

Municipal Dissolution

"Municipal dissolution" means the termination of the existence of a city or borough government. Before making a decision to begin work on dissolution, a great deal of thought should be given to researching and planning the process and what will happen afterward regarding assets, liabilities, and services. The dissolution process is a set chain of events, which must be followed in order to ensure a successful dissolution.

Narrative

There are a number of ways that a municipal dissolution could occur, including the following:

- a city within the unorganized borough may be dissolved, leaving no successor municipal government in place;
- a city within the unorganized borough may be dissolved as a consequence of merger, consolidation, or annexation involving another city government, leaving an expanded city government in place;
- a city in an organized borough may be dissolved as a result of: the transfer of all powers of the city to the borough on an areawide basis, direct dissolution, merger, consolidation, annexation, or unification, leaving some municipal government structure (another city and the borough, or just the borough) in place;
- an organized borough may be dissolved leaving no successor regional municipal government in place;
- an organized borough may be dissolved as a consequence of merger, consolidation, annexation, or unification, leaving some municipal government structure in place.

This discussion focuses on dissolution of city government through a means other than merger, consolidation, annexation, or unification. The scenario involving dissolution of an organized borough that leaves no successor regional municipal government in place is virtually unimaginable. There has never been a dissolution of a borough under such circumstances.

A city government may be dissolved if it meets the standards established in law (AS 29.06.470, AS 29.06.500, 3 AAC 110.280-.300, and 3 AAC 110.900-.980.)

Among the standards is the requirement to demonstrate that the city is free of debt or that its creditors have agreed to a repayment plan. Also essential is a well-conceived transition plan (where another municipal government or some other local entity will take responsibility for assets, obligations, and functions of the former city). It must also be demonstrated that the proposed dissolution will serve the broad public interest.

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 noteworthy 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.

Frequently Asked Questions (FAQ)

What are the financial consequences of city dissolution?

Depending upon the particular circumstances, there can be significant financial effects on a community as a result of dissolution. These may include:

- *Reduction in Community Revenue Sharing payment.* Unincorporated communities are eligible for Community Revenue Sharing funding only if they are outside of organized boroughs. Even then, Revenue Sharing for eligible unincorporated communities in the unorganized borough is greatly reduced.
- *Loss of Grant Eligibility for Some Grant Programs.* After dissolution of a city, the community would be ineligible for certain grant programs. For example, municipal governments in Alaska are eligible to competitively apply for Community Development Block Grants (CDBG) up to \$850,000 for community development, planning, and special economic development projects.
- *Loss of Confidence by Funding Agencies.* Uncertainty regarding whether a city would remain incorporated could result in the delay or loss of funding for public projects. In general, a community with an active city government is more likely to be awarded grant funds than a community with similar needs but governed by a weak or inactive city. If it appears that a city is likely to be dissolved, funding agencies may be inclined to withhold or delay grants or loans to that city.
- *Complication of Land Status.* In many cases cities own land or have 14(c) claims to land occupied by or involving existing or proposed public facilities. State and federal grants for capital improvements require demonstrated site control. Dissolution of a city could result in delays in settling land ownership issues. Projects without site control may be delayed or funding opportunities may be lost.

What if the city has debts, can they be dissolved?

Only if all creditors of the city have indicated in writing that they are satisfied with a plan for payment of the debts (see AS 29.06.470.)

Who becomes the successor of the city government?

The issue of what organization will succeed to the assets, rights, powers, and obligations of a city proposed for dissolution is a critical aspect of any dissolution proposal. Details regarding such matters must be included in the transition plan required by 3 AAC 110.900.

Another municipal government (if its corporate boundaries encompass the dissolved city) *may* (but is not obligated to) succeed to all rights, powers, duties, assets, and liabilities of the dissolved city. Otherwise, the State of Alaska becomes the successor to those rights, powers, duties, assets, and liabilities.

It has been the policy of the Local Boundary Commission that the State of Alaska should avoid the assumption of responsibilities of former city governments. Consequently, it has been the practice of the commission to permit dissolution of a city only if some stable local entity is prepared to serve as successor. In such case, the commission would stipulate that the state would enter into a contract for the performance of duties or powers in the area of the dissolved municipality. However, a contract with an organization for the performance of duties or powers entered into under this section does not constitute recognition by the state of governmental powers of that organization.

Who can initiate a petition to dissolve?

A petition to dissolve a municipal government may be initiated by:

- a) a city,
- b) a borough,
- c) a regional educational attendance area,
- d) a number of resident registered voters of the city equal to at least 25 percent of the number of votes cast in the last regular election in the city proposed for dissolution,
- e) the state legislature,
- f) the Commissioner of the Department of Commerce, Community, and Economic Development (Commerce),
- g) a party designated by the Local Boundary Commission.

Are there criteria that guide the development of a petition for dissolution of a city?

Yes, the criteria are found in AS 29.06.470, AS 29.06.500, 3 AAC 110.280-.300, and 3 AAC 110.900-.980. These criteria should be carefully reviewed when deciding whether to dissolve a government. If the prospective petitioner decides to propose dissolution, the criteria should also be used to guide the development of the petition. The Local Boundary Commission will use these same criteria to judge the merits of the petition.

Does the state provide technical assistance to a petitioner who wishes to propose dissolution of a city?

Yes, the staff of the Local Boundary Commission provides certain assistance to prospective petitioners. Such 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 petitioner.

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

Yes. LBC staff will also provide assistance to any individual or organization that wishes to express views concerning a dissolution 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 needed to complete a responsive brief in opposition to a proposal can be obtained.

Can a dissolution petition be amended after it is filed?

The petition may be amended by the petitioner. The LBC can also amend or impose conditions on a dissolution proposal following a public hearing. Ideally, however, with careful planning and proper consultation before filing 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 dissolve?

It typically takes several months to prepare a proper petition. A prospective petitioner is encouraged to work closely with the LBC staff in developing a petition. Once a petition is completed, it is filed with the LBC. The process for action on the proposal by the LBC typically takes one year or longer.