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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Sara Chambers, Department of Commerce, Community and Economic Development

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: December 6, 2023

RE: Filed Permanent Regulations: Alaska Local Boundary Commission

Department of Commerce, Community, and Economic Development - Division of
Community and Regional Affairs regulations re: Local Boundary Commission (3 AAC
110.371, .420, .550)

Attorney General File:	2023200311
Regulation Filed:	12/6/2023
Effective Date:	1/5/2024
Print:	249, April 2024

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis
Jedediah Smith, Local Government Specialist



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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December 6, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *3 AAC 110.371, .420, .440, .550: DCCED Comm. & Regional Affairs -
Local Boundary Commission*

Our file: 2023200311

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Alaska Local Boundary Commission against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Alaska Local Boundary Commission after the close of the public comment period.

The regulations concern the reclassification of first class cities with less than 400 residents. Last legislative session, the Alaska Legislature passed HB 69, which provided a streamlined procedure for reclassification of first class cities with less than 400 residents as second class cities. These regulations implement HB 69 by exempting such reclassification requests from the Local Boundary Commission's normal petition procedure and creating a new truncated process for reclassification.

The October 15, 2023 public notice and the December 4, 2023 order certifying changes both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.12.06
11:29:32 -09'00'

RCP/PWP

CC w/enclosure: Jedediah Smith, Regulations Contact
Department of Commerce, Community and Economic Development

Eugene F. Hickey, Assistant Attorney General
Department of Law

Parker W. Patterson, Assistant Attorney General
Department of Law

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF THE LOCAL BOUNDARY COMMISSION

The attached 3 pages of regulations, dealing with the reclassification of certain first class cities, are certified to be a correct copy of the regulation changes that the Local Boundary Commission adopted at its November 29, 2023 meeting, under the authority of AS 44.33.812 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Local Boundary Commission paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 12/4/2023

DocuSigned by:

Jedediah Smith

Jedediah R. Smith, Local Government Specialist IV
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FILING CERTIFICATION

April Simpson for

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

December 6, 2023 at 2:21 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson
for Lieutenant Governor *Nancy Dahlstrom*

Effective: January 5, 2024.

Register: 249, April 2024.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



Nancy Dahlstrom

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

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Article 12 of 3 AAC 110 is amended by adding a new section to read:

3 AAC 110.371 Reclassification of first class cities with a population less than 400.

The provisions of 3 AAC 110.340 - 3 AAC 110.370 do not apply to a reclassification request submitted under AS 29.04.045. (Eff. 1 / 5 / 2024, Register 249)

Authority: Art. X, sec. 7, Ak Const. AS 29.04.045 AS 44.33.812

3 AAC 110.400 is amended to read:

3 AAC 110.400. Applicability. Except as provided in 3 AAC 110.590 and 3 AAC 110.710, 3 AAC 110.410 - 3 AAC 110.700 apply to petitions for city reclassification under AS 29.04, for incorporation under AS 29.05 or art. X, sec 12, Constitution of the State of Alaska, and for alterations to municipalities under AS 29.06 or art. X, sec 12, Constitution of the State of Alaska. However, only those sections of 3 AAC 110.410 - 3 AAC 110.700 with which compliance is required under 3 AAC 110.590 apply to an annexation petition filed under a local action method provided for in AS 29.06.040(c)(3) or (4). (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185, am 1 / 5 / 2024, Register 249)

Authority: Art. X, sec. 1, Ak Const. AS 29.04.040 AS 29.06.100
Art. X, sec. 3, Ak Const. AS 29.05.060 AS 29.06.450
Art. X, sec. 7, Ak Const. AS 29.06.040 AS 29.06.460
Art. X, sec. 12, Ak Const AS 29.06.090 AS 44.33.812

Article 13 of 3 AAC 110 is amended by adding a new section to read:

3 AAC 110.710 Procedure for reclassification of first class cities with less than 400 residents. (a) A city council requesting reclassification under AS 29.04.045 shall file a written

request with the commission including the following:

(1) the name of the first class city seeking reclassification;

(2) the city council's mailing address;

(3) a certified copy of the resolution, meeting minutes or other official record of the city council action requesting reclassification;

(4) whether the city will exercise powers under AS 29.35.260(c) after reclassification;

(5) a true and correct copy of the most recent decennial U.S. census records showing that the city has a population less than 400; and

(6) an affidavit of the person filing the written request that, to the best of the person's knowledge, information, and belief, formed after reasonable inquiry, the information in the request is true and accurate.

(b) Within 20 days after receiving a request under (a), the commission will convene a decisional meeting in compliance with 3 AAC 110.680 to examine the written request and to determine whether the city is eligible for reclassification as a second class city under AS 29.04.045. The commission will only determine that a city is ineligible if

(1) the written request does not meet the requirements of (a) of this section; or

(2) the city council previously rejected reclassification under AS 29.04.045(c) within the twelve months preceding receipt of the request.

(c) Within 30 days after receipt of the written request, the commission will issue a notice to the requesting city council of its determination. If the commission determines that the city is ineligible for reclassification, the notice will state the reason for ineligibility. The notice will be mailed to the city council. The department shall execute and file an affidavit of mailing as part of

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the public record of the proceedings. The notice constitutes a final decision of the commission.

(d) The city council of a first class city determined ineligible based on failure to meet the requirements of (a) of this section may submit a new written request at any time. The city council of a first class city determined to be ineligible under AS 29.04.045(c) may resubmit a petition after twelve months have elapsed since the city council's rejection of reclassification.

(e) Except as otherwise provided in this section, the provisions of 3 AAC 110.400 - 3 AAC 110.700 do not apply to a written request under AS 29.04.045. (Eff. 1 / 5 / 2024, Register 249)

Authority: Art. X, sec. 7, Ak Const. AS 29.04.045 AS 44.33.812