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April 10, 2007

Mr. Darroll Hargraves, Chair
Local Boundary Commission
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510

Dear Mr. Hargraves,

Subject: Comments re Proposed Changes to LBC Regulations

The Local Boundary Commission posted public notice of its intent to make certain revisions to provisions of Title 3 of the Alaska Administrative Code (hereinafter "Regulations") that relate to municipal boundary changes. That notice invited public comment on or before April 11, 2007, regarding those changes. The purpose of this letter is to respond to LBC's invitation by offering written comments relating to the proposed revisions for the Commission's consideration.

General Comments

Need to Revise Public Review Process

Local Boundary Commission's process for publishing and inviting public review and comment regarding proposed changes to its Regulations lacks transparency and accessibility. This seriously limits its usefulness to the Commission.

The published version of LBC's draft revisions to its Regulations uses standard and commonly understood conventions to clearly display the proposed additions and deletions. However, the LBC's public review documents do not provide any useful information or explanation regarding the need for or intent of the proposed changes. Some changes may be simple "housekeeping;" others may carry significant policy implications. Lacking any explanation of the need for or purpose of the proposed changes, the public cannot offer any useful comment. This is a disservice to all concerned; the public and LBC are both short-changed by this approach.

For the LBC to receive thoughtful, considered, and useful input on its proposals to create new or to amend existing regulations, it must inform the public about the need for, the purpose of, or the intended outcome of the proposed changes to Regulation. Toward that end, the LBC should adopt more transparent procedures for presenting proposed changes to Regulations that include reasonably detailed explanations of the need for, the purpose of, or the intent of the proposed changes.

Proposed Changes Impose Unnecessary and Inappropriate Limitations on Commission Discretion

Numerous provisions of the LBC's regulations appear to limit Commission discretion by using "must," "shall," or similarly mandatory language. The proposed changes will strip most remaining "rebuttable presumption" language from the Regulations, making that situation worse. This seems both inappropriate and unnecessary. Indeed, I believe this is a serious error.

The Alaska Constitution, Statutes and Administrative Code cannot offer clear-cut answers to every situation. To ask that is to ask the impossible. That's why we have courts and why judges have to think; that is why the Constitution provided for a Local Boundary Commission. The Alaska Constitution, Statutes and Administrative Code offer a framework within which agencies, boards and commissions can act.

The Constitutional Convention and the Courts have stressed the need to have flexible standards and requirements. To honor the spirit of the Alaska Constitution and to be useful over time, the Commission must retain all possible latitude to evaluate a specific petition in light of then-present circumstances, the applicable laws and standards, and then to decide upon that petition accordingly.

As the LBC's Regulations become increasingly specific and mandatory, they become increasingly pro forma, mere checklists. Municipal boundary questions involve much more than simply going through checklists artificially imposed by Regulation. Such questions involve the complex act of weighing and balancing the facts and circumstances of a specific petition presented at a particular moment in time in light of standards, laws and regulations. The Commission is charged with the

responsibility of choosing among possible alternatives and actions whose outcomes are unknowable but nonetheless deeply significant to the community in question and to the State. A regulation drafted today should not restrict the ability of the Commission to decide those complex questions tomorrow in ways that are appropriate to the time and circumstances prevailing when the petitions are actually filed and considered.

As proposed, LBC's regulations will unnecessarily and inappropriately restrict the Commission's latitude to decide issues based upon the merits of a petition, and circumstances and facts at play in any particular case. I urge the Commission to review all proposed changes to its Regulations carefully to ensure that such changes do not diminish the Commission's ability to fulfill its obligation to exercise judgment on municipal boundary matters.

Section-specific Comments

For the Commission's convenience, I generally have organized the balance of my comments by referring to the pages and sections of the proposed Regulations. However, I did not restrict my comments to those provisions, which the LBC proposes to change; references cited within those sections occasionally led to other sections that I believe should also be reviewed for revision. I have attempted to cluster my comments whenever possible to avoid unnecessary repetition.

