

**Local Boundary Commission**

Department of Commerce, Community, and Economic Development  
Division of Community and Regional Affairs  
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# CITY ANNEXATION IN ALASKA

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## INTRODUCTION

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

This packet is organized into several modules:

- [About the Local Boundary Commission](#)
- [About City Annexation](#)
- [Planning for an Annexation](#)
- [Procedures for Petitions](#)

These modules are intended to provide background information and orient interested persons and cities with the process for city annexation in Alaska and the relevant agencies involved. This information packet provides background information on the Local Boundary Commission (LBC or commission) and its authority to consider boundary changes as well as the staff that supports the commission. It also describes steps to take, lists important considerations when deciding whether to pursue annexation, and offers guidelines on the planning process. In addition, this packet provides information about the procedures before and after a petition is filed with the LBC.

Throughout the packet, the text refers to Alaska statutes, regulations, and sections of the Alaska constitution. All relevant laws are listed by title, and the full text can be found in the appendices. The appendices also include a generic sample petition form; however, interested persons should still consult LBC staff before drafting a petition. City annexation, however small the territory proposed for annexation, is an involved process. This information packet aims to help prepare potential petitioners, and educate those interested in the process. Prospective petitioners and those with questions should feel free to contact staff:

Local Boundary Commission staff  
550 W. 7<sup>th</sup> Avenue, Suite 1640  
Anchorage, AK 99501  
907-269-4587/4559  
[lbc@alaska.gov](mailto:lbc@alaska.gov)

### CONSTITUTIONAL ORIGIN OF THE LOCAL BOUNDARY COMMISSION

The framers of Alaska’s constitution subscribed to the principle that, “unless a grave need existed, no agency, department, commission, or other body should be specified in the constitution.”<sup>1</sup> The framers recognized that a “grave need” existed when it came to the establishment and alteration of municipal governments and provided for the creation of the Local Boundary Commission (LBC or commission) in Article 10, Section 12 of the constitution.<sup>2</sup>

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

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

. . . lies in placing the process at a level where area-wide or state-wide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively.<sup>3</sup>

### DUTIES AND FUNCTIONS OF THE LBC

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

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

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<sup>1</sup> Victor Fischer, Alaska’s Constitutional Convention, p. 124.

<sup>2</sup> Article 10, Section 12 states, “A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the Legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.”

<sup>3</sup> *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 543 (Alaska 1962).

- merger of municipalities; and
- consolidation of municipalities.

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

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

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

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

LBC decisions regarding petitions that come before it must have a reasonable basis. That is, both the LBC's interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must have a rational foundation.<sup>4</sup> The LBC must proceed within its jurisdiction, conduct a fair hearing, and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law or if its decision is not supported by evidence.

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#### COMMUNICATIONS WITH THE LBC

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<sup>4</sup> See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if it has a reasonable basis; *Lake and Peninsula Borough v. Local Boundary Commission*, 885 P.2d 1059,1062 (Alaska 1994); *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92,97-8 (Alaska 1974). Where an agency action involves formulation of a fundamental policy the appropriate standard on review is whether the agency action has a reasonable basis; LBC exercises delegated legislative authority to reach basic policy decisions; acceptance of the incorporation petition should be affirmed if court perceives in the record a reasonable basis of support for the LBC's reading of the standards and its evaluation of the evidence; *Rose v. Commercial Fisheries Entry Comm'n*, 647 P.2d 154, 161 (Alaska 1982) (review of agency's exercise of its discretionary authority is made under the reasonable basis standard) cited in *Stosh's I/M v. Fairbanks North Star Borough*, 12 P.3d 1180, 1183 nn. 7 and 8 (Alaska 2000); see also *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 175-76 (Alaska 1986).

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

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

Local Boundary Commission Staff  
550 West Seventh Avenue, Suite 1640  
Anchorage, Alaska 99501-3510  
Telephone: (907) 269-4587 or 269-4559  
Fax: (907) 269-4563  
Email: [LBC@alaska.gov](mailto:LBC@alaska.gov)

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## LBC MEMBERSHIP

The LBC is an independent commission. Members of the LBC are appointed by the governor for five-year overlapping terms.<sup>5</sup> Notwithstanding their terms, the five members of the LBC serve at the pleasure of the governor.<sup>6</sup> One member is appointed from each of Alaska's four judicial districts. The fifth member is appointed from the state, at-large.

State law provides that members of the LBC must be appointed "on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership."<sup>7</sup> LBC members receive no pay for their service on the commission. However, they are entitled to travel expenses reimbursement and per diem authorized for members of boards and commissions under AS 39.20.180. A biographical summary of the current members of the LBC can be found on the LBC website.

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<sup>5</sup> AS 44.33.810

<sup>6</sup> AS 39.05.060(d)

<sup>7</sup> AS 39.05.060(b)

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## STAFF TO THE LOCAL BOUNDARY COMMISSION

The framers provided for a local government agency in Article 10, Section 14 to advise and assist local governments.<sup>8</sup> The constitutional duty to support local governments is entrusted to Alaska Department of Commerce, Community, and Economic Development (DCCED or department).<sup>9</sup> Within DCCED, the Division of Community and Regional Affairs (DCRA) carries out the duty to advise and assist local governments, and provides staff to the commission pursuant to AS 44.33.810.

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

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

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

Types of assistance provided by DCCED staff include:

- conducting feasibility and policy analysis of proposals for incorporation or

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<sup>8</sup> Article 10, Section 14 states, "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law."

<sup>9</sup> AS 44.33.020 provides that DCCED "shall (1) advise and assist local governments."

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

## PROCEDURES OF THE COMMISSION

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

## ABOUT CITY ANNEXATION

### INTRODUCTION

"Annexation to a city" means expanding the city's boundaries to include more territory. Additionally, annexation is the expansion of the jurisdiction of a city or borough government into new territory and the means by which the corporate boundaries of city and borough governments are updated or refined. Annexation results in extending city services, city regulations, city voting privileges, and city taxing authority to the annexed territory. "Territory" is the term generally used to describe land in cities, while "area" generally refers to the land in boroughs.

Alaska's constitution and statutes provide that corporate boundaries of cities may be adjusted to allow cities to accommodate growth and adapt to changing needs and conditions with respect to their jurisdiction.<sup>10</sup> Any proposed boundary change, including annexation, must be approved by the Local Boundary Commission. State law requires certain standards be met, and certain procedures be followed in order for the commission to approve a proposed annexation. In other words, the mere filing of a petition does not ensure that the proposed annexation will occur. If the LBC approves the petition, in most cases, either the voters need to approve it, or the legislature must not disapprove it for the annexation to take effect.

Annexation requires a significant commitment of time and resources. Before any decision is made to begin work on an annexation petition, thought should be given to the need for annexation as well as regarding which method to use. This module provides basic information about city annexation; however, annexation is a complex matter that cannot be covered completely in this brief overview. The planning process is covered in more detail in the following module.

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### FREQUENTLY ASKED QUESTIONS

#### WHO CAN PROVIDE INFORMATION REGARDING ANNEXATION TO CITIES?

Local Boundary Commission staff are located within the Division of Community and Regional Affairs of the Department of Commerce, Community, and Economic Development. Staff are available to provide technical assistance, petition forms, and sample annexation materials to anyone interested in petitioning, and are available to provide materials and information to those interested in responding to a petition. Staff also provide general information to any other interested individuals or groups.

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<sup>10</sup> Ak. Const., art. X, § 12; AS 29.06.040

## IF AN INDIVIDUAL OR GROUP DOES NOT WANT ANNEXATION, WILL STAFF PROVIDE INFORMATION TO THEM?

Yes. LBC staff will provide information about how to submit comments or a responsive brief. Submitting a responsive brief allows any interested party to be identified as a "respondent" in the annexation proceeding. Being identified as a respondent provides certain procedural rights at the commission's public hearing. These rights include being able to present witnesses and to give opening and closing arguments. Staff can also explain the standards and procedures.

## WHY DO CITIES SEEK TO ANNEX?

Some cities seek to annex to include people or other property owners who want to be within the city. Other cities seek to annex so that facilities such as a harbor or power plant are within city boundaries. Still other cities seek to annex to gain more tax revenue. Other reasons include:

- *Taxpayer equity.* Growth outside boundaries may result in municipal services being provided (directly or indirectly) without commensurate financial support from those receiving services.
- *Need for Services.* Residents and property owners outside boundaries may desire services (e.g., public schools, utilities, fire protection, police, road maintenance).
- *Commercial and industrial development.* If development occurs outside boundaries, it may deprive local government of tax revenues.
- *Service Delivery.* Inefficient boundaries may impede effective service delivery.
- *Unsafe conditions.* Conditions or development outside boundaries may threaten the general welfare, peace, or health of the residents inside the municipality.

## WHO CAN START AN ANNEXATION PETITION?

A petition for annexation may be initiated by:

- a city;
- a borough;
- a regional educational attendance area (REAA);
- at least 10 percent of the registered voters of a city, borough, or REAA;
- at least 10 percent of the registered voters in the territory proposed for annexation;
- the legislature;
- the commissioner of the Department of Commerce, Community, and Economic Development; or
- a person designated by the Local Boundary Commission.

## WHAT ARE THE PROCEDURES FOR ANNEXATION?

The procedures for annexation are found in 3 AAC 110.400-.700. See the module, [Procedures for Petitions](#), for more specific information. Generally, most petitions come from either municipalities or citizens. The petitioner drafts the petition, proposes the boundaries, and, if the petition is initiated by citizens, gathers signatures.

If the petition is initiated by a municipality, then the proposed boundary change would first need to be discussed at a publicly noticed city council meeting. People can attend such a meeting, or otherwise make their views known to the potential petitioner. It is possible that such input could result in a petition not being filed, or filed with different boundaries.

When a petition is submitted, the LBC staff first performs a technical review which verifies that the petition includes everything necessary for commission review and required by statutes and regulations. This review is not an analysis of the merits of the petition. If the petition does not include all of the necessary information, staff sends it back to the petitioner to complete.

If a petition is accepted for filing, there is a publicly noticed opportunity for the public to submit written comment. A person or entity can also become a “respondent.” A respondent has the opportunity to file a brief in response to the petition, and to present witnesses at the hearing. This gives a respondent the opportunity for greater input before the commission.

Next, the staff analyzes the petition to see whether it meets the standards. In doing so, it considers the petition, briefs, and comments submitted. The staff then issues a public report with its findings. People can comment on that report, and say why they feel the report is correct or incorrect in its findings. Staff consider those comments, and then issue a second report with findings. The findings could change from the first report based on the comments submitted.

After public notice, the commission will hold a public hearing, where parties can present witnesses, and the public will have an opportunity to speak. After the hearing, the commission will carefully consider all of the testimony, materials, and comments submitted in determining whether the petition meets the standards. It will then approve, amend, or deny the petition. What happens after an LBC decision depends on the method a petition is following. See the next sections for additional details about petition methods.

The petition process generally takes about a year before the LBC holds the hearing and issues a decision, primarily because of the extensive opportunity for public comment, and because of the two written reports by staff analyzing the petition. Certain types of petitions may take less time—see the next section for more information on petition methods.

## PETITION METHODS

State law establishes procedures for several different types of annexation including by legislative review and by local action. For additional information on these methods and the differences between them, see the next module, [Planning for an Annexation](#).

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### LOCAL ACTION

*Annexation by Vote.* Territory may be annexed through an election. If the commission approves the petition, the question is then placed on a ballot. A majority of voters in the territory proposed for annexation, **and** a majority of voters in the annexing city must approve the ballot measure before the proposed annexation can take effect.

*Annexation of Adjoining City-Owned Property.* Municipally-owned property that adjoins the city boundaries may be annexed. The city council must adopt an ordinance and then petition the Local Boundary Commission. The LBC must then approve the petition before the annexation can take effect.

*Annexation upon Unanimous Consent of Owners and Voters.* A territory next to a city may be annexed if **all** of the property owners and **all** of the voters registered to vote in the territory proposed for annexation ask the city to annex them. The city council must first adopt an ordinance approving the proposed annexation, and then petition the Local Boundary Commission. The LBC must then approve the petition before the annexation can take effect.

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### LEGISLATIVE REVIEW

*Annexation by Legislative Review.* A territory may be annexed without approval of the voters or property owners under the legislative review process. This method is authorized by the state constitution, and such petitions require approval by the LBC as well as review by the Alaska State Legislature. Legislative review petitions generally follow the same process as local action petitions, and allow for the same public comment periods; legislative review petitions require an additional public hearing before a petition is filed. See [Planning for an Annexation](#) for more specific details. The primary difference occurs if the LBC approves a legislative review petition. In that case, the LBC presents its approval to the legislature during the first 10 days of a regular session of the legislature. The legislature then has the opportunity to act on the LBC's recommendation for approval. If the legislature adopts a concurrent resolution to deny the recommendation within 45 days of the date that it was filed, then the recommendation is denied. If the legislature takes no action, it has tacitly approved the proposal, and the boundary change takes effect.

