

## **Part 15 Local Boundary Commission**

### **Chapter 110. Municipal Boundary Changes. (3 AAC 110.010 - 3 AAC 110.990)**

#### ***Chapter 110 Municipal Boundary Changes***

##### **Article**

1. Standards for Incorporation of Cities. (3 AAC 110.005 - 3 AAC 110.042)
2. Standards for Incorporation of Boroughs. (3 AAC 110.045 - 3 AAC 110.065)
3. Standards for Annexation to Cities. (3 AAC 110.090 - 3 AAC 110.150)
4. Standards for Annexation to Boroughs. (3 AAC 110.160 - 3 AAC 110.210)
5. Standards for Merger of Municipalities. (3 AAC 110.220 - 3 AAC 110.230)
6. Standards for Consolidation of Municipalities. (3 AAC 110.240 - 3 AAC 110.250)
7. Standards for Detachment from Cities. (3 AAC 110.260 - 3 AAC 110.260)
8. Standards for Detachment from Boroughs. (3 AAC 110.270 - 3 AAC 110.270)
9. Standards for Dissolution of Cities. (3 AAC 110.280 - 3 AAC 110.300)
10. Standards for Dissolution of Boroughs. (3 AAC 110.310 - 3 AAC 110.330)
11. Standards for Reclassification of Cities. (3 AAC 110.340 - 3 AAC 110.370)
12. Procedures for Petitioning. (3 AAC 110.400 - 3 AAC 110.660)
13. General Provisions. (3 AAC 110.900 - 3 AAC 110.990)

#### Annotations

Editor's note: As of July 31, 1992, Register 123, this chapter (formerly 19 AAC 10) was reorganized and the new organization is substantially different from what preceded it. Except for 3 AAC 110.045 - 3 AAC 110.060 (Article 2) (formerly 19 AAC 10.045 - 19 AAC 10.060 (Article 2)), the history notes do not reflect the history of section numbers or the subject matter of those sections before Register 123. Except for Article 2, each article has been rewritten in its entirety.

As of Register 151 (October 1999), the provisions of former 19 AAC 10 were relocated by the regulations attorney under AS 44.62.125 (b)(6) to 3 AAC 110, in accordance with ch. 58, SLA 1999.

## Article 1 Standards for Incorporation of Cities

### Section

- 5. Community.
- 10. Need.
- 20. Resources.
- 30. Population.
- 40. Boundaries.
- 42. Best interests of state.

### **3 AAC 110.005. Community**

An area proposed for incorporation as a city must encompass a community.

History: Eff. 5/19/2002, Register 162 | Authority: AS 29.05.011; AS 44.33.812

### **3 AAC 110.010. Need**

(a) In accordance with AS 29.05.011 , 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 community may not incorporate as a city if essential city services can be provided more efficiently or more effectively by annexation to an existing city, or can be provided more efficiently or more effectively by an existing organized borough on an areawide basis or non-areawide basis, or through an existing borough service area.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: AS 29.05.011; AS 29.05.021; AS 44.33.812

### **3 AAC 110.020. Resources**

In accordance with AS 29.05.011 , the economy of a proposed city must include the human and financial resources necessary to provide essential city 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 local revenue, and the reasonably anticipated income of the proposed city;

(D) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed city through the third full fiscal year of operation;

(E) the economic base of the proposed city;

(F) property valuations for the proposed city;

(G) existing and reasonably anticipated industrial, commercial, and resource development for the proposed city; and

(H) personal income of residents of the proposed city; and

(2) may consider other relevant factors, including

(A) land use for the proposed city;

(B) the need for and availability of employable skilled and unskilled persons to serve the proposed city; and

(C) a reasonably predictable level of commitment and interest of the residents in sustaining a city.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.05.011; AS 44.33.812
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### **3 AAC 110.030. Population**

(a) In accordance with AS 29.05.011 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) total census enumeration;

- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

(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 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.011; AS 44.33.812

### **3 AAC 110.040. Boundaries**

(a) In accordance with AS 29.05.011 , the boundaries of a proposed city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.

(b) The boundaries of the proposed city must include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of incorporation.

(c) The boundaries of the proposed city 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.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is non-contiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential city services on an efficient, cost-effective level.

