

Borough Incorporation

"Borough incorporation" means the creation of a regional municipal government to provide government and services at the regional level. There are four types of organized boroughs in Alaska, with some differences in how they are organized and varying powers and duties. These differences are discussed in detail in the Division of Community and Regional Affairs publication, 2015 Local Government in Alaska.

Narrative

Borough incorporation requires a big commitment of time and other resources. Before making a decision to begin work on incorporation, a lot of thought should be given to researching and planning the process. The borough incorporation process follows a set chain of events, which formally begins when a signed petition and other required documents are filed with the Local Boundary Commission (LBC). Staff from the Division of Community and Regional Affairs then reviews the petition and documentation and submits it to the LBC with any recommendations.

A region must have an adequate economy, population, transportation, and communication infrastructure to support the proposed borough government. Moreover, the population of the region must be socially, culturally, and economically interrelated and integrated in a regional context. The proposed boundaries must embody the characteristics intended for borough governments. Also, the proposal must serve the broad policy benefit to the public statewide. A region may incorporate a borough government if it meets the standards established in law (Article X of the Constitution of the State of Alaska, AS 29.05.031, AS 29.05.100, 3 AAC 110.045 - .065, and 3 AAC 110.900 - .980).

This chapter provides an overview of basic information about borough incorporation. Incorporation is a complex matter that cannot be covered completely in this brief overview. This overview does, however, provide information and links to applicable law, additional publications, and staff available to provide assistance on borough incorporation.

Frequently Asked Questions (FAQ)

What are the available options for borough incorporation?

There are four types of organized borough government in Alaska (unified home rule, home rule, first class, and second class.)

State law requires organized boroughs to provide education on an areawide basis (AS 29.35.160). All organized boroughs must also provide planning, platting, land use regulation, and tax collection and assessment on an areawide basis. State law does not mandate boroughs to provide any other particular service or facility; however, each class of borough government has broad authority to exercise powers. Every borough also has certain general obligations, including annual audits or financial reports, regular elections, codification of ordinances, regular meetings of the borough assembly, etc.

When proposing incorporation of a home rule borough (unified or non-unified), petitioners must prepare a charter, which is the equivalent of a local government constitution. It is important to keep in mind that writing a charter requires a lot of community know-how and commitment beyond that required for incorporation of a general law borough.

Who can petition to incorporate?

A borough government is usually created by a petition submitted by voters within a region. (Although the state can create borough governments on its own initiative, it has not done so since 1963-64 when it incorporated eight boroughs.)

A voter-initiated petition to incorporate a borough must be signed by at least:

Fifteen percent of the number of voters inside home rule and first class cities within the area proposed for borough incorporation that voted during the last general election; and

Fifteen percent of the number of voters outside home rule and first class cities within the area proposed for borough incorporation that voted during the last general election.

What are the "pros" and "cons" of borough incorporation?

The advantages and disadvantages of forming a new borough government will vary depending on the community and the type of borough proposed for incorporation. Generally, people supporting incorporation stress that a borough would provide greater local control and the means to provide essential local services. People against incorporation generally focus on new taxes and fees among the possible problems. Also, if the community is within a city, critics frequently stress that the city can provide any needed services, and that a borough would just be an unnecessary additional layer of government. It is important to explore the pros and cons of incorporation carefully before beginning any work on incorporation.

Are there criteria that guide the development of a borough incorporation petition?

Yes, the criteria are found in Article X of the Constitution of the State of Alaska, AS 29.05.031, AS 29.05.100, and 3 AAC 110.045 -.065. These criteria should be carefully reviewed when deciding whether to incorporate and what type of incorporation to pursue. If the prospective petitioners decide to pursue incorporation, the criteria should also be used to guide the development of the petition. The Department of Commerce, Community, and Regional Affairs (DCRA) will frame its recommendation to the LBC based on these criteria, and the LBC will apply these same criteria to judge the merits of the petition.

What boundaries are appropriate for a new borough?

Borough governments are regionally-based municipalities. Legal standards for borough boundaries are provided in Article X (particularly Section 3) of the Constitution, AS 29.05.031 and 3 AAC 110.045-.060.

Are state grants available to study the feasibility and need for a new borough government?

No. State funding for studies of a prospective borough government is not currently available.

Does the state provide technical assistance to citizens who wish to incorporate?

Yes, the staff of the Local Boundary Commission provides certain assistance to prospective petitioners. Assistance includes providing petition forms and sample successful proposals, consultation regarding policy issues, guidance regarding technical matters and direction concerning sources of information needed to complete a petition. While the state can provide some assistance, the burden of preparing a proper petition remains with the petitioners.

If a group opposes incorporation, does the state assist it as well?

Yes. The staff of the Local Boundary Commission will also provide assistance to any individual and organization that wishes to express views opposing an incorporation proposal. Assistance to opponents might include providing sample responsive briefs filed in opposition to prior petitions, consultation regarding policy issues, guidance regarding technical matters, and direction where fundamental information is needed to complete a responsive brief in opposition to a proposal can be obtained.

Can a petition be amended after it is filed?

Yes, the petitioners may amend the petition. The Local Boundary Commission can also amend or impose conditions on an incorporation proposal following a public hearing. Ideally, however, with careful planning and proper consultation before the filing of a petition, amendments can be avoided. Amending a petition may, under certain circumstances, cause delays in the consideration of the petition.

How long does it take to incorporate?

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 and the necessary signatures have been gathered, the petition is filed with the Local Boundary Commission. The process for review of the proposal by the LBC typically takes about one year. If the commission approves the petition, the state will conduct a local election on the matter. The process for the incorporation election typically involves about three months.