

Local Boundary Commission

Department of Commerce, Community, and Economic Development
Division of Community and Regional Affairs
550 W. 7th Avenue, Suite 1640
Anchorage, AK 99501



CITY DETACHMENT IN ALASKA

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INTRODUCTION

Thank you for your interest in city detachment. The process for changing boundaries, including detachment, 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 detachment, 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 Detachment](#)
- [Planning for a Detachment](#)
- [Procedures for Petitions](#)

These modules are intended to provide background information and orient interested persons and cities with the process for city detachment in Alaska and the relevant entities 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 detachment, 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 detachment, however small the territory proposed for detachment, 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. 7th Avenue, Suite 1640
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907-269-4587/4559
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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.”¹ 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.²

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.³

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;

¹ Victor Fischer, Alaska’s Constitutional Convention, p. 124.

² 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.”

³ *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.

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.⁴ The LBC must proceed within its jurisdiction, conduct a fair hearing, and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law or if its decision is not supported by evidence.

COMMUNICATIONS WITH THE LBC

LBC proceedings regarding a municipal boundary change must be conducted in a manner that upholds the right of everyone to due process and equal protection. Ensuring that communications with the LBC concerning municipal boundary proposals are conducted openly

⁴ 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).

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

LBC MEMBERSHIP

The LBC is an independent commission. Members of the LBC are appointed by the governor for five-year overlapping terms.⁵ Notwithstanding their terms, the five members of the LBC serve at the pleasure of the governor.⁶ 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."⁷ 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.

⁵ AS 44.33.810

⁶ AS 39.05.060(d)

⁷ AS 39.05.060(b)

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.⁸ The constitutional duty to support local governments is entrusted to Alaska Department of Commerce, Community, and Economic Development (DCCED or department).⁹ 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 to investigate each boundary change proposal and make recommendations regarding each to the commission.¹⁰ 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

⁸ 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."

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

¹⁰ AS 29.05.080 and 3 AAC 110.530

- 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, [About City Detachment](#) and [Procedures for Petitions](#).

ABOUT CITY DETACHMENT

INTRODUCTION

“Detachment” from a city means the contraction of the corporate boundaries of the city by the removal of territory formerly within its jurisdiction. There are two methods available to detach territory from a city. One involves an election among the voters in the territory proposed for detachment.¹¹ The other involves legislative review.¹²

Any proposed boundary change, including detachment, 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 detachment. In other words, the mere filing of a petition does not ensure that the proposed detachment will occur. If the LBC approves the petition, either the voters need to approve it, or the legislature must not disapprove it for the detachment to take effect.

Before any decision is made to propose detachment, thought should be given to the need for detachment and the specific detachment process to pursue. Additionally, a prospective petitioner should objectively consider the likelihood of success. A proposal for detachment requires a substantial commitment of time and other resources on the part of the petitioner. Submission of a petition for detachment can result in significant expense to the petitioners for such necessary actions as newspaper publication of the notice of filing of the petition. Petitioning for boundary changes is not a recommended mechanism for resolving local disputes.

An important consideration for petitioners is that the standards for detachment that a petition must meet for approval evaluate not only the territory being proposed for detachment, but also the effect of the boundary change on the remnant city.

Few detachment petitions have come before the commission since its creation, and fewer have been approved. Most detachment petitions are not simply petitions to detach from a city, but petitions to form new cities or boroughs, or to be annexed to existing cities or borough.

This module provides basic information about city detachment. Detachment is a complex matter. The planning process is covered in more detail in the following module. If a proposed detachment includes other boundary changes, those standards must also be met. This module and the following one will provide more detail as well as other resources to consult that may be relevant to those seeking additional boundary changes.

¹¹ AS 29.06.040(c)(1)

¹² Article 10, section 12, Alaska constitution

FREQUENTLY ASKED QUESTIONS

WHO CAN PROVIDE INFORMATION REGARDING DETACHMENT FROM 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 detachment 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.

IF AN INDIVIDUAL OR GROUP DOES NOT WANT DETACHMENT, 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 detachment 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.

WHO CAN INITIATE A DETACHMENT PETITION?

A petition for detachment may be initiated by:

- a city;
- a borough;
- a regional educational attendance area (REAA);
- at least 10 percent of the resident registered voters of a city, borough, or regional educational attendance area;
- at least 25 percent of the resident registered voters of the area proposed for detachment;
- the state legislature;
- the Commissioner of the Department of Commerce, Community, and Economic Development (DCCED); or
- a party designated by the Local Boundary Commission.

If a petition for detachment includes another boundary change and is initiated by voters, additional signature requirements may be necessary.

ARE DISAGREEMENTS WITH THE CITY GOVERNMENT A BASIS FOR DETACHMENT?

Occasionally, a prospective petitioner is motivated by disagreements with the city over policy issues (e.g. land use regulation), tax rates, perceived disparities between levels of service and

taxes or fees, or similar issues. Such disagreements are not a basis for detachment. Detachment is not intended to be a means to settle group or individual disagreements with local governments. A proposal to detach territory will be granted only if it meets all applicable standards established in law.

WHAT ARE THE PROCEDURES FOR DETACHMENT?

The procedures for detachment petitions 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 perform a technical review, which verifies that the petition includes everything necessary for commission review and everything 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 ample opportunities for public comment, and because of the two written reports by staff analyzing the petition.

CAN A PETITION BE AMENDED AFTER IT IS FILED?

The petition may be amended by the petitioner. The LBC can also amend or impose conditions on a proposal following a public hearing. Ideally, however, with careful planning and proper consultation prior to the filing of a petition, amendments can be avoided. Amending a petition may, under certain circumstances, cause delays in the petition consideration.

HOW LONG DOES IT TAKE TO DETACH?

It typically takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Prospective petitioners are encouraged to work closely with the LBC staff in developing a petition. Once a petition is completed, the petition is filed with the LBC. The process for review of the proposal by the LBC depends, in part, upon other actions pending before the commission. The procedural steps required by law are extensive. In general, one should assume that it might take one year or longer from the filing of a petition for final action.

PETITION METHODS

State law establishes procedures for two different types of detachment: by legislative review and by local action.

LOCAL ACTION

Detachment by Vote. Upon approval by the Local Boundary Commission, territory may be detached. Detachment is then subject to ratification by the voters living in the territory approved for detachment. To pass, the proposition must be approved by a majority of those voting on the question.

LEGISLATIVE REVIEW

Detachment by Legislative Review. A territory may be detached without approval of the voters or property owners under the legislative review process. This method is authorized by the state constitution. Such petitions first require approval by the LBC. After approval, 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. If the legislature adopts a concurrent resolution to deny the recommendation within 45 days of the date that it was submitted, 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 DETACHMENT TO USE?

The petitioners can choose the method used. 3 AAC 110.263 describes the requirements that a petition must meet to proceed by legislative review. Petitioners should consider who would be affected by the boundary change as well as the type of boundary change proposed when selecting a method. The commission may change the method used.

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

Certain regulatory standards (3 AAC 110.257 - 3 AAC 110.265) apply to detachments. The standards concern whether the proposed detachment is in the best interests of the state. The next section describes the standards in detail. If a proposal for detachment includes another boundary change (e.g. annexation or incorporation), then those standards must also be addressed and satisfied by a petition. Staff will draft a petition specific to the boundary changes a petitioner is seeking.

WHAT HAPPENS AFTER DETACHMENT?

See [Planning for a Detachment](#) for more information on post-detachment options.

STANDARDS FOR DETACHMENT

In the standards, the term “remnant city” is the city from which a territory wishes to detach, after a detachment takes place. The standards are listed below. Some parts not related to detachment have been omitted.

3 AAC 110.257. STANDARDS FOR DETACHMENT FROM CITIES

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

- (1) meets applicable standards under the Constitution of the State of Alaska;
- (2) meets standards in 3 AAC 110.257 - 3 AAC 110.260 and 3 AAC 110.900 - 3 AAC 110.970;
and
- (3) is in the best interests of the state.

BEST INTERESTS OF THE STATE: 3 AAC 110.260

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

- 1) the health, safety, and general welfare of the proposed remnant city and the territory after detachment;
- 2) the ability of the proposed remnant city to efficiently and effectively provide reasonably necessary facilities and services after detachment;
- 3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
- 4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
- 5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant city and the people of the territory;
- 6) the extent to which detachment might enhance or diminish the ability of the proposed remnant city to meet the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.005 - 3 AAC 110.042, and 3 AAC 110.900 - 3 AAC 110.970;
- 7) the extent to which a transition plan of a previous annexation has been implemented and is effective;
- 8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant city, other municipalities, and the state;
- 9) whether the proposed detachment will promote
 - A. maximum local self-government, as determined under 3 AAC 110.981; and
 - B. a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;
- 10) whether the territory's requirements for local government services will be adequately met following detachment;
- 11) contemporary and historical public school enrollment data; and
- 12) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.

(b) If, to fulfill the requirements of (a)(10) of this section, the petitioner has proposed, or the commission requires, incorporation of the territory into a new municipality, the commission may condition the approval of the detachment upon voter approval of the incorporation.

(c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment that would create noncontiguous parts of the city or enclaves within the city does not meet the standards for detachment.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment from a city in an unorganized borough is a diminution of maximum local self-government and does not meet the standards for detachment.

(e) In order to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a petition for detachment that also seeks to incorporate a new city must propose that the new city will encompass a substantially larger population and territory than the population and territory proposed for detachment.

LEGISLATIVE REVIEW: 3 AAC 110.263

Territory that meets the detachment standards specified in 3 AAC 110.257 - 3 AAC 110.260 may detach from a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

(1) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and detachment will enable the city to regulate or control the detrimental effects of those conditions;

(2) it is impossible or impractical for the city to extend facilities or services to the territory;

(3) residents or property owners within the territory have not received, and do not reasonably expect to receive, directly or indirectly, the benefit of city government without significant additional tax contributions;

(4) 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 detachment of the territory by the legislative review process, and that detachment is in the best interests of the state.

LOCAL ACTION: 3 AAC 110.265

Territory that meets the detachment standards specified in 3 AAC 110.257 - 3 AAC 110.260 and has been approved for local action detachment by the commission may be detached from a city upon approval by a majority of voters residing in the territory voting on the question at an election.

TRANSITION PLAN: 3 AAC 110.900

(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.

STATEMENT OF NONDISCRIMINATION: 3 AAC 110.910

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.

COMMUNITY: 3 AAC 110.920

(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.

ESSENTIAL MUNICIPAL SERVICES: 3 AAC 110.970

(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.

MAXIMUM LOCAL SELF-GOVERNMENT: 3 AAC 110.981

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

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;

MINIMUM NUMBER OF LOCAL GOVERNMENT UNITS: 3 AAC 110.982

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

(9) for city detachment, whether the detached area, by itself, is likely to be incorporated as a new city.

