

Chapter 1 - Background

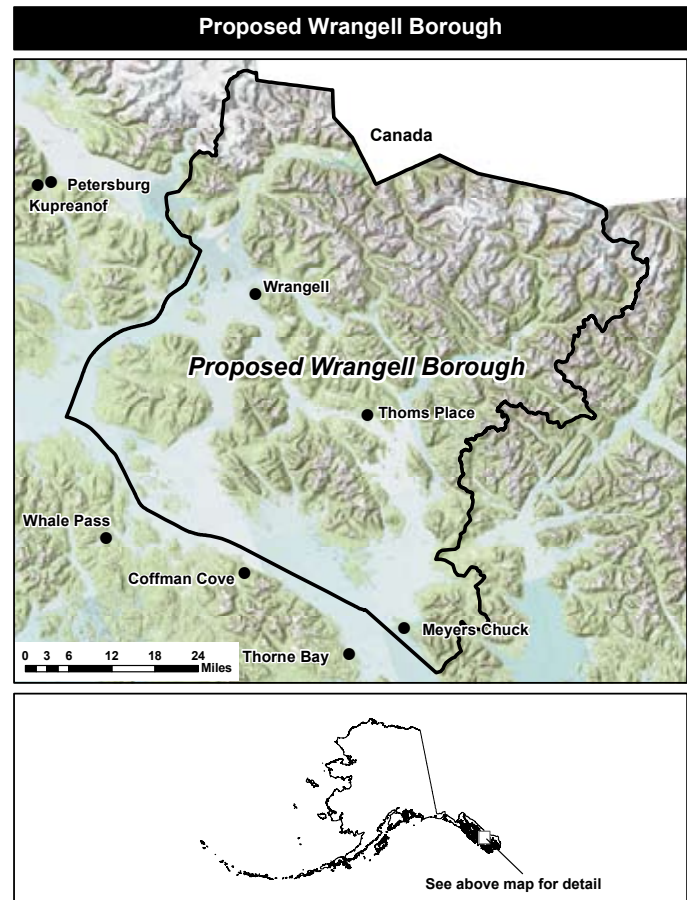
Part 1. Introduction.

This chapter begins by providing general background on local government in Alaska. There is a discussion on characteristics of municipal government units, including home-rule cities (e.g. the City of Wrangell) and boroughs. This approach is utilized to provide information on the present form of local government in the area (i.e., a home-rule city in the unorganized borough) as compared to the proposed City and Borough of Wrangell (i.e., a unified home-rule borough). Discussion then focuses on an overview of the petition process for the City and Borough of Wrangell in particular, and examines the effects of borough incorporation.

Part 2. General Background on Local Government in Alaska.

A. Alaska Has Only Two Types of Municipal Government Units – Cities and Organized Boroughs.

Most states have complex structures for local government comprised of multiple governmental units with narrow functions.¹ Typically, the agglomeration of local governments serving a particular area in other states is comprised of units with overlapping boundaries. Each of those governmental units characteristically has an independent elected governing body with authority to levy taxes.



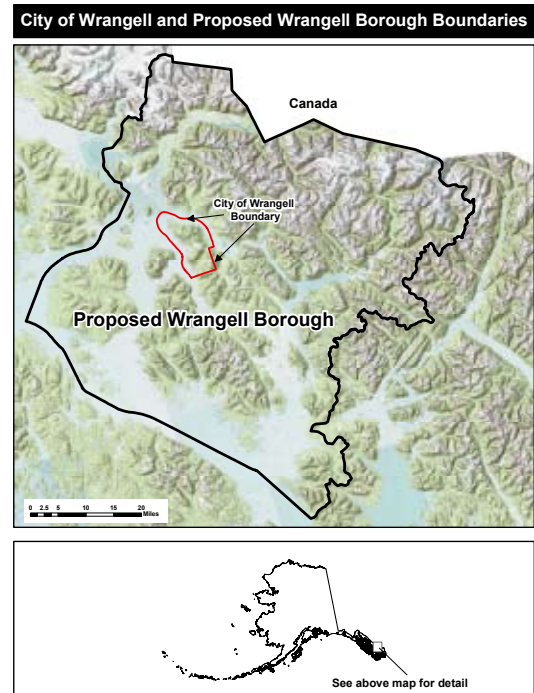
¹ For example, the State of Washington provides for 17 different local government units. They consist of counties, cities, port districts, transit districts, cemetery districts, fire protection districts, hospital districts, irrigation and reclamation districts, library districts, parks and recreation districts, school districts, sewer districts, water districts, public utility districts, diking and drainage districts, health districts, and weed control districts.

When the framers of the Constitution of the State of Alaska (hereafter “Alaska’s Constitution” or “Constitution”) developed the foundation for state government, they endeavored to avoid the shortcomings of the existing 48 states. At the time, Alaska had only a rudimentary system of local government. Consequently, the framers enjoyed greater capacity to be innovative when it came to formulating local government structure for the future of the State of Alaska.²

The framers of Alaska’s Constitution rejected the complex and cumbersome arrangement of local government found in other states, favoring instead, a streamlined approach to local government focusing on efficiency and effectiveness. Alaska’s Constitution recognizes just two types of municipal government – cities and boroughs.

B. A City is a Community-Level Municipal Government; a Borough is a Regional-Level Municipal Government.

City governments and borough governments in Alaska are municipal corporations and political subdivisions of the State of Alaska. City governments in Alaska operate at the community level. By law, the corporate boundaries of new city governments are limited to just that territory encompassing the present local community, plus reasonably predictable growth, development, and public safety needs during the next ten years.³ Similar limitations exist concerning territory that may be annexed to existing city governments. In contrast to the limits of city government, an organized borough is a regional government. Borough governments are intended to encompass large natural regions. The Alaska Constitution requires that all of Alaska be divided into boroughs – organized or unorganized.⁴



² At the time of statehood, Alaska’s local government system consisted of city governments, public utility districts, and independent school districts. The Alaska Territorial Legislature was prohibited by federal law from establishing counties without the express approval of the United States House and Senate.

³ See, in particular, 3 AAC 110.040(b) and, more generally, AS 29.05.011 and 3 AAC 110.005 – 3 AAC 110.042. The full text of the statutory and regulatory standards for borough incorporation is found in [Appendix A](#).

⁴ In 1961, the Alaska Legislature passed a law designating the entire area of Alaska outside organized boroughs as a single unorganized borough. At the time, there were no organized boroughs. Thus, initially, the unorganized borough encompassed the entire state. Today, the unorganized borough encompasses an estimated 374,400 square miles, 57 percent of the total area of Alaska. A single, amorphous unorganized borough is considered by many experts to lack conformity with the requirements of article X, section 3 of the Constitution, which requires that each borough embrace a maximum area and population with common

C. State Law Provides for Different Classes of City and Borough Governments.

There are three different classifications of city government in Alaska: home-rule, first-class, and second-class. A community must have at least 400 permanent residents to form a first-class or home-rule city.

There is no minimum or maximum population requirement for the incorporation of a second-class city. However, at least 25 resident registered voters must sign a petition for incorporation of a second-class city under the local option method.

The particular city classification and whether it is located within an organized borough (i.e., its borough affiliation) are significant in terms of the powers and duties of that city government. For example, AS 29.35.260(b) requires home-rule and first-class cities in the unorganized borough to operate a system of municipal public schools. In contrast, a second-class city in the unorganized borough is expressly prohibited from exercising education powers. No city government within an organized borough operates a school district because public education is a mandatory areawide function of organized boroughs.

AS 29.35.260(c) requires home-rule and first-class cities in the unorganized borough to exercise planning, platting, and land use regulation powers. Second-class cities in the unorganized borough have discretion to exercise those powers.

Five different classes of borough government are recognized in State law. Those are unified home-rule borough (referred to as a unified municipality), non-unified home-rule borough, first-class borough, second-class borough, and third-class borough.⁵ A home-rule borough is a municipal government that has adopted a charter (the equivalent of a municipal constitution). A home-rule borough has all legislative powers not prohibited by State or federal law or by the home-rule charter. (AS 29.04.010.)

First-class boroughs, second-class boroughs, and third class boroughs are general law boroughs. They are unchartered municipal governments that have legislative powers conferred by law. (AS 29.04.020.)

Footnote continued from previous page

interests. [Appendix B](#), an article entitled “It’s Time to Fully Implement the Local Government Provisions of Our Constitution,” is a commentary on this circumstance by local government experts Victor Fischer and Arliss Sturgulewski.

⁵ In 1985, the legislature enacted a law prohibiting the incorporation of new third class boroughs. Only one third-class borough was ever formed (Haines Borough in 1968); it was reclassified as a home-rule borough in October 2002. While State laws still refer to third-class boroughs, those laws are pointless since no new third-class boroughs may be formed.

