

Local Boundary Commission

Department of Commerce, Community, and Economic Development

Division of Community and Regional Affairs

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BOROUGH INCORPORATION IN ALASKA

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INTRODUCTION

Thank you for your interest in borough incorporation. If people are interested in pursuing borough incorporation, this packet provides the necessary information to get started. It is intended for people interested in learning about borough incorporation, whether they seek to submit a petition, oppose an incorporation, or seek more information.

This packet is organized into several modules:

- [Boroughs in Alaska](#)
- [Local Boundary Commission](#)
- [Borough Incorporation](#)
- [Planning and Preparing a Petition](#)
- [Standards and Procedures for Petition](#)

This packet describes boroughs and the borough incorporation process, and the relevant agencies involved. It explains steps to take and items to consider. The packet discusses the transition plan, an important part of the petition which petitioners often neglect to examine thoroughly. Finally, it includes appendices with borough incorporation standards and procedural regulations, and a borough incorporation petition form.

Boundary changes are decided on the state level by the Local Boundary Commission (LBC or commission). Usually either a group of registered voters or a municipality (a borough or city) submits a local boundary change petition to the LBC. Borough incorporation can take a year or more from when the petition is accepted until the commission issues a decision approving or denying the petition. This gives enough time for people to submit public comments, and for the Department of Commerce, Community, and Economic Development (department) to write a publicly available preliminary report and final report with recommendations to the commission. That time does not include the time needed to prepare and draft a petition, and for commission staff to ensure that the petition has all of the required information.

Interested persons should consult LBC staff before drafting a petition to save time and effort. The staff is available to answer questions and give information to both proponents and opponents of borough incorporation. The staff is part of the Division of Community and Regional Affairs (DCRA) within the department. Please contact staff with questions:

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BOROUGHS IN ALASKA

CLASSIFICATIONS OF BOROUGHS

Alaska has two kinds of municipal government – cities and boroughs. Both are political subdivisions of the State of Alaska. A municipality is either a borough or city, not a third type of local government. A unified municipality is an organized home rule borough. While cities are community based municipalities, organized boroughs are regional municipalities. There are two kinds of boroughs: home rule and general law.

Home rule boroughs derive their powers from a charter that gives them any power not otherwise prohibited by law. Home rule boroughs can be either unified or non-unified. In unified home rule, the borough and any cities within it have unified into the borough government. No cities exist within this borough and no cities may form without changing the borough charter. In non-unified home rule, cities may exist within the borough.

In unified home rule, the boroughs contain no cities. No cities may incorporate in unified home rule boroughs unless the people of the borough change their charter to allow that. Non-unified home rule boroughs, however, are allowed to have cities within them.

General law boroughs have only the powers given to them by the state. There are two kinds of general law boroughs: first class and second class. A first class borough may exercise any power not prohibited by law on a nonareawide basis (i.e., in the area of the borough outside cities) by adopting an ordinance. In contrast, a second class borough must gain voter approval to exercise many nonareawide powers.

UNIFIED HOME RULE BOROUGHS (4)

Municipality of Anchorage (population 299,037; 1,940 square miles)
City and Borough of Juneau (population 32,739; 3,248 square miles)
City and Borough of Sitka (population 8,920; 4,530 square miles)
City and Borough of Wrangell (population 2,458; 3,465 square miles)

NON-UNIFIED HOME RULE BOROUGHS (7)

Denali Borough (population 1,810; 12,610 square miles)
Haines Borough (population 2,466; 2,730 square miles)
Lake and Peninsula Borough (population 1,629; 29,560 square miles)
North Slope Borough (population 10,528; 94,770 square miles)
Northwest Arctic Borough (population 7,944; 39,150 square miles)
Petersburg Borough (population 3,179; 3,829 square miles)
City and Borough of Yakutat (population 594; 9,251 square miles)

FIRST CLASS BOROUGHS (1)

Municipality of Skagway (population 1,065; 443 square miles)

SECOND CLASS BOROUGHS (7)

Aleutians East Borough (population 3,001; 15,020 square miles)

Bristol Bay Borough (population 874; 850 square miles)

Fairbanks North Star Borough (population 98,957; 7,430 square miles)

Kenai Peninsula Borough (population 58,060; 21,330 square miles)

Ketchikan Gateway Borough (population 13,758; 6,262 square miles)

Kodiak Island Borough (population 13,563; 12,150 square miles)

Matanuska-Susitna Borough (population 102,598; 25,260 square miles)

BOROUGH POWERS AND DUTIES

Local governments in Alaska enjoy broad powers. Article 10, the local government article of Alaska's constitution, establishes the framework for municipal government. Section 1 of Article 10 states that local government powers shall be liberally construed.

Organized boroughs may provide services in three ways. These are:

- (1) areawide (the entire borough)
- (2) nonareawide (the borough area outside of its cities)
- (3) through service areas (service areas' size and configuration can vary, and may include cities).

Boroughs are required to provide three services: education, taxation, and planning.¹ Although home rule and first class cities in the unorganized borough must provide education, they may not operate their own school system once they become part of an organized borough. State law does not mandate boroughs to provide any other particular service or facility, although each type of borough government has broad authority to exercise powers. Every borough also has certain general obligations, including submitting annual audits or financial reports, conducting regular elections, codifying ordinances, holding regular meetings of the borough assembly, etc. The chart on pages 5–6 further explains borough powers and duties, and the differences between classes of boroughs:

¹ AS 29.35.160, AS 29.35.170, and AS 29.35.180, respectively. Alaska statutes are often abbreviated by the term "AS," with the number following. This document does the same.

POWERS AND DUTIES OF BOROUGHES

POWER	HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH	REFERENCE
Public Education (education powers have been broadly interpreted by the Alaska Department of Law)	The borough must provide the service areawide in accordance with AS 14.	Same as for a home rule borough.	Same as for a home rule borough.	AS 29.35.160; AS 14.12.010(2) AS 14.12.025
Planning, Platting, and Land Use Regulation	The borough must exercise the powers areawide, but not necessarily in accordance with AS 29.40.	The borough must exercise the powers areawide. In accordance with AS 29.40, the borough may allow cities to assume such powers within their boundaries.	Same as for a first class borough.	AS 29.35.180
Property Tax	Limited to 30 mills except where a higher levy is necessary to avoid default on debt. Some charters require voter approval to levy property taxes.	Same as home rule except there is no charter. Still some general law boroughs have more limited taxing authority established by local action.	Same as for a first class borough.	AS 29.35.170 AS 29.45.010
Sales Tax	The charter may limit the levy rate. The charter may require voter approval to levy sales taxes.	No limit exists on the levy rate; however, voter approval is required to levy sales taxes.	Same as for a first class borough.	AS 29.35.170 AS 29.45.650 - AS 29.45.680
Provide Transportation Systems, Water and Air Pollution Control, Animal Regulation	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide, or service area basis by ordinance.	May be exercised on an areawide, nonareawide, or service area basis by ordinance. Approval from voters or property owners required for service area powers.	AS 29.35.200 – AS 29.35.210 AS 35.300 – AS 29.35.350 AS 29.35.450 – AS 29.35.490
Regulate Fireworks, Provide Solid and Septic Waste Disposal, Housing Rehabilitation, Economic Development, Roads and Trails, EMS Communications, Regulate Motor Vehicles and Development Projects	Determined by charter or ordinance	May be exercised areawide upon approval of areawide voters or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide or service area basis.	May be exercised areawide upon approval of areawide voters, or by transfer of powers from all cities. May be exercised by ordinance on a nonareawide basis. May be exercised on service area basis with voter approval.	AS 29.35.200 – AS 29.35.210 AS 35.300 – AS 29.35.350 AS 29.35.450 – AS 29.35.490

POWERS AND DUTIES OF ORGANIZED BOROUGHS (CONTINUED)

POWER	HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH	REFERENCE
Licensed Day Care Facilities	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide, or service area basis by ordinance.	May be exercised on an areawide basis by ordinance; voter approval required for exercise on a nonareawide or service area basis.	AS 29.35.200 – AS 29.35.210 AS 35.300 – AS 29.35.350 AS 29.35.450 – AS 29.35.480
Hazardous Substance Control	Determined by charter or ordinance	Same as above.	Same as above.	AS 29.35.200 – AS 29.35.210 AS 35.300 – AS 29.35.350 AS 29.35.450 – AS 29.35.480
Other Powers Not Prohibited	Determined by charter or ordinance	Same as above.	May be exercised areawide upon approval of areawide voters, or by transfer of powers from all cities and approval of nonareawide voters. May be exercised nonareawide upon approval of nonareawide voters. May be exercised on a service area basis with voter approval.	AK Const. Art. 10, §§ 1, 5 and 11 AS 29.35.200 – AS 29.35.210 AS 35.300 – AS 29.35.350 AS 29.35.450 – AS 29.35.480
Assembly composition and apportionment	Flexible; determined according to AS 29.20.060 - 29.20.120	Same as for a home rule borough.	Same as for a home rule borough.	AS 29.20.050 – AS 29.20.180
Election and Term of Mayor	Established 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.	Same as for a first class borough.	AS 29.20.230
Vote by Mayor	Established by charter or ordinance	May vote to break a tie only if the borough has a manager form of government.	Same as for a first class borough.	AS 29.20.250(b)
Veto Power of the Mayor	Generally determined by charter, except veto of ordinance prohibiting possession of alcohol is not permitted.	Generally has veto power, except veto of ordinance prohibiting possession of alcohol is not permitted.	Same as for a first class borough.	AS 29.20.270
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.	AK Const. Art. 10, §9 AS 29.10.010

LOCAL BOUNDARY COMMISSION

CONSTITUTIONAL ORIGIN OF THE LOCAL BOUNDARY COMMISSION

In drafting the Alaska constitution, the constitutional convention delegates operated under the principle that unless a grave need existed, the constitution should not specify any agency, department, commission, or other body. The framers recognized that a “grave need” existed to establish and alter municipal boundaries on a state level. To meet that need, the delegates created the Local Boundary Commission.