## HOW DOES A POTENTIAL PETITIONER DECIDE WHAT METHOD OF ANNEXATION TO USE?

The petitioners can choose the method used. If all owners of property and registered voters in a territory want annexation, then annexation by unanimous consent of owners and resident voters would likely be the annexation method to use. If the property proposed for annexation is owned by the city, then the municipally owned property method would be most applicable. If the unanimous consent method or municipally owned property methods do not apply, then the petitioners can choose either the local action by vote method, or the legislative review method.

Petitioners should consider who would be affected by the boundary change and the type of boundary change proposed when selecting a method. The commission may change the method used. The next module provides more details about each petition method.

## IS THERE A LIMIT ON THE SIZE OF THE TERRITORY THAT A CITY MAY ANNEX?

There is no specific size limit. Cities are community based municipal governments rather than regionally based. The average Alaska city is about 30 square miles. Regulation 3 AAC 110.130 generally prohibits cities from annexing entire geographic regions, or large unpopulated areas. The regulations also state that cities “must be on a scale suitable for city government.”<sup>11</sup> In most cases, the territory proposed for annexation must be next to the city proposing the annexation.

## WHAT ARE THE STANDARDS THE LBC USES TO REACH A DECISION?

Certain regulatory standards (3 AAC 110.090 - 3 AAC 110.130) apply to annexations. The standards concern:

- the need for the territory to be annexed;
- whether the territory is compatible in character with the annexing city;
- whether the economy within the proposed expanded boundaries of the city has the human and financial resources to provide essential municipal services efficiently;
- whether the population of the proposed expanded city is sufficiently large and stable;
- whether the boundaries are appropriate; and
- whether the annexation is in the best interests of the state. The next section describes the standards in detail.

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<sup>11</sup> 3 AAC 110.140(c)(1)

## STANDARDS FOR ANNEXATION

State statutes require that an annexation must be “in the best interests of the state.”<sup>12</sup> Beyond that, the Local Boundary Commission has the duty and authority to establish standards for the annexation of territory to cities.<sup>13</sup> The Alaska Supreme Court found three purposes underlying the statutory requirement for the commission to establish standards:

1. Such standards expose the basic decision-making processes of the commission to public view and thus subject commission action to broad corrective legislation.
2. The standards guide local governments in making annexation decisions and in preparing proposals for the commission.
3. Annexation standards objectify the criteria of decision-making and delineate the battleground for a public hearing.<sup>14</sup>

The Local Boundary Commission has adopted standards for annexation to cities which are codified as 3 AAC 110.090 - 3 AAC 110.150. The city annexation standards are patterned after the statutory and regulatory standards for incorporation of a city. This reflects a philosophy that annexation is viewed as the means to perfect the boundaries of a city to accommodate jurisdictional needs that have arisen since its incorporation or last annexation.

These standards are outlined below.

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### **NEED: the territory must exhibit a reasonable need for city government—3 AAC 110.090(a)**

In deciding whether there is a reasonable need for city government in the area proposed for annexation, the commission may consider any factor that it deems relevant and appropriate.

3 AAC 110.090 lists five factors that the commission often considers. These relate to:

1. social or economic issues;
2. health, safety and general welfare issues;
3. economic development;
4. adequacy of existing services; and
5. extraterritorial powers of municipalities.

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<sup>12</sup> AS 29.06.040(a)

<sup>13</sup> AS 44.33.812

<sup>14</sup> *Port Valdez Co. v. City of Valdez*, 522 P.2d 1147 (Alaska 1974)

**ESSENTIAL MUNICIPAL SERVICES: Territory may not be annexed to a city if essential municipal services can be provided more efficiently and more effectively by another existing city or by an organized borough—3 AAC 110.090(b)**

3 AAC 110.090(b) expresses a strong preference for annexation over the formation of new service areas. This stems from article X, section 1 of the constitution. That provision states that the purpose of the local government section of the constitution is “to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions” (emphasis added). An authoritative study on the principles of local government in Alaska states that the purpose of the limitation on the creation of new service areas, “*was to avoid having ‘a lot of separate little districts set up . . . handling only one problem . . .’; instead, services were to be provided wherever possible by other jurisdictions capable of doing so.*”<sup>15</sup>

3 AAC 110.970(c) defines “essential municipal services for a city” as those services that are determined by the commission to be reasonably necessary to the community and that “cannot be provided more efficiently and more effectively by the creation or modification of some other political subdivision of the state.” Essential city services may include:

1. assessing the value of taxable property, levying, and collecting taxes;
2. providing primary and secondary education in first class and home rule cities in an unorganized borough;
3. public safety protection;
4. planning, platting, and land use regulation; and
5. other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

**CHARACTER: the territory must be compatible in character with the annexing city—3 AAC 110.100**

The commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 3 AAC 110.100 lists seven factors that the commission often considers. These relate to:

1. land use, subdivision platting, and ownership patterns;
2. salability of land for residential, commercial or industrial purposes;
3. population density;
4. the cause of recent population changes;

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<sup>15</sup> Morehouse, Thomas A. and Victor Fischer, *Borough Government in Alaska: A Study of State-Local Relations*, ISEGR Report No. 29, pp. 41 – 43 (University of Alaska, March 1971).

5. suitability of the territory for community purposes;
6. existing and reasonably anticipated transportation patterns and facilities; and
7. natural geographic features and environmental factors.

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**RESOURCES: the post-annexation boundaries must include the resources necessary to provide essential city services on an efficient, cost-effective level—3 AAC 110.110**

The area within the proposed post-annexation boundaries of the city (i.e., the territory proposed for annexation plus the area within the existing boundaries of the city) must include the human and financial resources needed to provide essential municipal services on an efficient, cost-effective level. The commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 3 AAC 110.110 lists ten factors that the commission often considers. These relate to:

1. functions the city may perform in the territory;
2. added expenses of the city;
3. current and added revenues of the city;
4. effect on city's operating and capital budget from annexation for one fiscal year
5. economic base of the territory within the city after annexation;
6. property values of taxable property in the territory;
7. land use in the territory;
8. industrial, commercial and resource development in the territory proposed for annexation;
9. personal income of residents in the city and territory; and
10. availability of employable skilled and unskilled people to serve the city government as a result of the annexation.

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**POPULATION: the population within the proposed expanded boundaries must be sufficiently large and stable to support the extension of city government—3 AAC 110.120**

The commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 3 AAC 110.120 lists seven factors that the commission often considers. These relate to:

1. total population (census enumerations);
2. duration 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 permanent fund dividend applications.

**BOUNDARIES: the proposed expanded boundaries must include all areas necessary to provide the development of essential city services on an efficient, cost-effective level—3 AAC 110.130(a)**

The commission may consider any factor that it deems relevant and appropriate in determining whether this standard is met. 3 AAC 110.130(a) lists five factors that the commission often considers. These relate to:

1. land use and ownership patterns;
2. population density;
3. transportation patterns and facilities;
4. natural geographic features and environmental factors; and
5. extraterritorial powers of cities.

**CONTIGUITY: the territory proposed for annexation must, with limited exceptions, be contiguous to the existing boundaries of the city to which annexation is proposed—3 AAC 110.130(b)**

State law provides that territory annexed by certain methods must be contiguous to the annexing city. These consist of the method for “annexation of adjoining city-owned property” and the method for “annexation upon unanimous consent of owners and resident voters” described previously.

In all other instances, the law presumes that territory proposed for annexation will be contiguous; however, it allows the annexation of non-contiguous property if there are compelling reasons for such. 3 AAC 110.130(b) establishes limitations on the annexation of territory that is not contiguous. Specifically, it provides that, *“Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create enclaves in the annexing city, does not include all land and water necessary to allow for the development of essential municipal services on an efficient, cost-effective level.”*

**LIMITS ON BOUNDARIES: The post-annexation city boundaries must be on a scale suitable for city government and limited to the developed areas and areas subject to impending development—3 AAC 110.130(c)(1)**

3 AAC 110.130(c)(1) provides that the “proposed expanded boundaries of the city must be on a scale suitable for city government and may include only that territory comprising an existing

local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.”

**LIMITS ON BOUNDARIES: the proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135 and are otherwise suitable for city government—3 AAC 110.130(c)(2)**

The standard set out in 3 AAC 110.130(c)(2)) is intended to maintain the distinction between the two types of municipal governments in Alaska – cities and boroughs. A city government is a municipal corporation that is intended to serve a community. In contrast, an organized borough is a municipal corporation that is an intermediate unit of government, larger than a city and smaller than the state as a whole. Organized boroughs are intended to encompass large natural regions.

**OVERLAPPING BOUNDARIES: the territory proposed for annexation may not overlap the boundaries of an existing organized borough or city unless the petition also addresses and demonstrates satisfaction of the additional relevant boundary change standards—3 AAC 110.130(d)**

The standards for detachment from cities are found at 3 AAC 110.257- 265. Standards for detachment from boroughs are found at 3 AAC 110.267-.275. Merger standards are found in 3 AAC 110.220-.235, and consolidations standards are found in 3 AAC 110.240-.255.

**TRANSITION: a practical transition plan must be provided for the assumption of appropriate powers, assets, and liabilities on the part of the annexing city—3 AAC 110.900(a) – (f)**

The petition must include a practical plan demonstrating the following:

- The intent and capability of the annexing city to extend essential municipal services into the proposed expanded boundaries in the shortest practical time, not to exceed two years following annexation;
- The manner in which the annexing city will assume all relevant and appropriate powers, duties, rights, and functions presently exercised within the territory proposed for annexation;
- The manner in which the annexing city will assume and integrate all relevant and appropriate assets and liabilities of an entity providing services to the territory that will be assumed by the city in the shortest practical time, not to exceed two years following annexation; and
- The transition plan must be developed in consultation with representatives of current providers of services to the territory proposed for annexation.

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**NONDISCRIMINATION: the proposed annexation to the city may not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin—3 AAC 110.910**

Alaska is no longer subject to the federal Voting Rights Act of 1965. However, 3 AAC 110.910 provides that the commission will not approve an annexation that denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

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**BEST INTERESTS OF THE STATE: annexations must serve the best interests of the state—AS 29.06.040(a); 3 AAC 110.135**

State statutes prescribe that any annexation must serve the best interests of the state. In addition, regulations state that the commission may consider relevant factors including whether annexation:

1. promotes maximum local self-government, as determined by 3 AAC 110.981 and in accordance with article 10, section 1 of the Alaska constitution;
2. promotes a minimum number of local government units, as determined by 3 AAC 110.982, and in accordance with article 10, section 1 of the Alaska constitution; and
3. will relieve the state government of the responsibility of providing local services.

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**LEGISLATIVE REVIEW: for a legislative review proposal, the annexation must serve the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation—3 AAC 110.140**

Territory that meets the annexation standards found in 3 AAC 110.090-.135 may be annexed to a city by the legislative review method if the commission also determines that any one of the following circumstances exists:

1. the territory is wholly or substantially surrounded by the annexing city;
2. health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
3. extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
4. residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without

commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

5. annexation of the territory will enable the city to plan and control reasonably anticipated growth and development in the territory that otherwise may adversely impact the city;
6. annexation of the territory will promote maximum local self-government and a minimum number of local government units;
7. annexation of the territory will enhance the extent to which the existing city meets the standards for incorporation of cities, as set out in Alaska’s constitution and is in the best interests of the state; and
8. the commission determines that specific policies set out in the constitution, Alaska statutes, 29.04, 29.05, or 29.06 are best served through annexation by the legislative review method, and that annexation is in the best interests of the state.

**LOCAL ACTION: for a local action proposal, the annexation must meet the local action requirements—3 AAC 110.150**

Territory contiguous to the annexing city, that meets the annexation standards specified in 3 AAC 110.090-.135 and has been approved for local action annexation by the commission, may be annexed to a city by any one of the following actions:

1. city ordinance if the territory is wholly owned by the annexing city;
  - a. city ordinance and a petition signed by all the voters and property owners of the territory;
2. approval by a majority of the votes on the question cast by voters residing in
  - a. the territory; and
  - b. the annexing city

**ADDITIONAL INFORMATION AVAILABLE**

LBC staff is available to answer questions about the standards for annexation and about city annexation generally. The next modules, [Planning for an Annexation](#), and [Procedures for Petitions](#), provide additional information about the process and procedures for annexation throughout the petition process.