ADDITIONAL INFORMATION AVAILABLE

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

PLANNING FOR A DETACHMENT

Detachment petitions are seldom submitted—especially detachment petitions that do not also seek a concurrent boundary change such as annexation to another existing city or formation of a new city from the territory being detached. The standards for detachment emphasize any proposal must be in the best interests of the state. In fact, the Constitution of the State of Alaska in Article 10, Section 1 states that the purpose of the local government article is to provide for maximum local, self-government with a minimum of local government units. Therefore, a proposal for detachment from a city, especially into the unorganized borough, must meet that constitutional threshold. The LBC can also consider the effect of detachment on the remnant city, and whether the territory to be detached will receive local government services by an entity other than the state. The LBC takes a statewide perspective when considering the effects of a detachment petition, and the effects such a boundary change will have on other entities.

Potential petitioners should:

- *Carefully define objectives*: articulate what changes to the local government status quo are desired.
- *Examine local government options*: realistically determine which potential local government options would best achieve the defined objectives, if any.
- *Thoroughly and credibly examine the feasibility of potential options*: address the economic and political feasibility, as well as whether any hypothetical options could meet the standards.
- *Develop and implement an action plan*: determine what course of action, if any, to pursue. If a boundary proposal is forthcoming, determine how to marshal the resources needed to draft the petition and support the effort to make the change.

Defining the objectives of a prospective detachment proposal is a fundamental step in planning for detachment. A petitioner is required by law ([3 AAC 110.420](#)) to state its reasons formally for detachment in its petition. In planning for detachment, it may also be helpful to anticipate arguments against a detachment.

CONSIDER POST-DETACHMENT OPTIONS

When considering a detachment, potential petitioners should consider what would happen to a territory after a detachment takes effect. When a petition is submitted, these issues must be thoroughly described and documented.

If a territory detaches from a city, there are several potential scenarios. These differ if a city is inside or outside an organized borough.

Simple detachment

- A territory detaches from a city located inside an organized borough and becomes an unincorporated community within the borough.
- A territory detaches from a city located outside an organized borough and becomes an unincorporated community in the unorganized borough.

When considering simple detachment, a petitioner must address how local government services (including education if outside an organized borough) will be provided post-detachment.

Detachment with annexation

- A territory detaches from a city located inside an organized borough, and is annexed to an existing city or another borough.
- A territory detaches from a city located outside an organized borough, and is annexed to an existing city or borough.

When considering detachment and concurrent annexation, petitioners must meet the standards and requirements for either borough or city annexation in addition to detachment. Annexations generally must be to contiguous territory.

Detachment with incorporation

- A territory detaches from a city located in an organized borough, and forms a new city.
- A territory detaches from a city located outside an organized borough, and forms a new city within the unorganized borough.
- A territory detaches from a city located inside or outside an organized borough, and forms a new borough.

Petitions proposing detachment with incorporation must meet the standards for city or borough incorporation as well as for detachment. An important issue to note in the case of detachment and incorporation, the petition must propose a new city (or borough) that will encompass a substantially larger population and territory than the population and area of the territory proposed for detachment.

Other boundary changes are possible and should be discussed with LBC staff as part of the planning process. Once decisions are reached, staff can provide the appropriate forms for specific boundary changes as well as more information and guidance.

UNDERSTAND WHAT IS REQUIRED

Potential petitioners should:

- Understand the two methods that may be used to detach territory.
- Become familiar with the legal standards that will be used to judge the detachment proposal. Standards for detachment are listed in the [About City Detachment](#) module, and in the appendices. Additional boundary change standards must be addressed if the petition is also seeking an additional, concurrent boundary change.
- 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. Petition information is listed in [3 AAC 110.420](#).
- Understand the signature requirements, if applicable, for detachment, or if an additional boundary change is sought, those requirements as well. Signature requirements can be found in [3 AAC 110.410](#).
- Identify the resources needed to develop a petition. Potential petitioners should also consult with LBC staff to obtain and review any available materials to consider for similar detachments in your city or similar cities. These may include petitions, responsive and reply briefs, LBC staff reports, LBC decisional statements, and any relevant case law.

DETERMINE WHICH METHOD OF DETACHMENT IS BETTER SUITED

If those advocating detachment choose to pursue detachment, the planning effort should address which particular method of detachment is better suited to accomplish the objectives. Potential petitioners should consider the effect of a detachment and other factors when choosing which method is more appropriate. Territory may be detached from cities in Alaska by either one of two methods, both of which require Local Boundary Commission approval. Those methods are described in the [About City Detachment](#) module.

CONSIDER HOW DETACHMENT WOULD BE IMPLEMENTED

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 detachment is warranted; develop factual data to assist in an objective examination of need for detachment;
- Determine what area should be detached;
- Determine which detachment method to use;
- Determine how local government services will be provided to the territory proposed for detachment;

- Project local, state, and federal revenues changes that will result from detachment; and
- Consult with officials of local governments that will be affected by detachment.

The regulations require that petitions have a transition section which must include:

- A plan for the transition or termination of municipal services in the shortest practicable time after detachment;
- A practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised within the territory proposed for detachment within two years; and
- A practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of entities (including existing borough, city, service areas, or other entities) located within the territory proposed for detachment without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities within two years.

This plan must be thorough and practical, and must be prepared in consultation with the officials of existing cities, boroughs, and service areas wholly or partially included within the boundaries proposed for detachment. Many petitions fail to devote enough attention to this vital step. The transition plan will necessarily be more complex if a proposal seeks detachment and another concurrent boundary change. Additional information about the transition plan can be found in regulation [3 AAC 110.900](#).

TECHNICAL ASSISTANCE, FORMS, AND SAMPLE MATERIALS AVAILABLE

Local Boundary Commission staff are available to provide technical assistance, petition forms, and sample detachment materials to prospective petitioners, prospective respondents (those favoring or opposing detachment), and other interested individuals and groups throughout the planning phase of the petition process. Staff will draft a petition form specific to the boundary change(s) a petitioner is seeking and can offer guidance regarding signature requirements for concurrent boundary changes such as detachment and incorporation.

Ultimately, the burden of deciding whether to pursue a particular boundary change and drafting a petition falls on petitioners. The next module will discuss drafting a petition for review, 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 7 and 14 ([3 AAC 110.257-.265](#); [.900-990](#)) contain the standards for detachment that the LBC follows when reviewing a petition for detachment. Petition procedures are found in [3 AAC 110.400-700](#). The following is a brief summary of the procedures for detachment.
 - 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 public hearing(s) and makes a decision.
 - e. If the LBC approves the detachment, the boundary change must be approved by voters or through legislative review in order to take effect.
2. Petition forms are drafted and provided by LBC staff. A sample form for detachment by local action is provided in the appendices of this packet. Other forms including forms for detachment and concurrent annexation or incorporation are available on request.
3. Before a petition for city detachment is circulated for signatures, the petitioner should prepare and submit to LBC staff a complete draft of the detachment 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 may 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 the 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 detachment proposal to be examined formally by interested parties, including the department, and the Local Boundary Commission. As staff develop its report to the LBC regarding the petition, specific policy issues or other concerns may be identified.

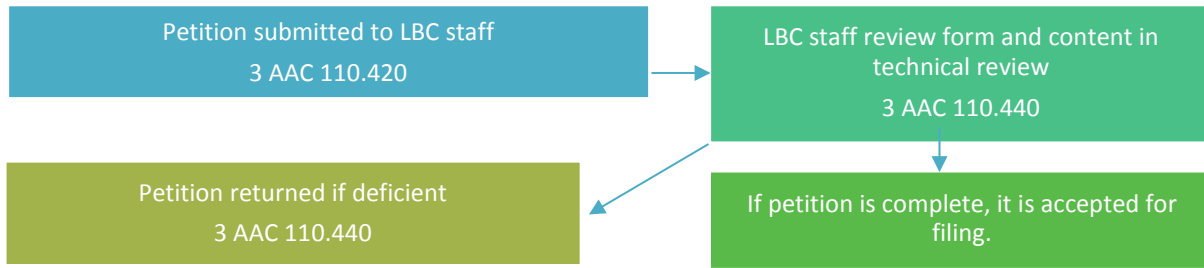
7. When a petition is accepted for filing, DCCED will notify petitioners and provide a packet of information including the procedure going forward. The next section will detail the next steps in the process. The end of this section includes a flow chart detailing these steps.

ADDITIONAL CONSIDERATIONS FOR LEGISLATIVE REVIEW PETITIONS

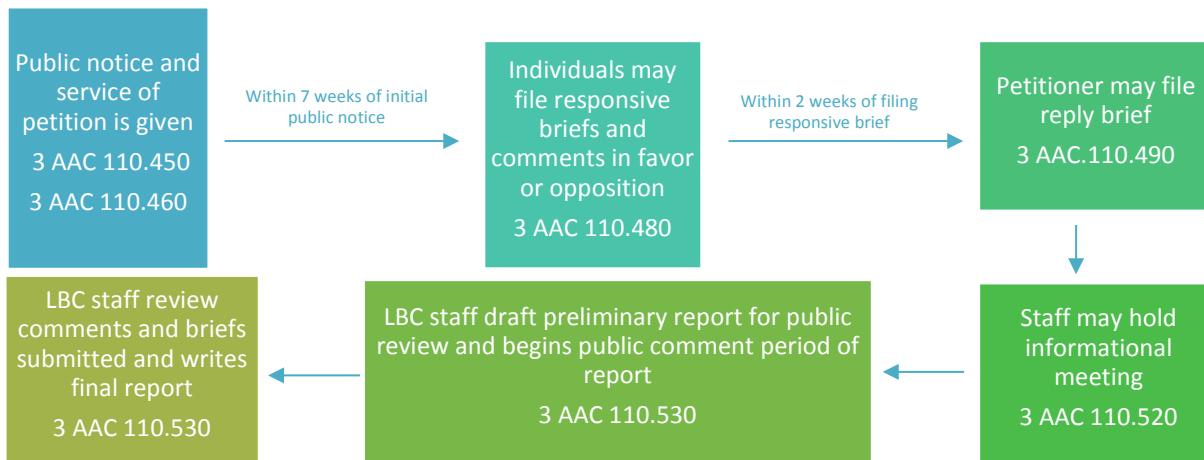
If the petition seeks detachment using the legislative review method, the petition should be filed recognizing the time constraints necessitated by the legislative review method. Successful legislative review petitions can only be submitted during the first 10 days of a regular legislative session—typically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

City Detachment Petition Process

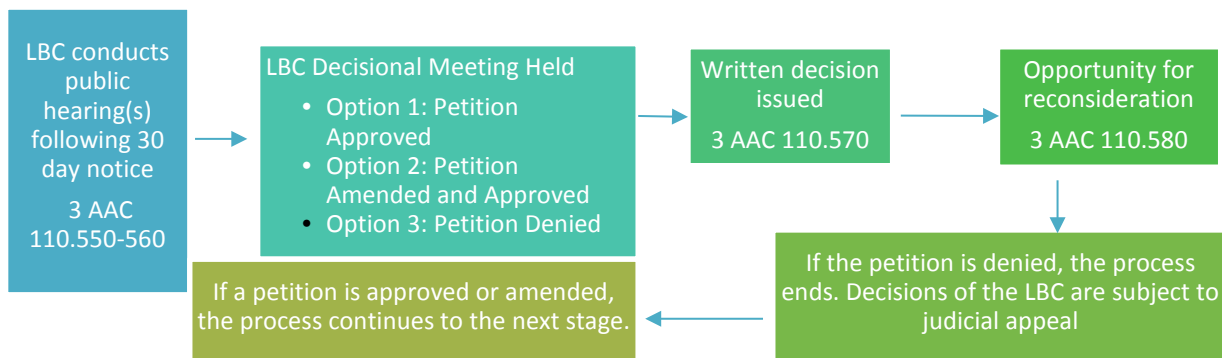
Stage 1: Filing the Petition



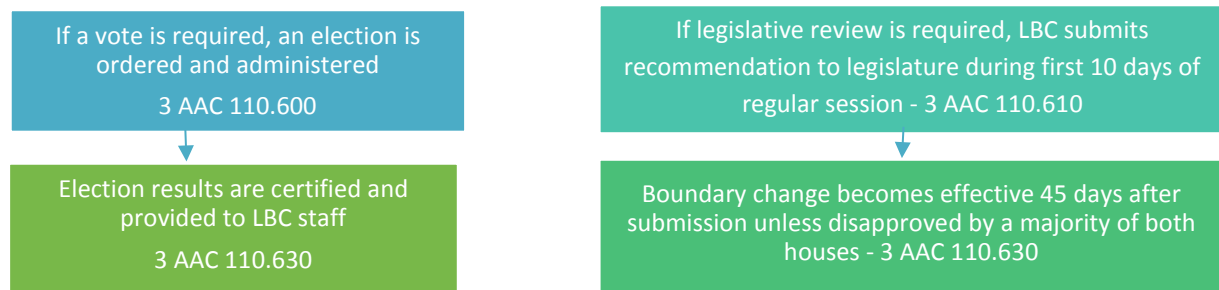
Stage 2: Public Review



Stage 3: Hearing and Decision by LBC



Stage 4: Implementation



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 petition.