Article 10, Section 12 established the LBC to consider “any proposed local government boundary change.” The minutes of the Local Government Committee of the Constitutional Convention show that the framers believed that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. Alaska’s courts have upheld that the LBC has broad powers to create and alter municipal government boundaries. Arguments for and against boundary changes can be analyzed objectively at the state level.²

LOCAL BOUNDARY COMMISSION MEMBERSHIP

The LBC is an independent commission comprised of five members appointed by the governor. One member is appointed from each of Alaska’s four judicial districts; the LBC chair is appointed from the state at-large. Commission members serve five-year overlapping terms per AS 44.33.810. The governor has the power to appoint and remove commission members per AS 39.05.060(d). Alaska law provides that the commissioners 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” under AS 39.05.060.

Biographical summaries of the current members are on the LBC website. LBC members are volunteers who receive no pay for their service.

LBC DUTIES AND FUNCTIONS

The LBC acts on petitions for several different municipal (cities and boroughs) boundary changes, incorporations, and reclassifications. These are:

- Incorporating municipalities

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

- Annexing to municipalities
- Detaching from municipalities
- Merging municipalities
- Consolidating municipalities
- Reclassifying municipalities
- Dissolving municipalities

LBC STAFF ROLE

Alaska’s constitution calls for establishing an executive branch agency to advise and assist local governments (article 10, section 14). The department serves as that agency.³ The department serves as staff to the LBC per AS 44.33.020(a)(4). Within the department, the Division of Community and Regional Affairs (DCRA) performs the local government agency’s functions. This includes providing staff, research, and assistance to the LBC.

Besides providing support to the commission, staff provides information, technical assistance, and petition forms to petitioners, respondents, and interested persons who have procedural questions.

Assistance the staff provides includes:

- Answering public, legislative, and other governmental inquiries relating to municipal government issues
- Writing reports on petitions for the LBC
- Drafting commission decisions
- Traveling to communities to conduct public meetings and answer questions about proposed local boundary changes
- Developing and updating municipal incorporation or boundary change forms
- Sending local boundary change forms and materials to interested persons
- Providing a link between the LBC and the public
- Maintaining Alaska municipal incorporation and other boundary change records
- Coordinating, scheduling, and attending LBC public meetings and hearings
- Developing orientation materials and providing training for commission members
- Maintaining and preserving LBC records in accordance with Alaska’s public records laws.

There are two full-time staff assigned to work on commission matters. They are based in Anchorage.

³ AS 44.33.020(a)(1) provides that Commerce “shall (1) advise and assist local governments.”

COMMUNICATING WITH THE LBC

Commission proceedings regarding a municipal boundary change petition must be conducted in a manner that upholds the right of everyone to due process and equal protection. That right is upheld if communications with the LBC concerning petitions are conducted openly and publicly. The LBC adopted [3 AAC 110.500\(b\)](#)⁴ to expressly prohibit private (*ex parte*) contact between the commission and any individual other than its staff, except during a public meeting called to address a petition. Examples of *ex parte* communications include a person speaking privately with a commissioner about a petition, or sending a letter to the commission but not giving the petitioner or a respondent a copy. A respondent is a person or group that has filed a brief supporting or opposing the petition.

The limitation on communicating with the LBC members takes effect upon the filing of a petition and remains in place through the last date available for the LBC to reconsider a decision. If a commission decision is appealed to the superior court, the limitation on *ex parte* contact is extended through the last date of any court ordered LBC proceedings. All communications with the commission must be submitted through the LBC staff.

⁴ AAC stands for Alaska Administrative Code, which are the regulations for the state of Alaska.

BOROUGH INCORPORATION

BOROUGH INCORPORATION OVERVIEW

"Borough incorporation" means creating a regional government that provides services. Borough incorporation requires a significant commitment of time and other resources. Before making a decision to begin work on incorporation, a prospective petitioner should give a lot of thought to researching and planning the process.

This module provides an overview of basic information about borough incorporation. Department staff is available to answer questions.

KINDS OF BOROUGHES

When considering what kind of borough to form, potential petitioners should consider the level and scope of local government that they want. The petitioner can choose the kind of borough that it wants (although the LBC could amend the petition to change it).

There are four types of organized borough governments in Alaska: unified home rule, home rule, first class, and second class. Different kinds of boroughs have different powers. The "[Powers and Duties of Organized Boroughs](#)" table in a prior module "Boroughs in Alaska" explains the differences in powers.

Home rule boroughs have the ability to exercise more power than general law boroughs. Their charters give them the authority to exercise any power that does not contravene federal or state law. While they have that authority, home rule boroughs may limit their powers if they choose.

When proposing incorporation of a home rule borough, a petitioner must prepare a charter. Municipal charters are the equivalent of a constitution for local governments. It is important to keep in mind that writing a charter requires a lot of time and commitment beyond that required to incorporate a general law borough.

WHO CAN PETITION TO INCORPORATE

A borough government is usually created by a petition submitted by voters within a region. Although the legislature can create boroughs, it has not done so since 1963 when it incorporated eight boroughs through the Mandatory Borough Act. A city in the prospective borough can also be the petitioner. Other entities which may petition are:

- the legislature
- the department's commissioner
- regional education attendance areas (REAs)

- a person designated by the LBC.

Associations, tribal organizations, or corporations may not be petitioners.

A voter-initiated petition to incorporate a borough must be signed by at least:

- Fifteen percent of the number of voters *inside* home rule and first class cities within the area proposed for borough incorporation who voted during the last general election; and
- Fifteen percent of the number of voters *outside* home rule and first class cities within the area proposed for borough incorporation who voted during the last general election.

THE PROS AND CONS OF BOROUGH INCORPORATION

The advantages and disadvantages of forming a new borough government will vary depending on the area and the type of borough proposed for incorporation. Generally, people supporting incorporation stress that a borough would:

- allow local residents, not the state, to make decisions about local matters
- create an entity to represent and serve the region
- create an ability to locally control planning and platting in those areas that could adversely affect local residents
- enable borough residents living outside of cities to buy federal flood insurance
- allow boroughs to supplement state funding for their schools. REAAs cannot collect and appropriate revenues to supplement state funding for their schools.

Generally, people opposing incorporation stress that a borough would:

- create a new layer of government and taxation
- reduce community autonomy when communities are brought together
- cause smaller communities to be dominated by a larger community or city
- assume state functions (e.g. regulation of hunting and fishing, even though boroughs may not lawfully assume such state functions).

It is important to explore the pros and cons of incorporation carefully before beginning any work. These pros and cons are discussed more thoroughly in the next module, [“Planning and Preparing a Petition.”](#)

BOROUGH INCORPORATION PETITION STANDARDS

The standards are in [Article 10, Section 3 of Alaska's constitution, AS 29.05.031, AS 29.05.100, and 3 AAC 110.045 – 3 AAC 110.065](#). Carefully review these standards when deciding whether to incorporate. A petition should state how and why the petition meets those criteria. The department will base its recommendation to the LBC on whether the petition meets these standards. The LBC will decide whether the petition meets the standards.

BOROUGH INCORPORATION METHODS

There are two borough incorporation petition methods: legislative review and local option. The legislative review method is embodied in the constitution, and the local option method is authorized by statute. While the petitioner can choose the kind of petition process method that it wants, the LBC may change the method.

The constitutional framers established the legislative review method in Article 10, Section 12 of Alaska's constitution. The legislative review method does not include an election by the people of the prospective borough. Instead, if the commission approves the petition, it sends its decision to the legislature during the first 10 days of a regular session (in late January). The legislature then has 45 days to *disapprove* the LBC's decision by a resolution passed by both the senate and the house of representatives.

The other method is known as local option (also known as local action). If the LBC approves a local option petition, then all of the people of the prospective borough vote on whether they want to incorporate. There is no distinction between people who live in home rule and first class cities and those who do not, as is the case when gathering signatures for the petition. If more than half of the voters approve the incorporation, it goes into effect once the election is certified. If a majority vote "no," then no borough is formed.

Which method is faster depends on when the commission issues its decision. If the LBC issues its decision late in the year, it could send its decision to the legislature before the end of the first 10 days of the legislative session. The 45 day deadline would end in early March. If the LBC issues its decision after the first 10 days of the regular legislative session, then nothing can occur until the legislature convenes in a regular session the following January.

For local option, if the commission approves the petition, then the Division of Elections shall order an election within 30 days of when the LBC issues its written decision. The Division of Elections shall hold an election at least 30 days, and not more than 90 days, after its order.

So, either legislative review or local option could occur first, depending on when the LBC issues its decision.

AN UNSUCCESSFUL PETITION CANNOT BE REFILED

The department will not accept a petition for filing that:

- is substantially similar to a petition that the LBC denied during the preceding three years
- is substantially similar to a petition that the legislature disapproved or the voters rejected during the preceding two years
- requests reversing an LBC decision that became effective in the preceding two years.

The department can accept any of these petitions if the LBC is shown significantly changed conditions.

WHAT BOUNDARIES ARE APPROPRIATE FOR A NEW BOROUGH

Boroughs are regional municipalities. The boundaries must generally follow natural geography, be on a regional scale, and include the land and water necessary to provide municipal services effectively.