Page	Section Reference	Comment
1, 2, 12	3 AAC 110.010(b) 3 AAC 110.010(c) 3 AAC 110.060(a)	The referenced sections are three examples of a problem appearing regularly in the Regulations. These sections of the regulations imply that a certain requirement can be found in a referenced section of Alaska Statutes when in fact it cannot. For example, 3 AAC 110.010(b) states: "<u>In accordance with AS 29.05.021(a)</u>, and to comport with the minimum-number-of-local-

Page	Section Reference	Comment
		> government-units constraint in art. X, sec. 1, Constitution of the State of Alaska, a community in the unorganized borough may not incorporate as a city if <u>essential</u> municipal services can be provided <u>more efficiently or more effectively</u> by annexation to an existing city." (Emphasis added.) The introductory phrase "in accordance with" implies that the Statutes require that city services be "essential," and that they be delivered to a certain standard, specifically "more efficiently or more effectively" than they might be if the proposed area were annexed to an existing city. This is not the case; AS 29.05.021(a) simply requires that > "A community in an 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." The statute does not include qualifiers such as "essential," "more efficiently," or "more effectively;" the related Regulations should not imply that this requirement exists in Statute. Assessments as to whether the proposed services are "essential" or whether the proposed services "can be provided "more efficiently" or "more effectively" by annexation to an existing city" may be reasonable factors for the Commission to consider as it reviews incorporation petitions. If the Commission desires to include such factors in its

Page	Section Reference	Comment
		Regulations, it should state them in a manner that does not inaccurately imply that the factors are literally required by statute. For example, the Commission could consider revising 3 AAC 110.010(b) as follows: > In accordance with AS 29.05.021(a), a community in an 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. In making that determination, the Commission may consider whether the municipal services are essential for the proposed city and whether those services could be more efficiently or more effectively provided by annexation to an existing city. The other referenced provisions of LBC's Regulations, [3 AAC 110.010(c) and 3 AAC 110.060(a)] would benefit from similar treatment.
5	3 AAC 110.040(a)	The referenced section states: > "In accordance with **<u>AS 29.05.011(a)(2)</u>** (Emphasis in original) [AS 29.05.011] the boundaries of a proposed city must include <u>all land and water necessary</u> to provide the <u>full development</u> of essential municipal [CITY] services on an <u>efficient, cost effective level</u>." *(Emphasis added.)* Again, this section of the Regulations incorrectly

Page	Section Reference	Comment
		implies that a certain requirement can be found in a referenced section of Alaska Statutes. In fact, AS 29.05.011(a)(2) does not require "full development" or that development occur on a "cost effective level." Rather, it simply states that if "the boundaries of the proposed city include all areas necessary to provide municipals services on an efficient scale," that "community may incorporate as a first class or home rule city." Assessments as to whether the proposed services are adequately or appropriately "developed," or whether the proposed services can be provided "on an efficient, cost effective level" may be reasonable factors for the Commission to consider as it reviews incorporation petitions. If the Commission desires to include such factors in its regulations, it should state them in a manner that does not inaccurately imply that the factors are literally required by statute. Further, "full development" of municipal services is undefined. What represents "full development?" Regardless, "full development," however defined, seems to be an unreasonably high standard or requirement when applied to the incorporation of a new city. A municipality may choose, for any number of legitimate reasons, to develop services to a level other than "full." In general, the level to which a municipality provides its services is properly a matter for the community to decide through its elected officials; it is not appropriate for the LBC to

Page	Section Reference	Comment
		dictate "full development." Finally, the LBC should be concerned with more than just the development of such services. The LBC should also be concerned with the ability of the proposed city to operate and maintain those services over time. The Regulations should be revised to allow the Commission to recognize these considerations, and to exercise its discretion in making such determinations. For example, the Commission could consider revising 3 AAC 110.040(a) as follows: In accordance with AS 29.05.011(a)(2), if the boundaries of the proposed city include all areas necessary to provide municipals services on an efficient scale, that community may incorporate as a first class or home rule city. In making that determination, the Commission may consider whether the proposed services are reasonable for the community, whether the community can adequately or appropriately develop the proposed services, whether the community can provide the proposed services on an efficient, cost effective level, and whether the community is likely to be able to operate and maintain the proposed services over the long term.

