description of municipal debt servicing procedures for any third-party financing and assessments;

(2) prepare the report required under AS 29.55.110 and provide notice of the report with the

(A) location where the report is available for public inspection;

(B) time and place for a public hearing on the proposed program; and

(C) name of the local official who administers the program and the appropriate assessor or person who collects the proposed assessments with property taxes imposed on the assessed property;

(3) hold a public hearing at which the public may comment on the proposed program and the report prepared under AS 29.55.110; and

(4) adopt an ordinance establishing the program and the terms of the program, including each item included in the report required under AS 29.55.110,

which may be incorporated by reference.

(c) A municipality may

(1) hire and set the compensation of a program administrator and program staff; or

(2) contract for professional services necessary to administer a program.

(d) A municipality may impose fees to offset the costs of administering a program. The fees authorized under this subsection may be assessed as a

(1) program application fee paid by the property owner applying to the program;

(2) component of the interest rate on the assessment in the written contract between the municipality and the property owner; or

(3) combination of (1) and (2) of this subsection.

Sec. 29.55.105. Assessment.

(a) A municipality that establishes a program under AS 29.55.100 may

(1) enter into a written contract with a record owner of privately owned commercial or industrial property in a region designated under AS 29.55.100 to impose an assessment to repay the financing of an energy improvement project on that

property;

(2) contract with the governing body of another taxing unit to perform the duties of the municipality relating to collection of assessments imposed by the municipality under this section.

(b) Financing repaid by an assessment may

(1) be provided by a third party under a written contract with the municipality that authorizes the municipality to service the debt by assessment; or

(2) if authorized by municipal ordinance, be provided by the municipality.

(c) An assessment under this section may repay financing for costs of an energy improvement project, including

(1) the cost of materials and labor necessary for the energy improvement project;

(2) permit fees;

(3) inspection fees;

(4) lender's fees;

(5) program application and administrative fees;

(6) energy improvement project development and engineering fees;

(7) third-party review fees, including verification review fees, under AS 29.55.120; and

(8) any other fees or costs that may be incurred by the property owner incident to the installation, modification, or improvement on a specific or pro rata basis, as determined by the municipality.

(d) An assessment under this section may not repay financing for the costs of

(1) facilities for undeveloped lots or lots undergoing development at the time of the assessment;

(2) the purchase or installation of products or devices not permanently fixed to the privately owned commercial or industrial property; or

(3) a utility's purchase or installation of a product, device, or improvement, if the product, device, or improvement will generate electricity or provide thermal energy distributed or used outside of the assessed property; in this paragraph, "utility" has the meaning given in AS 42.05.990.

(e) A municipality may establish more than one region. The boundaries of each region may be separate, overlapping, or coterminous.

(f) A municipality may not impose a period of assessment under this section on privately owned commercial or industrial property that exceeds 20 years or the useful life of the project that is the basis for the assessment, whichever is shorter.

(g) Except as otherwise provided in (h) of this section, the total financing repaid by assessments

(1) may not exceed 20 percent of the assessed value of the property at the time of program application;

(2) must be exceeded by the projected monetary savings to the property owner over the life of the assessment as a result of the energy improvement project.

(h) If the total financing repaid by assessments does not exceed 50 percent of the assessed value of the property at the time of program application, the property owner may apply for a waiver from the municipality to exceed a limitation under (g) of this section. A waiver application under this subsection must

(1) include a reasonable justification acknowledged in writing by the property owner and the party providing the financing to be repaid by the assessment; and

(2) for a waiver from the limitation in (g)(2) of this section, address the interests of potential tenants and future property owners.

Sec. 29.55.110. Report regarding assessment program.

(a) The municipality shall prepare a report for a proposed program required by AS 29.55.100 that includes

(1) a map showing the boundaries of each proposed region within which the program is available;

(2) a form for a contract between the municipality and a property owner specifying the terms of

(A) assessment under the program; and

(B) financing provided by a third party or the municipality, as appropriate;

(3) if the proposed program provides for third-party financing, a form for a contract between the municipality and the third party regarding the servicing of the debt through assessments;

(4) a description of projects that may qualify for assessments;

(5) a plan for ensuring sufficient capital for third-party financing and, if appropriate, raising capital for municipal financing for energy improvement projects;

(6) if bonds will be issued to provide capital to finance energy improvement projects as part of the program as provided by AS 29.55.140,

(A) a maximum aggregate annual dollar amount for municipal financing repaid by assessments under the program;

(B) if requests appear likely to exceed the authorization amount, a priority order for ranking a property owner's application for financing repaid by assessments; and

(C) a formula for calculating

(i) the interest rate and period during which contracting owners would pay an assessment; and

(ii) the maximum amount of an assessment;

(7) a method to calculate a period of assessment consistent with AS 29.55.105(f);

(8) a description of the application process and eligibility requirements for financing repaid by assessments under the program;

(9) a method for a property owner applying to participate in the program to demonstrate the property owner's ability to fulfill financial obligations and pay assessments; the method must be based on appropriate underwriting factors, including

(A) verification that the property owner

(i) is the legal owner of the benefited property;

(ii) is current on mortgage and property tax payments; and

(iii) is not insolvent or in bankruptcy proceedings; and

(B) an appropriate ratio between the amount of the assessment and the assessed value of the property;

(10) an explanation of the manner in which the municipality shall assess the property and collect assessments;

(11) the lender notice requirement under AS 29.55.115;

(12) the review requirement under AS 29.55.120;

(13) a description of marketing and participant education services provided by the municipality for the program;

(14) a description of quality assurance and antifraud measures instituted by the municipality for the program and the consequence or penalty prescribed by the municipality for a property owner who participates in the program but does not complete an energy improvement project as proposed; and

(15) a description of the insurance requirements, including a requirement that the property owner have insurance against damage to the energy improvement project for the life of the assessment.

(b) The municipality shall make the report available for public inspection

(1) on the Internet website of the municipality; and

(2) at the primary governing offices of the municipality.

Sec. 29.55.115. Notice to mortgage holder required for participation.

Before a municipality may enter into a written contract with a record owner of property to impose an assessment to repay the financing of an energy improvement project under AS 29.55.100, the property owner shall

(1) give each holder of a mortgage lien on the property at least 30 days' written notice of the intention of the property owner to participate in a program under AS 29.55.100; and

(2) obtain a written consent from each holder of a mortgage lien on the property.

Sec. 29.55.120. Review required.

The record owner of property on which an assessment is imposed under AS 29.55.105 shall obtain from an independent, third-party qualified energy auditor the following:

(1) for each proposed energy improvement project,

(A) a review of the energy or emissions baseline conditions, as appropriate; and

(B) the projected reduction in energy costs, energy consumption or demand, or emissions affecting local air quality, as appropriate; and

(2) for each completed energy improvement project, verification that the energy improvement project was properly completed and is operating as intended.

Sec. 29.55.125. Direct acquisition by owner.

The proposed arrangements for financing an energy improvement project may authorize the property owner to

(1) purchase directly the related equipment and materials for the energy improvement project; and

(2) contract directly, including through lease, a power purchase agreement, or other service contract, for the energy improvement project.

Sec. 29.55.130. Recording of notice of assessment.

(a) A municipality that authorizes financing through assessments under AS 29.55.105 shall file written notice of each assessment in the property records of the recording district in which the property is located.

(b) The notice under (a) of this section must contain

(1) the amount of the assessment;

(2) the legal description of the property;

(3) the name of each property owner; and

(4) a reference to the statutory assessment lien provided under AS 29.55.135.

Sec. 29.55.135. Lien.

(a) Assessments under AS 29.55.105 and any interest or penalties on the assessments are liens on the property assessed and are prior and paramount to all liens except municipal tax liens and special assessments. Assessment liens may be enforced as provided in AS 29.45.320 - 29.45.470 for enforcement of property tax liens.

(b) Assessment liens run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien.

(c) Penalties and interest may be added to delinquent installments of the assessments in the same manner as provided in AS 29.45.250.

(d) A municipality may recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax.

Sec. 29.55.140. Bonds or notes.

(a) A municipality may issue bonds or notes to finance energy improvement projects subject to assessment under AS 29.55.105.

(b) Bonds or notes issued under this section may not be general obligations of the municipality. The bonds or notes must be secured by one or more of the following, as provided by the governing body of the municipality in the resolution or ordinance approving the bonds or notes:

(1) payments of assessments on benefited property in one or more specified regions designated under AS 29.55.100;

(2) reserves established by the municipality from grants, bonds, or net proceeds or other lawfully available funds;

(3) municipal bond insurance, lines of credit, public or private guaranties, standby bond purchase agreements, collateral assignments, mortgages, or any other available means of providing credit support or liquidity; and

(4) any other funds lawfully available for purposes consistent with AS 29.55.100 - 29.55.165.

(c) A municipal pledge of assessments, funds, or contractual rights in connection with the issuance of bonds or notes by the municipality under this section is a first lien on the assessments, funds, or contractual rights pledged in favor of the person to whom the pledge is given, without further action by the municipality. The lien is valid and binding against any other person, with or without notice.

(d) Bonds or notes issued under this section must further one or more of the following essential public and governmental purposes:

(1) improvement of the reliability of local electrical systems;

(2) reduction of energy costs;

(3) reduction of energy demand on local utilities;

(4) reduction of emissions affecting local air quality;

(5) economic stimulation and development;

(6) enhancement of property values;

(7) enhancement of employment opportunities.

Sec. 29.55.145. Joint implementation.

A municipality may enter into an agreement with

(1) a third party to administer a program under AS 29.55.100;
(2) one or more municipalities to implement or administer jointly a program under AS 29.55.100; if two or more municipalities jointly implement a program, a single public hearing held jointly by the cooperating municipalities is sufficient to satisfy the requirement of AS 29.55.100(b)
(3). Sec. 29.55.150. Prohibited acts. A municipality that establishes a region under
AS 29.55.100 may not make the issuance of a permit, license, or other authorization
from the municipality to a person who owns property in the region contingent on the
person entering into a written contract to repay the financing of an energy
improvement project through assessments under AS 29.55.105, or otherwise compel a
person who owns property in the region to enter into a written contract to repay the
financing of an energy improvement project through assessments under AS 29.55.105.