STATE GRANTS ARE NOT AVAILABLE TO STUDY THE FEASIBILITY AND NEED FOR NEW BOROUGHES

Currently there are no state grants available to study the feasibility and need for new boroughs.

THE DEPARTMENT PROVIDES TECHNICAL ASSISTANCE TO CITIZENS WHO WISH TO INCORPORATE

The LBC staff provides certain assistance to prospective petitioners. Assistance includes providing petition forms, discussing regarding policy issues, guidance on technical matters, and direction on information sources needed to complete a petition. While the state can provide some assistance, the burden of preparing a proper petition remains on the petitioner.

THE DEPARTMENT ASSISTS PEOPLE OPPOSING INCORPORATION AS WELL

The LBC staff also provides assistance to any individual or organization that wishes to oppose an incorporation petition. Assistance to opponents might include:

- providing responsive briefs opposing prior petitions
- discussing policy issues
- guidance regarding technical matters
- identifying information sources needed to complete a responsive brief.

A PETITION CAN BE AMENDED AFTER IT IS FILED

Yes, the petitioner may amend the petition. The commission may also amend or impose conditions on an incorporation petition following a public hearing. Ideally, amendments can be avoided with careful planning and proper consultation before filing a petition. Amending a petition can delay the petition process.

HOW LONG IT TAKES TO INCORPORATE

It typically takes several months (in some cases a year or more depending on the local effort, and whether or not there is a charter) to prepare a petition. When preparing a petition, a petitioner is encouraged to ask the staff questions. Once a petition is completed and the necessary signatures have been gathered, the petition is filed with the department. The process for the LBC to review the petition, including the technical review discussed below, typically takes about one year.

WHETHER A LARGE COMMUNITY CAN DOMINATE THE BOROUGH GOVERNMENT

Many people oppose borough incorporation because they fear that their smaller communities will be dominated by larger communities. They want each community to have its own assembly seat. Assembly seats can be by district, at large, or a combination of the two. The U.S. Constitution requires that voting districts must have roughly equal populations. Each borough assembly district must have roughly the same population unless the borough uses residency districts.

If the borough uses residency districts, the assembly candidate must live in a particular election district, but is elected at large by the voters of the entire borough. This method meets the equal representation standards because all the borough voters can vote for that candidate. Each assembly member represents the entire borough, not just his or her district. This method is more likely to ensure that more communities will be represented on the assembly. No districting plan may impermissibly lessen the voting strength of a protected minority. Residency districts can be legally challenged if they impermissibly lessen the voting strength of a protected minority.

PLANNING AND PREPARING A PETITION

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

PLANNING STAGE

Borough incorporation is a large step that involves a lot of time, commitment, and planning. There are many factors when considering the feasibility and desirability of forming a borough. Prospective petitioners should determine goals for the region and examine the pros and cons of borough formation. Consider:

- what services the borough would provide
- what its revenue base would be
- how sustainable is that revenue base
- the support for borough formation
- and other questions.

DEFINE OBJECTIVES

The first step in the planning stage is to define the objectives for borough incorporation. 3 AAC 110.420 requires a petitioner to state the reasons for incorporation. In considering this, it is wise to contact DCRA and speak with Local Government Assistance staff. A DCRA local government specialist is assigned to your region. While neutral, he or she can provide a lot of information about day-to-day borough operations. The following are common examples of borough incorporation objectives:

1. *To promote greater local responsibilities.* There is a greater need for local responsibility for local needs to due to declining state spending (e.g. community assistance, safe communities funding, and capital matching grants).
2. *To provide needed services.* Area residents might want services that a borough can best provide. For example, boroughs provide education. While REAAs also provide education, boroughs can supplement the available state education funding through their own revenues. REAAs do not have that ability because they have no authority to raise revenue.
3. *To promote orderly growth and development.* Incorporation may help abate threats to public health and safety through planning, land use regulation, and other powers. Residents may desire regulations to control certain activities in the area, or might want facilities to support local development. Examples of planning and zoning regulations may include control of fireworks, animal control, subdivision review, and management of land

use conflicts. Facilities may include floats, grids, docks, ramps, and other community infrastructure that a borough can build, operate and maintain.

4. *To raise and receive revenue.* A borough is eligible for organizational grants of \$300,000, \$200,000, and \$100,000 in its first, second, and third years respectively. It has the power to raise revenue from user fees, sales taxes, and property taxes to pay for general government operations, utilities, local improvements, and road maintenance.
5. *To provide more accountability.* The borough assembly must follow strict procedures and follow the Open Meetings Act. A borough official must follow conflict of interest laws. Boroughs must follow strict election rules, give public notice before holding meetings, have a code of ordinances, and follow elections rules.

DETAILS TO CONSIDER

THE TYPE OF BOROUGH

Boroughs may be either home rule or general law. Home rule boroughs have a charter that outlines their powers and structure. They can either be unified, which means that incorporated cities may not exist within the borough, or non-unified, which means that cities may exist within the borough. See “[Boroughs in Alaska](#)” for more information.

General law boroughs do not have charters. They have only the powers permitted by state law. General law boroughs can either be first class or second class. They may have cities within them.

THE FORM OF GOVERNMENT

Boroughs can either have a strong mayor, who is the chief executive for the borough, or a manager, who acts as the borough’s chief administrator. If the borough has a manager, then the mayor has fewer administrative responsibilities and only casts a vote if the assembly is tied.

WHAT SERVICES THE BOROUGH WOULD PROVIDE

Beyond the mandatory functions of education, planning, and taxation, what services would the borough provide? The potential sources of revenue are a major consideration. How much revenue is there to pay for any additional services? Would the borough provide the services areawide (throughout the entire borough) or nonareawide (outside cities)? Are service areas contemplated?

ASSEMBLY

The borough assembly serves as the legislative branch of the borough. In planning the assembly, consider:

- how many members would serve on the assembly
- what form of representation would the assembly use
- the qualifications of assembly member
- whether there would be any term limits, and what they would be.

SCHOOL BOARD

Consider the same questions when planning for the school board that were used for planning the assembly.

BOUNDARIES

In considering the best boundaries for the borough, consider:

- whether the boundaries follow an existing REAA boundary
- whether the boundaries reflect ethnicity and cultures
- whether the prospective borough boundaries include potential revenue sources (e.g. fishing, mines, property taxes, etc.)
- whether the borough has as large an area as possible while still embracing common interests.

FINANCIAL VIABILITY

Does the prospective borough have enough people and revenue to provide services efficiently and effectively?

POPULATION

Is the population of the proposed borough large and stable enough to support the borough?
Does the proposed borough have at least 1,000 people as required?

TRANSITION PLAN

What is the plan to transition from whatever entity currently provides services to the proposed borough assuming that role? Who does the prospective petitioner need to consult to develop a transition plan? How long would the transition take? Would it be accomplished in under the required two year period after incorporation?

CONSIDER THE PROS AND CONS OF INCORPORATING A BOROUGH

In deciding whether to file a borough incorporation petition or not, it is best to consider the advantages and disadvantages of doing so. What one person might see as an advantage, another may see as a disadvantage. While the pros and cons were previously mentioned, here is a more extensive list of advantages and disadvantages:

COMMONLY CITED ADVANTAGES OF BOROUGHES

While some people fear borough government and label it “another layer of government,” boroughs can provide many advantages to their residents. Those advantages can include:

1. *Allowing local residents, not the state, to make decisions about local matters.* It is difficult for a state agency to be as knowledgeable and responsive to local issues as a borough can be. Beyond the mandatory powers of education, land use regulation, and assessment and collection of taxes, boroughs can provide the level of services that the region wants and can afford.

2. *An entity to represent and serve the region.* It is extremely difficult for smaller cities to maintain a stable and capable administrative capacity. Regional governments offer the economies of scale to retain qualified administrative talent and efficiently provide for local services. Further, a borough provides the means for communities within a region to collaborate, and to have a strong, unified voice in matters of regional importance such as fisheries management and natural resources development.

3. *An accountable government because borough voters elect local officials.* The voters of the borough would elect their own officials who would be accountable to them.

4. *Borough residents are eligible for flood insurance.* Participating in the National Flood Insurance Program requires passage of a municipal ordinance to meet applicable Federal Emergency Management Agency rules. Residents and businesses in flood prone areas of the unorganized borough outside of cities are ineligible for federal flood insurance.

5. *Capacity to provide services if revenues can be gathered from regional sources.* In an era of declining and uncertain state and federal spending, boroughs with adequate revenue will be able to pay for and provide services without having to depend on the state or federal governments.

6. *Ability to locally control planning and platting.* In the absence of local control, the state has the authority to make planning decisions. A borough will make its own planning decisions. Land use decisions are best rendered at the local level.

7. *Borough ownership of former state lands.* Upon incorporation, boroughs are entitled to 10 percent of the vacant, unappropriated, and unreserved state land within them.

8. *Boroughs can supplement state education funding, but REAAs cannot.* REAAs depend entirely upon state and federal government funding, and have no way to generate other revenue.

9. *Boroughs can institute regional alcohol control.* Currently alcohol can be sold outside the relatively small boundaries established for alcohol control by cities and villages in the unorganized borough.

10. *Boroughs can provide law enforcement if they desire.*

11. *Avoid possibly being annexed by another borough, or possibly being mandated by the state to form a borough.*

COMMONLY CITED DISADVANTAGES OF BOROUGHS

1. *Unorganized borough residents perceive boroughs as a new layer of government and taxation.*

2. *Perceived loss of autonomy when communities are brought together under a regional structure.*

3. *Fear in smaller communities of being dominated by a larger community or city.*

4. *Fear of boroughs assuming state functions (e.g. regulation of hunting).* Boroughs, however, cannot regulate state functions such as fish and game management.