## PLANNING FOR AN ANNEXATION

### TAKING A LONG TERM APPROACH

Proper planning and preparation are critical to the success of any annexation proposal. This is particularly true if the proposal is complex or likely to be controversial. Annexation proposals warrant careful planning and should not be approached in a hasty manner. Cities sometimes initiate annexation proposals without adequate consideration. For example, many city comprehensive plans do not address the issue of annexation in any meaningful fashion. In addition, some city governments may fail to fully identify and weigh the effects and costs of annexation. A long-term approach promotes more effective planning and service delivery at the community level. It is also more efficient and encouraged as many local, state, and federal agencies are affected any time a municipal boundary is changed.

Development of an annexation petition requires a substantial commitment of time and other resources regardless of whether the annexation is large or small. When considering the size of the territory to be proposed for annexation, petitioners should identify all areas within the community that may reasonably warrant inclusion within the city during the next decade. City governments, residents, and property owners are often better served if city boundary changes are few in number and comprehensive in scope rather than undersized, piecemeal, and frequent.

Participation in the annexation planning process by city residents and those who live, work, and/or own property in the territory contemplated for annexation should be strongly encouraged. State law (3 AAC 110.425) requires substantial opportunities for public input before certain types of annexation petitions (those subject to review by the legislature) may be submitted to the Local Boundary Commission. (See section on legislative review later in this module).

Furthermore, if the city to which annexation is contemplated is within an organized borough, officials of the borough should be invited to participate in the annexation planning process. If the city is in the unorganized borough, agencies and organizations currently providing local services to the area contemplated for annexation (e.g., regional educational attendance area) should be consulted.

To facilitate the planning process, this information packet outlines an approach to annexations with two phases. These steps are intended only as a guide for considerations that should be undertaken during the planning process. The first phase is planning for an annexation, and is discussed in this module. A second phase is filing and formal consideration of a petition and is covered in the next module, [Procedures for Petitions](#).

Phase one, planning for an annexation, has three steps, listed below and described in this

module.

1. A city should determine the need for annexation.
2. A city should gather general information and identify resources needed to complete an annexation petition.
3. A city should make preliminary decisions including what territory to annex, which method to use, and the type and extent of services to extend to the territory proposed for annexation.

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## STEP 1: DETERMINE NEED FOR ANNEXATION

### DEFINE OBJECTIVES

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

1. *To remedy inequities faced by city taxpayers.* Municipal services may be being provided to nonresidents without commensurate taxes, user fees, or other adequate revenues. Often, businesses within a city will be subject to both higher property taxes and higher sales taxes than businesses located in the adjoining area outside the city. Businesses inside the city may consider themselves to be unfairly burdened and to be at a significant competitive disadvantage under such circumstances.
2. *To promote greater local responsibilities.* In light of cutbacks in financial assistance from the state (e.g., community assistance, safe communities funding, and capital matching grants), there is a greater need for local responsibility for local needs.
3. *To reduce the city's exposure to liabilities.* A city may choose to provide services such as fire protection or police protection outside its corporate boundaries even though the city may lack clear extraterritorial authority under AS 29.35.020 to do so. In other cases, there may be clear legal authority to provide extraterritorial services such as emergency medical services; however, residents and property owners inside the city may be deprived of timely receipt of emergency services because city resources were committed outside the city's boundaries.
4. *To provide services needed by an outlying area.* Often residents of areas adjacent to the boundaries of a city request municipal services such as police protection, fire protection, emergency medical services, road maintenance, and utilities.
5. *To promote orderly growth and development.* Annexation may abate threats to public health and safety through the extension of platting, land use regulation, and other powers.
6. *To promote greater efficiency in governmental operations.* A city may be able to achieve improved economies of scale by serving a larger area. Additionally, a city may seek

annexation of territory avoid the creation of another governmental unit in accordance with article X, sections 1 and 5 of Alaska's constitution.

7. *To include areas undergoing growth and development* outside the corporate boundaries of the city in order to provide political boundaries that more fully reflect the actual community as defined by economic, sociological, physical, and cultural characteristics.
8. *To enfranchise individuals.* Residents of outlying areas may be a part of the community served by the city, but because they live on the other side of an artificial political boundary, those individuals are not allowed a voice in city government. Annexation would allow those individuals to be appointed to city boards and commissions, hold elective office in city government, and vote in city elections.
9. *To provide more orderly boundaries eliminating confusion* and uncertainty regarding whether a particular property is inside the city. This is especially important for the timely delivery of emergency services.
10. *To protect or enhance the city's tax base* in order to provide more reasonable taxes for all who benefit from city government and/or to increase the bonding capacity of the city.
11. *To lower utility rates.* Some cities impose utility surcharges to areas served outside the boundaries of the city.
12. *To lower fire insurance premiums.* Often fire insurance premiums are lower for properties within the boundaries of a city.
13. *To extend flood insurance.* Participation in the National Flood Insurance Program requires passage of a municipal ordinance meeting Federal Emergency Management Agency standards. This requirement leaves residents and businesses in flood-prone areas not participating in the National Flood Insurance Program ineligible for federal flood insurance. The lack of flood insurance coverage can have profound effects on unprotected areas.
14. *Other jurisdictional issues.* Local citizens and others may cite the need for city programs to address alcohol and drug abuse, economic development, environmental management, and other local governance innovations in terms of the need for municipal jurisdiction.

## CONSIDER POTENTIAL ARGUMENTS AGAINST ANNEXATION

In planning for annexation, it may be helpful to anticipate arguments against any expansion of boundaries. Critics of city annexations in Alaska often advance one or more of the following arguments.

1. *Annexation is unnecessary or unwise.* Opponents of annexation may assert that they chose to live outside the jurisdiction of a city to pursue a lifestyle free from intrusive local government. Frequently, annexation to a city is equated with a diminution of the personal freedom of residents of the territory proposed for annexation.
2. *The city lacks adequate resources to extend its services within expanded boundaries.* The city to which annexation is being sought may be characterized as deficient in terms of its

delivery of services to areas already within the city. Critics may assert that annexation will only exacerbate the city's deficiencies. Critics sometimes express the unrealistic expectation that the city will be obligated to extend utilities, sidewalks, paved streets, and other amenities to the territory proposed for annexation.

3. *Annexation is just a "cash cow" for the city.* Opponents to city annexation may characterize the city as being driven by greed and, thus, objectionable.
4. *Residents of the territory proposed for annexation already provide commensurate support to the city.* They may pay sales taxes for goods and services purchased within the city, or they may serve as volunteer firefighters, and they may pay user fees for municipal services.
5. *Residents may lose certain privileges and entitlements if annexed.* These may include eligibility to participate in the rural housing loan program of the Alaska Housing Finance Corporation.
6. *The territory proposed for annexation is not compatible in character with the city to which annexation is sought.* Residents and property owners in territory proposed for annexation commonly assert that their lifestyles and service needs are different from those of people living in cities. Residents may wish to retain the rural character of their area and oppose annexation as a step toward greater urbanization. They may oppose municipal animal control, regulation of firearms, and other ordinances, regulations, or license requirements of the city.
7. *Residents and businesses outside the city chose to build and live there in order to avoid government regulation and taxes for services they do not wish to receive.*
8. *There is distrust of the government and politics of the city.* Frequently, opponents of annexation assert that they moved to the territory proposed for annexation with the intention of getting away from another layer of government.
9. *The city is unable to finance the additional services expected by residents of the territory proposed for annexation.* Critics may assert that annexation would be a financial drain upon the city for many years or that services may not be extended to new areas without adversely affecting in-city service levels or without utility rate increases. Existing police or fire services may be overextended by annexation, reducing the level of protection to the entire community.
10. *Annexation is not economical.* It cannot be presumed that it will be more economical for the city to provide services to a larger area. Extending the service area may cost much more for each unit than the existing per unit cost.
11. *Annexation, particularly annexation by the legislative-review method that does not require voter approval for annexation, is anathema to democracy.* Nonresident owners of property in the area may consider it unfair that they are not extended special procedural status in the annexation process.

## CONSIDER ALTERNATIVES TO ANNEXATION

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

For example, an alternative to annexation as a means to remedy inequities and reduce liabilities might be to eliminate all extraterritorial services delivered by the city. Of course, such alternatives may have serious shortcomings. Eliminating all extraterritorial services including police, fire protection, and emergency medical services may be unacceptable to city officials or the community as a whole.

Other alternatives to annexation that are often proposed include: (1) increasing property and other taxes within the present city boundaries, (2) establishing borough (organized or unorganized) service areas to provide services, or (3) imposing new user fees, or increasing existing user fees, on nonresidents.

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## STEP 2: GATHER GENERAL INFORMATION AND IDENTIFY NEEDED RESOURCES

Potential petitioners should:

- Understand the different processes that may be used to annex territory. (See module, [Procedures for Petitions](#)).
- Become familiar with the legal standards that will be used to judge the annexation proposal. (See standards listed in the [About City Annexation](#) module).
- Learn what information must be included in a petition. (A sample petition is included in the appendix; all petition forms are available upon request from LBC staff).
- Identify resources needed to develop petition.

Potential petitions should also consult with LBC staff to the LBC to obtain and review materials to consider such as petitions for similar annexations in your city or similar cities. This may include petitions, responsive and reply briefs, LBC staff reports, LBC decisional statements, and any relevant case law.

## DETERMINE WHICH METHOD OF ANNEXATION IS BEST SUITED

If those advocating annexation choose to pursue annexation, the planning effort should address which particular method of annexation is best suited to accomplish the objectives. Potential petitioners should consider the effect of an annexation and other factors when choosing which method is most appropriate. Territory may be annexed to cities in Alaska by any one of four methods, all of which require Local Boundary Commission approval. Those methods are summarized below.

*Annexation of City-Owned Property.* City-owned property that adjoins the existing city boundaries and meets all other applicable standards for annexation may be annexed. The city council must adopt an ordinance and then petition the Local Boundary Commission. The LBC must then approve the petition; upon approval, the annexation takes effect.<sup>16</sup>

*Annexation by Ordinance of Territory upon Unanimous Consent of Property Owners and Registered Voters.* Territory that adjoins the existing corporate boundaries of a city and meets all other applicable standards for annexation may be annexed to a city if all of the property owners and residents of that territory have first petitioned the city for annexation. Typically, this method is used for the annexation of a small number of lots in need of city utilities or other services. The annexing city must adopt an ordinance providing for annexation. A petition from the city is subject to approval by the Local Boundary Commission, and takes effect after commission approval.<sup>17</sup>

The two methods above qualify for an annexation process with some shortened time frames which may result in a shorter process overall. An overview of the modified procedures is found in the next module, Procedures for Petitions, and in 3 AAC 110.590.

*Annexation by Election.* Territory can be annexed through an election. If the commission approves the petition, then the question is placed on a ballot. A majority of voters in the territory proposed for annexation, *and* a majority of voters in the annexing city must approve the ballot measure before the proposed annexation can take effect.<sup>18</sup>

*Annexation by Legislative Review.* A territory may be annexed without approval by the voters or property owners under the legislative review process authorized by the state constitution. Such petitions require approval by the LBC as well as review by the Alaska State Legislature. Legislative review petitions generally follow the same process as local action petitions, and allow for the same public comment periods. The difference occurs if the LBC approves a legislative review petition. Petitioners choosing this method must also hold a public hearing that complies with regulatory requirements before a petition is submitted. These requirements are found in 3 AAC.110.425; additional standards that must be met are found in 3 AAC 110.140. To implement an annexation under this method, after approval, the Local Boundary Commission must present an annexation proposal to the legislature during the first ten days of a regular session of the legislature. The annexation becomes effective forty-five days after

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<sup>16</sup> Article X, section 12 of the Constitution of the State of Alaska; AS 29.06.040(a) and (c)(3); AS 44.33.812(a)(3); 3 AAC 110.150(1); and 3 AAC 110.590.

<sup>17</sup> Article X, section 12 of the Constitution of the State of Alaska; AS 29.06.040(a) and (c)(4); AS 44.33.812(a)(3); 3 AAC 110.150(2); and 3 AAC 110.590.

<sup>18</sup> Article X, section 12 of the Constitution of the State of Alaska; AS 29.06.040(a) and (c)(1) and (2); 3 AAC 110.150(3) and 3 AAC 110.600(b).

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.<sup>19</sup> See the section below regarding the additional steps for legislative review petitions.

## NEED FOR PUBLIC HEARING BEFORE FILING A PETITION

Before a legislative-review annexation proposal may be filed with the commission, a public hearing is required under 3 AAC 110.425. Although not required for other methods of annexation, public hearings are an effective and appropriate means to maximize the effectiveness of the annexation-planning process. Such hearings are less important, however, in certain local-action annexations such as where the city owns the property being annexed or there is unanimous consent of the property owners and voters residing in the area. For a municipality, a public hearing can be the equivalent of a city council meeting with time given for public comment.