(e) 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 for either

annexation of the new city to the existing borough, or detachment of the overlapping region from the existing borough or city. The commission will consider and treat that petition for incorporation as also being either an annexation petition to the existing borough, or a detachment petition from the existing borough or city.

History: Eff. 7/3/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.011; 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;
  - (2) promotes a minimum number of local government units;
  - (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 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.100; AS 44.33.812

## Article 2 Standards for Incorporation of Boroughs

### Section

- 45. Community of interests.
- 50. Population.
- 55. Resources.
- 60. Boundaries.
- 65. Best interests of state.

### **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 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; and
- (4) 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 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) 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 connected to the seat of the proposed borough 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, or sufficient electronic media communications.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162 | Authority: 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 this regard, the commission may 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.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.031; AS 44.33.812

### **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

- (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 local revenue, and the reasonably anticipated income of the proposed borough;

(D) the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation;

(E) the economic base of the proposed borough;

(F) property valuations for the proposed borough;

(G) land use for the proposed borough;

(H) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and

(I) personal income of residents of 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; 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 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.031; AS 44.33.812

### **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 may 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 any model borough boundaries.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner 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) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is non-contiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential borough 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 region from the existing organized borough. The commission will consider and treat that petition for incorporation as also being a detachment petition.

History: Eff. 10/12/91, Register 120; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.031; AS 44.33.812

### **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;
  - (2) promotes a minimum number of local government units;
  - (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 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.100; AS 44.33.812

## Article 3 Standards for Annexation to Cities

### Section

- 90. Needs of the territory.
- 100. Character.
- 110. Resources.
- 120. Population.
- 130. Boundaries.
- 135. Best interests of state.
- 140. Legislative review.
- 150. Local action.

### **3 AAC 110.090. Needs of the territory**

(a) The territory must exhibit 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, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city;

(2) existing or reasonably anticipated health, safety, and general welfare conditions;

(3) existing or reasonably anticipated economic development;

(4) adequacy of existing services;

(5) extraterritorial powers of the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and

(6) whether residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of services and facilities provided by the annexing city.

(b) Territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough on an areawide basis or non-areawide basis, or through an existing borough service area.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.100. Character**

The territory must be compatible in character with the annexing city. In this regard, the commission may consider relevant factors, including the

- (1) land use and subdivision platting;
- (2) salability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes; and
- (5) suitability of the territory for reasonably anticipated community purposes.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812
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### **3 AAC 110.110. Resources**

The economy within the proposed boundaries of the city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city that would result from annexation;
- (3) actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
- (4) feasibility and plausibility of those aspects of the city's anticipated operating and capital budgets that would be affected by the annexation through the third full fiscal year of operation after annexation;
- (5) economic base of the city after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;

(9) personal income of residents in the territory and in the city; and

(10) need for and availability of employable skilled and unskilled persons to serve the city as a result of annexation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.120. Population**

The population within the proposed boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission may consider relevant factors, including

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.130. Boundaries**

(a) The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create

enclaves in the annexing city, does not include all land and water necessary to allow for the full development of essential city services on an efficient, cost-effective level.

(c) The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

(d) The proposed boundaries of the city 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 110.090 - 3 AAC 110.135.

(e) If a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough, or detachment of the enlarged city from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.135. *Best interests of state***

In determining whether annexation to a city is in the best interests of the state under AS 29.06.040 (a), the commission may consider relevant factors, including whether annexation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units; and
- (3) will relieve the state government of the responsibility of providing local services.

History: Eff. 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.140. *Legislative review***

Territory that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 may be annexed to a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the territory is an enclave surrounded by the annexing city;

(2) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;

(3) the extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;

(4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

(5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city;

(6) repealed 5/19/2002;

(7) annexation of the territory will promote local self-government with a minimum number of government units;

(8) annexation of the territory will enhance the extent to which the existing city meets the standards for incorporation of cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042;

(9) the commission determines that specific policies set out in the Constitution of the State of Alaska or AS 29.04, 29.05, or 29.06 are best served through annexation of the territory by the legislative review process.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.150. Local action**

