

Article 1 Standards for Incorporation of Cities

Section

005. Community.

030. Population.

010. Need.

040. Boundaries.

020. Resources.

042. Best interests of state.

3 AAC 110.005. Community

Territory proposed for incorporation as a city must encompass a community.

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 29.05.011;

AS 44.33.812

3 AAC 110.010. Need

(a) In accordance with AS 29.05.011(a)(5), a community must demonstrate a reasonable need for city government. In this regard, the commission may consider relevant factors, including

- (1) existing or reasonably anticipated social or economic conditions;
- (2) existing or reasonably anticipated health, safety, and general welfare conditions;
- (3) existing or reasonably anticipated economic development; and
- (4) adequacy of existing services.

(b) In accordance with AS 29.05.021(a), and to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a community in the unorganized borough may not incorporate as a city if essential municipal services can be provided more efficiently or more effectively by annexation to an existing city.

(c) In accordance with AS 29.05.021(b), and to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a community within an organized borough may not incorporate as a city if essential municipal services can be provided more efficiently or more effectively

- (1) by annexation to an existing city;
- (2) by an existing organized borough on an areawide or nonareawide basis; or
- (3) through an existing borough service area.

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.
Art. X, sec. 5, Ak Const.
Art. X, sec. 7, Ak Const.

Art. X, sec. 12, Ak Const.
AS 29.05.011
AS 29.05.021

AS 44.33.812

3 AAC 110.020. Resources

In accordance with AS 29.05.011(a)(3), the economy of a proposed city must include the human and financial resources necessary to provide 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 city;
 - (B) the reasonably anticipated expenses of the proposed city;
 - (C) the ability of the proposed city to generate and collect revenue at the local level;
 - (D) the reasonably anticipated income of the proposed city;
 - (E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed city through the period extending one full fiscal year beyond the reasonably anticipated date
 - (i) for receipt of the final organization grant under AS 29.05.180;
 - (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 city will make its first full local contribution required under AS 14.17.410(b)(2) if the proposal seeks to incorporate a home rule or first class city in the unorganized borough;
 - (F) the economic base within the proposed city;
 - (G) valuations of taxable property within the proposed city;
 - (H) existing and reasonably anticipated industrial, commercial, and resource development within the proposed city; and
 - (I) personal income of residents of the proposed city; and
- (2) may consider other relevant factors, including
 - (A) land use within the proposed city;
 - (B) the need for and availability of employable skilled and unskilled persons to serve the proposed city government; and
 - (C) the reasonably predictable level of commitment and interest of the residents in sustaining a city government.

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.	Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 7, Ak Const.	AS 29.05.011	

3 AAC 110.030. Population

- (a) In accordance with AS 29.05.011(a)(4), the population of a proposed city must be sufficiently large and stable to support the proposed city government. 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) To become a first class or home rule city, the territory proposed for incorporation must have a population of at least 400 permanent residents.

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.	Art. X, sec. 12, Ak Const.	AS 44.33.812
Art. X, sec. 7, Ak Const.	AS 29.05.011	

3 AAC 110.040. Boundaries

- (a) In accordance with AS 29.05.011(a)(2), the boundaries of a proposed city must include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
- (1) land use, subdivision platting, and ownership patterns;
 - (2) population density;
 - (3) existing and reasonably anticipated transportation patterns and facilities;
 - (4) natural geographical features and environmental factors;
 - (5) extraterritorial powers of cities;
 - (6) salability of land for residential, commercial, or industrial purposes; and
 - (7) suitability of the territory for reasonably anticipated community purposes.
- (b) To promote the limitation of community, the boundaries of the proposed city
- (1) must be on a scale suitable for city government and may include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the anticipated date of incorporation; and
 - (2) may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.005 - 3 AAC 110.042 and are otherwise suitable for city government.
- (c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the development of essential municipal services on an efficient, cost-effective level.
- (d) If a petition for incorporation of a proposed city describes boundaries overlapping the boundaries of an existing organized borough or city, the petition for incorporation must also address and comply with all standards and procedures to alter the boundaries of the existing organized borough or city to remove the overlapping territory. 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. 7, Ak Const.	AS 29.05.011
Art. X, sec. 3, Ak Const.	Art. X, sec. 12, Ak Const.	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. 12, Ak Const.	AS 44.33.812
Art. X, sec. 7, Ak Const.	AS 29.05.100	