

## Chapter 25. Municipal Enactments.

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### 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. 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 offense.

(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. (§ 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)

**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).

**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.