D. All City and Borough Governments in Alaska Possess Broad Discretionary Powers.

Article X of Alaska’s Constitution establishes the framework for local government in Alaska. Section 1 of article X states as follows with respect to the purpose and construction of the constitutional provisions regarding local government:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

The Alaska Supreme Court has held that the provisions of article X, section 1 were “intended to make explicit the framers’ intention to overrule a common law rule of interpretation which required a narrow reading of local government powers.”⁶ (*Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978).)

⁶ Footnote 19 in original.

The rule, called Dillon’s Rule, states:

[a] municipal corporation possesses and can exercise the following powers and not others. First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable.

Merriam v. Moody’s Executors, 25 Iowa 163, 170 (1868).

The minutes of the constitutional convention reveal that the liberal construction clause of article x, section 1 was intended to assure that general law municipalities, as well as those having home-rule powers, would not be governed by this rule, but would have their powers liberally interpreted. The following colloquy between delegates Helleenthal and Victor Fischer is illustrative:

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past, courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called ‘Dillon’s Rule’, or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

....

HELLENTHAL: Now I refer to Section 11. Doesn’t Section 11 clearly reverse this rule that you refer to as Dillon’s Rule?

V. FISCHER: That would apply to home-rule, cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home-rule authority by the legislature and it may not want to adopt a home-rule charter. Alaska Constitutional Convention Proceedings, Part 4, 2690 – 96.

Omission in original.

As previously noted, general law city and borough governments in Alaska have legislative powers conferred by law. (AS 29.04.030.) The constitutional principle of liberal construction of local government powers is reflected in the laws enacted by the legislature granting powers to general law governments. Among the statutes are the following provisions:

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

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.

In 1983, the Alaska Supreme Court addressed article X, section 1 along with the version of the two statutes noted above that was in effect at the time. The Court concluded that a second-class (general law) borough had powers beyond those expressly stated in law. Specifically, the Court concluded that although State statutes did not specifically authorize a second-class borough to dispose of land by lottery, that power was “fairly implied.” (*Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983).)

In reaching its conclusion that a general law government had implied powers, the court cited the irreconcilable conflict rule that it used in *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974). The court made no distinction as to the deference due to an enactment by a home-rule municipality as compared to an enactment by a general law municipality. The application of the irreconcilable conflict rule in *Gilman* clearly enhanced the powers of general law municipalities in Alaska.

Those powers were further enhanced to a great degree in 1985 when the State legislature abolished the enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and the enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists were replaced with the broadest possible grant of powers to general law municipalities; i.e., “. . . any power not otherwise prohibited by law.” (AS 29.35.200(a) and (c); AS 29.35.210(c) and (d); AS 9.35.220(d); AS 29.35.250(a); and AS 29.35.260(a).)

The statutory grant of powers to general law municipalities has no general limitations such as “any municipal power” or “any local government power” that would imply that the granted powers were limited to those that the court might think of as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of article X, section 1, *Liberati*, *Gilman*, and the literal language of the statutory grant of powers.

Similarly, it may be relevant that the second sentence of Article X, Section 1 reads, “A liberal construction shall be given to the powers of local government units” instead of, “A liberal construction shall be given to local government powers.” The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a

court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a “local government power” as envisioned by the courts across the nation, then the court need not apply a liberal construction to it.

The language of Alaska’s Constitution does not lend itself easily to such an interpretation. Article X, section 1 of the Constitution, coupled with the language of the previously noted grants in AS 29.35 (“any power not otherwise prohibited by law”), would make it difficult for a court to resort to limiting Alaska municipal powers to common understandings of what powers are traditional municipal powers.

As a practical matter, under the present language of AS 29, the nature of the powers to which a general law municipality has access are substantially the same as those to which a home-rule municipality has access, bearing in mind the specific limitations in AS 29.10.200 that apply to general law municipalities.

E. Characteristics of Existing City and Borough Governments in Alaska.

Presently, there are 145 city governments and 17 organized borough governments in Alaska.

Table 1-1 lists the number, in both absolute and relative terms, of cities in Alaska by classification and borough affiliation. It is noteworthy that more than three quarters (78.6 percent) of all city governments in Alaska are second-class cities.

Table 1-2 presents the classifications of the 17 existing organized boroughs in Alaska.

Classification	Cities Within Organized Boroughs		Cities Within the Unorganized Borough		Total of All Cities	
	Number of Cities	Percentage of All Cities	Number of Cities	Percentage of All Cities	Number of Cities	Percentage of All Cities
Home-Rule Cities	7	4.8%	5	3.4%	12	8.3%
First-Class Cities	7	4.8%	12	8.3%	19	13.1%
Second-Class Cities	34	23.4%	80	55.2%	114	78.6%
Total	48	33.1%	97	66.9%	145	100.0%

Classification	Number of Boroughs	Percentage of All Boroughs
Home-Rule Boroughs (unified)	3	17.6%
Home-Rule Boroughs (non-unified)	6	35.3%
First-Class Boroughs	1	5.9%
Second-Class Boroughs	7	41.2%
Third Class Boroughs	0	0.0%
Total	17	100.0%

Home-rule boroughs (either unified or non-unified) comprise a majority of the organized boroughs. All of the remaining organized boroughs are second-class boroughs, except for the Municipality of Skagway which is a first-class borough.

The number of city governments in Alaska exceeds the number of organized boroughs by a margin of nine to one. Notwithstanding, the relatively few organized boroughs serve three and one-half times more Alaskans than all city

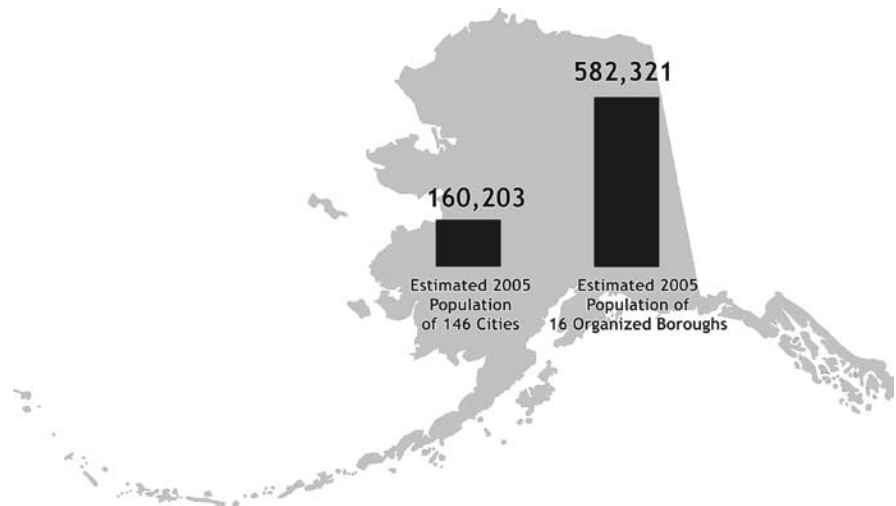
governments combined. The 2005 estimated population of all 146 cities⁷ in Alaska was 160,203 (24.1 percent of the total population of Alaska). In comparison, the population of organized boroughs in 2005 was estimated to be 582,321 (87.7 percent of Alaska's population).

In 2005, fewer than 17 of every 100 Alaskans (16.7 percent) who lived within an organized borough also lived within a city government. In contrast, more than 77 of every 100 residents of the unorganized borough (77.1 percent) lived within the boundaries of city governments in 2005.

The circumstances described above reflect the fact that Alaskans, in general, embrace Alaska's constitutional provision calling for "a minimum of local government units" (article x, section 1, Alaska Constitution). That is, 83.3 percent of organized borough residents receive local services exclusively from their borough government; the remaining 16.7 percent receive services from both a borough and a city. In the unorganized borough, the city is the only existing municipal service provider.

Table 1-3 on the following page lists the 2005 population of all cities in Alaska. During 2005, the median population of cities in Alaska was 379, while the average population of all cities was 1,097.