5. *Borough incorporation can reduce certain revenues to cities such as state shared fisheries taxes.* Borough incorporation also renders unincorporated communities ineligible for Community Assistance Program payments. The impact of any reduced revenues can be lessened, however, if the borough pays the cities or unincorporated communities an amount equal to the amount of revenue lost.

The impact of reduced local control and autonomy can be lessened if the borough:

- allows advisory school boards in each community
- allows communities that do not have an assembly member to have a nonvoting representative at assembly meetings
- rotates the location of assembly meetings.

ENCOURAGE PUBLIC PARTICIPATION IN PLANNING FOR INCORPORATION

The petitioner should encourage those who live, work, and/or own property in the area proposed for incorporation to participate in incorporation planning. In deciding whether to proceed with an incorporation petition, hold public meetings and work sessions to gather public input. The input is a way to strengthen the petition and hear counterarguments. It can also be a way to determine the level of interest in such a petition. The petitioner should consult agencies and organizations currently providing local services to the area (e.g., state agencies, tribal organizations, and REAAs).

DRAFTING A PETITION

Once the petitioner has finished the planning stage, it should turn its attention to drafting the petition. The petitioner should contact LBC staff to ask for a petition form. There are many varieties of petition forms depending on the kind of boundary change and the method used.

The petitioner should then fill out the form. This can take a while. Do not hesitate to ask a local government specialist questions about day-to-day borough operations, or to ask LBC staff about the petition standards and other required information. DCRA staff, including LBC staff, cannot help a petitioner fill out the form.

BOROUGH INCORPORATION STANDARDS

- Each borough shall embrace an area and population with common interests to the maximum degree possible. Alaska's constitution, Article 10, Section 3 intends that each borough be the largest region that can be defined by common interests.
- The population is integrated and interrelated in its social, economic, and cultural activities per AS 29.05.031(a)(1) and 3 AAC 110.045(a).
- The population is large and stable enough to support borough government per AS 29.05.031(a)(1) and 3 AAC 110.050(a).
- The proposed borough must have at least 1,000 people per 3 AAC 110.050(b).
- The boundaries conform generally to natural geography, and include all areas necessary to fully develop municipal services per AS 29.05.031(a)(2) and 3 AAC 110.060.
- The area's economy includes the human and financial resources capable of providing municipal services per AS 29.05.031(a)(3) and 3 AAC 110.055.
- Land, water, and air transportation facilities allow the communication and exchange necessary to develop an integrated borough government per AS 29.05.031(a)(4) and 3 AAC 110.045(c).
- Communications media in the borough allow the communication and exchange necessary to develop an integrated borough government per 3 AAC 110.045(c).
- The area proposed for incorporation must be contiguous and must not create enclaves per 3 AAC 110.060(d).
- The proposed borough must be in the best interests of the state per 3 AAC 110.065.
- The petitioner must prepare a proper transition plan under 3 AAC 110.900.
- The proposed incorporation may not deny any person the enjoyment of any civil or political right per 3 AAC 110.910.
- The proposed incorporation must promote maximum local self-government per 3 AAC 110.981.

- The proposed incorporation must promote a minimum number of local government units per 3 AAC 110.982.

The following chart summarizes the standards.

TABLE OF BOROUGH INCORPORATION STANDARDS			
Standard	Constitution	Statute	Regulation
Economic Capacity			
Economy must include human and financial resources needed to support a borough	Art. 10, §§ 3, 6 implies that organized boroughs must have economic capacity	AS 29.05.031(a)(3)	3 AAC 110.055
Population Size and Stability			
Population must be large and stable enough to support borough government (presumption of 1,000 residents)	Art. 10, §§ 3, 6 implies that organized boroughs must have administrative capacity	AS 29.05.031(a)(1)	3 AAC 110.050(a), (b)
Regional Characteristics			
Regional nature of boroughs: borough shall be as large an area as possible while still embracing common interests	Art. 10, §§ 2, 3 (buttressed by Art. 10, §§ 5, 6, 7, and 13)	AS 29.05.031(a) (use of the term “area” same as in Art. 10, § 3)	3 AAC 110.045(a) – presumption of multiple communities
Population must be socially, culturally, and economically interrelated and integrated	Art. 10, § 3	AS 29.05.031(a)(1)	3 AAC 110.045(a)
Boundaries must conform to natural geography, include all necessary areas, and be on a regional scale	Art. 10, § 3	AS 29.05.031(a)(2)	3 AAC 110.060(a) – (g)
Communication media and transportation facilities must allow necessary communication and exchange	Art. 10, § 3	AS 29.05.031(a)(4)	3 AAC 110.045(c), (d)
Broad Public Interest			
Maximum local self-government	Art. 10, § 1		3 AAC 110.981
Minimum number of local governments (boroughs & cities)	Art. 10, § 1		3 AAC 110.982
Promote borough incorporation	Art. 10, § 3		
“Best interests of the state”		AS 29.05.100	3 AAC 110.065
Nondiscrimination	Art. I, § 1		3 AAC 110.910
Transition to effective operations	Art. 10, § 15	AS 29.05.130 – 29.05.140	3 AAC 110.900

CONSIDER HOW INCORPORATION WOULD BE IMPLEMENTED, AND DEVELOP A TRANSITION PLAN

3 AAC 110.900 requires that every incorporation petition include a transition plan explaining how incorporation will be implemented. The plan must demonstrate:

- the intent and capability of the proposed borough to provide essential municipal services in the area proposed for incorporation in the shortest practicable time following incorporation (not to exceed two years)
- the manner in which the proposed borough will assume all relevant and appropriate powers, duties, rights, and functions presently exercised within the area proposed for incorporation
- the manner in which the borough will assume and integrate all relevant and appropriate assets and liabilities of entities providing those services to the area, without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities
- the plan was prepared in consultation with entities currently responsible for or otherwise providing those services to the area that will be assumed by the borough.

The transition plan should specifically address:

- what specific powers, services, taxes, zoning, or other regulations will be assumed by the proposed borough
- the assets and liabilities the proposed borough would assume from agencies and organizations currently providing services to the area proposed for incorporation
- the schedule for the proposed borough to assume those powers, duties, rights, services, and functions
- the reasonably anticipated costs for the proposed borough to assume those powers, duties, rights, and services, and functions
- the reasonably anticipated revenues of the proposed borough.

SUBMIT DRAFT PETITIONS TO THE DEPARTMENT

The department routinely advises petitioners to submit petitions in draft form. This provides the petitioner an opportunity to identify and correct potential technical deficiencies relating to petition form and content, *before* the petition is circulated for voter signatures or formally adopted by a municipality. This informal technical review is an optional step that the staff offers as a service to the petitioner. If the department finds that the petition needs to be corrected or completed, it returns the petition to the petitioner to correct or complete.

Once the petitioner has corrected or completed the petition per the informal technical review and gathered the necessary signatures, it can send staff the petition for the technical review. This is covered in the next module, “[Standards and Procedures for Petitions.](#)”

GATHERING SIGNATURES FOR A BOROUGH INCORPORATION PETITION AND DETERMINING THE NUMBER OF SIGNATURES NECESSARY

Anyone can draft a petition, but only certain entities are allowed to submit a petition to the LBC. Borough incorporation petitions are usually submitted by voters (the petitioner) who must sign the petition. AS 29.05.060(7) states that a voter initiated borough incorporation petition must be signed by at least 15 percent of signatures of those who:

- are registered voters living *in* home rule and first class cities within the proposed borough
- and*
- those who are registered voters living *outside* home rule and first class cities within the proposed borough.

To do so, follow these steps:

1. Ask Alaska’s Division of Elections how many registered voters live in home rule and first class cities within the proposed borough. Also ask how many of those people voted in the last general election.
2. Repeat the process for the voters living outside of home rule and first class cities within the proposed borough.
3. Determine 15 percent of each of those numbers of voters. For example, if 2,000 registered voters live in home rule and first class cities within the proposed borough, and 1,000 of them voted in the last general election, then 15 percent of 1,000 ($.15 \times 1,000$, or 150 signatures), would be required from any of those 2,000 registered voters.

If 3,000 registered voters live outside of home rule and first class cities within the proposed borough, and 1,500 of them voted in the last general election, then 15 percent of 1,500 ($.15 \times 1,500$, or 225 signatures), would be required from any of those 3,000 registered voters. It is best to collect more signatures than are required because sometimes particular signatures are challenged.

STANDARDS AND PROCEDURES FOR PETITIONS

Procedures to establish borough boundaries are designed to reasonably and timely decide every petition before the LBC. They are also intended to ensure that commission decisions are based on analyzing the facts and the applicable legal standards. The LBC also considers the positions of interested parties and the public. The procedures include:

- extensive public notice and opportunity to comment
- at least one public informational meeting
- a public hearing(s)
- a decisional meeting
- an opportunity for reconsideration by the LBC.

A summary of the procedures follows:

TECHNICAL REVIEW

Once the petitioner has corrected or completed the petition per the informal technical review and gathered the necessary signatures, it can send the department staff the petition for the formal technical review. Even if the staff performed an informal technical review, a formal technical review is still necessary and required. The technical review includes determining whether there are enough valid signatures to proceed.

3 AAC 110.440 gives the staff 45 days to complete a technical review (although the LBC chair can grant more time if necessary). Staff will return the petition to the petitioner to correct and complete if necessary.

It is important to note that the technical review only determines whether the petition has all of the required information. It does not examine the merits of a petition. A petition could pass technical review because it has all of the required information, but staff could still recommend that the LBC deny the petition if it finds that the petition does not meet all of the standards.