Territory contiguous to the annexing city, that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 and has been approved for local action annexation by the commission, may be annexed to a city by any one of the following actions:

(1) city ordinance if the territory is wholly owned by the annexing city;

(2) city ordinance and a petition signed by all of the voters and property owners of the territory;

(3) approval by a majority of voters residing in the territory voting on the question at an election;

(4) approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing city;

(5) approval by a majority of the voters who vote on the question within the annexing city if the territory is uninhabited.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

## Article 4 Standards for Annexation to Boroughs

### Section

- 160. Community of interests.
- 170. Population.
- 180. Resources.
- 190. Boundaries.
- 195. Best interests of state.
- 200. Legislative review.
- 210. Local action.

### **3 AAC 110.160. Community of interests**

(a) The social, cultural, and economic characteristics and activities of the people in the territory must be interrelated and integrated with the characteristics and activities of the people in the existing borough. In this regard, the commission may consider relevant factors, including the

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

(2) compatibility of economic lifestyles and industrial or commercial activities within the proposed borough boundaries;

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

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

(b) The communications media and the land, water, and air transportation facilities throughout the proposed borough boundaries must allow for the level of communications and exchange necessary to develop an integrated borough government. 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.

### **3 AAC 110.170. Population**

The population of the proposed borough after annexation must be sufficiently large and stable to support the resulting borough. In this regard, the commission may consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812
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### **3 AAC 110.180. Resources**

The economy within the proposed borough boundaries must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the

- (1) reasonably anticipated functions of the borough in the territory being annexed;
- (2) reasonably anticipated new expenses of the borough that would result from annexation;
- (3) actual income and the reasonably anticipated ability of the borough to generate and collect local revenue and income from the new territory;
- (4) feasibility and plausibility of those aspects of the borough's anticipated operating and capital budgets that would be affected by annexation through the third year of operation after annexation;
- (5) economic base of the borough after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;

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

(9) personal income of residents in the territory to be annexed and in the borough;  
and

(10) the need for and availability of employable skilled and unskilled persons to serve the borough as a result of annexation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.190. Boundaries**

(a) The proposed boundaries of the 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 may 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 presume that territory that is not contiguous to the annexing borough, or that would create enclaves in the annexing borough, does not include all land and water necessary to allow for the full development of essential borough services on an efficient, cost-effective level.

(c) Absent a specific and persuasive showing to the contrary, the commission will not approve annexation of territory to a borough extending beyond the model borough boundaries developed for that borough.

(d) The commission will consult with the Department of Education and Early Development in the process of balancing all standards for annexation to a borough.

(e) If a petition for annexation to a borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for detachment of the overlapping region from the existing organized borough.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.195. *Best interests of state***

In determining whether annexation to a borough is in the best interests of the state under AS 29.06.040 (a), the commission may consider relevant factors, including whether annexation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units; and
- (3) will relieve the state government of the responsibility of providing local services.

History: Eff. 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.200. *Legislative review***

Territory that meets the annexation standards specified in 3 AAC 110.160 - 3 AAC 110.195 may be annexed to a borough by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the territory manifests a reasonable need for borough government that can be met most efficiently and effectively by the annexing borough;
- (2) the territory is an enclave surrounded by the annexing borough;
- (3) the health, safety, or general welfare of borough residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the borough to regulate or control the detrimental effect of those conditions;
- (4) the extension of borough services or facilities into the territory is necessary to enable the borough to provide adequate services to borough residents, and it is impossible or impractical for the borough to extend the facilities or services unless the territory is within the boundaries of the borough;
- (5) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of borough government without

commensurate tax contributions, whether these benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;

(6) annexation of the territory will enable the borough to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the borough;

(7) repealed 5/19/2002;

(8) annexation of the territory will promote local self-government with a minimum number of government units;

(9) annexation of the territory will enhance the extent to which the existing borough meets the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.045 - 3 AAC 110.065;

(10) the commission determines that specific policies set out in the Constitution of the State of Alaska or AS 29.04, 29.05, or 29.06 are best served through annexation of the territory by the legislative review process.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.210. Local action**

Territory that meets the annexation standards specified in 3 AAC 110.160 - 3 AAC 110.195 and has been approved for local action annexation by the commission, may be annexed to a borough by any one of the following actions:

(1) borough ordinance if the territory is wholly owned by the annexing borough;

(2) borough ordinance and a petition signed by all of the voters and property owners of the territory;

(3) approval by a majority of voters residing in the territory voting on the question at an election;

(4) approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing borough;

(5) approval by a majority of the voters who vote on the question within the annexing borough if the territory is uninhabited.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

## Article 5 Standards for Merger of Municipalities

### Section

220. Standards.

230. Local option.

### **3 AAC 110.220. Standards**

(a) Two or more municipalities may merge if, upon completion of the merger, the remaining municipality meets the standards for incorporation of

(1) cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042; or

(2) boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.045 - 3 AAC 110.065.

(b) Separate proceedings are not required for dissolution of a municipality that is being merged with another municipality. Dissolution occurs automatically at the time of merger.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.090; AS 44.33.812

### **3 AAC 110.230. Local option**

Municipalities that meet the merger standards required under 3 AAC 110.220, and are approved by the commission for local option merger, may merge if the petition for merger is submitted by the number of voters required under AS 29.06.100 (a), and if a majority of the voters in the remaining municipality vote in favor of the merger in a subsequent election. The election shall be held in accordance with AS 29.06.140.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.090; AS 44.33.812

## Article 6 Standards for Consolidation of Municipalities

### Section

240. Standards.

250. Local option.

### **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

(1) cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042; or

(2) boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.045 - 3 AAC 110.065.

(b) Separate proceedings are not required for dissolution of the consolidating municipalities. Dissolution occurs automatically at the time of consolidation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.090; AS 44.33.812

### **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 proposed new municipality vote in favor of the consolidation in a subsequent election. The election shall be held in accordance with AS 29.06.140.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.090; AS 44.33.812

## Article 7 Standards for Detachment from Cities

### Section

260. Best interests of state.

#### **3 AAC 110.260. Best interests of state**

(a) In determining whether detachment from a city is in the best interests of the state under AS 29.06.040 , the commission may consider relevant factors, including

(1) the health, safety and general welfare of the proposed remnant city and the territory after detachment;

(2) the ability of the proposed remnant city to efficiently and effectively provide reasonably necessary facilities and services after detachment;

(3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;

(4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;

(5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant city and the people of the territory;

(6) the extent to which detachment might enhance or diminish the ability of the proposed remnant city to meet the standards for incorporation of cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042;

(7) the extent to which a transition plan of a previous annexation has been implemented and is effective;

(8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant city, other municipalities, and the state;

(9) whether the proposed detachment will promote local self-government with a minimum number of governmental units; and

(10) whether the territory's requirements for local government services will be adequately met following detachment.

(b) If, to fulfill the requirements of (a)(10) of this section, petitioners have proposed, or the commission requires, incorporation of the territory into a new municipality, the commission may condition the approval of the detachment upon voter approval of the incorporation.

(c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment that would create non-contiguous parts of the city or enclaves within the city does not meet the standards for detachment.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment from a city in an unorganized borough is a diminution of local self-government and does not meet the standards for detachment.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

## Article 8 Standards for Detachment from Boroughs

### Section

270. Best interests of state.

#### **3 AAC 110.270. Best interests of state**

(a) In determining whether detachment from a borough is in the best interests of the state under AS 29.06.040 , the commission may consider relevant factors, including

(1) the health, safety, and general welfare of the proposed remnant borough and the territory after detachment;

(2) the ability of the proposed remnant borough to efficiently and effectively provide reasonably necessary facilities and services after detachment;

(3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;

(4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;

(5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant borough and the people of the territory;

(6) the extent to which detachment might enhance or diminish the ability of the proposed remnant borough to meet the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.045 - 3 AAC 110.065;

(7) the extent to which a transition plan of a previous annexation has been implemented and is effective;

(8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant borough, other municipalities, and the state;

(9) whether the proposed detachment will promote local self-government with a minimum number of governmental units; and

(10) whether the territory's requirements for local government services will be adequately met following detachment.

(b) If, to fulfill the requirements of (a)(10) of this section, petitioners have proposed, or the commission requires, incorporation of the territory into a new municipality, the commission will condition the approval of the detachment upon voter approval of the incorporation.

