

Local Boundary Commission Regulations Municipal Boundary Changes

Article 8

Standards for Detachment from Boroughs

3 AAC 110.267 – 3 AAC 110.275

Article 8 Standards for Detachment from Boroughs

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3 AAC 110.267. Standards for detachment from boroughs

In accordance with AS 29.06.040(a), the commission may approve a proposal for detachment from a borough only if the commission determines that the proposal

- (1) meets applicable standards under the Constitution of the State of Alaska;
- (2) meets standards in 3 AAC 110.267 - 3 AAC 110.270 and 3 AAC 110.900 - 3 AAC 110.970; and
- (3) is in the best interests of the state.

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

3 AAC 110.270. Best interests of state

- (a) In determining whether detachment from a borough is in the best interests of the state under AS 29.06.040, the commission may consider relevant factors, including
- (1) the health, safety, and general welfare of the proposed remnant borough and the area after detachment;
 - (2) the ability of the proposed remnant borough to efficiently and effectively provide reasonably necessary facilities and services after detachment;
 - (3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the area after detachment;
 - (4) the historical pattern of providing to the area municipal services that have been, or should be, supported by tax levies in the area;
 - (5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant borough and the people of the area;
 - (6) the extent to which detachment might enhance or diminish the ability of the proposed remnant borough to meet the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.045 - 3 AAC 110.065, and 3 AAC 110.900 - 3 AAC 110.970;
 - (7) the extent to which a transition plan of a previous annexation has been implemented and is effective;
 - (8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant borough, other municipalities, and the state;

- (9) whether the proposed detachment will promote
 - (A) maximum local self-government, as determined under 3 AAC 110.981; and
 - (B) 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;
 - (10) whether the area's requirements for local government services will be adequately met following detachment;
 - (11) contemporary and historical public school enrollment data; and
 - (12) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.
- (b) If, to fulfill the requirements of (a)(10) of this section, the petitioner has proposed, or the commission requires, incorporation of the area into a new municipality, the commission will condition the approval of the detachment upon voter approval of the incorporation.
- (c) Absent a specific and persuasive showing to the contrary, the commission will presume that area proposed for detachment that would create noncontiguous parts of the borough or enclaves within the borough does not meet the standards for detachment.
- (d) Absent a specific and persuasive showing to the contrary, the commission will presume that area proposed for detachment from an organized borough to an unorganized borough is a diminution of maximum local self-government and does not meet the standards for detachment.
- (e) In order to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a petition for detachment that also seeks to incorporate a new borough must propose that the new borough will encompass a substantially larger population and area than the population and area proposed for detachment.

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

3 AAC 110.272. Effect of detachment on education

In addition to the information required by a petition form under 3 AAC 110.420, a petition that proposes to detach an area from an organized borough and include that area in the unorganized borough must explain in the brief required under 3 AAC 110.420(b)(19) the plan for education by a regional educational attendance area in the detached area, including a proposal to work with the department and the Department of Education and Early Development to implement the plan.

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

3 AAC 110.273. Legislative review

An area that meets the detachment standards specified in 3 AAC 110.267 – 3 AAC 110.270 may detach from a borough by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the health, safety, or general welfare of borough residents is or will be endangered by conditions existing or potentially developing in the area, and detachment will enable the area to regulate or control the detrimental effects of those conditions;
- (2) it is impossible or impractical for the borough to extend facilities or services to the area;
- (3) residents or property owners within the area have not received, and do not reasonably expect to receive, directly or indirectly, the benefit of borough government without significant additional tax contributions;
- (4) the commission determines that specific policies set out in the Constitution of the State of Alaska or AS 29.04, AS 29.05, or AS 29.06 are best served through detachment of the area by the legislative review process and that detachment is in the best interests of the state.

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 44.33.812

Art. X, sec. 12, Ak Const.

3 AAC 110.275. Local action

An area that meets the detachment standards specified in 3 AAC 110.267 – 3 AAC 110.270 and has been approved for local action detachment by the commission, may be detached from a borough upon approval by a majority of voters residing in the area voting on the question at an election.

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 44.33.812

Art. X, sec. 12, Ak Const.