

## WHAT ARE THE STANDARDS TO FORM A CONSOLIDATED BOROUGH?

The standards are in 3 AAC 110.240 - 3 AAC 110.255 and 3 AAC 110.900 – 990. The standards are summarized below and listed fully after this section.

- Per 3 AAC 110.240(a)(1), the proposed consolidation must meet the standards in 3 AAC 110.240 - 3 AAC 110.245.
- Per 3 AAC 110.240(a)(1)(B), for a petition to form a consolidated borough, the petition must also meet the borough incorporation standards of:
  - the Alaska constitution;
  - AS 29.05;
  - 3 AAC 110.045 – 3 AAC 110.067; and
  - 3 AAC 110.900 - 3 AAC 110.970.
- Per 3 AAC 110.240(c), if the proposed consolidation includes lands or submerged lands outside of the boundaries of the consolidating municipalities, the petition must also meet the annexation standards.
- The proposed consolidation must be in the best interests of the state per 3 AAC 110.240(a)(2) and 3 AAC 110.245.
- The petitioner must prepare a proper transition plan per 3 AAC 110.900.
- The proposed consolidation may not deny any person the enjoyment of any civil or political right per 3 AAC 110.910.
- The proposed consolidation must promote maximum local self-government per 3 AAC 110.240(d)(1) and 3 AAC 110.981.
- The proposed consolidation must promote a minimum number of local government units per 3 AAC 110.240(d)(2) and 3 AAC 110.982.

### *Article X, Alaska Constitution*

**Section 3. Boroughs.** The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

### *Regulatory Standards:*

# Standards for Consolidation of Municipalities

Section:

240. Standards.

245. Best interests of state.

250. Local option.

255. Legislative review.

---

## 3 AAC 110.240. STANDARDS

- (a) Two or more municipalities may consolidate to form a new municipality if, in accordance with AS 29.06.130, the commission determines that the proposed consolidation
- (1) meets the standards in 3 AAC 110.240 - 3 AAC 110.245 and
    - (A) for a proposal to form a consolidated city, meets 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; or
    - (B) for a proposal to form a consolidated borough, meets the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.045 - 3 AAC 110.067, and 3 AAC 110.900 - 3 AAC 110.970; and
  - (2) is in the best interests of the state.
- (b) Separate proceedings are not required for dissolution of the consolidating municipalities. Dissolution occurs automatically at the time of consolidation.
- (c) If a petition for consolidation proposes boundaries that include lands or submerged lands not currently within the boundaries of the consolidating municipalities, the petition for consolidation must also address and comply with the standards and procedures for annexation of those lands or submerged lands to the new municipality.
- (d) Absent a specific and persuasive showing to the contrary, the commission will presume that a petition for consolidation promotes
- (1) maximum local self-government, as determined under 3 AAC 110.981; and
  - (2) 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.

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

Authority:

Art. X, sec. 1, Ak Const.

Art. X, sec. 3, Ak Const.

Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.

AS 29.06.090

AS 44.33.812

---

## 3 AAC 110.245. BEST INTERESTS OF STATE

In determining whether consolidation is in the best interests of the state under AS 29.06.130, the commission may consider relevant factors, including

- (1) the ability of the proposed consolidated municipality to efficiently and effectively provide reasonably necessary facilities and services after consolidation;
- (2) the effect of the proposed consolidation on the long-term stability of the finances of the proposed consolidated municipality, other municipalities, and the state;
- (3) whether the proposed consolidation 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; and
- (4) whether requirements for local government services will be enhanced following consolidation.

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

Authority:

Art. X, sec. 1, Ak Const.  
Art. X, sec. 3, Ak Const.  
Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.  
AS 29.06.090  
AS 44.33.812

---

### 3 AAC 110.250. LOCAL OPTION

Municipalities that meet the consolidation standards required under 3 AAC 110.240 - 3 AAC 110.245, and are approved by the commission for local option consolidation, may consolidate if the petition for consolidation was submitted by the number of voters required under AS 29.06.100(a), and if a majority of the voters in the proposed new municipality vote in favor of the consolidation in a subsequent election. The election must be held in accordance with AS 29.06.140.

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

Authority:

Art. X, sec. 1, Ak Const.  
Art. X, sec. 3, Ak Const.  
Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.  
AS 29.06.090  
AS 44.33.812

---

### 3 AAC 110.255. LEGISLATIVE REVIEW

- (a) Municipalities that meet the consolidation standards required under 3 AAC 110.240 - 3 AAC 110.245, and are approved by the commission for legislative review consolidation, may consolidate 45 days after presentation to the legislature of the commission's final decision on a legislative review petition if the legislature has not disapproved the decision.
- (b) Under AS 29.06.140, the director of elections shall conduct the election of officials of the municipality consolidated through the legislative review process. The date of the election is the effective date of the consolidation.

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

Authority:

Art. X, sec. 1, Ak Const.  
Art. X, sec. 3, Ak Const.  
Art. X, sec. 7, Ak Const.  
Art. X, sec. 12, Ak Const.  
AS 29.06.090  
AS 44.33.812

## General Provisions

Section:

900. Transition.  
910. Statement of nondiscrimination.  
920. Determination of community.  
970. Determination of essential municipal services.  
980. (Repealed).

981. Determination of maximum local self government.  
982. Minimum number of local government units.  
990. Definitions.