Population of Cities in Alaska Versus Organized Boroughs



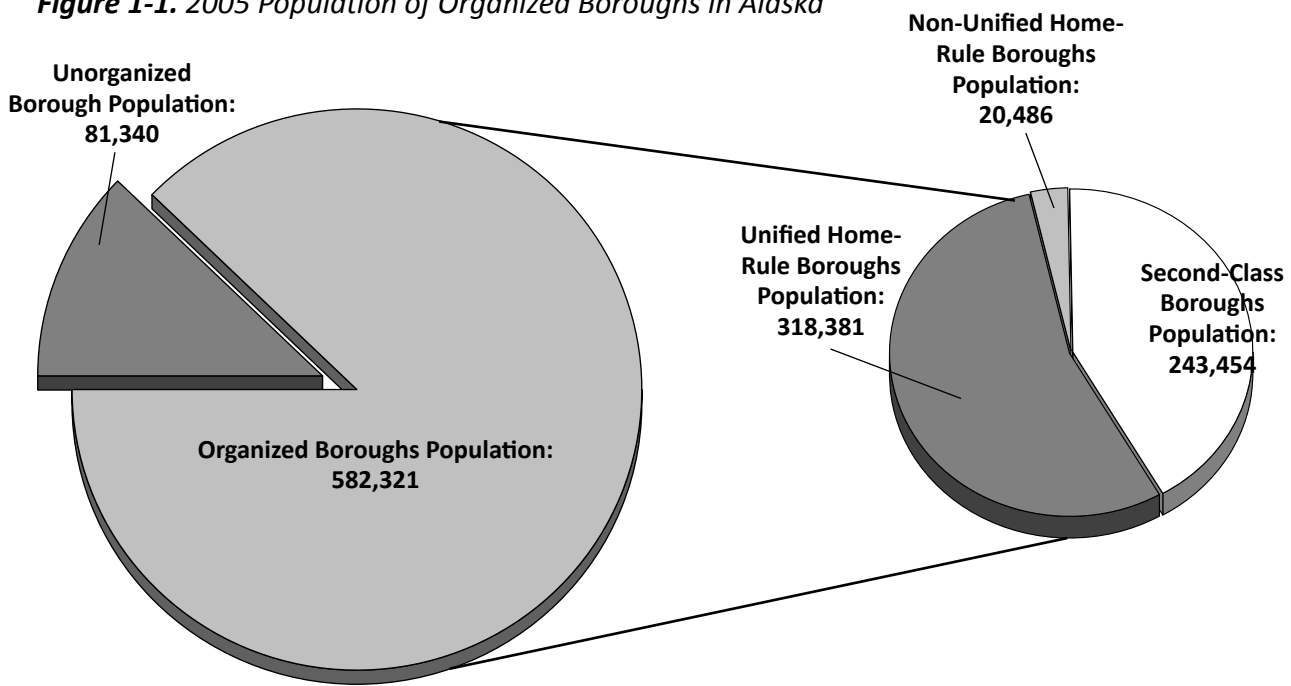
⁷ After the formation of the Municipality of Skagway and the concomitant dissolution of the City of Skagway on June 27, 2007, the number of cities in the State has decreased to 145.

Table 1-3. 2005 Population of Existing City Governments in Alaska

Classification	Within Organized Boroughs		Within the Unorganized Borough		Total	
	2005 Population	Percentage of Entire State	2005 Population	Percentage of Entire State	2005 Population	Percentage of Entire State
Home-Rule Cities	61,315	9.2%	12,420	1.9%	73,735	11.1%
First-Class Cities	21,865	3.3%	16,339	2.5%	38,204	5.8%
Second-Class Cities	14,302	2.2%	33,962	5.1%	48,264	7.3%
Total	97,482	14.7%	62,721	9.5%	160,203	24.1%

Figure 1-1 illustrates the 2005 population of all the organized and unorganized boroughs in Alaska.

Figure 1-1. 2005 Population of Organized Boroughs in Alaska

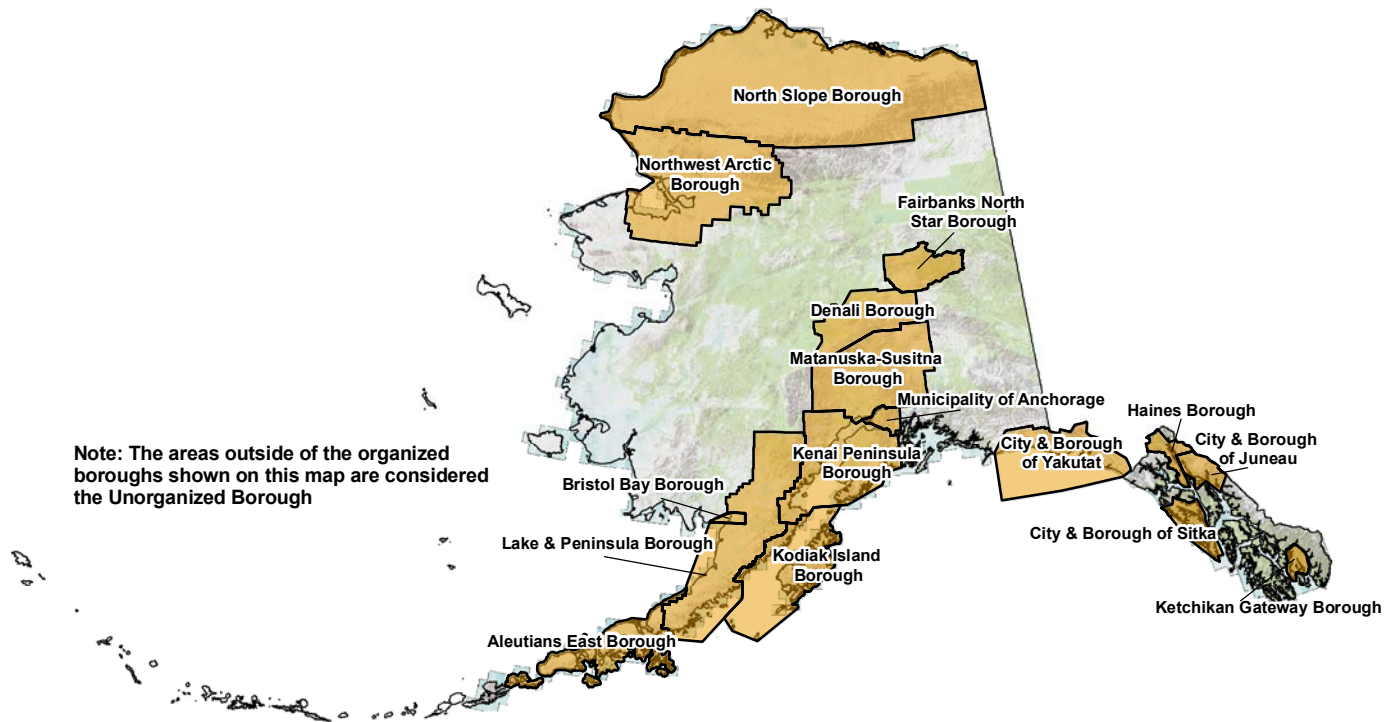


In 2005, on average, city governments in Alaska encompassed 30.6 square miles. In contrast, the mean size of organized boroughs in Alaska in 2005 was just over 17,400 square miles.⁸ However, the size of individual city and borough governments varies considerably. The City of Kiana, located along the Kobuk River in the Northwest Arctic Borough, encompasses the smallest territory (0.3 square miles) of any city in Alaska. On the other end of the spectrum,

⁸ The 2005 Population figures in Figure 1-1 precede the recent incorporation of the Municipality of Skagway, a first-class borough, and the dissolution of the City of Skagway, a first-class city, on June 27, 2007.

as of June 27, 2007, the City of Valdez, located in the unorganized borough, covers the largest territory (277 square miles).⁹ Organized boroughs encompass about 43 percent of the geographic area of Alaska. As presently configured, the unorganized borough encompasses 374,400 square miles.

The largest organized borough is the North Slope Borough (93,823 square miles); the Municipality of Skagway is the smallest (443 square miles).



Part 3. Petition Submitted for Incorporation of the City and Borough of Wrangell.

The Local Boundary Commission (LBC) received a proposal to incorporate the City and Borough of Wrangell, a unified home-rule municipality, on April 26, 2006. The LBC is a State commission established in Alaska's Constitution to adjudicate municipal boundary proposals, including proposals for borough incorporation and annexation. Information about the LBC is included in Appendix C to this report.