If the petition contains all the information required by law, the department accepts it for filing and informs the petitioner. In its acceptance letter, the department will provide the petitioner a public notice packet. The packet will outline what steps the petitioner must take to provide the required notice of the petition's acceptance to the public and others.

PUBLIC NOTICE AND PUBLIC REVIEW

Once the department accepts a petition for filing, both the petitioner and the department

provide extensive public notice. Interested parties have at least seven weeks to submit responsive briefs and comments supporting or opposing a petition. The petitioner has at least two weeks to file one brief replying to any responsive briefs.

DEPARTMENTAL ANALYSIS OF THE PETITION

Following the public comment period, the department analyzes the petition, responsive briefs, written comments, reply brief, and other materials as part of its investigation. The department is required to hold a public informational meeting in or near the area proposed for incorporation. At the end of its investigation, the department issues a preliminary report for public review and comment. The public comment period lasts for at least four weeks. The report includes a formal recommendation to the LBC on the petition. The recommendation is based on looking at the petition, the comments, and the briefs, and determining whether the petition meets the standards. Due process is best served by the staff providing the LBC with a thorough, credible, and objective analysis of the borough incorporation petition.

After reviewing the comments on its preliminary report, the department issues its final report. Based on those comments or other factors, the department could change its recommendation. The final report must be issued at least three weeks before the hearing on the petition.

COMMISSION REVIEW OF MATERIALS AND PUBLIC HEARING

Members of the commission review the petition, responsive briefs, written comments, reply brief, and departmental reports. The LBC is not bound by the department's recommendations because it is an independent commission. While the LBC is not obligated to follow the staff's recommendation, it does consider it.

If circumstances permit, LBC members tour the area in question before the hearing in order to better understand the area. Following extensive public notice, the commission conducts at least one public hearing on the petition. At this hearing, petitioners and respondents may state their positions and present witnesses. Members of the public are given the opportunity to comment, and commissioners may ask questions. The hearing has no direct or cross examination of witnesses.

LBC DECISION AND OPPORTUNITY FOR RECONSIDERATION

The LBC must act on the petition within 90 days of the hearing. Typically, however, it holds a decisional meeting immediately after 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) or impose conditions on approval of the petition (e.g., require an additional public meeting)
- deny the petition.

The LBC considers the entire record when it reaches a decision on a petition. Its decisions and how it reaches them must have a reasonable basis. To do so the commission must rationally interpret the legal standards and rationally evaluate the evidence. The LBC must proceed within its jurisdiction, conduct a fair hearing, and not abuse its discretion. Abuse of discretion occurs if the commission has not proceeded in the manner required by law or if the evidence does not support the LBC's decision.

Within 30 days of announcing its decision, the commission must adopt and issue a written statement setting out the basis for its decision. It provides copies of the decision to the petitioner, respondents, and others who request it. At that point, the decision becomes final.

Any person may ask the commission to reconsider its decision, based on certain criteria:

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

Such requests must be filed within 18 days of the date that the decision became final. The LBC itself may reconsider its decision within 30 days of the date that the decision became final, based on the same criteria. The request is automatically denied if the commission does not approve a reconsideration request within 30 days of when the decision became final.

IMPLEMENTATION

If the commission approves a petition, the petition is either subject to voter approval or submitted to the legislature, depending on whether the petition used the local option method or the legislative review method. A local option petition approved by the LBC takes effect when any condition imposed by the commission is satisfied, and the election is certified. Legislative review petitions take effect if the legislature takes no action within 45 days of receiving the commission's decision. Decisions are no longer subject to Department of Justice review under the Voting Rights Act of 1965.

PETITION PROCESS TIMELINE

Date	Action
Within 45 days of receiving petition	Local Boundary Commission (LBC) staff conducts a technical review of the petition. It 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 during the time period published in notice. If deemed necessary, the petitioner may be asked to conduct public informational meetings during this time.
At least 14 days	Petitioner may respond to the responsive briefs and comments.
About 7 weeks	LBC staff prepares and distributes preliminary report with recommendations for the public to review and comment.
At least 28 days after the preliminary report is mailed	Opportunity for public review and comment on the preliminary report.
Approximately 3 weeks	LBC staff considers comments on preliminary report and makes any appropriate changes to its report and recommendation. The final report is issued for public review.
At least 21 days after the preliminary report is mailed	LBC conducts public hearing(s).
Within 90 days of hearing	LBC conducts public decisional meeting and reaches a decision (often made immediately after hearing).
Within 30 days of decisional meeting	LBC issues its 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 action 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.

THE PROCESS

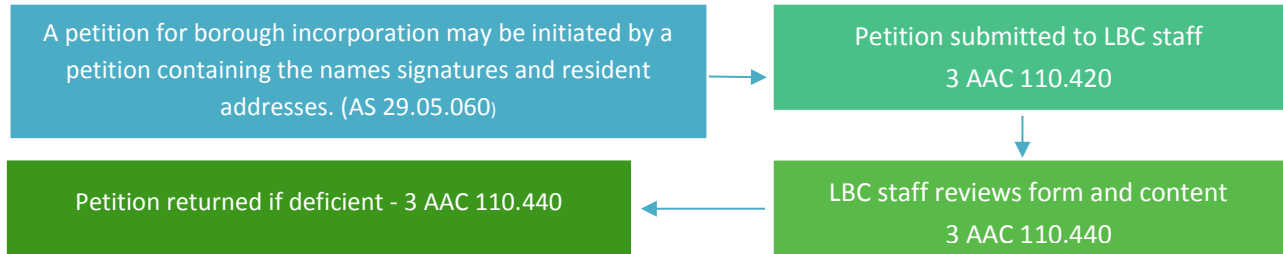
1. AS 29.05.060 – AS 29.05.150 and 3 AAC 110.400 – 3 AAC 110.700 contain the process for borough incorporation petitions. A brief summary of the procedures for incorporation is:
 - a. A petition is filed with the LBC
 - b. The public and the department review the petition. The department writes public reports with recommendations to the LBC, and the public can comment on the petition and the preliminary report
 - c. The LBC holds hearing(s) and makes a decision
 - d. The area transitions to a borough after voter approval or after legislative review
2. The department provides petition forms. A sample borough incorporation by local action petition form is in the appendices of this packet. Before circulating a petition for signing by local voters, the petitioner should prepare and submit to the department a complete draft of the petition. LBC staff will review the draft petition and tell the petitioner if the petition needs to be corrected or completed. Such preliminary review should minimize the possibility of the department rejecting the petition for technical reasons after voters sign it. If the department rejects a petition after the voters have signed it, the corrected petition must be circulated again for signatures. This could be time-consuming and potentially confuse the public.
3. 3 AAC 110.420 specifies the information required in a petition. Petitioners may submit additional information to supplement their petition, and are not limited to the space provided in sample forms. Staff offers technical assistance and information to prospective petitioners. Technical assistance may include informally reviewing, analyzing, and assessing the feasibility of a particular petition. Under 3 AAC 110.410 and 3 AAC 110.435, however, staff may not act in an advocacy capacity.
4. A petition and any supporting materials can be submitted to the department once they are complete. Staff has 45 days to complete the technical review that 3 AAC 110.440 requires. This review ensures all required elements of the petition are included, complete, and sufficient for LBC review. It also ensures there are enough valid signatures to proceed.
5. If the department finds a petition to be incomplete, it will return it to the petitioner to complete with a list of the missing elements. The LBC chair will determine if the necessary changes are significant enough to warrant gathering new signatures (or reauthorization by a petitioning municipality). If a petition passes technical review, the department will accept it for filing. Accepting the petition for filing does not necessarily mean that the department will recommend that the LBC approve the petition. Acceptance merely allows the petition to proceed and be considered by the commission. As staff develops its report to the LBC regarding the petition, it might identify specific policy issues or concerns. It could recommend that the LBC deny the petition if the petition does not meet the standards.

6. When the department accepts a petition for filing, it will notify petitioners and provide a packet of information including the procedure going forward. The next module will detail the next steps in the process. The following page has a flow chart detailing these steps.