Sec. 29.55.155. Application.

AS 29.55.100 - 29.55.165 apply to home rule and general law municipalities.

Sec. 29.55.160. Definitions.

In AS 29.55.100 - 29.55.165,
(1) "mortgage" has the meaning given in AS 13.06.050;
(2) "program" means a program established under AS 29.55.100.

Sec. 29.55.165. Short title.

AS 29.55.100 - 29.55.165 may be cited as the Municipal Property Assessed Clean Energy Act.
(am §5, ch 25 SLA 17)
Effect of amendments. The 2017 amendment, effective September 8, 2017, establishes the Municipal Property Assessed Clean Energy Act.

Chapter 60. State Programs.

Article
1. Community Facilities Grants (§§ 29.60.400 – 29.60.440)
2. Shared Fisheries Business Taxes (§ 29.60.450)

3. Oil and Hazardous Substance Municipal Impact Assistance (§§ 29.60.500 – 29.60.599)
4. Human Services Community Match Program (§§ 29.60.600 – 29.60.650)
5. Bulk Fuel Bridge Loan Fund and Program (§ 29.60.660 Repealed)
6. Reimbursement for Costs of Bonds (§ 29.60.700)
7. Harbor Facility Grant Program (§§ 29.60.800 – 29.60.830)
8. Community Revenue Sharing Program (§§ 29.60.850 – 29.60.879)

Article 1. Community Facilities Grants.

Section

Sec. 29.60.400. Grants for community facilities.

(a) Within the limits of appropriations for the purpose the Department of Commerce and Economic Development shall make matching grants in accordance with the provisions of AS 29.60.410 – 29.60.440 to municipalities or their nonprofit designees equal to

(1) 50 percent of the estimated reasonable costs of construction of municipal civic, convention, and community recreation centers; and

(2) 50 percent of the cost of feasibility studies relating to the construction of municipal civic, convention, and community recreation centers.

(b) A grant may be made under this section only to a municipality with the power to implement the study or project for which the grant is authorized or to its nonprofit designee. A grant for only one study and one project may be awarded to a municipality or its designee under this section.

(c) In this section "costs of construction" means, in addition to costs directly related to a project, the sum of all costs of financing and carrying out the project, including the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment necessary to the project; an allocable portion of the administrative and operating expenses of the grantee; and the cost of financing the project, including interest on bonds issued to finance the project, the cost of indemnity and surety bonds, premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and the costs associated with the issuance of bonds. It does not include the cost of feasibility studies. (§ 16 ch 74 SLA 1985)

Sec. 29.60.410. Grant procedures.

(a) An application for a grant under AS 29.60.400 shall be made in a form prescribed by the commissioner of commerce and economic development.

(b) A grant shall be allotted in accordance with an agreement made between the commissioner of commerce and economic development on behalf of the state and the grantee. The agreement may include any provision agreed upon by the parties and must include in substance the following provisions:

(1) estimates of reasonable costs of the study or project as approved by the commissioner after consultation with the Department of Transportation and Public Facilities;

(2) a schedule of disbursements of money from the grant if the commissioner determines that the grant money is not to be disbursed in one sum;

(3) agreement by the grantee

(A) to proceed with and complete the proposed study or project expeditiously;

(B) not to discontinue operation or dispose of all or part of a community facility for which it receives a grant without the approval of the commissioner;

(C) to apply for and make reasonable efforts to secure federal assistance that may be available for the study or project, subject to any conditions the commissioner may require to maximize the amounts of that assistance available for all projects in the state;

(D) to provide for payment of the grantee's share of the cost of the study or project;

(E) that, if federal assistance for a study or project becomes available to the grantee that was not included in the calculation of the amount of the grant, the value of the federal assistance shall be subtracted from the total value of the project and the balance shall be equally divided between the grantee and the state;

(4) alteration or modification of an approved study or project;

(5) alteration or modification of an existing facility that would have qualified for a grant at the time of initial construction if AS 29.60.400 – 29.60.440 had been in effect;

(6) remedies in case of failure to perform the agreement or noncompliance with regulations adopted under AS 29.60.420.

(c) The commissioner of commerce and economic development shall require in negotiations and in each grant agreement that continued maintenance of the community facility is the responsibility of the municipality. The municipality must show the feasibility of continuing to maintain the facility before state money may be authorized for a grant. (§ 16 ch 74 SLA 1985)

Sec. 29.60.420. Annual report; regulations.

(a) *[Repealed, § 35 ch 126 SLA 1994]*

(b) The commissioner of commerce and economic development shall adopt regulations to carry out the purposes of AS 29.60.400 – 29.60.440. (§ 16 ch 74 SLA 1985; am § 35 ch 126 SLA 1994)

Sec. 29.60.430. Allocation of money.

If the amount of money appropriated by the legislature for grants under AS 29.60.400 is not adequate to satisfy amounts required for approved grant applications, money shall be allocated on the basis of priority established by regulations of the Department of Commerce and Economic Development. (§ 16 ch 74 SLA 1985)

Sec. 29.60.440. Limitation.

AS 29.60.400 – 29.60.440 do not require that a recipient of a grant for a feasibility study must proceed with construction of the project, regardless of whether the project is determined to be feasible. (§ 16 ch 74 SLA 1985)

Article 2. Shared Fisheries Business Taxes.

Section

Sec. 29.60.450. Fisheries business tax allocation.

(a) A municipality may receive a fisheries business tax allocation under this section if the municipality demonstrates to the department that the municipality suffered significant effects from fisheries business activities during the base year.

(b) The amount transmitted each fiscal year (1) under AS 43.75.137 shall be apportioned by the department to each management area based on the ratio of the management area's production value to the total production value for all of the management areas; the department shall allocate the amount available for each management area to each municipality in that management area based on the demonstrated effects on the municipality of fisheries business activities, the commercial fishing vessel days in that municipality, or both; (2) under AS 43.77.060(d) shall be apportioned by the department to each management area based on the ratio of the management area's fishery resource landing tax production value to the total fishery resource landing tax production value for all of the management areas; the department shall allocate the amount available for each management area to each municipality in that management area based on the demonstrated effects on the municipality of fisheries activities that are subject to the tax levied under AS 43.77.

(c) A municipality that receives a tax allocation under this section shall use the tax allocation to help reduce the effect of fisheries business activities on the municipality, which may include the expenses of any municipal service.

(d) At the request of the department, an applicant or a recipient of a tax allocation shall provide the department with the assistance and information available to the municipality that is necessary for the department to carry out the department's duties under this section relating to that municipality.

(e) The department may adopt regulations necessary to carry out the provisions of this section.

(f) In this section

(1) "base year" means the calendar year that precedes the application deadline for the tax allocation year;

(2) "commercial fishing vessel day" means a day for which a fishing vessel licensed under AS 16.05.490 pays the municipality a moorage, harbor, or docking fee;

(3) "effect" means the result of fisheries business activities on the municipality's

(A) population;

(B) employment;

(C) finances;

(D) air and water quality;

(E) fish and wildlife habitats; and

(F) ability to provide essential public services, including health care, public safety, education, transportation, marine garbage collection and disposal, solid waste disposal, utilities, and government administration;

(4) "fisheries business activity" means activity related to

(A) fishing, including the catching and sale of fisheries resources;

(B) vessel moorage and vessel and gear maintenance;

(C) preparing fisheries resources for transportation; and

(D) processing fisheries resources for sale by freezing, icing, cooking, salting, or other method and includes canneries, cold storages, freezer ships, and processing plants;

(5) "fishery resource landing tax production value" has the meaning given the term "value" by AS 43.77.200;

(6) "management area" means one of the geographical units designated by the Board of Fisheries by regulation adopted under AS 16.05.251(a)(2) for the management of commercial fisheries of the state;

(7) "production value" means the weight of the fish and shellfish produced by fisheries businesses as that term is defined by AS 43.75.290. (§ 1 ch 195 SLA 1990; am § 1 ch 53 SLA 1992; am §§ 2, 3 ch 67 SLA 1993; am § 27, ch 3 SLA 2017)

Effect of amendments. The 2017 amendment, effective July 1, 2017, removes language from (f)(4). The 1993 amendment, effective January 1, 1994, in subsection (b), added the paragraph (1) designation, made a stylistic change therein, and added paragraph (2); and, in subsection (f), added paragraph (5).

Article 3. Oil and Hazardous Substance Municipal Impact Assistance.

Section

Sec. 29.60.500. Purpose and policy.

(a) The legislature finds and declares that a major release of oil or hazardous substances into the environment presents a real and substantial threat to the economy and public welfare of the municipalities, villages, and school districts that are affected by the release and the resultant activities to contain and clean up the release.

(b) The legislature concludes that it is in the best interest of the state and its citizens to provide a readily available fund for the payment of the expenses incurred by municipalities, villages, and school districts to mitigate the social and economic effects that arise out of a major release of oil or hazardous substances and resultant cleanup activities.

(c) It is the intent of the legislature and declared to be the public policy of the state that money to defray the cost of social and economic effects on municipalities, villages, and school districts arising from a major release of oil or a hazardous substance and resultant cleanup activities and to pay for efforts to abate that release will be immediately available upon a determination that the release was sudden and that it exceeds 2,500 barrels of oil, or exceeds an amount of a hazardous substance that when released into the environment presents a real and substantial threat to the economy and

public welfare of the municipalities, villages, or school districts affected by it. (§ 7 ch 83 SLA 1991; am § 2 ch 128 SLA 1994)

Effect of amendments. The 1994 amendment, effective October 2, 1994, inserted ", and school districts" and made related stylistic changes in subsections (a)-(c) and, in subsection (c), substituted "a determination" for "(1) a determination by the governor," inserted "was sudden and that it" and ", or school districts," deleted paragraphs (2) and (3), relating to disaster emergency declarations and related environmental harm findings, respectively, and made minor stylistic changes.