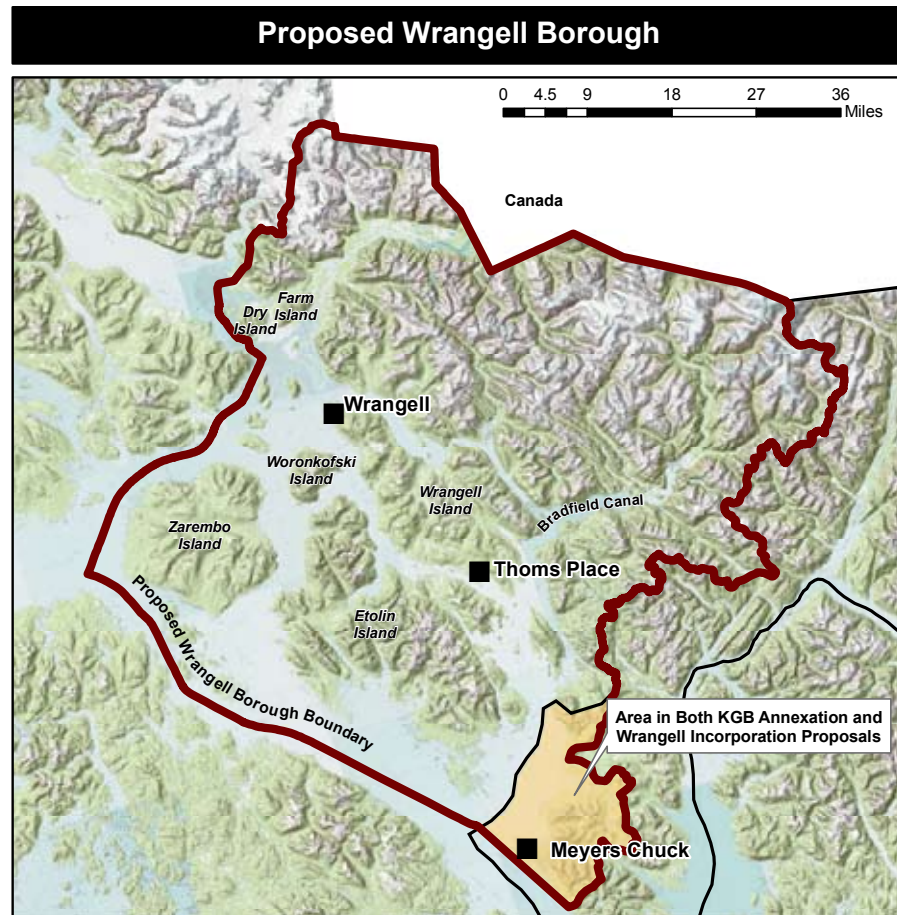
⁹ The City of Skagway, prior to its dissolution in June 2007, used to be the city encompassing the largest territory (466 square miles).

The proposed unified home rule borough is estimated to encompass a total area of 3,465 square miles inhabited by an estimated 2,017 residents.¹⁰ This includes 2,582 square miles of land and 883 square miles of tidelands and submerged lands. The Petition states that the territory proposed for incorporation includes all of Wrangell Island, Etolin Island, Zarembo Island, Woronkofski Island, Dry Island, Farm Island; numerous small islands and the mainland lying to the north and east of

Wrangell Island and extending to the Canadian border, including all drainage areas of the Stikine River and Bradford Canal; and a portion of the Cleveland Peninsula to the south, including the watersheds, draining to the north and west.

The boundaries of the proposed borough include only a portion of the area within the Petersburg-Wrangell model borough boundaries, but also include the Meyers Chuck/Union Bay portion of the area within the Ketchikan Gateway Borough model boundaries.

A portion of the area proposed for incorporation as the City and Borough of Wrangell overlaps the area proposed for annexation by the Ketchikan Gateway Borough. A petition for annexation of a 4,701 square mile portion of the area within the model boundaries of the Ketchikan Gateway Borough (including Meyers Chuck and Union Bay) was filed by the Ketchikan Gateway Borough (KGB) in February 2006. The KGB is a second-class, general law borough that incorporated in 1963. Specifically, both the Wrangell and the KGB Petitions include the same 191 square-mile territory in and around Meyers Chuck and Union Bay. The Petitioner's representative for the Wrangell borough proposal expressed a desire that concurrent consideration be given to the Wrangell proposal and the Ketchikan borough annexation proposal since the two proposals contain overlapping areas.



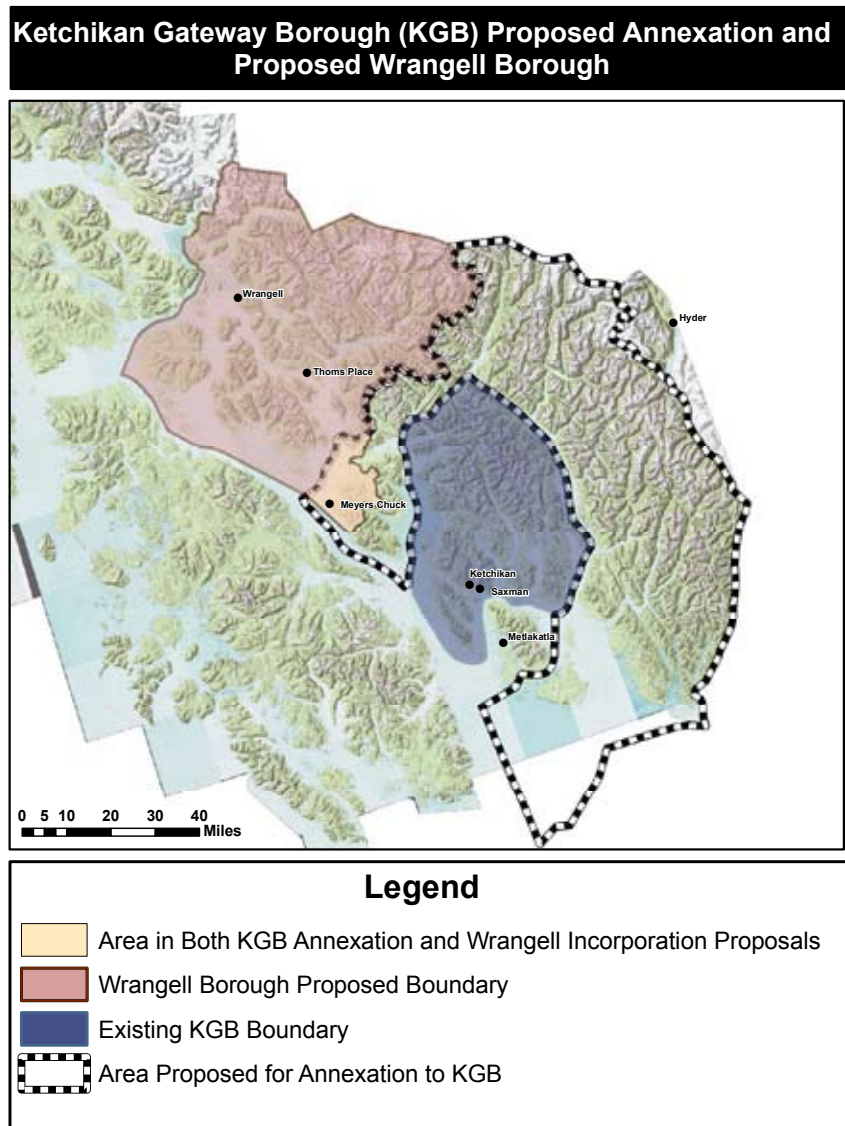
¹⁰ The DCCED population estimate of 2,017 is based on more recent data and therefore differs from the Petitioners' estimate of 2,445 residents.

Figure 1-2 shows the area proposed for incorporation by the Wrangell Petition and the area proposed for annexation by the KGB Petition. The proposed KGB annexation proposal is evaluated by DCCED in a separate preliminary report to the LBC.

According to the Petition, slightly more than 95 percent of the population of the proposed borough resides within the corporate boundaries of the City of Wrangell (2,308 of 2,445 residents or 95.2 percent). Of the remaining 137 residents, an estimated 40 live in what the Petitioner refers to as ‘Wrangell West,’ which is immediately outside the existing corporate boundaries of the City of Wrangell. Additionally, according to the Petitioner, Thoms Place (on the south side of Wrangell Island) is estimated to have 22 residents; Olive Cove (on Etolin Island) is estimated to have 2 residents; Meyers Chuck and Union Bay (which are the subject of a competing petition for annexation filed by the Ketchikan Gateway Borough) are estimated to have a population of 25; Farm Island is inhabited by 2 residents; and the Tye Lake Hydroelectric Project facility houses three individuals. (The State Demographer’s estimate is based on the 2000 census differs somewhat, see Chapter 2, Part 4 of this report.) The Petitioner estimates that approximately 90 percent of the taxable real and personal property in the proposed borough lies within the existing boundaries of the City of Wrangell (\$139.2 million of \$154.6 million).

All of the students enrolled in public schools within the proposed borough are served by the Wrangell City School District.

Figure 1-2. Areas Proposed for Incorporation by the Proposed Wrangell Borough and the Proposed KGB Annexation



On May 11, 2006, DCCED completed its technical review of the form and content of the original Petition and accepted the Petition for filing on that date. The Chair set July 14, 2006, as the deadline for receipt of responsive briefs and comments concerning the original Petition. No formal responsive briefs were filed during the comment period. Thirty-three sets of comments were received. On August 25, 2006, the Petitioner filed a 19-page reply brief in response to the comments.

Part 4. The Petitioner's Stated Reasons for the Borough Incorporation Proposal.

