

Local Boundary Commission

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CITY INCORPORATION IN ALASKA

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INTRODUCTION

Thank you for your interest in city incorporation. The process for changing boundaries, including forming a new city, takes place at the state level in Alaska. It is subject to a process first described in the Constitution of the State of Alaska. The intended audience for this information is residents of communities interested in pursuing incorporation. If you are interested in pursuing the incorporation of a city, this packet seeks to provide the necessary information to get started. This packet is primarily intended for those considering preparing a petition; however, opponents and proponents of current or planned petitions can find helpful information as well.

This packet is organized into several modules:

- [About Cities in Alaska](#)
- [About the Local Boundary Commission](#)
- [About City Incorporation](#)
- [Planning and Preparing a Petition](#)
- [Standards and Procedures for Petitions](#)

These modules are intended to provide background information and orient interested persons with the process for city incorporation in Alaska, and the relevant agencies involved. It will describe steps to take, and important considerations when deciding whether to pursue incorporation. In addition, this packet will provide information about the types of cities and local governments in Alaska.

Throughout the packet, the text refers to Alaska statutes, regulations, and sections of the Alaska constitution. All relevant laws are listed by title with links to the full text in the appendices. The appendices also include a generic sample petition form. However, interested persons should still consult Local Boundary Commission (LBC) staff before drafting a petition. Forming a city is a long process. This information packet aims to help prepare potential petitions, and educate those interested in the process. Prospective petitioners and those with questions should feel free to contact staff:

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ABOUT CITIES IN ALASKA

CITIES

A city government is a municipal corporation and political subdivision of the State of Alaska. City governments are subject to the “limitation of community” doctrine, which requires the territory taken into the boundaries of a city to be urban or semi-urban in character.¹

On average, the corporate boundaries of cities in Alaska encompass just over 30 square miles. However, there are wide variations in the size of individual cities. The City of Saint Paul encompasses the largest area (295.5 square miles), while the City of Kiana has the smallest area (0.2 square miles). Current state law restricts the inclusion of large geographical regions or large unpopulated areas in cities.²

A city is part of the borough in which it is located.³ The unorganized borough is the area outside the state’s 19 organized boroughs. The legislature serves as the local assembly for the unorganized borough.

Presently, there are 145 city governments in Alaska. Federal law did not allow the incorporation of city governments in Alaska until 1900. The City of Ketchikan is the oldest city government in Alaska, and the City of Whale Pass is Alaska’s newest city. In 2016, the 145 cities were inhabited by 163,008 individuals or 22 percent of Alaska’s total population of 739,828. The 2016 population of cities ranged from a high of 31,957 (City of Fairbanks) to a low of 10 (City of Bettles). The Municipality of Anchorage is classified as a unified home rule borough, not a city.

CLASSIFICATIONS

Cities in Alaska are classified as either general law or home rule. General law cities are further classified as either first class or second class, and have legislative powers conferred by law. A home rule city has all legislative powers not prohibited by law or charter.⁴

A community must have at least 400 permanent residents to form a home rule or first class city. If a city seeks to reclassify as a first class city, it must also have at least 400 permanent residents and it must also meet certain other standards. There are currently 45 second class cities in Alaska with a population of at least 400. Thirty-two of those 45 cities are in the unorganized borough. In addition, there are 10 unincorporated communities in the unorganized

¹ See *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92, 100 (Alaska 1974); See also 3 AAC 110.040(b).

² 3 AAC 110.040(b) - (c); 3 AAC 110.130(c) - (d)

³ Article 10, section 7, Alaska constitution

⁴ AS 29.04.10; AS 29.04.20; and AS 29.04.30

borough with populations of more than 400. Deltana is the largest unincorporated community in the unorganized borough with a population of approximately 2,259.

10 MOST POPULOUS SECOND CLASS CITIES IN THE UNORGANIZED BOROUGH (2016 POPULATIONS)

- | | |
|--------------------------------------|--------------------------------------|
| 1. Bethel (population 6,244) | 6. Mountain Village (population 860) |
| 2. Hooper Bay (population 1,188) | 7. Emmonak (population 856) |
| 3. Delta Junction (population 1,130) | 8. Kwethluk (population 805) |
| 4. Chevak (population 1,030) | 9. Unalakleet (population 758) |
| 5. Togiak (population 893) | 10. Quinhagak (population 735) |

LISTING OF ALL HOME RULE CITIES IN THE UNORGANIZED BOROUGH

1. Valdez (population 3,939)
2. Cordova (population 2,386)
3. Nenana (population 381)

LISTING OF ALL FIRST CLASS CITIES IN THE UNORGANIZED BOROUGH

- | | |
|----------------------------------|----------------------------------|
| 1. Unalaska (population 4,448) | 8. Kake (population 605) |
| 2. Nome (population 3,777) | 9. Saint Mary's (population 587) |
| 3. Dillingham (population 2,316) | 10. Galena (population 488) |
| 4. Craig (population 1,102) | 11. Hydaburg (population 404) |
| 5. Klawock (population 814) | 12. Tanana (population 224) |
| 6. Hoonah (population 793) | 13. Pelican (population 78) |

Each of the three classes (types) of cities have broad powers to provide services including:

- police protection
- fire protection
- road maintenance
- harbors & docks
- water utilities
- sewer utilities
- parks & recreation
- libraries
- laundries

However, there are also important differences in the powers and duties of the different classes of cities. A city's powers and duties are also affected by whether it is within an organized borough. The following table shows the different classifications of the 145 city governments in Alaska and how many of each class are inside and outside of organized boroughs.

Class	Within Organized Borough	Within Unorganized Borough	Total
2nd Class	35	81	116
1st Class	6	12	18
Home Rule	8	3	11
TOTAL	49	96	145

DUTIES OF CITIES

All local governments have certain fundamental duties such as conducting elections and holding regular meetings of the governing bodies. Beyond this, the duties of cities in Alaska vary considerably.

All organized boroughs as well as home rule and first class cities in the unorganized borough must operate municipal school districts. Second class cities in the unorganized borough and cities in organized boroughs are not authorized to do so.

All organized boroughs, along with home rule and first class cities in the unorganized borough, must also exercise planning, platting, and land use regulation. Second class cities in the unorganized borough are permitted, but not required, to exercise those powers. Home rule, first class, 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 also have the duty to collect city property, sales, and use taxes that are levied within their boundaries. Otherwise, municipal powers are exercised at the discretion of city governments. Second class cities are not obligated by law to provide any particular service.

Organized boroughs may provide services on three jurisdictional levels. These are (1) areawide (i.e., throughout the entire borough); (2) nonareawide (i.e., in that part of the borough outside of cities); and (3) in a service area (the size and configuration of service areas may vary; they may even include territory within the boundaries of city governments under certain circumstances).⁵

The Alaska constitution (article 10, section 5) and Alaska statutes (AS 29.35.450) prohibit the creation of new service areas if services can be provided by an existing service area, annexation to a city, or incorporation of a new city.

⁵ “Service area” means an area in which borough services are provided that are not offered on an areawide or nonareawide basis, or in which a higher or different level of areawide or nonareawide services are provided. Borough service areas are not local governments; service area boards lack legislative and executive powers.

DISTINCTIONS AMONG HOME RULE, FIRST CLASS, AND SECOND CLASS CITIES *IN THE UNORGANIZED BOROUGH*

SIGNIFICANT AND POTENTIALLY SIGNIFICANT DISTINCTIONS

EDUCATION (AS 29.35.260)

- A second class city cannot operate a school district inside or outside a borough.
- Subject to AS 14.12.025, each home rule and first class city in the unorganized borough *must* operate a city school district.⁶

PLANNING, PLATTING, AND LAND USE REGULATION (AS 29.35.260)

- A second class city *may* exercise planning, platting, and land use regulation.
- A first class city *must* exercise planning, platting and land use regulation powers in accordance with AS 29.40.
- A home rule city *must* exercise planning, platting, and land use regulation if in the unorganized borough; if in an organized borough, it may be permitted by the borough to exercise the powers.

ABILITY TO ADOPT A HOME RULE CHARTER (AS 29.10.010)

- A first class city may adopt a home rule charter and reclassify as a home rule city.
- A second class city may not adopt a home rule charter.

PROPERTY TAXING POWER (AS 29.45.550 AND AS 29.45.590)

- Home rule and first class cities outside of organized boroughs may assess, levy, and collect a property tax up to 3 percent (30 mills) of the value of the property.
- A second class city may levy a property tax up to 2 percent (20 mills) of the value of the property. Voter approval to levy property taxes is required for a second class city.
- Tax limits for all cities do not apply to taxes needed to avoid default on the payment of debt secured by a pledge to levy taxes.
- *A city is not required to levy property taxes.* Of the 145 home rule, first and second class cities, only nine, which are in the unorganized borough, and 12, located within organized boroughs, levy a property tax.

MAYOR'S VETO POWER (AS 29.20.270)

- The mayor of a second class city has no veto powers.
- The mayor of a first class city has broad veto powers. Those veto powers do not extend to appropriations in a school budget ordinance; actions of the council as a board of equalization or board of adjustment; adoption or repeal of a manager plan; or an ordinance adopted under AS 04.11.501 prohibiting possession of alcohol.

⁶ AS 14.12.025 provides that a new school district with fewer than 250 students may not be created without a special determination by the Commissioner of the Alaska Department of Education & Early Development.

- The veto powers of a mayor of a home rule city are determined in accordance with the city’s charter, except that a mayor of a home rule city cannot veto an ordinance adopted under AS 04.11.501 prohibiting possession of alcohol.

LESSER DISTINCTIONS

CITY COUNCIL COMPOSITION (AS 29.20.130)

- A second class city has seven council members.
- A first class city has six council members.
- A home rule city may have any number of council members authorized by charter.

ELECTION OF THE MAYOR (AS 29.20.230)

- The mayor of a second class city is elected from the city council by the members of the council (unless provisions are made to elect the mayor from the city council by the voters).
- The mayor of a first class city is elected by the voters at large.
- The mayor of a home rule city is elected in the manner authorized by the city charter.

TERM OF THE MAYOR (AS 29.20.230)

- The mayor of a second class city serves a one year term (unless provisions are made for a longer term).
- The mayor of a first class city has a term of three years (unless provisions are made for a different term not to exceed four years).
- The term of a mayor of a home rule city is set in accordance with the city charter.

VOTING POWERS OF THE MAYOR (AS 29.20.250)

- The mayor of a first class city may vote on matters before the city council only in the case of a tie.
- The mayor of a second class city may vote on all matters before the city council.
- The authority of a mayor of a home rule city to vote on matters before the city council is determined in accordance with the city charter.

VACANCY IN THE OFFICE OF MAYOR (AS 29.20.280)

- The mayor of a first class or second class city must be declared vacant under various circumstances. These are identical for the two classes of cities, except the office of the mayor of a second class city is also declared vacant if the mayor misses three consecutive regular city council meetings and is not excused.
- The office of the mayor of a home rule city is declared vacant in accordance with provisions set out in the charter.

AUDIT (AS 29.35.120)

- The city council of a home rule or first class city must provide for an annual financial audit of the city.
- The council of a second class city may provide for a “statement of annual income and expenditures” in lieu of an audit.

EMINENT DOMAIN (AS 29.35.030)

- A home rule or first class city may take private property for a public use after following the formal procedure set out in AS 09.55.250 - 09.55.460, including compensating the owner.
- A second class city may do so only by ordinance approved by the voters.

BOROUGH INCORPORATION PROVISIONS (AS 29.05.060)

- The law requires that a petition to form a borough must be signed by a certain number of voters inside home rule and first class cities, and a certain number of voters in the remainder of the proposed borough.

POWERS AND DUTIES OF CITIES				
	HOME RULE CITY	FIRST CLASS CITY	SECOND CLASS CITY	REFERENCE
Public Education	If the city is in the unorganized borough, it must provide the service in accordance with AS 14. A home rule city is not permitted to do so within organized boroughs.	Same as for a home rule city.	The city is not allowed to provide the service under any circumstance.	AS 29.35.260 (b); AS 14.12.010 AS 14.12.025
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 (c); 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 by statute; 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

	HOME RULE CITY	FIRST CLASS CITY	SECOND CLASS CITY	REFERENCE
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. Const.; AS 29.35.250
City Council composition and apportionment	Determined by charter or ordinance.	6 members elected at-large, except the council may provide for election other than at-large.	7 members elected at-large, except the council may provide for election other than at-large.	AS 29.20.130
Election and Term of Mayor	Determined by charter or ordinance.	Elected at large for a 3-year term, unless a different term not to exceed 4 years is provided by ordinance.	Elected from the city council for a 1-year term, unless a longer term is provided by ordinance. Mayor is selected by council (or by voters upon adoption of ordinance).	AS 29.20.230 AS 29.20.240
Vote by Mayor	Determined by charter or ordinance.	May vote to break a tie vote on the city council.	Votes on all matters.	AS 29.20.250
Veto Power of the Mayor	Determined by charter or ordinance, except veto is not permitted of ordinance prohibiting possession of alcohol.	Has veto power with the same exception noted for home rule cities.	Has no veto power.	AS 29.20.270
Power of Eminent Domain	Permitted by statute.	Permitted by statute.	Permitted, but requires voter approval.	AS 29.35.030
Ability to Attain Home Rule Status	Already has home rule status.	Voters may adopt home rule charter.	May not adopt home rule charter without first reclassifying to a first class city.	AS 29.10.010

CONSTITUTIONAL ORIGIN OF THE LOCAL BOUNDARY COMMISSION

The framers of Alaska’s constitution subscribed to the principle that, “unless a grave need existed, no agency, department, commission, or other body should be specified in the constitution.”⁷ The framers recognized that a “grave need” existed when it came to the establishment and alteration of municipal governments and provided for the creation of the Local Boundary Commission (LBC or commission) in Article 10, Section 12 of the constitution.⁸

The LBC is one of only five state boards or commissions established in the constitution (among a current total of approximately 120 active boards and commissions). The Alaska Supreme Court characterized the framers’ purpose in creating the LBC as follows:

An examination of the relevant minutes of [the Local Government Committee of the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The advantage of the method proposed, in the words of the committee:

. . . lies in placing the process at a level where area-wide or state-wide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively.⁹

DUTIES AND FUNCTIONS OF THE LBC

The LBC acts on proposals for seven different municipal boundary changes. The term “municipalities” includes both city governments and borough governments. These are:

- incorporation of municipalities;
- reclassification of city governments;
- annexation to municipalities;
- dissolution of municipalities;
- detachment from municipalities;

⁷ Victor Fischer, Alaska’s Constitutional Convention, p. 124.

⁸ Article 10, Section 12 states, “A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the Legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.”

⁹ *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 543 (Alaska 1962).

- merger of municipalities; and
- consolidation of municipalities.

In addition to the above, the LBC has a continuing obligation under statutory law to:

- make studies of local government boundary problems;
- adopt regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution; and
- make recommendations to the Legislature concerning boundary changes under Article 10, Section 12 of Alaska's constitution.

Further, the LBC is sometimes assigned duties by the Legislature. Examples include the 2002 requirement to study the unorganized borough and determine which areas meet borough incorporation standards, and the 2003 directive to work with the Department of Education and Early Development regarding school district consolidation. These materials are available on the LBC website.

LBC DECISIONS MUST HAVE A REASONABLE BASIS AND MUST BE ARRIVED AT PROPERLY

LBC decisions regarding petitions that come before it must have a reasonable basis. That is, both the LBC's interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must have a rational foundation.¹⁰

The LBC must proceed within its jurisdiction; conduct a fair hearing; and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law or if its decision is not supported by evidence.

COMMUNICATIONS WITH THE LBC

LBC proceedings regarding a municipal boundary change must be conducted in a manner that upholds the right of everyone to due process and equal protection.

¹⁰ See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if it has a reasonable basis; *Lake and Peninsula Borough v. Local Boundary Commission*, 885 P.2d 1059,1062 (Alaska 1994); *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92,97-8 (Alaska 1974). Where an agency action involves formulation of a fundamental policy the appropriate standard on review is whether the agency action has a reasonable basis; LBC exercises delegated legislative authority to reach basic policy decisions; acceptance of the incorporation petition should be affirmed if court perceives in the record a reasonable basis of support for the LBC's reading of the standards and its evaluation of the evidence; *Rose v. Commercial Fisheries Entry Comm'n*, 647 P.2d 154, 161 (Alaska 1982) (review of agency's exercise of its discretionary authority is made under the reasonable basis standard) cited in *Stosh's I/M v. Fairbanks North Star Borough*, 12 P.3d 1180, 1183 nn. 7 and 8 (Alaska 2000); see also *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 175-76 (Alaska 1986).

Ensuring that communications with the LBC concerning municipal boundary proposals are conducted openly and publicly preserves rights to due process and equal protection. To regulate communications, the LBC adopted 3 AAC 110.500(b) which expressly prohibits private (*ex parte*) contact between the LBC and any individual, other than its staff, except during a public meeting called to address a municipal boundary proposal. The limitation takes effect upon the filing of a petition and remains in place through the last date available for the commission to reconsider a decision. If a decision of the LBC is appealed to the court, the limitation on *ex parte* contact is extended throughout the appeal in the event the court requires additional consideration by the LBC.

In that regard, all communications with the commission must be submitted through staff to the commission. The LBC staff may be contacted at the following address, telephone number, fax number, or email address.

Local Boundary Commission Staff
550 West Seventh Avenue, Suite 1640
Anchorage, Alaska 99501-3510
telephone: (907) 269-4587 or 269-4559
fax: (907) 269-4563
email: LBC@alaska.gov

LBC MEMBERSHIP

The LBC is an independent commission. Members of the LBC are appointed by the governor for five-year overlapping terms.¹¹ Notwithstanding their terms, members of the LBC serve at the pleasure of the governor.¹²

The LBC is comprised of five members. One member is appointed from each of Alaska's four judicial districts. The fifth member is appointed from the state, at-large.

State law provides that members of the LBC must be appointed "on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership."¹³ LBC members receive no pay for their service on the commission. However, they are entitled to travel expenses reimbursement and per diem authorized for members of boards and commissions under AS 39.20.180. A biographical summary of the current members of the LBC can be found on the LBC website.

¹¹ AS 44.33.810.

¹² AS 39.05.060(d).

¹³ AS 39.05.060.

STAFF TO THE LOCAL BOUNDARY COMMISSION

The framers of Alaska’s constitution followed the principle that no specific agency, department, board, or commission would be named in the constitution “unless a grave need existed.” Therefore, the framers provided for only one state agency or department – the local government agency mandated by Article 10, Section 14 to advise and assist local governments.¹⁴ The constitutional duty to support local governments is entrusted to Alaska Department of Commerce, Community, and Economic Development (DCCED).¹⁵ Within DCCED, the Division of Community and Regional Affairs (DCRA) carries out the duty to advise and assist local governments, and provides staff to the commission pursuant to AS 44.33.810.

The department is required by AS 29.05.080 and 3 AAC 110.530 to investigate each municipal incorporation proposal and to make recommendations regarding such to the commission. LBC decisions must have a reasonable basis (i.e., a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding). Accordingly, DCCED adopts the same standard for itself in developing recommendations regarding matters pending before the LBC. That is, DCCED’s self-imposed standard requires its recommendations to the LBC to be based on a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding. DCCED takes the view that due process is best served by providing thorough, credible, and objective analysis of every municipal boundary proposal to come before the LBC.

DCCED’s Commissioner, Deputy Commissioners, and the Director of DCRA provide policy direction concerning recommendations to the LBC from staff. DCCED staff’s recommendations to the LBC are not binding on the LBC. The LBC is an independent commission. While the commission is not obligated to follow DCCED recommendations, it has historically considered the department’s analyses and recommendations to be critical components of the evidence in municipal boundary proceedings. The LBC considers the entire record when it renders a decision.

DCCED staff also provide technical assistance to municipalities, residents of areas subject to impacts from existing or potential petitions for creation or alteration of municipal governments, petitioners, respondents, agencies, and others. There are two full-time equivalent positions assigned to work on commission matters.

Types of assistance provided by DCCED staff include:

¹⁴ Article 10, Section 14 states, “An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.”

¹⁵ AS 44.33.020 provides that DCCED “shall (1) advise and assist local governments.”

- conducting feasibility and policy analysis of proposals for incorporation or alteration of municipalities;
- responding to legislative and other governmental inquiries relating to issues on municipal government;
- conducting informational meetings;
- providing technical support during commission hearings and commission meetings;
- drafting decisional statements;
- implementing decisions of the commission;
- certifying actions;
- maintaining incorporation and boundary records for each of Alaska's municipal governments.
- drafting reports, correspondence, public notices, legislation, or regulations as requested by the commission;
- coordinating, scheduling, and overseeing public meetings and hearings for the commission;
- developing orientation materials and providing training for new commission members;
- maintaining and preserving commission records in accordance with the public records laws of the state;
- developing and updating forms and related materials for use in municipal incorporation or alteration; and
- if directed by the commission, acting as a petitioner on a matter that the commission believes will promote local government standards in the Alaska constitution, AS 29.04, AS 29.05, or AS 29.06.

PROCEDURES OF THE COMMISSION

Procedures for establishing and altering municipal boundaries and for reclassifying cities are designed to secure the reasonable, timely, and inexpensive determination of every proposal to come before the commission. The procedures are also intended to ensure that decisions of the commission are based on analysis of the facts and the applicable legal standards, with due consideration of the positions of interested parties. The procedures include extensive public notice and opportunity to comment, thorough study, public informational meetings, public hearings, a decisional meeting of the commission, and opportunity for reconsideration by the commission. Petition procedures are described in the modules on [Planning and Preparing a Petition](#), and [Standards and Procedures for Petitions](#).