Sec. 29.60.510. Municipal impact grants authorized.

(a) Subject to (b) of this section, the commissioner may use money from the oil and hazardous substance release prevention and response fund to make grants to a municipality, village, or school district that is affected by the release or by the response to the release and that demonstrates that the release or response to the release involves extraordinary expenditures that are beyond the reasonable capability of the municipality, village, or school district to meet from the current revenue sources of the municipality, village, or school district if a release of oil exceeds 2,500 barrels of oil, or if a release of a hazardous substance exceeds an amount of a hazardous substance that, when released into the environment, presents a threat to the economy and public welfare of the municipalities, villages, and school districts affected by it at least equivalent in effect to the effect of a release of oil in an amount defined by this subsection.

(b) For each release or threatened release of oil or a hazardous substance

(1) for which the commissioner of environmental conservation may, under AS 46.08.045, expend money from the oil and hazardous substance release response account in the fund, and subject to agreement with the commissioner of environmental conservation as to the amount of money in the fund that may be used by the department to make grants, the commissioner may expend not more than $10,000,000 of the unrestricted balance of the oil and hazardous substance release response account in the fund for grants for purposes described in AS 29.60.520; if the commissioner and the commissioner of environmental conservation do not agree on the amount of money in the response account in the fund that may be used by the department to make grants under AS 29.60.500 – 29.60.599 for release or threatened release of oil or a hazardous substance, the governor shall make the determination;

(2) for which money may not be expended from the response account under (1) of this subsection, and subject to appropriation of money in the fund that may be used by the department to make grants, the commissioner may expend not more than the amount appropriated from the oil and hazardous substance release prevention account in the fund for grants for purposes described in AS 29.60.520.

(c) Notwithstanding the limitation of AS 37.07.080(e) against the transfer of money between appropriations, when the commissioner and the commissioner of environmental conservation have agreed to the amount of money in the oil and hazardous substance release response account that may be used by the department to make grants, or when that determination has been made by the governor, the commissioner of environmental conservation shall promptly transfer that amount to the department for use under AS 29.60.500 – 29.60.599.

(d) For money that has been transferred under (c) of this section, if within any one-year period thereafter the commissioner does not use the money to make a grant

under AS 29.60.500 – 29.60.599, the commissioner shall return the unexpended amount transferred under (c) of this section to the oil and hazardous substance release response account of the fund. (§ 7 ch 83 SLA 1991; am § 3 ch 128 SLA 1994)

Effect of amendments. The 1994 amendment, effective October 2, 1994, in subsection (a), substituted "Subject to (b) of this section, the commissioner" for "The commissioner" at the beginning, inserted "prevention and," inserted ", or school district" in three places, substituted "a release of oil" for "(1) the governor determines that a release of oil or a hazardous substance," inserted "if a release of a hazardous substance" and ", and school districts," substituted "subsection" for "paragraph," deleted paragraphs (2) and (3), relating to the proclamation of disaster emergency status by the governor and the requisite findings for such status, respectively, and made minor stylistic changes; rewrote subsection (b); substituted "oil and hazardous substance release response account" for "fund" in subsection (c); and rewrote subsection (d).

Sec. 29.60.520. Purposes of municipal impact grants.

(a) A grant made under AS 29.60.510 may be made

(1) only for

(A) provision of subsistence resources on which the residents of the municipality, village, or school district rely for subsistence needs;

(B) the additional costs of a reasonable and appropriate function or service, including administrative expenses for the incremental costs of providing the function or service, limited to:

(i) public health and welfare functions and services, including hospital, clinic, and emergency medical services: alcohol, drug abuse, and mental health services; family support services; and the operation of waste disposal systems and water quality improvement systems;

(ii) public safety functions and services, including police protection, search and rescue, and fire protection;

(iii) public utility functions and services, including the operation of electric generating plants and distribution systems, water supply systems, telephone systems, and fuel distribution systems; and

(iv) housing functions and services, limited to leasing or making other arrangements for temporary housing to be occupied by persons associated with containment or clean up of the release;

(C) costs associated with leasing transportation facilities for use in activities associated with the containment or clean up;

(D) costs of repair or replacement of equipment or a capital asset associated with a function or service set out in (B) of this paragraph the useful life of which has been substantially reduced by use associated with the containment or clean up; and

(2) to compensate the municipality, village, or school district for

(A) the reduction of revenue attributable to the release of the oil or hazardous substance; and

(B) the actual costs of projects or activities that are delayed or lost because of the efforts of the municipality, village, or school district responding to the release or associated with the containment or cleanup of oil or the hazardous substance.

(b) If money received under this section is used for a capital expenditure, the commissioner may require the municipality, village, or school district that acquired the item as a capital expenditure to transfer it to the state at the end of the period during

which the item is actually used for spill response if the commissioner finds that retention of the item would confer an inappropriate benefit on the municipality, village, or school district. (§ 7 ch 83 SLA 1991; am § 4 ch 128 SLA 1994)

Effect of amendments. The 1994 amendment, effective October 2, 1994, inserted "or school district" throughout the section, made related stylistic changes, and inserted "actual" near the beginning of subparagraph (a)(2)(B).

Sec. 29.60.530. Criteria to evaluate grant applications.

(a) In determining whether an expenditure or proposed expenditure by a municipality, village, or school district is eligible for a grant under AS 29.60.510, the department shall consider

(1) the degree to which the effect on the municipality, village, or school district is directly caused by the oil or hazardous substance release or the response to the release;

(2) the availability of money to the recipient from other sources that can meet the costs of providing the functions or services; and

(3) the severity of the effect addressed in the grant application.

(b) The department may reject an application for a grant under AS 29.60.510 or approve an application for a grant in an amount that is less than the amount requested by a municipality, village, or school district if the department determines that payment of the amount requested is not warranted under (a) of this section.

(c) The department shall adopt, by regulation, criteria by which to rank all or a portion of applications for the purpose of establishing the priority order of awarding grants if money requested by eligible municipalities, villages, and school districts under this section exceeds the amount available. The criteria must be based on the elements set out in (a) of this section. If the total amount of money requested by eligible municipalities, villages, and school districts under this section exceeds the amount available, the department shall rank applications for the purpose of establishing the priority order of awarding grants in accordance with the regulations. (§ 7 ch 83 SLA 1991; am § 5 ch 128 SLA 1994)

Effect of amendments. The 1994 amendment, effective October 2, 1994, inserted ", or school district" throughout subsections (a) and (b), inserted "and school districts" in the first and last sentences in subsection (c), and made related stylistic changes.

Sec. 29.60.540. Limitations on uses of grants by municipalities and villages.

(a) A municipality may not use a grant made under AS 29.60.510 to reduce current municipal tax rates or to retire its existing bonded indebtedness.

(b) Money received by a municipality, village, or school district under AS 29.60.500 – 29.60.599 may not be used for a capital improvement, as that term is defined in AS 46.08.900. (§ 7 ch 83 SLA 1991; am § 6 ch 128 SLA 1994)

Effect of amendments. The 1994 amendment, effective October 2, 1994, in subsection (b), inserted ", or school district" and made related stylistic changes.

Sec. 29.60.550. Records.

The department shall maintain records showing the income and expenses of grants made under AS 29.60.510, and shall develop procedures governing the expenditure of, and accounting for, money expended. (§ 7 ch 83 SLA 1991)

Sec. 29.60.560. Impact assessment and remedial plans.

(a) For each disaster emergency declared by the governor under AS 26.23.020 based on a release of oil or a hazardous substance or for each other release of oil or a hazardous substance for which money may be expended under AS 46.08.040, the commissioner, after consulting with and securing the written approval of the attorney general and after consulting with other state agencies, shall

(1) make an assessment of the social and economic effects of the release of the oil or hazardous substance;

(2) develop a plan to

(A) recover the cost of release-related expenditures; and

(B) mitigate the social and economic effects of the release of the oil or hazardous substance on the municipalities, the villages, the school districts, and the region in which the discharge occurs.

(b) The commissioner may make the assessment and plans required by (a) of this section by

(1) using staff of the department;

(2) contracting with a municipality or other entity; or

(3) authorizing a municipality or other entity to perform that work and supporting that effort by a grant.

(c) Only one assessment and one plan may be completed under this section for each declaration of a disaster emergency.

(d) The commissioner may pay the costs of the assessment, the plan, and the recovery of the cost of release-related expenditures from money available in the fund.

(e) Expenditures made under this section may be made only from the amount transferred to the commissioner under AS 29.60.510(c), unless

(1) the commissioner and the commissioner of environmental conservation mutually agree that payment may be made from money in the oil and hazardous substance release response account in the oil and hazardous substance release prevention and response fund not transferred under AS 29.60.510(c); or

(2) the commissioner pays them from another source. (§ 7 ch 83 SLA 1991; am §§ 7 and 8 ch 128 SLA 1994)

Effect of amendments. The 1994 amendment, effective October 2, 1994, in subsection (a), inserted “or for each other release of oil or a hazardous substance for which money may be expended under AS 46.08.040” in the introductory language and “the school districts” in subparagraph (2)(B); and, in subsection (e), inserted “oil and hazardous substance release response account in the” and “prevention and” in paragraph (1).

Sec. 29.60.590. Regulations.

The commissioner and the commissioner of environmental conservation shall jointly develop and adopt regulations that are necessary to implement the purposes of AS 29.60.500 - 29.60.599. (§ 7 ch 83 SLA 1991)

Sec. 29.60.599. Definitions.