Page	Section Reference	Comment
5	3 AAC 110.040(b)	The referenced section provides that the "boundaries of the proposed city must **be on a scale suitable for city government**." [Emphasis in original.] What is a "scale suitable for city government?" How or where is that concept defined? What is the purpose of adding the phrase "on a scale suitable for city government" to Regulations? It is not clear what that language adds to the balance of that section of the Regulation. Unless this requirement can be expressed more clearly or linked to a specific requirement of the Constitution or the Statute, it should be stricken from the proposed revisions to LBC's regulations.
5, 22	3 AAC 110.040(c) 3 AAC 110.130(d)	LBC proposes to add the phrase "and are otherwise suitable for city government" to the referenced sections. If petitions under review meet the requirements already expressed in those sections, namely that the "boundaries are justified by the application of the standards in 3 AAC 110.005 – 3 AAC 110.042," what meaning can be ascribed to a requirement that the boundaries are also "otherwise suitable for city government?" Who or what determines when a boundary is "otherwise suitable?" How does such vague language inform or guide communities interested in preparing a successful petition? It is not clear what that language adds to the

Page	Section Reference	Comment
		balance of that section of the Regulation. Unless this requirement can be expressed more clearly or linked to a specific requirement of the Constitution or the Statute, it should be stricken from the proposed revisions to LBC's regulations.
8, 12, 26	3 AAC 110.045(a) 3 AAC 110.060(a) 3 AAC 110.160(a)	The referenced sections introduce the concept of "a regional scale suitable for borough government." What is a "regional scale suitable for borough government?" How or where is that concept defined? What is the purpose of adding the phrase referring to "a regional scale suitable for borough government" to Regulations? How does such vague language inform or guide communities interested in preparing a successful petition? It is not clear what that language adds to the balance of that section of the Regulation. Unless this requirement can be expressed more clearly or linked to a specific requirement of the Constitution or the Statute, it should be stricken from the proposed revisions to LBC's regulations.
8	3 AAC 110.045(b)	The proposed revision to 3 AAC 110.045(b) is one example of the apparent shift from discretionary language to mandatory language in the regulations. (See also discussion under "Proposed Changes Impose Unnecessary and Inappropriate Limitations on Commission Discretion," page 1 hereof.) As drafted, the new language would require that a proposed new borough must include "at least two

Page	Section Reference	Comment
		communities." It is not clear why it is necessary or important to add this requirement. The Regulations, as currently written, seem to provide the appropriate legal framework within which the Commission should be able to exercise its judgment on any future petition in light of the particular circumstances extant at that time. Unless fully and clearly justified, the Commission should retain the existing language of 3 AAC 110.045(b).
13, 84	3 AAC 110.060(b)(1) 3 AAC 110.442	The proposed changes to the referenced sections impose a "conformance to model borough boundaries" standard. This seems to be wholly inappropriate, as it will force communities to address irresolvable barriers as they consider petitioning the LBC to form or modify boroughs. The model borough boundaries are an academic exercise. They are strictly hypothetical. Community response to these "models," which has been notably cool to date, should be instructive. The present proposal to include model borough boundaries in Regulations appears to grant a hypothetical notion of how to divide the State into boroughs an undeservedly superior standing relative to a community's petition to form a borough. The present LBC proposal raises many questions, beginning with the methods used to develop model boundaries. Does LBC employ the same procedures and rigorous analysis in developing its