ABOUT CITY INCORPORATION

"City incorporation" means the creation of a second class, first class, or home rule city government to provide services and facilities at the community level. Distinctions among the three types of cities are addressed in the module [About Cities in Alaska](#).

Petitioning for incorporation requires a considerable commitment of time and resources. Before any decision is made to begin work on incorporation, thought should be given to the need for a city government and the process involved, particularly if the community is within an organized borough. This module provides an overview of basic information about city incorporation. Incorporation is a complex matter that cannot be covered completely in this brief overview. This module does provide information on applicable law, and staff are available to provide assistance on incorporation.

WHAT OPTIONS ARE AVAILABLE FOR CITY INCORPORATION?

There are three types of city government in Alaska (second class, first class, and home rule). Each class of city government has broad powers (AS 29.35) and every city also has certain general obligations (e.g., annual audits or financial reports, regular elections, codification of ordinances, regular meetings of the city council, etc.) See the module called [About Cities in Alaska](#) for more information on the powers and duties conferred on each type of city.

It is important to note that incorporation of a home rule city requires petitioners to prepare a charter, which is the equivalent of a local government constitution. Writing a charter requires more community expertise and commitment than what is required for incorporation of a first class or second class city.

WHO CAN PETITION TO INCORPORATE?

A city government is customarily created by a petition to the Local Boundary Commission (LBC) from voters within a community as defined by 3 AAC 110.920. Although the state can create city governments by its own initiative, it has never done so.

State law (AS 29.05.011) requires that a community must have at least 400 permanent residents to incorporate as a home rule or first class city. A petition to incorporate a home rule or first class city must be signed by at least 50 resident voters, or 15 percent of the number of voters who voted in the area during the last general election, whichever is greater.

There is no minimum population requirement for incorporation of a second class city; however, the incorporation petition must be signed by at least 25 voters who are registered to vote

within the proposed boundaries, or 15 percent of the number of voters who voted in the area during the last general election, whichever is greater.¹⁶

ARE THERE LIMITS ON THE INCORPORATION OF A CITY?

Yes. AS 29.05.021 and 3 AAC 110.010 prohibit the formation of a new city government if the needed services can be provided by annexation to an existing city, or if the needed services can be provided by an existing organized borough. Residents of a community within a borough who wish to consider forming a city government should speak with borough officials on the matter.

WHAT ARE THE PROS AND CONS OF INCORPORATION?

It is important to look carefully at the pros and cons of incorporation before beginning any incorporation effort. The advantages and disadvantages of forming a new city government will vary depending on the community and the type of city proposed for incorporation. (See section on [Advantages and Disadvantages](#).) Generally, people supporting incorporation stress that a city would provide greater local control and the means to provide essential local services.

People against incorporation generally focus on the possibility of new taxes and fees among the potential problems. If the community is within an organized borough, critics frequently stress that the borough can provide any needed services and that a city would just be an unnecessary additional layer of government.

ARE THERE CRITERIA FOR DEVELOPING A PETITION?

Yes, AS 29.05.011 and 3 AAC 110.005-3 AAC 110.042 provide standards that must be met in order to incorporate. The Local Boundary Commission will use these same criteria to make a decision on the petition. These criteria or standards should be carefully reviewed when deciding whether to incorporate, and the criteria should be used to guide the development of the petition. See the [General Incorporation Standards](#) section in the next module for more information.

WHAT BOUNDARIES ARE APPROPRIATE FOR A NEW CITY?

City governments are community-based municipalities (as opposed to boroughs, which are regional municipalities). As such, their boundaries are limited to much smaller areas. Legal standards for city boundaries are provided in AS 29.05.011(a)(2) and 3 AAC 110.040.

ARE STATE GRANTS AVAILABLE TO STUDY THE FEASIBILITY AND NEED FOR A NEW CITY GOVERNMENT?

¹⁶ See AS 29.05.060(11)- (13)

No. State funding is not available for studies of a potential city government.

DOES THE STATE PROVIDE TECHNICAL ASSISTANCE TO CITIZENS WHO WISH TO INCORPORATE?

Yes. LBC staff will provide certain assistance to potential petitioners including providing petition forms and sample successful proposals, information on policy issues and technical matters, and direction on sources of information needed to complete a petition. While the state provides some assistance, the burden of preparing a proper petition remains with the petitioners.

DOES THE STATE PROVIDE TECHNICAL ASSISTANCE TO CITIZENS THAT ARE OPPOSED TO INCORPORATION?

Yes. LBC staff will also provide assistance to any person or group that wants to comment on a proposal. Assistance might include providing sample responsive briefs filed on previous petitions, discussion on policy issues, guidance on technical matters, and direction on where to get information needed to complete a responsive brief opposing a petition.

CAN A PETITION BE CHANGED AFTER IT IS FILED?

Yes, the petition may be changed by the petitioner. The LBC can also change it or add conditions to an incorporation proposal following a public hearing. Ideally, however, with careful planning and proper consultation before filing a petition, the need to make changes can be avoided. Changing a petition may, under certain circumstances, cause delays in the consideration of the petition.

HOW LONG DOES IT TAKE TO INCORPORATE?

Usually it takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Possible petitioners are encouraged to work closely with the LBC staff as they develop a petition. Though staff are available for guidance, petitioners carry the burden of drafting and finalizing a petition.

Once a petition is completed and the necessary signatures have been gathered, the petition is filed by submitting it through the Local Boundary Commission staff. The process for review of the proposal by the LBC typically takes one year or longer. If the commission approves the petition, the state will conduct a local election on the matter or the decision will be submitted to the legislature. The process for the incorporation election typically takes four months including the period after the LBC decision for reconsideration. Incorporation elections are typically conducted by mail by the state division of elections. More information on the process and timeline is available in the next modules.

ARE THERE STANDARDS FOR THE INCORPORATION OF CITIES?

Yes. A community may incorporate as a city government if it meets the standards in the law.¹⁷ Among the standards is the requirement to show the need for a new city. If the proposed city is within an organized borough, the need for a new city is more difficult to demonstrate. The law (AS 29.05.021) does not allow the creation of a new city within an organized borough if essential city services can be provided more efficiently or more effectively by an existing organized borough on an areawide basis, nonareawide basis, or through an existing borough service area.

That limitation reflects the fact that local government principles in Alaska's constitution view a borough with no city governments as the ideal structure for delivery of local services. The drafters of the Local Government Article of Alaska's constitution "viewed the long-term relationships between the borough and the city as a gradual evolution to unified government."¹⁸ The express purpose of the Local Government Article is to "provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions."¹⁹

Another limitation in state law on the creation of a new city concerns the possibility of receiving services through annexation to an existing city. If annexation is viable, a new city cannot be formed. Residents of unincorporated communities in the unorganized borough often have an easier test to show a need for a city government.

In addition to need for a city government, the standards also address whether a proposed city has the economic resources in order to support the proposed city government. The population of the community must also be large and stable enough. A community must have at least 400 permanent residents to be approved for incorporation as a first class or home-rule city. The boundaries of the proposed city must also meet the standards in the law. The standards can be found in the following module and in the appendices in full.

¹⁷ AS 29.05.011, AS 29.05.021, AS 29.05.100, 3 AAC 110.005-3 AAC 110.042, and 3 AAC 110.900-3 AAC 110.990

¹⁸ Final Report on Borough Government, p. 17, Alaska Legislative Council and the Local Affairs Agency.

¹⁹ Alaska constitution, Article 10, Section 1

PLANNING AND PREPARING A PETITION

Proper planning and preparation are critical to the success of any incorporation proposal. This is particularly true if the proposal is complex or likely to be controversial.

ENCOURAGE PUBLIC PARTICIPATION IN PLANNING FOR INCORPORATION

Participation in the incorporation planning process by those who live, work, and/or own property in the community contemplated for incorporation should be strongly encouraged. If the community for which incorporation is contemplated is within an organized borough, officials of the borough should be invited to participate in the planning process. If the community is in the unorganized borough, agencies and organizations currently providing local services to the community (e.g., regional educational attendance area) should be consulted.

When considering the size of the proposed city, identify all proximate areas that are integrated with the community that may reasonably warrant inclusion within the city during the next decade. Development of an incorporation petition requires a substantial commitment of time and other resources. Therefore, municipal governments, residents, and property owners are often better served if municipal boundary changes are few in number and comprehensive in scope rather than undersized, piecemeal, and frequent.

DEFINE OBJECTIVES

Defining the objectives of a prospective incorporation petition is a fundamental step in planning for incorporation. A petitioner is required by law (3 AAC 110.420) to state its reasons for incorporation in its petition formally. The following are examples of incorporation objectives often used by cities in Alaska:

1. *To promote greater local responsibilities.* In light of cutbacks in financial assistance from the state (e.g., revenue sharing, safe communities funding, and capital matching grants), there is a greater need for local responsibility for local needs.
2. *To provide needed services.* There may be services that residents desire that can only be afforded or offered by a municipality. While non-profit community associations may collectively provide services such as water, fire protection, road construction and maintenance, libraries, community buildings, docks and floats, electrical generation, EMS, landfill, and recreation facilities, a particular community association usually provides only one or two of these services. To a significant extent, this is because the demand for multiple services can exceed the community association's ability to provide the services from available revenues and/or service fees.
3. *To promote orderly growth and development.* Incorporation may help abate threats to public health and safety through platting, land use regulation, and other powers.

Residents may desire regulations to control certain activities in the community or facilities to support local development. Examples of regulations may include control of fireworks, animal control, subdivision review, and management of land use conflicts through planning and zoning. Facilities may include floats, grids, docks, ramps, and other community infrastructure that is easier for a municipality to operate and maintain.

4. *To preserve the character or shape the growth.* Similarly, residents may want to preserve the character of the community and shape the future of the community through planning, platting, and land use regulation, unless otherwise provided by an organized borough. A municipality has the authority through zoning to designate areas for residential, commercial, industrial, and recreational uses to name a few. A municipality can use this tool to direct the future development of the community.
5. *To enfranchise individuals and increase representation.* Residents of unincorporated areas may be a part of a community, but because they live outside an artificial political boundary, those individuals are not allowed a voice through city government. Incorporation would allow residents to be appointed to city boards and commissions, hold elective office in city government, and vote in city elections. Municipalities are also more easily recognized than community associations by local, state, and federal agencies as well as other entities.
6. *To raise and receive revenue.* A municipality has access to more funding from the state than a community association. A municipality is eligible for Community Assistance Program (formerly called Community Revenue Sharing), National Forest Receipts, Payment in Lieu of Taxes (PILT), and the Shared Fisheries Business Tax. There is a one-time-only organization grant for newly incorporated municipalities of \$50,000 with an additional \$25,000 to be awarded at the start of the city's second fiscal year. A municipality has authority to raise local revenues from user fees, sales taxes, and property taxes to pay for general government operations, utilities, local improvements, and road maintenance.
7. *To provide more accountability.* A municipality has more accountability to residents than a community association typically would. For example, the city council must follow strict procedures and provide for more accountability than non-profit boards, unless that community association has adopted detailed bylaws. Some of the rules and procedures that apply to cities include adhering to the Open Meetings Act, disclosing conflicts of interest, following strict elections rules, keeping a code of ordinances, maintaining public records, and holding public hearings.
8. *Other jurisdictional issues.* Local citizens and others may cite the need for city programs to address alcohol and drug abuse, economic development, environmental management, flood insurance, fire insurance, local utilities, and other local governance issues.

THE ADVANTAGES AND DISADVANTAGES OF INCORPORATION

It is hard to classify the advantages and disadvantages of incorporation because what one may see as an advantage, another may see as a disadvantage. Having said this, here is a partial list of advantages and disadvantages.

ADVANTAGES

1. A city has more accountability to its citizens. It must follow state statutes and local ordinances, and allow for public input.
2. A city can be more efficient at decision making since authority is delegated to an elected council and rules of procedure have to be followed at council meetings.
3. Incorporation provides the ability to exercise greater local control over decision making.
4. A city is able to provide services to its residents through locally generated revenues. A city also has access to more revenues and grants from outside sources than a non-profit community association. A city can afford to hire staff to take care of the day-to-day operation of city business.

DISADVANTAGES

1. The residents give power to the council to make decisions for them.
2. City operations are more complicated. State statutes and local ordinances must be followed. The council must meet regularly and maintain a public record of its actions. The notices of the meeting must be posted a certain number of days before the meeting. Elections must be held every year.
3. Cities have the power to tax if approved by a vote of the people.
4. The population may be too small to support a city government. However, there are about 26 incorporated cities with populations under 100.
5. The community association may be able to manage effectively the affairs of the community without the addition of a city government.
6. A city may be considered “too much” for the residents’ needs.

CONSIDER POTENTIAL ARGUMENTS AGAINST INCORPORATION

In planning for incorporation, it may be helpful to anticipate arguments in opposition. Critics of city incorporations in Alaska often advance one or more of the following arguments.

1. *Incorporation is unnecessary or unwise.* Opponents of incorporation may assert that they chose to live outside the jurisdiction of a city to pursue a lifestyle free from intrusive local

government. Frequently, incorporation to a city is equated with a diminution of the personal freedom of residents in the territory proposed for incorporation.

2. *The city lacks adequate resources to assume the provision of services.* Opponents may assert that a community does not have the financial resources or human capital to carry out the functions that come along with incorporating as a municipality.
3. *Incorporation is just a “cash cow” for proponents of a city.* Opponents to city incorporation may characterize city proponents as being driven by greed and, thus, being objectionable.
4. *The territory proposed for incorporation is not compatible in character with incorporation.* Residents and property owners in territory proposed for incorporation commonly assert that their lifestyles and service needs are different from those of people living in cities. Residents may wish to retain the rural character of their area and oppose incorporation as a step toward greater urbanization. They may oppose municipal animal control, regulation of firearms, and other ordinances, regulations, and license requirements of the city. Residents and businesses may also say they chose to build and live outside any city in order to avoid government regulation and taxes for services they may not wish to have.
5. *There is distrust of the government and politics.* Frequently, opponents of incorporation assert that they are uninterested in an additional layer of government.
6. *Incorporation, particularly incorporation by the legislative review method that does not require voter approval for incorporation, is anathema to democracy.* The constitution specifically allows for incorporation by legislative review whereby decisions of the LBC are subject to approval by the legislature. The same process for a petition is followed, but a favorable decision on a petition by the LBC is submitted to the legislature.

CONSIDER ALTERNATIVES TO INCORPORATION

Once the objectives have been defined and potential arguments against incorporation considered, those encouraging incorporation may wish to explore whether there are alternatives to incorporation that may be more suitable means of accomplishing the objectives.

Alternatives to incorporation include: (1) annexation to an existing city, or (2) receiving services from an existing borough on an areawide or nonareawide basis, or through an existing borough service area.

DETERMINE WHICH METHOD OF INCORPORATION IS BETTER SUITED

If those advocating incorporation choose to pursue incorporation, the planning effort should address which particular method of incorporation is best suited to accomplish the objectives.

Cities may incorporate in Alaska by using one of two methods, both of which require Local Boundary Commission approval. Those methods are summarized below.

*Incorporation by Election.*²⁰ In accordance with AS 29.05.110, a community may incorporate as a municipality if it has received LBC approval by an election. Regulations and laws refer to both local action and local option; those terms in this context are interchangeable. An incorporation question will be placed on the ballot in an election conducted by the Alaska Division of Elections. Qualified voters are those who are registered to vote within the proposed municipality at least 30 days before the date of the election order issued by the director of the Division of Elections. That order is issued after notification from the Local Boundary commission of its affirmative incorporation petition decision. The petitioner must use incorporation petition forms provided by DCCED.

*Incorporation by Legislative Review.*²¹ To implement any boundary change under this method, the Local Boundary Commission must present a favorable decision on an incorporation petition to the Legislature during the first ten days of a regular session of the Legislature. The incorporation becomes effective forty-five days after presentation or at the end of the session, whichever is earlier, unless it is disapproved by a resolution passed by a majority of the members of each house. The petitioner must use incorporation petition forms provided by DCCED. The legislative review method is allowed under the constitution.

CONSIDER THE STANDARDS THAT GOVERN INCORPORATION

Careful consideration should be given to the criteria established in law governing the nature of territory that may be annexed to a city and the capacity of the city to serve that territory. Those standards are set out in 3 AAC 110.005 – 3 AAC 110.042, 3 AAC 110.900 – 3 AAC 110.990. In order for any incorporation to be approved, all standards listed below must be met.

GENERAL CITY INCORPORATION STANDARDS

- The territory proposed for incorporation must encompass a community.
- Based on relevant factors listed in 3 AAC 110.010, plus other relevant factors, the territory proposed for incorporation must demonstrate a reasonable need for city government.
- In accordance with 3 AAC 110.010(b), a community in the unorganized borough may not incorporate as a city if essential municipal services determined under 3 AAC

²⁰ Article 10, section 12 of the Constitution of the State of Alaska; AS 29.06.040(a) and (c)(1) and (2); AS 29.05.110(a)-(f); 3 AAC 110.600(a).

²¹ Article 10, section 12 of the Constitution of the State of Alaska, AS 29.06.040(a) and (b); AS 44.33.812(b)(2); 3 AAC 110.610(a) and (b).

110.970 can be provided more efficiently or effectively by annexation to an existing city.

- If a proposed city is in an organized borough, a community may not incorporate if essential municipal services under 3 AAC 110.970 can be provided more efficiently or effectively by annexation to an existing city, by an existing organized borough on an areawide or nonareawide basis or through an existing borough service area.
- Based on relevant factors listed in 3 AAC 110.020, plus other relevant factors, the economy within the proposed boundaries must include the human and financial resources necessary to provide services determined to be essential municipal services under 3 AAC 110.970 on an efficient, cost-effective level.
- Based on relevant factors listed in 3 AAC 110.030, plus other relevant factors, the population within the proposed expanded boundaries of the city must be sufficiently large and stable to support the planned city government.
- A community seeking to become a first class or home rule city must have at least 400 permanent residents. A second class city petition must have the signatures of at least 25 residents (registered voters).
- Based on relevant factors listed in 3 AAC 110.040(a), plus other relevant factors, the proposed boundaries of the city must include all land and water necessary to provide the development of services determined to be essential municipal services under 3 AAC 110.970 on an efficient, cost-effective level.
- The territory proposed for incorporation must be contiguous and must not create enclaves within the boundaries of the city. Alternatively, under 3 AAC 110.130(b), a specific and persuasive showing must be made that incorporation of noncontiguous territory, or territory that would create enclaves, would include all land and water necessary to allow, on an efficient, cost-effective level, the development of services determined to be essential municipal services under 3 AAC 110.970.
- Under 3 AAC 110.040(b)(1), the proposed expanded boundaries of the city must include only that territory comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the ten years following the effective date of incorporation.
- Under 3 AAC 110.030(b)(2), the proposed boundaries of a city may not include entire geographical regions or large unpopulated areas, except where justified by the application of the standards in 3 AAC 110.005 - 3 AAC 110.042 and are otherwise suitable for city government.
- If a petition for incorporation describes boundaries overlapping the boundaries of an existing organized borough or existing city, the petition must address the standards and procedures to alter the boundaries of the existing organized borough or city to remove the overlapping territory. The brief in the petition must address these issues in detail.

- Based on relevant factors listed in 3 AAC 110.042, plus other relevant factors, incorporation of the city must be in the best interests of the state under AS 29.05.100(a).
- In accordance with 3 AAC 110.910, the proposed incorporation to the city may not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.
- The petitioner must prepare a proper transition plan under 3 AAC 110.900.

STANDARDS BY AUTHORIZATION

The table below outlines the authorization (by statute, regulation, or constitution) for each standard.

Standard	Constitution	Statute	Regulation
Community			3 AAC 110.005; 3 AAC 110.920
Need	Article 10, Section 1	AS 29.05.011(a)(5); AS 29.05.021(a); AS 29.05.021(b)	3 AAC 110.010
Resources		AS 29.05.011(3)	3 AAC 110.020
Population		AS 29.05.011(a)(4)	3 AAC 110.030
Boundaries		AS 29.05.011(a)(2);	3 AAC 110.040
Best Interests of the State	Article 10, Section 1	AS 29.05.100(a)	3 AAC 110.042; 3 AAC 110.981; 3 AAC 110.982
Transition			3 AAC 110.900
Nondiscrimination			3 AAC 110.910
Essential Municipal Services			3 AAC 110.970

CONSIDER HOW INCORPORATION WOULD BE IMPLEMENTED

State law (3 AAC 110.900) requires that every incorporation proposal include a transition plan explaining how incorporation will be implemented. The plan must demonstrate:

- the intent and capacity of the proposed city to provide essential municipal services in the territory proposed for incorporation in the shortest practical time following incorporation (not to exceed two years);

- the manner in which the proposed city will assume all relevant and appropriate powers, duties, rights, and functions presently exercised within the territory proposed for incorporation;
- the manner in which the city will assume and integrate all relevant and appropriate assets and liabilities of entities providing those services to the territory that will be assumed by the planned city without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities; and
- the plan was prepared in consultation with entities currently responsible for or otherwise providing those services to the territory that will be assumed by the city.

The transition plan should specifically address:

- what specific powers, services, taxes, license requirements, and zoning or other regulations will be assumed by the territory proposed for incorporation;
- what schedule will guide the assumption of powers, duties, rights, functions;
- what costs are reasonably anticipated in connection with the proposed assumption of powers, services, taxes, license requirements, and zoning or other regulations;
- what revenues are reasonably anticipated to be gained by the city as a result of incorporation;
- what financial impacts incorporation would have on other governments;
- what assets and liabilities the city would assume from agencies and organizations currently providing services to the territory proposed for incorporation;
- plans for transition of relevant local laws currently in place in a borough, if applicable;
- the effect that incorporation will have on powers or services currently provided or exercised by an organized borough in the territory; and
- if the territory proposed for incorporation is within one or more service areas of an organized or unorganized borough, how incorporation will affect the nature of the service area (e.g. abolition or detachment of territory).