For legislative-review annexation proceedings, the process set out in 3 AAC 110.425 must be carefully followed. Petitioners must have a draft of the prospective annexation petition available for public review well in advance of the public hearing. Before a hearing, a petitioner must also prepare for public review a summary of the annexation proposal, including a map of the territory contemplated for annexation; a synopsis of the application of the annexation standards to the proposal; and an outline of the reasonably anticipated effects of annexation.

Public notice of the hearing must be given in the manner provided for a hearing of the Local Boundary Commission under 3 AAC 110.425 and 3 AAC 110.550. The hearing must be held at a convenient location in or near the territory proposed for annexation, and it must provide for a period of public comment on the proposal from members of the public.

Appropriate hearing topics include: (1) annexation standards and their application to the annexation proposal; (2) proposed method for annexation; and (3) the reasonably anticipated effects of the proposed annexation. Petitions must include a transcript or detailed account of the hearing as an appendix of the petition. The next module, [Procedures for Petitions](#), and the regulations, specifically 3 AAC 110.425, provide more detailed information on this process.

## CONSIDER THE STANDARDS THAT GOVERN ANNEXATION

Careful consideration should be given to the criteria established in law governing the nature of territory that may be annexed to a city and the capacity of the city to serve that territory. Those standards are set out in 3 AAC 110.090 – 3 AAC 110.150, 3 AAC 110.900 – 3 AAC 110.990.

The standards are listed in detail both in the previous module and in the appendices. All

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<sup>19</sup> Article X, section 12 of the Constitution of the State of Alaska, AS 29.06.040(a) and (b); AS 44.33.812(b)(2); 3 AAC 110.140; 3 AAC 110.425; and 3 AAC 110.610(a) and (b).

petitions must address all the standards, and the LBC will evaluate a petition based on whether it meets these standards. Additional standards for particular annexation proposals must also be met depending upon the method of annexation used. Those additional standards are for legislative review and local action and found in 3 AAC 110.140 and -.150 respectively.

#### CONSIDER HOW ANNEXATION WOULD BE IMPLEMENTED

The regulations require that petitions consider the transition and extension of city government to the territory to be annexed. This plan must be thorough and practical. Many petitions fail to devote enough attention to this vital step. Additional information about the transition plan can be found in the following modules, and in regulation 3 AAC 110.900. The plan must demonstrate:

- the intent and capacity of the annexing city to extend essential municipal services in the proposed expanded boundaries in the shortest practical time following annexation (not to exceed two years);
- the manner in which the annexing city will assume all relevant and appropriate powers, duties, rights, and functions presently exercised within the territory proposed for annexation;
- the manner in which the annexing city will assume and integrate all relevant and appropriate assets and liabilities of entities providing those services to the territory proposed for annexation without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities; and
- the plan was prepared in consultation with entities currently responsible for or otherwise providing those services to the territory proposed for annexation.

The transition plan should specifically address:

- what specific powers, services, taxes, license requirements, and zoning or other regulations will be extended by the territory proposed for annexation;
- what schedule will guide the extension of powers, duties, rights, functions;
- what costs are reasonably anticipated in connection with the proposed extension of powers, services, taxes, license requirements, and zoning or other regulations;
- what revenues are reasonably anticipated to be gained by the city as a result of annexation;
- what financial impacts annexation would have on other governments;
- what assets and liabilities the city would assume from agencies and organizations currently providing services to the territory proposed for annexation;
- plans for transition of relevant local laws currently in place in a borough, if applicable;
- the effect that annexation will have on powers or services currently provided or exercised by an organized borough in the territory; and

- if the territory proposed for annexation is within one or more service areas of an organized or unorganized borough, how annexation will affect the nature of the service area (e.g. abolition or detachment of territory).

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### STEP 3: MAKE PRELIMINARY DETERMINATIONS

After gathering information and identifying resources needed, a city should make preliminary decisions after reviewing the standards. Potential petitioners should do the following:

- Define clearly why annexation is warranted; develop factual data to assist in objective examination of need for annexation (e.g., number of extraterritorial police calls, number of nonresident students attending municipal school, etc.);
- Determine what annexation process to use—some processes dictate a particular schedule;
- Determine the type and extent of services or facilities to be provided;
- Determine what area should be annexed;
- Estimate the cost of extending services and facilities;
- Project local, state, and federal revenues that will result from annexation; and
- Consult with officials of local governments that will be affected by annexation.

#### TECHNICAL ASSISTANCE, FORMS, AND SAMPLE MATERIALS AVAILABLE

Local Boundary Commission staff are available to provide technical assistance, petition forms, and sample annexation materials to prospective petitioners, prospective respondents (those favoring or opposing annexation), and other interested individuals and groups throughout the planning phase of the petition process. Ultimately, the burden of drafting a petition does fall on the petitioners. The next module will discuss the second phase of the planning process—drafting a petition for review, and the formal filing of a petition as well as the process that takes place after a petition is filed with the Local Boundary Commission staff.

## PROCEDURES FOR PETITIONS

### THE PROCESS

1. Alaska Statute Title 29 and Alaska Administrative Code Title 3 Articles 3 and 14 (3 AAC 110.090-.150; .900-990) contain the standards for annexation that the LBC follows when reviewing a petition for annexation. Petition procedures are found in 3 AAC 110.400-700. The following is a brief summary of the procedures for annexation.
  - a. A petition is filed with the LBC.
  - b. The public reviews the petition.
  - c. LBC staff review petition, and draft report(s) that include a nonbinding recommendation to the commission.
  - d. The LBC holds hearing(s) and makes a decision.
  - e. The petitioner transitions to a municipality after approval by voters or by legislative review.
2. Petition forms are provided by LBC staff. A sample form for annexation by local action is provided in the appendices of this packet. Other forms are available on request.
3. Before a petition for city annexation is circulated for signatures, the petitioner should prepare and submit to LBC staff a complete draft of the annexation petition, using forms provided by DCCED. LBC staff will review the draft petition and advise the petitioner of any elements in the draft that should be corrected, supplemented, or clarified. Such preliminary review by DCCED should minimize the possibility of rejection of the petition for technical reasons after local voters sign the document. (If a petition is rejected by DCCED after petition signatures of local voters are secured, the corrected petition must then be circulated again for signatures of qualified voters. This could be time-consuming and potentially confusing to the public.)
4. Information required in a petition is specified in 3 AAC 110.420. Petitioners may submit additional information to supplement their petition, and are not limited to the space provided in sample forms. Staff offer technical assistance including review, analysis and an assessment of the feasibility of a particular proposal. However, staff may not act in an advocacy capacity pursuant to 3 AAC 110.410 and -.435.
5. Once a petition, including signatures and any supporting materials, is complete, it is submitted to LBC staff. Staff have 45 days to complete a technical review required by 3 AAC.110.440. This review ensures all required elements of the petition are included, complete, and sufficient for commission review. It also ensures there are enough valid signatures to proceed. A more substantive review with an investigation and analysis of the merits of the petition occurs later in the process when department drafts its preliminary report for the commission which includes a nonbinding recommendation to the LBC.
6. If a petition is deemed incomplete, it will be returned to the petitioner for completion with a list of the missing elements. The chair of the LBC will determine if the changes necessary are significant enough to warrant the gathering of new signatures. If a petition passes technical review, the petition will be accepted for filing. Acceptance of the petition

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

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

## ADDITIONAL MEASURES REQUIRED FOR LEGISLATIVE REVIEW PETITIONS

Additional requirements for legislative review petitions can be found in 3 AAC 110.425. These additional steps include:

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### PREPARING THE PETITION

Using forms provided by LBC staff, a prospective petitioner must prepare a complete draft of the prospective annexation petition and a summary of the petition. The summary must include

- A map of the territory proposed for annexation;
- A synopsis of the views of the prospective petitioner regarding the application of applicable standards to the proposed annexation;
- A summary of the reasonably anticipated effects of the annexation; and
- An abstract of the transition plan required under 3 AAC 110.900.

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### MAKING THE PETITION AVAILABLE

The annexation petition and summary must be made available to the public on or before the first publication or posting of the required notice. The petitioner must make one copy available for public review for every 500 individuals reasonably estimated to live in the proposed boundaries; regardless of the population, no more than five copies are needed. The prospective petitioner must also make the petition summary available for no charge at a convenient location at or within the boundaries proposed for annexation.

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### HOLDING A LOCAL PUBLIC HEARING

The petitioner must conduct a public hearing on the prospective annexation proposal. The hearing must be held at a convenient location in or near the territory proposed for annexation. The hearing must allow a period for comment on the proposal from members of the public. If the prospective petitioner is a municipal government, the governing body shall conduct the hearing.

The hearing must address at least the following topics:

1. appropriate annexation standards and their application to the annexation proposal;
2. legislative review annexation procedures;
3. the reasonably anticipated effects of the proposed annexation; and
4. the proposed transition plan required under 3 AAC 110.900.

Prospective Petitioners must give notice in a few prescribed manners:

- *Public Notice in a Newspaper.* The prospective petitioner must give public notice of the hearing. LBC staff will specify the wording of the public notice of the hearing. It will include the date, time, place, and subject of the hearing, as well as information about where the draft and summary materials are available for public review. The petitioner must publish the notice at least three times—the first date of publication must occur at least 30 days before the date of the local public hearing. It must be published 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 LBC staff.
- *Posted Public Notice.* In addition to publication, notice of the hearing must be posted by the prospective petitioner in at least three prominent locations readily accessible to the public in the territory in which the hearing is to be held. In addition, the notice must also be posted where the petition documents will be made available for review. In all cases, posting must occur at least 21 days before the date of the hearing.
- *Public Service Announcement (PSA).* Further, the prospective petitioner must request at least one radio or television station serving the area to broadcast information about the hearing as a public service announcement during the 21 days preceding the date of the hearing.

In all cases, LBC staff will specify the wording. Evidence of compliance with the public notice requirements for the hearing, a written summary, or transcript of the hearing, and an audio recording of the hearing must be provided when the petition is filed with LBC staff.

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#### FILING THE PETITION

The formal petition is filed with LBC staff. If the petition seeks annexation using the legislative review method, the petition should be filed recognizing the time constraints necessitated by the legislative review method. Successful legislative review petitions can only be submitted during the first 10 days of a regular legislative session—typically around late January to early February. Those petition decisions completed after that point during the year must wait until the next regular legislative session.

## MODIFIED PROCEDURES FOR LOCAL ACTION PETITIONS UNDER 3 AAC 110.590

Certain petitions qualify for a shortened procedure under 3 AAC 110.590 including local action methods provided for in AS 29.06.040(c)(3) or (4) for annexation of adjacent municipally owned property or adjacent property by unanimous consent of voters and property owners.

Except as otherwise provided for in the regulations, only the following regulations apply:

1. filing a petition under 3 AAC 110.420;
2. technical review of the petition under 3 AAC 110.440;
3. notice and service of the petition under 3 AAC 110.450 - 3 AAC 110.470, unless the petitioning municipality, at least 30 days before passage of its authorizing ordinance under AS 29.06.040 (c)(3) or (4) by the council or assembly, publishes notice of the annexation proposal in a newspaper of general circulation in the area or territory proposed for annexation and provides the notice to each owner of property abutting the boundaries proposed for annexation; the pre-ordinance notice:
  - A. must be published at least once in the format prescribed by 3 AAC 110.450(a) (1);
  - B. must be served on each municipality within 20 miles of the boundaries of the area or territory proposed for change;
  - C. must be posted in accordance with 3 AAC 110.450(a) (2) except that the posting must occur on or before the date that the notice is published under (A) of this paragraph;
  - D. must remain posted in accordance with 3 AAC 110.450(a) (3) except that the posting deadline is determined under (4)(B) of this subsection; and
  - E. may be broadcast as a public service announcement under 3 AAC 110.450(a) (5);
4. responsive briefs and comments under 3 AAC 110.480, except that the time allowed under 3 AAC 110.640 for the filing of responsive briefs and comments is limited to 14 days from:
  - A. the date of first publication of the notice of filing of the petition; or
  - B. passage of the ordinance required by AS 29.06.040 (c)(3) or (4) by the council or assembly, if the petitioning municipality published notice at least 30 days before passage of the ordinance;
5. a reply brief under 3 AAC 110.490, except that the time allowed under 3 AAC 110.640 for the filing of a reply brief is limited to seven days from the date that the petitioner received the responsive brief;
6. a departmental report under 3 AAC 110.530, except that the department shall issue only one report concerning the local action annexation proposal at least 10 days before the public hearing under 3 AAC 110.550; interested persons may submit written comments to the department on its report no later than three days before the public hearing;
7. the commission's public hearing under 3 AAC 110.550, except that the commission may conduct the hearing by teleconference;
8. the decisional meeting under 3 AAC 110.570, except that 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 within 10 days after the last commission hearing on the petition;

9. reconsideration under 3 AAC 110.580, except that a request for reconsideration must be filed within 10 days after a written statement of decision is mailed under 3 AAC 110.570(f);

10. the amendment and withdrawal provisions of 3 AAC 110.540 and 3 AAC 110.545.

b. The commission may expand local action procedures for annexations under (a) of this section, so that those procedures include other requirements of 3 AAC 110.400 - 3 AAC 110.700, such as informational sessions, and public meetings and hearings, if the commission determines that the best interests of the state will be enhanced.

c. The commission may further relax or suspend local action procedures for annexation under (a) of this section as provided under 3 AAC 110.660.

e. If the commission determines that the balanced best interests of the locality and the state are enhanced by statewide participation, the commission may convert a local action petition for an annexation described in (a) of this section to a legislative review petition.