(c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment that would create non-contiguous parts of the city or enclaves within the city does not meet the standards for detachment.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment from an organized borough to an unorganized borough is a diminution of local self-government and does not meet the standards for detachment.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

## Article 9 Standards for Dissolution of Cities

### Section

- 280. Commission standards.
- 290. Local option standards.
- 300. Best interests of state.

### **3 AAC 110.280. Commission standards**

(a) After filing a petition under AS 29.06.450 (a)(1), a city may dissolve if the commission determines that

(1) dissolution of the city is in the best interests of the state;

(2) the city is free of debt or has satisfied each creditor with a method of repayment; and

(3) the city

(A) no longer meets the standards for incorporation of cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042; or

(B) has ceased to exercise any of its mandatory powers.

(b) The commission may determine whether its decision favoring dissolution of a city will be submitted for legislative review in accordance with art. X, sec. 12, Constitution of the State of Alaska.

(c) Except as otherwise provided in this subsection, in determining whether a city is free of debt or has satisfied each creditor with a method of repayment, the commission will require an audit identifying all assets and liabilities of the city. For the proposed dissolution of a home rule or first class city, and for the proposed dissolution of a second class city that has undergone an audit in each of the three years immediately preceding the petition for dissolution, the audit must be performed by an independent certified public accountant. For the proposed dissolution of a second class city that has not undergone an audit in each of the three years immediately preceding the petition for dissolution, the department shall submit a written report identifying all assets and liabilities of that city.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.450; AS 44.33.812

**3 AAC 110.290. Local option standards**

(a) A city may be dissolved using the local option method identified in AS 29.06.450 (a)(2) if the voters of the city file a petition for dissolution under AS 29.06.460 and the commission determines that the city qualifies for dissolution under AS 29.06.470 (a) or AS 29.06.470 (b). The commission will deny or accept a petition in accordance with AS 29.06.

(b) Except as otherwise provided in this subsection in determining whether a city is free of debt or has satisfied each creditor with a method of repayment under AS 29.06.470, the commission will require an audit identifying all assets and liabilities of the city. For the proposed dissolution of a home rule or first class city, and for the proposed dissolution of a second class city that has undergone an audit in each of the three years immediately preceding the petition for dissolution, the audit must be performed by an independent certified public accountant. For the proposed dissolution of a second class city that has not undergone an audit in each of the three years immediately preceding the petition for dissolution, the department shall submit a written report identifying all assets and liabilities of that city proposed for dissolution.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.450; AS 29.06.460; AS 29.06.470; AS 29.06.500; AS 44.33.812

**3 AAC 110.300. Best interests of state**

In determining whether dissolution of a city is in the best interests of the state under AS 29.06.500 (a) or 3 AAC 110.280, the commission may consider relevant factors, including

(1) the extent to which the city is providing services, receiving revenue, and incurring debt;

(2) whether a government or organization other than the state is willing and able to provide all services and facilities necessary to meet the needs of the community;

(3) whether dissolution of the city is likely to endanger the health, safety, or general welfare of residents in or near the city proposed for dissolution;

(4) the effect that the proposed dissolution will have on the harmony of relations among residents of the city proposed for dissolution, and between the residents of the city and others residing near the city;

(5) the social and economic impacts of the proposed dissolution on other communities in the state;

(6) the effect of the proposed dissolution on the long-term stability of the finances of other municipalities and the state; and

(7) circumstances identified by the commission reflecting the legal standards and principles that guide commission action in furthering the development of local self-government with a minimum number of governmental units.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.450; AS 29.06.500; AS 44.33.812

## Article 10 Standards for Dissolution of Boroughs

### Section

- 310. Commission standards.
- 320. Local option standards.
- 330. Best interests of state.

### **3 AAC 110.310. Commission standards**

(a) After filing a petition under AS 29.06.450 (a)(1), a borough may dissolve if the commission determines that

- (1) dissolution of the borough is in the best interests of the state;
- (2) the borough is free of debt or has satisfied each creditor with a method of repayment; and
- (3) the borough

(A) no longer meets the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.045 - 3 AAC 110.065; or

(B) has ceased to exercise any of its mandatory powers.

