REGULATIONS GOVERNING CONSOLIDATION

3 AAC 110.240 STANDARDS.

(a) Two or more municipalities may consolidate to form a new municipality if the new municipality meets the standards for incorporation of cities specified in 3 AAC 110.010 - 3 AAC 110.040 , or boroughs specified in 3 AAC 110.045 - 3 AAC 110.060 .

(b) Separate proceedings are not required for dissolution of the consolidating municipalities. The dissolutions occur automatically at the time of the consolidation.

3 AAC 110.250 LOCAL OPTION.

Municipalities that meet the consolidation standards required under 3 AAC 110.240, and are approved by the commission for local option consolidation, may consolidate if the petition for consolidation was submitted by the number of voters required under AS 29.06.100 (a), and if a majority of the voters in the remaining proposed new municipality vote in favor of the consolidation in a subsequent election. The election must be held in accordance with AS 29.06.140.

STANDARDS FOR INCORPORATION OF BOROUGHS

3 AAC 110.045 COMMUNITY OF INTERESTS.

(a) The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission will, in its discretion, consider relevant factors, including:

(1) the compatibility of urban and rural areas within the proposed borough;

(2) the compatibility of economic lifestyles, and industrial or commercial activities;

(3) the existence throughout the proposed borough of customary and simple transportation and communication patterns; and

(4) the extent and accommodation of spoken language differences throughout the proposed borough.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

(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 this regard, the commission will, in its discretion, consider relevant factors, including

(1) transportation schedules and costs;

(2) geographical and climatic impediments;

(3) telephonic and teleconferencing facilities; and

(4) public electronic media.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are either connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications.

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 this regard, the commission will, in its discretion, consider relevant factors, including

(1) total census enumerations;

(2) durations of residency;

(3) historical population patterns;

(4) seasonal population changes; and

(5) age distributions.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough.

3 AAC 110.055 RESOURCES.

The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) the reasonably anticipated functions of the proposed borough;

(2) the reasonably anticipated expenses of the proposed borough;

(3) the reasonably anticipated income of the proposed borough, and its ability to collect revenue;

(4) the feasibility and plausibility of the anticipated operating budget through the third full fiscal year of operation;

(5) the economic base of the proposed borough;

(6) property valuations;

(7) land use;

(8) existing and reasonably anticipated industrial, commercial, and resource development;

(9) personal income of residents;

(10) the need for and availability of employable skilled and unskilled people; and

(11) the reasonably predictable level of commitment and interest of the population in sustaining a municipal corporation.

3 AAC 110.060 BOUNDARIES.

(a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

(1) land use and ownership patterns;

(2) ethnicity and cultures;

(3) population density patterns;

(4) existing and reasonably anticipated transportation patterns and facilities;

(5) natural geographical features and environmental factors; and

(6) extraterritorial powers of boroughs.

(b) Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond the model borough boundaries adopted by the commission.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of the Department of Education and Early Development, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

(d) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough or unified municipality, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping region from the existing organized borough or unified municipality. The commission will consider and treat such an incorporation petition as also being a detachment petition.

PROCEDURES FOR PETITIONING

3 AAC 110.400 APPLICABILITY.

Except as provided in 3 AAC 110.590 , 3 AAC 110.410 - 3 AAC 110.660 apply to all petitions for incorporation under AS 29.05 and all alterations to municipalities under AS 29.06. However, a petition filed under a local action or local option method, provided for in AS 29.06, may only need to comply with certain sections of 3 AAC 110.410 - 3 AAC 110.660 as identified in 19 AAC 10.590 .

3 AAC 110.410 PETITIONERS.

(a) A petitioner for a proposed action by the commission under this chapter may be initiated by

(1) the Alaska Legislature,

(2) the commissioner,

(3) the staff of the commission or a person designated by the commission,

(4) a political subdivision of the state,

(5) at least 10 percent of the persons registered to vote in a political subdivision; those registered voters must be permanent residents of that subdivision;

(6) at least 10 percent of the persons registered to vote in a territory proposed for annexation or detachment; those registered voters must be permanent residents of that territory, or

(7) the number of qualified voters required under AS 29.06 for a local option or local action petition.

(b) If a statute requires that the petition 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.

(c) The signature requirements of (a)(5) - (7) of this section shall not be construed to apply to a petition submitted by a petitioner under the discretionary petition process of the commission.