In AS 29.60.500 – 29.60.599,

(1) "barrel" when used with reference to oil has the meaning given by AS 43.20.072;

(2) "containment and cleanup" has the meaning given in AS 46.08.900;

(3) "disaster emergency" means a disaster declared by the governor under AS 26.23.020;

(4) "fund" means the oil and hazardous substance release prevention and response fund established by AS 46.08.010;

(5) "hazardous substance" has the meaning given in AS 46.09.900;

(6) "oil" and "release" have the meanings given in AS 46.08.900;

(7) "school district" means a borough school district, a city school district, or a regional educational attendance area under AS 14;

(8) "service"

(A) means

(i) a function performed or service provided by a municipality under a duty or power authorized by this title or by another provision of law authorizing a municipality to perform functions or provide services;

(ii) a comparable function performed or service provided by a village; or

(iii) a function performed or service provided by a school district;

(B) includes functions not previously performed and services not previously provided by the municipality or village;

(9) "village" means a place within the unorganized borough or within a borough if the power, function, or service for which a grant application is submitted under AS 29.60.500 – 29.60.599 is not exercised or provided by the borough on an areawide or nonareawide basis at the time the grant application is submitted, that

(A) has irrevocably waived, in a form approved by the Department of Law, any claim of sovereign immunity that might arise in connection with the use of grant money under this chapter; and

(B) has

(i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(ii) a traditional village council recognized by the United States as eligible for federal aid to Indians; or

(iii) a council recognized by the commissioner under regulations adopted by the department to determine and give official recognition of village entities under AS 44.33.755(b). (§ 7 ch 83 SLA 1991; am §§ 9 – 11 ch 128 SLA 1994; am § 30 ch 58 SLA 1999; am § 37 ch 67 SLA 2001)

Effect of amendments. The 2001 amendment, effective July 4, 2001, rewrote paragraph (7), which read " 'school district' has the meaning given in AS 14.30.350." The 1999 amendment, effective July 1, 1999, substituted AS 44.33.755(b) for AS 44.47.150(b) in paragraph (9)(B)(iii). The 1994 amendment, effective October 2, 1994, inserted "prevention and" in paragraph (4); in present paragraph (8), added the item (A)(i) and (A)(ii) designations, added item (A)(iii), and made related stylistic changes; and added present paragraph (7).

Article 4. Human Services Community Match Program.

Section

Sec. 29.60.600. Human Services Community Match Program.

(a) Within the limits of appropriations for the purpose, the Department of Health and Social Services shall, upon application, make a matching grant to a qualified municipality equal to 70 percent of the estimated reasonable costs of providing essential human services through private nonprofit agencies within the municipality, including services to persons who travel to the municipality from their residences elsewhere in the state.

(b) To qualify for a grant under this section, a municipality is required to

(1) provide from other sources 30 percent of the estimated reasonable costs of providing the services to be funded by the grant; other sources may include federal or municipal money or money from other private or public sources; in this paragraph, "municipal money" includes money derived from appropriations, allocations, entitlements, grants, or other payments from the state other than the state grant under this section but does not include locally contributed staff hours, material, equipment, or other in-kind contributions;

(2) comply with the grant application procedure and contractual agreements under AS 29.60.610; and

(3) establish and consult with a citizens' advisory group, the majority of whose membership consists of persons who do not hold elected municipal office, concerning priorities and allocations among services funded under this section.

(c) A city may not receive a human services matching grant during a fiscal year to provide a specific service if, during that same year, the borough within which it is located has received a grant for the same service. A borough may not receive a grant during a fiscal year to provide a particular service if, during that same year, a city within the borough has received a grant for the same service. (§ 1 ch 74 SLA 1992; am § 1 ch 38 SLA 1993; am §§ 1, 2 ch 42 SLA 1995)

Effect of amendments. The 1995 amendment, effective July 1, 1995, in subsection (a), substituted “70 percent” for “50 percent” and, in paragraph (b)(1), deleted “the same amount of money” following “provide” near the beginning and substituted “30 percent of the estimated reasonable costs of providing the services to be funded by the grant” for “as is provided by the state grant under this section for the services.” The 1993 amendment, effective August 25, 1993, added subsection (c).

Sec. 29.60.610. Grant procedure; contract.

(a) If a qualified municipality wishes to apply for a grant under AS 29.60.600, the municipality shall apply for a grant for a fiscal year by submitting a form prescribed by the commissioner of health and social services before October 1 of the preceding fiscal year. The application must generally describe the services that are proposed to be funded with the grant and include the following information:

(1) a statement that each proposed service will meet the goals established under AS 47.75.010 and an explanation of why the service is necessary to prevent or alleviate serious mental or physical hardship; this explanation must be supported by a needs assessment carried out by the municipality;

(2) a description of the categories of individuals to whom the services are to be provided; and

(3) an estimate of the expenditures required for each of the services to be provided.

(b) A human services community matching grant shall be allotted in accordance with an agreement made between the grantee and the commissioner of health and social services on behalf of the state. The agreement may include any provision agreed upon by the parties and must include the following provisions:

(1) a statement by the grantee that the match requirement of AS 29.60.600 has been met by the grantee;

(2) estimates of reasonable costs of funding the services; and

(3) a requirement that no more than five percent of the grant money received under AS 29.60.600 may be used for municipal administrative costs connected with distributing the grant money to the private nonprofit agencies providing the services. (§ 1 ch 74 SLA 1992)

Sec. 29.60.620. Allocation of money.

(a) If the amount of money appropriated by the legislature for human services community matching grants under AS 29.60.600 is not adequate to satisfy amounts required for the qualified municipalities who have applied for grants, the money shall be allocated proportionately among the qualified municipalities for which a grant has been approved under AS 29.60.600 – 29.60.650 based on the relationship the population of each municipality bears to the total population of the qualified municipalities for which a grant has been approved under AS 29.60.600 – 29.60.650.

(b) For purposes of (a) of this section, population shall be determined by the Department of Commerce, Community, and Economic Development based on the latest figures of the United States Bureau of the Census or other reliable population data. If a city within a borough has an approved grant for a service to be provided on an areawide basis, the allocation under (a) of this section shall be based on the population of the borough. (§ 1 ch 74 SLA 1992; am § 91 ch 58 SLA 1999)

Effect of amendments. The 1999 amendment, effective July 1, 1999, substituted “community and economic development” for “community and regional affairs” in subsection (b).

Sec. 29.60.650. Definitions.

In AS 29.60.600 – 29.60.650,

(1) "essential human services" and "services" have the meaning given "social services" in AS 47.75.060 except that they include only services whose unavailability would subject persons needing the services to serious mental or physical hardship;

(2) "municipality" means a (A) city whose population is over 20,000; (B) unified municipality whose population is over 100,000; or (C) second class borough whose population is over 65,000; population for purposes of this paragraph shall be determined by the Department of Commerce, Community, and Economic Development. (§ 1 ch 74 SLA 1992; am § 2 ch 38 SLA 1993; am § 91 ch 58 SLA 1999)

Effect of amendments. The 1999 amendment, effective July 1, 1999, substituted “community and economic development” for “community and regional affairs” in section (2). The 1993 amendment, effective August 25, 1993, rewrote paragraph (2).

Article 5. Bulk Fuel Bridge Loan Fund and Program.

Section
660. Bulk fuel bridge loan fund and program

Sec. 29.60.660. Bulk fuel bridge loan fund and program.

[Repealed § 6 ch 46 SLA 2012] For current law, see AS 42.25.299

Article 6. Reimbursement for Costs of Bonds.

Section
700. Reimbursement for costs of municipal capital projects

Sec. 29.60.700. Reimbursement for costs of municipal capital projects.

(a) Subject to appropriations for the purpose, during each fiscal year, the Department of Transportation and Public Facilities shall allocate to each municipality an amount to reimburse the costs paid by the municipality during the immediately preceding fiscal year for the principal and interest on outstanding debt for projects listed in (b) of this section. An allocation may be made to a municipality only if

(1) the debt was incurred by the municipality before July 1, 2007, or, if the debt is for a small boat harbor, before July 1, 2012; and

(2) the project or facility financed with the debt proceeds is located in the municipality and the project or facility is operated or controlled by the municipality.

(b) The Department of Transportation and Public Facilities may make an allocation to a municipality under (a) of this section only for reimbursement of costs incurred for the following construction and renovation projects and only for reimbursement of total project costs incurred up to the following amounts:

PROJECT	
Valdez	3,013,500
Nome	1,000,000
Anchorage (Port of Anchorage expansion)	15,000,000
Matanuska-Susitna Borough (deep water port and road upgrade)	10,000,000
Unalaska (LSA small boat harbor)	5,000,000
Aleutians East Borough/Akutan (small boat harbor)	4,000,000
Lake and Peninsula Borough/Chignik (dock project)	1,000,000
Aleutians East Borough/False Pass (small boat harbor)	2,000,000
Fairbanks North Star Borough (Eielson AFB schools, major maintenance and upgrades)	4,500,000
City of Fairbanks (fire headquarters station replacement)	7,500,000
Saxman (public safety building)	1,500,000

(§ 8 ch 130 SLA 2000; am § 5 ch 115 SLA 2002; am §§ 1 and 2 ch 42 SLA 2007)

Effect of amendments. The 2007 amendment, effective July 4, 2007, inserted "or, if the debt is for a small boat harbor, before July 1, 2012" in paragraph (a)(1). The 2002 amendment, effective July 1, 2002, changed the name of the section and made substantive changes to it all. Section 8 ch 130 SLA 2000, which enacted this section, took effect on July 1, 2000.

Article 7. Harbor Facility Grant Program.

Section

Sec. 29.60.800. Harbor facility grant fund.

(a) There is established the harbor facility grant fund consisting of money appropriated to the fund. Each fiscal year, the legislature may appropriate money to the fund from the watercraft fuel tax account (AS 43.40.010(f)) and from the fisheries business tax collected under AS 43.75.015 after payments to municipalities are made under AS 43.75.130. The legislature may make other appropriations to the fund. The legislature may appropriate to the fund income earned on money in the fund.

(b) Money appropriated to the harbor facility grant fund may be expended by the Department of Transportation and Public Facilities for harbor facility grants without further appropriation. Money in the fund does not lapse and remains available for expenditure in successive fiscal years.