(b) The commission may determine whether its decision favoring dissolution of a borough will be submitted for legislative review in accordance with art. X, sec. 12, Constitution of the State of Alaska.

(c) Except as otherwise provided in this subsection, in determining whether a borough is free of debt or has satisfied each creditor with a method of repayment, the commission will require an audit to be performed by an independent certified accountant identifying all assets and liabilities of the borough.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.450; AS 44.33.812

### **3 AAC 110.320. Local option standards**

(a) A borough may be dissolved using the local option method identified in AS 29.06.450 (a)(2) if the voters of the borough file a petition for dissolution under AS 29.06.460 and the commission determines that the borough qualifies for dissolution

under AS 29.06.470 (a) or AS 29.06.470 (b). The commission will deny or accept a petition in accordance with AS 29.06.

(b) In determining whether a borough is free of debt or has satisfied each creditor with a method of repayment under AS 29.06.470 , the commission will require an audit performed by an independent certified public accountant identifying all assets and liabilities of the borough.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.450; AS 29.06.460; AS 29.06.470; AS 29.06.500; AS 44.33.812

### **3 AAC 110.330. Best interests of state**

In determining whether dissolution of a borough is in the best interests of the state under AS 29.06.500 (a) or 3 AAC 110.310, the commission may consider relevant factors, including

(1) the extent to which the borough is providing services, receiving revenue, and incurring debt;

(2) whether a government or organization other than the state is willing and able to provide all services and facilities necessary to meet the needs of the community;

(3) whether dissolution of the borough is likely to endanger the health, safety, or general welfare of residents in or near the borough proposed for dissolution;

(4) the effect that the proposed dissolution will have on the harmony of relations among residents of the borough proposed for dissolution, and between the residents of the borough and others residing near the borough;

(5) the social and economic impacts of the proposed dissolution on other communities in the state;

(6) the effect of the proposed dissolution on the long-term stability of the finances of other municipalities and the state; and

(7) circumstances identified by the commission reflecting the legal standards and principles that guide commission action in furthering the development of local self-government with a minimum number of governmental units.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.450; AS 29.06.500; AS 44.33.812

## Article 11 Standards for Reclassification of Cities

### Section

- 340. Application of incorporation standards.
- 350. Best interests standard for a proposed second class city in the unorganized borough.
- 360. Best interests standard for a proposed first class city in the unorganized borough.
- 370. Best interests standard for cities within an organized borough.

### **3 AAC 110.340. Application of incorporation standards**

In determining whether a city satisfies the incorporation standards for the class of city to which it is proposed to be reclassified under AS 29.04.040 (a), the commission will consider the applicable standards under AS 29.05.011 , AS 29.05.021 , and 3 AAC 110.005 - 3 AAC 110.042.

History: Eff. 11/27/96, Register 140; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 44.33.812
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### **3 AAC 110.350. Best interests standard for a proposed second class city in the unorganized borough**

(a) In determining whether reclassification of a home rule city or first class city to a second class city in the unorganized borough is in the best interests of the state under AS 29.04.040 (a), the commission may consider relevant factors, including the

(1) reasonably anticipated fiscal impact to the state from the elimination of local contributions to the city school district under AS 14.17.410 , changes in the district cost factors under AS 14.17.460 , changes in funding under 20 U.S.C. 7703, and other effects;

(2) reasonably anticipated impacts on education from combining the city school district and the regional educational attendance area in which the city is located;

(3) ability of the city to provide essential city services, meet its financial and contractual obligations, and otherwise function under the more limited authority of a second class city to levy a property tax;

(4) reasonably anticipated need for mandatory planning, platting, and land use regulation within the boundaries of the city;

(5) reasonably anticipated need for the city to exercise the power of eminent domain; and

(6) likelihood that reclassification may promote formation of an organized borough in the region.

(b) In considering the factors in (a)(1) and (a)(2) of this section, the commission will consult with the commissioner of education and early development, the superintendent and school board of the city school district, and the superintendent, school board, and advisory school boards established under AS 14.08.115 of the regional educational attendance area in which the city is located.