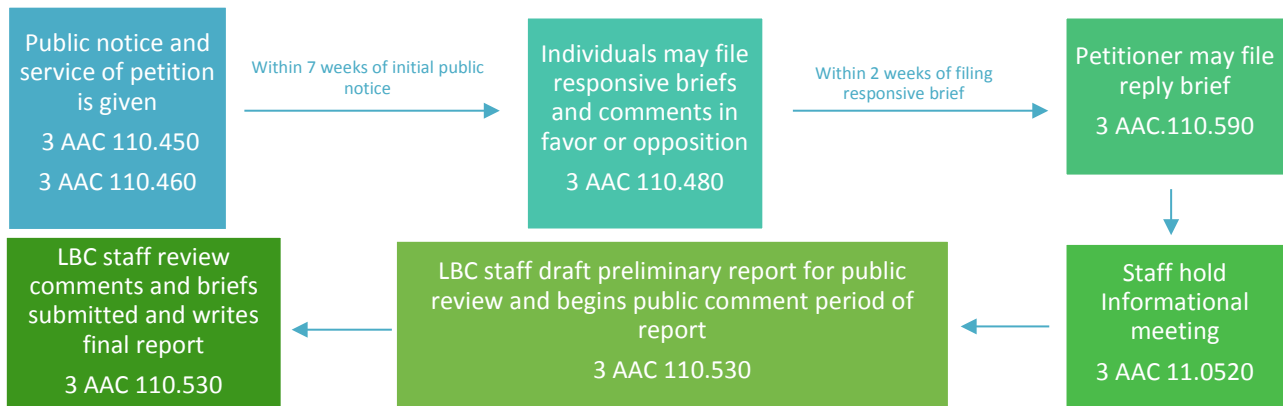
PETITION PROCESS FLOWCHART

Borough Incorporation Petition Process

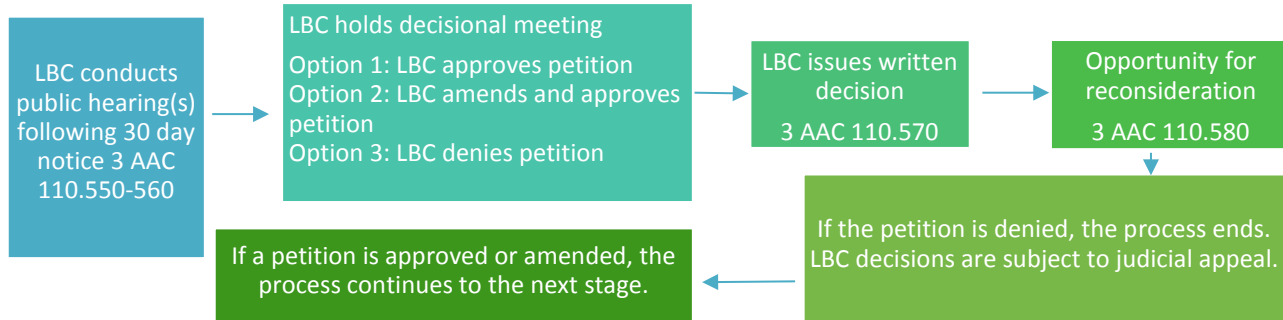
Stage 1: Filing the Petition



Stage 2: Public Review

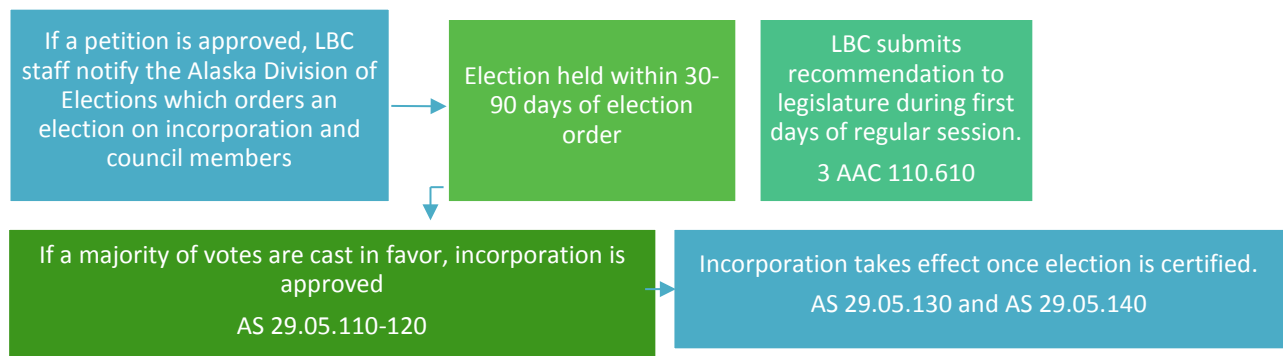


Stage 3: LBC Hearing and Decision



Stage 4: Election or

Legislative Review



CONCLUSION

This packet seeks to inform Alaska residents interested in forming a borough by providing the necessary resources to start the petition process. Staff is available for support, and should be consulted when preparing a petition and before gathering any signatures. Forming a borough is no small endeavor. It can take much longer than a year when including the time to plan and draft a petition.

There are varied reasons why residents of an area may wish to incorporate as a borough. Even though people may debate the wisdom of borough incorporation, it is clear that a borough has the ability to provide local services if it has sufficient resources.

The commission staff is available to answer questions and to give information to both proponents and opponents of borough incorporation. Staff can also send an interested person a borough incorporation petition.

APPENDICES

- [Applicable Laws and Regulations](#)
- [Sample 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 3. Boroughs.](#)
- [Section 4. Assembly.](#)
- [Section 5. Service Areas, incorporation to encompass proposed service area.](#)
- [Section 9. Charters.](#)
- [Section 10. Extended Home Rule.](#)
- [Section 11. Home Rule Powers.](#)
- [Section 12. Boundaries.](#)
- [Section 13. Agreements; Transfer of Powers.](#)
- [Section 14. Agency to advise and assist local governments.](#)
- [Section 15. Special Service Districts.](#)

ALASKA STATUTES

- [AS 29.05.031. Incorporation of a borough or unified municipality.](#)
- [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 29.05.115 Incorporation with legislative review.](#)
- [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 29.05.190. Organization grants to boroughs and unified municipalities.](#)
- [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.](#)
-

RELEVANT REGULATIONS

- [3 AAC 110.045. Community of interests.](#)
- [3 AAC 110.050 Population.](#)
- [3 AAC 110.055. Resources.](#)
- [3 AAC 110.060 Boundaries.](#)
- [3 AAC 110.065. Best interests of state, factors considered in best interest determination.](#)
- [3 AAC 110.067. Applicability.](#)
- [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, and 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 110.970. 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.](#)

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 3. BOROUGHs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and

functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

SECTION 4. ASSEMBLY. The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter.

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 9. CHARTERS. The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

SECTION 10. EXTENDED HOME RULE. The legislature may extend home rule to other boroughs and cities.

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 13. AGREEMENTS; TRANSFER OF POWERS. Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located

any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

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.

SECTION 15. SPECIAL SERVICE DISTRICTS. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

ALASKA STATUTES, TITLE 29, ARTICLE 1. REQUIREMENTS

SEC. 29.05.031. INCORPORATION OF A BOROUGH OR UNIFIED MUNICIPALITY

(a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

(b) An area may not incorporate as a third class borough. (§ 4 ch 74 SLA 1985; am § 7 ch 58 SLA 1994)

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

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.

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

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.

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.

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.

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.

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.

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. 29.05.115. INCORPORATION WITH LEGISLATIVE REVIEW

(a) If the Local Boundary Commission submits a proposal for borough incorporation to the legislature under art. X, sec. 12, Constitution of the State of Alaska, AS 29.05.060 - 29.05.110 do not apply. However, before the proposal is submitted to the legislature, the Local Boundary Commission shall hold at least two public hearings in the area proposed for incorporation.

(b) This section may not be construed as granting authority to the Local Boundary Commission to propose a borough incorporation under art. X, sec. 12, Constitution of the State of Alaska. (§ 2 ch 46 SLA 2006)

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 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.

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

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.

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.

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.

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

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.

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. 29.05.190. ORGANIZATION GRANTS TO BOROUGH AND UNIFIED MUNICIPALITIES

(a) For the purpose of defraying the cost of transition to borough government and to provide for interim governmental operations, each borough or unified municipality incorporated after December 31, 1985, is entitled to organization grants as follows:

- (1) \$300,000 for the municipality's first full or partial fiscal year;
- (2) \$200,000 for the municipality's second fiscal year; and
- (3) \$100,000 for the municipality's third fiscal year.

(b) The department shall disburse the first organization grant to a borough or unified municipality within 30 days after certification of the election favoring incorporation, or as soon after that as money is appropriated and available for the purpose. The second grant shall be disbursed within 30 days after the beginning of the municipality's second fiscal year, or as soon after that as money is appropriated and available for the purpose. The third grant shall be disbursed within 30 days after the beginning of the municipality's third fiscal year, or as soon

after that as money is appropriated and available for the purpose.

(c) Except as provided in (d) of this section, this section does not apply to a borough incorporated by consolidation or to a unified municipality that occupies the area formerly occupied by a borough.

(d) For the purpose of defraying the cost of government transition, each third class borough that merges or consolidates with a city after January 1, 2002, and each municipality that unifies after January 1, 2002, in an area formerly occupied by a third class borough is entitled to an organization grant of \$200,000 for the municipality's first full or partial fiscal year after the merger or consolidation or after unification. (§ 4 ch 74 SLA 1985; am § 12 ch 58 SLA 1994; am § 1, 2 ch 53 SLA 2002)

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 BOROUGHES

3 AAC 110.045. COMMUNITY OF INTERESTS

- (a) On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including the
- (1) compatibility of urban and rural areas within the proposed borough;
 - (2) compatibility of economic lifestyles and industrial or commercial activities;
 - (3) existence throughout the proposed borough of customary and simple transportation and communication patterns;
 - (4) extent and accommodation of spoken language differences throughout the proposed borough; and
 - (5) existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services.
- (b) Repealed 1/9/2008.
- (c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with AS 29.05.031(a)(4) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including
- (1) transportation schedules and costs;
 - (2) geographical and climatic impediments;
 - (3) telephonic and teleconferencing facilities; and
 - (4) electronic media for use by the public.
- (d) In determining whether communications and exchange patterns are sufficient, the commission may consider whether
- (1) all communities within a proposed borough are connected to the proposed borough seat by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, other customary means of travel including boats and snow machines, or sufficient electronic media communications; and
 - (2) communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough.

History: Eff. 10/12/91, Register 120; 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. 12, Ak Const.

AS 29.05.031
AS 44.33.812

3 AAC 110.050. POPULATION

- (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. 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) In determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, the commission will presume that a minimum of 1,000 permanent residents is required unless specific and persuasive facts are presented showing that a lesser number is adequate.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.031
Art. X, sec. 3, Ak Const.	AS 44.33.812
Art. X, sec. 12, Ak Const.	