Page	Section Reference	Comment
		model borough boundaries as it does in assessing a petition to form a borough? The available reports on LBC's model borough boundaries do not lead one to an affirmative answer to that question. If not, how can the LBC properly and fairly weigh hypothetical model borough boundaries against the boundaries proposed in a petition to actually form a real-world borough? However the ultimate questions surrounding this proposal arise when one considers the fundamental lack of fairness it imposes; because, if adopted, it will force communities to address irresolvable barriers as they consider petitioning the LBC to form or modify boroughs. Let us assume for a moment that the LBC adopts this ill-conceived Regulation. Let us assume further that residents of an area developed a petition that otherwise fully meets the standards set out in the Constitution, Alaska Statutes, and Regulations for establishing a borough. Under the proposed Regulations, those residents then would be required to prove also that a hypothetical model borough would not be better than one they propose. How would those citizens demonstrate to LBC that their proposal, based upon real world facts and figures and developed around the hopes and dreams of the affected citizens, would or could be better than a hypothetical borough crafted in a State agency office? Or worse: How could they respond to a LBC

Page	Section Reference	Comment
		attempt to impose those hypothetical model borough boundaries upon the petition? The LBC's proposal to enshrine model borough boundaries in Regulation appears to be a backdoor means to create pre-defined boroughs crafted by LBC staff irrespective of the will of the people of the state. The Model Borough Boundaries have been on the scene since at least the early 1990s. Community response to date has been cool. Perhaps they are not relevant. The Commission should strike this provision from its proposals to revise the Regulations.
13	3 AAC 110.060(b)(4)	The referenced section proposes to insert a new factor, which the Commission may consider when determining whether the boundaries of the proposed borough are appropriate. Specifically, the Commission "may consider" "whether the proposed borough will embrace a maximum area and population with common interests." In this regard, the Alaska Constitution provides at Article X, Section 3, that "Each borough shall embrace an area and population with common interests to the maximum degree possible." Why does LBC not use the actual language of the Alaska Constitution at Article X, Section 3? What is LBC's purpose, intent or meaning in proposing the substituted language? This section appears to be an effort by LBC staff to rewrite the Constitution.

Page	Section Reference	Comment
		The Commission should carefully explore the constitutional issues raised by this proposed Regulation.
14	3 AAC 110.060(c)	The referenced section includes the following language: "Must…. Unless the commission determines …." Why say this? Why not just list the factors that should be considered? The Regulations already state that the Commission "must consider." Why is it now necessary to say the same thing twice? What is the meaning, intent or implication of this repetition?
21	3 AAC 110.110(c)	The referenced section introduces the concept of "a scale suitable for city government." What is a "scale suitable for city government?" How or where is that concept defined? What is the purpose of adding the phrase "on a scale suitable for city government" to the Commission's Regulations? How or where is this defined? What is the meaning or purpose of this language? How does such vague language inform or guide communities interested in preparing a successful petition? It is not clear what that language adds to the balance of that section of the Regulation. Unless this requirement can be expressed more clearly or linked to a specific requirement of the Constitution or the Statute, it should be stricken from the proposed revisions to LBC's regulations.

Page	Section Reference	Comment
24, 34	3 AAC 110.140(8) 3 AAC 110.140(9) 3 AAC 110.200(9) 3 AAC 110.200(10)	LBC apparently desires to add new language to its Regulations requiring, in addition to previous requirements in said sections, that proposals for boundary changes are also "in the best interests of the state." What is the need for or meaning of the proposed additions? It seems obvious that a petition that "meets the standards for incorporation of cities as set out in the Constitution of the State of Alaska, AS 29.05 and 3 AAC 110.005 – 3 AAC 110.042" would clearly be in the "best interests of the state." If this is not true, LBC should articulate specifically what additional standard must be met. As drafted, the addition of the phrase "and are in the best interests of the state" does not add meaning to the regulation that might be useful to future petitioners or the Commission. It is not clear what that language adds to the balance of that section of the Regulation. Unless this requirement can be expressed more clearly or linked to a specific requirement of the Constitution or the Statute, it should be stricken from the proposed revisions to LBC's regulations.
27	3 AAC 110.160(c)	The referenced section displays a curious range of examples that the Commission must consider whether "communication and exchange" among "all communities within the proposed borough" are sufficient. The proposed regulation includes very

