

Municipal Government

City Incorporation

"City incorporation" means the creation of a second class, first class, or home rule city government to provide services and facilities at the community level. Distinctions among the three types of cities are addressed in [Local Government in Alaska](#).

Incorporation requires a big commitment of time and other resources. Before any decision is made to begin work on incorporation, a lot of thought should be given to the need for a city government and the process involved, particularly if the community is within an organized borough. This chapter provides an overview of basic information about city 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 incorporation.

[Local Boundary Commission \(LBC\) staff](#) within the Department of Community and Economic Development (Commerce) are available to provide technical assistance.

What options are available for city incorporation?

There are three types of city government in Alaska (second class, first class, and home rule). Each class of city government has broad powers ([AS 29.35](#)) and every city also has certain general obligations (e.g., annual audits or financial reports, regular elections, codification of ordinances, regular meetings of the city council, etc.)

The powers and duties of a city, particularly a home-rule or first class city, are greatly affected by whether it is inside or outside an organized borough. For example, state law requires each home rule and first class city outside an organized borough to operate a city school. ([AS 29.35.260](#)) In contrast, no city within a borough may operate a school district. Additionally, each home rule and first class city outside an organized borough must exercise the powers of planning, platting, and land use regulation. In comparison, cities within boroughs may exercise planning, platting, and land use regulation powers if the borough delegates those powers to the city. ([AS 29.35.250](#)) Beyond the noted requirements for education, planning, platting, and land use regulation, state law does not require cities to provide any particular service or facility.

It is important to note that incorporation of a home rule city requires petitioners to prepare a charter, which is the equivalent of a local government constitution. Writing a charter requires more community expertise and commitment than what is required for incorporation of a first class or second class city.

Who can petition to incorporate?

A city government is customarily created by a petition to the Local Boundary Commission (LBC) from voters within a bona fide community as defined in 3 AAC 110.990 (See Title 3 in the [Alaska Administrative Code](#)). Although the state can create city governments on its own initiative, it has never done so.

State law ([AS 29.05.011](#)) requires that a community must have at least 400 permanent residents to

incorporate as a home rule or first class city. A petition to incorporate a home rule or first class city must be signed by at least 50 resident voters, or 15% of the number of voters who voted in the area during the last general election, whichever is greater.

There is no minimum population requirement for incorporation of a second class city; however, the incorporation petition must be signed by at least 25 resident voters, or 15% of the number of voters who voted in the area during the last general election, whichever is greater.

Are there limits on the incorporation of a city?

Yes. [AS 29.05.021](#) and 3 AAC 110.010 (See [Alaska Administrative Code](#)) prohibit the formation of a new city government if the needed services can be provided by annexation to an existing city, or if the needed services can be provided by an organized borough. Residents of a community within a borough who wish to consider forming a city government should talk with borough officials on the matter.

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

It is important to carefully look at the pros and cons of incorporation before beginning any incorporation effort. The advantages and disadvantages of forming a new city government will vary depending on the community and the type of city proposed for incorporation. Generally, people supporting incorporation stress that a city would provide greater local control and the means to provide essential local services.

People against incorporation generally focus on the possibility of new taxes and fees among the potential problems. Also, if the community is within an organized borough, critics frequently stress that the borough can provide any needed services and that a city would just be an unnecessary additional layer of government.

Are there criteria that guide the development of a petition?

Yes, [AS 29.05.011](#) and 3 AAC 110.005-3 AAC 110.042.005 provide standards that must be met in order to incorporate. The Local Boundary Commission will use these same criteria to make a decision on the petition. These criteria or standards should be carefully reviewed when deciding whether to incorporate. If the potential petitioners decide to incorporate, the criteria should be used to guide the development of the petition.

What boundaries are appropriate for a new city?

City governments are community-based municipalities (as opposed to boroughs, which are regional municipalities). As such, their boundaries are limited to much smaller areas. Legal standards for city boundaries are provided in [AS 29.05.011\(a\)\(2\)](#) and 3 AAC 110.040.

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

No. State funding is not available for studies of a potential city government.

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

Yes, [LBC staff](#) will provide certain assistance to potential petitioners. Assistance includes providing petition forms and sample successful proposals; information on policy issues and technical matters; and direction on 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.

Does the state provide technical assistance to citizens that are opposed to incorporation?

Yes. [LBC staff](#) will also provide assistance to any person or group that wants to comment on a proposal. Assistance might include providing sample responsive briefs filed on previous petitions, discussion on policy issues, guidance on technical matters, and direction on where to get information needed to complete a responsive brief opposing a proposal.

Can a petition be changed after it is filed?

Yes, the petition may be changed by the petitioner. The LBC can also change it or add conditions to an incorporation proposal following a public hearing. Ideally, however, with careful planning and proper consultation before filing a petition, the need to make changes can be avoided. Changing a petition may, under certain circumstances, cause delays in the consideration of the petition.

How long does it take to incorporate?

Usually it takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Possible 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 one year or longer. 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.

A community may incorporate a city government if it meets the standards in the law ([AS 29.05.011](#), [AS 29.05.021](#), [AS 29.05.100](#), [3 AAC 110.005-3 AAC 110.042](#), and [3 AAC 110.900-3 AAC 110.980](#)) (See Title 3 in the [Alaska Administrative Code](#)).

Among the standards is the requirement to show the need for a new city. If the proposed city is within an organized borough, the need for a new city is more difficult to show. The law ([AS 29.05.021](#)) does not allow the creation of a new city within an organized borough if essential city services can be provided more efficiently or more effectively by an existing organized borough on an areawide basis, non-areawide basis, or through an existing borough service area.

That limitation reflects the fact that local government principles in Alaska's constitution view a borough with no city governments as the ideal structure for delivery of local services. The drafters of the Local Government Article of Alaska's Constitution "viewed the long-term relationships between the borough and the city as a gradual evolution to unified government." (Final Report on Borough Government, p. 17,

Alaska Legislative Council and the Local Affairs Agency.)

The express purpose of the Local Government Article is to "provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions." (Alaska Constitution, Article X, Section 1) The Alaska Supreme Court held with respect to combining city and borough governments through unification that: "*Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units.*"

It is worth mentioning that the Task Force on Governmental Roles, established by the 1991 Legislature under SCS CS HCR 17 to examine state policies regarding local government concluded as follows: "*Unification of borough and city administrations should be encouraged wherever possible to provide for more efficient and cost-effective service delivery.*"

Alaskans have embraced the constitutional principles encouraging the combination of city and borough governments. Consider, for example, that in 1970, about half of the people who lived within an organized borough also lived within a city government. Today, the figure is about 18% - the number of Alaskans within both a city and borough declined by approximately two-thirds since 1970.

Another limitation in state law on the creation of a new city concerns the possibility of receiving services through annexation to an existing city. If annexation is viable, a new city cannot be formed.

In addition to need for a city government, a proposed city must also have enough of an economy to support the proposed city government. Also, the population of the community must be large and stable enough. A community must have at least 400 permanent residents to be approved for incorporation as a first class or home-rule city. The boundaries of the proposed city must also meet the standards in the law.

Residents of unincorporated communities in the unorganized borough often have an easier test to show a need for a city government.