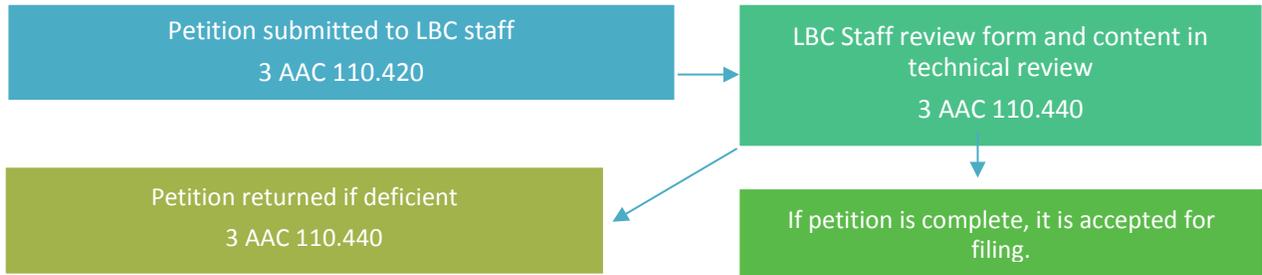
f. If the petitioning municipality publishes a pre-ordinance notice as provided under (a)(3) of this section, the municipality shall file with the department a copy of

1. the publisher's affidavit of publication of the notice;
2. written comments submitted to the municipality regarding the annexation proposal; and
3. the minutes of all council or assembly meetings at which the proposal was addressed by the petitioning municipality.

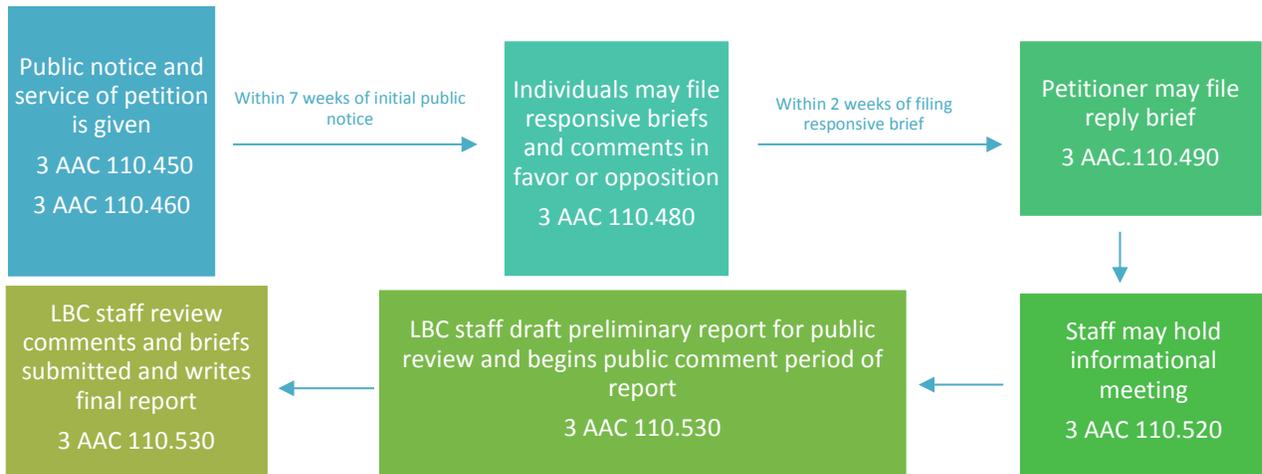
The following page has a flow chart detailing the process that most typical legislative review and local actions petitions follow.

# City Annexation Petition Process

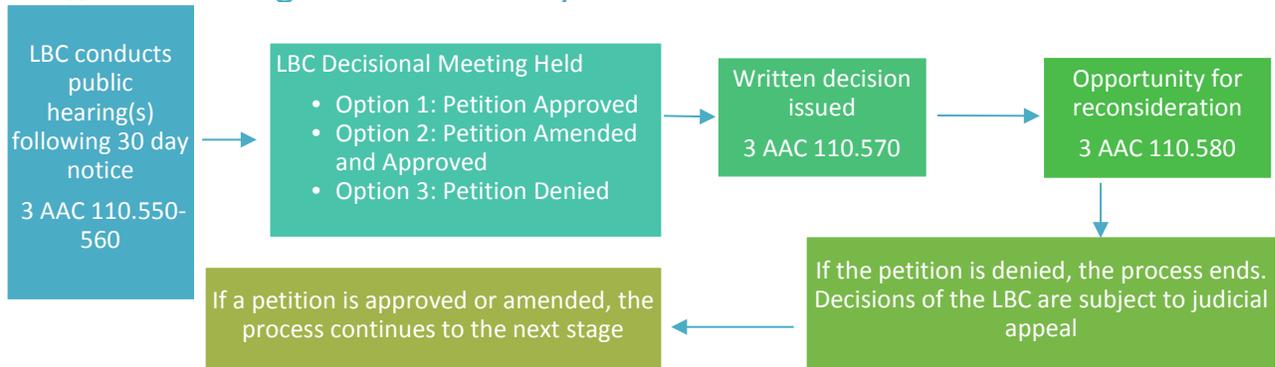
## Stage 1: Filing the Petition



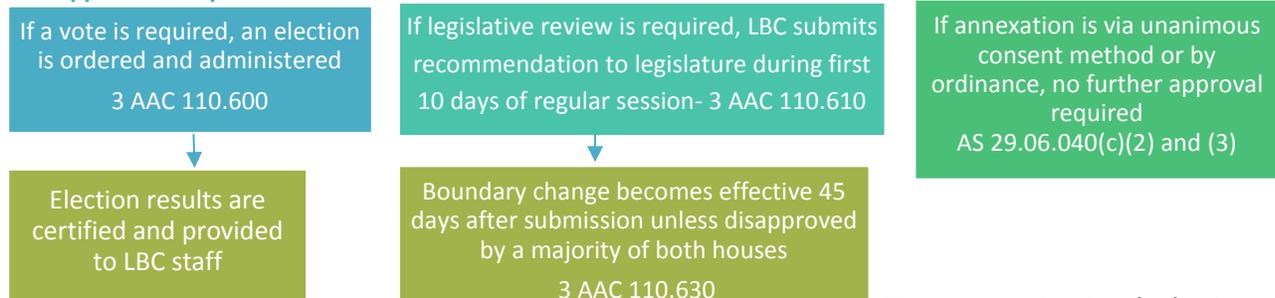
## Stage 2: Public Review



## Stage 3: Hearing and Decision by LBC



## Stage 4: Implementation



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## PETITION PROCEDURES ONCE ACCEPTED

### PUBLIC NOTICE AND PUBLIC REVIEW

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

### PETITION ANALYSIS

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

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

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

### COMMISSION REVIEW OF MATERIALS AND PUBLIC HEARING

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

Following extensive public notice, the commission conducts at least one public hearing on the proposal. At this hearing, petitioners, respondents, and members of the public are given the opportunity to weigh in, and commissioners may ask questions. Commission hearing procedures are found in 3 AAC 110.550.

### DECISION AND OPPORTUNITY FOR RECONSIDERATION

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

- approve the petition as presented;
- amend the petition (e.g., alter the boundaries);

- impose conditions on approval of the petition (e.g., require an additional public meeting); or
- deny the petition.

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

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

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

## IMPLEMENTATION

If the commission approves a petition, the proposal is subject to approval by voters, or is submitted to the legislature. A petition that has been granted by the commission takes effect upon the satisfaction of any stipulations imposed by the commission, and an election is certified. In the case of petitions filed through local action for municipally owned property, and by unanimous consent, a boundary change takes effect after the LBC approves a petition, subject to reconsideration.

For a legislative review petition, when 45 days have passed from submission during a regular session and no action is taken, the boundary change takes effect. Decisions are no longer subject to Department of Justice review under the Voting Rights Act of 1965.

A general timeline is provided below.

## PETITION PROCESS TIMELINE

Date	Action
Within 45 days of receiving petition	Local Boundary Commission (LBC) staff conduct a technical review of the petition. A technical review determines whether a petition contains all required information. A petition will either be accepted for filing or it will be returned to the petitioner for correction or completion.
Within 45 days of receiving notice of acceptance for filing	After the petition is accepted, staff will provide a public notice of the filing of the petition and instructions for publication. This

Date	Action
	notice informs the public and alerts them to an opportunity to comment.
Beginning when notice of filing is published, at least 49 days	Public comments and responsive briefs are received for a specific time period published in notice. Staff will conduct an informational session typically during this time.
At least 14 days	Petitioner may respond to the responsive briefs and comments.
About 7 weeks	LBC staff perform a thorough investigation and analysis of the petition and drafts a preliminary report that includes a recommendation to the LBC regarding the petition.
A minimum of 28 days from the mailing of preliminary report	Opportunity for public review and comment on the preliminary report.
Approximately 3 weeks	LBC staff consider comments on preliminary report and makes appropriate changes to its report and recommendation. The final report is issued for public review.
At least 21 days from the mailing of the final report	LBC conducts public hearing(s) where petitioners, respondents and members of the public are given an opportunity to comment.
Within 90 days of hearing	LBC conducts public meeting(s) and reaches a decision [often made immediately after hearing].
Within 30 days of decisional meeting	LBC issues written decision.
Within 30 days of when the written decision is issued	Any public member may request reconsideration within 18 days after the written decision is issued. The LBC may grant a reconsideration request, or order reconsideration on its own motion within 30 days after the written decision is issued.
If petition is denied, LBC process ends (parties may appeal LBC decision to superior court)	If approved by the LBC, the petition is subject to review by the legislature or approval by the voters in the area approved for change.

## STAFF ASSISTANCE

Staff is available to help petitioners throughout this process. When a petition is formally accepted, petitioners will receive a packet of information with a schedule and with materials specifying next steps for that petition.

## CONCLUSION

This packet seeks to inform Alaska residents interested in city annexation. It seeks to provide 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. Annexation of territory of any size requires a substantial effort on the behalf of petitioners. Proper planning can help petitioners anticipate roadblocks and help streamline the process. There are varied reasons why a city may wish to annex territory. LBC staff is able to provide guidance regarding the standards and procedures, but decisions whether to annex must be made at the community level.