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 public 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 becomes final. If the commission does not approve a request for reconsideration within 30 days of the date that the decision becomes 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. For local action petitions, the boundary change takes effect when the boundary change election is certified. 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 notice informs the public and alerts them to an opportunity to comment.
Beginning when notice of filing is published, for at least 49 days	Public comments and responsive briefs are received for a specific time period published in notice. Staff may conduct an informational session during this time.

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

CONCLUSION

This packet seeks to inform Alaska residents interested in city detachment, and to provide the necessary resources to start the petition process. Staff are available for guidance, and should be consulted when preparing a petition and before gathering any signatures. Detachment 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.

Petitioning for boundary changes is not a recommended mechanism for resolving local disputes. Submission of a detachment petition can result in significant expenses for necessary actions such as publication of notices in newspapers. Detachment petitions are infrequent and rarely successful because petitions must demonstrate that the fundamental principle found in Alaska's constitution of maximizing local self-government with a minimum number of local government units is upheld. LBC staff are able to provide guidance regarding the standards and procedures, but decisions whether to seek detachment must be made at the community level. Please contact staff for additional information.

APPENDICES

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

APPLICABLE LAWS AND REGULATIONS

ARTICLE 10, ALASKA CONSTITUTION

- [Section 1. Purpose and Construction, local self-government, local government units.](#)
 - [Section 7. Cities.](#)
 - [Section 12. Boundaries.](#)
 - [Section 14. Agency to advise and assist local governments.](#)
-

ALASKA STATUTES

- [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 29.06.055. 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 110.257. Standards for detachment from cities](#)
- [3 AAC 110.260. Best interests of the state](#)
- [3 AAC 110.263. Legislative review](#)
- [3 AAC 110.265. 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 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)

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)

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)

ARTICLE 12. LOCAL BOUNDARY COMMISSION

SEC. 44.33.810. LOCAL BOUNDARY COMMISSION

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

SEC. 44.33.812. POWERS AND DUTIES

(a) The Local Boundary Commission shall

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

(b) The Local Boundary Commission may

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

SEC. 44.33.814. MEETINGS AND HEARINGS.

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

SEC. 44.33.816. MINUTES AND RECORDS

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

SEC. 44.33.818. NOTICE OF PUBLIC HEARINGS

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

SEC. 44.33.820. QUORUM

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

SEC. 44.33.822. BOUNDARY CHANGE

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

SEC. 44.33.824. EXPENSES

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

SEC. 44.33.826. HEARINGS ON BOUNDARY CHANGES

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

SEC. 44.33.828. WHEN BOUNDARY CHANGE TAKES EFFECT

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

ARTICLE 7

STANDARDS FOR DETACHMENT FROM CITIES

Section

257. Standards for detachment from cities.

260. Best interests of state.

263. Legislative review.

265. Local action.

3 AAC 110.257. STANDARDS FOR DETACHMENT FROM CITIES

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

- (1) meets applicable standards under the Constitution of the State of Alaska;
- (2) meets standards in 3 AAC 110.257 - 3 AAC 110.260 and 3 AAC 110.900 - 3 AAC 110.970; and
- (3) is in the best interests of the state.

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

Authority:

Art. X, sec. 1, Ak Const.

AS 29.06.040

Art. X, sec. 7, Ak Const.

AS 44.33.812

Art. X, sec. 12, Ak Const.

3 AAC 110.260. BEST INTERESTS OF STATE

- (a) In determining whether detachment from a city is in the best interests of the state under AS 29.06.040, the commission may consider relevant factors, including
- (1) the health, safety, and general welfare of the proposed remnant city and the territory after detachment;
 - (2) the ability of the proposed remnant city to efficiently and effectively provide reasonably necessary facilities and services after detachment;
 - (3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
 - (4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
 - (5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant city and the people of the territory;
 - (6) the extent to which detachment might enhance or diminish the ability of the proposed remnant city to meet the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.005 - 3 AAC 110.042, and 3 AAC 110.900 - 3 AAC 110.970;
 - (7) the extent to which a transition plan of a previous annexation has been implemented and is effective;
 - (8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant city, other municipalities, and the state;
 - (9) whether the proposed detachment will promote
 - (A) maximum local self-government, as determined under 3 AAC 110.981; and

- (B) a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;
- (10) whether the territory's requirements for local government services will be adequately met following detachment;
- (11) contemporary and historical public school enrollment data; and
- (12) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.
- (b) If, to fulfill the requirements of (a)(10) of this section, the petitioner has proposed, or the commission requires, incorporation of the territory into a new municipality, the commission may condition the approval of the detachment upon voter approval of the incorporation.
- (c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment that would create noncontiguous parts of the city or enclaves within the city does not meet the standards for detachment.
- (d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment from a city in an unorganized borough is a diminution of maximum local self-government and does not meet the standards for detachment.
- (e) In order to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a petition for detachment that also seeks to incorporate a new city must propose that the new city will encompass a substantially larger population and territory than the population and territory proposed for detachment.

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

Authority:

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

3 AAC 110.263. LEGISLATIVE REVIEW

Territory that meets the detachment standards specified in 3 AAC 110.257 – 3 AAC 110.260 may detach from a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and detachment will enable the city to regulate or control the detrimental effects of those conditions;
- (2) it is impossible or impractical for the city to extend facilities or services to the territory;
- (3) residents or property owners within the territory have not received, and do not reasonably expect to receive, directly or indirectly, the benefit of city government without significant additional tax contributions;
- (4) 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 detachment of the territory by the legislative review process, and that detachment is in the best interests of the state.

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

Authority:

Art. X, sec. 1, Ak Const.

AS 29.06.040

Art. X, sec. 7, Ak Const.

AS 44.33.812

Art. X, sec. 12, Ak Const.

3 AAC 110.265. LOCAL ACTION

Territory that meets the detachment standards specified in 3 AAC 110.257 – 3 AAC 110.260 and has been approved for local action detachment by the commission may be detached from a city upon approval by a majority of voters residing in the territory voting on the question at an election.

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

Authority:

Art. X, sec. 1, Ak Const.

AS 29.06.040

Art. X, sec. 7, Ak Const.

AS 44.33.812

Art. X, sec. 12, Ak Const.

ARTICLE 13

PROCEDURES FOR PETITIONING AND FOR OTHER COMMISSION MATTERS

Section:

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

3 AAC 110.400. APPLICABILITY

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

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

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

3 AAC 110.410. PETITIONERS

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

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

Authority:

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

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

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

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

Authority:

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

3 AAC 110.420. PETITION

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

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

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

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

Authority:

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

3 AAC 110.425. 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

3 AAC 110.430. CONSOLIDATION OF PETITIONS

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

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

Authority:

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

3 AAC 110.435. ROLE OF DEPARTMENT STAFF

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

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

Authority:

Art. X, sec. 12, Ak Const.

AS 44.33.020

Art. X, sec. 14, Ak Const.

AS 44.33.812

3 AAC 110.440. TECHNICAL REVIEW OF PETITION

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

29.04, AS 29.05, AS 29.06, and this chapter, the department shall notify the petitioner that the petition and brief have been accepted for filing.

- (d) The petitioner may appeal to the commission a determination by the department under (c) of this section that a petition is deficient in form and content or that new authorization will be required for the filing of a corrected or completed petition.

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

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.070
Art. X, sec. 3, Ak Const.	AS 29.06.040
Art. X, sec. 7, Ak Const.	AS 29.06.110
Art. X, sec. 12, Ak Const.	AS 29.06.480
Art. X, sec. 14, Ak Const.	AS 44.33.020
AS 29.04.040	AS 44.33.812

3 AAC 110.450. NOTICE OF PETITION

- (a) No later than 45 days after receipt of the department's written notice of acceptance of the petition for filing, the petitioner shall
- (1) publish public notice of the filing of the petition in a display ad format of no less than six inches long by two columns wide at least once each week for three consecutive weeks in one or more newspapers of general circulation designated by the department; if the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate within the boundaries proposed for change, the department shall require the petitioner to provide notice through other means designed to reach the public;
 - (2) post public notice of the filing of the petition in
 - (A) at least three prominent locations readily accessible to the public and within or near the boundaries proposed for change; and
 - (B) other locations designated by the department;
 - (3) ensure that notices posted under (2) of this subsection remain posted through the deadline set under 3 AAC 110.640 by the chair of the commission for the filing of responsive briefs;
 - (4) hand-deliver or mail, postage prepaid, public notice of the filing of the petition, correctly addressed to the municipalities having jurisdictional boundaries within 20 miles of the boundaries proposed for change, and to other persons designated by the department; and
 - (5) submit a request for a public service announcement of the filing of the petition to at least one radio or television station serving within the boundaries of the proposed change and request that it be announced for the following 14 days.
- (b) The department shall specify the text of the public notices required in (a)(1) - (a)(4) of this section, to ensure that the notices contain the following information:
- (1) the title of the notice of the filing of the petition;
 - (2) the name of the petitioner and the petitioner's representative designated under 3 AAC 110.410(e);
 - (3) a description of the proposed action;
 - (4) a statement of the size and general location of the boundaries proposed for change;
 - (5) a map of the area or territory proposed for change or information where that map is available for public review;

- (6) a reference to the constitutional, statutory, and regulatory standards applicable to the proposal;
 - (7) a reference to the statutes and regulations applicable to procedures for consideration of the petition;
 - (8) designation of where and when the petition is available for public review;
 - (9) a statement that responsive briefs and comments regarding the petition may be filed with the commission;
 - (10) a reference to the regulations applicable to the filing of responsive briefs;
 - (11) the deadline for receipt of responsive briefs and comments;
 - (12) the mailing address, facsimile number, and electronic mail address for the submission of responsive briefs and comments to the department;
 - (13) a telephone number for inquiries to the commission staff.
- (c) The department shall specify the text of the public service announcement required in (a)(5) of this section to ensure that the announcement contains
- (1) the title of the public service announcement;
 - (2) the period during which the public service announcement is requested to be broadcast;
 - (3) the name of the petitioner;
 - (4) a description of the proposed action;
 - (5) a statement of the size and general location of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
 - (6) a statement of where and when the petition is available for public review;
 - (7) a statement that responsive briefs and comments regarding the petition may be filed with the commission;
 - (8) a statement of the deadline for responsive briefs and comments;
 - (9) a statement of where the complete notice of the filing may be reviewed; and
 - (10) a telephone number for inquiries to the petitioner.
- (d) For a municipal incorporation, the department shall ensure that, in addition to the information required in (b) of this section, the notice also contains the following information:
- (1) for a petition using the local option method, a statement regarding voter eligibility in the incorporation election;
 - (2) for a petition using the legislative review method, a statement regarding the election of initial officials for the municipality.