(c) Each fiscal year, the Department of Transportation and Public Facilities shall use an amount equal to at least 50 percent of the balance of the harbor facility grant fund on June 30 of the preceding fiscal year for harbor facility grants.

(§ 1 ch 62 SLA 2006; am § 4 ch 6 SLA 2012)

Effect of amendments. The changes in this section were part of the 2012 Revisor's Bill, making corrective amendments to the Alaska Statues as recommended by the revisor of statutes. This section was amended to remove the word "municipal" five places in the text and once in the title. The 2012 amendment, effective March 24, 2012, replaces "municipal harbor facility grant" with "harbor facility grant" in six places.

Sec. 29.60.810. Grant applications.

A municipality or regional housing authority that owns a harbor facility may submit to the Department of Transportation and Public Facilities an application for a harbor facility grant to be used for construction, expansion, major repair, or major maintenance of a harbor facility. The application must include information about the project requested by the department. For a proposed project to be eligible for a grant, the municipality or regional housing authority must provide evidence acceptable to the department that the

(1) proposed project is a capital improvement project and not part of a preventive maintenance program or regular custodial care program;

(2) municipality or regional housing authority will provide 50 percent of the total project cost as matching funds for the state grant and that money received by the municipality or regional housing authority from the state will not be used for the matching funds except money received under

(A) AS 29.60.850 – 29.60.879 (community assistance program);

(B) AS 29.60.450, AS 43.75.130, and 43.75.137 (shared fisheries business taxes);

(C) AS 43.52.200 – 43.52.295 (excise tax on overnight accommodations on commercial passenger vessels); and

(D) a transfer agreement between the state and a municipality for a sale under AS 35.10.120;

(3) municipality or regional housing authority has secured and will maintain adequate property loss insurance for the replacement cost of the harbor facility or has an adequate program of insurance;

(4) municipality or regional housing authority has a preventive maintenance plan for the harbor facility and will be adequately adhering to the preventive maintenance plan after completion of the proposed project. (am § 5 ch 12 SLA 2008; am § 6 ch 7 SLA 2011; am§ 6 ch 12 SLA 2012; am § 4 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance". The 2008 amendment, effective April 9, 2008, substituted "AS 29.60.850 – 29.60.879 (community revenue sharing program)" for "AS 29.60.010 – 29.60.080, (municipal tax resource equalization)" in subparagraph (2)(A), deleted former subparagraph (2)(B), which read "AS 29.60.350 – 29.60.375 (safe communities program)", and made a related change. The 2011 amendment, effective May 7, 2011, added "or regional housing authority" after "municipality" in six places. The 2011 amendment also added subsections (C) and (D) to subsection (2).
AS 29.60.810(2)(D), added by section 6, is retroactive to January 1, 1993.

Sec. 29.60.820. Award of grants.

(a) The Department of Transportation and Public Facilities may award a harbor facility grant during a fiscal year only for a proposed project eligible under AS 29.60.810 based on a grant application filed during the immediately preceding fiscal year before February 1. The total amount of grant money made available to a municipality or regional housing authority during a fiscal year may not exceed $5,000,000.

(b) The Department of Transportation and Public Facilities shall award a grant for every proposed project eligible under AS 29.60.810 that is for repair and major maintenance of a harbor facility that was transferred by the state to a municipality or regional housing authority before grants may be made for other proposed harbor facility projects during a fiscal year. However, after the department makes a grant for the repair and major maintenance of a harbor facility under this subsection, no other grants for the repair and major maintenance of that facility may be made during the same or any other fiscal year.

(c) The Department of Transportation and Public Facilities shall establish priorities for the award of grants for proposed harbor facility projects under (b) of this section and priorities for the award of grants for other proposed harbor facility projects, with new construction projects having the lowest priority. The department shall award grants in the order of priority established. In establishing priorities, the department shall include at least the following, in the order listed:

(1) the extent to which the municipality or regional housing authority can demonstrate that it will have sufficient revenue to operate and maintain the harbor facility in the future without state aid;

(2) public safety and emergency factors;

(3) the amount spent by the municipality or regional housing authority on maintenance of the harbor facility;

(4) other options that would reduce or eliminate the need for the proposed project; and

(5) whether alternative harbor projects would better serve the public interest.

(d) The Department of Transportation and Public Facilities may suggest modifications to a project request to achieve cost savings or to better serve the public interest and, if the municipality or regional housing authority agrees, award the harbor facility grant for the proposed project as modified. (§ 1 ch 62 SLA 2006 am; §7 ch 7 SLA 2011)

Effect of amendments. § 2 ch 62 SLA 2006 provides for an effective date of July 1, 2006. §7 ch 7 SLA 2011, effective May 7, 2011, added "or regional housing authority" after "municipality" in five places; AS 29.60.810(2)(D), added by section 6, is retroactive to January 1, 1993.

Sec. 29.60.830. Definitions.

In AS 29.60.800 – 29.60.830, "regional housing authority" means a regional housing authority established under AS 18.55.996. (am §8 ch 7 SLA 2011)

Article 8. Community Assistance Program.

Section

Sec. 29.60.850. Community Assistance Fund.

(a) The community assistance fund is established in the general fund for the purpose of making community assistance payments to municipalities, reserves, and communities for any public purpose. The fund consists of appropriations. Income earned on money in the fund may be appropriated to the fund. Money in the fund does not lapse.

(b) Each fiscal year, the legislature may appropriate to the community assistance fund money received by the state during the previous calendar year under AS 43.20.030(c). The amount may not exceed the greater of

(1) $30,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals $90,000,000.

(c) The balance in the community assistance fund shall be determined on June 30 of each year. If the fund balance is at least $15,000,000, without further appropriation, the department shall distribute one-third of that amount as community assistance payments for the immediately following fiscal year. Otherwise, no payments may be made.

(d) Notwithstanding the guidelines in (b) of this section, the legislature may appropriate any amount to the community assistance fund.

Nothing in this section creates a dedicated fund.

(§ 6 ch 12 SLA 2008; am § 1 ch 10 SLA 2013; am § 5-7 ch 44 SLA 2016; am § 28, ch 3 SLA 2017)

Effect of amendments. The 2017 amendment amends (d) updating language, replacing "community revenue sharing" with "community assistance". The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance" and updates the fund amounts.

The 2013 amendment, effective January 1, 2013, amended subsection (b), updating the location in Title 43, and removed the requirement for the appropriation to equal 20 percent of the money received by the state during the previous calendar year.

Sec. 29.60.855. Basic community assistance payments.

(a) The basic amount used for determining the basic community assistance payment for a fiscal year is $300,000. However, if the amount available for payments for that fiscal year under AS 29.60.850(c) is less than the amount necessary to make the payments under (b) of this section, the department shall reduce the basic amount pro rata.

(b) Except as provided in (c) of this section, the basic community assistance payment for a fiscal year equals, for each

(1) unified municipality, the sum of the amounts calculated under (2) and (3) of this subsection, rounded to the nearest dollar;

(2) borough, the basic amount, rounded to the nearest dollar;

(3) city and eligible reserve, one-fourth of the basic amount, rounded to the nearest dollar;

(4) eligible community in the unorganized borough, one-twelfth of the basic amount, rounded to the nearest dollar;

(5) eligible community in a unified municipality or borough, one-nineteenth of the basic amount, rounded to the nearest dollar.

(c) The basic community assistance payment amount for a succeeding municipality formed when two or more municipalities merge, consolidate, or unify after January 1, 2002, equals the sum of the amounts each of the former municipalities would receive under (b) of this section calculated as if the merger, consolidation, or unification had not occurred. (§ 6 ch 12 SLA 2008; am § 8 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance" and simplifies the formula and rounding.

Sec. 29.60.860. Per capita payment increases.

(a) Subject to (b) of this section, if the amount available for distribution under AS 29.60.850(c) exceeds the amount needed to fully fund all the basic community assistance payments, the balance shall be distributed on a per capita basis to municipalities, to reserves, and to communities in the unorganized borough.

(b) The per capita amount distributed to each community in the unorganized borough may not, when added to the basic community assistance payment for that community, exceed the basic amount calculated under AS 29.60.855(b)(3). If the per capita distribution for a community in the unorganized borough, when added to the basic community assistance payment for that community, would exceed the basic amount calculated under AS 29.60.855(b)(3), the excess amount shall be distributed on a per capita basis to other communities in the unorganized borough.

(c) For purposes of this section, the population of a municipality, reserve, or community shall be determined by using the numbers of permanent fund dividend recipients or other population data that the department determines is reliable. For purposes of determining the population of a borough, the population of each city in the borough shall be deducted from the total borough population. (§ 6 ch 12 SLA 2008; am § 46 ch 41 SLA 2009; am § 9-10 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance". The 2009 amendment, part of the Revisor's Bill, added clarifying language in (b).

Sec. 29.60.865. Eligibility requirements for reserves and communities.

(a) The department, with advice from the Department of Law, shall determine whether there is in each community or reserve an incorporated nonprofit entity or a Native village council that will agree to receive and spend the community assistance payment. If there is more than one qualified entity in a reserve or community in the unorganized borough, the department shall pay the money to the entity that the department finds most qualified to receive and spend the money on behalf of the reserve or community. The department may not make a community assistance payment to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the payment. A waiver of immunity from suit under this section must be on a form provided by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village council in a reserve or community that is willing to receive the community assistance payment and use the payment on behalf of that reserve or community, the payment for that reserve or community may not be paid. Neither this section nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council.

(b) The department may make a community assistance payment on behalf of a community in a borough or unified municipality only to the municipality for payment by the municipality to an incorporated nonprofit entity or Native village council that has been approved by the assembly and meets the requirements of (a) of this section. The department shall have written evidence of the assembly approval. If there is more than one qualified entity in a community in a borough or unified municipality, one of the entities may receive the entire payment, or the payment may be shared between two or more of the qualified entities, as determined by the assembly.