(d) The staff of the commission or a person designated by the commission may initiate a petition after the commission has determined that the action proposed will promote the standards established under AS 29.05, AS 29.06, and this chapter, and the commission has directed the staff or designated person to prepare a petition by a motion approved by a majority of the appointed membership of the commission.

(e) The person or entity initiating a petition is designated as the petitioner, except that a petition initiated by qualified voters must include a designation of one person as representative of all petitioners.

3 AAC 110.420 PETITION.

(a) A proposal for one or more actions by the commission under this chapter is initiated by filing a petition and a supporting brief with the department.

(b) A petition must be filed on a form approved by the commission and provided by the department. The petition must be accompanied by all exhibits required by the department.

(c) A supporting brief must address relevant constitutional, statutory and regulatory standards applicable to the proposed action, and include a detailed explanation of how the standards apply to the proposed action.

3 AAC 110.430 CONSOLIDATION OF PETITIONS.

If two or more petitions pending action by the commission affect contiguous territory or any portion of the same territory, the chairperson of the commission will, in the chairperson's discretion, consolidate the informational session, department, report, commission, meeting, hearing, briefing schedule, decisional meeting, or other procedure under this chapter for one or more of

those petitions. The commission will, in its discretion, consider relevant information from concurrent or conflicting petitions during the process of rendering its decision on any one petition.

3 AAC 110.440 TECHNICAL REVIEW OF PETITION.

(a) The department will review the petition, exhibits, and brief to determine whether the required information has been submitted and, when applicable, whether the petition contains the legally required number of valid signatures.

(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 in a territory, and the number of persons who voted in the territory during the last election.

(c) If the department determines that the petition or brief is deficient in form or content, the defective petition or brief will be returned to the petitioner for correction or completion. If the department determines that the petition and brief are in substantial compliance with AS 29.05, AS 29.06, and this chapter, the petitioner will be notified that the petition and brief have been accepted for filing and the department will file the petition.

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 a public notice of the filing of the petition at least once each week for three consecutive weeks in newspapers of general circulation designated by the department that are printed in a display ad format of no less than six inches long by two columns wide;

(2) post a notice of the filing of the petition in at least three public and prominent locations within the territory proposed for change and other locations designated by the department that remain posted for at least 14 consecutive days; and

(3) hand-deliver or mail, postage prepaid, a copy of the notice posted in accordance with (2) of this subsection, correctly addressed to the municipalities having jurisdictional boundaries within an area extending up to 20 miles beyond the boundaries of the territory proposed for change, and to other persons and entities designated by the department.

(b) The department will specify the wording of the public notices required in (a) of this section.

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 an area extending 20 miles beyond the boundaries of the territory proposed for change, and to other persons and entities designated by the department.

(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 available for reconsideration of the final decision under 3 AAC 110.580 , the petitioner shall make a full set of petition documents, including responsive and reply briefs and department reports, available for review by the public at a central and convenient location such as a city hall 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.

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 six complete sets of petition documents, a sworn affidavit that the notice, posting, service, deposit, and publishing requirements of 3 AAC 110.450 - 3 AAC 110.460 have been satisfied. Maps and other exhibits submitted with copies of the petition shall conform to the original in color and other distinguishing characteristics.

3 AAC 110.480 RESPONSIVE BRIEFS.

(a) Any interested person or entity may file with the department a responsive brief containing facts and analyses favorable or adverse to the original petition.

(b) The responsive brief, and any companion exhibits, must be filed with a sworn 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 a sworn affidavit of service of the brief on the petitioner by regular mail, postage prepaid, or by hand-delivery.

3 AAC 110.490 REPLY BRIEF.

The petitioner may file one reply brief in response to all responsive briefs filed timely under 3 AAC 110.480 . 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 a sworn affidavit of service of the brief on all respondents by regular mail, postage prepaid, or by hand-delivery.

3 AAC 110.500 LIMITATIONS ON ADVOCACY.

(a) Unless otherwise ordered by the chairperson of the commission, for good cause shown, no document, letter or brief will be accepted for filing and consideration by the department or the commission except in accordance with the procedures, timeframes, hearings and meetings specified in 3 AAC 110.400 - 3 AAC 110.660 .

(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 available for the commission's reconsideration.

3 AAC 110.510 INFORMATIONAL SESSIONS.

(a) If the department determines that persons affected by a proposed change have not had an adequate opportunity to be informed about the scope, benefits and detriments of the proposed change, the department will, in its discretion, require the petitioner to conduct informational sessions, and to submit a recording, transcription, or summary of those sessions to the department.

(b) The department will not proceed with the processing of the petition until the petitioner has certified, by sworn affidavit, that the informational session requirements of this section have been met.

