

Article 2 Standards for Incorporation of Boroughs

Section

045. Community of interests.

060. Boundaries.

050. Population.

065. Best interests of state.

055. Resources.

067. Applicability.

3 AAC 110.045. Community of interests

- (a) On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including the
- (1) compatibility of urban and rural areas within the proposed borough;
 - (2) compatibility of economic lifestyles and industrial or commercial activities;
 - (3) existence throughout the proposed borough of customary and simple transportation and communication patterns;
 - (4) extent and accommodation of spoken language differences throughout the proposed borough; and
 - (5) existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services.
- (b) Repealed 1/9/2008.
- (c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with AS 29.05.031(a)(4) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including
- (1) transportation schedules and costs;
 - (2) geographical and climatic impediments;
 - (3) telephonic and teleconferencing facilities; and
 - (4) electronic media for use by the public.
- (d) In determining whether communications and exchange patterns are sufficient, the commission may consider whether
- (1) all communities within a proposed borough are connected to the proposed borough seat by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, other customary means of travel including boats and snow machines, or sufficient electronic media communications; and
 - (2) communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough.

History: Eff. 10/12/91, Register 120; 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. 12, Ak Const.
 AS 29.05.031

AS 44.33.812

3 AAC 110.050. Population

- (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including
- (1) census enumerations;
 - (2) durations of residency;
 - (3) historical population patterns;
 - (4) seasonal population changes;
 - (5) age distributions;
 - (6) contemporary and historical public school enrollment data; and
 - (7) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.
- (b) In determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, the commission will presume that a minimum of 1,000 permanent residents is required unless specific and persuasive facts are presented showing that a lesser number is adequate.

History: Eff. 10/12/91, Register 120; 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. 12, Ak Const.
 AS 29.05.031

AS 44.33.812

3 AAC 110.055. Resources

In accordance with AS 29.05.031(a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission

- (1) will consider
- (A) the reasonably anticipated functions of the proposed borough;
 - (B) the reasonably anticipated expenses of the proposed borough;
 - (C) the ability of the proposed borough to generate and collect revenue at the local level;
 - (D) the reasonably anticipated income of the proposed borough;
 - (E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough through the period extending one full fiscal year beyond the reasonably anticipated date
 - (i) for receipt of the final organization grant under AS 29.05.190;
 - (ii) for completion of the transition set out in AS 29.05.130 - 29.05.140 and 3 AAC 110.900; and
 - (iii) on which the proposed borough will make its first full local contribution required under AS 14.17.410(b)(2);
 - (F) the economic base of the area within the proposed borough;
 - (G) valuations of taxable property within the proposed borough;

- (H) land use within the proposed borough;
- (I) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and
- (J) personal income of residents within the proposed borough; and
- (2) may consider other relevant factors, including
 - (A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough government; and
 - (B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

History: Eff. 10/12/91, Register 120; 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. 12, Ak Const.
AS 29.05.031

AS 44.33.812

3 AAC 110.060. Boundaries

- (a) In accordance with AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska, the boundaries of a proposed borough must conform generally to natural geography, must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
 - (1) land use and ownership patterns;
 - (2) ethnicity and cultures;
 - (3) repealed 1/9/2008;
 - (4) existing and reasonably anticipated transportation patterns and facilities;
 - (5) natural geographical features and environmental factors;
 - (6) repealed 1/9/2008; and
 - (7) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough.
- (b) When reviewing the boundaries proposed in a petition for borough incorporation, the commission may consider
 - (1) model borough boundaries for the area within the proposed borough;
 - (2) regional boundaries, including
 - (A) boundaries of one or more regional educational attendance areas existing in that proposed borough area;
 - (B) federal census area boundaries;
 - (C) boundaries established for regional Native corporations under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act); and
 - (D) boundaries of national forests;
 - (3) whether the proposed borough will embrace an area and population with common interests to the maximum degree possible;
 - (4) whether the proposed borough promotes maximum local self-government, as determined under 3 AAC 110.981;
 - (5) whether the proposed borough 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; and

- (6) whether the proposed borough boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3, Constitution of the State of Alaska.
- (c) Repealed 1/9/2008.
- (d) Absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.
- (e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping boundaries from the existing organized borough. The commission will consider that petition for incorporation as also being a detachment petition.
- (f) The boundaries of a borough may not include only a portion of the territory of an existing city government.
- (g) Requirements relating to limitation of community, as set out in 3 AAC 110.040(b), do not apply to boroughs.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 3, Ak Const.	AS 29.05.031	

3 AAC 110.065. Best interests of state

In determining whether incorporation of a borough 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 borough in the event of the borough'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. 12, Ak Const.	AS 44.33.812
Art. X, sec. 3, Ak Const.	AS 29.05.100	

3 AAC 110.067. Applicability

The provisions of 3 AAC 110.045 - 3 AAC 110.065 apply to a petition for borough incorporation using either

- (1) the legislative review method provided in art. X, sec. 12, Constitution of the State of Alaska; or
- (2) the local option methods provided in AS 29.05.

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

Authority:

Art. X, sec. 1, Ak Const.	Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 3, Ak Const.	AS 29.05.100	