## APPENDICES

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

## APPLICABLE LAWS AND REGULATIONS

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### ARTICLE 10, ALASKA CONSTITUTION

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

### ALASKA STATUTES

- [AS 29.05.021. Limitations on incorporation of a city, annexation.](#)
  - [AS 29.06.040. Local Boundary Commission, authority to review, amend, accept boundary changes; appeal under administrative procedures act; tacit approval; authority to establish procedures for annexation; election on annexation question.](#)
  - [AS 29.06.050. Annexation of Military Reservations.](#)
  - [AS 29.06.055. Property Taxes in Annexed or Detached Areas](#)
  - [AS 29.06.060. Application](#)
  - [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 110.090. Needs of the territory, factors considered in reasonable need determination, limitation on annexation.](#)
- [3 AAC 110.100. Character, factors considered in determining compatibility.](#)
- [3 AAC 110.110. Resources, factors considered in determining resources available to provide essential public services.](#)
- [3 AAC 110.120. Population, factors considered in determining population characteristics.](#)
- [3 AAC 110.130. Boundaries, factors considered in determining land and water needed for providing essential public services, non-contiguous and large unpopulated areas, overlapping boundaries.](#)
- [3 AAC 110.135. Best interests of state, factors considered in determining state's best interest.](#)
- [3 AAC 110.140. Legislative review, factors considered in legislative review annexation.](#)
- [3 AAC 110.150. Local action, methods of annexation by local action.](#)

- [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 110.425. Legislative review annexation petitions.](#)
- [3 AAC 110.430. Consolidation of petitions.](#)
- [3 AAC 110.435 Role of department staff](#)
- [3 AAC 110.440. Technical review of petitions, department review, deficient petition.](#)
- [3 AAC 110.450. Notice of petition, time limit and method for providing notice.](#)
- [3 AAC 110.460. Service of petition, recipients and method of delivery, availability of all petition documents for public review.](#)
- [3 AAC 110.470. Proof of notice and service.](#)
- [3 AAC 110.475 Summary determination](#)
- [3 AAC 110.480. Responsive briefs and written comments, filing with department, affidavit of delivery to petitioner.](#)
- [3 AAC 110.490. Reply brief, filing with department, affidavit of delivery to respondent.](#)
- [3 AAC 110.500. Limitations on advocacy, adherence to regulations, commission contact with interested parties.](#)
- [3 AAC 110.510. Informational sessions, department determination of adequate public information sessions, affidavit.](#)
- [3 AAC 110.520. Departmental public meetings, notice, affidavit of posting, presiding officer, meeting summary, postponement, relocation.](#)
- [3 AAC 110.530. Departmental reports, draft review and comment.](#)
- [3 AAC 110.540. Amendment of petition](#)
- [3 AAC 110.545 Withdrawal of petition](#)
- [3 AAC 110.550. Commission public hearing, notice, public service announcement, postponement, relocation.](#)
- [3 AAC 110.560. Commission hearing procedures, presiding officer, commission quorum, limit on comments, witnesses, sworn testimony, timely submission of documents.](#)
- [3 AAC 110.570. Decisional meeting, time limit, commission quorum, change to comply with law, minutes, statement of considerations, decision, affidavit.](#)
- [3 AAC 110.590. Modified procedures for certain local action annexations, applicable regulations.](#)
- [3 AAC 110.580. Reconsideration, time limit, denial or acceptance of request.](#)
- [3 AAC 110.600. Local action/local option elections, election by director of elections under AS 15, election by municipality.](#)
- [3 AAC 110.610. Legislative review, amendment to consider as local action/option procedure, legislative review of commission decision.](#)
- [3 AAC 110.620. Judicial review, appeal and judicial review in accordance with Administrative Procedure Act.](#)
- [3 AAC 110.630. Effective date and certification, Voting Rights Act approval, certification of election, legislative review deadline, certificate of change, recordation.](#)

- [3 AAC 110.640. Scheduling, chairperson order setting/amending schedule, timeline, postponement.](#)
- [3 AAC 110.650. Resubmittals and reversals, denial of previous similar petition, request for reversal of decision.](#)
- [3 AAC 110.660. Purpose of procedural regulations, relaxation or suspension of procedural regulation, commission discretion, guidelines.](#)
- [3 AAC 110.680 LBC Meetings](#)
- [3 AAC 110.690 Teleconference policy and procedures](#)
- [3 AAC 110.700 Filing with the commission](#)
- [3 AAC 110.900. Transition, submission of transition plan; assumption of powers, duties, responsibilities, assets, and liabilities; time limit on execution of plan; approved agreement.](#)
- [3 AAC 110.910. Statement of non-discrimination.](#)
- [3 AAC 110.920. Determination of community, factors considered in determining whether the term community applies.](#)
- [3 AAC 110.970. Determination of essential city or borough services, guidelines.](#)
- [3 AAC 110.981 Determination of maximum local self-government](#)
- [3 AAC 110.982 Minimum number of local government units](#)
- [3 AAC 110.990. Definitions.](#)

## APPLICABLE STATUTES AND REGULATIONS

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

**SECTION 1. PURPOSE AND CONSTRUCTION.** The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

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

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

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

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

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

## ALASKA STATUTES, TITLE 29, ARTICLE 1. REQUIREMENTS

### SEC. 29.05.021. LIMITATIONS ON INCORPORATION OF A CITY

(a) A community in the unorganized borough may not incorporate as a city if the services to be provided by the proposed city can be provided by annexation to an existing city.

(b) A community within a borough may not incorporate as a city if the services to be provided by the proposed city can be provided on an areawide or nonareawide basis by the borough in which the proposed city is located, or by annexation to an existing city. (§ 4 ch 74 SLA 1985)

### SEC. 29.06.040. LOCAL BOUNDARY COMMISSION

(a) The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a 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.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

(1) a proposed annexation must be approved by a majority of votes on the question cast by voters residing in the annexing municipality;

(2) a proposed annexation or detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(3) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(4) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 5 ch 74 SLA 1985; am § 14 ch 58 SLA 1994; am § 36 ch 30 SLA 1996; am § 29 ch 58 SLA 1999; am § 3 ch 86 SLA 1999; am § 3 ch 46 SLA 2006)

### SEC. 29.06.050. ANNEXATION OF MILITARY RESERVATIONS

A military reservation may be annexed to a municipality in the same manner as prescribed for other territory under AS 29.06.040. If a city in a borough annexes a military reservation under this section, the area encompassing the military reservation automatically is annexed to the borough in which the city is

located. (§ 5 ch 74 SLA 1985)

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#### SEC. 29.06.055. PROPERTY TAXES IN ANNEXED OR DETACHED AREAS.

(a) Unless the annexation takes effect on January 1, the annexing municipality may not levy property taxes in an annexed area before January 1 of the year immediately following the year in which the annexation takes effect. However, notwithstanding other provisions of law, the municipality may provide services in the annexed area that are funded wholly or partially with property taxes during the period before the municipality may levy property taxes in the annexed area.

(b) If an area is detached from a municipality, all property taxes that are levied by that municipality on property in the detached area based on an assessment that occurred before the effective date of the detachment remain valid. AS 29.45.290 - 29.45.500 apply to the enforcement of those taxes. (§ 2 ch 12 SLA 2004)

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#### SEC. 29.06.060. APPLICATION

AS 29.06.040 - 29.06.060 apply to home rule and general law municipalities. (§ 5 ch 74 SLA 2004)

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### ARTICLE 12. LOCAL BOUNDARY COMMISSION

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#### 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)

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#### 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).

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#### 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)

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#### 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)

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#### 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)

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#### 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)

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#### 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)

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#### 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)

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#### 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)

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#### 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 3 STANDARDS FOR ANNEXATION TO CITIES

Section:

090. Need.	130. Boundaries.
100. Character.	135. Best interests of state.
110. Resources.	140. Legislative review.
120. Population.	150. Local action.

### 3 AAC 110.090. NEED

- (a) The territory must exhibit a reasonable need for city government. In this regard, the commission may consider relevant factors, including
- (1) existing or reasonably anticipated social or economic conditions, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city during the 10 years following the effective date of annexation;
  - (2) existing or reasonably anticipated health, safety, and general welfare conditions;
  - (3) existing or reasonably anticipated economic development;
  - (4) adequacy of existing services;
  - (5) extraterritorial powers available to the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and
  - (6) whether residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of services and facilities provided by the annexing city.
- (b) Territory may not be annexed to a city if essential municipal services can be provided more efficiently and more effectively by another existing city or by an organized borough, on an areawide basis or nonareawide basis, or through a borough service area that, in the determination of the commission, was established in accordance with art. X, sec. 5, 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. 1, Ak Const.	Art. X, sec. 12, Ak Const.
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 5, Ak Const.	AS 44.33.812
Art. X, sec. 7, Ak Const.	

### 3 AAC 110.100. CHARACTER

The territory must be compatible in character with the annexing city. In this regard, the commission may consider relevant factors, including the

- (1) land use, subdivision platting, and ownership patterns;
- (2) salability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes;
- (5) suitability of the territory for reasonably anticipated community purposes;
- (6) existing and reasonably anticipated transportation patterns and facilities; and

(7) natural geographical features and environmental factors.

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

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### 3 AAC 110.110. RESOURCES

The economy within the proposed expanded boundaries of the city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level.

In this regard, the commission may consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city that would result from annexation;
- (3) actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
- (4) feasibility and plausibility of those aspects of the city's anticipated operating and capital budgets that would be affected by the annexation through the period extending one full fiscal year beyond the reasonably anticipated date for completion of the transition set out in 3 AAC 110.900;
- (5) economic base of the territory within the city after annexation;
- (6) valuations of taxable property in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development in the territory proposed for annexation;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled persons to serve the city government as a result of annexation.

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

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### 3 AAC 110.120. POPULATION

The population within the proposed expanded boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission may consider relevant factors, including

- (1) census enumerations;
- (2) duration 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.

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

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### 3 AAC 110.130. BOUNDARIES

- (a) The proposed expanded boundaries of the city must include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
- (1) land use and ownership patterns;
  - (2) population density;
  - (3) existing and reasonably anticipated transportation patterns and facilities;
  - (4) natural geographical features and environmental factors; and
  - (5) extraterritorial powers of cities.
- (b) Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create enclaves in the annexing city, does not include all land and water necessary to allow for the development of essential municipal services on an efficient, cost-effective level.
- (c) To promote the limitation of community, the proposed expanded boundaries of the city
- (1) must be on a scale suitable for city government and may include only that territory comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation; and
  - (2) may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135 and are otherwise suitable for city government.
- (d) If a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough or detachment of the enlarged city from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.

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

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### 3 AAC 110.135. BEST INTERESTS OF STATE

In determining whether annexation to a city is in the best interests of the state under AS 29.06.040(a), the commission may consider relevant factors, including whether annexation

- (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; and
- (3) will relieve the state government of the responsibility of providing local services.

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

**Authority:**

Art. X, sec. 1, Ak Const.  
 Art. X, sec. 5, Ak Const.  
 Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.  
 AS 29.06.040  
 AS 44.33.812

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### 3 AAC 110.140. LEGISLATIVE REVIEW

Territory that meets the annexation standards specified in 3 AAC 110.090 – 3 AAC 110.135 may be annexed to a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the territory is wholly or substantially surrounded by the annexing city;
- (2) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
- (3) the extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
- (4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;
- (5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city;
- (6) repealed 5/19/2002;
- (7) annexation of the territory 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;
- (8) annexation of the territory will enhance the extent to which the existing city meets the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.005 - 3 AAC 110.042, and is in the best interests of the state;
- (9) the commission determines that specific policies set out in the Constitution of the State of Alaska, AS 29.04, AS 29.05, or AS 29.06 are best served through annexation of the territory by the legislative review process, and that annexation is in the best interests of the state.

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

**Authority:**

Art. X, sec. 1, Ak Const.  
 Art. X, sec. 7, Ak Const.  
 Art. X, sec. 12, Ak Const.

AS 29.06.040  
 AS 44.33.812

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### 3 AAC 110.150. LOCAL ACTION

Territory contiguous to the annexing city, that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 and has been approved for local action annexation by the commission, may be annexed to a city by any one of the following actions:

- (1) city ordinance if the territory is wholly owned by the annexing city;
- (2) city ordinance and a petition signed by all the voters and property owners of the territory;
- (3) approval by a majority of votes on the question cast by voters residing in
  - (A) the territory; and
  - (B) the annexing city;
- (4) repealed 1/9/2008;
- (5) repealed 1/9/2008.

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. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.06.040

AS 44.33.812

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ARTICLE 13

PROCEDURES FOR PETITIONING AND FOR OTHER COMMISSION MATTERS

Section:

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

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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:

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

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### 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

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### 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

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### 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

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### 3 AAC 110.425. LEGISLATIVE REVIEW ANNEXATION PETITIONS

- (a) Except as provided in (i) of this section, before a petition for annexation by the legislative review process may be submitted to the department under 3 AAC 110.420, the prospective petitioner shall prepare a complete draft of the prospective annexation petition and a summary of the prospective

petition. The prospective petitioner shall also conduct a public hearing on the annexation proposal in accordance with (d) - (e) of this section.