TECHNICAL ASSISTANCE, FORMS, AND SAMPLE MATERIALS AVAILABLE

Local Boundary Commission staff members are available to provide technical assistance, petition forms, and sample incorporation materials to prospective petitioners, prospective respondents (those favoring or opposing incorporation), and other interested persons. The next section discusses the steps necessary for filing a petition.

STANDARDS AND PROCEDURES FOR PETITIONS

THE PROCESS

1. Alaska Statute Title 29 and Alaska Administrative Code Title 3 Article 13 (3 AAC 110.005-.042; .900-990) contain the standards for incorporation that the Local Boundary Commission (LBC) follows when reviewing a petition for incorporation. Petition procedures are found in 3 AAC 110.400-700. A brief summary of the procedures for incorporation is below.
 - a. A petition is filed with the LBC.
 - b. The public reviews the petition.
 - c. LBC staff review petition, and draft report(s) that include a nonbinding recommendation to the commission.
 - d. The LBC holds hearing(s) and makes a decision.
 - e. The petitioner transitions to a municipality after approval by voters or by legislative review.
2. Petition forms are provided by LBC staff. A sample form for incorporation by local action is provided in the appendices of this packet. Other forms are available on request.
3. Before a petition for city incorporation is circulated for signatures, the petitioner should prepare and submit to LBC staff a complete draft of the incorporation petition, using forms provided by DCCED. LBC staff will review the draft petition and advise the petitioner of any elements in the draft that should be corrected, supplemented, or clarified. Such preliminary review by DCCED should minimize the possibility of rejection of the petition for technical reasons after local voters sign the document. (If a petition is rejected by DCCED after petition signatures of local voters are secured, the corrected petition must then be circulated again for signatures of qualified voters. This could be time-consuming and potentially confusing to the public.)
4. Information required in a petition is specified in 3 AAC 110.420. Petitioners may submit additional information to supplement their petition, and are not limited to the space provided in sample forms. Staff offer technical assistance including review, analysis and an assessment of the feasibility of a particular proposal. However, staff may not act in an advocacy capacity pursuant to 3 AAC 110.410 and -.435.
5. Once a petition, including signatures, and any supporting materials are complete, it is submitted to LBC staff. Staff have 45 days to complete a technical review required by 3 AAC.110.440. This review ensures all required elements of the petition are included, complete, and sufficient for commission review. It also ensures there are enough valid signatures to proceed. A more substantive review with an investigation and analysis of the merits of the petition occurs later in the process when department drafts its preliminary report for the commission which includes a nonbinding recommendation to the LBC.
6. If a petition is deemed incomplete, it will be returned to the petitioner for completion with a list of the missing elements. The chair of the LBC will determine if the changes necessary are significant enough to warrant the gathering of new signatures. If a petition passes technical review, the petition will be accepted for filing. Acceptance of the petition for filing

is not a formal endorsement of the petition as submitted. Acceptance allows the merits of the incorporation proposal to be examined formally by interested parties, including the department, and the Local Boundary Commission. As staff develop its report to the Local Boundary Commission regarding the petition, specific policy issues or concerns may be identified.

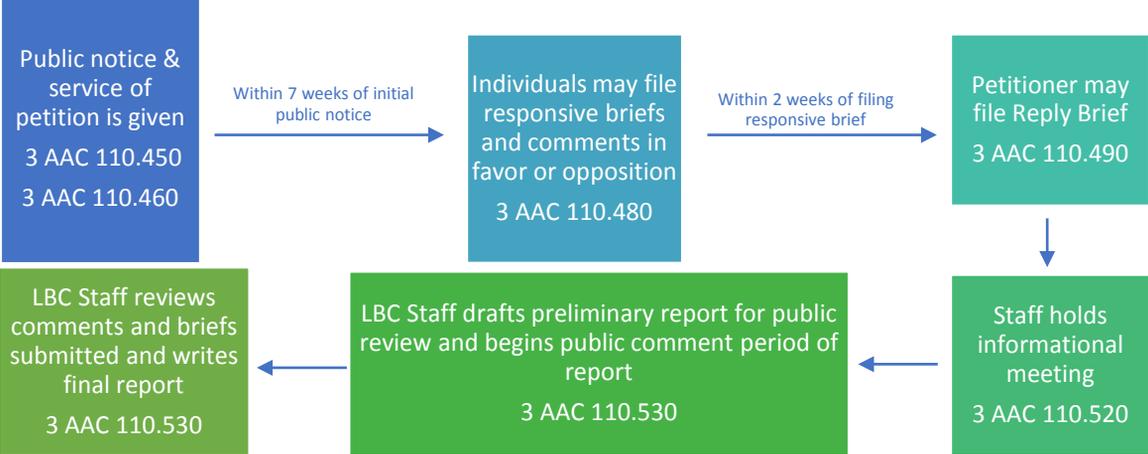
7. When a petition is accepted for filing, DCCED will notify petitioners and provide a packet of information including the procedure going forward. The next section will detail the next steps in the process. The following page has a flow chart detailing these steps.

City Incorporation Petition Process

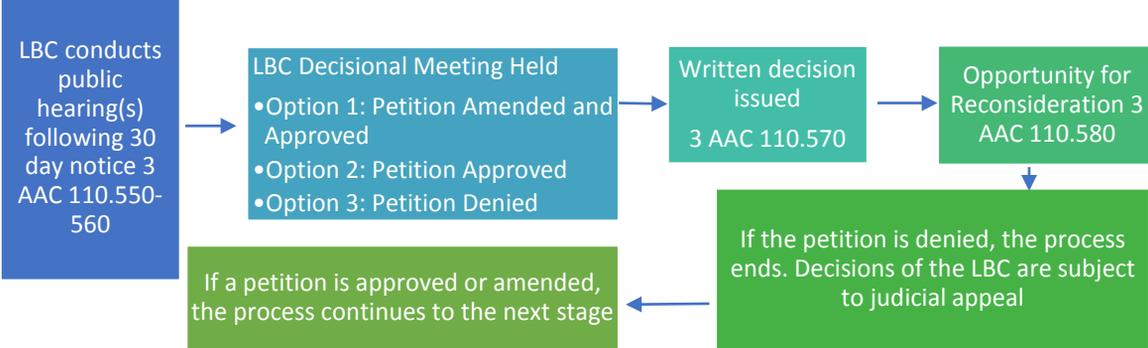
Stage 1: Filing the Petition



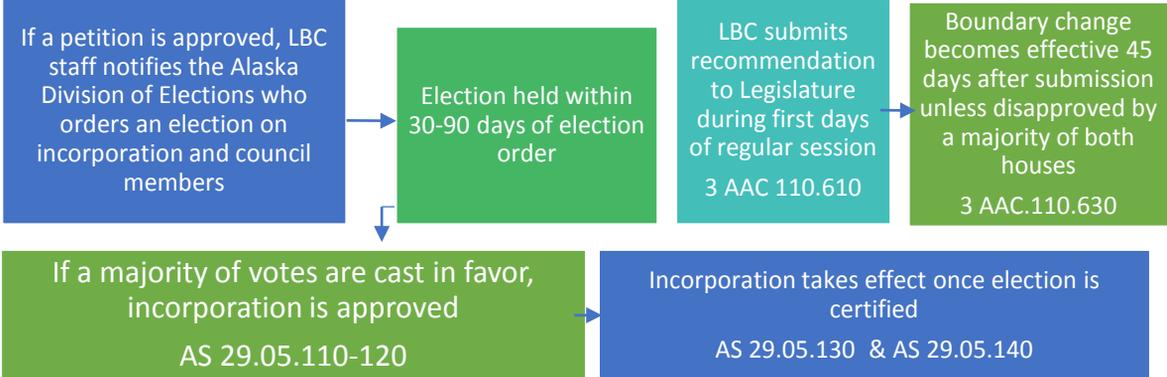
Stage 2: Public Review



Stage 3: Hearing and Decision by LBC



Stage 4: Election or



PETITION PROCEDURES ONCE ACCEPTED

PUBLIC NOTICE AND PUBLIC REVIEW

Once a petition is accepted for filing, extensive public notice of the filing of the petition is given. Interested parties are given at least seven weeks to submit responsive briefs and comments in support of or in opposition to a petition. The petitioner is then given at least two weeks to file one brief in reply to all the responsive briefs.

PETITION ANALYSIS

Following the initial public comment period, LBC staff analyze the petition, responsive briefs, public comments, reply brief, and other materials as part of its investigation. LBC staff will conduct an informational meeting on petition procedures under 3 AAC 110.520.

At the conclusion of its investigation, DCRA issues a preliminary report for public review and comment. The report includes a formal recommendation to the Local Boundary Commission for action on the petition.

The preliminary report is circulated for public review and comment for a minimum of four weeks. After reviewing the comments on its report, DCRA issues its final report. The final report includes a brief discussion of comments made on the preliminary report and also notes any changes to DCRA's recommendations to the commission. The final report must be issued at least three weeks prior to the hearing on the proposal.

COMMISSION REVIEW OF MATERIALS AND PUBLIC HEARING

Members of the commission review the petition, responsive briefs, written comments, reply brief, and DCRA reports. If circumstances permit, commission members may also tour the area in question prior to the hearing in order to gain a better understanding of the proposal.

Following extensive public notice, the commission conducts at least one public hearing on the proposal. At this hearing, petitioners, respondents, and members of the public are given the opportunity to weigh in, and commissioners may ask questions.

DECISION AND OPPORTUNITY FOR RECONSIDERATION

The commission must act on the petition within 90 days of the hearing. The commission may take any one of the following actions:

- approve the petition as presented;
- amend the petition (e.g., alter the boundaries);
- impose conditions on approval of the petition (e.g., require an additional public meeting); or

- deny the petition.

The law requires the commission to reach a decision within 90 days of its hearing. However, typically, the commission holds a decisional meeting immediately after the hearing.

Within 30 days of announcing its decision, the commission must adopt a written statement setting out the basis for its decision. Copies of the statement are provided to the petitioner, respondents, and others who request it. At that point, the decision becomes final, subject to reconsideration.

Any party may ask the commission to reconsider its decision. Such requests must be filed within 18 days of the date that the decision became final. If the commission does not approve a request for reconsideration within 30 days of the date that the decision became final, the request for reconsideration is automatically denied.

IMPLEMENTATION

If the commission approves a petition, the proposal is subject to approval by voters, or is submitted to the legislature. A petition that has been granted by the commission takes effect upon the satisfaction of any stipulations imposed by the commission, and an election is certified. For a legislative review petition, when 45 days have passed after submission during a regular session and no action is taken, the boundary change takes effect. Decisions are no longer subject to Department of Justice Review under the Voting Rights Act. Under 29.05.180, newly formed cities are entitled to an organization grant of \$50,000 in the first full fiscal year, and \$25,000 in the second fiscal year to defray the cost of transition to city government and to provide for interim government operations.

PETITION PROCESS TIMELINE

Date	Action
Within 45 days of receiving petition	Local Boundary Commission (LBC) staff conduct a technical review of the petition. A technical review determines whether a petition contains all required information. A petition will either be accepted for filing or it will be returned to the petitioner for correction or completion.
Within 45 days of receiving notice of acceptance for filing	After the petition is accepted, staff will provide a public notice of the filing of the petition and instructions for publication. This notice informs the public and alerts them to an opportunity to comment.
Beginning when notice of filing is published, at least 49 days	Public comments and responsive briefs are received for a specific time period published in notice. Staff will conduct an informational session typically during this time.

At least 14 days	Petitioner may respond to the responsive briefs and comments.
About 7 weeks	LBC staff perform a thorough investigation and analysis of the petition and drafts a preliminary report that includes a recommendation to the LBC regarding the petition.
A minimum of 28 days from the mailing of preliminary report	Opportunity for public review and comment on the preliminary report.
Approximately 3 weeks	LBC staff consider comments on preliminary report and makes appropriate changes to its report and recommendation. The final report is issued for public review.
At least 21 days from the mailing of the final report	LBC conducts public hearing(s) where petitioners, respondents and members of the public are given an opportunity to comment.
Within 90 days of hearing	LBC conducts public meeting(s) and reaches a decision [often made immediately after hearing].
Within 30 days of decisional meeting	LBC issues written decision.
Within 30 days of when the written decision is issued	Any public member may request reconsideration within 18 days after the written decision is issued. The LBC may grant a reconsideration request, or order reconsideration on its own motion within 30 days after the written decision is issued.
If petition is denied, LBC process ends (parties may appeal LBC decision to superior court)	If approved by the LBC, the petition is subject to review by the legislature or approval by the voters in the area approved for change.

CONCLUSION

This packet seeks to inform those Alaska residents interested in forming a city, and to provide the necessary resources to begin the petition process. Staff are available for support, and should be consulted when preparing a petition and before gathering any signatures. Forming a city is no small endeavor and can take much longer than a year when the planning and community engagement as well as drafting the petition is taken into account. However, community members can safely assume the city will remain for the generations that follow.

There are varied reasons why residents of a community may wish to incorporate as a municipality. The community as a whole must decide what kind of future it wants for itself and then decide if incorporating as a municipality will enable them to achieve their vision for the future. Even though it is difficult to classify the advantages and disadvantages of incorporating as a second class city, it is clear that a city government has more power and ability to raise revenue to provide local services than a community association. The residents of the community must decide, then, whether they are ready for a city government.

APPENDICES

1. [APPLICABLE LAWS](#)
2. [BLANK PETITION FORM](#)

APPLICABLE LAWS AND REGULATIONS

ARTICLE 10, ALASKA CONSTITUTION

- [Section 1. Purpose and Construction, local self-government, local government units.](#)
 - [Section 2. Local self-government powers, taxing authority.](#)
 - [Section 5. Service Areas, incorporation to encompass proposed service area.](#)
 - [Section 7. Cities.](#)
 - [Section 12. Boundaries.](#)
 - [Section 14. Agency to advise and assist local governments.](#)
-

ALASKA STATUTES

- [AS 29.05.011. Incorporation of a city, incorporation standards.](#)
 - [AS 29.05.021. Limitations on incorporation of a city, annexation.](#)
 - [AS 29.05.060. Petition, required information, maps, proposed operating budget, signatures, powers.](#)
 - [AS 29.05.070. Review, deficient application.](#)
 - [AS 29.05.080. Investigation, departmental informational meetings, notice.](#)
 - [AS 29.05.090. Hearing, public hearing.](#)
 - [AS 29.05.100. Decision, LBC amendment/conditions, decision criteria, appeal under the Administrative Procedures Act.](#)
 - [AS 29.05.110. Incorporation election, notification to director of elections, election on incorporation, municipal officials, voter qualifications, powers, charter.](#)
 - [AS 29.05.120. Election of initial officials, nomination form, elections supervisor, terms in office.](#)
 - [AS 29.05.130. Integration of special districts and service areas, time limit, fees, taxes, assessments.](#)
 - [AS 29.05.140. Transition, time limit; effect of ordinances, rules, and procedures; written notice.](#)
 - [AS 29.05.150. Challenge of legality, time limit.](#)
 - [AS 29.05.180. Organization grants, disbursement timeline.](#)
 - [AS 44.33.810. Local Boundary Commission, appointment.](#)
 - [AS 44.33.812. Powers and Duties.](#)
 - [AS 44.33.814. Meetings and Hearings.](#)
 - [AS 44.33.816. Minutes and Records.](#)
 - [AS 44.33.818. Notice of Public Hearings.](#)
 - [AS 44.33.820. Quorum.](#)
 - [AS 44.33.822. Boundary Change.](#)
 - [AS 44.33.824. Expenses.](#)
 - [AS 44.33.826. Hearings on boundary changes.](#)
 - [AS 44.33.828. When boundary changes take effect.](#)
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RELEVANT REGULATIONS

- [3 AAC 110.005. Community.](#)

- [3 AAC 110.010. Need, factors considered in determining need, limitation on incorporation.](#)
- [3 AAC 110.020. Resources, factors considered in determining resources available to provide essential public services.](#)
- [3 AAC 110.030. Population, factors considered in determining population characteristics.](#)
- [3 AAC 110.040. Boundaries, factors considered in determining land and water needed for essential public services, large geographic and unpopulated area, overlapping boundaries.](#)
- [3 AAC 110.042. Best interests of state, factors considered in best interest determination.](#)
- [3 AAC 110.400. Applicability.](#)
- [3 AAC 110.410. Petitioners, defining authorized petitioners, signature requirements.](#)
- [3 AAC 110.415 Additional requirements of a voter-initiated petition](#)
- [3 AAC 110.420. Petition, form, supporting brief, exhibits.](#)
- [3 AAC 110.421 Name of Municipal Government](#)
- [3 AAC 110.430. Consolidation of petitions.](#)
- [3 AAC 110.435 Role of department staff](#)
- [3 AAC 110.440. Technical review of petitions, department review, deficient petition.](#)
- [3 AAC 110.450. Notice of petition, time limit and method for providing notice.](#)
- [3 AAC 110.460. Service of petition, recipients and method of delivery, availability of all petition documents for public review.](#)
- [3 AAC 110.470. Proof of notice and service.](#)
- [3 AAC 110.475 Summary determination](#)
- [3 AAC 110.480. Responsive briefs and written comments, filing with department, affidavit of delivery to petitioner.](#)
- [3 AAC 110.490. Reply brief, filing with department, affidavit of delivery to respondent.](#)
- [3 AAC 110.500. Limitations on advocacy, adherence to regulations, commission contact with interested parties.](#)
- [3 AAC 110.510. Informational sessions, department determination of adequate public information sessions, affidavit.](#)
- [3 AAC 110.520. Departmental public meetings, notice, affidavit of posting, presiding officer, meeting summary, postponement, relocation.](#)
- [3 AAC 110.530. Departmental reports, draft review and comment.](#)
- [3 AAC 110.540. Amendment of petition](#)
- [3 AAC 110.545 Withdrawal of petition](#)
- [3 AAC 110.550. Commission public hearing, notice, public service announcement, postponement, relocation.](#)
- [3 AAC 110.560. Commission hearing procedures, presiding officer, commission quorum, limit on comments, witnesses, sworn testimony, timely submission of documents.](#)
- [3 AAC 110.570. Decisional meeting, time limit, commission quorum, change to comply with law, minutes, statement of considerations, decision, affidavit.](#)
- [3 AAC 110.580. Reconsideration, time limit, denial or acceptance of request.](#)
- [3 AAC 110.600. Local action/local option elections, election by director of elections under AS 15, election by municipality.](#)

- [3 AAC 110.610. Legislative review, amendment to consider as local action/option procedure, legislative review of commission decision.](#)
- [3 AAC 110.620. Judicial review, appeal and judicial review in accordance with Administrative Procedure Act.](#)
- [3 AAC 110.630. Effective date and certification, Voting Rights Act approval, certification of election, legislative review deadline, certificate of change, recordation.](#)
- [3 AAC 110.640. Scheduling, chairperson order setting/amending schedule, timeline, postponement.](#)
- [3 AAC 110.650. Resubmittals and reversals, denial of previous similar petition, request for reversal of decision.](#)
- [3 AAC 110.660. Purpose of procedural regulations, relaxation or suspension of procedural regulation, commission discretion, guidelines.](#)
- [3 AAC 110.680 LBC Meetings](#)
- [3 AAC 110.690 Teleconference policy and procedures](#)
- [3 AAC 110.700 Filing with the commission](#)
- [3 AAC 110.900. Transition, submission of transition plan; assumption of powers, duties, responsibilities, assets, and liabilities; time limit on execution of plan; approved agreement.](#)
- [3 AAC 110.910. Statement of non-discrimination.](#)
- [3 AAC 110.920. Determination of community, factors considered in determining whether the term community applies.](#)
- [3 AAC 110.970. Determination of essential city or borough services, guidelines.](#)
- [3 AAC 110.981 Determination of maximum local self-government](#)
- [3 AAC 110.982 Minimum number of local government units](#)
- [3 AAC 110.990. Definitions.](#)

APPLICABLE STATUTES AND REGULATIONS

CONSTITUTION OF THE STATE OF ALASKA, ARTICLE 10, LOCAL GOVERNMENT

SECTION 1. PURPOSE AND CONSTRUCTION. 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.

SECTION 2. LOCAL GOVERNMENT POWERS. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

SECTION 5. SERVICE AREAS. Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

SECTION 7. CITIES. Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

SECTION 11. HOME RULE POWERS. A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

SECTION 12. BOUNDARIES. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

SECTION 14. LOCAL GOVERNMENT AGENCY. An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law.

ALASKA STATUTES, TITLE 29, ARTICLE 1. REQUIREMENTS

SEC. 29.05.011. INCORPORATION OF A CITY.

(a) A community that meets the following standards may incorporate as a first class or home rule city:

- (1) the community has 400 or more permanent residents;
- (2) the boundaries of the proposed city include all areas necessary to provide municipal services on an efficient scale;
- (3) the economy of the community includes the human and financial resources necessary to provide municipal services; in considering the economy of the community, the Local Boundary Commission shall consider property values, economic base, personal income, resource and commercial development, anticipated functions, and the expenses and income of the proposed city, including the ability of the community to generate local revenue;
- (4) the population of the community is stable enough to support city government;
- (5) there is a demonstrated need for city government.

(b) A community that meets all the standards under (a) of this section except (a)(1) may incorporate as a second class city. (§ 4 ch 74 SLA 1985; am § 6 ch 58 SLA 1994)

SEC. 29.05.021. LIMITATIONS ON INCORPORATION OF A CITY

(a) A community in the 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.