3 AAC 110.520 DEPARTMENTAL PUBLIC MEETINGS.

(a) During its investigation and analysis of a petition for incorporation, the department will convene at least one public meeting in the territory proposed for incorporation. During its investigation and analysis of a petition for a change other than incorporation, the department will, in its discretion, convene at least one public meeting in or near the territory 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 all respondents at least 15 days before the public meetings. The notice will be published by the department 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 in the affected territory. The petitioner shall post the same notice in at least three public and prominent locations in or near the territory proposed for change, and at the same location 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 a sworn affidavit certifying that the posting requirements of this subsection have been met.

(c) Staff assigned to the commission will preside at the public meeting. Written materials submitted at the public meeting will, in the discretion of the presiding staff person, be accepted with due regard to prior public notice and opportunity to submit written briefs. Except in extraordinary circumstances, the petitioner and the respondents will not be permitted to submit further written materials at the meeting. The public meeting will be recorded, and summarized in the report and recommendations of the department, prepared under 3 AAC 110.530 .

(d) The department will, in its discretion, 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 within the same community or territory, and is rescheduled no more than 72 hours after the originally scheduled time.

3 AAC 110.530 DEPARTMENTAL REPORT.

(a) The department will investigate and analyze a petition filed with the department under this chapter, and will submit to the commission a written report of its findings and recommendations regarding the petition.

(b) The department will mail to the petitioner and respondents a proposed draft of its report and recommendations before submitting final report and recommendations to the commission. Within 24 hours of receipt of the draft report and recommendations, the petitioner shall place a copy of the report with the petition documents available for review.

(c) The petitioner, respondents, and other interested persons may submit, to the department, written comments pertaining directly to the draft report and recommendations. The written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640 .

(d) The final written report and recommendations of the department will include due consideration of written comments addressing the draft report and recommendations.

3 AAC 110.540 AMENDMENTS AND WITHDRAWAL.

(a) A petitioner may amend or withdraw the original 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 . If the signatures of voters were required by AS 29.05 or AS 29.06 in the original petition,

(1) the amending petition must contain the dated signatures of the same number of voters in the manner required for the original petition, and must include the dated signatures of at least a majority of the same voters who signed the original petition; and

(2) a statement withdrawing a petition must contain the dated signatures of at least 30 percent of the voters residing in the area of the proposed change, and must include at least a majority of the same voters who signed the original petition.

(b) A petitioner shall serve the amending petition on each person and entity designated by the department, and by 3 AAC 110.400 - 3 AAC 110.660 to receive the original petition, and on the respondents to the original petition. A petitioner shall place a copy of the amending petition with the original petition documents, post the public notice of the amending petition, and submit a sworn affidavit of service and notice in the same manner required for the original petition.

(c) The chairperson of the commission will, in the chairperson's discretion, 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 110.400 - 3 AAC 110.660. Additional informational sessions, meetings, briefings, or other step or process will be conducted in accordance with the procedures specified in 3 AAC 110.400 - 3 AAC 110.660 for the processing of the original petition, except that the timing may be shortened in the chairperson's discretion.

(d) A petitioner may not amend or withdraw the original 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 population affected by the proposed change is best served by allowing the proposed amendment or withdrawal. A petition for amendment or withdrawal allowed under this subsection, must include the same signature requirements specified in (a) of this section. Unless modified by an order of the chairperson of the commission, the procedures of 3 AAC 110.400 - 3 AAC 110.660 for the processing of an original petition apply to an amending petition or statement of withdrawal.

3 AAC 110.550 COMMISSION PUBLIC HEARING.

(a) The commission will convene one or more public hearings at convenient locations in or near the territory of the proposed change as required under AS 29.05, AS 29.06, AS 44.33.810 - 44.33.828, and this chapter.

(b) Notice of the date, time, place and subject of the hearing will be

(1) mailed, postage prepaid, by the department to the petitioner and to all respondents;

(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 six inches long by two columns wide, in one or more newspapers of general circulation selected by the department to reach the people in the territory; and

(3) posted by the petitioner in at least three public and prominent locations in the area 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 will 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 the area of the proposed change and request that it be announced as frequently as possible during the 21 days preceding the date of the hearing.

(d) The commission will, in its discretion, 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 within the same community or territory and is rescheduled no more than 72 hours after the originally scheduled time.

