

DETACHMENT FROM A CITY GOVERNMENT

Introduction.

“Detachment” from a city means the contraction of the corporate boundaries of the city by the removal of territory formerly within its jurisdiction.

There are two methods available to detach territory from a city. One involves an election among the voters in the territory proposed for detachment (AS 29.06.040(c)(1)). The other involves legislative review (Art X, sec 12, Ak Const).

This material provides basic information about city detachment. However, detachment is a significant and complex matter. Before any decision is made to propose detachment, forethought should be given to the need for detachment and the specific detachment process to pursue. Additionally, a prospective petitioner should objectively consider the likelihood of success. A proposal for detachment requires substantial commitment of time and other resources on the part of the petitioner.

Frequently Asked Questions.

Who can initiate a detachment petition?

A petition for detachment may be initiated by:

- a) a city,
- b) a borough,
- c) a regional educational attendance area (REAA),
- d) at least 10 percent of the resident registered voters of a city, borough, or regional educational attendance area,
- e) at least 25 percent of the resident registered voters of the area proposed for detachment,
- f) the state legislature,
- g) the Commissioner of the Department of Commerce, Community, and Economic Development (DCCED),
- h) a party designated by the Local Boundary Commission.

Are disagreements with the city government a basis for detachment?

Occasionally, a prospective petitioner is motivated by disagreements with the city over policy issues (land use regulation), tax rates, perceived disparities between levels of service and taxes or fees, or similar issues. Such disagreements are not a basis for detachment. Detachment is not intended to be a means to settle group or individual disagreements with local governments. Detachments rarely occur. A proposal to detach territory will be granted only if it meets all applicable standards established in law.

Who can provide information regarding detachment from cities?

There is a Local Boundary Commission staff. The LBC staff is located within the Division of Community and Regional Affairs. That division is within the Department of Commerce, Community, and Economic Development. The staff is available to provide technical assistance, petition forms, and sample annexation materials to anyone interested in

petitioning, and is available to provide materials and information to those interested in responding to a petition. The staff also provides general information to any other interested individuals or groups.

If an individual, group, or organization opposes detachment, does the state assist them as well?

Yes. LBC staff will provide information about how to submit comments, or how to submit a responsive brief. Submitting a responsive brief allows any interested party to be identified as a "respondent" in the detachment proceeding. Being identified as a respondent provides certain procedural rights at the commission's public hearing. These rights include being able to present witnesses and to give opening and closing arguments. The staff can also explain the standards and procedures.

Can a 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 reclassification proposal following a public hearing. Ideally, however, with carefully planning and proper consultation prior to the filing of 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 detach? It typically takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Prospective petitioners are encouraged to work closely with the LBC staff in developing a petition. Once a petition is completed the petition is filed with the LBC. The process for review of the proposal by the LBC depends, in part, upon other actions pending before the Commission. The procedural steps required by law are extensive. In general, one should assume that it may take one year or longer from the filing of a petition for final action.

Narrative.

Detachment Through Election by Voters in the Territory Proposed for Detachment. Territory may be detached, upon approval by the Local Boundary Commission, subject to ratification by the voters living in the territory approved for detachment. To pass, the proposition must be approved by a majority of those voting on the question.

Detachment by Legislative Review. Territory may be detached without approval by the voters or property owners under the legislative review process. Such proposals require approval by the Local Boundary Commission as well as review and tacit approval by the State legislature under Article X, Section 12 of Alaska's constitution. Legislative review is initiated when the LBC files a recommendation for the annexation with the legislature. Such recommendations may be filed only during the first 10 days of a regular session of the legislature. The recommendation is rejected only if the legislature adopts a concurrent resolution to deny the action within 45 days of the date that it was filed. Otherwise, the proposal is tacitly approved by the legislature.