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

Authority:

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

3 AAC 110.460. SERVICE OF PETITION

- (a) No later than 25 days after receipt of the department's notice of acceptance of the petition for filing, the petitioner shall hand-deliver or mail, postage prepaid, one complete set of petition

documents to every municipality within 20 miles of the boundaries proposed for change, and to other interested persons designated by the department. Copies of the petition documents, including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.

- (b) From the first date of publication of notice of the filing of the petition under 3 AAC 110.450(a)(1), through the last date on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction, the petitioner shall make a full set of petition documents, including public notices, responsive briefs, the reply brief, and department reports, available for review by the public at a central and convenient location such as a municipal office or public library. The petition documents must be available for review during normal working hours, and the petitioner shall accommodate specific requests for public review of the petition documents at reasonable times in the evening and on weekend days. All published and posted notices of filing of a petition must identify the specific location of the petition documents, and the hours when the documents can be reviewed.

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

Authority:

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

3 AAC 110.470. PROOF OF NOTICE AND SERVICE

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

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

Authority:

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

3 AAC 110.475. SUMMARY DETERMINATION

- (a) If the staff for the commission or a person who may serve as a petitioner under 3 AAC 110.410(a) believes that a petition accepted for filing under 3 AAC 110.440 was prepared using defective procedures, that the petition lacks certain information needed to determine and fully evaluate the merits of the petition, or that a reasonable probability exists that the petition fails to meet the standards applicable to the petition, that person may request a summary determination of the petition in accordance with this section. If the person requesting a summary determination is the

commissioner, a department subdivision, or a department employee not assigned under AS 44.33.020(a)(4) to the commission's advisory staff, and that person is making the request in an official capacity, the limitations of 3 AAC 110.435(b) apply.

- (b) Not later than 21 days after the initial publication of notice of the petition under 3 AAC 110.450(a)(1), the person seeking a summary determination must file an original and five copies of a request that the petition be rejected or be returned to the petitioner for substantial correction or modification.
- (c) A request for summary determination must include
 - (1) the name of the person requesting a summary determination and that person's representative;
 - (2) the physical address of place of residence and mailing address of the representative designated under (1) of this subsection and the telephone number, facsimile number, and electronic mail address, if any, for that representative;
 - (3) if a person other than the staff of the commission seeks a summary determination, documentation demonstrating that the person may serve as a petitioner under 3 AAC 110.410(a);
 - (4) a description of the proposed summary determination action;
 - (5) a statement of reasons for the request for summary determination;
 - (6) a supporting brief that provides a detailed explanation of how
 - (A) the petition accepted for filing was prepared using defective procedures, or lacks certain information needed to determine and fully evaluate the merits of the petition; or
 - (B) a reasonable probability exists that the petition fails to meet constitutional, statutory, and regulatory standards that apply to the petition;
 - (7) legal metes and bounds descriptions, maps, and plats needed to assess the proposed determination; and
 - (8) an affidavit by the representative designated under (1) of this subsection that
 - (A) to the best of the representative's knowledge, information, and belief, formed after reasonable inquiry, the information in the request for summary determination is true and accurate;
 - (B) the request for summary determination is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition; and
 - (C) three copies of the request for summary determination have been served on the petitioner by mail, postage prepaid, or hand delivery, or one copy has been delivered by facsimile or electronic mail, unless prohibited under (d) of this section.
- (d) Copies of the request for summary determination, including maps and other exhibits, provided to the department and the petitioner under this section must conform to the original in color, size, and other distinguishing characteristics. If the request, including attachments, contains colored materials or materials larger than 11 inches by 17 inches, the person requesting a summary determination may not serve the request and copies by facsimile or electronic mail. The person shall provide the department with a copy of the request for summary determination in an electronic format, unless the department waives this requirement because the person lacks a readily accessible means or the capability to provide items in an electronic format.
- (e) Within 24 hours after receipt of a request for summary determination, the petitioner shall place a copy of the request with the petition documents available for review under 3 AAC 110.460(b).
- (f) Within two days after the receipt of a request for summary determination, the department shall determine whether the request is complete, filed in a timely manner, groundless, or filed for purposes of delay. The department shall immediately notify the person who filed the request, the petitioner, and the commission of the department's determination. If the department determines that the request for summary determination was incomplete or untimely, the person who filed the request may appeal the department's determination to the commission. If the department

determines that a request for summary determination was complete and timely, the provisions of (g) - (p) of this section apply. If the department determines that the request was filed for the purpose of delay or is groundless, the provisions of (q) of this section apply.

- (g) If the department determines that a request for summary determination is complete and timely, the deadline for filing responsive briefs and comments under 3 AAC 110.480 is suspended pending a decision by the commission regarding the request for summary determination.
- (h) If it determines that the request is complete and timely, the department shall issue public notice of the request in accordance with 3 AAC 110.450(a)(1), except that publication of the notice is required only one time. The department shall issue public notice of the commission hearing under (k) of this section in accordance with 3 AAC 110.550, except that the first date of publishing must occur at least 20 days before the date of the hearing. The person who filed the request shall bear the cost of publication of the public notices.
- (i) Within 10 days after receipt of notice under (f) of this section that the request is complete and timely, the petitioner shall file with the department an original and five copies of a brief responding to the request for summary determination. At the same time the petitioner files its responsive brief with the department, the petitioner shall serve a copy of that responsive brief by mail, postage prepaid, or by electronic mail, facsimile transmission, or hand delivery on the person who filed the request, and shall file an affidavit of service to that effect. The petitioner shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives that requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.
- (j) Within 10 days after receipt of the petitioner's responsive brief under (i) of this section, the department shall provide the commission with a written report of the department's analysis, findings, and recommendation regarding the request for summary determination. The report must include a summary of the request, petitioner's responsive brief, and public comments, if any. A copy of the report must be provided to the person who filed the request and the petitioner at the same time the report is provided to the commission. The chair may, for good cause, grant additional time, not to exceed five days, for the department to file the report required under this subsection.
- (k) After service of the report under (j) of this section, the commission will hold a public hearing on the request for summary determination.
- (l) As part of the hearing conducted under (k) of this section, the commission will include
 - (1) a summary of the analysis and recommendation by the department;
 - (2) an opening statement by the person who filed the request, not to exceed 10 minutes;
 - (3) an opening statement by the petitioner, not to exceed 10 minutes;
 - (4) oral argument by the person who filed the request, on the merits of the request;
 - (5) oral argument by the petitioner on its opposition to the request;
 - (6) a period of public comment by interested persons, not to exceed three minutes for each person;
 - (7) a closing statement by the person who filed the request, not to exceed 10 minutes;
 - (8) a closing statement by the petitioner, not to exceed 10 minutes; and
 - (9) a reply by the person who filed the request, not to exceed five minutes.
- (m) Within three days after the public hearing under (k) of this section, the commission will hold a decisional meeting in accordance with 3 AAC 110.570(a), (b), and (d) - (f) and either grant the request for summary determination or deny the request.
- (n) If a request for summary determination seeking rejection of a petition is granted, the petitioner may not submit a substantially similar petition for at least three years after the date of commission's decision on the request. If a request for summary determination seeking substantial correction or modification of a petition is granted, the petitioner may modify the petition and resubmit it as a new petition, with no restriction as to the time of filing.

- (o) If the request for summary determination is denied, the chair of the commission shall determine a new schedule for the filing of responsive briefs and comments on the petition in accordance with 3 AAC 110.640.
- (p) The person who filed the request or the petitioner may seek reconsideration of a commission decision on a request for summary determination under this section.
- (q) The commission will deny, without hearing, a request for summary determination under this section if the commission concludes that the request is filed for purposes of delay or is groundless.

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

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

3 AAC 110.480. RESPONSIVE BRIEFS AND WRITTEN COMMENTS

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

by 17 inches, the commentor shall provide an additional five complete sets of the written comments to the department. Copies of the written comments, including attachments, must conform to the original in color, size, and other distinguishing characteristics. Written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.

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

Authority:

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

3 AAC 110.490. REPLY BRIEF

The petitioner may file an original and five copies of a single reply brief in response to all responsive briefs and written comments filed timely under 3 AAC 110.480. The petitioner shall provide the department with a copy of the reply brief in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format. The reply brief must be received by the department in a timely manner in compliance with 3 AAC 110.640. The reply brief must be accompanied by an affidavit stating that the brief has been served on all respondents by regular mail, postage prepaid, or by electronic mail, facsimile transmission, or hand delivery.

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

Authority:

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

3 AAC 110.500. LIMITATIONS ON ADVOCACY

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

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

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

Authority:

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

3 AAC 110.510. INFORMATIONAL SESSIONS

- (a) If the department determines that persons within or near the proposed boundary change have not had adequate opportunity to be informed about the scope, benefits, or detriments of the proposed change, the department shall require the petitioner to conduct informational sessions, and to submit a recording, transcript, or summary of those sessions to the department.
- (b) The department may not proceed with the processing of the petition until the petitioner has certified, by affidavit, that the informational session requirements of this section have been met.

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

Authority:

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

3 AAC 110.520. DEPARTMENTAL PUBLIC MEETINGS

- (a) During its investigation and analysis of a petition for incorporation, the department shall convene at least one public meeting within the boundaries proposed for incorporation. During its investigation and analysis of a petition for a change other than incorporation, the department may convene at least one public meeting within or near the boundaries proposed for change.
- (b) Notice of the date, time, and place of the public meeting under (a) of this section must be mailed, postage prepaid, to the petitioner and to each respondent at least 15 days before the public meeting. The department shall publish the notice at least once each week, for two consecutive weeks, immediately preceding the date of the meeting, in a newspaper of general circulation selected by the department to reach the people and entities within or near the boundaries of the proposed change. If the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate within or near the boundaries of the proposed change, the department shall provide notice through other means designed to reach the public. The petitioner shall post notice of the meeting in at least three prominent locations readily accessible to

the public within or near the boundaries proposed for change, and at the same location where the petition documents are available for review, for at least 14 days immediately preceding the date of the meeting. On or before the date of the public meeting, the petitioner shall submit to the department an affidavit certifying that the posting requirements of this subsection have been met.