The Petitioner's reasons for petitioning for incorporation is expressed on page 3 of the Petition:

The area identified for incorporation is historically and currently tied to the community of Wrangell, and as such is separated from regions to the north and south which have greater ties to other communities.

Residents of the proposed incorporated municipality use and rely upon the public and private infrastructure provided by the current City of Wrangell, and should bear some share of the public cost thereof and have a voice in this municipal government.

A unified municipality will enhance the ability of residents of this region to influence governmental and private land and resource decisions which affect the region.

Incorporation of a unified municipality, along with its ability to select municipal entitlement lands, will give residents of the Wrangell area greater ability to support and enhance economic development in the region, including development of transportation links.

The area proposed for incorporation as a unified municipality constitutes a natural region, with Wrangell as the hub of activities and development. Incorporation will improve the community of Wrangell's ties with the surrounding area and its ability to plan the future use and development of the region.

Incorporation of a unified municipality will result in modestly increased national forest receipts over those currently received by the City of Wrangell, commensurate with the contribution of municipal services already afforded to this sub-region of the Tongass National Forest by the existing city, and with those additional services expected from the proposed unified municipality.

Voluntary incorporation is preferable to the potential alternative of either having a different borough government imposed upon residents by the state or of leaving this entire region, except the existing city, in the unorganized borough. Petitioners are able to describe municipal boundaries which are both cohesive, workable, and acceptable to local residents, and which are generally accepted by residents of adjacent regions and by government agencies as accurately

describing the “Wrangell” region. A voluntarily organized municipal government is likely to receive greater local political support and acceptance than one which might be imposed by the State.

Part 5. Effects of the Pending Borough Incorporation Proposal.

Historically, residents in the area have relied on certain services provided by the City of Wrangell. If a borough is formed, providing these services to the community will become a borough function. Details concerning changes in the structure for delivery of services that would result from incorporation of the City and Borough of Wrangell are set out in the Petition. In particular, the Petition includes such details in the three-year operating budget (revenues and expenditures) presented in Exhibit D-1; the current capital projects presented in Exhibit D-2; and in the Transition Plan found in Exhibit E. The following is a summary of those changes.

A. Local Government Structure.

1) Fundamental Changes.

The proposed City and Borough of Wrangell would be a unified home-rule borough. According to the Petition, the area proposed for incorporation is estimated to encompass 2,582 square miles of land, and 883 square miles of tidelands and submerged lands, for a total area of 3,465 square miles. DCCED estimates the current population of the territory proposed for incorporation to be 2,017.¹¹

If voters approve formation of the proposed City and Borough of Wrangell, incorporation would take effect on the day that the incorporation election results are certified. At that time, the home-rule City of Wrangell would be dissolved. The Charter stipulates “The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell.”

In most cases, the services supplied to the proposed service area and areawide, respectively, correspond closely to services already being provided by the City of Wrangell to those areas.

¹¹ The Petitioner’s population estimates were largely based on data from the United States Census Bureau, 2000 Census, includes total population figures for Tract 3 of Wrangell-Petersburg Census Area, Alaska (which includes the City of Wrangell and Thoms Place) and for the Meyers Chuck CDP. The population figures for the area proposed for incorporation are discussed in the Petitioner’s Supporting Brief (Exhibit H) at pp. 9-10. According to the Petition submitted in April 2006, the Petitioner estimated there were 2,445 residents in the Proposed borough. DCCED’s estimate of 2,017 residents is based on more current data from the State Demographer.

Census Designated Places (CDPs) are statistical areas defined by the U.S. Census Bureau as “closely settled, named, unincorporated communities that generally contain a mixture of residential, commercial, and retail areas similar to those found in incorporated places of similar sizes.” The Census Bureau notes further that it works with local participants to delineate boundaries for CDPs. By defining CDPs, the Census Bureau can tabulate and disseminate data for localities that otherwise would not be identified as places in the decennial census data products. See <<http://www.census.gov/geo/www/psapage.html#CDP>>.

Just one elected body, the assembly and mayor of the City and Borough of Wrangell, would govern citizens. Voters throughout the new borough would also have the right to vote on propositions of areawide interest.

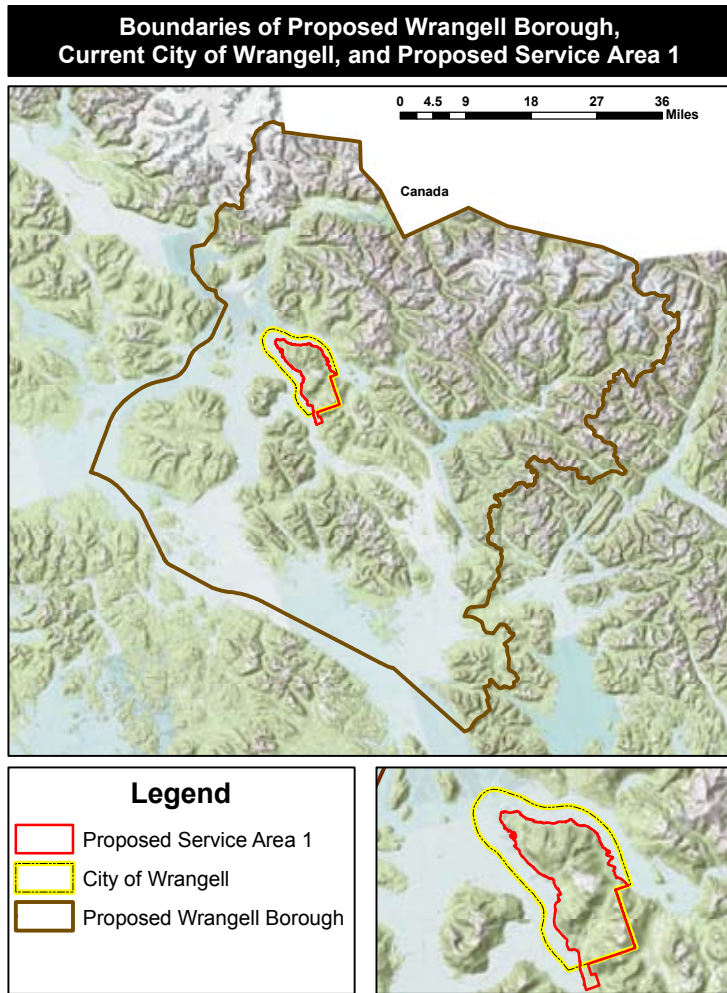
Pursuant to the Charter, the Division of Elections will conduct a school board election at the same time they conduct the election to form the borough and to elect the municipal officials.

2) Fundamental Aspects That Would Not Change.

As stated in the Petitioner’s Transition Plan:¹²

As set out in Section 13 of this petition, the facilities of the City of Wrangell will be transferred to the proposed borough, along with the bonded indebtedness associated with such facilities. In order to provide for orderly transition from the City of Wrangell to the City and Borough of Wrangell, the City and Borough of Wrangell will give 30 days written notice to the City of Wrangell of its assumption of the rights, powers, duties, assets, and liabilities of the City under AS 29.05.140 and AS 29.05.130, after which time the City of Wrangell shall cease exercising rights, powers and duties, and at which time its assets and liabilities shall become the assets and liabilities of the City and Borough of Wrangell.

According to Section 18.08 of the Wrangell Home Rule Charter, “The Borough shall assume and succeed to all of the rights, powers, duties, assets, and liabilities of the City of Wrangell.” (The Charter is included here as Appendix D.



¹² The transition plan is Exhibit E to the Petition.

B. Local Government Services.**1) Fundamental Changes.**

Under the borough incorporation proposal, the services and facilities currently provided by the City of Wrangell would become borough services. In addition, the borough would collect borough taxes and national forest receipts. According to the Petitioner's transition plan, "in most cases, the services supplied, respectively, to the service area and areawide correspond closely to services already being supplied by the City of Wrangell to these areas."

Areawide services.

The new borough responsibilities throughout the entire area of the proposed borough, including the Meyers Chuck/Union Bay area, would include:

- education
- economic development planning
- taxation
- search and rescue services (provision of equipment and facilities for volunteer organization)
- police
- incarceration facilities
- borough hospital
- boat harbor
- library
- parks and recreation
- platting, planning, and land use regulation

Services only in the proposed service area.

- road and highway construction, maintenance and repair
- refuse service to portion of service area
- fire service to portion of service area
- snow plowing service on city streets and non-state roadways which are dedicated right-of-ways, based on a priority listing
- electrical generation and transmission to portion of service area
- water and sewer service to portion of service area
- greater police protection, on a routine and/or as-needed basis
- transportation of school students to Wrangell Borough schools, in portion of serviced areas

Taxes.