(c) A community in a borough or unified municipality is eligible for a community assistance payment only if at least three of the following services are generally available to all residents of the community and each of the three services, in any combination, are provided by one or more qualifying incorporated nonprofit entities or a Native village council or are substantially paid for by the residents of the community through taxes, charges, or assessments levied or authorized by the borough or unified municipality:

(1) fire protection;
(2) emergency medical;
(3) water and sewer;
(4) solid waste management;
(5) public road or ice road maintenance;
(6) public health;
(7) search and rescue.

(§ 6 ch 12 SLA 2008; am § 11 ch 44 SLA 2016)

Effect of amendments. The 2016 amendment, effective January 1, 2017, updates language, replacing "community revenue sharing" with "community assistance".

Sec. 29.60.879. Definitions.

In AS 29.60.850 – 29.60.879,

(1) "community" means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit;

(2) "reserve" means a place that is organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection. (§ 6 ch 12 SLA 2008)

Effect of amendments. In 2008, AS 29.60 added new Article 11 with five new sections: .850, .855, .860, .865 and .879 under § 6 ch 12 SLA 2008.

Chapter 65. General Grant Land.

Section

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities.

(a) The general grant land entitlement of each of the municipalities in this subsection is the amount set out opposite each:

(1) Municipality of Anchorage – 44,893 acres;
(2) City and Borough of Juneau – 19,584 acres;
(3) City and Borough of Sitka – 10,500 acres;
(4) Bristol Bay Borough – 2,898 acres;
(5) Fairbanks North Star Borough – 112,000 acres;
(6) Haines Borough – 2,800 acres;
(7) Kenai Peninsula Borough – 155,780 acres;
(8) Ketchikan Gateway Borough – 11,593 acres;
(9) Kodiak Island Borough – 56,500 acres;
(10) Lake and Peninsula Borough – 125,000 acres;
(11) Matanuska-Susitna Borough – 355,210 acres;
(12) North Slope Borough – 89,850 acres;
(13) City and Borough of Yakutat – 21,500 acres.
(14) City and Borough of Wrangell – 9,006 acres;
(15) Haines Borough – 3,167 acres;
(16) Petersburg Borough – 14,666 acres.

(b) *[Repealed, § 12 ch 34 SLA 1987]* (§ 17 ch 74 SLA 1985; am § 12 ch 34 SLA 1987; am § 1 ch 108 SLA 1994; am § 1 ch 112 SLA 1998; am § 1 ch 104 SLA 2010; am § 1 ch 26 SLA 2017)

Effect of amendments. The 2017 amendment, effective November 17, 2017, added paragraph (a) (16). The 2010 amendment, effective June 26, 2010, added paragraphs (a)(14) and (a)(15).

The 1998 amendment, effective June 20, 1998, added paragraph (a)(13) and made a related stylistic change. The 1994 amendment, effective June 11, 1994, in subsection (a), added present paragraph (10) and redesignated former paragraphs (10) and (11) as present paragraphs (11) and (12), respectively.

Sec. 29.65.020. Determination of entitlement for cities.

(a) The general grant land entitlement of a city formerly eligible to receive general grant land under the provisions of former AS 29.18.190 and 29.18.200 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land in the boundaries of each city at any time between the initial date of eligibility under former AS 29.18.190 and 29.18.200 and January 1, 1988. Within six months after January 1, 1988, the director shall determine the entitlement for each city eligible to receive general grant land under this section and certify that entitlement to the city.

(b) *[Repealed, § 12 ch 34 SLA 1987]* (§ 17 ch 74 SLA 1985; am §§ 1 and 12 ch 34 SLA 1987)

Sec. 29.65.030. Determination of entitlement for newly incorporated municipalities.

(a) The general grant land entitlement of a municipality incorporated after July 1, 1978, that does not qualify for an entitlement under AS 29.65.010 or 29.65.020 is 10 percent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date.

(b) Within two years and six months after the date of incorporation of the municipality, the director shall determine the entitlement of each municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the municipality. However, the governing body of a city may, by resolution, request the director to certify the entitlement to the city on an expeditious basis. The director shall determine and certify the entitlement within six months after receipt of the resolution.

(c) *[Repealed, § 12 ch 34 SLA 1987]*

(d) For the purpose of determining the general land grant entitlement under (a) of this section, the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality between the date of its incorporation and two years after that date shall be increased by the amount of land located within the boundaries of the municipality that is transferred to the University of Alaska under AS 14.40.365. (§ 17 ch 74 SLA 1985; am §§ 2, 3 and 12 ch 34 SLA 1987; am §§ 1 and 2 ch 51 SLA 1991; §7 ch 8 FSSLA 2005)

Effect of amendments. The 2005 amendment, effective October 23, 2005, added subsection (d). The 1991 amendment, effective June 16, 1991, deleted the last two sentences in subsection (a) and added the last two sentences in subsection (b).

Sec. 29.65.040. Status of entitlements.

(a) After July 1, 1978, general grant land entitlements provided in former AS 29.18.201 and 29.18.202 are vested property rights that must be fulfilled as provided in AS 29.65.050. After January 1, 1988, general grant land entitlements provided in AS 29.65.010 are vested property rights that must be fulfilled as provided in AS 29.65.050.

(b) General grant land entitlements provided by AS 29.65.030 are property rights that vest on the date of incorporation of the municipality. The entitlement shall be fulfilled as provided in AS 29.65.050.

(c) Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under former AS 29.18.201 and 29.18.202 at any time before October 1, 1980. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010(a)(1) – (9), (11), or (12) at any time before October 1, 1990. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010(a)(10) at any time before October 1, 1996. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010(a)(13) at any time before October 1, 1999. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010(a)(14) or (15) at any time before October 1, 2011. Land may be selected or nominated for selection by a municipality to satisfy a general grant land entitlement under AS 29.65.010(a)(16) at any time before October 1, 2018. However, if a municipal selection or nomination or a part of a municipal selection or nomination is rejected by the director, the municipality may, not later than 90 days after receipt of the rejection or final decision on an appeal filed under AS 29.65.050(d), select additional state land as necessary to satisfy its entitlement.

(d) Land may be selected by a municipality to satisfy a general grant land entitlement under AS 29.65.030 at any time within one year after the director certifies the entitlement to the municipality.

(e) The time limitations imposed by (c) and (d) of this section for exercising a vested general grant land entitlement do not apply to

(1) the portion of an entitlement that cannot be satisfied by that date because of a shortage of land suitable for residential, commercial, and industrial purposes that is vacant, unappropriated, unreserved land;

(2) the portion of an entitlement that cannot be satisfied because the land selected by a municipality has been selected by a party entitled to select land owned by the United States or the state; or

(3) the portion of an entitlement that cannot be satisfied because the land nominated for selection by the municipality is not tentatively approved for patent to the state. (§ 17 ch 74 SLA 1985; am §§ 4 and 5 ch 34 SLA 1987; am § 3 ch 51 SLA 1991; am § 2 ch 108 SLA 1994; am §§ 4 and 5 ch 42 SLA 1997; am § 2 ch 112 SLA 1998; am § 2 ch 104 SLA 2010; am § 2 ch 26 SLA 2017)

Effect of amendments. The 2017 amendment, effective November 17, 2017 added the next-to-last sentence in subsection (c). The 2010 amendment, effective June 26, 2010, added the next-to-last sentence in subsection (c). The 1998 amendment, effective June 20, 1998, added the fourth sentence in subsection (c). The 1997 amendment, effective July 1, 1997, in subsection (a), deleted section references; in subsection (e), deleted former paragraph (2) which read: “payments for land deficiency under AS 29.65.080;” and redesignated the remaining paragraphs accordingly. The 1994 amendment, effective June 11, 1994, in subsection (c), made a section reference substitution near the end of the second sentence and added the present next-to-last sentence. The 1991 amendment, effective June 16, 1991, in subsection (c), inserted "or final decision on an appeal filed under AS 29.65.050(d)" in the last sentence.

Sec. 29.65.050. Fulfillment of land entitlements.

(a) The acreage of each municipality's land selections for which patent has been issued before July 1, 1978, shall be credited toward fulfillment of the entitlement of that municipality.

(b) All approved selections under former AS 29.18.190 and 29.18.200 for which patent has not been issued to a municipality on July 1, 1978, shall be reviewed by the director within nine months after July 1, 1978. Any approved selection of land that was vacant, unappropriated, unreserved land on the date of selection is valid as of the date of the approval under former AS 29.18.190, 29.18.200, 29.18.201, 29.18.202, and 29.18.203, and a patent shall be issued to the municipality within three months after approval by the director of a plat of survey. The acreage shall be credited toward fulfillment of the municipality's entitlement. A municipality is not entitled to receive patent under this chapter to more than its entitlement determined under AS 29.65.010 – 29.65.030. Any prior approval by the director of municipal selections for land that was not vacant, unappropriated, unreserved land on the date of selection shall be rescinded, and patent may not be issued except when disposal to a third party by sale or lease has occurred. Transfers of land to municipalities under this chapter are subject to AS 38.05.321. Classification actions as reflected on the land status records of the Department of Natural Resources are determinative of land classification status for purposes of this chapter.

(c) The director shall approve or disapprove each selection for patent within nine months of its selection by a municipality. Before a decision is issued the Department of Commerce, Community, and Economic Development shall review the selection and recommend approval or disapproval of it. The director may disapprove a selection only upon a finding that the public interest in retaining state ownership of the land outweighs the municipality's interest in obtaining the land. If the director determines that the public interest in land selected in satisfaction of an entitlement under AS 29.65.010(a)(13), (14), (15), or (16) can be adequately protected by issuing a patent that is subject to stipulations, conditions, or covenants, and if the municipality agrees to accept the land subject to those stipulations, conditions, or covenants, the director may approve a selection that would otherwise be disapproved and may issue the patent with the stipulations, conditions, or covenants agreed to by the municipality. A patent shall be issued to the municipality for land selected in satisfaction of a general grant land entitlement vested under AS 29.65.010 – 29.65.030 within three months after approval by the director of a plat of survey.