- (c) Staff assigned to the commission shall preside at the public meeting. If the public meeting is held within the time period established under 3 AAC 110.640 for receiving written comments, the presiding staff person shall accept written materials submitted at the public meeting. However, except in extraordinary circumstances, the petitioner and the respondents may not submit further written materials at the meeting. The public meeting must be recorded and must be summarized in the department's preliminary or final report prepared under 3 AAC 110.530.
- (d) The department may postpone the time or relocate the place of the public meeting by conspicuously posting notice of the postponement or relocation at the original time and location of the public meeting. If the meeting is relocated, the new location must be within the same vicinity, and be rescheduled no more than 72 hours after the originally scheduled time.
- (e) The department staff presiding at the public meeting may request that respondents with similar positions coordinate their participation and use a single spokesperson to present their common views or positions. The department staff presiding at the public meeting may request the same coordination by commentators with similar positions.

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

Authority:

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

3 AAC 110.530. DEPARTMENTAL REPORTS

- (a) The department shall investigate and analyze a petition filed with the department under this chapter. The department shall prepare a written preliminary and a written final report regarding the petition. Each report must contain the department's findings and recommendations regarding the petition.
- (b) The department shall mail or hand-deliver its preliminary report to the commission, petitioner, and respondents. Within 24 hours after receipt of the preliminary report, the petitioner shall place a copy of the report with the petition documents available for review. The petitioner shall file an affidavit with the department stating the preliminary report has been made available for public review.
- (c) The petitioner, respondents, and other interested persons may submit to the department written comments pertaining directly to the preliminary report. The written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.
- (d) In its final report, the department shall consider timely submitted written comments addressing the preliminary report. The department shall mail its final report to the commission, petitioner, and respondents.
- (e) If a preliminary or final report of the department contains a recommendation to amend or condition approval of a municipal incorporation petition subject to AS 29.05.060 - 29.05.110,

- (1) the department shall issue a public notice regarding the recommended amendment or condition;
- (2) the public notice required under (1) of this subsection
 - (A) must be issued contemporaneously with that report;
 - (B) must be published in conformance with the requirements of 3 AAC 110.450(a)(1), except that the notice need be published only one time;
 - (C) if the recommendation is part of a preliminary report, must state that comments on the recommendation must be filed on or before the same date as comments on the preliminary report under 3 AAC 110.640(b)(3); that date must be set out in the notice;
 - (D) if the recommendation is only part of a final report, must specify a date on or before which written comments on the recommendation may be filed; that date must allow at least 14 days for written comment; and
 - (E) must contain a statement that oral comments on a recommendation for amendment or conditional approval may also be provided at the public hearing under 3 AAC 110.560; and
 - (F) public comment received in response to a public notice required under (1) of this subsection must be included in the department's final report or summarized at the public hearing, whichever occurs first.
- (f) A report required from the department under this section does not constitute acting in an advocacy capacity as a petitioner under 3 AAC 110.410.

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

Authority:

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

3 AAC 110.540. AMENDMENT OF PETITION

- (a) A petitioner may amend the petition at any time before the first mailing, publishing, or posting of notice of the commission's hearing on the petition under 3 AAC 110.550. The original and five copies of the amendment must be filed with the department. The petitioner shall provide the department with a copy of the amended petition and supporting materials in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.
- (b) A petitioner may not amend the petition after the first mailing, publishing, or posting of notice of the commission's hearing on the petition except upon a clear showing to the commission that the public interest of the state and of the persons within or near the boundaries of the proposed change is best served by allowing the proposed amendment.
- (c) If voters initiated the petition, the amended petition must contain the dated signatures of the same number of voters required by AS 29.04, AS 29.05, AS 29.06, or this chapter for the original petition and must include the dated signatures of at least a majority of the same voters who signed the original petition.
- (d) The petitioner shall serve the amended petition on each person designated by the department, and by 3 AAC 110.410 - 3 AAC 110.700 to receive the original petition, and on the respondents to the original petition. The petitioner shall place a copy of the amended petition with the original petition

documents, post the public notice of the amended petition, and submit an affidavit of service and notice in the same manner required for the original petition.

- (e) The chair of the commission shall determine whether the amendment is significant enough to warrant an informational session, opportunity for further responsive briefing, an additional public meeting by the department, or a repeat of any other step or process specified in 3 AAC 110.410 - 3 AAC 110.700. Additional informational sessions, meetings, briefings, or other steps or processes will be conducted in accordance with the procedures specified in 3 AAC 110.410 - 3 AAC 110.700 for the processing of the original petition, except that the chair of the commission may shorten the timing.

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

Authority:

Art. X, sec. 1, Ak Const.	AS 29.06.090
Art. X, sec. 3, Ak Const.	AS 29.06.100
Art. X, sec. 7, Ak Const.	AS 29.06.450
Art. X, sec. 12, Ak Const.	AS 29.06.460
Art. X, sec. 14, Ak Const.	AS 44.33.020
AS 29.04.040	AS 44.33.812
AS 29.05.060	AS 44.33.814
AS 29.06.040	

3 AAC 110.545. WITHDRAWAL OF PETITION

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

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

Authority:

Art. X, sec. 1, Ak Const.	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

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

3 AAC 110.560. COMMISSION HEARING PROCEDURES

- (a) The chair of the commission shall preside at the hearing, and shall regulate the time and the content of statements, testimony, and comments to exclude irrelevant or repetitious statements, testimony, and comments. The department shall record the hearing and preserve the recording. Two members of the commission constitute a quorum for purposes of a hearing under this section.
- (b) As part of the hearing, the commission may include
- (1) a report with recommendations from the department;
 - (2) an opening statement by the petitioner, not to exceed 10 minutes;
 - (3) an opening statement by each respondent, not to exceed 10 minutes;
 - (4) sworn testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by the petitioner;
 - (5) sworn testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by each respondent;
 - (6) sworn responsive testimony of witnesses
 - (A) with expertise in matters relevant to the proposed change; and
 - (B) called by the petitioner;
 - (7) a period of public comment by interested persons, not to exceed three minutes for each person;
 - (8) a closing statement by the petitioner, not to exceed 10 minutes;
 - (9) a closing statement by each respondent, not to exceed 10 minutes;
 - (10) a reply by the petitioner, not to exceed five minutes; and
 - (11) points of information or clarification by the department.
- (c) If more than one respondent participates, the chair of the commission, at least 14 days before the hearing, may establish for each respondent time limits on the opening and closing statements that are lower than those time limits set out in (b) of this section.
- (d) A member of the commission may question a person appearing for public comment or as a sworn witness. The commission may call additional witnesses.
- (e) A brief, document, or other evidence may not be introduced at the time of the public hearing unless the commission determines that good cause exists for that evidence not being presented in a timely manner for written response by the petitioner or respondents or for consideration in the reports of the department under 3 AAC 110.530.
- (f) The commission may amend the order of proceedings and change allotted times for presentations to promote efficiency if the amendment does not detract from the commission's ability to make an informed decision.

- (g) If the petition at hearing is for municipal incorporation subject to AS 29.05.060 - 29.05.110 and the department has recommended an amendment to or
- (h) conditional approval of the petition, during the hearing the commission will invite specific comments on that recommendation.

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

Authority:

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

3 AAC 110.570. DECISIONAL MEETING

- (a) Within 90 days after the last commission hearing on a proposed change, the commission will convene a decisional meeting to examine the written briefs, exhibits, comments, and testimony and to reach a decision regarding the proposed change. During the decisional meeting,
 - (1) the commission will not receive new evidence, testimony, or briefing;
 - (2) the chair of the commission or a commission member may ask the department or a person for a point of information or clarification; and
 - (3) the department may raise a point of information or clarification.
- (b) Repealed 1/9/2008.
- (c) If the commission determines that a proposed change must be altered or a condition must be satisfied to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, and be in the best interests of the state, the commission may alter or attach a condition to the proposed change and accept the petition as altered or conditioned. A motion to alter, impose conditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval. If the proposed change is a
 - (1) municipal annexation, detachment, deunification, dissolution, merger, or consolidation, a city reclassification, or a legislative-review borough incorporation under AS 29.05.115, and if the commission determines that the proposed change must be altered or a condition must be satisfied before the proposed change can take effect, the commission will include that condition or alteration in its decision; or
 - (2) municipal incorporation subject to AS 29.05.060 - 29.05.110, and if the commission determines that an amendment to the petition or the placement of a condition on incorporation may be warranted, the department shall provide public notice and an opportunity for public comment on the alteration or condition before the commission amends the petition or imposes a condition upon incorporation; if the department recommended the proposed change or condition and the public had an opportunity to comment on the proposed change or condition at a commission hearing, an additional notice or comment period is not required.
- (d) If the commission determines that a proposed change fails to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, or is not in the best interests of the state, the commission will reject the proposed change. If a motion to grant a

proposed change receives fewer than three affirmative votes by commission members, the proposed change is rejected.

- (e) The commission will keep written minutes of a decisional meeting. Each vote taken by the commission will be entered in the minutes. The approved minutes are a public record.
- (f) Within 30 days after the date of its decision, the commission will issue a written decision explaining all major considerations leading to the decision. A copy of the statement will be mailed to the petitioner, respondents, and other interested persons requesting a copy. The department shall execute and file an affidavit of mailing as a part of the public record of the proceedings.
- (g) Unless reconsideration is requested timely under 3 AAC 110.580 or the commission, on its own motion, orders reconsideration under 3 AAC 110.580, a decision by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioners and the respondents.

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

Authority:

Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 14, Ak Const.	AS 44.33.814
AS 29.04.040	AS 44.33.816
AS 29.05.100	AS 44.33.818
AS 29.06.040	AS 44.33.820
AS 29.06.130	AS 44.33.822
AS 29.06.500	AS 44.33.826
AS 44.33.020	

3 AAC 110.580. RECONSIDERATION

- (a) Within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person may file an original and five copies of a request for reconsideration of all or part of that decision, describing in detail the facts and analyses that support the request for reconsideration.
- (b) Within 30 days after a written statement of decision is mailed under 3 AAC 110.570(f), the commission may, on its own motion, order reconsideration of all or part of that decision.
- (c) A person filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for reconsideration is founded in fact and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.
- (d) If the person filing the request for reconsideration is a group, the request must identify a representative of the group. Each request for reconsideration must provide the physical residence address and mailing address of the person filing the request for reconsideration and the telephone number, facsimile number, and electronic mail address, if any, for the person or representative of the group.
- (e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision only if the commission determines that
 - (1) a substantial procedural error occurred in the original proceeding;

- (2) the original vote was based on fraud or misrepresentation;
 - (3) the commission failed to address a material issue of fact or a controlling principle of law; or
 - (4) new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.
- (f) If the commission does not act on a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within 30 days after the decision was mailed under 3 AAC 110.570(f), the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The petitioner or respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the petitioner or respondent lacks a readily accessible means or the capability to provide items in an electronic format.
- (g) Within 90 days after the department receives timely filed responsive briefs, the commission, by means of the decisional meeting procedure set out in 3 AAC 110.570(a) - (f), will issue a decision on reconsideration. A decision on reconsideration by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents.

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

Authority:

Art. X, sec. 12, Ak Const.

