



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT

Municipal Regulation of Marijuana and Local Control
presented to
House Community & Regional Affairs

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Types of Municipal Government

Alaska has two types of municipal governments – cities and organized boroughs

- 145 cities
- 19 organized boroughs

Alaska also has unincorporated communities

- 80 unincorporated communities located in *organized* boroughs
- 73 unincorporated communities located in the *unorganized* borough



Classification of Cities and Boroughs

There are three classifications of *city governments*. The classification and location of cities are significant in terms of the powers and duties.

- **Home-rule cities** have all legislative powers not prohibited by law or charter.
- **First-class cities** and **second-class cities** are general law. State law defines their powers, duties, and functions.



Classification of Cities and Boroughs

City Governments in Alaska

Classification	Within Organized Boroughs	Within the Unorganized Borough	Total
Home-Rule Cities	7	4	11
First-Class Cities	7	12	19
Second-Class Cities	34	82	116
Total	48	96	145



Classification of Cities and Boroughs

There are four classifications of *organized boroughs*. The classification of boroughs are significant in terms of the powers and duties.

- **Unified home-rule boroughs** and **non-unified home-rule boroughs** have all legislative powers not prohibited by law or charter.
- **First-class boroughs** and **second-class boroughs** are general law governments. State law defines their powers, duties, and functions.



Classification of Cities and Boroughs

Organized Boroughs in Alaska

Classification	Total
Unified Home-Rule Boroughs	4
Non-unified Home Rule Boroughs	7
First-Class Boroughs	1
Second-Class Boroughs	7
Total	19



Provisions Applicable to All Local Governments

- **Article X, Section 1** of the of the Alaska Constitution: 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.*
- **AS29.35.400** General construction: A liberal construction shall be given to all powers and functions of a municipality.
- **AS29.35.410** 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.



Provisions Applicable to Home-Rule Governments

While general-law local governments have broad powers, home-rule local governments have even greater powers.

- **Article X, Section 11** of the Alaska Constitution provides that: A home-rule borough or city may exercise all legislative powers not prohibited by law or by charter.



Distinctions Between General Law Boroughs

A principal distinction between a first-class borough and a second-class borough relates to the authority to assume powers.

- A **first-class borough** may exercise any power not prohibited by law on a non-area wide basis (the area of the borough outside cities) by adopting an ordinance.
- A **second-class borough** must gain voter approval for the authority to exercise many non-area wide powers.



Duties and Powers of Cities and Boroughs

The duties and powers of cities and boroughs depend upon classification. City duties and powers also vary in terms of location within or outside of an organized borough.

- All local governments have certain fundamental duties such as conducting elections and holding regular meetings. Beyond this, duties and powers of municipalities vary considerably.
- **Second-class cities** are not obligated by law to provide any particular service.



Duties and Powers of Cities and Boroughs

- All **organized boroughs**, as well as **home-rule cities** and **first-class cities** in the unorganized borough, *must* exercise planning, platting, and land use regulation.
- **Second-class cities** in the unorganized borough are *permitted*, but not required, to exercise planning powers.
- **Home-rule cities**, **first-class cities**, and **second-class cities** in organized boroughs *may* exercise planning, platting, and land-use regulation powers only if those powers have been delegated to them by the borough.
- **Organized boroughs** have the duty to collect municipal property, sales, and use taxes levied within their boundaries.
- Otherwise, municipal powers are exercised at the discretion of local governments.



Powers and Duties of Cities

POWERS AND DUTIES OF CITIES

	HOME-RULE CITY	FIRST-CLASS CITY	SECOND-CLASS CITY	REFERENCES
Planning, Platting & Land Use Regulation	If the city is in the unorganized borough, it must exercise the powers. If it is in an organized borough, it may be permitted by borough to exercise the powers.	Same as for a home-rule city, except the power must be exercised in accordance with AS 29.40.	The city is not required to exercise the powers in any circumstance, but may be permitted in all cases in the manner described for first-class cities.	AS 29.35.250(b) AS 29.35.260(c)
Property Tax	The city may tax up to 30 mills, except where a higher levy is necessary to avoid default on debt. Some home-rule charters require voter approval to authorize the levy property taxes.	The city may tax up to 30 mills except where a higher levy is necessary to avoid default on debt. Voter approval is not required under State law; however, some general-law municipal governments have more restrictive limitations imposed at the local level.	The city may tax up to 20 mills, except where a higher levy is required to avoid default. Voter approval is required.	AS 29.45.550- AS 29.45.590
Sales Tax	The rate of levy may be limited by charter. Requirements for voter approval may also be set by charter.	There is no limit on the rate of levy of sales taxes; however, voter approval is required.	Same as for a first-class city.	AS 29.45.700
Other Powers	Possess all legislative powers not prohibited by law or charter.	May exercise other powers not prohibited by law.	May exercise other powers not prohibited by law.	Art. X, § 11 AK Constitution AS 29.35.250



Powers and Duties of Organized Boroughs

POWERS AND DUTIES OF ORGANIZED BOROUGHS

	HOME-RULE BOROUGH (including unified municipality)	FIRST-CLASS BOROUGH	SECOND-CLASS BOROUGH
Planning, Platting & Land Use Regulation	The borough or unified municipality must exercise the powers areawide, but not necessarily in accordance with AS 29.40.	The borough must exercise the powers areawide; in accordance with AS 29.40; the borough may allow cities to assume such powers within their boundaries	Same as for a first-class borough.
Property Tax	Limited to 30 mills except where a higher levy is necessary to avoid default on debt; voter approval to levy property taxes is required by some charters.	Same as home-rule except there is no charter. Still some general law boroughs have more limited taxing authority established by local action.	Same as for a first-class borough.
Sales Tax	The rate of levy may be limited by charter and voter approval to levy sales taxes may be required by charter.	No limit exists on the rate of levy; however, voter approval is required to levy sales taxes.	Same as for a first-class borough.



Powers and Duties of Organized Boroughs

POWERS AND DUTIES OF ORGANIZED BOROUGHS (continued)

	HOME-RULE BOROUGH (including unified municipality)	FIRST-CLASS BOROUGH	SECOND-CLASS BOROUGH
Regulate Fireworks, Provide Solid & Septic Waste Disposal, Housing Rehabilitation, Economic Development, Roads & Trails, EMS Communications, Regulate Motor Vehicles and Development Projects	Determined by charter or ordinance	May be exercised areawide upon approval of areawide voters or by transfer of powers from all cities; may be exercised by ordinance on a non-areawide or service area basis.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities; may be exercised by ordinance on a non-areawide basis; may be exercised on a service area basis with voter approval
Other Powers Not Prohibited	Determined by charter or ordinance	Same as above.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities and approval of non-areawide voters; may be exercised non-areawide upon approval of non-areawide voters; may be exercised on a service area basis with voter approval



Powers of Unincorporated Communities

- No planning powers
- No taxing powers
- No policing powers

Unincorporated communities *inside* an organized borough are governed by the areawide or nonareawide powers of the borough.

Unincorporated communities *outside* an organized borough could only regulate marijuana in accordance with a legislative enactment.



Unincorporated Community Boundary Examples

- The perimeter of an **established village** is a circle around the established village that includes an area within a five-mile radius of the post office.
- A **census designated place (CDP)** is a concentration of population identified by the US Census Bureau for statistical purposes. CDPs are populated areas that lack a separate municipal government, but otherwise physically resemble an incorporated place.
- A **community** is a place that is not incorporated as a municipality, in which 25 or more individuals reside as a social unit.



Questions?