- (b) The prospective annexation petition required under (a) of this section must be prepared using forms provided by the department under 3 AAC 110.420. The summary required under (a) of this section must include a map of the area proposed for borough annexation or territory proposed for city annexation, a synopsis of the views of the prospective petitioner regarding the application of applicable standards to the proposed annexation, a summary of the reasonably anticipated effects of annexation, and an abstract of the transition plan required under 3 AAC 110.900.
- (c) The prospective annexation petition and the summary must be made available to the public on or before the first publication or posting of the notice of the hearing required under (e) of this section. The prospective petitioner shall make one copy of the prospective petition available for public review at a convenient location within or near the boundaries proposed for annexation for every 500 individuals reasonably estimated to reside within those boundaries. However, the prospective petitioner need not provide more than five copies of the prospective petition for public review regardless of the population within the boundaries proposed for annexation. The prospective petitioner shall make the summary of the annexation proposal available for distribution to the public without charge at a convenient location within or near the boundaries proposed for annexation.
- (d) The public hearing required under (a) of this section must address appropriate annexation standards and their application to the annexation proposal, legislative review annexation procedures, the reasonably anticipated effects of the proposed annexation, and the proposed transition plan required under 3 AAC 110.900. The hearing must be held at a convenient location selected by the prospective petitioner within or near the boundaries proposed for annexation. The hearing must allow a period for comment on the proposal from members of the public. If the prospective petitioner is a municipality, the governing body shall conduct the hearing.
- (e) In the manner provided for a hearing of the commission under 3 AAC 110.550, a prospective petitioner shall give public notice and a public service announcement of the public hearing required under (a) of this section.
- (f) The department shall specify the text of the public notice required under (e) of this section, to ensure that the notice contains the following information:
  - (1) the title of the notice of the hearing;
  - (2) the name of the prospective petitioner;
  - (3) a brief description of the nature of the prospective legislative review annexation proposal, including the size and general location of the boundaries under consideration;
  - (4) information about where and when the prospective petition is available for public review;
  - (5) information about where the public may receive, without charge, a summary of the prospective petition;
  - (6) a statement concerning who will conduct the hearing;
  - (7) a statement of the scope of the hearing;
  - (8) notification that public comments will be accepted during the hearing, and a statement of any time limits to be placed on individuals who offer comments;
  - (9) the date, time, and place of the hearing;
  - (10) a statement of compliance with 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act);
  - (11) the name and telephone number of a representative of the prospective petitioner to contact for additional information.
- (g) The department shall specify the text of the public service announcement required under (e) of this section, to ensure that the announcement contains the following information:
  - (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 prospective petitioner;
  - (4) a description of the prospective legislative review annexation proposal;
  - (5) a statement of the size and general location of the boundaries being considered for annexation;
  - (6) information about where and when the prospective petition is available for public review;
  - (7) information about where the public may receive, without charge, a summary of the prospective petition;
  - (8) a statement concerning who will conduct the hearing;
  - (9) the date, time, and place of the hearing;
  - (10) the name and telephone number of a representative of the prospective petitioner to contact for additional information.
- (h) When filing a petition with the department under this section, the prospective petitioner shall submit evidence of compliance with the requirements of (e) of this section, a written summary or transcript of the hearing, a copy of any written materials received during the hearing, and an audio recording of the hearing.
- (i) This section does not apply to a petition for annexation that is submitted at the request of the legislature.

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

Authority:

Art. X, sec. 1, Ak Const.  
 Art. X, sec. 3, Ak Const.  
 Art. X, sec. 7, Ak Const.  
 Art. X, sec. 12, Ak Const.  
 Art. X, sec. 14, Ak Const.  
 AS 29.06.040  
 AS 44.33.020  
 AS 44.33.812

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### 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

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### 3 AAC 110.435. ROLE OF DEPARTMENT STAFF

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

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

Authority:

Art. X, sec. 12, Ak Const.

AS 44.33.020

Art. X, sec. 14, Ak Const.

AS 44.33.812

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### 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

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

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### 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

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**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	

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### 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	

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### 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	

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### 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

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### 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

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### 3 AAC 110.500. LIMITATIONS ON ADVOCACY

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

through the last date on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction.

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

Authority:

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

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### 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

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### 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

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### 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	

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### 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	

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### 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.	Art. X, sec. 7, Ak Const.
Art. X, sec. 3, Ak Const.	Art. X, sec. 12, Ak Const.

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

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### 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.

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

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### 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	

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### 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	

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### 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.

Art. X, sec. 14, Ak Const.

AS 29.04.040

AS 29.05.100

AS 29.06.040

AS 29.06.130

AS 29.06.500

AS 44.33.020

AS 44.33.812

AS 44.33.814

AS 44.33.820

AS 44.33.822

AS 44.33.826

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### 3 AAC 110.590. MODIFIED PROCEDURES FOR CERTAIN LOCAL ACTION ANNEXATIONS

- (a) Except as otherwise provided in this section, if a petition is filed with the department under a local action method provided for in AS 29.06.040(c)(3) or (4) for annexation of adjacent municipally owned property or adjacent property by unanimous consent of voters and property owners, only the following procedures specified in 3 AAC 110.400 - 3 AAC 110.700 are required:
- (1) filing a petition under 3 AAC 110.420;
  - (2) technical review of the petition under 3 AAC 110.440;
  - (3) notice and service of the petition under 3 AAC 110.450 - 3 AAC 110.470, unless the petitioning municipality, at least 30 days before passage of its authorizing ordinance under AS 29.06.040(c)(3) or (4) by the council or assembly, publishes notice of the annexation proposal in a newspaper of general circulation in the area or territory proposed for annexation and provides the notice to each owner of property abutting the boundaries proposed for annexation; the pre-ordinance notice
    - (A) must be published at least once in the format prescribed by 3 AAC 110.450(a)(1);
    - (B) must be served on each municipality within 20 miles of the boundaries of the area or territory proposed for change;
    - (C) must be posted in accordance with 3 AAC 110.450(a)(2) except that the posting must occur on or before the date that the notice is published under (A) of this paragraph;
    - (D) must remain posted in accordance with 3 AAC 110.450(a)(3) except that the posting deadline is determined under (4)(B) of this subsection; and
    - (E) may be broadcast as a public service announcement under 3 AAC 110.450(a)(5);
  - (4) responsive briefs and comments under 3 AAC 110.480, except that the time allowed under 3 AAC 110.640 for the filing of responsive briefs and comments is limited to 14 days from
    - (A) the date of first publication of the notice of filing of the petition; or
    - (B) passage of the ordinance required by AS 29.06.040(c)(3) or (4) by the council or assembly, if the petitioning municipality published notice at least 30 days before passage of the ordinance;
  - (5) a reply brief under 3 AAC 110.490, except that the time allowed under 3 AAC 110.640 for the filing of a reply brief is limited to seven days from the date that the petitioner received the responsive brief;
  - (6) a departmental report under 3 AAC 110.530, except that the department shall issue only one report concerning the local action annexation proposal at least 10 days before the public hearing under 3 AAC 110.550; interested persons may submit written comments to the department on its report no later than three days before the public hearing;
  - (7) the commission's public hearing under 3 AAC 110.550, except that the commission may conduct the hearing by teleconference;
  - (8) the decisional meeting under 3 AAC 110.570, except that 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 within 10 days after the last commission hearing on the petition;
  - (9) reconsideration under 3 AAC 110.580, except that a request for reconsideration must be filed within 10 days after a written statement of decision is mailed under 3 AAC 110.570(f);
  - (10) the amendment and withdrawal provisions of 3 AAC 110.540 and 3 AAC 110.545.
- (b) The commission may expand local action procedures for annexations under (a) of this section, so that those procedures include other requirements of 3 AAC 110.400 - 3 AAC 110.700, such as informational sessions, and public meetings and hearings, if the commission determines that the best interests of the state will be enhanced.

- (c) The commission may further relax or suspend local action procedures for annexation under (a) of this section as provided under 3 AAC 110.660.
- (d) Repealed 5/19/2002.
- (e) If the commission determines that the balanced best interests of the locality and the state are enhanced by statewide participation, the commission may convert a local action petition for an annexation described in (a) of this section to a legislative review petition.
- (f) If the petitioning municipality publishes a pre-ordinance notice as provided under (a)(3) of this section, the municipality shall file with the department a copy of
  - (1) the publisher's affidavit of publication of the notice;
  - (2) written comments submitted to the municipality regarding the annexation proposal; and
  - (3) the minutes of all council or assembly meetings at which the proposal was addressed by the petitioning municipality.

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 29.06.450
Art. X, sec. 3, Ak Const.	AS 44.33.020
Art. X, sec. 7, Ak Const.	AS 44.33.812
Art. X, sec. 12, Ak Const.	AS 44.33.814
Art. X, sec. 14, Ak Const.	AS 44.33.818
AS 29.06.040	AS 44.33.826
AS 29.06.090	

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**3 AAC 110.600. LOCAL ACTION/LOCAL OPTION ELECTIONS**

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

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

**Authority:**

Art. X, sec. 1, Ak Const.	Art. X, sec. 12, Ak Const.
Art. X, sec. 3, Ak Const.	AS 29.04.040
Art. X, sec. 7, Ak Const.	AS 29.05.110

AS 29.05.120  
AS 29.06.040  
AS 29.06.140

AS 29.06.510  
AS 44.33.812

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### 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

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### 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

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### 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.	AS 29.06.140
Art. X, sec. 14, Ak Const.	AS 29.06.510
AS 29.04.040	AS 44.33.020
AS 29.05.120	AS 44.33.812
AS 29.06.040	AS 44.33.828

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### 3 AAC 110.640. SCHEDULING

- (a) The chair of the commission shall set or amend the schedule for action on a petition.
- (b) In a schedule under (a) of this section, and except as provided by 3 AAC 110.590 for certain local action annexations, the chair of the commission shall allow at least
  - (1) 49 days after the date of initial publication or posting of notice of the filing of a petition, whichever occurs first, for receipt by the department of a responsive brief or written comments concerning the petition;
  - (2) 14 days after the date of service of a responsive brief on the petitioner for the receipt by the department of a reply brief from the petitioner. Contemporaneously with notice to the petitioner of the date for filing its reply brief, the department shall provide notice to respondents and commentors of that date;
  - (3) 28 days after the date of mailing of a departmental preliminary report for receipt of written summary comments to the department; and
  - (4) 21 days between the date of mailing of a final report and the commission hearing on the petition.
- (c) As provided under 3 AAC 110.430, the commission may postpone proceedings on a petition that has been accepted for filing to allow concurrent consideration and action on another petition that pertains to some or all the same boundaries and that has either been accepted for filing or is anticipated to be filed. The commission may postpone the proceedings for an anticipated competing

petition only if the anticipated competing petition is received by the department no later than 90 days after the date of the first publication of notice of the earlier petition under 3 AAC 110.450.

- (d) The chair of the commission will adjust the schedule in (b)(1) - (4) of this section to accommodate the procedures under 3 AAC 110.475 if a request for summary determination is filed on the petition.

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

Authority:

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

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### 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	

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### 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

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**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

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### 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

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### 3 AAC 110.700. FILING WITH THE COMMISSION

- (a) The filing of documents with the commission as allowed or required by this chapter or by order of the commission is made by filing them with the commission staff at the commission's offices. Unless otherwise required by this chapter or ordered by the commission, documents may be filed by hand delivery, United States mail, electronic mail, or facsimile transmission. The commission requests that a document filed by electronic mail be in searchable portable document format (.pdf).
- (b) A document filed with the commission is complete upon receipt of the entire document by the commission. Filing that occurs in whole or in part after 4:30 p.m. is considered to have occurred at the opening of business on the next day that is not a Saturday, Sunday, or state holiday.
- (c) For a document to be considered timely filed under requirements of this chapter or an order of the commission, the document must be filed with the commission on or before the deadline set under (b) and (e) of this section. For good cause shown, the commission chair will consider a request to accept a late-filed document.
- (d) The original of a document served by electronic mail or facsimile transmission must be submitted to the commission within 10 days after the submission of the filing by either electronic method.
- (e) The time in which to perform an act required or permitted under this chapter is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday. If the last day is a Saturday, Sunday, or state holiday, that day is excluded and the act shall be performed on or before the end of the next state business day.

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

Authority:  
AS 44.33.812

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## ARTICLE 14 GENERAL PROVISIONS

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### 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

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### 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

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### 3 AAC 110.920. DETERMINATION OF COMMUNITY

- (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the
- (1) settlement is inhabited by at least 25 permanent residents;
  - (2) the permanent residents live in a geographical proximity that allows frequent personal contacts and interaction; and
  - (3) the permanent residents at a location are a discrete and identifiable social unit, as indicated by such factors as resident public school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial or industrial establishments, community services, and service centers.
- (b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if
- (1) public access to or the right to reside at the location of the population is restricted; or
  - (2) repealed 1/9/2008;
  - (3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.
- (c) A city that absorbs one or more municipalities through merger comprises a single community. A city that is formed through the consolidation of one or more municipalities comprises a single community.

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

Authority:

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

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### 3 AAC 110.970. DETERMINATION OF ESSENTIAL MUNICIPAL SERVICES

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

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

Authority:

Art. X, sec. 1, Ak Const.	Art. X, sec. 12, Ak Const.
Art. X, sec. 3, Ak Const.	AS 29.04.040
Art. X, sec. 7, Ak Const.	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

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### 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	

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**3 AAC 110.982. MINIMUM NUMBER OF LOCAL GOVERNMENT UNITS**

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

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

- (8) for city merger or consolidation, whether the merged or consolidated city minimizes the number of local government units;
- (9) for city detachment, whether the detached area, by itself, is likely to be incorporated as a new city.