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

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	

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

3 AAC 110.610. LEGISLATIVE REVIEW

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

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

Authority:

Art. X, sec. 12, Ak Const.
AS 29.06.040
AS 29.06.090
AS 29.06.450

AS 44.33.812
AS 44.33.822
AS 44.33.826
AS 44.33.828

3 AAC 110.620. JUDICIAL REVIEW

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

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

Authority:

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

3 AAC 110.630. EFFECTIVE DATE AND CERTIFICATION

- (a) Except as provided in (b) or (c) of this section, a final decision of the commission is effective when
- (1) notification of compliance with 42 U.S.C. 1973c (Voting Rights Act of 1965) is received from the United States Department of Justice;
 - (2) certification of the legally required voter approval of the commission's final decision is received from the director of elections or the appropriate municipal official; and
 - (3) 45 days have passed since presentation of the commission's final decision on a legislative review petition was made to the legislature and the legislature has not disapproved the decision.

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

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

Authority:

Art. X, sec. 12, Ak Const.	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

3 AAC 110.640. SCHEDULING

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

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

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

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

Authority:

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

3 AAC 110.650. RESUBMITTALS AND REVERSALS

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

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

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

Authority:

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

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

The purpose of the procedural requirements set out in 3 AAC 110.400 - 3 AAC 110.700 is to facilitate the business of the commission, and will be construed to secure the reasonable, speedy, and inexpensive determination of every action and proceeding. Unless a requirement is strictly provided for in the

Constitution of the State of Alaska, AS 29, or AS 44.33.810 - 44.33.849, the commission, by a vote of at least three members, may relax or suspend a procedural regulation if the commission determines that a strict adherence to the regulation would work injustice, would result in a substantially uninformed decision, or would not serve relevant constitutional principles and the broad public interest.

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

Authority:

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

3 AAC 110.680. MEETINGS

- (a) When providing public notice of a commission meeting, the department shall include the date, time, and place of the meeting, the general topics to be discussed or considered, and the originating site of any teleconferencing facilities that will be used. If at least three days remain before the date of the meeting, and unless AS 44.33.818 or an applicable provision of this chapter sets out a more stringent publication requirement, the department shall publish notice of that meeting in a newspaper of general circulation in the vicinity where the meeting will be held or teleconferenced. If time is insufficient to arrange for publication of a complete notice as described in this subsection, the department shall publish an abbreviated notice that includes the date, time, and place of the meeting, the originating site of any teleconferencing facilities that will be used, and a statement that additional information regarding the meeting is available at the commission's offices and on the commission's website. Before the date and time of the meeting, the department shall
- (1) post the complete notice of the meeting on the commission's website;
 - (2) transmit the complete notice to subscribers to the commission's electronic notice list;
 - (3) notify by telephone, electronic mail, or facsimile transmission those persons whom the chair of the commission determines to warrant notice by those means;
 - (4) mail or otherwise provide the complete notice to each person who requests it; and
 - (5) mail or otherwise distribute notice as directed by the commission chair.
- (b) The department shall prepare an agenda of each public meeting as directed by the chair, make the agenda available for public inspection and copying at the commission's offices, post it on the commission's website, serve it by electronic mail on subscribers to the commission's electronic notice service, and mail or otherwise provide it to each person who requests a copy. The department shall also make copies of the agenda available at the public meeting.
- (c) To the extent time permits, a public meeting agenda must be available at least 48 hours before the scheduled time of the meeting. If time does not allow that advanced publication, the agenda must be posted and distributed as soon as it is available but no later than the date of the meeting.
- (d) If the commission allows public testimony regarding a matter on the agenda or pending before the commission, that testimony is limited to three minutes for each person except that the chair may allow an extended period for good cause shown.

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

Authority:

Art. X, sec. 12, Ak Const.

AS 44.33.812

Art. X, sec. 14, Ak Const.

AS 44.33.814

AS 44.33.020

3 AAC 110.690. TELECONFERENCE POLICY AND PROCEDURES

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

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

Authority:

Art. X, sec. 12, Ak Const.

AS 44.33.812

Art. X, sec. 14, Ak Const.

AS 44.33.814

AS 44.33.020

AS 44.33.816

AS 44.33.810

AS 44.33.826

3 AAC 110.700. FILING WITH THE COMMISSION

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

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

Authority:
AS 44.33.812

ARTICLE 14 GENERAL PROVISIONS

3 AAC 110.900. TRANSITION

- (a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential municipal services into the boundaries proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for municipal detachment or dissolution under AS 29.06, or a city reclassification under AS 29.04, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment, dissolution, or city reclassification.
- (b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, or other appropriate entity located within the boundaries proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.
- (c) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located within the boundaries proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included within the boundaries proposed for change and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.
- (d) Before approving a proposed change, the commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included within the boundaries of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.
- (e) The transition plan must state the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed.
- (f) If a prospective petitioner has been unable to consult with officials of an existing borough, city, or unorganized borough service area because those officials have chosen not to consult or were unavailable during reasonable times to consult with a prospective petitioner, the prospective petitioner may request that the commission waive the requirement for consultation with those officials. The request for a waiver must document all attempts by the prospective petitioner to consult with officials of each existing borough, city, and unorganized borough service area. If the commission determines that the prospective petitioner acted in good faith and that further efforts

to consult with the officials would not be productive in a reasonable period of time, the commission may waive the requirement for consultation.

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

Authority:

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

3 AAC 110.910. STATEMENT OF NONDISCRIMINATION

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

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

Authority:

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

3 AAC 110.920. DETERMINATION OF COMMUNITY

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

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

Authority:

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

3 AAC 110.970. DETERMINATION OF ESSENTIAL MUNICIPAL SERVICES

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

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

Authority:

Art. X, sec. 1, Ak Const.	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

3 AAC 110.981. DETERMINATION OF MAXIMUM LOCAL SELF-GOVERNMENT

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

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

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

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

Authority:

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

3 AAC 110.982. MINIMUM NUMBER OF LOCAL GOVERNMENT UNITS

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

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

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

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

Authority:

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

3 AAC 110.990. DEFINITIONS

Unless the context indicates otherwise, in this chapter

- (1) "borough" means a general law borough, a home rule borough, or a unified municipality;
- (2) repealed 1/9/2008;
- (3) "commission" means the Local Boundary Commission;
- (4) "commissioner" means the commissioner of commerce, community, and economic development;
- (5) a "community" means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920;
- (6) "contiguous" means, with respect to area, territory, or property, adjacent, adjoining, and touching; contiguous area, territory, or property includes area, territory, or property separated by public rights-of-way;
- (7) "department" means the Department of Commerce, Community, and Economic Development;
- (8) "mandatory power" means an authorized act, duty, or obligation required by law to be performed or fulfilled by a municipality in the course of its fiduciary obligations to citizens and taxpayers; "mandatory power" includes one or more of the following:
 - (A) assessing the value of taxable property, and levying and collecting taxes;
 - (B) providing education, public safety, public health, and sanitation services;
 - (C) planning, platting and land use regulation;
 - (D) conducting elections; and
 - (E) other acts, duties, or obligations required by law to meet the local governmental needs within the boundaries proposed for change;
- (9) "model borough boundaries" means those boundaries set out in the commission's publications
 - (A) Model Borough Boundaries, revised as of June 1997 and adopted by reference; and
 - (B) Unorganized Areas of Alaska That Meet Borough Incorporation Standards: A Report by the Alaska Local Boundary Commission to the Alaska Legislature Pursuant to Chapter 53, Session Laws of Alaska 2002, dated February 2003 and adopted by reference;
- (10) "permanent resident" means a person who has maintained a principal domicile within the boundaries proposed for change under this chapter for at least 30 days immediately preceding the date of acceptance of a petition by the department and who shows no intent to remove that principal domicile at any time during the pendency of a petition before the commission;
- (11) "political subdivision" means a borough or city organized and operated under state law;

- (12) "property owner" means a legal person holding a vested fee simple interest in the surface estate of any real property including submerged lands;
- (13) "regional educational attendance area" means an educational service area established in the unorganized borough under AS 14.08.031 by the department; "regional educational attendance area" includes the territory within the boundaries of a
 - (A) home rule city in that area;
 - (B) first class city in that area; or
 - (C) federal transfer regional educational attendance area formed under ch. 66, SLA 1985 in that area;
- (14) "witnesses with expertise in matters relevant to the proposed change" means individuals who are
 - (A) specialists in relevant subjects, including municipal finance, municipal law, public safety, public works, public utilities, and municipal planning; or
 - (B) long-standing members of the community or region that are directly familiar with social, cultural, economic, geographic, and other characteristics of the community or region;
- (15) "area" means the geographical lands and submerged lands forming the boundaries described in a petition regarding a borough government or forming the boundaries of an incorporated borough;
- (16) "boundary change" means the type of action the commission takes to create, alter, or abolish a municipal government; "boundary change" includes
 - (A) annexation, consolidation, detachment, dissolution, incorporation, and merger of boroughs or cities; and
 - (B) reclassification of cities if jurisdictional boundaries for public school districts are affected;
- (17) "city" has the meaning given in AS 29.71.800;
- (18) "consolidation" has the meaning given in AS 29.71.800;
- (19) "debt" means an obligation or alleged obligation of a municipality to pay money; "debt" includes funded debt and floating debt;
- (20) "deunification" and "deunify" mean to change a unified municipality into a non-unified home rule borough;
- (21) "floating debt" means a municipal obligation that is payable on demand;
- (22) "funded debt" means a municipal obligation
 - (A) evidenced by bonds payable at a time beyond the current fiscal year of their issue, with periodic payment of interest; and
 - (B) for which provision is made for payment by future taxation;
- (23) "merger" has the meaning given in AS 29.71.800;
- (24) "numerical identifier" has the meaning given in AS 15.60.010;
- (25) "non-unified home rule borough" means a home rule borough in which a city government does or could exist;
- (26) "person" has the meaning given in AS 01.10.060;
- (27) "public right-of-way" means a public easement or public property that is or may be used for a street, an alley, or another public purpose;
- (28) "region"
 - (A) means a relatively large area of geographical lands and submerged lands that may include multiple communities, all or most of which share similar attributes with respect to population, natural geography, social, cultural, and economic activities, communications, transportation, and other factors;
 - (B) includes a regional educational attendance area, a state house election district, an organized borough, and a model borough described in a publication adopted by reference in (9) of this section;
- (29) "regional" means having the characteristics of a region;

- (30) "remnant city" means the portion of a city that will remain if a petition to detach territory from that city is approved under AS 29.06.040;
- (31) "remnant borough" means the portion of a borough that will remain if a petition to detach area from that borough is approved under AS 29.06.040;
- (32) "territory" means the geographical lands and submerged lands forming the boundaries in a petition regarding a city government or forming the boundaries of an incorporated city;
- (33) "unified municipality" has the meaning given in AS 29.71.800;
- (34) "unorganized borough" has the meaning given in AS 29.03.010.