(b) A community within a borough may not incorporate as a city if the services to be provided by the proposed city can be provided on an areawide or nonareawide basis by the

borough in which the proposed city is located, or by annexation to an existing city. (§ 4 ch 74 SLA 1985)

SEC. 29.05.060. PETITION

Municipal incorporation is proposed by filing a petition with the department. The petition must include the following information about the proposed municipality:

- (1) class;
- (2) name;
- (3) boundaries;
- (4) maps, documents, and other information required by the department;
- (5) composition and apportionment of the governing body;
- (6) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation;
- (7) for a borough or unified municipality, based on the number who voted in the respective areas in the last general election, the signature and resident address of 15 percent of the voters in
 - (A) home rule and first class cities in the area of the proposed borough or unified municipality; and
 - (B) the area of the proposed borough or unified municipality outside home rule and first class cities;
- (8) for a first class borough or unified municipality, a designation of areawide powers to be exercised;
- (9) for a second class borough, a designation of areawide and nonareawide powers to be exercised;
- (10) for a first class, second class, or home rule city, a designation of the powers to be exercised;
- (11) for a first class or home rule city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 50 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;
- (12) for a second class city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 25 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;
- (13) for a home rule city, home rule borough, or unified municipality, a proposed home rule charter. (§ 4 ch 74 SLA 1985; am § 8 ch 58 SLA 1994)

SEC. 29.05.070. REVIEW

The department shall review an incorporation petition for content and signatures and shall return a deficient petition for correction and completion. (§ 4 ch 74 SLA 1985)

SEC. 29.05.080. INVESTIGATION

(a) If an incorporation petition contains the required information and signatures, the department shall investigate the proposal and shall hold at least one public informational meeting in the area proposed for incorporation. The department shall publish notice of the

meeting.

(b) The department may combine incorporation petitions from the same general area.

(c) The department shall report its findings to the Local Boundary Commission with its recommendations regarding the incorporation. (§ 4 ch 74 SLA 1985)

SEC. 29.05.090. HEARING

The Local Boundary Commission shall hold at least one public hearing in the area proposed to be incorporated for the purpose of receiving testimony and evidence on the proposal. (§ 4 ch 74 SLA 1985)

SEC. 29.05.100. DECISION

(a) After providing public notice of each proposed amendment or condition and an opportunity for public comment, the Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best interests of the state, it may accept the petition. Otherwise it shall reject the petition.

(b) A Local Boundary Commission decision under this section may be appealed under AS 44.62 (Administrative Procedure Act). (§ 4 ch 74 SLA 1985; am § 9 ch 58 SLA 1994; am § 2 ch 86 SLA 1999; am § 1 ch 46 SLA 2006)

SEC. 29.05.110. INCORPORATION ELECTION

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of an incorporation petition. Within 30 days after notification, the director of elections shall order an election in the proposed municipality to determine whether the voters desire incorporation and, if so, to elect the initial municipal officials. If incorporation is rejected, no officials are elected. The election shall be held not less than 30 or more than 90 days after the date of the election order. The election order must specify the dates during which nomination petitions for election of initial officials may be filed.

(b) A qualified voter who is registered to vote within the proposed municipality at least 30 days before the date of the election order may vote.

(c) Areawide borough powers included in an incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each nonareawide power to be exercised is placed separately on the ballot. Adoption of a nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the qualified voters who are registered to vote in the proposed borough but outside all cities in the proposed borough.

(d) A home rule charter included in an incorporation petition under AS 29.05.060(13) is considered to be part of the incorporation question. The home rule charter is adopted if the voters approve incorporation of the city, borough, or unified municipality.

(e) The director of elections shall supervise the election in the general manner

prescribed by AS 15 (Election Code). The state shall pay all election costs under this section.

(f) In this section, "qualified voter" has the meaning given in AS 15.80.010. (§ 4 ch 74 SLA 1985; am § 10 ch 58 SLA 1994; am § 58 – 60 ch 2 FSSLA 2005)

SEC. 29.05.120. ELECTION OF INITIAL OFFICIALS

(a) Nominations for initial municipal officials are made by petition. The petition shall be in the form prescribed by the director of elections and must include the name and address of the nominee and a statement of the nominee that the nominee is qualified under the provisions of this title for the office that is sought. A person may file for and occupy more than one office, but may not serve simultaneously as

- (1) borough mayor and as a member of the assembly; or
- (2) city mayor and as a member of the council in a first class city.

(b) Except for a proposed second class city, petitions to nominate initial officials must include the signature and resident address of 50 voters in the area of the proposed municipality, or that area of the proposed municipality from which the officials are to be elected under the composition and apportionment set out in the accepted incorporation petition.

(c) Petitions to nominate initial officials of a second class city must include the signature and resident address of 10 voters in the area of the proposed city.

(d) The director of elections shall supervise the election in the general manner prescribed by the AS 15 (Election Code). The state shall pay all election costs.

(e) The initial elected officials take office on the first Monday following certification of their election.

(f) The initial elected members of the governing body shall determine by lot the length of their terms of office so that a proportionate number of terms expire each year, resulting in staggered terms of office for members subsequently elected. (§ 4 ch 74 SLA 1985)

SEC. 29.05.130. INTEGRATION OF SPECIAL DISTRICTS AND SERVICE AREAS

(a) A service area in a newly incorporated municipality shall be integrated into the municipality within two years after the date of incorporation. On integration the municipality succeeds to all the rights, powers, duties, assets, and liabilities of the service area. On integration all property in the service area subject to taxation to pay the principal and interest on bonds at the time of integration remains subject to taxation for that purpose.

(b) After integration, the municipality may exercise in a former service area all of the rights and powers exercised by the service area at the time of integration, and, as successor to the service area, may levy and collect special charges, taxes, or assessments to amortize bonded indebtedness incurred by the service area or by a municipality in which the service area was formerly located. (§ 4 ch 74 SLA 1985)

SEC. 29.05.140. TRANSITION

(a) The powers and duties exercised by cities and service areas that are succeeded to by a newly incorporated municipality continue to be exercised by the cities and service areas until the new municipality assumes the powers and functions, which may not exceed two years after the date of incorporation. Ordinances, rules, resolutions, procedures, and orders in effect

before the transfer remain in effect until superseded by the action of the new municipality.

(b) Before the assumption, the new municipality shall give written notice of its assumption of the rights, powers, duties, assets, and liabilities under this section and AS 29.05.130 to the city or service area concerned. Municipal officials shall consult with the officials of the city or service area concerned and arrange an orderly transfer.

(c) After the incorporation of a new municipality, a service area in it may not assume new bonded indebtedness, make a contract, or transfer an asset without the consent of the governing body.

(d) Upon incorporation, the home rule charter of a unified municipality operates to dissolve all municipalities in the area unified in accordance with the charter.

(e) Unless the incorporation takes effect on January 1, the newly incorporated municipality may not levy property taxes before January 1 of the year immediately following the year in which the incorporation takes effect.

(f) This section applies to home rule and general law municipalities. (§ 4 ch 74 SLA 1985; am § 11 ch 58 SLA 1994; am § 1 ch 12 SLA 2004)

SEC. 29.05.150. CHALLENGE OF LEGALITY

A person may not challenge the formation of a municipality except within six months after the date of its incorporation. (§ 4 ch 74 SLA 1985)

ARTICLE 3. TRANSITIONAL ASSISTANCE

SEC. 29.05.180. ORGANIZATION GRANTS TO CITIES

(a) To defray the cost of transition to city government and to provide for interim government operations, each city incorporated after December 31, 1985 is entitled to an organization grant of \$50,000 for the first full or partial fiscal year after incorporation.

(b) To defray the cost of reclassification, each second class city in the unorganized borough incorporated before January 1, 1986 that reclassifies as a first class city or adopts a home rule charter after December 31, 1985 is entitled to an organization grant equal to \$50,000 for the first full or partial fiscal year after reclassification.

(c) The department shall disburse an organization grant under (a) or (b) of this section within 30 days after certification of the incorporation, reclassification, or home rule charter election, or as soon after certification as money is appropriated and available for the purpose.

(d) A city entitled to an organization grant under (a) or (b) of this section is entitled to a second organization grant of \$25,000. The department shall disburse the second organization grant within 30 days after the beginning of the city's second fiscal year after incorporation, reclassification, or adoption of a home rule charter or as soon after that time as money is appropriated and available for the purpose. (§ 4 ch 74 SLA 1985)

ARTICLE 12. LOCAL BOUNDARY COMMISSION

SEC. 44.33.810. LOCAL BOUNDARY COMMISSION

There is in the Department of Community and Economic Development a Local Boundary Commission. The Local Boundary Commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four judicial districts described in AS 22.10.010 and one member shall be appointed from the state at large. The member appointed from the state at large is the chair of the commission. (§ 64 ch 58 SLA 1999)

SEC. 44.33.812. POWERS AND DUTIES

(a) The Local Boundary Commission shall

- (1) make studies of local government boundary problems;
- (2) adopt regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution; the regulations providing standards and procedures are subject to AS 29.04 – AS 29.10.
- (3) consider a local government boundary change requested of it by the legislature, the commissioner of commerce, community, and economic development, or a political subdivision of the state; “boundary change” may not be construed to include a borough incorporation; and
- (4) develop standards and procedures for the extension of services and ordinances of incorporated cities into contiguous areas for limited purposes upon majority approval of the voters of the contiguous area to be annexed and prepare transition schedules and prorated tax mill levies as well as standards for participation by voters of these contiguous areas in the affairs of the incorporated cities furnishing services.

(b) The Local Boundary Commission may

- (1) conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into contiguous areas and matters related to extension of services; and
- (2) present to the legislature during the first 10 days of a regular session proposed local government boundary changes, including gradual extension of services of incorporated cities into contiguous areas upon a majority approval of the voters of the contiguous area to be annexed and transition schedules providing for total assimilation of the contiguous area and its full participation in the affairs of the incorporated city within a period not to exceed five years. (§ 64 ch 58 SLA 1999; am § 2 ch 86 SLA 2005; am § 4 ch 46 SLA 2006).

SEC. 44.33.814. MEETINGS AND HEARINGS.

The chair of the commission or the commissioner of community and economic development with the consent of the chair may call a meeting or hearing of the Local Boundary Commission. All meetings and hearings shall be public. (§ 64 ch 58 SLA 1999)

SEC. 44.33.816. MINUTES AND RECORDS

The Local Boundary Commission shall keep minutes of all meetings and hearings. If the proceedings are transcribed, minutes shall be made from the transcription. The minutes are a public record. All votes taken by the commission shall be entered in the minutes. (§ 64 ch 58 SLA 1999)

SEC. 44.33.818. NOTICE OF PUBLIC HEARINGS

Public notice of a hearing of the Local Boundary Commission shall be given in the area in which the hearing is to be held at least 15 days before the date of the hearing. The notice of the hearing must include the time, date, place, and subject of the hearing. The commissioner of commerce, community, and economic development shall give notice of the hearing at least three times in the press, through other news media, or by posting in a public place, whichever is most feasible. (§ 64 ch 58 SLA 1999)

SEC. 44.33.820. QUORUM

Three members of the commission constitute a quorum for the conduct of business at a meeting. Two members constitute a quorum for the conduct of business at a hearing. (§ 64 ch 58 SLA 1999)

SEC. 44.33.822. BOUNDARY CHANGE

A majority of the membership of the Local Boundary Commission must vote in favor of a proposed boundary change before it may be presented to the legislature. (§ 64 ch 58 SLA 1999)

SEC. 44.33.824. EXPENSES

Members of the Local Boundary Commission receive no pay but are entitled to the travel expenses and per diem authorized for members of boards and commissions under AS 39.20.180. (§ 64 ch 58 SLA 1999)

SEC. 44.33.826. HEARINGS ON BOUNDARY CHANGES

A local government boundary change may not be proposed to the legislature unless a hearing on the change has been held in or in the near vicinity of the area affected by the change. (§ 64 ch 58 SLA 1999)

SEC. 44.33.828. WHEN BOUNDARY CHANGE TAKES EFFECT

When a local government boundary change is proposed to the legislature during the first 10 days of any regular session, the change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. (§ 64 ch 58 SLA 1999)

ALASKA ADMINISTRATIVE CODE, PART 15, CHAPTER 110, ARTICLE 1 STANDARDS FOR INCORPORATION OF CITIES

3 AAC 110.005. COMMUNITY

Territory proposed for incorporation as a city must encompass a community.

History: Eff. 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority

Art. X, sec. 1, Ak Const.

Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.05.011

AS 44.33.812

3 AAC 110.010. NEED

(a) In accordance with AS 29.05.011(a)(5), a community must demonstrate a reasonable need for city government. In this regard, the commission may consider relevant factors, including

- (1) existing or reasonably anticipated social or economic conditions;
- (2) existing or reasonably anticipated health, safety, and general welfare conditions;
- (3) existing or reasonably anticipated economic development; and
- (4) adequacy of existing services.

(b) In accordance with AS 29.05.021(a), and to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a community in the unorganized borough may not incorporate as a city if essential municipal services can be provided more efficiently or more effectively by annexation to an existing city.

(c) In accordance with AS 29.05.021(b), and to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a community within an organized borough may not incorporate as a city if essential municipal services can be provided more efficiently or more effectively

- (1) by annexation to an existing city;
- (2) by an existing organized borough on an areawide or nonareawide basis; or
- (3) through an existing borough service area.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.

Art. X, sec. 5, Ak Const.

Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.05.011

AS 29.05.021

AS 44.33.812

3 AAC 110.020. RESOURCES

In accordance with AS 29.05.011(a)(3), the economy of a proposed city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level. In this regard, the commission

(1) will consider

- (A) the reasonably anticipated functions of the proposed city;
- (B) the reasonably anticipated expenses of the proposed city;
- (C) the ability of the proposed city to generate and collect revenue at the local level;
- (D) the reasonably anticipated income of the proposed city;

- (E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed city through the period extending one full fiscal year beyond the reasonably anticipated date
 - (i) for receipt of the final organization grant under AS 29.05.180;
 - (ii) for completion of the transition set out in AS 29.05.130 - 29.05.140 and 3 AAC 110.900; and
 - (iii) on which the proposed city will make its first full local contribution required under AS 14.17.410(b)(2) if the proposal seeks to incorporate a home rule or first class city in the unorganized borough;
- (F) the economic base within the proposed city;
- (G) valuations of taxable property within the proposed city;
- (H) existing and reasonably anticipated industrial, commercial, and resource development within the proposed city; and
- (I) personal income of residents of the proposed city; and
- (2) may consider other relevant factors, including
 - (A) land use within the proposed city;
 - (B) the need for and availability of employable skilled and unskilled persons to serve the proposed city government; and
 - (C) the reasonably predictable level of commitment and interest of the residents in sustaining a city government.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.
 Art. X, sec. 7, Ak Const.
 Art. X, sec. 12, Ak Const.
 AS 29.05.011
 AS 44.33.812

3 AAC 110.030. POPULATION

- (a) In accordance with AS 29.05.011(a)(4), the population of a proposed city must be sufficiently large and stable to support the proposed city government. In this regard, the commission may consider relevant factors, including
 - (1) census enumerations;
 - (2) durations of residency;
 - (3) historical population patterns;
 - (4) seasonal population changes;
 - (5) age distributions;
 - (6) contemporary and historical public school enrollment data; and
 - (7) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.
- (b) To become a first class or home rule city, the territory proposed for incorporation must have a population of at least 400 permanent residents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.

Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.05.011

AS 44.33.812

3 AAC 110.040. BOUNDARIES

- (a) In accordance with AS 29.05.011(a)(2), the boundaries of a proposed city must include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
- (1) land use, subdivision platting, and ownership patterns;
 - (2) population density;
 - (3) existing and reasonably anticipated transportation patterns and facilities;
 - (4) natural geographical features and environmental factors;
 - (5) extraterritorial powers of cities;
 - (6) salability of land for residential, commercial, or industrial purposes; and
 - (7) suitability of the territory for reasonably anticipated community purposes.
- (b) To promote the limitation of community, the boundaries of the proposed city
- (1) must be on a scale suitable for city government and may include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the anticipated date of incorporation; and
 - (2) may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.005 - 3 AAC 110.042 and are otherwise suitable for city government.
- (c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the development of essential municipal services on an efficient, cost-effective level.
- (d) If a petition for incorporation of a proposed city describes boundaries overlapping the boundaries of an existing organized borough or city, the petition for incorporation must also address and comply with all standards and procedures to alter the boundaries of the existing organized borough or city to remove the overlapping territory. The commission will consider that petition for incorporation as also being a petition to alter the boundaries of the existing borough or city.

History: Eff. 7/3/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.

Art. X, sec. 3, Ak Const.

Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.05.011

AS 44.33.812

3 AAC 110.042. BEST INTERESTS OF STATE

In determining whether incorporation of a city is in the best interests of the state under AS 29.05.100(a), the commission may consider relevant factors, including whether incorporation

- (1) promotes maximum local self-government, as determined under 3 AAC 110.981;
- (2) promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;
- (3) will relieve the state government of the responsibility of providing local services; and
- (4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the city in the event of the city's dissolution.

History: Eff. 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority

Art. X, sec. 1, Ak Const.

Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.05.100

AS 44.33.812

ARTICLE 13

PROCEDURES FOR PETITIONING AND FOR OTHER COMMISSION MATTERS

Section:

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| 400. Applicability. | 545. Withdrawal of petition. |
| 410. Petitioners. | 550. Commission public hearing. |
| 415. Additional requirements of a voter-initiated petition. | 560. Commission hearing procedures. |
| 420. Petition. | 570. Decisional meeting. |
| 421. Name of municipal government. | 580. Reconsideration. |
| 425. Legislative review annexation petitions. | 590. Modified procedures for certain local action annexations. |
| 430. Consolidation of petitions. | 600. Local action/local option elections. |
| 435. Role of department staff. | 610. Legislative review. |
| 440. Technical review of petition. | 620. Judicial review. |
| 450. Notice of petition. | 630. Effective date and certification. |
| 460. Service of petition. | 640. Scheduling. |
| 470. Proof of notice and service. | 650. Resubmittals and reversals. |
| 475. Summary determination. | 660. Purpose of procedural regulations; relaxation or suspension of procedural regulations. |
| 480. Responsive briefs and written comments. | 680. Meetings. |
| 490. Reply brief. | 690. Teleconference policy and procedures. |
| 500. Limitations on advocacy. | 700. Filing with the commission. |
| 510. Informational sessions. | |
| 520. Departmental public meetings. | |
| 530. Departmental reports. | |
| 540. Amendment of petition. | |

3 AAC 110.400. APPLICABILITY

Except as provided in 3 AAC 110.590, 3 AAC 110.410 - 3 AAC 110.700 apply to petitions for city reclassification under AS 29.04, for incorporation under AS 29.05 or art. X, sec 12, Constitution of the State of Alaska, and for alterations to municipalities under AS 29.06 or art. X, sec 12, Constitution of the State of Alaska. However, only those sections of 3 AAC 110.410 - 3 AAC 110.700 with which compliance is required under 3 AAC 110.590 apply to an annexation petition filed under a local action method provided for in AS 29.06.040(c)(3) or (4).