3 AAC 110.560 COMMISSION HEARING PROCEDURES.

(a) The chairperson of the commission will preside at the hearing, and will regulate the time and the content of testimony to exclude irrelevant or repetitious testimony. The hearing must be recorded and the tapes preserved by the department. Two members of the commission constitute a quorum for purposes of a hearing under this section.

(b) A hearing will, in the commission's discretion, include

(1) a report with recommendations from the department;

(2) an opening statement by the petitioner, not to exceed 10 minutes in length;

(3) a period of public comment by interested persons, not to exceed five minutes for each person;

(4) sworn testimony of witnesses called by the petitioner;

(5) sworn testimony of witnesses called by respondents who have filed briefs under 3 AAC 110.480 ;

(6) sworn responsive testimony of witnesses called by the petitioner;

(7) a closing statement by the petitioner, not to exceed 10 minutes in length;

(8) a closing statement by the respondents who testified under (5) of this subsection, not to exceed 10 minutes in length for each respondent; and

(9) a reply by the petitioner, not to exceed five minutes in length.

(c) A member of the commission may question a person appearing for public comment or as a sworn witness. The commission will, in its discretion, call additional witnesses.

(d) A brief or document may not be filed at the time of the public hearing unless the commission determines that good cause exists for that evidence not being presented in a timely manner for written response by the petitioner or respondents, and for consideration in the report and recommendations of the department.

(e) The commission will, in its discretion, amend the order of proceedings and change allotted times for presentations if amendment of the agenda will promote efficiency without detracting from the commission's ability to make an informed decision.

3 AAC 110.570 DECISIONAL MEETING.

(a) Within 90 days after the last commission hearing on a proposed change, the commission will convene a decisional meeting to examine the written briefs, exhibits, comments, and testimony, and to reach a decision regarding the proposed change. No new evidence, testimony or briefing will be received during the decisional meeting, however, the chairperson may ask the department or by some other person for a point of information or clarification.

(b) Three members of the commission constitute a quorum for the conduct of business at a decisional meeting.

(c) If the commission determines that a proposed change should be altered to meet the standards established contained in the Alaska Constitution, AS 29.05, AS 29.06, or this chapter, the commission will, in its discretion, alter

the proposed change and accept the petition as altered. If the commission determines that a petitioner must satisfy a certain requirement before the proposed change can take effect, the commission will include that precondition in its decision.

(d) If the commission determines that a proposed change fails to meet the standards established contained in the Alaska Constitution, AS 29.05, AS 29.06, or this chapter, the commission must reject the proposed change by a majority vote of the presently appointed membership. If the commission determines that a proposed change meets the standards established contained in the Alaska Constitution, AS 29.05, AS 29.06, or this chapter, or can be altered to meet those standards, the commission must accept the proposed or altered change by a majority vote of the presently appointed membership.

(e) The commission must keep written minutes of all decisional meetings. All votes taken by the commission must be entered in the minutes. The approved minutes are a public record.

(f) Within 30 days after the date of its decision, the commission will file as a public record a written statement explaining all major considerations leading to the decision. A copy of the statement will be mailed to the petitioner, to all respondents, and to other interested persons requesting a copy.

(g) A decision by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents. The department will execute and file a sworn affidavit of mailing as a part of the public record of the proceedings.

3 AAC 110.580 RECONSIDERATION.

(a) Within 20 days after a decision of the commission is final under 3 AAC 110.570(g),

(1) a person may file a request for reconsideration of that decision, describing in detail the facts and analyses that support the request for reconsideration; or

(2) the commission will, in its discretion, order reconsideration of all or part of its decision on its own motion.

(b) If the commission has taken no action on a request for reconsideration within 30 days after the decision became final under 3 AAC 110.570(g), the request is automatically denied. If the commission grants a request for reconsideration within 30 days after the final decision under 3 AAC 110.570 (g), a petitioner or respondent opposing the reconsideration is allotted 10 days from the date the request for reconsideration is granted to file a responsive brief

describing in detail the facts and analyses that support or oppose the request for reconsideration.

3 AAC 110.590 LOCAL ACTION BOUNDARY CHANGES.

(a) Except as otherwise provided in this section, if a petition is filed with the department under a local action or local option method provided for in AS 29.06, for dissolution, annexation, detachment, merger, or consolidation, only the following procedures specified in 3 AAC 110.400 - 3 AAC 110.660 are required:

(1) filing a petition under 3 AAC 110.420 ;

(2) technical review of the petition under 3 AAC 110.440 ;

(3) notice and service of the petition under 3 AAC 110.450 - 3 AAC 110.470;

(4) departmental report under 3 AAC 110.530 ;

(5) commission's public hearing under 3 AAC 110.550 ;

(6) decisional meeting under 3 AAC 110.570 .