Page	Section Reference	Comment
		specific and easily quantified standards, e.g., "at least weekly," "a chartered flight service based in the proposed borough." It also includes the extremely vague standard of whether "sufficient electronic media communications" exists. "At least weekly" can be counted and verified; "sufficient … communications" seems far too vague, especially when standing in stark contrast to a clear standard such as"at least weekly." The LBC should establish a reasonably quantifiable basis for "electronic media communications" that offers a useful working definition of "sufficient."
28, 29	3 AAC 110.180 3 AAC 110.190(a)	The proposed amendment calls for the petition to establish that the proposed expansion will offer an economy that includes "the human and financial resources necessary to provide the <u>full development</u> of <u>essential</u> municipal services." *(Emphasis added.)* This is troublesome. "The <u>full development</u> of essential municipal services" seems to be an unnecessarily high, perhaps impossible, standard to achieve. What provision of law requires "full development?" Depending upon the definition of "full," "full development" may not be appropriate or necessary for any local government, including those coming before the Commission on a boundary matter. Finally, by introducing the concept of "full development," the Regulations detract from the

Page	Section Reference	Comment
		much more important issue of whether the proposed government unit will be able to support the long-term operation and maintenance of those services deemed necessary by the community. Further, "essential services" are not defined. How do "essential services" differ, if at all, from "mandatory areawide powers" specified in Title 29? If "essential services" attempts to include the "additional powers" allowed boroughs under Title 29, does the Commission begin to encroach upon the Constitution's intent that Alaska will "provide for maximum local self government" and that "all local government powers shall be vested in boroughs and cities?" (Article X, Section 1 and Section 2) Assessments as to whether the proposed services are appropriate to the community petitioning the LBC, and whether those services will be adequately developed, operated and maintained over time may be reasonable factors for the Commission to consider as it reviews petitions. The Regulations should be revised to more clearly and appropriately reflect those concerns.
35	3 AAC 110.210(6)	"Voter" appears to be a typographic error; context suggests the correct word probably should be "votes." If so, this section should be changed read: "Approval by a majority of the votes on the question cast by the voters within the annexing borough."

Page	Section Reference	Comment
36	3 AAC 110.220(3)	The proposed revision to Regulation appears to replace language that has clear meaning – "meets the standards for incorporation" – with language that is vague – "is in the best interests of the state." What is the purpose, intent or meaning of this substitution?
37, 41, 44, 49, 58, 68	3 AAC 110.225(a) 3 AAC 110.245(a) 3 AAC 110.260(a) 3 AAC 110.270(a) 3 AAC 110.300(a) 3 AAC 110.350(a)	These sections of the Regulations, as drafted, imply a condition not actually provided in the referenced section of Alaska Statutes. AS 29.06.130 does not impose the "best interests of the state" standard as implied by these sections of the regulations. AS 29.06.130(a) simply states "If the Local Boundary Commission determines that the proposed municipality fails to meet the standards for incorporation, it shall reject the merger or consolidation petition. If the commission determines that the proposed municipality meets these standards, it may accept the petition or amend and accept the petition. Assessments as to whether the petition before the Commission is in the "best interests of the state" may be a reasonable point of deliberation for the Commission. However, AS 29.06.130 is not the apparent basis for that review. If the Commission desires to include this consideration in its Regulations, it revise this section accordingly.

Page	Section Reference	Comment
49	3 AAC 110.267	The referenced section states "In accordance with AS 29.06.040(a), the commission may approve a proposal for detachment from a borough only if the commission determines that the proposal …" *(Emphasis added.)* AS 29.06.040(a), does not impose such conditions. AS 29.06.040(a) actually states: "The Local Boundary Commission may consider any proposed municipal boundary change. It may reject the proposed change, accept the proposed change, or amend and accept the proposal." Perhaps rewriting 3 AAC 110.267 to read as follows would address that problem: "As provided for in AS 29.06.040(a), the commission may consider any proposed municipal boundary change. It may reject the proposed change, accept the proposed change, or amend and accept the proposal. In making its determination on a proposal for detachment from a borough, the commission may consider the following factors …"
77	3 AAC 110.410(e)	Are the individuals, entities or groups identified under subsection (e) defined somewhere as a "person?" More to the point, is the first sentence of 3 AAC 110.410(e) even necessary to the meaning of the section? It seems problematic especially with regard to subsections (8), (9) and (10) if "person" is