As a unified municipality, sales and property tax revenue will increase. The petition proposes that the Borough would levy a 4 mill rate for property outside the service area, a 12 mill rate for property within the service area, a 7 percent sales tax, and a 6 percent transient tax. It is estimated that \$14,400,000 in real property value will be added to the tax roll. Projected annual average revenues over the first three years equal \$5,616,723. Projected annual average expenditures over the same period equal \$5,505,141, resulting in an anticipated budget surplus of \$111,582.

Continuation of Employment.

Employees of the former City of Wrangell shall become employees of the new borough government, in accordance with AS 29.05.130 and AS 29.05.140. According to the Continuation of Employment provision in the Wrangell Home Rule Charter, Section 18.06 provides:

All employees of the City of Wrangell, except elected officials, shall continue in employment until the Assembly or the Borough Manager, as the case may be, provides otherwise. Like salaries and benefits shall continue unless and until provision is made to the contrary.

2) Fundamental Aspects That Would Not Change.

All community services previously provided by the City of Wrangell will be assumed by the City and Borough of Wrangell.

C. Fiscal Impacts.

As proposed, incorporation would have the following four fundamental fiscal impacts:

- Residents and property owners throughout the City and Borough of Wrangell will all pay a property tax of 4 mills, as well as a 7 percent sales tax and a 6 percent transient tax. Areawide revenues will be generated as a result of the taxes to be levied by the newly incorporated borough.
- Residents and property owners in the proposed service area will pay an additional property tax of 8 mills (in addition to the areawide tax of 4 mills).
- Upon borough incorporation, all of the City of Wrangell's assets will be transferred to the proposed City and Borough of Wrangell.

As staff to the LBC, the Alaska Department of Commerce, Community, and Economic Development (DCCED) is required by State law (AS 29.05.050(a) and (c)) to "investigate" the incorporation proposal. Additionally, DCCED is required to prepare a preliminary report and a final report regarding the incorporation proposal.

DCCED must examine whether the proposed borough has an economy with the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. This is a standard established in law and must be met in order for incorporation to occur. Analysis of that standard is addressed in Chapter 2 of this report.

Part 6. Structure for Delivery of Municipal Services in the Proposed Wrangell Borough Compared to Other Parts of Alaska.

There are currently 17 organized boroughs in Alaska. Nine of those are home-rule boroughs, seven are second-class boroughs, and one is a first-class borough. If the proposed Wrangell borough is incorporated, there would then be ten home-rule boroughs, seven second-class boroughs, and one first-class borough.

In 2005, just over 58 percent of Alaskans who live within organized boroughs were residents of home-rule boroughs. The remainder lived within second-class boroughs.

These figures do not reflect the portion of Alaska outside the 17 organized boroughs, which constitutes a single unorganized borough. Approximately one-eighth of all Alaskans lived within the unorganized borough in 2005.

Table 1-4 lists the 2005 population of each borough and its classification. (Note that the new Skagway Borough, incorporated June 27, 2007, is not included in the table.)

<i>Table 1-4. Classification and Population of Boroughs (ranked by classification in descending order of population)</i>		
Borough	Classification	2005 Population
Municipality of Anchorage	home-rule (unified)	278,241
City and Borough of Juneau	home-rule (unified)	31,193
City and Borough of Sitka	home-rule (unified)	8,947
Northwest Arctic Borough	home-rule (non-unified)	7,323
North Slope Borough	home-rule (non-unified)	6,894
Haines Borough	home-rule (non-unified)	2,207
Denali Borough	home-rule (non-unified)	1,823
Lake and Peninsula Borough	home-rule (non-unified)	1,620
City and Borough of Yakutat	home-rule (non-unified)	618
Subtotal of home-rule boroughs	home-rule	338,866
Fairbanks North Star Borough	second-class	87,650
Matanuska-Susitna Borough	second-class	74,041
Kenai Peninsula Borough	second-class	51,224
Kodiak Island Borough	second-class	13,638
KGB	second-class	13,125
Aleutians East Borough	second-class	2,659
Bristol Bay Borough	second-class	1,073
Subtotal of second-class boroughs	second-class	243,410
Unorganized borough	NA	81,385
Total	NA	663,661

Source: Population data provided by Alaska Department of Labor and Workforce Development

DCCED estimates that the proposed City and Borough of Wrangell is inhabited by 2,017 permanent residents. This would exceed the population of four of the sixteen Alaska boroughs that existed when the petition was filed.

Today, seven of Alaska's seventeen organized boroughs have no city governments within their boundaries. Those include Alaska's most populous borough (Municipality of Anchorage) and its least populous borough (City and Borough of Yakutat).

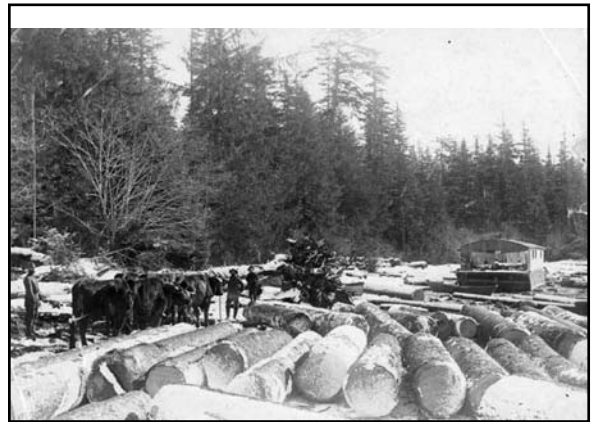
In 2005, of the 582,276 residents of organized boroughs, 97,438 also live within the boundaries of city governments. In other words, 16.7 percent of organized borough residents also live within a city government. That reflects a considerable change from 1970, when nearly fifty percent of Alaskans who lived in organized boroughs also lived within city governments.

Table 1-5 lists the number of city governments within each borough. It also lists the 2005 total population within those cities. The percentage of residents living within cities is also provided for each borough. (Note that the newly incorporated Municipality of Skagway is not included in this table.)

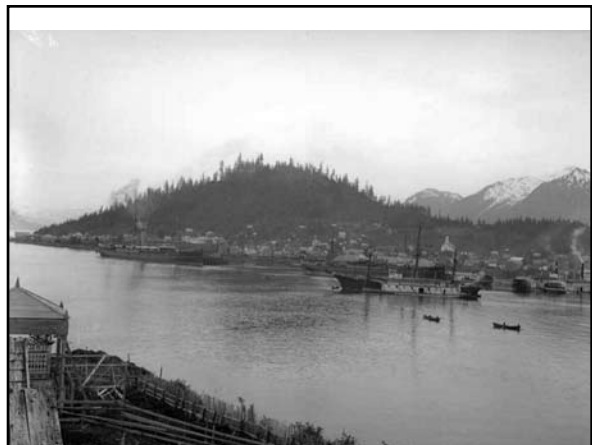
Borough	Number of Cities within Borough	Number of Borough Residents within Cities	Cities
Municipality of Anchorage	0	0 of 278,241	0.0
City and Borough of Juneau	0	0 of 31,193	0.0
City and Borough of Sitka	0	0 of 8,947	0.0
Haines Borough	0	0 of 2,207	0.0
City and Borough of Yakutat	0	0 of 618	0.0
Bristol Bay Borough	0	0 of 1,073	0.0
Matanuska-Susitna Borough	3	13,242 of 74,041	17.9
Denali Borough	1	546 of 1,823	30.0
Fairbanks North Star Borough	2	32,777 of 87,650	37.4
Kenai Peninsula Borough	6	19,387 of 51,224	37.8
Lake and Peninsula Borough	6	721 of 1,620	44.5
Kodiak Island Borough	6	6,837 of 13,638	50.1
KGB	2	8,090 of 13,125	61.6
Northwest Arctic Borough	10	6,588 of 7,323	90.0
North Slope Borough	7	6,663 of 6,894	96.6
Aleutians East Borough	5	2,587 of 2,659	97.3
<i>Subtotal for organized boroughs</i>	48	97,438 of 582,276	16.7
Unorganized borough	98	63,043 of 81,385	77.5
Totals	146	160,481 of 663,661	24.2

Part 7. Significant Historical Developments Regarding Wrangell and Local Governments in Alaska.