(b) The commission will, in its discretion, expand local action or local option procedures to include other requirements of 3 AAC 110.400 - 3 AAC 110.660 , such as additional notice and service, briefing, informational sessions, and public meetings and hearings, if the commission determines that the best interests of the state are enhanced by expanded public participation.

(c) The commission will, in its discretion, relax, reduce, or eliminate the notice and service requirements of 3 AAC 110.450 - 3 AAC 110.470 if the commission determines that a shortened or less expensive method of public notice is reasonably designed to reach all interested persons.

(d) The commission, in its discretion, will not require the commission public hearing under 3 AAC 110.550 , and will modify the departmental report requirement under 3 AAC 110.530 , for a petition proposing annexation of adjacent municipally owned property, or for a petition proposing annexation of adjacent property by unanimous consent of voters and property owners.

(e) If the commission determines that the balanced best interests of the locality and the state are enhanced by statewide participation, the commission will, in its discretion convert a local action or local option petition to a legislative review petition.

3 AAC 110.600 LOCAL ACTION/LOCAL OPTION ELECTIONS.

(a) In accordance with AS 29.05 and AS 29.06, the commission will notify the director of elections of its acceptance of a local action or local option petition proposing incorporation, dissolution, merger, or consolidation. The director of elections will conduct and certify the elections in accordance with AS 15 and AS 29.05 - AS 29.06.

(b) If AS 29.06 requires a local election for a proposed annexation or detachment, the commission will notify the clerk of the affected municipality of the commission's acceptance of a local option petition. The election must be administered by the affected municipality at its own cost, and in the manner prescribed by its municipal election code, except that the commission will, in its discretion, specify the wording of the ballot measure and broaden the election notice requirements.

3 AAC 110.610 LEGISLATIVE REVIEW.

(a) The commission may determine during the course of proceedings that a legislative review petition should be amended and considered as a local action or local option petition, if the commission determines that the balanced best interests of the locality and the state are enhanced by local participation.

(b) If the commission determines that a decision of the commission as requires legislative review, the commission will present the petition to the legislature during the first 10 days of the next regular session.

3 AAC 110.620 JUDICIAL REVIEW.

A final decision of the commission made under AS 29.05, AS 29.06, or this chapter may be appealed to the superior court in accordance with the Administrative Procedure Act (AS 44.62).

3 AAC 110.630 EFFECTIVE DATE AND CERTIFICATION.

(a) Except as provided in (b) of this section, a final decision of the commission is effective when

(1) notification of compliance with 42 U.S.C. 1973c (Voting Rights Act of 1965) is received from the United States Department of Justice;

(2) certification of the legally required voter approval of the commission's final decision is received from the director of the division of elections or the appropriate municipal official; and

(3) 45 days have passed since presentation of the commission's final decision on a legislative review petition was made to the legislature and the legislature has not disapproved the decision.

(b) The effective date of a merger or consolidation is the date set by the director of the division of elections for the election of officials of the remaining or new municipality, if the provisions of (a) of this section have also been satisfied.

(c) When the requirements in (a) of this section have been met, the department will issue a certificate describing the effective change. The department will hand-deliver or mail, postage prepaid, a copy of the certificate to all municipalities affected by the change, and will file a copy of the certificate in each recording district of all territory affected by the change.

3 AAC 110.640 SCHEDULING.

(a) The chairperson of the commission will issue an order setting or amending a formal schedule for action on a petition.

(b) A schedule under (a) of this section will allow at least

(1) 49 days from the date of initial publication or posting of notice of the filing of a petition, whichever occurs first, for receipt by the department of a responsive brief;

(2) 14 days from the date of service of a responsive brief on the petitioner for the receipt by the department of a reply brief from the petitioner;

(3) 28 days from the date of mailing of a departmental draft report and recommendation to the petitioner for receipt of written summary comments to the department;

(4) 21 days between the date of mailing of a final report and recommendation by the department to the petitioner and the commission hearing on the petition.

(c) The commission will, in its discretion, postpone proceedings on a petition for the purpose of allowing concurrent consideration and action on another existing or anticipated petition that will pertain to some or all of the same territory. A competing petition must be received by the department no later than 90 days after the date of the first posting of notice of the earlier petition under 3 AAC 110.410 .