3 AAC 110.055. RESOURCES

In accordance with AS 29.05.031(a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of 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 borough;
 - (B) the reasonably anticipated expenses of the proposed borough;
 - (C) the ability of the proposed borough to generate and collect revenue at the local level;
 - (D) the reasonably anticipated income of the proposed borough;
 - (E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough through the period extending one full fiscal year beyond the reasonably anticipated date
 - (i) for receipt of the final organization grant under AS 29.05.190;
 - (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 borough will make its first full local contribution required under AS 14.17.410(b)(2);
 - (F) the economic base of the area within the proposed borough;
 - (G) valuations of taxable property within the proposed borough;
 - (H) land use within the proposed borough;
 - (I) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and
 - (J) personal income of residents within the proposed borough; and
- (2) may consider other relevant factors, including

- (A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough government; and
- (B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.031
Art. X, sec. 3, Ak Const.	AS 44.33.812
Art. X, sec. 12, Ak Const.	

3 AAC 110.060. BOUNDARIES

- (a) In accordance with AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska, the boundaries of a proposed borough must conform generally to natural geography, must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
 - (1) land use and ownership patterns;
 - (2) ethnicity and cultures;
 - (3) repealed 1/9/2008;
 - (4) existing and reasonably anticipated transportation patterns and facilities;
 - (5) natural geographical features and environmental factors;
 - (6) repealed 1/9/2008; and
 - (7) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough.
- (b) When reviewing the boundaries proposed in a petition for borough incorporation, the commission may consider
 - (1) model borough boundaries for the area within the proposed borough;
 - (2) regional boundaries, including
 - (A) boundaries of one or more regional educational attendance areas existing in that proposed borough area;
 - (B) federal census area boundaries;
 - (C) boundaries established for regional Native corporations under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act); and
 - (D) boundaries of national forests;
 - (3) whether the proposed borough will embrace an area and population with common interests to the maximum degree possible;
 - (4) whether the proposed borough promotes maximum local self-government, as determined under 3 AAC 110.981;
 - (5) whether the proposed borough 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; and
 - (6) whether the proposed borough boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3, Constitution of the State of Alaska.
- (c) Repealed 1/9/2008.
- (d) Absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land

and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.

- (e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping boundaries from the existing organized borough. The commission will consider that petition for incorporation as also being a detachment petition.
- (f) The boundaries of a borough may not include only a portion of the territory of an existing city government.
- (g) Requirements relating to limitation of community, as set out in 3 AAC 110.040(b), do not apply to boroughs.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.031
Art. X, sec. 3, Ak Const.	AS 44.33.812
Art. X, sec. 12, Ak Const.	

3 AAC 110.065. BEST INTERESTS OF STATE

In determining whether incorporation of a borough 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 borough in the event of the borough's dissolution.

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

3 AAC 110.067. APPLICABILITY

The provisions of 3 AAC 110.045 - 3 AAC 110.065 apply to a petition for borough incorporation using either

- (1) the legislative review method provided in art. X, sec. 12, Constitution of the State of Alaska; or
- (2) the local option methods provided in AS 29.05.

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

ARTICLE 13

PROCEDURES FOR PETITIONING AND FOR OTHER COMMISSION MATTERS

Section:

- | | |
|---|---|
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| 420. Petition. | 560. Commission hearing procedures. |
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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:

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 29.05.060
AS 29.06.040
AS 29.06.090

AS 29.06.100
AS 29.06.450
AS 29.06.460
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.
Art. X, sec. 14, Ak Const.

AS 44.33.020
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 29.06.040
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 110.470. 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 29.06.040
Art. X, sec. 14, Ak Const.	AS 29.06.110
AS 29.04.040	AS 29.06.130
AS 29.05.080	AS 29.06.480
AS 29.05.100	AS 29.06.500

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 29.06.090
Art. X, sec. 3, Ak Const.	AS 29.06.100
Art. X, sec. 7, Ak Const.	AS 29.06.450
Art. X, sec. 12, Ak Const.	AS 29.06.460
Art. X, sec. 14, Ak Const.	AS 44.33.020
AS 29.04.040	AS 44.33.812
AS 29.05.060	AS 44.33.814
AS 29.06.040	

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 44.33.812
Art. X, sec. 14, Ak Const.	AS 44.33.814
AS 29.04.040	AS 44.33.816
AS 29.05.100	AS 44.33.818
AS 29.06.040	AS 44.33.820
AS 29.06.130	AS 44.33.822
AS 29.06.500	AS 44.33.826
AS 44.33.020	

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
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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

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 commentators 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
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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 29.06.090
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 29.05.100	AS 44.33.812
AS 29.06.040	

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.

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 110.970. 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
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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.
Art. X, sec. 3, Ak Const.
Art. X, sec. 5, Ak Const.
Art. X, sec. 7, Ak Const.
Art. X, sec. 12, Ak Const.
AS 29.04.040
AS 29.05.011
AS 29.05.031
AS 29.05.100
AS 29.06.040
AS 29.06.090
AS 29.06.130
AS 29.06.450
AS 29.06.500
AS 44.33.812

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 [name of proposed borough]
as a [classification] Borough
Using the Local Action Method
and
Initiated by Voters

The petitioner requests the Local Boundary Commission (hereafter “LBC” or “commission”) to grant this petition for borough incorporation pursuant to Article X, Section 3 of the Constitution of the State of Alaska, [AS 29.05.060 – AS 29.05.150](#), and [AS 44.33.812](#). This petition incorporates by reference all of the attached exhibits. All of the petition’s sections and exhibits need to be addressed and filled out. If a requirement does not apply, simply state “not relevant” or “not applicable.” If the petitioner has already addressed a requirement, simply state where it was addressed.

Section 1. Petitioner. 3 AAC 110.420(b)(1), (20).

The petitioner is a group of citizens of Alaska consisting of:

- a) at least 15 percent of the voters inside home rule and first class cities in the area of the proposed borough based on the number who voted inside those home rule and first class cities in the last general election, as required by AS 29.05.060(7)(A); and
- b) at least 15 percent of the voters outside of home rule and first class cities in the area of the proposed borough based on the number who voted in that portion of the proposed borough in the last general election, as required by AS 29.05.060(7)(B).

The number of votes cast within the proposed borough in the last general election was _____.

Exhibit A provides a letter from the Division of Elections documenting the number of voters within the proposed boundaries who voted in the last general election. This is broken down by voters inside home rule and first class cities, and by those outside of home rule and first class cities. Exhibit B includes the signatures and addresses of registered voters from the area proposed for incorporation who signed the petition. This group comprises the “Petitioner” in accordance with [AS 29.05.060\(7\)](#).

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

The petitioner designates the following individual to serve as its representative in all matters concerning this proposed incorporation:

Name: _____

Physical address of residence: _____

Mailing address: _____

Phone number: _____ Fax number: _____

Email address: _____

Petitioner’s Alternate Representative

The petitioner designates the following person to act as alternate representative in matters regarding the incorporation proposal in the event that the primary representative is absent, resigns, or fails to perform his or her duties:

Name: _____

Physical address of residence: _____

Mailing address: _____

Phone number: _____ Fax number: _____

Email address: _____

Section 3. Name and Class of the Borough for Which a Change is Proposed. 3 AAC 110.420(b)(3).

The name and class of the proposed borough incorporation is:

Name: _____ Class: _____

Section 4. General Description of the Nature of the Proposed Boundary Change.

3 AAC 110.420(b)(4).

This petition, initiated by a group of voters under the authority of [AS 29.05.060\(7\)](#) and [3 AAC 110.410\(a\)\(10\)\(B\)](#) requests that the Local Boundary Commission authorize the incorporation of the area generally described as [*insert general description*] as a [*classification*] borough under the local option method.

Section 5. General Description of the Area Proposed for Incorporation. 3 AAC 110.420(b)(5). [E.g. size, population, current use, and prospective development]

Section 6. Reasons for the Proposed Boundary Change. 3 AAC 110.420(b)(6).

Section 7. Legal Descriptions, Maps, and Plats. 3 AAC 110.420(b)(7).

Exhibit C-1 provides a legal metes and bounds description of the boundaries of the area proposed for incorporation. **Exhibit C-2** shows a map of the area proposed for incorporation.

Section 8. Size of the Area Proposed for Incorporation. 3 AAC 110.420(b)(8)(A).

The area proposed for borough incorporation has _____ square miles of land and _____ square miles of water, submerged lands, and tidelands for a total of _____ square miles.

Section 9. Data Estimating the Population of the Area Proposed for Incorporation. 3 AAC 110.420(b)(9)(A).

The estimated population of the proposed borough is _____.

Section 10. Information Relating to Public Notice and Service of the Petition. 3 AAC 110.420(b)(10).

See **Exhibit D.**

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

a) The assessed or estimated value of taxable property in the area proposed for incorporation (if the proposed borough proposes to levy property taxes).

Real property \$ _____

Personal property \$ _____

Total \$ _____

b) Projected taxable sales in the area proposed for incorporation (if the proposed borough proposes to levy sales taxes). If the proposed borough will levy different sales tax rates for other goods or services, list them separately here. Then include them in the total.

The projected value of taxable sales within the area is \$ _____. At a rate of _____, projected annual sales tax revenues in the area will be \$ _____.

c) Taxes currently levied by municipal governments within the area proposed for incorporation.

List the type and rate of each tax currently levied by any municipal government within the area:

Borough, city, or service area	Property tax (mills)	Sales tax (%)	Other (delete column if not used)	Other (delete column if not used)	Other (delete column if not used)

Section 12. Budget Information. 3 AAC 110.420(b)(13)(B).