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185
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Authority:

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

3 AAC 110.410. PETITIONERS

- (a) A petition for a proposed action by the commission under this chapter may be initiated by
 - (1) the legislature;
 - (2) the commissioner;
 - (3) a person designated by the commission, subject to (d) of this section;
 - (4) a political subdivision of the state;
 - (5) a regional educational attendance area;
 - (6) repealed 1/9/2008;
 - (7) at least 10 percent of the persons registered to vote in a political subdivision of the state or in a regional educational attendance area, if the petition seeks the alteration of a municipality under AS 29.06, other than by local option under AS 29.06.090(b)(2) or AS 29.06.450(a)(2);
 - (8) at least 10 percent of the persons registered to vote in
 - (A) the area proposed for borough annexation by election under 3 AAC 110.210(3) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2); or
 - (B) the territory proposed for city annexation by election under 3 AAC 110.150(3) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2);
 - (9) at least 25 percent of the persons registered to vote in
 - (A) the area proposed for borough detachment by election under AS 29.06.040(c)(2) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2); or
 - (B) the territory proposed for city detachment by election under AS 29.06.040(c)(2) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2); or
 - (10) the number of qualified voters required under
 - (A) AS 29.04.040, if the petition seeks reclassification of a city;
 - (B) AS 29.05.060, if the petition seeks a municipal incorporation under AS 29.05.060;
 - (C) AS 29.06.100(a), if the petition seeks a municipal merger or consolidation under AS 29.06.090(b)(2); or
 - (D) AS 29.06.460(a), if the petition seeks a municipal dissolution under AS 29.06.450(a)(2).
- (b) If, to achieve compliance with AS 29.06.100(a), a petition for merger or consolidation must be signed by a percentage of voters from one or more cities within a borough, and also by a percentage of voters in that borough, all voters who sign the petition as borough voters must reside outside any city or cities joining that petition. The number of borough voters required to sign the petition must be based on the number of registered voters or the number of votes cast in the area of the borough outside any city or cities joining the petition.
- (c) The provisions of (a)(10) of this section may not be construed to apply to petition procedures established by the commission under AS 44.33.812(a)(2), AS 29.06.040(c) for annexation and detachment, AS 29.06.090(b)(1) for merger and consolidation, or AS 29.06.450(a)(1) for dissolution.
- (d) A person designated by the commission may initiate a petition if the commission
 - (1) determines that the action proposed will likely promote the standards established under the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, and is in the best interests of the state; and
 - (2) directs the designated person to prepare a petition by a motion approved by a majority of the appointed membership of the commission.
- (e) The person initiating a petition under (a) of this section is the petitioner. A petition must include a designation of
 - (1) one person as representative of the petitioner; and
 - (2) a second person as an alternate representative, who may act if the primary representative is absent, resigns, or fails to perform the representative's duties.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.040
Art. X, sec. 3, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.100
Art. X, sec. 12, Ak Const.	AS 29.06.450
Art. X, sec. 14, Ak Const.	AS 29.06.460
AS 29.04.040	AS 44.33.020
AS 29.05.060	AS 44.33.812

3 AAC 110.415. ADDITIONAL REQUIREMENTS OF A VOTER-INITIATED PETITION

- (a) In determining whether a voter-initiated petition under 3 AAC 110.410(a)(7) - (10) or 3 AAC 110.410(b) contains at least the minimum number of required signatures, the department may not consider a signature
- (1) unless the voter who signed the form printed the voter's name, physical address of place of residence, and a numerical identifier, and dated the signature;
 - (2) that is dated more than one year before the date that the petition was submitted to the department.
- (b) If a voter-initiated petition is unacceptable under (a)(2) of this section, the department is not required to perform a technical review of the petition under 3 AAC 110.440. The department shall return the petition to the petitioner with a letter explaining the reason for the return.
- (c) A person who has signed a petition form may withdraw that person's name only by giving written notice to the petitioner's representative before the date the petition is submitted to the department.
- (d) Information that is confidential under AS 15.07.195 is not open to public inspection unless otherwise required by law.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.040
Art. X, sec. 3, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.100
Art. X, sec. 12, Ak Const.	AS 29.06.450
Art. X, sec. 14, Ak Const.	AS 29.06.460
AS 29.04.040	AS 44.33.020
AS 29.05.060	AS 44.33.812

3 AAC 110.420. PETITION

- (a) A proposal for one or more actions by the commission under this chapter is initiated by submitting a petition and supporting materials to the department.
- (b) A petition must be submitted on forms provided by the department. On the forms provided, the department shall require that the petition include the following information and supporting materials:
- (1) the name of the petitioner;

- (2) for the petitioner's representative and alternative representative designated under 3 AAC 110.410(e),
 - (A) the physical address of each individual's place of residence;
 - (B) each individual's mailing address; and
 - (C) each individual's telephone number, facsimile number, and electronic mail address, if any;
- (3) the name and class of the
 - (A) existing municipal government for which a change is proposed; and
 - (B) proposed municipal government;
- (4) a general description of the nature of the proposed commission action;
- (5) a general description of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
- (6) a statement of reasons for the petition;
- (7) legal metes and bounds descriptions, maps, and plats for a proposed municipality, or for any existing municipality for which a change is proposed;
- (8) the size of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
- (9) data estimating the population of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
- (10) information relating to public notice and service of the petition;
- (11) the following tax data for a borough boundary change:
 - (A) the assessed or estimated value of taxable property in the area proposed for change, if the proposed municipal government, or any existing municipal government for which a change is proposed, levies or proposes to levy property taxes;
 - (B) projected taxable sales in the area proposed for change, if the proposed municipal government, or any existing municipal government for which the change is proposed, levies or proposes to levy sales taxes;
 - (C) each municipal government tax levy currently in effect in the area proposed for change;
- (12) the following tax data for a city boundary change:
 - (A) the assessed or estimated value of taxable property in the territory proposed for change, if the proposed municipal government, or any existing municipal government for which a change is proposed, levies or proposes to levy property taxes;
 - (B) projected taxable sales in the territory proposed for change, if the proposed municipal government, or any existing municipal government for which the change is proposed, levies or proposes to levy sales taxes;
 - (C) each municipal government tax levy currently in effect in the territory proposed for change;
- (13) for a proposed municipality, or for any existing municipality for which a change is proposed, projections of revenue, operating expenditures, and capital expenditures through the period extending one full fiscal year beyond the reasonably anticipated date
 - (A) for receipt of any final organization grant under AS 29.05.180 or 29.05.190;
 - (B) for completion of any transition set out in AS 29.05.130 - 29.05.140 or 3 AAC 110.900; and
 - (C) on which a proposed new borough or city will make its first full local contribution required under AS 14.17.410(b)(2), if the proposal seeks to incorporate a municipality that would be subject to AS 14.17.410(b)(2);
- (14) information about any existing long-term municipal debt;
- (15) information about the powers and functions of

- (A) the proposed municipality;
 - (B) any existing municipality for which a change is proposed, before and after the proposed change; and
 - (C) alternative service providers, including regional educational attendance areas and other service areas within the area proposed for borough boundary change or territory proposed for city boundary change;
- (16) the transition plan required under 3 AAC 110.900;
 - (17) information about the composition and apportionment of the governing body of
 - (A) the proposed municipality; and
 - (B) any existing municipality for which a change is proposed, before and after the proposed change;
 - (18) information regarding any effects of the proposed change upon civil and political rights for purposes of 42 U.S.C. 1971 - 1974 (Voting Rights Act of 1965);
 - (19) a supporting brief that provides a detailed explanation of how the proposal serves the best interests of the state and satisfies each constitutional, statutory, and regulatory standard that is relevant to the proposed commission action;
 - (20) documentation demonstrating that the petitioner is authorized to file the petition under 3 AAC 110.410;
 - (21) for a petition to incorporate or consolidate a home rule city or borough, the proposed municipal charter;
 - (22) an affidavit from the petitioner's representative that, to the best of the representative's knowledge, information, and belief, formed after reasonable inquiry, the information in the petition is true and accurate;
 - (23) other information or supporting material that the department believes the petitioner must provide for an adequate review of the proposal.
- (c) The petitioner shall provide the department with a copy of the petition and supporting materials in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.
 - (d) For a voter-initiated petition, the petition form must include sufficient space for the printed name, a numerical identifier, the signature, the date of signature, and the address of each person signing the petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.040
Art. X, sec. 3, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.100
Art. X, sec. 12, Ak Const.	AS 29.06.450
Art. X, sec. 14, Ak Const.	AS 29.06.460
AS 29.04.040	AS 44.33.020
AS 29.05.060	AS 44.33.812

3 AAC 110.421. NAME OF MUNICIPAL GOVERNMENT

The name of the municipal government specified in accordance with 3 AAC 110.420(b)(3)(B) must contain the word "city," "borough," or "municipality," as applicable to the type of municipal government

proposed. The name may not contain a word or phrase that indicates or implies that the municipal government is organized for a purpose other than that authorized by its incorporation or alteration.

History: Eff. 1/9/2008, Register 185

Authority:
AS 44.33.812

3 AAC 110.430. CONSOLIDATION OF PETITIONS

If two or more petitions pending action by the commission affect all or some portion of the same boundaries, the chair of the commission may consolidate the informational session, briefing schedule, department reports, commission hearing, decisional meeting, or other procedure under this chapter for one or more of those petitions. The commission may consider relevant information from concurrent or conflicting petitions during the process of rendering its decision on any one petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.100
Art. X, sec. 3, Ak Const.	AS 29.06.450
Art. X, sec. 7, Ak Const.	AS 29.06.470
Art. X, sec. 12, Ak Const.	AS 44.33.812
AS 29.04.040	AS 44.33.814
AS 29.05.060	AS 44.33.818
AS 29.06.040	AS 44.33.822
AS 29.06.090	AS 44.33.826

3 AAC 110.435. ROLE OF DEPARTMENT STAFF

- (a) A department employee assigned under AS 44.33.020(a)(4) as a member of the commission staff serves as an advisor. The advisory staff may not act in an advocacy capacity as a petitioner under 3 AAC 110.410.
- (b) During a proceeding, the advisory staff to the commission may provide technical assistance, information, and forms to petitioners, respondents, and interested persons who have procedural questions regarding local government or boundary issues. If the commissioner, a department subdivision, or a department employee not assigned under AS 44.33.020(a)(4) to the commission's advisory staff serves in an official capacity as a petitioner in a case before the commission,
- (1) communications with the commission's advisory staff regarding the case are subject to the limitations of this subsection and 3 AAC 110.500; and
 - (2) communications with members of the commission are subject to the ex parte limitations of 3 AAC 110.500.
- (c) Nothing in this section limits the role and ability of the commission's advisory staff to ensure that the commission is fully and accurately informed by providing to the commission new or additional information that supplements, questions, or refutes information provided by, or a position taken by, a petitioner, respondent, or other person.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.

AS 44.33.020

Art. X, sec. 14, Ak Const.

AS 44.33.812

3 AAC 110.440. TECHNICAL REVIEW OF PETITION

- (a) The department shall review the petition and supporting materials to determine whether they include a budget sufficient for commission review, a transition plan sufficient for commission review, and other required information. When applicable, the department shall also determine whether the petition contains the legally required number of valid signatures. The department shall complete the technical review of the petition within 45 days after receiving it, except that the chair of the commission, for good cause, may grant the department additional time to complete its technical review.
- (b) The petitioner is primarily responsible for supplying all supplemental information and documents reasonably necessary for the technical review process, including information identifying who is registered to vote, who resides within the boundaries proposed for change, and the number of persons who voted within those boundaries during the last election.
- (c) If it determines that the petition or supporting materials are deficient in form or content, the department shall consult with the chair of the commission. With the concurrence of the chair of the commission, the department shall return the defective petition or supporting materials to the petitioner for correction or completion. With the concurrence of the chair of the commission, the department shall determine whether the deficiencies in the petition are significant enough to require new authorization for the filing of the corrected or completed petition. The department shall complete the technical review of any corrections or materials needed to complete the petition within 30 days after receiving them, except that the chair of the commission, for good cause, may grant the department additional time to complete its technical review. If the department determines that the petition and brief are in substantial compliance with applicable provisions of AS 29.04, AS 29.05, AS 29.06, and this chapter, the department shall notify the petitioner that the petition and brief have been accepted for filing.
- (d) The petitioner may appeal to the commission a determination by the department under (c) of this section that a petition is deficient in form and content or that new authorization will be required for the filing of a corrected or completed petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185
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Authority:

Art. X, sec. 1, Ak Const.

AS 29.05.070

Art. X, sec. 3, Ak Const.

AS 29.06.040

Art. X, sec. 7, Ak Const.

AS 29.06.110

Art. X, sec. 12, Ak Const.

AS 29.06.480

Art. X, sec. 14, Ak Const.

AS 44.33.020

AS 29.04.040

AS 44.33.812

3 AAC 110.450. NOTICE OF PETITION

- (a) 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 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;
 - (2) post public notice of the filing of the petition in
 - (A) at least three prominent locations readily accessible to the public and within or near the boundaries proposed for change; and
 - (B) other locations designated by the department;
 - (3) ensure that notices posted under (2) of this subsection remain posted through the deadline set under 3 AAC 110.640 by the chair of the commission for the filing of responsive briefs;
 - (4) hand-deliver or mail, postage prepaid, public notice of the filing of the petition, correctly addressed to the municipalities having jurisdictional boundaries within 20 miles of the boundaries proposed for change, and to other persons designated by the department; and
 - (5) submit a request for a public service announcement of the filing of the petition to at least one radio or television station serving within the boundaries of the proposed change and request that it be announced for the following 14 days.
- (b) The department shall specify the text of the public notices required in (a)(1) - (a)(4) of this section, to ensure that the notices contain the following information:
- (1) the title of the notice of the filing of the petition;
 - (2) the name of the petitioner and the petitioner's representative designated under 3 AAC 110.410(e);
 - (3) a description of the proposed action;
 - (4) a statement of the size and general location of the boundaries proposed for change;
 - (5) a map of the area or territory proposed for change or information where that map is available for public review;
 - (6) a reference to the constitutional, statutory, and regulatory standards applicable to the proposal;
 - (7) a reference to the statutes and regulations applicable to procedures for consideration of the petition;
 - (8) designation of where and when the petition is available for public review;
 - (9) a statement that responsive briefs and comments regarding the petition may be filed with the commission;
 - (10) a reference to the regulations applicable to the filing of responsive briefs;
 - (11) the deadline for receipt of responsive briefs and comments;
 - (12) the mailing address, facsimile number, and electronic mail address for the submission of responsive briefs and comments to the department;
 - (13) a telephone number for inquiries to the commission staff.
- (c) The department shall specify the text of the public service announcement required in (a)(5) of this section to ensure that the announcement contains
- (1) the title of the public service announcement;
 - (2) the period during which the public service announcement is requested to be broadcast;
 - (3) the name of the petitioner;
 - (4) a description of the proposed action;
 - (5) a statement of the size and general location of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
 - (6) a statement of where and when the petition is available for public review;

- (7) a statement that responsive briefs and comments regarding the petition may be filed with the commission;
 - (8) a statement of the deadline for responsive briefs and comments;
 - (9) a statement of where the complete notice of the filing may be reviewed; and
 - (10) a telephone number for inquiries to the petitioner.
- (d) For a municipal incorporation, the department shall ensure that, in addition to the information required in (b) of this section, the notice also contains the following information:
- (1) for a petition using the local option method, a statement regarding voter eligibility in the incorporation election;
 - (2) for a petition using the legislative review method, a statement regarding the election of initial officials for the municipality.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 3, Ak Const.	AS 29.05.120
Art. X, sec. 7, Ak Const.	AS 29.06.040
Art. X, sec. 12, Ak Const.	AS 29.06.130
Art. X, sec. 14, Ak Const.	AS 29.06.500
AS 29.04.040	AS 44.33.020
AS 29.05.100	AS 44.33.812

3 AAC 110.460. SERVICE OF PETITION

- (a) No later than 25 days after receipt of the department's notice of acceptance of the petition for filing, the petitioner shall hand-deliver or mail, postage prepaid, one complete set of petition documents to every municipality within 20 miles of the boundaries proposed for change, and to other interested persons designated by the department. Copies of the petition documents, including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.
- (b) From the first date of publication of notice of the filing of the petition under 3 AAC 110.450(a)(1), through the last date on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction, the petitioner shall make a full set of petition documents, including public notices, responsive briefs, the reply brief, and department reports, available for review by the public at a central and convenient location such as a municipal office or public library. The petition documents must be available for review during normal working hours, and the petitioner shall accommodate specific requests for public review of the petition documents at reasonable times in the evening and on weekend days. All published and posted notices of filing of a petition must identify the specific location of the petition documents, and the hours when the documents can be reviewed.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 3, Ak Const.	AS 29.04.040
Art. X, sec. 7, Ak Const.	AS 29.05.100
Art. X, sec. 12, Ak Const.	AS 29.06.040

3 AAC 110.470. PROOF OF NOTICE AND SERVICE

No later than 50 days after receipt of the department's written notice of acceptance of the petition for filing, the petitioner shall deliver to the department five additional complete sets of petition documents and an affidavit that the notice, posting, service, deposit, and publishing requirements of 3 AAC 110.450 - 3 AAC 110.460 have been satisfied. Copies of the petition documents, including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162

Authority:

Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.130
Art. X, sec. 12, Ak Const.	AS 29.06.500
AS 29.04.040	AS 44.33.812
AS 29.05.100	

3 AAC 110.475. SUMMARY DETERMINATION

- (a) If the staff for the commission or a person who may serve as a petitioner under 3 AAC 110.410(a) believes that a petition accepted for filing under 3 AAC 110.440 was prepared using defective procedures, that the petition lacks certain information needed to determine and fully evaluate the merits of the petition, or that a reasonable probability exists that the petition fails to meet the standards applicable to the petition, that person may request a summary determination of the petition in accordance with this section. If the person requesting a summary determination is the commissioner, a department subdivision, or a department employee not assigned under AS 44.33.020(a)(4) to the commission's advisory staff, and that person is making the request in an official capacity, the limitations of 3 AAC 110.435(b) apply.
- (b) Not later than 21 days after the initial publication of notice of the petition under 3 AAC 110.450(a)(1), the person seeking a summary determination must file an original and five copies of a request that the petition be rejected or be returned to the petitioner for substantial correction or modification.
- (c) A request for summary determination must include
 - (1) the name of the person requesting a summary determination and that person's representative;
 - (2) the physical address of place of residence and mailing address of the representative designated under (1) of this subsection and the telephone number, facsimile number, and electronic mail address, if any, for that representative;
 - (3) if a person other than the staff of the commission seeks a summary determination, documentation demonstrating that the person may serve as a petitioner under 3 AAC 110.410(a);
 - (4) a description of the proposed summary determination action;
 - (5) a statement of reasons for the request for summary determination;
 - (6) a supporting brief that provides a detailed explanation of how
 - (A) the petition accepted for filing was prepared using defective procedures, or lacks certain information needed to determine and fully evaluate the merits of the petition; or
 - (B) a reasonable probability exists that the petition fails to meet constitutional, statutory, and regulatory standards that apply to the petition;

- (7) legal metes and bounds descriptions, maps, and plats needed to assess the proposed determination; and
- (8) an affidavit by the representative designated under (1) of this subsection that
 - (A) to the best of the representative's knowledge, information, and belief, formed after reasonable inquiry, the information in the request for summary determination is true and accurate:
 - (B) the request for summary determination is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition; and
 - (C) three copies of the request for summary determination have been served on the petitioner by mail, postage prepaid, or hand delivery, or one copy has been delivered by facsimile or electronic mail, unless prohibited under (d) of this section.
- (d) Copies of the request for summary determination, including maps and other exhibits, provided to the department and the petitioner under this section must conform to the original in color, size, and other distinguishing characteristics. If the request, including attachments, contains colored materials or materials larger than 11 inches by 17 inches, the person requesting a summary determination may not serve the request and copies by facsimile or electronic mail. The person shall provide the department with a copy of the request for summary determination in an electronic format, unless the department waives this requirement because the person lacks a readily accessible means or the capability to provide items in an electronic format.
- (e) Within 24 hours after receipt of a request for summary determination, the petitioner shall place a copy of the request with the petition documents available for review under 3 AAC 110.460(b).
- (f) Within two days after the receipt of a request for summary determination, the department shall determine whether the request is complete, filed in a timely manner, groundless, or filed for purposes of delay. The department shall immediately notify the person who filed the request, the petitioner, and the commission of the department's determination. If the department determines that the request for summary determination was incomplete or untimely, the person who filed the request may appeal the department's determination to the commission. If the department determines that a request for summary determination was complete and timely, the provisions of (g) - (p) of this section apply. If the department determines that the request was filed for the purpose of delay or is groundless, the provisions of (q) of this section apply.
- (g) If the department determines that a request for summary determination is complete and timely, the deadline for filing responsive briefs and comments under 3 AAC 110.480 is suspended pending a decision by the commission regarding the request for summary determination.
- (h) If it determines that the request is complete and timely, the department shall issue public notice of the request in accordance with 3 AAC 110.450(a)(1), except that publication of the notice is required only one time. The department shall issue public notice of the commission hearing under (k) of this section in accordance with 3 AAC 110.550, except that the first date of publishing must occur at least 20 days before the date of the hearing. The person who filed the request shall bear the cost of publication of the public notices.
- (i) Within 10 days after receipt of notice under (f) of this section that the request is complete and timely, the petitioner shall file with the department an original and five copies of a brief responding to the request for summary determination. At the same time the petitioner files its responsive brief with the department, the petitioner shall serve a copy of that responsive brief by mail, postage prepaid, or by electronic mail, facsimile transmission, or hand delivery on the person who filed the request, and shall file an affidavit of service to that effect. The petitioner shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives that requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.

