

Borough Annexation

"Annexation to a borough" means to add territory to the boundaries of a borough government's authority. Annexation results in the extension of borough services, regulation, voting privileges, and taxing authority to the annexed area. There are several methods available for borough annexation. In most cases, the area to be annexed must be next to the boundaries of the annexing borough. State law requires certain standards and procedures be followed for annexation.

Narrative

Annexation requires a big commitment of time and other resources. Before any decision is made to begin work on annexation, a lot of thought should be given to the need for annexation and the method to use. This chapter provides an overview of basic information about borough annexation; however, annexation is a complex matter that cannot be covered completely in this brief overview. This overview provides information and links to applicable law, additional publications, and staff available to provide assistance on annexation.

Annexation is a constitutionally-established means of fulfilling the purpose of Article X, Section 1 of Alaska's Constitution, which is: "*... to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions.*" There are three elements to an annexation decision by the Local Boundary Commission:

- the process defined by law and regulations;
- the standards in law; and
- the facts as documented in the official record of the proceedings.

Alaska's Constitution (Art. X, Section 12) and state statutes provide that corporate boundaries of municipalities may be adjusted. This allows boroughs to accommodate growth and adapt to changing jurisdictional needs and conditions.

Frequently Asked Questions (FAQ)

Who can provide information regarding annexation to boroughs?

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

If an individual or group does not want annexation, will the state provide information to them?

Yes. LBC staff will provide information about how to submit comments, or how to submit a responsive brief. Submitting a responsive brief allows any interested party to be identified as a "respondent" in the annexation proceeding and 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. The staff can also explain the standards and procedures.

Who can start an annexation petition?

A petition for annexation may be started 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 REAA;
- at least 10 percent of the registered voters in the territory proposed for annexation;
- the Legislature;
- the commissioner of the Department of Commerce, Community, and Economic Development;
- a person designated by the Local Boundary Commission.

What is the procedure for annexation?

Most petitions come from either municipalities (boroughs and cities) 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 borough assembly meeting. People can attend such a meeting, or otherwise make their views known to the potential petitioner. It is possible that such input could result in a petition not being filed, or filed with different boundaries. When a petition is submitted, the LBC staff first performs a technical review which verifies that the petition includes everything necessary and required by statutes and regulations, rather than performing an analysis of the merits of the petition. If the petition does not include all of the necessary information, the 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 comments. 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 or not. 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. The staff considers those comments, and then issues a second report with its findings. The findings could change from the first report based on the comments submitted. After public notice, the commission will hold its hearing, and parties can present witnesses, and the public has 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. A petition generally takes about a year before the LBC holds the hearing and issues a decision, mainly because of the extensive opportunity for public comment, and because of the two written reports by staff analyzing the petition. An unanimous consent petition (see below) can take much less time.

Petition Methods

State law establishes procedures for several different types of annexation by legislative review (authorized by Alaska's constitution) or by local action (authorized by statute):

Local Action:

- **Annexation by Vote.** A territory can be annexed through an election. If the commission approves the petition, then the question is then placed on the ballot. A majority of voters in the territory proposed for annexation, and a majority of voters in the annexing borough must approve the ballot measure before the proposed annexation can take effect.
- **Annexation of Adjoining Municipally-Owned Property.** Municipally-owned property that adjoins the municipal boundaries may be annexed. The borough assembly must adopt an ordinance and then petition the Local Boundary Commission. The LBC must then approve the petition.
- **Annexation Upon Unanimous Consent of Owners and Voters.** A territory next to a borough may be annexed if all of the property owners and all of the voters registered to vote in the territory proposed for annexation ask the borough to annex them. The borough assembly must first adopt an ordinance approving the proposed annexation, and then petition the Local Boundary Commission. The LBC must then approve the petition.

Legislative Review

- **Annexation by Legislative Review.** A territory may be annexed without approval by the voters or property owners under the legislative review process. This method is authorized by the state constitution. Such petitions require approval by the LBC as well as review by the Alaska State Legislature. Legislative review petitions follow the same process as local action petitions, and allow for the same public comment periods. The difference occurs if and when the LBC approves a legislative review petition. In that case, the LBC presents its approval to the Legislature during the first 10 days of a regular session of the Legislature. The Legislature then has the opportunity to act on the LBC's recommendation for approval. If the Legislature adopts a concurrent resolution to deny the recommendation within 45 days of the date that it was filed, then the recommendation is denied. If the Legislature takes no action, it has tacitly approved the proposal. In other words, this means that the annexation is approved unless the legislature specifically denies it within the 45-day period

How does a potential petitioner decide what method of annexation to use?

The petitioners can choose the method used. If all owners of property and registered voters in a territory want annexation, then annexation by unanimous consent of owners and resident voters would likely be the annexation method to use. If the “unanimous consent” method does not apply, then the petitioners can choose either the local action by vote method, or the legislative review method. The commission may change the method used.

Is there a limit on the size of the territory that a borough may annex?

There is no specific size limit. Boroughs are regionally-based municipal governments rather than community based as cities. The average Alaskan borough is about 15,866 square miles; however, the median is 7,466 square miles. The Alaska Administrative Code (3 AAC 110.130) generally prohibits boroughs from annexing entire geographic regions, or large unpopulated areas. In most cases, the territory proposed to be annexed must be next to the borough proposing the annexation.

What are the standards the LBC uses to reach a decision?

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

- the need for the territory to be annexed,
- whether the territory is compatible in character with the annexing borough,
- if the economy within the proposed expanded boundaries of the borough has the human and financial resources to provide essential municipal services efficiently,
- whether the population of the proposed expanded borough is sufficiently large and stable,
- whether the boundaries are appropriate,
- and whether the annexation is in the best interests of the state.