- 1868:** Alaska designated as Department of Alaska under U.S. Army.*¹³
- 1868-1870:** New fort built on the hill above the wharf named Fort Wrangell after Baron Ferdinand Von Wrangell.*
- 1876:** Philip McKay, Tsimpsian Indian from Methodist Mission at Port Simpson B.C. arrived in Wrangell and began the first church and school.*
- 1877:** Jurisdiction of territory passed from U.S. Army to Treasury Department. Army left Fort Wrangell.*
- 1884:** Organic Act passed by Congress providing for Civil Gov't for Alaska is passed.*
- 1885:** Rev. S. Hall Young published first newspaper in Wrangell and the Territory of Alaska. "The Glacier" published until 1888.*
- 1887:** Aberdeen Packing Company was built at mouth of Stikine River, the first commercial fish processor in Wrangell.*
- 1888:** Canadian/Alaska boundary survey started.*
- 1897:** Fort Wrangell reoccupied by 14th Infantry with orders – "To preserve order and to protect the interests of the United States."*
- 1900:** Congress first authorized the formation of city governments in what was then the Civil and Judicial District of Alaska.
- 1903:** Fort Wrangell incorporated and becomes the City of Wrangell.*
- 1903:** Alaska-Canada border settled.*
- 1913:** The marking of the boundary between Alaska and Canada completed.*
- 1922:** Town boundaries extended to include all of tideland and waterfront to Shustak Point.*



Logging near Wrangell circa 1864



Fort Wrangell circa 1898

¹³ Starred entries (*) are quotations from Attachment 5 to Exhibit H of the Petition, a historical chronology titled "Chapter Two" on letterhead from Phoenix Associates in Wrangell, Alaska.

1922: 143 pupils enrolled in Wrangell Public School.*

1935: The Alaska Territorial Legislature enacted laws allowing the creation of independent school districts and public utility districts. Each independent school district could encompass a city and adjoining unincorporated territory. This provided a mechanism through which taxes could be levied to support schools and voting rights could be extended beyond the boundaries of a city to the adjoining outlying areas. Public utility districts were allowed in areas outside city governments. Public utility districts had the capacity to provide a broad range of services including utilities, hospitals, dams, cold storage plants, warehouses, and canneries.



Wrangell circa 1929

1959: Alaska became a state, at which time the Constitution of the State of Alaska took effect. The Constitution allowed municipal governments to adopt home-rule charters. It also provided for the division of all of Alaska into boroughs (organized or unorganized). Independent school districts and public utility districts were rendered unconstitutional; however, provisions were made to allow for a transition of those governments into city and borough governments.

1960: The City of Wrangell adopted a home-rule charter.

1961: The Alaska State Legislature enacted standards and procedures for incorporation of boroughs using the local option method.

1963: Concerned over the lack of progress in terms of borough formation, the Alaska State Legislature mandated that eight areas of Alaska form boroughs. The legislature declared that the purpose of the mandate was to “provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions. . . .” (Section 1, Chapter 52, SLA 1963.)

1989 – 1992: Model borough boundaries project underway.

1994: Prior to 1994, a unified municipality could only be formed where a pre-existing borough government and all pre-existing city governments in the borough could unite to form a single unit of home rule government, upon compliance with the provisions of AS 29.06.200-.410. In 1994, the statute was amended to provide that a unified municipality could be formed even in absence of a pre-existing borough or city government, upon compliance with the statutory standards for formation of a borough AS 29.06.190(b).

2003: The LBC submitted a report to the Alaska Legislature entitled *Unorganized Areas of Alaska that Meet Borough Incorporation Standards* on February 19, 2003. The report concluded that seven areas, including the Wrangell-Petersburg Model Borough (which contains the area now proposed for incorporation as the City and Borough of Wrangell)

had the economic and administrative capacity to support borough formation and such borough formation met the standards established in the Alaska Constitution, statutes, and regulations, and was in the overall best interest of the State.

2006: The Petition to Incorporate the City and Borough of Wrangell was received by the LBC on April 26.

DCCED completed its technical review of the form and content of the original Petition on May 11 and accepted the Petition for filing on that date. The LBC Chair set July 14, 2006, as the deadline for receipt of responsive briefs and comments concerning the original Petition. Extensive notice of the filing of the Petition and service thereof was provided by the Petitioner in accordance with law.

Thirty-two sets of written comments were received by the deadline. In addition, one comment received on July 17 was accepted by the LBC Chair because it had been postmarked well before the deadline, and the Petitioner did not object to accepting the late-filed letter. No formal responsive briefs were filed during the comment period. The comments were posted on the LBC website. The comments are included here as Appendix E.

On August 25, 2006, the Petitioner filed a 19-page reply brief in response to the comments received by the LBC regarding the Wrangell borough incorporation Petition. The reply brief is included here as Appendix F.

2007: Preliminary Report on the Petition for incorporation of the City and Borough of Wrangell completed by LBC Staff in July.

Part 8. Public Comments Regarding Petition.

The LBC received 33 written comments regarding the Wrangell borough proposal from the following:

1. Robert Meyer
2. Catherine and Steve Peavey
3. Catherine and Steve Peavey (second, longer letter)
4. John Church
 5. Debbie Johnson
 6. Cliff Hall
 7. Dave and Maggie Grantham
 8. Bruce Jones, City Manager, City of Petersburg
 9. Valery McCandless, Serving as Mayor of the City of Wrangell
 10. Vince and Cherri Langley
 11. Dan Higgins and Carol Brown
 12. Robert Hunley
 13. Lynn Koland, District Ranger, U.S. Forest Service
 14. Laurene Rogers
 15. Ernie Christian
 16. Marcy Garrison
 17. Terri Henson
 18. Jillian Privett
 19. Janell Privett
 20. Ketchikan Gateway Borough
 21. Marni Privett
 22. Cheryl Meyer
 23. Olga Norris
 24. William and Janell Privett
 25. Peter Rice

- | | |
|-------------------------|---------------------------------|
| 26. Samuel Privett | 30. John Taylor |
| 27. Augie Schultz | 31. Shane Legg-Privett |
| 28. C.L. Snoddy | 32. Cathryn Vanderzicht |
| 29. Wilma Stokes-Leslie | 33. Rebecca Welti and Greg Rice |

These comments are reproduced in Appendix E. Of these 33 letters, 20 writers supported formation of a Wrangell Borough, and nine opposed it. Fourteen property owners or residents of Meyers Chuck and Union Bay said it should be part of Wrangell Borough; the Meyers Chuck/Union Bay area is included in a pending annexation petition by the City and Borough of Ketchikan.

On August 25, 2006, the Petitioner filed a 19-page reply brief in response to the thirty-three sets of comments received by the LBC regarding the Wrangell borough incorporation Petition.

Part 9. Future Proceedings Regarding the Pending Incorporation Proposal.

A. Opportunity to Comment on DCCED's Preliminary Report.

DCCED's Preliminary Report has been provided to the Petitioner and others, and is available for public review at the Irene Ingle Public Library. The LBC Chair has set the deadline for the **receipt** of written comments on the Preliminary Report for September 24, 2007 at 4:30 p.m.

Comments may be submitted by mail, courier, facsimile, or e-mail. To be considered, comments must be received at the following location by the deadline noted above:

Local Boundary Commission Staff
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: 907-269-4539
E-mail: LBC@alaska.gov

B. Public Informational Meeting.

DCCED is required by AS 29.05.080(a) and 3 AAC 110.520(a) to conduct at least one public informational meeting in the territory proposed for incorporation. The meeting provides an opportunity for citizens of the community to become better informed about the pending incorporation proposal and the process for establishing a borough government. State law requires DCCED to summarize the meeting in its final report to the LBC on the incorporation proposal.

C. DCCED's Final Report.

After DCCED has considered all timely submitted written comments on its Preliminary Report, it will issue a Final Report on the matter. The Final Report will be mailed to the Petitioner at least three weeks prior to the LBC's hearing on the Petition. Copies of the Final Report will also be available for public review at the Irene Ingle Public Library.

D. Pre-Hearing Requirements.

As described below in "LBC Public Hearing," the Petitioner may present sworn testimony during the upcoming public hearing on the incorporation proposal. The public hearing will be conducted by the LBC in Wrangell.

Witnesses providing sworn testimony must have expertise in matters relevant to the pending incorporation proposal. According to 3 AAC 110.990(14), "witnesses with expertise in matters relevant to the proposed change" means individuals who are either specialists in relevant subjects, including municipal finance, municipal law, public safety, public works, public utilities, and municipal planning; or long-standing members of the community or region that are directly familiar with social, cultural, economic, geographic, and other characteristics of the community or region. If the Petitioner plans to provide sworn testimony, they must submit to the LBC a list of witnesses they intend to call to provide sworn testimony. The list must be received by LBC Staff at least 14 days prior to the hearing.

The witness list must include the name and qualifications of each witness, the subjects about which each witness will testify, and the estimated time anticipated for the testimony of each witness.

E. LBC Public Hearing.

The LBC will hold at least one public hearing on the incorporation proposal in Wrangell. The date, time, and location of the hearing have not yet been determined.