- (j) Within 10 days after receipt of the petitioner's responsive brief under (i) of this section, the department shall provide the commission with a written report of the department's analysis, findings, and recommendation regarding the request for summary determination. The report must include a summary of the request, petitioner's responsive brief, and public comments, if any. A copy of the report must be provided to the person who filed the request and the petitioner at the same time the report is provided to the commission. The chair may, for good cause, grant additional time, not to exceed five days, for the department to file the report required under this subsection.
- (k) After service of the report under (j) of this section, the commission will hold a public hearing on the request for summary determination.
- (l) As part of the hearing conducted under (k) of this section, the commission will include
 - (1) a summary of the analysis and recommendation by the department;
 - (2) an opening statement by the person who filed the request, not to exceed 10 minutes;
 - (3) an opening statement by the petitioner, not to exceed 10 minutes;
 - (4) oral argument by the person who filed the request, on the merits of the request;
 - (5) oral argument by the petitioner on its opposition to the request;
 - (6) a period of public comment by interested persons, not to exceed three minutes for each person;
 - (7) a closing statement by the person who filed the request, not to exceed 10 minutes;
 - (8) a closing statement by the petitioner, not to exceed 10 minutes; and
 - (9) a reply by the person who filed the request, not to exceed five minutes.
- (m) Within three days after the public hearing under (k) of this section, the commission will hold a decisional meeting in accordance with 3 AAC 110.570(a), (b), and (d) - (f) and either grant the request for summary determination or deny the request.
- (n) If a request for summary determination seeking rejection of a petition is granted, the petitioner may not submit a substantially similar petition for at least three years after the date of commission's decision on the request. If a request for summary determination seeking substantial correction or modification of a petition is granted, the petitioner may modify the petition and resubmit it as a new petition, with no restriction as to the time of filing.
- (o) If the request for summary determination is denied, the chair of the commission shall determine a new schedule for the filing of responsive briefs and comments on the petition in accordance with 3 AAC 110.640.
- (p) The person who filed the request or the petitioner may seek reconsideration of a commission decision on a request for summary determination under this section.
- (q) The commission will deny, without hearing, a request for summary determination under this section if the commission concludes that the request is filed for purposes of delay or is groundless.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 44.33.020
Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 14, Ak Const.	AS 44.33.814
AS 29.04.040	AS 44.33.816
AS 29.05.090	AS 44.33.818
AS 29.06.120	AS 44.33.820
AS 29.06.490	

3 AAC 110.480. RESPONSIVE BRIEFS AND WRITTEN COMMENTS

- (a) If an interested person seeks to participate as a respondent to a petition, that person must have the capacity to sue and be sued and must file with the department an original and five complete copies of a responsive brief containing facts and analyses favorable or adverse to the petition. If the respondent is a group, the group shall designate one person to represent the group. A responsive brief must provide the physical address of the place of residence and mailing address of the respondent or the respondent's representative, and must provide the telephone number, facsimile number, and electronic mail address, if any, for the respondent or respondent's representative. Copies of the responsive briefs, including maps and other exhibits, must conform to the original in color, size, and other distinguishing characteristics. The respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the respondent lacks a readily accessible means or the capability to provide items in an electronic format.
- (b) The responsive brief, and any companion exhibits, must be filed with an affidavit by the respondent that, to the best of the respondent's knowledge, information, and belief, formed after reasonable inquiry, the responsive brief and exhibits are founded in fact and are not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.
- (c) A responsive brief must be received by the department in a timely manner in accordance with 3 AAC 110.640. A responsive brief must be accompanied by an affidavit stating that two copies of the brief have been served on the petitioner by regular mail, postage prepaid, or by electronic mail, facsimile transmission, or hand delivery.
- (d) An interested person may file with the department written comments supporting or opposing the petition. The department shall request that the commentor either serve a copy of the comments on the petitioner and file a statement on or with the comments that service was made on the petitioner or notify the department of an inability to serve comments on the petitioner. If the department receives comments without a statement that they were served on the petitioner, the department shall provide promptly a copy of the written comments to the petitioner by hand-delivery, electronic mail, facsimile, or postage-prepaid mail. If the written comments, including attachments, exceed 20 pages or if they include colored materials or materials larger than 11 inches by 17 inches, the commentor shall provide an additional five complete sets of the written comments to the department. Copies of the written comments, including attachments, must conform to the original in color, size, and other distinguishing characteristics. Written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.110
Art. X, sec. 12, Ak Const.	AS 29.06.130
Art. X, sec. 14, Ak Const.	AS 29.06.480
AS 29.04.040	AS 29.06.500
AS 29.05.080	AS 44.33.020
AS 29.05.100	AS 44.33.812

3 AAC 110.490. REPLY BRIEF

The petitioner may file an original and five copies of a single reply brief in response to all responsive briefs and written comments filed timely under 3 AAC 110.480. The petitioner shall provide the

department with a copy of the reply brief in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format. The reply brief must be received by the department in a timely manner in compliance with 3 AAC 110.640. The reply brief must be accompanied by an affidavit stating that the brief has been served on all respondents by regular mail, postage prepaid, or by electronic mail, facsimile transmission, or hand delivery.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.110
Art. X, sec. 12, Ak Const.	AS 29.06.130
Art. X, sec. 14, Ak Const.	AS 29.06.480
AS 29.04.040	AS 29.06.500
AS 29.05.080	AS 44.33.020
AS 29.05.100	AS 44.33.812

3 AAC 110.500. LIMITATIONS ON ADVOCACY

- (a) Unless otherwise ordered by the commission for good cause shown, the commission will not, and the department may not, accept a document, letter, or brief for filing and consideration except in accordance with the procedures, timeframes, hearings, and meetings specified in 3 AAC 110.410 - 3 AAC 110.700.
- (b) A member of the commission is prohibited from ex parte contact and communication with any person except the staff of the commission, concerning a matter pending before the commission that has been filed as a petition, from the date the petition was first submitted to the department through the last date on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 29.06.110
Art. X, sec. 14, Ak Const.	AS 29.06.130
AS 29.04.040	AS 29.06.480
AS 29.05.080	AS 29.06.500
AS 29.05.100	AS 44.33.020
AS 29.06.040	AS 44.33.812

3 AAC 110.510. INFORMATIONAL SESSIONS

- (a) If the department determines that persons within or near the proposed boundary change have not had adequate opportunity to be informed about the scope, benefits, or detriments of the proposed change, the department shall require the petitioner to conduct informational sessions, and to submit a recording, transcript, or summary of those sessions to the department.

- (b) The department may not proceed with the processing of the petition until the petitioner has certified, by affidavit, that the informational session requirements of this section have been met.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 29.06.110
Art. X, sec. 14, Ak Const.	AS 29.06.130
AS 29.04.040	AS 29.06.480
AS 29.05.080	AS 29.06.500
AS 29.05.100	AS 44.33.020
AS 29.06.040	AS 44.33.812

3 AAC 110.520. DEPARTMENTAL PUBLIC MEETINGS

- (a) During its investigation and analysis of a petition for incorporation, the department shall convene at least one public meeting within the boundaries proposed for incorporation. During its investigation and analysis of a petition for a change other than incorporation, the department may convene at least one public meeting within or near the boundaries proposed for change.
- (b) Notice of the date, time, and place of the public meeting under (a) of this section must be mailed, postage prepaid, to the petitioner and to each respondent at least 15 days before the public meeting. The department shall publish the notice at least once each week, for two consecutive weeks, immediately preceding the date of the meeting, in a newspaper of general circulation selected by the department to reach the people and entities within or near the boundaries of the proposed change. If the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate within or near the boundaries of the proposed change, the department shall provide notice through other means designed to reach the public. The petitioner shall post notice of the meeting in at least three prominent locations readily accessible to the public within or near the boundaries proposed for change, and at the same location where the petition documents are available for review, for at least 14 days immediately preceding the date of the meeting. On or before the date of the public meeting, the petitioner shall submit to the department an affidavit certifying that the posting requirements of this subsection have been met.
- (c) Staff assigned to the commission shall preside at the public meeting. If the public meeting is held within the time period established under 3 AAC 110.640 for receiving written comments, the presiding staff person shall accept written materials submitted at the public meeting. However, except in extraordinary circumstances, the petitioner and the respondents may not submit further written materials at the meeting. The public meeting must be recorded and must be summarized in the department's preliminary or final report prepared under 3 AAC 110.530.
- (d) The department may postpone the time or relocate the place of the public meeting by conspicuously posting notice of the postponement or relocation at the original time and location of the public meeting. If the meeting is relocated, the new location must be within the same vicinity, and be rescheduled no more than 72 hours after the originally scheduled time.
- (e) The department staff presiding at the public meeting may request that respondents with similar positions coordinate their participation and use a single spokesperson to present their common views or positions. The department staff presiding at the public meeting may request the same coordination by commentators with similar positions.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 29.06.090
Art. X, sec. 14, Ak Const.	AS 29.06.110
AS 29.04.040	AS 29.06.480
AS 29.05.080	AS 44.33.020
AS 29.06.040	AS 44.33.812

3 AAC 110.530. DEPARTMENTAL REPORTS

- (a) The department shall investigate and analyze a petition filed with the department under this chapter. The department shall prepare a written preliminary and a written final report regarding the petition. Each report must contain the department's findings and recommendations regarding the petition.
- (b) The department shall mail or hand-deliver its preliminary report to the commission, petitioner, and respondents. Within 24 hours after receipt of the preliminary report, the petitioner shall place a copy of the report with the petition documents available for review. The petitioner shall file an affidavit with the department stating the preliminary report has been made available for public review.
- (c) The petitioner, respondents, and other interested persons may submit to the department written comments pertaining directly to the preliminary report. The written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.
- (d) In its final report, the department shall consider timely submitted written comments addressing the preliminary report. The department shall mail its final report to the commission, petitioner, and respondents.
- (e) If a preliminary or final report of the department contains a recommendation to amend or condition approval of a municipal incorporation petition subject to AS 29.05.060 - 29.05.110,
 - (1) the department shall issue a public notice regarding the recommended amendment or condition;
 - (2) the public notice required under (1) of this subsection
 - (A) must be issued contemporaneously with that report;
 - (B) must be published in conformance with the requirements of 3 AAC 110.450(a)(1), except that the notice need be published only one time;
 - (C) if the recommendation is part of a preliminary report, must state that comments on the recommendation must be filed on or before the same date as comments on the preliminary report under 3 AAC 110.640(b)(3); that date must be set out in the notice;
 - (D) if the recommendation is only part of a final report, must specify a date on or before which written comments on the recommendation may be filed; that date must allow at least 14 days for written comment; and
 - (E) 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
 - (F) public comment received in response to a public notice required under (1) of this subsection must be included in the department's final report or summarized at the public hearing, whichever occurs first.
- (f) A report required from the department under this section does not constitute acting in an advocacy capacity as a petitioner under 3 AAC 110.410.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 29.06.110
Art. X, sec. 14, Ak Const.	AS 29.06.490
AS 29.04.040	AS 44.33.020
AS 29.05.080	AS 44.33.812
AS 29.06.040	

3 AAC 110.540. AMENDMENT OF PETITION

- (a) A petitioner may amend the petition at any time before the first mailing, publishing, or posting of notice of the commission's hearing on the petition under 3 AAC 110.550. The original and five copies of the amendment must be filed with the department. The petitioner shall provide the department with a copy of the amended petition and supporting materials in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.
- (b) A petitioner may not amend the petition after the first mailing, publishing, or posting of notice of the commission's hearing on the petition except upon a clear showing to the commission that the public interest of the state and of the persons within or near the boundaries of the proposed change is best served by allowing the proposed amendment.
- (c) If voters initiated the petition, the amended petition must contain the dated signatures of the same number of voters required by AS 29.04, AS 29.05, AS 29.06, or this chapter for the original petition and must include the dated signatures of at least a majority of the same voters who signed the original petition.
- (d) The petitioner shall serve the amended petition on each person designated by the department, and by 3 AAC 110.410 - 3 AAC 110.700 to receive the original petition, and on the respondents to the original petition. The petitioner shall place a copy of the amended petition with the original petition documents, post the public notice of the amended petition, and submit an affidavit of service and notice in the same manner required for the original petition.
- (e) The chair of the commission shall determine whether the amendment is significant enough to warrant an informational session, opportunity for further responsive briefing, an additional public meeting by the department, or a repeat of any other step or process specified in 3 AAC 110.410 - 3 AAC 110.700. Additional informational sessions, meetings, briefings, or other steps or processes will be conducted in accordance with the procedures specified in 3 AAC 110.410 - 3 AAC 110.700 for the processing of the original petition, except that the chair of the commission may shorten the timing.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.040
Art. X, sec. 3, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.100
Art. X, sec. 12, Ak Const.	AS 29.06.450
Art. X, sec. 14, Ak Const.	AS 29.06.460
AS 29.04.040	AS 44.33.020
AS 29.05.060	AS 44.33.812

3 AAC 110.545. WITHDRAWAL OF PETITION

- (a) A petitioner may withdraw the petition at any time before the first mailing, publishing, or posting of notice of the commission's hearing on the petition under 3 AAC 110.550. The original and five copies of the withdrawal must be filed with the department.
- (b) A petitioner may not withdraw the petition after the first mailing, publishing, or posting of notice of the commission's hearing on the petition except upon a clear showing to the commission that the public interest of the state and the persons within or near the boundaries of the proposed change is best served by allowing the proposed withdrawal.
- (c) If voters initiated the petition, a statement withdrawing a petition must contain the dated signatures of at least 30 percent of the voters residing within the boundaries of the proposed change and must include at least a majority of the same voters who signed the original petition.
- (d) If the petition was submitted by a municipality under AS 29.06.040(c)(4) at the request of all property owners and voters within the boundaries of the proposed change, the petition may be withdrawn only with the approval of the petitioning municipality.
- (e) If the petitioning municipality declines to withdraw the petition,
 - (1) the consent of a property owner or voter to the filing of the petition is binding on any subsequent purchaser of the property if the property is purchased before the boundary change is approved; and
 - (2) the municipality and the state are not responsible for ensuring that the subsequent purchaser receives notice of the proposed boundary change before purchase, by recording or otherwise.

History: Eff. 1/9/2008, Register 185

Authority:	
Art. X, sec. 1, Ak Const.	AS 29.06.040
Art. X, sec. 3, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.100
Art. X, sec. 12, Ak Const.	AS 29.06.450
Art. X, sec. 14, Ak Const.	AS 29.06.460
AS 29.04.040	AS 44.33.812
AS 29.05.060	AS 44.33.814

3 AAC 110.550. COMMISSION PUBLIC HEARING

- (a) The commission will convene one or more public hearings at convenient locations within or near the boundaries of the proposed change as required under AS 29.04, AS 29.05, AS 29.06, AS 44.33.810 - 44.33.828, and this chapter. If the proposed change is for legislative-review borough incorporation under AS 29.05.115, the commission will convene two or more public hearings within the boundaries of the proposed change.
- (b) Notice of the date, time, place, and subject of the hearing must be
 - (1) mailed, postage prepaid, by the department to the petitioner and to each respondent;
 - (2) published by the department at least three times, with the first date of publishing occurring at least 30 days before the date of the hearing, in a display ad format no less than three inches long by two columns wide, in one or more newspapers of general circulation selected by the department to reach the people within the boundaries of the proposed change; if the department determines that a newspaper of general circulation, with publication at least once a

- week, does not circulate within the boundaries of the proposed change, the department shall provide notice through other means designed to reach the public; and
- (3) posted by the petitioner in at least three prominent locations readily accessible to the public within the boundaries of the proposed change in which the hearing is to be held, and where the petition documents are available for review, for at least 21 days preceding the date of the hearing.
 - (c) The department shall submit a request for a public service announcement of the hearing notice required under this section to at least one radio or television station serving within the boundaries of the proposed change and request that it be announced during the 21 days preceding the date of the hearing.
 - (d) The commission may postpone the time or relocate the place of the hearing by conspicuously posting notice of the postponement or relocation at the original time and location of the public hearing. If the hearing is relocated, the new location will be within the same vicinity and will be rescheduled no more than 72 hours after the originally scheduled time.
 - (e) At least 14 days before the hearing, the petitioner and each respondent shall submit to the department a list of witnesses that the respective party intends to call to provide sworn testimony. The 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. On the same date that the petitioner submits its witness list to the department, the petitioner shall provide a copy of its witness list to each respondent by hand-delivery, facsimile, electronic mail, or postage-prepaid mail. On the same date that a respondent submits its witness list to the department, the respondent shall provide a copy of its witness list to the petitioner and to all other respondents by hand-delivery, facsimile, electronic mail, or postage-prepaid mail.
 - (f) In conjunction with a public hearing under this section, the commission may tour the area or territory. The purpose of a tour is to enable the commission to gain first-hand perceptions regarding the characteristics of the area or territory. If a tour is conducted,
 - (1) the tour will be recorded; and
 - (2) conversations relating to the pending petition will be limited to factual questions by commission members to the department staff and concise factual answers by the department staff.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 29.06.490
Art. X, sec. 14, Ak Const.	AS 44.33.020
AS 29.04.040	AS 44.33.812
AS 29.05.090	AS 44.33.814
AS 29.06.040	AS 44.33.818
AS 29.06.120	AS 44.33.826

3 AAC 110.560. COMMISSION HEARING PROCEDURES

- (a) The chair of the commission shall preside at the hearing, and shall regulate the time and the content of statements, testimony, and comments to exclude irrelevant or repetitious statements, testimony, and comments. The department shall record the hearing and preserve the recording. Two members of the commission constitute a quorum for purposes of a hearing under this section.
- (b) As part of the hearing, the commission may include
 - (1) a report with recommendations from the department;

- (2) an opening statement by the petitioner, not to exceed 10 minutes;
 - (3) an opening statement by each respondent, not to exceed 10 minutes;
 - (4) sworn testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by the petitioner;
 - (5) sworn testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by each respondent;
 - (6) sworn responsive testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by the petitioner;
 - (7) a period of public comment by interested persons, not to exceed three minutes for each person;
 - (8) a closing statement by the petitioner, not to exceed 10 minutes;
 - (9) a closing statement by each respondent, not to exceed 10 minutes;
 - (10) a reply by the petitioner, not to exceed five minutes; and
 - (11) points of information or clarification by the department.
- (c) If more than one respondent participates, the chair of the commission, at least 14 days before the hearing, may establish for each respondent time limits on the opening and closing statements that are lower than those time limits set out in (b) of this section.
 - (d) A member of the commission may question a person appearing for public comment or as a sworn witness. The commission may call additional witnesses.
 - (e) A brief, document, or other evidence may not be introduced at the time of the public hearing unless the commission determines that good cause exists for that evidence not being presented in a timely manner for written response by the petitioner or respondents or for consideration in the reports of the department under 3 AAC 110.530.
 - (f) The commission may amend the order of proceedings and change allotted times for presentations to promote efficiency if the amendment does not detract from the commission's ability to make an informed decision.
 - (g) If the petition at hearing is for municipal incorporation subject to AS 29.05.060 - 29.05.110 and the department has recommended an amendment to or
 - (h) conditional approval of the petition, during the hearing the commission will invite specific comments on that recommendation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 44.33.020
Art. X, sec. 14, Ak Const.	AS 44.33.812
AS 29.04.040	AS 44.33.814
AS 29.05.090	AS 44.33.816
AS 29.06.040	AS 44.33.820
AS 29.06.120	AS 44.33.826
AS 29.06.490	

3 AAC 110.570. DECISIONAL MEETING

- (a) Within 90 days after the last commission hearing on a proposed change, the commission will convene a decisional meeting to examine the written briefs, exhibits, comments, and testimony and to reach a decision regarding the proposed change. During the decisional meeting,
 - (1) the commission will not receive new evidence, testimony, or briefing;
 - (2) the chair of the commission or a commission member may ask the department or a person for a point of information or clarification; and
 - (3) the department may raise a point of information or clarification.
- (b) Repealed 1/9/2008.
- (c) If the commission determines that a proposed change must be altered or a condition must be satisfied to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, and be in the best interests of the state, the commission may alter or attach a condition to the proposed change and accept the petition as altered or conditioned. A motion to alter, impose conditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval. If the proposed change is a
 - (1) municipal annexation, detachment, deunification, dissolution, merger, or consolidation, a city reclassification, or a legislative-review borough incorporation under AS 29.05.115, and if the commission determines that the proposed change must be altered or a condition must be satisfied before the proposed change can take effect, the commission will include that condition or alteration in its decision; or
 - (2) municipal incorporation subject to AS 29.05.060 - 29.05.110, and if the commission determines that an amendment to the petition or the placement of a condition on incorporation may be warranted, the department shall provide public notice and an opportunity for public comment on the alteration or condition before the commission amends the petition or imposes a condition upon incorporation; if the department recommended the proposed change or condition and the public had an opportunity to comment on the proposed change or condition at a commission hearing, an additional notice or comment period is not required.
- (d) If the commission determines that a proposed change fails to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, or is not in the best interests of the state, the commission will reject the proposed change. If a motion to grant a proposed change receives fewer than three affirmative votes by commission members, the proposed change is rejected.
- (e) The commission will keep written minutes of a decisional meeting. Each vote taken by the commission will be entered in the minutes. The approved minutes are a public record.
- (f) Within 30 days after the date of its decision, the commission will issue a written decision explaining all major considerations leading to the decision. A copy of the statement will be mailed to the petitioner, respondents, and other interested persons requesting a copy. The department shall execute and file an affidavit of mailing as a part of the public record of the proceedings.
- (g) Unless reconsideration is requested timely under 3 AAC 110.580 or the commission, on its own motion, orders reconsideration under 3 AAC 110.580, a decision by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioners and the respondents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 29.06.040
Art. X, sec. 14, Ak Const.	AS 29.06.130
AS 29.04.040	AS 29.06.500
AS 29.05.100	AS 44.33.020

AS 44.33.812
AS 44.33.814
AS 44.33.816
AS 44.33.818

AS 44.33.820
AS 44.33.822
AS 44.33.826

3 AAC 110.580. RECONSIDERATION

- (a) Within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person may file an original and five copies of a request for reconsideration of all or part of that decision, describing in detail the facts and analyses that support the request for reconsideration.
- (b) Within 30 days after a written statement of decision is mailed under 3 AAC 110.570(f), the commission may, on its own motion, order reconsideration of all or part of that decision.
- (c) A person filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for reconsideration is founded in fact and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.
- (d) If the person filing the request for reconsideration is a group, the request must identify a representative of the group. Each request for reconsideration must provide the physical residence address and mailing address of the person filing the request for reconsideration and the telephone number, facsimile number, and electronic mail address, if any, for the person or representative of the group.
- (e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision only if the commission determines that
 - (1) a substantial procedural error occurred in the original proceeding;
 - (2) the original vote was based on fraud or misrepresentation;
 - (3) the commission 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.
- (f) If the commission does not act on a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The petitioner or respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the petitioner or respondent lacks a readily accessible means or the capability to provide items in an electronic format.
- (g) Within 90 days after the department receives timely filed responsive briefs, the commission, by means of the decisional meeting procedure set out in 3 AAC 110.570(a) - (f), will issue a decision on reconsideration. A decision on reconsideration by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 44.33.020
Art. X, sec. 14, Ak Const.	AS 44.33.812
AS 29.04.040	AS 44.33.814
AS 29.05.100	AS 44.33.820
AS 29.06.040	AS 44.33.822
AS 29.06.130	AS 44.33.826
AS 29.06.500	

3 AAC 110.600. LOCAL ACTION/LOCAL OPTION ELECTIONS

- (a) In accordance with AS 29.04, AS 29.05, and AS 29.06, the commission will notify the director of elections of the commission's acceptance of a local action or local option petition proposing city reclassification under AS 29.04, municipal incorporation under art. X, sec. 12 of the Constitution of the State of Alaska or AS 29.05, and municipal dissolution, deunification, merger, or consolidation under AS 29.06.
- (b) If AS 29.06.040 requires a municipal election for a proposed annexation or detachment, the commission will notify the clerk of the municipality proposed for change of the commission's acceptance of a local action petition. The election must be administered by the municipality proposed for change at the municipality's own cost and in the manner prescribed by its municipal election ordinances, except that the commission may specify the wording of the ballot measure and broaden the election notice requirements.
- (c) If a petition for detachment under AS 29.06.040 and incorporation under AS 29.05 requires a municipal election, the commission will notify the director of elections of the commission's acceptance of a local option petition and that the election must be a combined one for detachment and incorporation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 3, Ak Const.
Art. X, sec. 7, Ak Const.
Art. X, sec. 12, Ak Const.
AS 29.04.040
AS 29.05.110
AS 29.05.120
AS 29.06.040
AS 29.06.140
AS 29.06.510
AS 44.33.812

3 AAC 110.610. LEGISLATIVE REVIEW

- (a) The commission may determine during the course of proceedings that a legislative review petition must be amended and considered as a local action or local option petition if the commission determines that the balanced best interests of the locality and the state are enhanced by local participation.
- (b) If a decision of the commission requires legislative review, the commission will present a recommendation for the decision to the legislature during the first 10 days of a regular session in accordance with art. X, sec. 12, Constitution of the State of Alaska.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.