3 AAC 110.650 RESUBMITTALS AND REVERSALS.

Except upon a special showing to the commission of significantly changed conditions, a petition will not be accepted for filing that

(1) is substantially similar to a petition denied by the commission, rejected by the legislature, or rejected by the voters during the immediately preceding 24 months; or

(2) requests a substantial reversal of a decision of the commission that first became effective during the immediately preceding 24 months.

3 AAC 110.660 PURPOSE OF PROCEDURAL REGULATIONS; RELAXATION OR SUSPENSION OF PROCEDURAL REGULATION.

3 AAC 110.400 - 3 AAC 110.660 are procedural regulations designed to facilitate the business of the commission, and shall be construed to secure the reasonable, speedy and inexpensive determination of every action and proceeding. Unless a requirement is strictly provided for in the Alaska Constitution, AS 29, or AS 44.33.810 - 44.33.849, the commission will, in its discretion, relax or suspend a procedural regulation if the commission determines that a strict adherence to the regulation would work injustice or result in a substantially uninformed decision.

GENERAL PROVISIONS

3 AAC 110.900 TRANSITION.

(a) A petition for incorporation, annexation, merger or consolidation must include a practical plan in which the municipal government demonstrates its intent and capability to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for detachment or dissolution must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment.

(b) A petition for a proposed action by the commission must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, service area, or other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city or service area, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

(c) A petition for a proposed action by the commission must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, service area or other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, or service area affected by the change, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occurs without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

(d) Before approving a proposed change, the commission will, in its discretion, require that all affected boroughs, cities, service areas, or other entities execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

3 AAC 110.910 STATEMENT OF NON-DISCRIMINATION.

A petition will not be approved by the commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

3 AAC 110.920 DETERMINATION OF COMMUNITY.

(a) In determining whether a population comprises a community or social unit, the commission will, in its discretion, consider relevant factors, including whether the people

(1) reside permanently in a close geographical proximity that allows frequent personal contacts and has a population density that is characteristic of neighborhood living;

(2) residing permanently at a location are a discrete and identifiable unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community or social unit if

(1) public access to or the right to reside at, the location of the population is restricted;

(2) the population is contiguous or closely adjacent to a community or social unit and is dependent upon that community or social unit for its existence; or

(3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.

3 AAC 110.990 DEFINITIONS.

Unless the context indicates otherwise, in this chapter

(1) "borough" means a general law borough, a home rule borough, or a unified municipality;

(2) "commission" means the Local Boundary Commission;

(3) "commissioner" means the commissioner of the Department of Community and Economic Development;

(4) a "community" is a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920 ;

(5) "contiguous" means territories and properties that are adjacent, adjoining, and touching each other;

(6) "department" means the Department of Community and Economic Development;

(7) "essential borough services" means those mandatory and discretionary activities and facilities that are determined by the commission to be reasonably necessary to the territory and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state; "essential borough services" may include

(A) assessing and collecting taxes;

(B) providing primary and secondary education;

(C) planning, platting, and land use regulation; and

(D) other services that the commission considers reasonably necessary to meet the borough governmental needs of the territory;

(8) "essential city services" means those legal activities and facilities that are determined by the commission to be reasonably necessary to the community and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state; "essential city services" may include

(A) assessing, levying, and collecting taxes;

(B) providing primary and secondary education in first class and home rule cities in an unorganized borough;

(C) public safety protection;

(D) planning, platting and land use regulation; and

(E) other services that the commission considers reasonably necessary to meet the local governmental needs of the community;

(9) "mandatory power" means an authorized act, duty, or obligation required by law to be performed or fulfilled by a municipality in the course of its fiduciary obligations to citizens and taxpayers; "mandatory power" may include

(A) assessing, levying, and collecting taxes;

(B) providing education, public safety, public health, and sanitation services;

(C) planning, platting and land use regulation;

(D) conducting elections; and

(E) other acts, duties, or obligations required by law to meet the local governmental needs of the community;

(10) "permanent residence" means a person who has maintained a principal domicile in the territory proposed for change under this chapter for at least 30 days immediately preceding the date of acceptance of a petition by the department, and who shows no intent to remove that principal domicile from the territory at any time during the pendency of a petition before the commission;

(11) "political subdivision" means a borough, unified municipality, city, regional educational attendance area, or coastal resource service area organized and operated under state law;

(12) "property owner" means a legal person holding a vested fee simple interest in the surface or subsurface estate of any real property including submerged lands; lienholders, mortgagees, deed of trust beneficiaries, remaindermen, lessees, and holders of unvested interests in land are not "property owners" for purposes of this chapter.