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

Authority:

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

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### 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

Annex [*number*] Square Miles to the [*name of city*]

Using the Local Option Method

The petitioner hereby requests that the Local Boundary Commission (“commission” or “LBC”) grant this annexation petition for annexation under Article X, Section 12 of the Constitution of the State of Alaska, AS 29.06.040(a), AS 44.33.812, and 3 AAC 110.150(3).

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.” If the petition has already addressed a requirement, simply state where the requirement was addressed.

“Territory” means the territory proposed for annexation. “City” means the city that seeks to annex the territory. “Proposed expanded boundaries of the city” means the city *plus* the territory.

**Section 1. Name of the Petitioner. 3 AAC 110.420(b)(1).**

The name of the petitioner is the City of \_\_\_\_\_ (hereafter “Petitioner” or “city”). This city is located within the \_\_\_\_\_ Borough.

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

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

Name: \_\_\_\_\_

Physical address: \_\_\_\_\_

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 annexation proposal in the event that the primary representative is absent, resigns, or fails to perform his or her duties:

Name: \_\_\_\_\_

Physical address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

Email address: \_\_\_\_\_

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

The name and class of the city proposing annexation 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 the City under the authority of 3 AAC 110.410(a)(4), requests that the LBC authorize the annexation of territory generally described as *[insert general description]* to the City under the local option method.

**Section 5. General Description of the Territory Proposed for Annexation.**

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).**

- a) **Exhibit A-1** provides a legal metes and bounds description of the territory, including the USGS quad information and dates.
- b) **Exhibit A-2** provides a legal metes and bounds description of the existing city's boundaries, including the USGS quad information and dates.

- c) **Exhibit A-3** provides a legal metes and bounds description of the proposed post-annexation city boundaries, including the USGS quad information and dates.
- d) **Exhibit A-4** provides a map showing the existing boundaries of the city and the boundaries of the territory.

**Section 8. Size of the Territory Proposed for Annexation. 3 AAC 110.420(b)(8).**

- a) The existing city proposing annexation encompasses \_\_\_\_\_ square miles.
- b) The territory encompasses \_\_\_\_\_ square miles.
- c) The city after the proposed annexation would encompass \_\_\_\_\_ square miles.

**Section 9. Data Estimating the Population of the Territory Proposed for Annexation. 3 AAC 110.420(b)(9).**

- a) The estimated population within the current boundaries of the city is \_\_\_\_\_.
- b) The estimated population of the territory is \_\_\_\_\_.
- c) The estimated population of the city after the proposed annexation is \_\_\_\_\_.

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

**3 AAC 110.420(b)(10).**

See Exhibit B.

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

- a) **The assessed or estimated value of taxable property in the territory proposed for annexation** (for any existing municipality for which a change is proposed that currently levies or proposes to levy property taxes).

Real property                    \$ \_\_\_\_\_

Personal property \$ \_\_\_\_\_

Total                                \$ \_\_\_\_\_

- b) **Projected taxable sales in the territory proposed for annexation** (for any existing municipality for which a change is proposed that currently levies or proposes to levy

property taxes). List any different sales tax rates for other goods or services separately here. Then include them in the total.

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

**c) Taxes currently levied by municipal governments within the territory proposed for annexation.**

List the type and rate of each such tax:

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)

**d) Any other taxes**

The value of any other proposed tax in the territory proposed for annexation is \$ \_\_\_\_\_.

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

**Exhibit C** presents projected revenue, operating expenditures, and capital expenditures for the City, for one full fiscal year beyond the reasonably anticipated date to complete any transition set out in 3 AAC 110.900.

**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).**

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 D**.

**Section 16. City Council Composition and Apportionment. 3 AAC 110.420(b)(17).**

(Both before and after the proposed change).

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

See **Exhibit E**.

**Section 18. Documentation Demonstrating that the Petitioner is Authorized to File the Petition Under 3 AAC 110.410. 3 AAC 110.420(b)(20).**

**Exhibit F** provides a certified copy of the city council resolution authorizing the filing of this petition.

**Section 19. Petitioner’s Affidavit. 3 AAC 110.420(b)(22).**

See **Exhibit G**.

**Exhibit A-1.**

**Legal Metes and Bounds Description of the Territory Proposed  
for Annexation**

**Exhibit A-2.**

**Legal Metes and Bounds Description of the Existing City**

**Exhibit A-3.**

**Legal Metes and Bounds Description of the City Boundaries  
After the Proposed Annexation**

**Exhibit A-4.**

**Maps and Plats**

This exhibit shows a map showing the existing boundaries of the city and the boundaries of the territory proposed for annexation. Any plats required by the Department of Commerce, Community, and Economic Development (“Department” or “Commerce”) to demonstrate the accuracy of the legal descriptions in Exhibit A-1, A-2, or A-3 are also included.

**Exhibit B.**

**Information Relating to Public Notice and Service of the Petition**

This exhibit provides information relevant to public notice of this annexation 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 current and proposed boundaries of the city:

**Newspaper(s):**

Name: \_\_\_\_\_

Physical address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Fax \_\_\_\_\_

Email address: \_\_\_\_\_

**Radio and television station(s):**

Name: \_\_\_\_\_

Physical address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Fax \_\_\_\_\_

Email address: \_\_\_\_\_

Name: \_\_\_\_\_

Physical address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone number: \_\_\_\_\_ Fax \_\_\_\_\_

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 annexation (with address and contact information, including email):

Municipality	Address and contact information

**Individuals and entities** whose potential interest in the annexation 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 C.**

**Projected Revenues, Operating Expenditures, and Capital Expenditures**

*(include any years leading up to that full fiscal year)*

<b>Revenues</b>	<b>1st full fiscal year after transition is complete</b>
<b>Operating expenses</b>	<b>1st full fiscal year after transition is complete</b>
<b>Capital expenditures</b>	<b>1st full fiscal year after transition is complete</b>
<b>Balance</b>	

**Exhibit D.**

**Transition Plan.**

A) *As required under 3 AAC 100.900, does the petition include a practical transition plan:*

- *Per 3 AAC 110.900(a), demonstrating the municipality's capacity to extend essential municipal services into the boundaries proposed for change in the shortest practical time after the proposed change would take effect?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain how.

- *Per 3 AAC 110.900(b), to assume 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?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain how.

- *Per 3 AAC 110.900(c), to transfer and integrate all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entities located within the boundaries proposed for change?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain how.

- *Per 3 AAC 110.900(c), that specifically addresses procedures ensuring that the transfer and integration of assets and liabilities occurs without loss of asset value or credit reputation, or a reduced bond rating for liabilities?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain how.

B) Per 3 AAC 110.900(b) and (c), is the plan designed to affect an orderly, efficient, and economical transfer within the shortest practicable time (not exceeding two years) after the proposed change would take effect?

C) Per 3 AAC 110.900(b) and (c), was the plan prepared in consultation with officials of each existing borough, city, and unorganized borough service area?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

- Per 3 AAC 110.900(e), does the plan state the names and titles of all those officials who were consulted by the petitioner, and the consultation subjects and dates?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

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

- Per 3 AAC 110.900(f), was the prospective petitioner unable to consult with those officials because they chose not to consult with the petitioner, or were unavailable during reasonable times to consult?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

- If yes, the petitioner may request that the commission waive the consultation requirement. If so, the petitioner must document all attempts it made to consult with those officials. Is the petitioner submitting such a request, and is it documenting all its attempts to consult with those officials?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

**Exhibit E.**

**Supporting Brief**

This exhibit presents a supporting brief providing a detailed explanation of how the proposed annexation serves the best interests of the state, and satisfies each relevant constitutional, statutory, and regulatory standard. In preparing the brief, the petitioner should examine the language of the standards themselves – the below merely summarizes the standards.

Many standards list factors that the commission *may* consider as guidelines in evaluating the overall standard. The word “may” indicates that it is optional for the Commission to consider those factors. The petitioner is not required to address every “may” factor. Neither the LBC nor the petitioner is limited to only those factors.

The brief should answer the following questions:

A. *Per 3 AAC 110.090(a), does the territory proposed for annexation exhibit a reasonable need for city government?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

B. *In accordance with 3 AAC 110.090(b), can essential municipal services [determined under 3 AAC 110.970] be provided more efficiently and more effectively by the city than by:*

- *another existing city;*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

- *or by an organized borough, on an areawide or non-areawide basis,*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

- *or through an existing borough service area established in accordance with art. X, sec. 5 of Alaska's constitution?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

C. *Per 3 AAC 110.100, is the territory compatible in character with the city?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

D. *Per 3 AAC 110.110, does the economy within the proposed expanded boundaries of the city include the human and financial resources necessary to provide essential city services [see 3 AAC 110.970 below] on an efficient, cost-effective level?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

E. *Per 3 AAC 110.120, is the population within the proposed expanded the city sufficiently large and stable to support extending city government?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

F. *Per 3 AAC 110.130(a), do the proposed expanded boundaries of the city include all land and water necessary to provide for the development of essential municipal services on an efficient, cost-effective level?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

G. *Per 3 AAC 110.130(b), is the territory contiguous to the city?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

If no, please explain how the territory includes all land and water necessary to allow for development of essential municipal services on an efficient, cost-effective level.

H. *Per 3 AAC 110.130(b), would annexing the territory create enclaves in the city?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

If yes, please explain how the territory includes all land and water necessary to allow for development of essential municipal services on an efficient, cost-effective level.

I. *Per 3 AAC 110.130(c)(1), will the proposed expanded city promote the limitation of community?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Please explain. Note: the limitation of community means that the proposed expanded boundaries of the city must include only that territory comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years after the proposed annexation takes effect.

J. *Per 3 AAC 110.130(c)(2), do the proposed expanded boundaries include entire geographical regions or large unpopulated areas?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

If yes, please explain how applying the standards in 3 AAC 110.090 - 3 AAC 110.135 justifies those boundaries. Also, explain how the boundaries are otherwise suitable for a city.

K. *Per 3 AAC 110.130(d), will the expanded city boundaries overlap the boundaries of an existing organized borough?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, explain how the petition addresses the standards and procedures either to annex the enlarged city to that borough, or to detach from it.

L. *Per 3 AAC 110.130(d), will the expanded city boundaries overlap an existing city's boundaries?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, explain how the petition addresses and complies with the standards and procedures to detach territory from a city, merge cities, or consolidate cities.

M. *Per 3 AAC 110.135, is annexation to the city in the best interests of the state under AS 29.06.040(a)?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Please explain.

N. *Per 3 AAC 110.910, does the proposed annexation deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

O. *Per 3 AAC 110.970(c), are there essential municipal services consisting of those mandatory and discretionary powers and facilities that:*

*(1) Are reasonably necessary to the community;*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

*(2) Promote maximum, local self-government; and*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

(3) *Cannot be provided more efficiently and more effectively by creating or modifying some other political subdivision of the state.*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain .

*P. Per 3 AAC 110.981(8), does the proposed annexation promote maximum self-government?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Please explain. In doing so, consider whether the proposed annexation extends local government to territory or population of the organized borough where the borough cannot meet local government needs:

- *on an areawide or nonareawide basis;*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

- *by annexation to an existing city;*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

- *or through an existing borough service area?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

Please explain.

*Q. Per 3 AAC 110.982(7), does the proposed annexation promote a minimum number of local government units by enlarging the boundaries of an existing city, rather than promoting incorporating a new city, or creating a new borough service area?*

Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Please explain.

**Exhibit F.**

**Documentation Demonstrating that the Petitioner is  
Authorized to File the Petition Under 3 AAC 110.410.**

Briefly state why and how 3 AAC 110.410 authorizes the petitioner to file the petition. Next, insert the resolution passed by the city council authorizing filing of the Petition. [Below is an example resolution].

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING A PETITION FOR ANNEXATION TO THE CITY OF  
\_\_\_\_\_

WHEREAS, the City of [ ] (hereafter "City") is classified as a [*insert classification*] city and is a political subdivision of the State of Alaska, the City authorizes the [*insert title of official*] to file an annexation petition with the Local Boundary Commission. The petition shall propose the annexation of the territory generally described as [*insert description*]. The legal boundary description of the territory proposed for annexation is shown by "Attachment A." A map of the territory is shown by "Attachment B." Both are incorporated herein by reference.

WHEREAS, the [*insert title of official*] is designated as the representative of the City for all matters relating to the annexation petition.

NOW, THEREFORE, BE IT RESOLVED by the [ ] City Council that this resolution shall become effective immediately.

Adopted by the Council of the City of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