AS 29.06.040

AS 29.06.090

AS 29.06.450

AS 44.33.812

AS 44.33.822

AS 44.33.826

AS 44.33.828

3 AAC 110.620. JUDICIAL REVIEW

A final decision of the commission made under the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter may be appealed to the superior court in accordance with the Administrative Procedure Act (AS 44.62).

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.

AS 29.04.040

AS 29.05.100

AS 29.06.040

AS 29.06.130

AS 29.06.500

AS 44.33.812

3 AAC 110.630. EFFECTIVE DATE AND CERTIFICATION

- (a) Except as provided in (b) or (c) of this section, a final decision of the commission is effective when
 - (1) notification of compliance with 42 U.S.C. 1973c (Voting Rights Act of 1965) is received from the United States Department of Justice;
 - (2) certification of the legally required voter approval of the commission's final decision is received from the director of elections or the appropriate municipal official; and

- (3) 45 days have passed since presentation of the commission's final decision on a legislative review petition was made to the legislature and the legislature has not disapproved the decision.
- (b) The effective date of a merger or consolidation is the date set by the director of elections for the election of officials of the remaining or new municipality, if the provisions of (a) of this section have also been satisfied.
- (c) The commission may defer the effective date of a city reclassification under AS 29.04, municipal incorporation under the Constitution of the State of Alaska or AS 29.05, or municipal annexation, detachment, deunification, merger, consolidation, or dissolution under AS 29.06 for a period of no more than two years.
- (d) When the requirements in (a) of this section have been met, the department shall issue a certificate describing the effective change. The department shall hand-deliver or mail, postage prepaid, a copy of the certificate to the municipality that has been changed and shall file a copy of the certificate in each recording district of all territory within the municipality that has been changed.
- (e) If a minor error is found in the certificate issued under (d) of this section, the person discovering the error shall notify the department and the commission. If the commission determines that the error resulted from an oversight during the petition proceeding or the issuance of the certificate, the commission will direct the department to issue a corrected certificate. The commission will not consider a request for a corrected certificate to include area or territory not proposed in the boundary change proceeding for which the certificate was issued.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.

Art. X, sec. 14, Ak Const.

AS 29.04.040

AS 29.05.120

AS 29.06.040

AS 29.06.140

AS 29.06.510

AS 44.33.020

AS 44.33.812

AS 44.33.828

3 AAC 110.640. SCHEDULING

- (a) The chair of the commission shall set or amend the schedule for action on a petition.
- (b) In a schedule under (a) of this section, and except as provided by 3 AAC 110.590 for certain local action annexations, the chair of the commission shall allow at least
- (1) 49 days after the date of initial publication or posting of notice of the filing of a petition, whichever occurs first, for receipt by the department of a responsive brief or written comments concerning the petition;
 - (2) 14 days after the date of service of a responsive brief on the petitioner for the receipt by the department of a reply brief from the petitioner. Contemporaneously with notice to the petitioner of the date for filing its reply brief, the department shall provide notice to respondents and commentors of that date;

- (3) 28 days after the date of mailing of a departmental preliminary report for receipt of written summary comments to the department; and
 - (4) 21 days between the date of mailing of a final report and the commission hearing on the petition.
- (c) As provided under 3 AAC 110.430, the commission may postpone proceedings on a petition that has been accepted for filing to allow concurrent consideration and action on another petition that pertains to some or all the same boundaries and that has either been accepted for filing or is anticipated to be filed. The commission may postpone the proceedings for an anticipated competing petition only if the anticipated competing petition is received by the department no later than 90 days after the date of the first publication of notice of the earlier petition under 3 AAC 110.450.
- (d) The chair of the commission will adjust the schedule in (b)(1) - (4) of this section to accommodate the procedures under 3 AAC 110.475 if a request for summary determination is filed on the petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.090
Art. X, sec. 3, Ak Const.	AS 29.06.110
Art. X, sec. 7, Ak Const.	AS 29.06.120
Art. X, sec. 12, Ak Const.	AS 29.06.480
Art. X, sec. 14, Ak Const.	AS 29.06.490
AS 29.04.040	AS 44.33.020
AS 29.05.070	AS 44.33.812
AS 29.05.080	AS 44.33.814
AS 29.05.090	AS 44.33.826
AS 29.06.040	

3 AAC 110.650. RESUBMITTALS AND REVERSALS

Except upon a special showing to the commission of significantly changed conditions, a petition will not be accepted for filing that

- (1) is substantially similar to a petition denied by the commission during the immediately preceding three years; for purposes of this paragraph, the three-year period will be measured from the date that the denial is final at the agency level, including reconsideration, or through the end of the appeal process, whichever is later;
- (2) is substantially similar to a petition rejected by the legislature or rejected by the voters during the immediately preceding two years; or
- (3) requests a substantial reversal of a decision of the commission that first became effective during the immediately preceding two years.

History: Eff. 7/31/92, Register 123; am 1/9/2008, Register 185

Authority:

Art. X, sec. 3, Ak Const.	AS 29.05.100
Art. X, sec. 7, Ak Const.	AS 29.06.040
Art. X, sec. 12, Ak Const.	AS 29.06.090
AS 29.04.040	AS 29.06.130

3 AAC 110.660. PURPOSE OF PROCEDURAL REGULATIONS; RELAXATION OR SUSPENSION OF PROCEDURAL REGULATIONS

The purpose of the procedural requirements set out in 3 AAC 110.400 - 3 AAC 110.700 is to facilitate the business of the commission, and will be construed to secure the reasonable, speedy, and inexpensive determination of every action and proceeding. Unless a requirement is strictly provided for in the Constitution of the State of Alaska, AS 29, or AS 44.33.810 - 44.33.849, the commission, by a vote of at least three members, may relax or suspend a procedural regulation if the commission determines that a strict adherence to the regulation would work injustice, would result in a substantially uninformed decision, or would not serve relevant constitutional principles and the broad public interest.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.100
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.090
Art. X, sec. 12, Ak Const.	AS 29.06.450
AS 29.04.040	AS 44.33.812

3 AAC 110.680. MEETINGS

- (a) When providing public notice of a commission meeting, the department shall include the date, time, and place of the meeting, the general topics to be discussed or considered, and the originating site of any teleconferencing facilities that will be used. If at least three days remain before the date of the meeting, and unless AS 44.33.818 or an applicable provision of this chapter sets out a more stringent publication requirement, the department shall publish notice of that meeting in a newspaper of general circulation in the vicinity where the meeting will be held or teleconferenced. If time is insufficient to arrange for publication of a complete notice as described in this subsection, the department shall publish an abbreviated notice that includes the date, time, and place of the meeting, the originating site of any teleconferencing facilities that will be used, and a statement that additional information regarding the meeting is available at the commission's offices and on the commission's website. Before the date and time of the meeting, the department shall
- (1) post the complete notice of the meeting on the commission's website;
 - (2) transmit the complete notice to subscribers to the commission's electronic notice list;
 - (3) notify by telephone, electronic mail, or facsimile transmission those persons whom the chair of the commission determines to warrant notice by those means;
 - (4) mail or otherwise provide the complete notice to each person who requests it; and
 - (5) mail or otherwise distribute notice as directed by the commission chair.
- (b) The department shall prepare an agenda of each public meeting as directed by the chair, make the agenda available for public inspection and copying at the commission's offices, post it on the commission's website, serve it by electronic mail on subscribers to the commission's electronic notice service, and mail or otherwise provide it to each person who requests a copy. The department shall also make copies of the agenda available at the public meeting.

- (c) To the extent time permits, a public meeting agenda must be available at least 48 hours before the scheduled time of the meeting. If time does not allow that advanced publication, the agenda must be posted and distributed as soon as it is available but no later than the date of the meeting.
- (d) If the commission allows public testimony regarding a matter on the agenda or pending before the commission, that testimony is limited to three minutes for each person except that the chair may allow an extended period for good cause shown.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 14, Ak Const.	AS 44.33.814
AS 44.33.020	

3 AAC 110.690. TELECONFERENCE POLICY AND PROCEDURES

- (a) If the commission conducts a hearing by teleconference on a proposed boundary change, at least two members shall attend the hearing in person within or near the boundaries affected by the proposed change under consideration at the hearing. The department shall reflect in the minutes of a meeting or hearing whether a commission member attended in person or by teleconference.
- (b) If the commission conducts a hearing or meeting by teleconference, and teleconference access is arranged by the department, the petitioner, respondent, witness, or other person inconvenienced by teleconference attendance shall bear the cost of that person's teleconferencing, except as provided by law, or unless otherwise ordered by the commission.
- (c) If the commission conducts a meeting with a public teleconference site, agency materials that will be considered at a public meeting will be made available at the teleconference site or on the commission's website.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 14, Ak Const.	AS 44.33.814
AS 44.33.020	AS 44.33.816
AS 44.33.810	AS 44.33.826

3 AAC 110.700. FILING WITH THE COMMISSION

- (a) The filing of documents with the commission as allowed or required by this chapter or by order of the commission is made by filing them with the commission staff at the commission's offices. Unless otherwise required by this chapter or ordered by the commission, documents may be filed by hand delivery, United States mail, electronic mail, or facsimile transmission. The commission requests that a document filed by electronic mail be in searchable portable document format (.pdf).
- (b) A document filed with the commission is complete upon receipt of the entire document by the commission. Filing that occurs in whole or in part after 4:30 p.m. is considered to have occurred at the opening of business on the next day that is not a Saturday, Sunday, or state holiday.
- (c) For a document to be considered timely filed under requirements of this chapter or an order of the commission, the document must be filed with the commission on or before the deadline set under

(b) and (e) of this section. For good cause shown, the commission chair will consider a request to accept a late-filed document.

- (d) The original of a document served by electronic mail or facsimile transmission must be submitted to the commission within 10 days after the submission of the filing by either electronic method.
- (e) The time in which to perform an act required or permitted under this chapter is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday. If the last day is a Saturday, Sunday, or state holiday, that day is excluded and the act shall be performed on or before the end of the next state business day.

History: Eff. 1/9/2008, Register 185

Authority:
AS 44.33.812

ARTICLE 14 GENERAL PROVISIONS

3 AAC 110.900. TRANSITION

- (a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential municipal services into the boundaries proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for municipal detachment or dissolution under AS 29.06, or a city reclassification under AS 29.04, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment, dissolution, or city reclassification.
- (b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, or other appropriate entity located within the boundaries proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.
- (c) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located within the boundaries proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included within the boundaries proposed for change and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.
- (d) Before approving a proposed change, the commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included within the boundaries of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

- (e) The transition plan must state the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed.
- (f) If a prospective petitioner has been unable to consult with officials of an existing borough, city, or unorganized borough service area because those officials have chosen not to consult or were unavailable during reasonable times to consult with a prospective petitioner, the prospective petitioner may request that the commission waive the requirement for consultation with those officials. The request for a waiver must document all attempts by the prospective petitioner to consult with officials of each existing borough, city, and unorganized borough service area. If the commission determines that the prospective petitioner acted in good faith and that further efforts to consult with the officials would not be productive in a reasonable period of time, the commission may waive the requirement for consultation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.140
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.090
Art. X, sec. 12, Ak Const.	AS 29.06.130
AS 29.04.040	AS 29.06.150
AS 29.05.100	AS 29.06.160
AS 29.05.130	AS 44.33.812

3 AAC 110.910. STATEMENT OF NONDISCRIMINATION

A petition will not be approved by the commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

History: Eff. 7/31/92, Register 123

Authority:

Art. X, sec. 12, Ak Const.
AS 44.33.812

3 AAC 110.920. DETERMINATION OF COMMUNITY

- (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the
 - (1) settlement is inhabited by at least 25 permanent residents;
 - (2) the permanent residents live in a geographical proximity that allows frequent personal contacts and interaction; and
 - (3) the permanent residents at a location are a discrete and identifiable social unit, as indicated by such factors as resident public school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial or industrial establishments, community services, and service centers.

- (b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if
 - (1) public access to or the right to reside at the location of the population is restricted; or
 - (2) repealed 1/9/2008;
 - (3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.
- (c) A city that absorbs one or more municipalities through merger comprises a single community. A city that is formed through the consolidation of one or more municipalities comprises a single community.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 3, Ak Const.
Art. X, sec. 7, Ak Const.
Art. X, sec. 12, Ak Const.
AS 44.33.812

3 AAC 110.970. DETERMINATION OF ESSENTIAL MUNICIPAL SERVICES

- (a) If a provision of this chapter calls for the identification of essential municipal services for a borough, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that
 - (1) are reasonably necessary to the area; and
 - (2) promote maximum local self-government.
- (b) The commission may determine essential municipal services for a borough to include
 - (1) assessing the value of taxable property if the proposed or existing borough proposes to levy or levies a property tax;
 - (2) levying and collecting taxes if the proposed or existing borough proposes to levy or levies taxes;
 - (3) establishing, maintaining, and operating a system of public schools on an areawide basis as provided in AS 14.14.065;
 - (4) planning, platting, and land use regulation; and
 - (5) other services that the commission considers reasonably necessary to meet the borough governmental needs of the residents of the area.
- (c) If a provision of this chapter calls for the identification of essential municipal services for a city, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that
 - (1) are reasonably necessary to the community;
 - (2) promote maximum, local self-government; and
 - (3) cannot be provided more efficiently and more effectively by the creation or modification of some other political subdivision of the state.
- (d) The commission may determine essential municipal services for a city to include
 - (1) levying taxes;
 - (2) for a city in the unorganized borough, assessing the value of taxable property;
 - (3) levying and collecting taxes;

- (4) for a first class or home rule city in the unorganized borough, establishing, maintaining, and operating a system of public schools within the city as provided in AS 14.14.065;
- (5) public safety protection;
- (6) planning, platting, and land use regulation; and
- (7) other services that the commission considers reasonably necessary to meet the local governmental needs of the residents of the community.

History: Eff. 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.100
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.090
Art. X, sec. 12, Ak Const.	AS 29.06.130
AS 29.04.040	AS 29.06.450
AS 29.05.011	AS 29.06.500
AS 29.05.031	AS 44.33.812

3 AAC 110.981. DETERMINATION OF MAXIMUM LOCAL SELF-GOVERNMENT

In determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, the commission will consider

- (1) for borough incorporation, whether the proposal would extend local government on a regional scale to a significant area and population of the unorganized borough;
- (2) for borough annexation, whether the proposal would extend local government to portions of the unorganized borough;
- (3) for merger or consolidation of municipalities, whether the proposal would expand or diminish the level of local government currently provided by the municipalities being merged or consolidated;
- (4) for borough detachment, whether the
 - (A) proposal would
 - (i) diminish the provision of local government to the area and population being detached; or
 - (ii) detrimentally affect the capacity of the remnant borough to serve the local government needs of its residents; and
 - (B) local government needs of the detached area can be adequately met by an existing local government;
- (5) for borough dissolution, whether the proposal substantiates that the provision of local government is no longer necessary or supportable for the area;
- (6) for deunification, whether the proposal substantiates that the provision of local government is not diminished by deunification or that deunification could lead to better local government by incorporation of other local governments better suited to needs of the area and population;
- (7) for city incorporation or annexation in the unorganized borough, whether the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists;
- (8) for city incorporation or annexation in an organized borough, whether the proposal would extend local government to territory or population of the organized borough where local government needs cannot be met by the borough on an areawide or nonareawide basis, by annexation to an existing city, or through an existing borough service area;
- (9) for city detachment in an organized borough, whether the
 - (A) proposal would

- (i) diminish the provision of local government to the territory and population being detached; or
 - (ii) detrimentally affect the capacity of the remnant city to serve the local government needs of its residents; and
- (B) local government needs of the territory and population to be detached can be adequately met by the borough;
- (10) for city detachment in the unorganized borough, whether the
 - (A) proposal would
 - (i) diminish the provision of local government to the territory and population being detached; or
 - (ii) detrimentally affect the capacity of the remnant city to provide local government services; and
 - (B) local government needs of the detached territory and population can be adequately met by another existing local government;
- (11) for city dissolution in an organized borough, whether the proposal substantiates that the
 - (A) provision of local government is no longer necessary or supportable for the territory; or
 - (B) local government needs of the territory could be better provided by the borough;
- (12) for city dissolution in the unorganized borough, whether the proposal substantiates that the
 - (A) provision of local government is no longer necessary or supportable for the territory; or
 - (B) local government needs of the territory could be better provided by a governmental organization other than the city;
- (13) for city reclassification, whether the proposal would expand or diminish the provision of local government to the territory being reclassified;
- (14) whether the petition proposes incorporation of a home rule municipality.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.100
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 5, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.130
Art. X, sec. 12, Ak Const.	AS 29.06.450
AS 29.04.040	AS 29.06.500
AS 29.05.011	AS 44.33.812
AS 29.05.031	

3 AAC 110.982. MINIMUM NUMBER OF LOCAL GOVERNMENT UNITS

Among the factors to be considered in determining whether a proposed boundary change promotes a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, the commission will consider

- (1) for borough incorporation, whether a new borough will be created from the unorganized borough and whether the proposed boundaries maximize an area and population with common interests;
- (2) for borough annexation, whether the jurisdictional boundaries of an existing borough are being enlarged rather than promoting the incorporation of a new borough and whether the proposed boundaries maximize an area and population with common interests;

- (3) for borough merger or consolidation, whether the merged or consolidated borough minimizes the number of local government units and whether the boundaries of the merged or consolidated borough maximize an area and population with common interests;
- (4) for borough detachment, whether the detached area by itself is likely to be incorporated as an organized borough;
- (5) for deunification of a unified municipality, whether
 - (A) incorporation of one or more new cities is likely to occur as a result of the proposed action, and, if so, the reasons why a new incorporation is or will be needed; or
 - (B) the action is proposed as an alternative to detachment of area and incorporation of one or more new boroughs;
- (6) for city incorporation, whether incorporation of a new city is the only means by which residents of the territory can receive essential municipal services;
- (7) for city annexation, whether the jurisdictional boundaries of an existing city are being enlarged rather than promoting the incorporation of a new city or creation of a new borough service area;
- (8) for city merger or consolidation, whether the merged or consolidated city minimizes the number of local government units;
- (9) for city detachment, whether the detached area, by itself, is likely to be incorporated as a new city.