Petition

to the Local Boundary Commission to
Detach [number] square miles from
the [name of city] in
the [Unorganized Borough or Borough Name]
Using the Local Action Method

The Petitioner hereby requests that the Local Boundary Commission (“LBC”) grant this Petition for detachment (“Petition”) pursuant to Article X of the Constitution of the State of Alaska; AS 44.33.812; AS 29.06.040 – AS 29.06.060; 3 AAC 110.257 – 3 AAC 110.265; 3 AAC 110.400 – 3 AAC 110.700; and 3 AAC 110.900 – 3 AAC 110.990, and any other pertinent laws that are relevant to the detachment proposal.

All exhibits attached to this Petition are incorporated by reference.

SECTION 1. PETITIONER’S NAME. 3 AAC 110.420(b)(1).

The Petitioner is a group of citizens of Alaska consisting of: [Specify what entity or person the petitioner is]. The group is hereafter referred to as the “Petitioner.”

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 city detachment proposal:

Name: _____
Physical Address: _____

Mailing address: _____

Telephone number: _____
Fax number: _____
Email address: _____

ALTERNATIVE PETITIONER’S REPRESENTATIVE

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

Name: _____
Physical Address: _____

Mailing address: _____

Telephone number: _____
Fax number: _____
Email address: _____

SECTION 3. NAME AND CLASS. 3 AAC 110.420(b)(3).

Listed below is the name and class of the city from which detachment is proposed:

Name: _____

Class: _____

SECTION 4. GENERAL DESCRIPTION OF THE NATURE OF THE PROPOSED BOUNDARY CHANGES. 3 AAC 110.420(b)(4).

This Petition, initiated under authority of 3 AAC 110.410(a)([specify entity]) requests the LBC authorize the following boundary change:

Detachment from the [NAME OF CITY] of the territory generally described as [INSERT GENERAL DESCRIPTION]. Detachment would be subject to approval by voters of the territory proposed for detachment, as authorized by AS 29.06.040(c)(1) and 3 AAC 110.265;

All exhibits attached to this Petition are incorporated by reference.

SECTION 5. GENERAL DESCRIPTION OF THE TERRITORY PROPOSED FOR DETACHMENT. 3 AAC 110.420(b)(5).

A general description of the territory proposed for detachment.

SECTION 6. REASONS FOR THE PROPOSED BOUNDARY CHANGES. 3 AAC 110.420(b)(6).

[INSERT STATEMENT OF REASONS FOR PROPOSAL]

SECTION 7. LEGAL DESCRIPTIONS, MAPS, AND PLATS. 3 AAC 110.420(b)(7).

- a) **Legal Description of the Boundaries of the Existing City from Which Detachment is Sought.** A written metes and bounds legal description of the existing city from which detachment is sought is included as Exhibit A-1.
- b) **Legal Description of the Boundaries of the Territory Proposed for Detachment.** A written metes and bounds legal description of the territory proposed for detachment is included as Exhibit A-2.
- c) **Legal Description of Proposed Post-Detachment Boundaries of the Remnant City.** A written metes and bounds legal description of the proposed post-detachment boundaries of the city from which detachment is requested is included as Exhibit A-3.
- d) **Map of the Existing City from Which Detachment is Sought.** A map showing the boundaries of the territory proposed for detachment is included as Exhibit A-4.
- e) **Map of Territory Proposed for Detachment.** A map showing the boundaries of the territory proposed for detachment is included as Exhibit A-5.
- f) **Map of the Proposed Remnant City.** A map showing the proposed post-detachment boundaries of the city from which detachment is requested is included as Exhibit A-6.

SECTION 8. SIZE OF THE TERRITORY PROPOSED FOR CHANGE.

3 AAC 110.420(b)(8).

- a) The existing city from which detachment is sought encompasses _____ square miles.
- b) The territory proposed for detachment encompasses _____ square miles.
- c) The area of the existing city after the proposed detachment encompasses _____ square miles.

SECTION 9. DATA ESTIMATING THE POPULATION OF THE TERRITORY PROPOSED FOR CHANGE. 3 AAC 110.420(b)(9).

- a) The population of the existing city from which detachment is sought is estimated to be:
_____.

b) The population of the territory proposed for detachment is estimated to be:

_____.

c) The population of the existing city after the proposed detachment is estimated to be:

_____.

SECTION 10. INFORMATION RELATING TO PUBLIC NOTICE AND SERVICE OF THE PETITION. 3 AAC 110.420(b)(10).

Petitioner should list all newspapers of general circulation within the boundaries proposed for change per 3 AAC 110.450(a)(1); state locations of at least three prominent locations readily accessible to the public and within or near the boundaries proposed for change where public notice can be posted per 3 AAC 110.450(a)(2)(A); list all municipalities having jurisdictional boundaries within 20 miles of the proposed change per 3 AAC 110.450(a)(4) and 3 AAC 110.460(a); state any person to whom notice of the filing of the petition should be served, per 3 AAC 110.450(a)(4), and on whom the petition should be served, per 3 AAC 110.460(a); list all radio and TV stations serving the boundaries of the proposed change, per 3 AAC 110.450(a)(5); and list locations, addresses, and hours of operation where the public can view the petition and related documents, per 3 AAC 110.460(b); This information is included as **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 change.** This only applies for any proposed or existing municipal government for which a change is proposed that currently levies or proposes to levy property taxes.

1) (a) This subsection lists estimates or actual figures concerning the value of taxable real property in the existing city.

ASSESSED OR ESTIMATED VALUE OF TAXABLE REAL PROPERTY WITHIN THE EXISTING CITY		
City, Borough, or Service Area	Estimated or Locally Assessed Value	Estimated or Actual Full and True Value
	\$	\$

	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total (areawide)	\$	\$

(b) This subsection lists estimates or actual figures concerning the value of taxable personal property in the existing city.

ASSESSED OR ESTIMATED VALUE OF TAXABLE PERSONAL PROPERTY WITHIN THE EXISTING CITY		
City, Borough, or Service Area	Estimated or Locally Assessed Value	Estimated or Actual Full and True Value
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total (areawide)	\$	\$

2) (a) This subsection lists estimates or actual figures concerning the value of taxable real property in the territory proposed for detachment.

ASSESSED OR ESTIMATED VALUE OF TAXABLE REAL PROPERTY WITHIN THE TERRITORY PROPOSED FOR DETACHMENT		
City, Borough, or Service Area	Estimated or Locally Assessed Value	Estimated or Actual Full and True Value
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total (areawide)	\$	\$

(b) This subsection lists estimates or actual figures concerning the value of taxable personal property in the territory proposed for detachment.

ASSESSED OR ESTIMATED VALUE OF TAXABLE PERSONAL PROPERTY WITHIN THE TERRITORY PROPOSED FOR DETACHMENT		
City, Borough, or Service Area	Estimated or Locally Assessed Value	Estimated or Actual Full and True Value
	\$	\$
	\$	\$
	\$	\$

	\$	\$
	\$	\$
	\$	\$
Total (areawide)	\$	\$

3) (a) This subsection lists estimates or actual figures concerning the value of taxable real property within existing city after the proposed detachment.

ASSESSED OR ESTIMATED VALUE OF TAXABLE REAL PROPERTY WITHIN THE EXISTING CITY AFTER THE PROPOSED DETACHMENT		
City, Borough, or Service Area	Estimated or Locally Assessed Value	Estimated or Actual Full and True Value
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total (areawide)	\$	\$

(b) This subsection lists estimates or actual figures concerning the value of taxable personal property in the existing city after the proposed detachment.

ASSESSED OR ESTIMATED VALUE OF TAXABLE PERSONAL PROPERTY WITHIN THE EXISTING CITY AFTER THE PROPOSED DETACHMENT
--

City, Borough, or Service Area	Estimated or Locally Assessed Value	Estimated or Actual Full and True Value
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total (areawide)	\$	\$

b) **Projected taxable sales in the territory proposed for change.** This only applies for any proposed or existing municipal government for which a change is proposed that currently levies or proposes to levy sales taxes.

- 1) The projected value of taxable sales within the existing city is estimated to be \$_____. At the sales tax rate of _____, it is projected that sales tax revenues of the existing city will equal \$_____ each year.
- 2) The projected value of taxable sales within the territory proposed for detachment is estimated to be \$_____. At the sales tax rate of _____, it is projected that sales tax revenues of the detached territory will equal \$_____ each year.
- 3) The projected value of taxable sales within the existing city after the proposed detachment is estimated to be \$_____. At the sales tax rate of _____, it is projected that sales tax revenues of the existing city after the proposed detachment will equal \$_____ each year.

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

1) The type and rate of each tax currently levied by municipal governments within the territory proposed for detachment is listed below:

City, Borough, or Service Area	Property tax (mills)	Sales Tax (%)	Other (Delete column if not used)	Other (Delete column if not used)	Other (Delete column if not used)

SECTION 12. BUDGET INFORMATION. 3 AAC 110.420(b)(13).

- a) Projected revenue for the period extending one fiscal year beyond the reasonably anticipated date of 3 AAC 110.420(b)(13)(A)-(C) for any existing municipality for which a change is proposed is presented in **Exhibit C-1.**
- b) Operating expenditures for the period extending one fiscal year beyond the reasonably anticipated date of 3 AAC 110.420(b)(13)(A)-(C) for any existing municipality for which a change is proposed is presented in **Exhibit C-2.**
- c) Capital expenditures for the period extending one fiscal year beyond the reasonably anticipated date of 3 AAC 110.420(b)(13)(A)-(C) for any existing municipality for which a change is proposed is presented in **Exhibit C-3.**
- d) For subsections a through c above, if 3 AAC 110.420(b)(13)(A)-(C) are not applicable, then only one fiscal year is required.

SECTION 13. EXISTING LONG TERM MUNICIPAL DEBT. 3 AAC 110.420(b)(14).

Attach any information regarding existing long term municipal debt as **Exhibit D.**

SECTION 14. MUNICIPAL POWERS AND FUNCTIONS. 3 AAC 110.420(b)(15).

Exhibit E lists the powers and functions of:

- a) The existing city.
- b) Any existing municipality for which a change is proposed, before and after the proposed change.
- c) Alternate service providers, including service areas, within the territory proposed for detachment.

SECTION 15. TRANSITION PLAN. 3 AAC 110.420(b)(16).

As provided for in 3 AAC 110.900, **Exhibit F** presents a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of the city in the territory proposed for detachment:

- a) A plan demonstrating the transition or termination of municipal services in the shortest practical time after detachment. This must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment.
- b) A practical plan to assume all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing city, borough, , or other appropriate entity located in the boundaries proposed for detachment. The plan must be prepared in consultation with the officials of each existing city and borough. It must be designed to affect an orderly, efficient, and economical transfer within the shortest practical time, not to exceed two years after the effective date of the proposed detachment.
- c) A practical plan to transfer and integrate all relevant and appropriate assets and liabilities of an existing city, borough, and other entity located within the boundaries proposed for detachment. The plan must be prepared in consultation with the officials of each existing city and borough wholly or partly with the boundaries proposed for detachment. It must be designed to affect an orderly, efficient, and economical transfer within the shortest practical time, not to exceed two years after the effective date of the proposed detachment. The plan must specifically address procedures that ensure

that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

- d) The transition plan must state the names and titles of all officials of each existing city and borough that the Petitioner consulted. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed.