Exhibit E presents projected revenue, operating expenditures, and capital expenditures for a proposed municipality for one full fiscal year beyond the reasonably anticipated date to receive any organization grant, to complete any transition set out in 3 AAC 110.900, and to make its first full local contribution required under AS 14.17.410(b)(2).

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

Name/type of debt	Purpose of debt	Date debt will be fully paid

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

The proposed municipality, a municipality for which a change is proposed, OR alternative service providers	Powers and functions before the proposed change	Powers and functions after the proposed change

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

See Exhibit F.

Section 16. Borough Assembly Composition and Apportionment. 3 AAC 110.420(b)(17).

If by district, please include each district's population.

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

See Exhibit G.

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. Section 20. Charter 3 AAC 110.420(b)(21).

If this petition is for a home rule borough, AS 29.05.060(13) and 3 AAC 110.420(21) require the petition to include the proposed home rule charter. This charter is in Exhibit H.

Section 20. Petitioner's Affidavit. 3 AAC 110.420(b)(22).

See Exhibit I.

Exhibit A.

Letter from the Division of Elections

A letter showing the number of voters in the proposed borough boundaries who voted in the last general election, broken down by voters inside home rule and first class cities, and by voters outside home rule and first class cities.

Exhibit B.

Signatures of Qualified Voters

This exhibit contains the signatures and residential addresses of voters registered to vote in the area proposed for incorporation. The required number of persons who must sign the petition is at least 15 percent of the number who voted in the area in the last state run general election.

To help verify voter registrations, please:

- Print your name legibly.
- List your physical residence address (e.g. street number, milepost) – **do not list a post office or other mail box.**
- 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 number; 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 a [insert name] Borough 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 borough; and
3. We have reviewed the complete incorporation petition, including all exhibits, and we understand its terms.

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

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

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Signature	Numerical Identifier	Date signed

[Print more signature pages as necessary.]

Exhibit C-1

Legal Metes and Bounds Description of the Area Proposed for Incorporation.

Exhibit C-2

Map of the Area Proposed for Incorporation

This exhibit shows a map showing the boundaries of the territory proposed for incorporation, including any service areas. Any plats required by the Department of Commerce, Community, and Economic Development (“department”) to demonstrate the accuracy of the legal descriptions in Exhibit C-1 are also included.

Exhibit D.

Information Relating to Public Notice and Service of the Petition

This exhibit provides information relevant to public notice of this incorporation petition per [3 AAC 110.450](#) and [3 AAC 110.460](#). The information includes local media; places recommended to post notices; adjacent municipalities; persons who may warrant individual notice of the filing of the petition because of their interest in this matter, and location(s) where the public can review the Petition.

Local media

The following lists the principal news media serving the boundaries of the proposed borough:

Newspaper(s):

Name: _____

Physical address: _____

Mailing address: _____

Telephone number: _____ Fax number _____

Email address: _____

Radio and television station(s):

Name: _____

Physical address: _____

Mailing address: _____

Telephone number: _____ Fax number _____

Email address: _____

Name: _____

Physical address: _____

Mailing address: _____

Telephone number: _____ Fax number _____

Email address: _____

Three or more prominent places readily accessible to the public and *within or near the boundaries proposed for change* to post notices concerning this petition:

Location and address	Days and times open to the public

Adjacent municipalities (including service areas) whose boundaries extend within twenty miles of the boundaries of the proposed borough (with address and contact information, including email):

Municipality	Address and contact information

Individuals and entities whose potential interest in the petition proceedings may warrant individual notice of the filing of the petition:

Name	Address	Email address

Location(s) where the petition materials will be available for public review:

Location and address	Days and times open to the public

Exhibit E.

Projected Revenues, Operating Expenditures, and Capital Expenditures

(include all years leading up to and including the full fiscal year after receiving the final organization grant, completing the transition, and making the first full local education contribution)

Projected revenues	First fiscal year	Second fiscal year	Third fiscal year	Fourth fiscal year
Total projected revenues				

Operating expenditures	First fiscal year	Second fiscal year	Third fiscal year	Fourth fiscal year
Total operating expenses				

Capital expenditures	First fiscal year	Second fiscal year	Third fiscal year	Fourth fiscal year
Total capital expenditures				
Balance				

**Exhibit F.
Transition Plan.**

As required under [3 AAC 100.900](#), **Exhibit F** presents:

- a) A practical plan that demonstrates the capability of the proposed borough to extend essential municipal services (as determined under [3 AAC 110.970](#)) into the area proposed for incorporation within the shortest practicable time after the effective date of the proposed change.

- b) A practical plan to assume all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing city, borough, unorganized borough service area, or other appropriate entity located in the area proposed for incorporation. The plan must be prepared in consultation with the officials of each existing city, borough, and unorganized borough service area. It must be designed to affect an orderly, efficient, and economical transfer within the shortest practical time, not to exceed two years after the effective date of the proposed change.

- c) A practical plan to transfer and integrate all relevant and appropriate assets and liabilities of an existing city, borough, 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 city, borough, and unorganized borough service area wholly or partly in those boundaries. It must be designed to affect an orderly, efficient, and economical transfer within the shortest practical time, not to exceed two years after the effective 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) The names and titles of all officials of each existing city, borough, and unorganized borough service area who the petitioner consulted, the consultation dates, and the subjects addressed.

Officials consulted for the transition plan			
Name	Title and organization	Date(s) consulted	Subject(s) discussed

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 requirement. If so, the petitioner must document all attempts it made to consult those officials.

Exhibit G.
Supporting Brief

This brief is to explain how the proposed incorporation satisfies the standards of Article X, Section 3 of the Constitution of the State of Alaska, [AS 29.05.031](#); [3 AAC 110.045](#) – [3 AAC 110.067](#); and [3 AAC 110.900](#) – [3 AAC 110.990](#). The brief demonstrates with detailed facts how each of these standards are met. If a requirement does not apply, simply state “not relevant.”

If a statute or regulation states that the commission *may* consider certain factors, those factors are guidelines, not strict requirements. Neither the petitioner nor the LBC are required to address “may” factors. 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.

Please be aware that the regulations often repeat the statutes, but can have subtle differences or additional criteria. As the regulations have similar criteria to the constitutional and statutory standards listed above, only the regulations are listed below. In preparing the brief, the petitioner should examine the full language of the regulations themselves – the below material merely summarizes the regulations. The petitioner must address the constitutional and statutory standards as well. To avoid repetition, it can suffice to explain how the petition meets the regulations, and merely refer to that explanation when addressing the constitution and statutes, *as long as everything stated in the constitution and statutes is covered by the regulations*.

- a) Per [Article X, Section 3](#) of the Constitution of the State of Alaska, each borough shall embrace an area and population with common interests to the maximum degree possible. Per [3 AAC 110.045\(a\)](#), on a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with [AS 29.05.031\(a\)\(1\)](#) and [Article X, Section 3](#), Constitution of the State of Alaska.
- b) In accordance with [3 AAC 110.045\(c\)](#), the communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with [AS 29.05.031\(a\)\(4\)](#) and [Article X, Section 3](#), Constitution of the State of Alaska.
- c) Per [3 AAC 110.050\(a\)](#), the population of a proposed borough must be sufficiently large and stable to support the proposed borough government in accordance with [AS 29.05.031\(a\)\(1\)](#) and [Article X, Section 3](#), Constitution of the State of Alaska.

- d)** Per 3 AAC 110.050(b), in determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, the commission will presume that a minimum of 1,000 permanent residents is required unless specific and persuasive facts are presented showing that a lesser number is adequate.
- e)** Per 3 AAC 110.055, in accordance with [AS 29.05.031\(a\)\(3\)](#), the economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level.
- f)** Per 3 AAC 110.060(a), in accordance with [AS 29.05.031\(a\)\(2\)](#) and Article X, Section 3, Constitution of the State of Alaska, the boundaries of a proposed borough must conform generally to natural geography, must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level.
- g)** Per 3 AAC 110.060(d), absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.
- h)** Per 3 AAC 110.060(e), if a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping boundaries from the existing organized borough. The commission will consider that petition for incorporation as also being a detachment petition.
- i)** Per 3 AAC 110.060(f), the boundaries of a borough may not include only a portion of the area of an existing city government.
- j)** Per 3 AAC 110.065(3), in determining if the petition is in the best interests of the state, the commission may consider if the petition will relieve the state government of the responsibility of providing local services.
- k)** Per 3 AAC 110.065(4), in determining if the petition is in the best interests of the state, the commission may consider if the petition is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution.

- l)** Per 3 AAC 110.910, 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.
- m)** Per 3 AAC 110.970(c), identify those essential municipal services consisting of those mandatory and discretionary powers and facilities that:
 - (1) Are reasonably necessary to the community; and
 - (2) Promote maximum local self-government.
- n)** Per 3 AAC 110.981(1) and 3 AAC 110.065(1), when determining whether a proposed boundary change promotes maximum local self-government in accordance with Article X, Section 1, Constitution of the State of Alaska, the commission will consider among other factors whether the proposal would extend local government on a regional scale to a significant area and population of the unorganized borough.
- o)** Per 3 AAC 110.981(14), when determining whether a proposed boundary change promotes maximum local self-government in accordance with Article X, Section 1, Constitution of the State of Alaska, the commission will consider among other factors whether the petition proposes incorporation of a home rule municipality.
- p)** Per 3 AAC 110.982(1) and 3 AAC 110.065(2), when determining whether a proposed boundary change promotes a minimum number of local government units in accordance with Article X, Section 1, Constitution of the State of Alaska, the commission will consider among other factors whether a new borough will be created from the unorganized borough and whether the proposed boundaries maximize an area and population with common interests.

Exhibit H.
Charter (if applicable)