---

### 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

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

---

### 3 AAC 110.910. STATEMENT OF NONDISCRIMINATION

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

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

Authority:

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

---

### 3 AAC 110.920. DETERMINATION OF COMMUNITY

- (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the
- (1) settlement is inhabited by at least 25 permanent residents;
  - (2) the permanent residents live in a geographical proximity that allows frequent personal contacts and interaction; and
  - (3) the permanent residents at a location are a discrete and identifiable social unit, as indicated by such factors as resident public school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial or industrial establishments, community services, and service centers.
- (b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if
- (1) public access to or the right to reside at the location of the population is restricted; or
  - (2) repealed 1/9/2008;

- (3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.
- (c) A city that absorbs one or more municipalities through merger comprises a single community. A city that is formed through the consolidation of one or more municipalities comprises a single community.

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

Authority:

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

---

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

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

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

Authority:

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

---

### 3 AAC 110.980. DETERMINATION OF BEST INTERESTS OF THE STATE

Repealed.

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

---

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

---

### 3 AAC 110.982. 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	

***Borough Incorporation Statutes:***

**Sec. 29.05.031. Incorporation of a borough or unified municipality**

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

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

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

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

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

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

***Borough Incorporation Regulations:***

## **Standards for Incorporation of Boroughs**

Section:

045. Community of interests.

050. Population.

055. Resources.

060. Boundaries.

065. Best interests of state.

067. Applicability.

---

### **3 AAC 110.045. COMMUNITY OF INTERESTS**

- (a) On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including the
- (1) compatibility of urban and rural areas within the proposed borough;
  - (2) compatibility of economic lifestyles and industrial or commercial activities;
  - (3) existence throughout the proposed borough of customary and simple transportation and communication patterns;
  - (4) extent and accommodation of spoken language differences throughout the proposed borough; and
  - (5) existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services.
- (b) Repealed 1/9/2008.
- (c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with AS 29.05.031(a)(4) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including
- (1) transportation schedules and costs;
  - (2) geographical and climatic impediments;
  - (3) telephonic and teleconferencing facilities; and
  - (4) electronic media for use by the public.

- (d) In determining whether communications and exchange patterns are sufficient, the commission may consider whether
- (1) all communities within a proposed borough are connected to the proposed borough seat by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, other customary means of travel including boats and snow machines, or sufficient electronic media communications; and
  - (2) communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough.

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

Authority:

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

---

### 3 AAC 110.050. POPULATION

- (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including
- (1) census enumerations;
  - (2) durations of residency;
  - (3) historical population patterns;
  - (4) seasonal population changes;
  - (5) age distributions;
  - (6) contemporary and historical public school enrollment data; and
  - (7) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.
- (b) In determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, the commission will presume that a minimum of 1,000 permanent residents is required unless specific and persuasive facts are presented showing that a lesser number is adequate.

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

#### Authority:

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

---

### 3 AAC 110.055. RESOURCES

In accordance with AS 29.05.031(a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission

- (1) will consider
- (A) the reasonably anticipated functions of the proposed borough;
  - (B) the reasonably anticipated expenses of the proposed borough;
  - (C) the ability of the proposed borough to generate and collect revenue at the local level;
  - (D) the reasonably anticipated income of the proposed borough;
  - (E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough through the period extending one full fiscal year beyond the reasonably anticipated date
    - (i) for receipt of the final organization grant under AS 29.05.190;
    - (ii) for completion of the transition set out in AS 29.05.130 - 29.05.140 and 3 AAC 110.900; and
    - (iii) on which the proposed borough will make its first full local contribution required under AS 14.17.410(b)(2);
  - (F) the economic base of the area within the proposed borough;
  - (G) valuations of taxable property within the proposed borough;
  - (H) land use within the proposed borough;

- (I) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and
- (J) personal income of residents within the proposed borough; and
- (2) may consider other relevant factors, including
  - (A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough government; and
  - (B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

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

Authority:

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

---

### 3 AAC 110.060. BOUNDARIES

- (a) In accordance with AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska, the boundaries of a proposed borough must conform generally to natural geography, must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
  - (1) land use and ownership patterns;
  - (2) ethnicity and cultures;
  - (3) repealed 1/9/2008;
  - (4) existing and reasonably anticipated transportation patterns and facilities;
  - (5) natural geographical features and environmental factors;
  - (6) repealed 1/9/2008; and
  - (7) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough.
- (b) When reviewing the boundaries proposed in a petition for borough incorporation, the commission may consider
  - (1) model borough boundaries for the area within the proposed borough;
  - (2) regional boundaries, including
    - (A) boundaries of one or more regional educational attendance areas existing in that proposed borough area;
    - (B) federal census area boundaries;
    - (C) boundaries established for regional Native corporations under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act); and
    - (D) boundaries of national forests;
  - (3) whether the proposed borough will embrace an area and population with common interests to the maximum degree possible;
  - (4) whether the proposed borough promotes maximum local self-government, as determined under 3 AAC 110.981;
  - (5) whether the proposed borough promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and

- (6) whether the proposed borough boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3, Constitution of the State of Alaska.
- (c) Repealed 1/9/2008.
- (d) Absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.
- (e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping boundaries from the existing organized borough. The commission will consider that petition for incorporation as also being a detachment petition.
- (f) The boundaries of a borough may not include only a portion of the territory of an existing city government.
- (g) Requirements relating to limitation of community, as set out in 3 AAC 110.040(b), do not apply to boroughs.

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

Authority:

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

---

### 3 AAC 110.065. BEST INTERESTS OF STATE

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

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

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

Authority:

Art. X, sec. 1, Ak Const.  
Art. X, sec. 3, Ak Const.  
Art. X, sec. 12, Ak Const.  
AS 29.05.100  
AS 44.33.812

---

### 3 AAC 110.067. APPLICABILITY

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

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

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

Authority:

Art. X, sec. 1, Ak Const.  
Art. X, sec. 3, Ak Const.  
Art. X, sec. 12, Ak Const.  
AS 29.05.100  
AS 44.33.812