

unification. (§ 4 ch 74 SLA 1985; am § 12 ch 58 SLA 1994; am § 1, 2 ch 53 SLA 2002)

Effect of amendments. — The 2002 amendment, effective September 17, 2002, added the exception language at the beginning of subsection (c) and added subsection (d).

The 1994 amendment, effective August 22, 1994, inserted “or unified municipality” in the introductory language of subsection (a) and in the first sentence of subsection (b); substituted “municipality’s” for “borough’s” in paragraphs (a)(1)-(a)(3) and in the second and third sentences of subsection (b); substituted “the election favoring incorporation” for “the incorporation election favoring incorporation of a borough” in the first sentence in subsection (b); and, in subsection (c), added “that occupies the area formerly occupied by a borough” to the end.

Sec. 29.05.200. Organization grant fund

(a) The organization grant program is established in the department. An appropriation made to the program shall be used for organization grants to municipalities that qualify under AS 29.05.180 or 29.05.190.

(b) Before August 31 of each fiscal year, the department shall submit a report to the office of management and budget indicating

(1) each municipality expected to qualify to receive an organization grant during the next fiscal year;

(2) the amount of money needed to cover all organization grants expected to be awarded during the next fiscal year. (§ 4 ch 74 SLA 1985; am § 1 ch 43 SLA 1997; am § 22 ch 12 SLA 2006)

Effect of Amendments. The 2006 amendment, effective April 4, 2006, substituted "office of management and budget" for "Department of Administration" in the introductory language of subsection (b).

The 1997 amendment, effective July 1, 1997, substituted “program” for “fund” in two places in subsection (a).

Sec. 29.05.210. Transitional assistance to boroughs and unified municipalities

(a) Within 30 days after the date of incorporation of a borough or unified municipality incorporated after December 31, 1985, the department shall determine the population of the borough or unified municipality.

(b) The department shall provide assistance to each borough and unified municipality incorporated after December 31, 1985, in

(1) establishing the initial sales and use tax assessment and collection department if the borough or unified municipality has adopted a sales or use tax;

(2) determining the initial property tax assessment roll if the borough or unified municipality has adopted a property tax, including contracting for appraisals of property needed to complete the initial assessment.

(c) This section does not apply to a borough incorporated by consolidation or to a unified municipality that occupies the area formerly occupied by a borough. (§ 4 ch 74 SLA 1985; am § 13 ch 58 SLA 1994)

Effect of amendments. — The 1994 amendment, effective August 22, 1994, inserted “or unified municipality” in two places in subsection (a) and in one place in paragraphs (b)(1) and (b)(2), inserted “and unified municipality” in the introductory language of subsection (b), and added “that occupies the area formerly occupied by a borough” at the end of subsection (c).

Chapter 06. Alteration of Municipalities

Article 1. Change of Name

Section

010. Change of Municipal Name

Sec. 29.06.010. Change of municipal name.

(a) A municipality may change its official name by adopting an ordinance for the purpose that is ratified by the voters and filing the ordinance with the office of the lieutenant governor. Upon receipt of an ordinance ratified by the voters, the lieutenant governor shall issue an order to the municipality changing its name. The name change shall become effective on a date fixed in the order and occurring within 45 days after receipt of the ordinance. A copy of the order shall be transmitted to the department.

(b) If an ordinance adopted under (a) of this section that results in a change of the municipal name is subsequently repealed, the lieutenant governor shall issue an order reinstating the former name within 45 days after the date of the order, unless a different name is adopted as provided in (a) of this section.

(c) When a municipal name change takes effect by means of an order issued under (a) or (b) of this section, a civil or criminal suit, application, petition, hearing or other proceeding to which the municipality is a party and that is pending at or brought after the date the name change takes effect shall proceed in the municipal name as changed by the order.

(d) This section applies to home rule and general law municipalities. (§ 5 ch 74 SLA 1985)

Collateral References. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, Sec. 29.
62 C.J.S., Municipal Corporations, Sec. 35.

Article 14 General Provisions 48
3 AAC 110.900. Transition48
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The commission will consider that petition for incorporation as also being a petition to alter the boundaries of the existing borough or city.

History: Eff. 7/3/92, 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 29.05.011
AS 44.33.812

3 AAC 110.042. Best interests of state

In determining whether incorporation of a city 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 city in the event of the city'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. 7, Ak Const.
Art. X, sec. 12, Ak Const.

AS 29.05.100
AS 44.33.812

Article 13
Procedures for Petitioning and for Other Commission Matters

Section

400. Applicability.

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- 700. Filing with the commission.

Annotations

Publisher's note: As of Register 185 (April 2008), new Article 11 was added and former Article 11 was renumbered as present Article 12, and subsequent articles were numbered accordingly.

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:

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 110.421. Name of municipal government

The name of the municipal government specified in accordance with 3 AAC 110.420(b)(3)(B) must contain the word "city," "borough," or "municipality," as applicable to the type of municipal government proposed. The name may not contain a word or phrase that indicates or implies that the municipal government is organized for a purpose other than that authorized by its incorporation or alteration.

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

Authority:

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
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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
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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
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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

(3) 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
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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
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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.	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 44.33.812
AS 29.05.060	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.

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 29.06.490
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.