(d) Before disapproving a selection, the director shall notify the municipality in writing of the decision and set out reasons for it. The municipality may submit a written response within 30 days after receipt of the notice. Within 30 days after the period for responding has expired, the director shall affirm, modify, or reverse the decision and supply the municipality with written notice of that action. If the selection is disapproved, the municipality may file notice of an appeal with the director. The appeal shall be heard under procedures adopted by regulation of the Department of Natural Resources. Before reaching a decision on an appeal the Department of Natural Resources shall request the Department of Commerce, Community, and Economic to review the matter and submit a recommendation. After reviewing the recommendation, a decision on the appeal shall be submitted by the Department of Natural Resources to the municipality in writing within

30 days after the notice of appeal was filed with the director. A municipality may appeal an adverse decision to the superior court under AS 44.62.560 – 44.62.570. (§ 17 ch 74 SLA 1985; am § 6 ch 34 SLA 1987; am §§ 4, 5 ch 51 SLA 1991; am § 3 ch 112 SLA 1998; am § 91 ch 58 SLA 1999; am § 3 ch 104 SLA 2010; am § 17 ch 58 SLA 2010; am § ch 26 SLA 2017)

Effect of amendments. The 2017 amendment, effective November 17, 2017, in subsection (c) added (16). The 2010 amendment, effective June 26, 2010, in subsection (c), added subsections "(14), or (15)" to AS 29.65.010(a). The 2010 amendment, effective June 9, 2010, in subsection (b), substituted "vacant, unappropriated, unreserved land" for "vacant, unappropriated, or unreserved". The 1999 amendment, effective July 1, 1999, substituted "community and economic development" for "community and regional affairs" in subsection (c) and (d). The 1991 amendment, effective June 16, 1991, in subsection (c), inserted "or disapprove" in the first sentence, added the second and third sentences, and made stylistic changes; and added subsection (d). The 1998 amendment, effective June 20, 1998, added the next-to-last sentence in subsection (c).

Sec. 29.65.060. School and mental health land.

(a) If an entitlement determined under AS 29.65.010 or 29.65.020 results in a per capita entitlement for the municipality of less than one and one-half acre, the municipality may select vacant school or mental health land in the municipality in partial fulfillment of its land entitlement under this chapter. School or mental health land may be selected notwithstanding the fact that this land is not unappropriated and unreserved within the meaning of this chapter and under former AS 29.18.190 and 29.18.200, but each selection of school or mental health land by a municipality must be vacant, unappropriated, unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school, university, or mental health land, if any, in a municipality may not be included in the determination of entitlement under AS 29.65.010 or 29.65.020.

(c) Land conveyed under this section shall be credited against a municipality's remaining land entitlement under this chapter.

(d) Within six months after approval of a municipal selection of school or mental health land, the director shall identify state general grant land of approximately equal value to the land requested by the municipality and shall propose the replacement land for the concurrence of the appropriate board. If a proposal by the director is rejected by the board, the director shall meet with the board as often as necessary to determine the type and amount of equal value replacement land that would be required to obtain the board's concurrence, and shall propose the replacement land for consideration by the board. The replacement land shall thereafter be managed for the purposes for which the land selected by the municipality was acquired by the Territory and State of Alaska.

(e) The notice provisions of AS 38.05.945 apply to the designation of other general grant land as school, university or mental health land in replacement of land selected under this section. The provisions of AS 38.50 do not apply to designations under this section.

(f) For purposes of determining the per capita entitlement under (a) of this section, the population of a municipality shall be the population determined by the former commissioner of community and regional affairs under former AS 43.18.010 for the

program year beginning July 1, 1978, for a municipality whose entitlement was determined under former AS 29.18.201 or 29.18.202.

(g) Notwithstanding (a) of this section, a municipality may not select school land or mental health land after October 4, 1985. Nothing in this section affects the legal rights of any person with regard to selections of school land or mental health land made by a municipality on or before October 4, 1985.

(h) To obtain replacement land for mental health land that was conveyed by the state to the municipality under former AS 29.18.190 — 29.18.200, former AS 29.18.201 — 29.18.202, or under this chapter, a municipality may reconvey to the state land that had been conveyed by the state to the municipality. When a municipality reconveys land to the state under this subsection, the municipality has the right to select an equal number of acres of replacement land. The municipality may exercise its right to select replacement land under this subsection only within two years of the date of the reconveyance of land to the state. (§ 17 ch 74 SLA 1985; am § 7 ch 34 SLA 1987; am § 2 ch 5 FSSLA 1994; am § 31 ch 58 SLA 1999; am § 18 ch 58 SLA 2010)

Effect of amendments. The 2010 amendment, effective June 9, 2010, substituted "vacant, unappropriated, unreserved land" for "vacant, unappropriated, or unreserved" in subsection (a). The 1999 amendment, effective July 1, 1999, inserted "former" before and "of community and regional affairs" after 'commissioner' in subsection (f). The 1994 amendment, effective June 24, 1994, added subsection (h).

Sec. 29.65.070. Selection and conveyance procedure.

(a) If land selected by a municipality is unsurveyed at the time of approval, the director shall survey, or may approve the municipality's survey of, the exterior boundaries of an approved selection without interior subdivision, and shall issue patent in terms of the exterior boundary survey. The cost of the survey shall be borne by the municipality. If land selected by a municipality has been surveyed at the time of its selection, the boundaries shall conform to the public land subdivisions established by the approved survey.

(b) The director may approve municipal selections of land that have been tentatively approved or patented to the state by the federal government but may not issue patent to a municipality until the land has first been patented to the state. After approval of a selection by the director, but before patent to a municipality, the municipality may execute conditional leases and make conditional sales only with the consent of the director. Conditional sales and conditional leases made before July 1, 1978, do not require the consent of the director.

(c) The commissioner of natural resources shall require that each selection be compact in form with its length not exceeding approximately four times its width. The restrictions on form may be waived by the commissioner based on land use, terrain, effect of the form of the selection on access to it and other parcels, and effect of the form of the selection on surveying and management costs to the state and the municipality.

(d) Nothing in this chapter affects a valid existing claim, location, or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way, or other purposes. Nothing in this chapter affects the rights of an owner, claimant, locater, or entryman to the full use and enjoyment of the land so occupied. (§ 17 ch 74 SLA 1985; am § 6 ch 51 SLA 1991)

Effect of amendments. The 1991 amendment, effective June 16, 1991, added subsection (c).

Sec. 29.65.080. Payment for land deficiency.

[Repealed, § 12 ch 42 SLA 1997]

Sec. 29.65.090. Authorization for land exchanges.

The director and a municipality are authorized to exchange land or interests in land when it is in the public interest. Land or interests in land exchanged under this section must be of approximately equal value, including the nonmonetary value of public benefits. Exchange procedures shall comply with applicable law and municipal ordinances. The notice and review provisions of AS 38.05.945 apply to exchanges of land under this section. The provisions of AS 38.50 do not apply to exchanges of land under this section. (§ 17 ch 74 SLA 1985)

Sec. 29.65.100. Public purpose and expansion needs.

(a) Consistent with the best interests of the state, if a municipality does not contain and cannot reasonably acquire sufficient nonfederal land within its boundaries to meet its legitimate needs for public or private settlement or development, it is the policy of the state to select federal land reasonably necessary to meet the needs of the municipality and to make the land selected available to the municipality under AS 38.05.810 or (b) of this section.

(b) The state may contract with a municipality to act as its agent in an auction of state land under applicable statutes. When a municipality acts as the agent of the state in an auction, the municipality may retain from the proceeds of the auction the capital and other expenses that the director determines to be necessary and reasonable.

(c) Nothing in this chapter limits or impairs the authority of the director to transfer land to municipalities, without limit or consideration, for public purposes in accordance with AS 38.05.810. If there is a remaining entitlement of the municipality, land transferred under AS 38.05.810 shall be credited toward fulfillment of the entitlement. (§ 17 ch 74 SLA 1985)

Sec. 29.65.120. Regulations.

The commissioner of natural resources may, after consultation with the Department of Commerce, Community, and Economic Development, adopt regulations in accordance with the AS 44.62 (Administrative Procedure Act) necessary to carry out the purposes of this chapter. (§ 17 ch 74 SLA 1985; am § 7 ch 51 SLA 1991; am § 91 ch 58 SLA 1999)

Effect of amendments. The 1999 amendment, effective July 1, 1999, substituted “community and economic development” for “community and regional affairs” in the first sentence. The 1991 amendment, effective June 16, 1991, inserted "after consultation with the Department of Community and Regional Affairs."

Sec. 29.65.122. Prohibited acquisitions.

A municipality may not acquire subsurface rights to land of the federal government by trading land received as a general grant land entitlement. A municipality may not acquire any interest in land within the Arctic National Wildlife Refuge by trading land with the federal government for land received as a general grant land entitlement. (§ 8 ch 34 SLA 1987)

Sec. 29.65.129. Policy.

Consistent with the best interest of the state, it is the policy of the state to provide a newly formed municipality with a general grant land entitlement that is no less than 10 percent of vacant, unappropriated, unreserved land located within its boundaries. It is the policy of the state to provide for expeditious transfer and patent of land to a municipality in fulfilling its entitlement. (§ 8 ch 51 SLA 1991)

Sec. 29.65.130. Definitions.