The LBC taking public comment at a hearing

Formal notice of the hearing will be published at least three times, with the initial publication occurring at least thirty days prior to the hearing. The notice will be published in the *Wrangell Sentinel* and the *Ketchikan Daily News*. Additionally, public notice of the hearing will be posted in prominent locations and mailed to the Petitioner.

The hearing will begin with a summary by the LBC Staff of its conclusions and recommendations concerning the pending proposal.

Following the LBC Staff's summary, the Petitioner will be allowed to make an opening statement limited to ten minutes.

Next, sworn testimony may be provided by the Petitioner.

The time and content of testimony will be regulated by the LBC Chair to exclude irrelevant or repetitious testimony. Commission members may question witnesses providing sworn testimony.

Following the sworn testimony, the public will have an opportunity to comment on the proposal. Three minutes will be allowed for each person who wishes to offer comments. Commission members may question persons providing public comment.


The hearing will conclude with a closing statement by the Petitioner not to exceed ten minutes.

A sample hearing agenda is provided in Figure 1-3.

No brief or other written materials may be filed at the time of the public hearing unless the Commission determines that good cause exists for such materials not being presented in a timely manner for consideration by the Petitioner and LBC Staff.

In compliance with Title II of the Americans with Disabilities Act of 1990, LBC Staff will make available reasonable auxiliary aids, services, and/or special modifications to individuals with disabilities who need such accommodations to participate at the hearing on this matter. Persons needing such accommodations should contact LBC Staff at least two weeks prior to the hearing.

Figure 1-3. Sample Hearing Agenda



State of Alaska
Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

SAMPLE AGENDA

PUBLIC HEARING AND DECISIONAL SESSION
PETITION TO INCORPORATE THE
CITY AND BOROUGH OF WRANGELL

- I. Call to order
- II. Roll call and determination of quorum
- III. Approval of agenda
- IV. Comments by members of the Local Boundary Commission
- V. Comments by members of the public concerning matters that are neither on the agenda nor pending before the Commission
- VI. Public hearing regarding the Petition to Incorporate the City and Borough of Wrangell, a unified home-rule borough
 - A. Summary and presentation by LBC Staff of its conclusions and recommendations
 - B. Petitioner's opening statement (limited to 10 minutes)
 - C. Sworn testimony of witnesses called by the Petitioner
 - D. Summary of LBC Staff conclusions and recommendations (limited to 10 minutes)
 - E. Summary by Petitioner (limited to 10 minutes)
 - F. Period of public comment by interested persons (limited to 3 minutes per person)
 - G. Petitioner's closing statement (limited to 10 minutes)
- VII. Decisional session regarding the Petition to Incorporate the City and Borough of Wrangell (optional at this time)
- VIII. Comments from Commissioners and staff
- IX. Adjournment

Members: Kermit L. Ketchum, Chair; Georgianna Zimmerle, First Judicial District;
Robert Harcharek, Second Judicial District; Lynn Chrystal, Third Judicial District;
Lavell Wilson, Fourth Judicial District

If anyone attending the hearing lacks a fluent understanding of English, the LBC may allow time for translation. Unless other arrangements are made before the hearing, the individual requiring assistance must arrange for a translator. Upon request, and if local facilities permit, reasonable arrangements can be made to connect other sites to the hearing by teleconference.

F. LBC Decision.

The LBC must make its decision within 90 days following its last hearing on the Petition.

During the decisional session, no new evidence, testimony, or briefing may be submitted to the LBC. However, the LBC may ask its staff or another person for a point of information or clarification.

In 2006, the Alaska Legislature modified AS 29.05.100(a) governing LBC action on city and borough incorporation proposals. The modification added the requirement for “public notice of each proposed amendment or condition and an opportunity for public comment” before the LBC amends or imposes conditions on the incorporation.

The amended law took effect on May 28, 2006, after the Wrangell Petition was accepted for filing. Statutes are generally presumed to operate prospectively only, and will not be applied to causes of action arising prior to their enactment unless contrary legislative intent appears by express terms or necessary implication. *Pan Alaska Trucking, Inc. v. Crouch*, 773 P.2d 947, (Alaska 1989).

DCCED takes the position that the LBC should comply with the provisions of AS 29.05.100(a), as amended effective May 28, 2006. To implement the amended version of AS 29.05.100(a), the LBC adopted 3 AAC 110.530(e) on April 30, 2007.

The new regulation provides that if the DCCED’s preliminary or final reports contain recommendations to amend or condition approval of a municipal incorporation petition subject to AS 29.05.060 – 29.05.110, the following applies:

(A) DCCED shall issue a public notice regarding the recommended amendment or condition;

(B) the public notice required under (A) must be issued coterminously with the report that recommends an amendment or conditional approval;

(C) the notice required under (A) must be published in conformance with the requirements of 3 AAC 110.450(a)(1)¹⁴ except the notice need be published only one time;

¹⁴ The provisions of 3 AAC 110.450(a) state:

No later than 45 days after receipt of the department’s written notice of acceptance of the petition for filing, the petitioner shall (1) publish public notice of the filing of the petition in a display ad format of no less than six inches long by two columns wide at least once each week

(D) if the recommendation for amendment or conditional approval is part of a DCCED preliminary report, the notice under (A) must state that comments on the recommendation must be filed by the same deadline as comments on the preliminary report under 3 AAC 110.640(b)(3), and that date must be set out in the notice;

(E) if the recommendation for amendment or conditional approval is part of a DCCED final report, the notice under (A) must specify a deadline for written comment on the recommendation, which must allow at least fourteen days for written comment;

(F) the notice issued under (A) must contain a statement that oral comments on a recommendation for amendment or conditional approval may also be provided at the public hearing under 3 AAC 110.560; and

(G) public comment received in response to the notice must be included in the DCCED's final report or summarized at the public hearing, whichever occurs first.

After the LBC renders its decision, it must adopt a written statement explaining all major considerations that led to its decision. A copy of the statement will be provided to the Petitioner and all others who request a copy.

Proposed Amendment to Wrangell Borough Incorporation Petition

Based on its preliminary investigation, analyses, and findings, DCCED concluded that the applicable legal standards favor inclusion of the 191-square-mile area in the Ketchikan Gateway Borough, rather than the proposed Wrangell borough. Accordingly, DCCED has proposed in its Wrangell Preliminary Report that the LBC amend the Wrangell petition to exclude the 191-square-mile area. In a separate report regarding the Ketchikan petition, DCCED recommends inclusion of that area within the Ketchikan Gateway Borough.

In accordance with AS 29.05.100(a) and 3 AAC 110.530(e), DCCED has provided public notice of its recommendation to amend the Wrangell petition to exclude the 191-square mile area noted above.

Written public comments received in response to this notice will be included in DCCED's Final Report on the Wrangell proposal.

Footnote continued from previous page

for three consecutive weeks in one or more newspapers of general circulation designated by the department; if the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate within the boundaries proposed for change, the department shall require the petitioner to provide notice through other means designed to reach the public.

Oral comments regarding the proposed amendment will be solicited at the LBC public hearing to be held under 3 AAC 110.560. Extensive notice of that hearing will be given once the hearing has been scheduled.

G. Opportunity to Seek Reconsideration.

The LBC may grant a request for reconsideration or, on its own motion, order reconsideration of its decision if:

1. a substantial procedural error occurred in the original proceeding;
2. the original vote was based on fraud or misrepresentation;
3. the LBC failed to address a material issue of fact or a controlling principle of law; or
4. new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.¹⁵

Details regarding procedural requirements for reconsideration are set out in 3 AAC 110.580.

H. Election.

If the LBC approves the petition for incorporation, the Director of the Alaska Division of Elections will be notified. Within thirty days, the Elections Director must set the date and terms of the election. The election must be conducted not less than thirty or more than ninety days from the date of the election order. At the time of the incorporation election, voters would also choose a new mayor, assembly, and school board, who would take office only if voters approve the proposition for incorporation.

The Federal Voting Rights Act (43 U.S.C. § 1973) applies to municipal incorporations and other municipal boundary changes in Alaska. The Voting Rights Act forbids any change affecting voting rights that has the purpose or effect of denying or abridging the right to vote for racial reasons. The U.S. Department of Justice or U.S. District Court in Washington D.C. will review the incorporation proposal, method of the incorporation election, and the proposed date for the incorporation election. The review typically takes about 65 days.

I. Judicial Appeal.

A decision of the LBC may be appealed to Superior Court. The appeal must be made within thirty days after the last day on which reconsideration may be ordered by the Commission. (Rules of Appellate Procedure, Rule 601, *et seq.*)

¹⁵ In a revision of its regulations, a fifth standard for reconsideration was added by the Commission on April 30, 2007: “insufficient opportunity was provided to refute a matter of official notice that was given significant weight by the Commission in reaching its decision.” This fifth standard will not apply here, but will only be applied to prospective petitions.