Page	Section Reference	Comment
		defined as provided under 3 AAC 110.990. Deleting the first sentence may be a simple way to resolve this concern.
122, 144	3 AAC 110.570(a) 3 AAC 110.815(b)	The provision appears to make executive sessions the standard practice for the Commission's decisional meetings. This, in my judgment, is unconsciousable. The proposed change to LBC's regulations flies in the face of important state policy regarding State and local government agencies' conduct of the people's business. Specifically, AS 44.62.312(a), which clearly establishes and articulates Alaska's policy regarding meetings, states: It *"is the policy of the state that* *(1) the governmental units mentioned in AS 44.62.310(a) exist to aid in the conduct of the people's business;* *(2) it is the <u>intent of the law that actions of those units be taken openly and that their deliberations be conducted openly</u>;* *(3) the people of this state do not yield their sovereignty to the agencies that serve them;* *(4<u>) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know</u>;* *(5) <u>the people's right to remain informed shall be protected</u> so that they may retain*

Page	Section Reference	Comment
		control over the instruments they have created; …" (Emphasis added.) The proposed revisions to LBC's Regulations suggest that AS 44.62.312(d) allows LBC to conduct its decisional meetings in executive session. Even if that exemption exists in law, the LBC is obligated to articulate how the proposed change squares with the limitations on exemptions imposed by AS 44.62.312(b). That section explicitly states that "AS 44.62.310(c) and (d) <u>shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions</u>." *(Emphasis added.)* I cannot imagine any aspect of the process for making decisions process that would or could justify the proposed change to Regulation. "Absent a specific and persuasive showing to the contrary" applied strictly on a case-by-case basis, the LBC should conduct its decisional meetings in sessions open to the public. Making use of executive sessions for all decisional meetings would be repugnant and an abuse of LBC's authority. I urge the Commission to reject this proposal.
123	3 AAC 110.570(b)	The proposed revision allows "a commissioner who did not attend the public hearing but has read the written briefs, exhibits and comments, has heard a recording of the testimony and comments form the

Page	Section Reference	Comment
		public hearing, and has heard or read a summary of the results of any inspection by other members of the commission regarding physical conditions involved may participate in making a decision on the proposed change under consideration." While appearing reasonable at first blush, the proposed revision contains serious conceptual flaws. I recommend that the Commission consider eliminating the provision, because it appears to have the effect of making it too easy for Commissioners to be absent from meetings. If the Commission determines that such a provision is necessary, it must at least make significant modifications to the proposal before adopting it. The Commissioners have an obligation, under the State Constitution, to attend to the business of the LBC. Public hearings and other official meetings are an integral part of those obligations. The public is not served properly when Commissioners do not attend meetings. Commissioner's absence from public hearings, especially those that form the basis for decisions on petitions before the Commission, should be the exception, not the rule. City councils and borough assemblies commonly require members who miss more than a defined number of meetings, without excused absence, forfeit their seats. The LBC should be bound by similar requirements and procedures If the Commission desires to include provisions

Page	Section Reference	Comment
		relating to its members' absences, the Commission should include the following additional provisions: • A provision stating the obligation of Commissioners to attend the official meetings of the Commission; • A provision requiring Commissioners to request, in advance, excused absences when their personal or professional circumstances require; • A provision requiring that such requests be made during a meeting prior to the intended absence, whenever possible, to ensure that the request and its justification becomes part of the official record of the proceedings; • A provision requiring that when advanced notice of an absence is not possible, Commissioners will make requests in writing to the Chair, who will grant or deny such request, again in writing to ensure that such requests become part of LBC's official records; • A requirement that a "commissioner who did not attend the public hearing," but who desires to participate in the related decisional meeting(s), declare, as part of the public record, that the commissioner "has read the written briefs, exhibits and comments has heard a recording of the testimony and comments form the public hearing, and has