OFFICIALS CONSULTED FOR THE TRANSITION PLAN			
Name	Title & Organization	Date Consulted	Subject Discussed

- e) If a prospective Petitioner has been unable to consult with officials of an existing city or borough because those officials have chosen not to consult, or were unavailable during reasonable times to consult with, the prospective Petitioner may request that the commission waive the requirement to consult those officials. The request for a waiver must document all attempts by the prospective Petitioner to consult with officials of each existing city and borough. 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 to consult.

SECTION 16. COMPOSITION AND APPORTIONMENT OF THE CITY COUNCIL. 3 AAC 110.420(b)(17).

Exhibit G-1 presents information about the composition and apportionment of the existing city council from which detachment is proposed both before and after the proposed change.

SECTION 17. CIVIL AND POLITICAL RIGHTS INFORMATION. 3 AAC 110.420(b)(18).

Information regarding any effect of the proposed detachment upon civil and political rights for purposes of the federal Voting Rights Act of 1965 (42.U.S.C. 1971 - 1974) is provided in **Exhibit H**.

SECTION 18. SUPPORTING BRIEF. 3 AAC 110.420(b)(19).

Exhibit I presents a supporting brief providing a detailed explanation of how the proposed detachment serves the best interests of the state and satisfies each constitutional, statutory, and regulatory standards set out in Article X of the Constitution of the State of Alaska; AS 44.33.812; AS 29.06.040 – AS 29.06.060; 3 AAC 110.257 – 3 AAC 110.265; 3 AAC 110.400 – 3 AAC 110.700; and 3 AAC 110.900 – 3 AAC 110.990, and any other pertinent laws that are relevant to the detachment proposal.

SECTION 19. DOCUMENTATION DEMONSTRATING THAT THE PETITIONER IS AUTHORIZED TO FILE THE PETITION UNDER 3 AAC 110.410. 3 AAC 110.420(b)(20).

Exhibit J consists of the city ordinance authorizing the submission of the detachment petition, as required by 3 AAC 110.410(a)(4).

SECTION 21. PETITIONER'S AFFIDAVIT. 3 AAC 110.420(b)(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 is provided in **Exhibit K**.

SECTION 22. ADDITIONAL INFORMATION REQUIRED FOR PETITION. 3 AAC 110.420(b)(23).

An affidavit from the Petitioner's representative that details who provided the information in each section of this Petition is provided in Exhibit L.

SECTION 23. ELECTRONIC FORMAT. 3 AAC 110.420(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.

EXHIBIT A

EXHIBIT A-1.

LEGAL DESCRIPTION OF THE BOUNDARIES OF THE EXISTING CITY FROM WHICH DETACHMENT IS SOUGHT.

EXHIBIT A-2.

LEGAL DESCRIPTION OF THE BOUNDARIES OF THE TERRITORY PROPOSED FOR DETACHMENT.

EXHIBIT A-3.

LEGAL DESCRIPTION OF PROPOSED POST-DETACHMENT BOUNDARIES OF THE PROPOSED REMNANT CITY.

EXHIBIT A-4.

MAP OF THE EXISTING CITY FROM WHICH DETACHMENT IS SOUGHT.

EXHIBIT A-5.

MAP OF TERRITORY PROPOSED FOR DETACHMENT.

EXHIBIT A-6.

MAP OF THE PROPOSED REMNANT CITY.

EXHIBIT B. INFORMATION RELATING TO PUBLIC NOTICE AND SERVICE OF THE PETITION.

This exhibit provides information relevant to public notice of this detachment proceeding. The information includes specifics about local media; adjacent municipal governments; places recommended to post notices; location(s) where the Petition may be viewed; and parties who, because of their interest in this matter, may warrant individual notice of the detachment proceedings.

Local Media

The following lists the radio and TV stations serving the boundaries proposed for change:

LOCAL NEWSPAPERS

The following lists the principal newspapers serving the boundaries proposed for change:

Newspaper(s)

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

Radio station(s)

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

Television station(s)

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

Name: _____

Physical Address: _____

Mailing Address: _____

Telephone: _____

Fax number: _____

Email Address: _____

PLACES RECOMMENDED FOR POSTING OF OFFICIAL NOTICES RELATING TO DETACHMENT

The following three or more public and prominent places within or near the boundaries proposed for change are recommended for posting of notices concerning this detachment proposal.

ADJACENT MUNICIPAL GOVERNMENTS

The following lists all city governments and organized boroughs whose boundaries are within twenty miles of the boundaries of the proposed detachment.

**INDIVIDUALS AND ORGANIZATIONS WHOSE POTENTIAL INTEREST MAY WARRANT
INDIVIDUAL NOTICE OF THE FILING OF THE DETACHMENT PETITION**

**INDIVIDUALS AND ORGANIZATIONS WHOSE POTENTIAL INTEREST MAY WARRANT BEING
SERVED WITH A COPY OF THE DETACHMENT PETITION**

**LOCATION(S), ADDRESSES, AND DAYS AND OPERATION HOURS WHERE THE PETITION
MATERIALS WILL BE AVAILABLE FOR PUBLIC REVIEW**

Location(s) within the Proposed Remnant City	Days and Times Open to the Public

EXHIBIT C-1. PROJECTED REVENUES OF THE EXISTING CITY.

EXHIBIT C-2. PROJECTED OPERATING EXPENDITURES OF THE EXISTING CITY.

EXHIBIT C-3. PROJECTED CAPITAL EXPENDITURES OF THE EXISTING CITY.

EXHIBIT D. EXISTING LONG TERM MUNICIPAL DEBT.

The following lists any existing long term municipal debt in the city from which detachment is sought. [Add additional rows as necessary.]

<u>NAME/TYPE OF BOND</u>	<u>PURPOSE OF BOND</u>	<u>DATE FULLY PAID</u>

EXHIBIT E. MUNICIPAL POWERS AND FUNCTIONS.

MUNICIPAL POWERS AND FUNCTIONS OF THE EXISTING MUNICIPALITY

MUNICIPAL POWERS AND FUNCTIONS OF ANY EXISTING MUNICIPALITY FOR WHICH A CHANGE IS PROPOSED, BEFORE AND AFTER THE PROPOSED CHANGE

CURRENT ALTERNATIVE SERVICE PROVIDERS, INCLUDING SERVICE AREAS, IN THE TERRITORY PROPOSED FOR DETACHMENT

Provider	Service or Function

EXHIBIT F. TRANSITION PLAN.

This exhibit presents the transition plan as required under 3 AAC 110.900.

EXHIBIT G-1. COMPOSITION AND APPORTIONMENT OF THE EXISTING CITY COUNCIL.

This exhibit presents details about the number of council members and apportionment of the council of the existing city from which detachment is proposed both before and after detachment.

EXHIBIT H. CIVIL AND POLITICAL RIGHTS INFORMATION

Information regarding any effects of the proposed detachment upon civil and political rights for purposes of the federal Voting Rights Act of 1965 is provided in this exhibit. The information includes the following:

- A. Purpose and effect of detachment as it pertains to voting.
- B. Extent to which the proposed detachment excludes minorities while including other similarly situated persons.
- C. Extent to which the proposed detachment affects the proportion of the existing city's minority population.
- D. Whether the electoral system of the existing city fails to fairly reflect minority voting strength.
- E. Participation by minorities in the development of the detachment proposal.
- F. Designation of an Alaska Native for U.S. Department of Justice contact regarding the proposed detachment.
- G. Statement concerning the understanding of English in written and spoken forms among minority residents of the city from which detachment is proposed, the territory proposed for detachment, and the territory proposed for incorporation.

EXHIBIT I. SUPPORTING BRIEF.

This exhibit consists of a supporting brief that provides a detailed explanation of how the proposed detachment satisfies each constitutional, statutory, and regulatory standard that is relevant to the proposed detachment. The brief demonstrates with detailed facts and analysis that:

- A. The proposed detachment will promote maximum local self-government with the minimum number of government units in accordance with article X, section 1 of the Alaska Constitution.
- B. The proposed detachment meets the best interests of the state standard specified in 3 AAC 110.257 and 3 AAC 110.260. The commission may consider the following relevant factors:
 - (1) the health, safety, and general welfare of the proposed remnant city and the territory after detachment;
 - (2) the ability of the proposed remnant city to efficiently and effectively provide reasonably necessary facilities and services after detachment;
 - (3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
 - (4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
 - (5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant city and the people of the territory;
 - (6) the extent to which detachment might enhance or diminish the ability of the proposed remnant city to meet the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.005 - 3 AAC 110.042, and 3 AAC 110.900 - 3 AAC 110.970;
 - (7) the extent to which a transition plan of a previous annexation has been implemented and is effective;
 - (8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant city, other municipalities, and the state;
 - (9) whether the proposed detachment will promote
 - (A) maximum local self-government, as determined under 3 AAC 110.981; and
 - (B) a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;

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

**EXHIBIT J. DOCUMENTATION DEMONSTRATING THAT THE PETITIONER IS AUTHORIZED TO
FILE THE PETITION UNDER 3 AAC 110.410.**

EXHIBIT K. AFFIDAVIT OF PETITIONER’S REPRESENTATIVE CONCERNING ACCURACY OF INFORMATION.

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

I, _____, representative of the Petitioner seeking detachment, being sworn, state that the following:

To the best of my knowledge, information, and belief, formed after reasonable inquiry, the information in the Petition is true and accurate.

Petitioner’s Representative

SUBSCRIBED AND SWORN TO before me on _____, 20 ____.

[notary seal] _____
Notary Public in and for Alaska
My Commission expires: _____

EXHIBIT L. AFFIDAVIT OF PETITIONER'S REPRESENTATIVE CONCERNING SOURCE AND ACCURACY OF INFORMATION.

STATE OF ALASKA)
) ss.
_____ JUDICIAL DISTRICT)

I, _____, representative of the Petitioner seeking detachment, being sworn, state that the following:

The information contained within the Petition for detachment is complete and factual to the best of my knowledge.

The information contained within the Petition was obtained from the sources noted below:

- (a) The written metes and bounds legal descriptions, maps, and plats for Exhibits A-1 through A-6 was provided by_____.
- (b) In Section 8, the information regarding the sizes of the territory proposed for change was provided by _____.
- (c) In Section 9, the estimate of the populations of the territory proposed for change was provided by _____.
- (d) In Section 11, the information relating to assessed or estimated value of taxable property, projected taxable sales, and taxes currently levied was prepared by _____.
- (e) The projected revenues, operating expenditures, and capital expenditures for Exhibit C-1 through C-3 were provided by _____.
- (f) In Exhibit D, the information concerning existing long term municipal debt was provided by _____.
- (g) In Exhibit E, the list of municipal powers and functions was provided by _____.
- (h) The transition plan presented in Exhibit F was prepared by _____.

- (i) In Exhibit G-1, the information about the composition and apportionment of the governing body of the existing municipality for which a change is proposed, before and after the proposed change was provided by _____.
- (j) In Exhibit H, the information concerning the federal Voting Rights Act of 1965 was provided by _____.
- (k) The supporting brief in Exhibit I of the Petition was prepared by _____.
- (l) The information in Exhibit J demonstrating that the Petitioner is authorized to file this Petition was provided by _____.

Petitioner's Representative

SUBSCRIBED AND SWORN TO before me on _____, 20 ____.

[notary seal]

Notary Public in and for Alaska

My Commission expires: _____