In this chapter, unless the context otherwise requires,

(1) "approved selection" means a municipal land selection that has been approved in writing by the director for transfer by patent to a municipality;

(2) "director" means the director of lands, Department of Natural Resources;

(3) "general grant land"

(A) means land patented or tentatively approved to the state from the United States under sec. 6(a) or (b) of the Alaska Statehood Act;

(B) does not include university land;

(4) "mental health land" means land granted under Title II, sec. 202 of P.L. 84-830, as amended before or after July 1, 1978;

(5) "municipal land selection" means a request by a municipality, filed in writing with the director under authority of former AS 29.18.190 and 29.18.200 or under this chapter for vacant, unappropriated, unreserved general grant land within its municipal boundaries in partial fulfillment of its municipal entitlement;

(6) "patent" means a document, issued by the director to a municipality for a previously approved selection, that conveys and quitclaims all the right, title, and interest of the state without reservation or condition except as may be required by law;

(7) "remaining entitlement" means the general grant land entitlement determined in accordance with this chapter, reduced by the total acreage of approved selections, including both patented and unpatented parcels;

(8) "school land" means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other land designated solely for school revenues;

(9) "university land" has the meaning given in AS 38.05.965;

(10) "vacant, unappropriated, unreserved land" means general grant land as defined in (3) of this section, excluding minerals as required by sec. 6(i) of the Alaska Statehood Act, that

(A) has not been set aside by statute for one or more particular uses or purposes;

(B) has not been approved for patent to a municipality under this chapter or former AS 29.18.190 and 29.18.200;

(C) is unclassified or, if classified under AS 38.05.300, is classified for agricultural, grazing, material, public recreation, or settlement purposes, or is classified in accordance with an agreement between a municipality and the state providing for state management of land of the municipality; or

(D) was classified no earlier than September 1, 1983, as resource management and is still classified as resource management under AS 38.05.300. (§ 17 ch 74 SLA 1985; am § 9 ch 34 SLA 1987)

Sec. 29.65.140. Application.

This chapter applies to home rule and general law municipalities. (§ 17 ch 74 SLA 1985)

Chapter 71. General Provisions.

Section

Sec. 29.71.010. No adverse possession.

A municipality may not be divested of title to real property by adverse possession. (§ 18 ch 74 SLA 1985)

Sec. 29.71.020. Dedication of municipal property.

Dedication of streets, rights-of-way, easements or other areas for public use may not be construed to require the municipality to maintain, improve, or provide for municipal services in the area dedicated and the dedication does not impose any liability on the municipality for the condition of the area dedicated. (§ 18 ch 74 SLA 1985)

Sec. 29.71.030. Taxation of municipalities.

A state law or regulation may not assess or tax, or be construed to assess or tax, a municipality unless the law or regulation expressly provides that the municipality is to be assessed or taxed by the particular law or regulation. (§ 18 ch 74 SLA 1985)

Sec. 29.71.040. Procurement preference for state agricultural and fisheries products.

(a) When agricultural products are purchased by a municipality that receives state money, only agricultural products harvested in the state shall be purchased whenever priced no more than seven percent above products harvested outside the state, available, and of like quality compared with agricultural products harvested outside the state.

(b) When fisheries products are purchased by a municipality that receives state money, only fisheries products harvested or processed within the jurisdiction of the state shall be purchased whenever priced no more than seven percent above products harvested or processed outside the jurisdiction of the state, available, and of like quality compared with fisheries products harvested or processed outside the jurisdiction of the state.

(c) A solicitation by a municipality for the purchase of agricultural or fisheries products shall specify the requirement that products harvested in the state shall be used where possible. If a municipality that receives state money purchases agricultural or fisheries products harvested outside the state, the municipal officer responsible for the purchase shall certify in writing the reasons that products harvested in the state were not purchased.

(d) If a contractor fails to comply with this section, the municipality shall withhold payment until the contractor complies. If a municipality fails to comply with this section, the state department responsible for disbursing state money to the municipality shall withhold the money until the municipality complies.

(e) An interested party, as defined in AS 36.30.699, may seek administrative or judicial review of the award of a contract in violation of this section.

(f) Compliance with this section is not required if an exception to this section is mandated for participation in a federal program.

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

(h) In this section,

(1) "agricultural products" includes dairy products, timber and lumber, and products manufactured from timber and lumber;

(2) "state money" includes state reimbursement to municipalities for school or related construction, foundation funding for education, municipal assistance, community assistance, revenue sharing, and state funds for capital projects. (§ 2 ch 64 SLA 1988; am § 12 ch 44 SLA 2016)

Sec. 29.71.050. Procurement preferences for recycled Alaska products.

(a) Alaska recycled products shall be used in municipal procurements when the products are of comparable quality, of equivalent price, and appropriate for the intended use.

(b) Unless the procurement is governed by AS 29.71.040, in the evaluation of a bid or proposal for a procurement by a municipality, if a bid or proposal designates the use of recycled Alaska products for the products identified in the contract specifications, and if the recycled Alaska products meet the contract specifications, the bid or offer shall be decreased by the percentage of preference given to the recycled Alaska products under AS 36.30.332.

(c) The contract specifications for a municipal procurement must include a provision that describes the preference granted under (b) of this section.

(d) If a successful bidder or offeror who receives the preference under (b) of this section fails to use the designated recycled Alaska product for a reason within the control of the successful bidder or offeror, each payment under the contract shall be reduced by the percentage reduction scheduled under AS 36.30.330(a) for the classification the product has received under AS 36.30.332.

(e) In the evaluation of a bid or proposal for a municipal procurement, a person is not a responsible bidder or offeror if, during two contracts for which the person received a preference under (b) of this section during the preceding three years, the person failed to use the recycled Alaska product designated in the person's bids or proposals for the contracts for reasons within the control of the bidder or offeror.

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

(g) In this section, "recycled Alaska product" has the meaning given in AS 36.30.338. (§ 3 ch 63 SLA 1988)

Sec. 29.71.060. Copyrights in computer software.

A municipality may hold the copyright for software created by the municipality or developed by a contractor for the municipality, and may enforce its rights to protect the copyright. (§ 13 ch 200 SLA 1990)

Sec. 29.71.800. Definitions.

In this title, unless otherwise provided or the context otherwise requires,

(1) "areawide" means throughout a borough, both inside and outside all cities in the borough;

(2) "assembly" means the governing body of a borough;

(3) "borough" means a general law borough or a home rule borough;

(4) "city" means a general law first or second class city or a home rule city;

(5) "commissioner" means the commissioner of community and economic development;

(6) "consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality;

(7) "council" means the governing body of a city;

(8) "department" means the Department of Commerce, Community, and Economic Development;

(9) "election" means a regular or special municipal election and does not include a state election;

(10) "governing body" means the legislative body of a municipality that is the assembly of a borough or the council of a city;

(11) "majority" means a simple majority;

(12) "merger" means dissolution of a municipality and its absorption by another municipality;

(13) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(14) "non-areawide" means throughout the area of a borough outside all cities in the borough;

(15) "owner" or "record owner" means the owner of record or purchaser of record as shown in the records of the district recorder;

(16) "personal property" means tangible property other than real property, such as merchandise, stock in trade, machinery, equipment, furniture, fixtures, vehicles, boats, and aircraft;

(17) "property" means real and personal property;

(18) "published" means appearing at least once in a newspaper of general circulation distributed in the municipality or, if there is no newspaper of general circulation distributed in the municipality, posting in three public places for at least five days;

(19) "real property" means land and improvements, all possessory rights and privileges appurtenant to the property, and includes personal property affixed to the land or improvements;

(20) "regular election" means the municipal election held on the first Tuesday of October annually, or on a different date or interval of years provided by ordinance or charter;

(21) "special election" means a municipal election and does not include a regular election or a state election;

(22) "street" includes streets, avenues, boulevards, roads, lanes, alleys, and other ways;

(23) "subdivision"

(A) means the division of a parcel of land into two or more lots or other divisions for the purpose of sale or building development, includes resubdivision, and relates to the process of subdividing or to the land subdivided;

(B) does not include cadastral plats, cadastral control plats, open-to-entry plats, or remote parcel plats created by or on behalf of the state regardless of whether these plats include easements or other public dedications;

(24) "unified municipality" means a municipality unified in accordance with AS 29.06.190 - 29.06.410;

(25) "voter" means a person who is qualified to vote under AS 29.26.050. (§ 18 ch 74 SLA 1985; am § 20 ch 80 SLA 1989; am § 91 ch 58 SLA 1999)

Effect of amendments. The 1999 amendment, effective July 1, 1999, substituted “community and economic development” for “community and regional affairs” in the paragraphs (5) and (8). The 1989 amendment, effective August 30, 1989, rewrote paragraph (25).

Subject Index

➔ A ←

Assessment and Taxation

Assets

Attorneys

Audits

➔ B ←

Boundaries

Breast-feeding

Budget

Bulk Fuel Bridge Loan Program

➔ C ←

Capital Program

Charter

Charter Commission

Chartered Municipalities

Cities

Emergencies

Eminent Domain

Enactments

Entitlements

Extraterritorial Jurisdiction

➔ **F** ➔

Facilities

Felony Convictions

First Class Boroughs

Health and Sanitation

Hearings

Home Rule Municipalities

Human Services Community Match Program

➔ I ➔

Improvements

Incorporation

Indebtedness

Merit System

Misconduct

Mobile Homes

Mobile Telecommunications

➔ N ➔

911 System

Name

Notes

➔ **P** ←

Penalties

Permits

Petitions

Planning

Platting

Police Protection Services

Port Authorities

Powers

Preferences and Priorities

Presentation of Initiative 29.26.110 - .170

Presentation of Referendum 29.26.180

Priority Revenue Sharing for Municipal Services

Property

Prisoners

Publication

Public Utilities

➔ Q ←

Quorum

➔ R ←

Radio antennas

Rates and Charges

Reapportionment

Recall

Reclassification

Recording

Redemption

Referendum

Regulations

Reports

Unmanned Aerial Aircraft

Unorganized Boroughs

United States

Use Taxes

Utilities

➔ V ←

Vacancies

➔ W ←

Waivers

Water Pollution Control

➔ Z ←

Zoning

This publication was released by the Alaska Department of Commerce, Community, and Economic Development. It was produced at a cost of $11.34 per copy to provide technical assistance to Alaskan municipal governments. It was printed in Anchorage, Alaska. This information is provided as required by AS 44.99.210.