Page	Section Reference	Comment
		heard or read a summary of the results of any inspection by other members of the commission regarding physical conditions involved may participate in making a decision on the proposed change under consideration." Such requirements seem appropriate and the minimum necessary to ensure and document reasonable public process in LBC's decision-making.
155	3 AAC 110.930(a)	As presently written, this section states "A borough is a regional local government* ... as defined in 3 AAC 110.990(37)" *(Emphasis added. Also see note below.)* This appears to be an incorrect reference and is also somewhat misleading to the public reviewer. I believe it is incorrect because subsection (37) refers to cities, not boroughs. Subsection (33) refers to boroughs. Therefore, the Commission should amend this section to reflect the correct subsection. I also believe this section is unfortunately misleading because, as drafted, it does not identify 3 AAC 110.990(37) as new language, which LBC is proposing in the subject revisions. In fact, the public review draft of the proposed revisions to LBC's Regulations shows 3 AAC 110.990(37), and

Page	Section Reference	Comment
		subsection (33), as an entirely new subsection. [**Note**: The phrase "regional local government" is especially troubling when one considers the implications of new language proposed for 3 AAC 110.990(33). See discussion immediately following.]
172	3 AAC 110.990(33)	This section states: "'region' means a relatively large area of geographical lands and submerged lands that generally includes multiple communities, all or most of which share similar attributes with respect to population; natural geography; social, cultural, and economic activities; communications and transportation; and other factors. Examples of regions include regional attendance areas, state house election districts, organized boroughs, and currently effective model boroughs;" *(Emphasis added.)* This definition is an entirely new addition to the Regulations. The provision conveys an uneasy sense of last minute, include-everything-just-in-case, lets-hope-no-one-reads-the-fine-print drafting. It is a very troubling proposal. For example, the provision begins with the introduction of the strange concept of "geographical lands." Since "geographical" is an adjective meaning "of or relating to the science of geography," this phrase seems nonsensical. What are "geographical

Page	Section Reference	Comment
		lands?” Then, following a rather extensive list of factors to describe a “region,” the proposed provision adds the undefined phrase “other factors.” This is clearly a kitchen sink proposal. The drafters do not even suggest that the “other factors” should be similar in any way to the preceding list. Rather, any “other factors” might apply. How does such vague language, evidence only of sloppy or lazy drafting, inform or guide communities interested in preparing a successful petition? The addition of undefined or otherwise limited “other factors” is wrong and should be stricken from the Regulations. The subject provision includes examples of “region” that are extremely troubling. Except for “organized boroughs” none of the listed examples are required to meet the standards covered by the Regulations.” At least one current state house district (District 5) stands as a mockery to the notion of areas “which share similar attributes with respect to population; natural geography; social, cultural, and economic activities; communications and transportation,” notions envisioned and articulated in the Constitution and Statute, and properly applied to the formation of local government units in Alaska. Why are those examples relevant when considering formation of a borough? Including such a list of examples is wrongful; the Commission should strike the list from the proposed section.

Page	Section Reference	Comment
		The proposed definition includes the phrase "multiple communities." This too is wrong. This provision appears to be an attempt to provide a back door for LBC to impose a "multiple community" standard upon the formation of boroughs. (See also discussion regarding 3 AAC 110.045(b) at page 9 hereof.) This is inappropriate; the Commission should strike the troublesome phrase from the proposed Regulations. Overall, the definition of "region" as proposed for 3 AAC 110.990(33) seems to be an inappropriate attempt to include factors in the "Definitions," which are already and more properly provided elsewhere in Statute and Regulation. Repeating them in the "Definitions" section seems to be a clear attempt by LBC to get two bites out of the regulatory apple. The Commission should strike this entire definition from the proposed revisions.

Thank you for your consideration.

Sincerely,

James A. Van Altvorst

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