History: Eff. 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.100
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 5, Ak Const.	AS 29.06.090
Art. X, sec. 7, Ak Const.	AS 29.06.130
Art. X, sec. 12, Ak Const.	AS 29.06.450
AS 29.04.040	AS 29.06.500
AS 29.05.011	AS 44.33.812
AS 29.05.031	

3 AAC 110.990. DEFINITIONS

Unless the context indicates otherwise, in this chapter

- (1) "borough" means a general law borough, a home rule borough, or a unified municipality;
- (2) repealed 1/9/2008;
- (3) "commission" means the Local Boundary Commission;
- (4) "commissioner" means the commissioner of commerce, community, and economic development;
- (5) a "community" means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920;
- (6) "contiguous" means, with respect to area, territory, or property, adjacent, adjoining, and touching; contiguous area, territory, or property includes area, territory, or property separated by public rights-of-way;
- (7) "department" means the Department of Commerce, Community, and Economic Development;
- (8) "mandatory power" means an authorized act, duty, or obligation required by law to be performed or fulfilled by a municipality in the course of its fiduciary obligations to citizens and taxpayers; "mandatory power" includes one or more of the following:
 - (A) assessing the value of taxable property, and levying and collecting taxes;
 - (B) providing education, public safety, public health, and sanitation services;

- (C) planning, platting and land use regulation;
 - (D) conducting elections; and
 - (E) other acts, duties, or obligations required by law to meet the local governmental needs within the boundaries proposed for change;
- (9) "model borough boundaries" means those boundaries set out in the commission's publications
- (A) Model Borough Boundaries, revised as of June 1997 and adopted by reference; and
 - (B) Unorganized Areas of Alaska That Meet Borough Incorporation Standards: A Report by the Alaska Local Boundary Commission to the Alaska Legislature Pursuant to Chapter 53, Session Laws of Alaska 2002, dated February 2003 and adopted by reference;
- (10) "permanent resident" means a person who has maintained a principal domicile within the boundaries proposed for change under this chapter for at least 30 days immediately preceding the date of acceptance of a petition by the department and who shows no intent to remove that principal domicile at any time during the pendency of a petition before the commission;
- (11) "political subdivision" means a borough or city organized and operated under state law;
- (12) "property owner" means a legal person holding a vested fee simple interest in the surface estate of any real property including submerged lands;
- (13) "regional educational attendance area" means an educational service area established in the unorganized borough under AS 14.08.031 by the department; "regional educational attendance area" includes the territory within the boundaries of a
- (A) home rule city in that area;
 - (B) first class city in that area; or
 - (C) federal transfer regional educational attendance area formed under ch. 66, SLA 1985 in that area;
- (14) "witnesses with expertise in matters relevant to the proposed change" means individuals who are
- (A) specialists in relevant subjects, including municipal finance, municipal law, public safety, public works, public utilities, and municipal planning; or
 - (B) 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;
- (15) "area" means the geographical lands and submerged lands forming the boundaries described in a petition regarding a borough government or forming the boundaries of an incorporated borough;
- (16) "boundary change" means the type of action the commission takes to create, alter, or abolish a municipal government; "boundary change" includes
- (A) annexation, consolidation, detachment, dissolution, incorporation, and merger of boroughs or cities; and
 - (B) reclassification of cities if jurisdictional boundaries for public school districts are affected;
- (17) "city" has the meaning given in AS 29.71.800;
- (18) "consolidation" has the meaning given in AS 29.71.800;
- (19) "debt" means an obligation or alleged obligation of a municipality to pay money; "debt" includes funded debt and floating debt;
- (20) "deunification" and "deunify" mean to change a unified municipality into a non-unified home rule borough;
- (21) "floating debt" means a municipal obligation that is payable on demand;
- (22) "funded debt" means a municipal obligation
- (A) evidenced by bonds payable at a time beyond the current fiscal year of their issue, with periodic payment of interest; and
 - (B) for which provision is made for payment by future taxation;
- (23) "merger" has the meaning given in AS 29.71.800;

- (24) "numerical identifier" has the meaning given in AS 15.60.010;
- (25) "non-unified home rule borough" means a home rule borough in which a city government does or could exist;
- (26) "person" has the meaning given in AS 01.10.060;
- (27) "public right-of-way" means a public easement or public property that is or may be used for a street, an alley, or another public purpose;
- (28) "region"
 - (A) means a relatively large area of geographical lands and submerged lands that may include multiple communities, all or most of which share similar attributes with respect to population, natural geography, social, cultural, and economic activities, communications, transportation, and other factors;
 - (B) includes a regional educational attendance area, a state house election district, an organized borough, and a model borough described in a publication adopted by reference in (9) of this section;
- (29) "regional" means having the characteristics of a region;
- (30) "remnant city" means the portion of a city that will remain if a petition to detach territory from that city is approved under AS 29.06.040;
- (31) "remnant borough" means the portion of a borough that will remain if a petition to detach area from that borough is approved under AS 29.06.040;
- (32) "territory" means the geographical lands and submerged lands forming the boundaries in a petition regarding a city government or forming the boundaries of an incorporated city;
- (33) "unified municipality" has the meaning given in AS 29.71.800;
- (34) "unorganized borough" has the meaning given in AS 29.03.010.

Petition

to the Local Boundary Commission to

Incorporate a [First/Second Class/Home Rule] City

of [name of community] in

the [Unorganized Borough or Borough Name]

Using the Local Option Method

Petition

The city incorporation standards and procedures include AS 29.05.011 – AS 29.05.021; AS 29.05.060 – AS 29.05.150; 3 AAC 110.005 – 3 AAC 110.042; 3 AAC 110.400 – 3 AAC 110.700; and 3 AAC 110.900 – 3 AAC 110.990. All exhibits attached to this petition are incorporated by reference. Both the sections and the exhibits need to be addressed and filled out. If a requirement does not apply, simply state “not relevant.”

Section 1. Petitioner 3 AAC 110.420(b)(1)

The number of votes cast in the last state general election inside the proposed city is _____ . A letter from the Division of Elections documenting the number of voters is provided as **Exhibit A.**

As provided for in AS 29.05.060(12) [AS 29.05.060(11)], the Petitioner for incorporation for a [second class] city consists of the signatures and resident addresses of [25 or 50] registered voters in the proposed city, or of 15 percent of the registered voters in the proposed city as of the last general election, whichever is greater. These signers are collectively described as “the Petitioner.” These signatures are included in **Exhibit B.** Petitioner should print more signature pages as necessary.

Section 2. Petitioner’s Representative 3 AAC 110.420(b)(2)

The Petitioner designates the following person to serve as its representative in all matters concerning this incorporation proposal:

Name:

Physical Address: _____

Mailing address: _____

Phone and fax numbers: _____

Email address: _____

Petitioner’s Alternative Representative

The Petitioner designates the following person to act as alternative representative in matters regarding the proposed incorporation, in the event the primary representative is absent, resigns, or fails to perform his or her duties:

Name:

Physical Address: _____

Mailing address: _____

Phone and fax numbers: _____

Email address: _____

Section 3. Name and Class of Proposed City 3 AAC 110.420(b)(3)(B)

Upon incorporation, the city government shall be known as the “City of _____,” a [second class city].

Section 4. General Description of the Nature of the Proposed Commission Action 3 AAC 110.420(b)(4)

This Petition seeks to incorporate the [second class city] of [insert name of proposed city], and requests that the Local Boundary Commission (LBC) grant this Petition. Incorporation is subject to approval by voters of the territory proposed for incorporation per AS 29.05.110 and 3 AAC 110.600.

Section 5. General Description of Territory Proposed for City Incorporation 3 AAC 110.420(b)(5)(B)

A concise, general description of the territory proposed for incorporation.

Section 6. Reasons for This Petition 3 AAC 110.420(b)(6)

State why the Petitioner seeks to incorporate the territory:

Section 7. Legal Descriptions, Maps, and Plats for Proposed City

3 AAC 110.420(b)(7)

Subsection 7-A. Territory proposed for incorporation.

A legal description of the boundaries of the territory proposed for incorporation is presented as **Exhibit C-1**. A map and plats of the territory proposed for incorporation is presented as **Exhibit C-2**.

Subsection 7-B. Service areas planned within the proposed city.

A legal description of the boundaries of each service area, if any, planned in the city proposed for incorporation is shown as **Exhibit C-3**. A map of the boundaries for each service area is presented as **Exhibit C-4**.

[Delete Subsection 7-B and Exhibits C-3 and C-4 if no service areas are proposed in the petition.]

Section 8. Size 3 AAC 110.420(b)(8)(B)

The territory proposed for incorporation is estimated to encompass

_____ square miles of land
_____ square miles of water, submerged lands, and tidelands,
_____ square miles total

Section 9. Population 3 AAC 110.420(b)(9)(B)

The number of permanent residents living within the territory proposed for incorporation is estimated to be _____.

Section 10. Information Relating to Public Notice and Service of Petition

3 AAC 110.420(b)(10)

See **Exhibit D** for information relating to public notice and service of petition.

Section 11. Tax Data 3 AAC 110.420(b)(12)

Subsection 11-A. The assessed or estimated value of taxable property

The assessed or estimated taxable value of property in the territory proposed for incorporation. This only applies if the proposed city or an existing municipality levies or plans to levy property taxes:

Real property	\$ _____
Personal property	\$ _____
Total	\$ _____

Subsection 11-B. The projected taxable sales in territory proposed for incorporation

Determine the annual value of sales of goods and services in the territory proposed for incorporation that could be subject to a sales tax. This only applies if an existing municipality or the proposed city levies or plans to levy property taxes. At a sales tax rate of _____%, any sales tax revenues equal \$_____ annually.

Subsection 11-C. Any other taxes

The value of any other current or proposed tax levy in the territory proposed for incorporation is \$_____.

Subsection 11-D. Proposed taxes

Any propositions to levy taxes that the Petitioner desires be put on the incorporation ballot are listed in the left hand column at the rates specified in the next column. The two right hand columns express the petitioner's possible request that the LBC condition the incorporation upon voter approval of specified taxes. Regardless of whether such a request is made, Alaska law allows the LBC to condition incorporation upon passage of propositions authorizing the city to levy taxes.

Tax type	Tax rate	Request to Condition Incorporation	
		YES	NO

Section 12. Budget and Revenue Projections 3 AAC 110.420(b)(13)

A budget projecting revenue, operating expenditures, and capital expenditures during the city's first three full fiscal years of operation is in Exhibit E.

Section 13. Existing Long-term Municipal Debt 3 AAC 110.420(b)(14)

Describe any existing long-term debt, if any, that the proposed city would assume in Exhibit F.

Section 14. Powers and Functions 3 AAC 110.420(b)(15)

Exhibit G lists the proposed powers and functions of the proposed city.

Section 15. Transition Plan 3 AAC 110.420(b)(16)

Exhibit H presents a practical plan per AS 29.05.140 and 3 AAC 110.900.

Section 16. Governing Body 3 AAC 110.420(b)(17)

Information about the composition and apportionment of the city council.

Section 17. Supporting Brief 3 AAC 110.420(b)(19)

See Exhibit I for the supporting brief.

Section 18. Documentation Demonstrating That the Petitioner is Authorized to file the Petition Under 3 AAC 110.410 and 3 AAC 110.420(b)(20)

Briefly state why and how 3 AAC 110.410 authorizes the petitioner to file the petition (beyond that provided in Section 1 and Exhibit B).

Section 19. Petition Information, Source, and Accuracy 3 AAC 110.420(b)(22)

Exhibit J provides an affidavit from the petitioner's representative affirming that the information in the petition is true and accurate.

Section 20. Charter

If this petition is for a home rule city, AS 29.05.060(13) and 3 AAC 110.420(21) require the proposal to include the proposed home rule charter. This charter can be found in Exhibit K.

Exhibit A.

**Letter From the Division of Elections Documenting the Number of Votes Cast in the Last
General Election**

Exhibit B.
Signatures of Qualified Voters

This exhibit contains the signatures and resident addresses of qualified registered voters in the boundaries of the proposed city. The required number of voters who must sign the petition is based on the number who voted in the territory in the last general election. Please consult LBC staff and/or the Division of Elections to help determine this number. The number of signatures in this exhibit equals the greater number: at least 15 percent of the number who voted in the territory proposed for incorporation during the last general election conducted by the State of Alaska, or 25 qualified voters for a second class city [50 for a home rule or first class city]. See AS 29.05.060.

To help verify your voter registration status, please:

- Print your name legibly.
- List your physical residence address (e.g. street number, milepost) as it is listed in the state voter registration records – **do not list a post office or other mailbox.**
- Sign your name as it is listed in the state voter registration records.
- List a numerical identifier such as your State of Alaska voter ID or driver’s license; date of birth; or the **last four digits only** of your Social Security number.
- Date your signature.

WE, THE UNDERSIGNED, hereby petition for the incorporation of the city of [insert name here] as set out in the complete petition. Further, we affirm that:

1. We are registered voters of the State of Alaska;
2. We are registered to vote within the proposed city;
3. We have reviewed the complete petition for incorporation, including all exhibits, and we understand its terms.

WE, THE UNDERSIGNED, hereby petition for the incorporation of the city described in the complete petition. Further, we swear or affirm that:

1. We are registered voters of the State of Alaska;
2. We are registered to vote within the proposed city;
3. We have reviewed the complete petition for incorporation, including all exhibits, and we understand its terms.

<hr/> Printed Name <hr/>		
<hr/> Principal Physical Residence Address (or best equivalent) – No PO Box Numbers <hr/>		
<hr/> Signature	<hr/> Numerical Identifier	<hr/> Date signed

<hr/> Printed Name <hr/>		
<hr/> Principal Physical Residence Address (or best equivalent) – No PO Box Numbers <hr/>		
<hr/> Signature	<hr/> Numerical Identifier	<hr/> Date signed

<hr/> Printed Name <hr/>		
<hr/> Principal Physical Residence Address (or best equivalent) – No PO Box Numbers <hr/>		
<hr/> Signature	<hr/> Numerical Identifier	<hr/> Date signed

<hr/> Printed Name <hr/>		
---------------------------------	--	--

Principal *Physical* Residence Address (or best equivalent) – No PO Box Numbers

Signature

Numerical Identifier

Date signed

[Print more signature pages when necessary.]

Exhibit C-1.

Legal Description of the Boundaries of the Territory Proposed for Incorporation

Exhibit C-2.

A Map and Plats of the Territory Proposed for Incorporation

Exhibit C-3.

**Legal Description of the Boundaries of Each Service Area, if Any, Planned in the City Proposed
for Incorporation**

Exhibit C-4.

**A Map of the Boundaries of Each Service Area, if Any, Planned in the City Proposed for
Incorporation**

Exhibit D.
Information Relating to Public Notice

This exhibit provides information relevant to public notice of this incorporation proceeding, and service of the petition. The information includes specifics about local media; adjacent municipal governments; places to post notices; location(s) where the Petition may be viewed; and persons whose potential interest in the incorporation proceedings may warrant the courtesy of notice.

Local Media

The following is a list of the principal news media serving the territory within the proposed boundaries:

Newspaper(s)

Name: _____

Address: _____

Phone: _____

Email: _____

Name: _____

Address: _____

Phone: _____

Email: _____

Name: _____

Address: _____

Phone: _____

Email: _____

[Add more listings if there are more newspapers that serve the territory.]

TV and radio stations

Name: _____

Address: _____

Phone: _____

Email: _____

Name: _____

Address: _____

Phone: _____

Email: _____

[Add more listings if there are more TV or radio stations that serve the territory.]

Adjacent Municipal Governments

The following is a list of cities and organized boroughs whose boundaries extend within 20 miles of the boundaries of the proposed city:

Places to Post Notices Relating to This Proposal

The following three or more prominent locations readily accessible to the public, within or near the boundaries proposed for incorporation, are designated for posting notices concerning this incorporation proposal:

Where the Public Can Review the Petition Materials

Per 3 AAC 110.460(b), please list at least one location where a full set of petition documents will be available for public review at the dates and times listed below:

Location	Days and times open to public

Persons Who May Warrant the Courtesy of Notice of the Filing of the Incorporation Petition

The following is a list of names and addresses of persons whose potential interest in the incorporation proceedings may warrant the courtesy of notice:

Location	Days and times open to public

[Add more persons who warrant a copy if necessary on a separate page.]

EXHIBIT E.

Three fiscal years of projections of revenue, operating expenditures, and capital expenditures

Projections of city income and expenditures during the city's first three full fiscal years of operation are included in this exhibit.

Revenues	1st year	2nd year	3rd year
Operating expenses	1st year	2nd year	3rd year
Capital expenditures	1st year	2nd year	3rd year

Balance			

Exhibit F.

Existing Long Term Municipal Debt.

The following lists any existing long-term municipal debt if any, that the proposed city would assume:

Name/type of bond	Purpose of bond	Date fully paid

Exhibit G.

Municipal Powers and Functions of:

1. The proposed city

2. Any existing municipality for which a change is proposed (before and after the proposed change)

List any alternative service providers in the territory proposed for incorporation

Provider	Service or function

Exhibit H.

Transition Plan

3 AAC 110.420(b)(16)

The transition plan must:

- a)** Demonstrate the intent and capability of the proposed city to extend essential services (as determined under 3 AAC 110.970) into the territory proposed for incorporation in the shortest practical time following incorporation. “Mandatory Powers” (as mentioned in 3 AAC 110.970 and elsewhere) is defined by 3 AAC 110.990(8)(A) – (E).
- b)** Demonstrate how all relevant and appropriate powers, rights, duties, and functions, presently exercised by an existing borough, city, unorganized borough service areas, or other appropriate entity located within the boundaries proposed for change, will be assumed. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area. It must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.
- c)** Demonstrate how the transfer of and integration of all relevant and appropriate assets and liabilities of existing borough, city, unorganized borough service area, or other appropriate entity within the territory proposed for incorporation, will be implemented. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included within the boundaries proposed for change. It must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

It is suggested that the proposed city consult, among other entities, its local emergency planning committee (LEPC), and the State Emergency Response Commission (SERC). If the LBC approves the petition and the voters approve the petition, it is suggested that the city inform the both the LEPC and the SERC that the petition has been approved.

- d)** Please provide the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The plan must

also list the dates on which that consultation occurred, and the subject addressed during that consultation.

Consultation chart (this can be written out in paragraph form instead of the chart)

Name	Title & organization	Date consulted	Subject discussed

Per 3 AAC 110.900(f), if attempts to consult officials were unsuccessful because the officials chose not to consult, or were unavailable during reasonable times, the Petitioner may request a waiver of the consultation requirements. If so, the Petitioner must provide documentation of all attempts it made to consult with those officials.

Exhibit I.

Petitioner's Brief

3 AAC 110.420(b)(19)

BRIEF: Exhibit I provides a written statement fully explaining how the incorporation satisfies each the standards set forth in AS 29.05.011 - 29.05.021, 3 AAC 110.005. - 3 AAC 110.042, and 3 AAC 110.900 - 3 AAC 110.990. The brief references each of these standards and explains why the proposed incorporation is good public policy. Further, the brief describes why the proposed city can provide needed services better than the borough can on an areawide, nonareawide, or service area basis. The brief also describes how incorporation of proposed city would effect better provision of such services than would annexation of the area to an existing city. Assertions are supported with detailed facts, including census data and relevant reports from state or federal agencies.

The brief demonstrates with detailed facts how each of these standards are met. If a requirement does not apply, simply state "not relevant."

Please be aware that the regulations often repeat the statutes, but sometimes have subtle differences or additional criteria. To avoid repetition, it can suffice to explain how the petition meets the regulations, and merely refer to that explanation when addressing the statutes, *as long as everything stated in the statute is covered by the regulation.*

The entire text of the statutes and regulations may not be stated in the summary below. The petitioner should examine the entire text of the statutes and regulations to see all the criteria. If a statute or regulation states that the commission *may* consider certain factors, those factors are guidelines and not strict requirements. If the statute or regulation states that the commission *will* or *shall* consider certain factors, those factors are mandatory and the petitioner must address them. Each statute and regulation must be referred to in the brief by reference.

1. Per 3 AAC 110.005, the territory proposed for incorporation must encompass a community [as determined in 3 AAC 110.920(a)(1-3), and defined by 3 AAC 110.990(5). Per 3 AAC 110.920(b), public access to or the right to reside at the location of the population is not restricted, or the location of the population is not provided by an employer and residence is not required as a condition of employment by those who do not consider the location their permanent residence.
2. The community must demonstrate a reasonable need for city government as required by AS 29.05.011(a)(5) and 3 AAC 110.010(a).

3. Per AS 29.05.021(a), and 3 AAC 110.010(b), a community in the 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. [Per AS 29.05.021(b) and 3 AAC 110.010(c), a community within a borough may not incorporate as a city if the services to be provided by the proposed city can be provided on an areawide or nonareawide basis by the borough in which the proposed city is located, or by annexation to an existing city.]
4. In accordance with AS 29.05.011(a)(3) and 3 AAC 110.020, the economy of the proposed city includes the human and financial resources necessary to provide essential city services on an efficient, cost-effective level.
5. In accordance with AS 29.05.011(a)(4) and 3 AAC 110.030(a), the population of the proposed city is sufficiently large and stable to support the proposed city government.
6. In accordance with AS 29.05.011(a)(2) and 3 AAC 110.040(a), the boundaries of the proposed city include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level.
7. Per 3 AAC 110.040(b)(1), to promote the limitation of community, the boundaries of the proposed city must be on a scale suitable for city government, and include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the anticipated date of incorporation.
8. Per 3 AAC 110.040(b)(2), the boundaries of the proposed city do not include entire geographical regions or large unpopulated areas, except when such boundaries are justified by applying the city incorporation standards of 3 AAC 110.005 – 3 AAC 110.042 and are otherwise suitable for city government.
9. Per 3 AAC 110.040(c), absent a specific and persuasive showing to the contrary, if the territory is not contiguous or contains enclaves, the commission will presume the boundaries of the proposed city do not include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level.
10. Per 3 AAC 110.040(d), the boundaries do not overlap the boundaries of an existing organized borough or city. Alternatively, the brief also addresses that circumstance if applicable.
11. Incorporation must be in the best interests of the state, as required by AS 29.05.100(a) and 3 AAC 110.042.
12. Per 3 AAC 110.981(7) [or (8)], in determining whether the proposed incorporation would promote maximum local self-government under article 10, section 1 of the Constitution of the State of Alaska, the commission will consider whether the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists.

13. Per 3 AAC 110.982(6), in determining whether the proposed boundary change promotes a minimum number of local government units in accordance with article 10, section 1 of the Constitution of the State of Alaska, the commission will consider whether the incorporation of a new city is the only means by which residents of the territory can receive essential municipal services.
14. The proposed incorporation will not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin, in accordance with 3 AAC 110.910.
15. Per 3 AAC 110.920(b), absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if public access to or the right to reside at the location of the population is restricted, or if the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.
16. Per 3 AAC 110.970(c), if a provision of this chapter calls for the identification of essential municipal services for a city, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that:
 - a. Are reasonably necessary to the community;
 - b. Promote maximum, local self-government; and
 - c. Cannot be provided more efficiently and more effectively by the creation or modification of some other political subdivision of the state.

Exhibit J.

Affidavit that Information in the Petition is Accurate

STATE OF ALASKA)

) ss.

_____ JUDICIAL DISTRICT)

I, _____, representative of the Petitioner for incorporation of the City of _____, being sworn, state the following:

The information contained in the petition for incorporation, including the accuracy of the voter information in Exhibit A and that the petition was signed by qualified voters, is complete, true, and accurate to the best of my knowledge.

Petitioner's Representative (Signature)

(Printed Name)

SUBSCRIBED AND SWORN TO before me on _____,

20_____.

[Notary Seal]

Notary Public in and for Alaska

My commission expires: _____

Exhibit K.
Charter