(c) The commission may make a determination that reclassification is in the state's best interest, subject to legislative review in the manner provided by art. X, sec. 12, Constitution of the State of Alaska. In those circumstances, legislative review of a reclassification proposal does not eliminate the requirement for voter approval of a reclassification proposal under AS 29.04.040.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that reclassification of a city under this section is not in the best interests of the state if reclassification will result in the transfer of the city's debt for educational facilities to the state.

History: Eff. 11/27/96, Register 140; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 44.33.812

### ***3 AAC 110.360. Best interests standard for a proposed first class city in the unorganized borough***

(a) In determining whether reclassification of a second class city to a first class city in the unorganized borough is in the best interests of the state under AS 29.04.040 (a), the commission may consider relevant factors, including

(1) the reasonably anticipated fiscal impact to the state from the imposition of local contributions to the city school district under AS 14.17.410 , changes in the district cost factors under AS 14.17.460 , changes in funding under 20 U.S.C. 7703, and other effects;

(2) the reasonably anticipated impacts on education resulting from the creation of a new city school district;

(3) whether the requirements of AS 14.12.025 (new school districts) have been met;

(4) the need for the city to have greater authority to levy a property tax in order to provide essential city services;

(5) the need for mandatory planning, platting, and land use regulation within the boundaries of the city;

(6) the need for the city to exercise the power of eminent domain; and

(7) the likelihood that reclassification will diminish incentives or opportunities to form an organized borough.

(b) In considering the factors in (a)(1) - (a)(3) of this section, the commission will consult with the commissioner of education and early development and the superintendent, school board, and advisory school boards established under AS 14.08.115 of the regional educational attendance area in which the city is located.

(c) The commission may make a determination that reclassification is in the state's best interest, subject to legislative review in the manner provided by art. X, sec. 12, Constitution of the State of Alaska. In those circumstances, legislative review of a reclassification proposal does not eliminate the requirement for voter approval of a reclassification proposal under AS 29.04.040.

History: Eff. 11/27/96, Register 140; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 44.33.812

### **3 AAC 110.370. Best interests standard for cities within an organized borough**

(a) In determining whether reclassification of a city within an organized borough is in the best interests of the state under AS 29.04.040 (a), the commission may consider relevant factors, including the

(1) fiscal impact to the state;

(2) need for the city to have authority to levy a property tax, and at what rate, to provide essential city services; and

(3) need for the city to exercise the power of eminent domain.

(b) The commission may make a determination that reclassification is in the state's best interest, subject to legislative review in the manner provided by art. X, sec. 12, Constitution of the State of Alaska. In those circumstances, legislative review of a reclassification proposal does not eliminate the requirement for voter approval of a reclassification proposal under AS 29.04.040.

History: Eff. 11/27/96, Register 140; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 44.33.812

## Article 12 Procedures for Petitioning

	<b>Section</b>
400. Applicability.	530. Departmental report.
410. Petitioners.	540. Amendments and withdrawal.
420. Petition.	550. Commission public hearing.
425. Legislative review annexation petitions.	560. Commission hearing procedures.
430. Consolidation of petitions.	570. Decisional meeting.
440. Technical review of petition.	580. Reconsideration.
450. Notice of petition.	590. Certain local action annexations.
460. Service of petition.	600. Local action/local option elections.
470. Proof of notice and service.	610. Legislative review.
480. Responsive briefs and written comments.	620. Judicial review.
490. Reply brief.	630. Effective date and certification.
500. Limitations on advocacy.	640. Scheduling.
510. Informational sessions.	650. Resubmittals and reversals.
520. Departmental public meetings.	660. Purpose of procedural regulations; relaxation or suspension of procedural regulation.

### **3 AAC 110.400. Applicability**

Except as provided in 3 AAC 110.590, 3 AAC 110.410 - 3 AAC 110.660 apply to petitions for city reclassification under AS 29.04, for incorporation under AS 29.05, and for alterations to municipalities under AS 29.06. However, only those sections of 3 AAC 110.410 - 3 AAC 110.660 with which compliance is required under 3 AAC 110.590 apply to an annexation petition filed under a local action method provided for in AS 29.06.040 (c)(2) or (c)(3).

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 20.04.040; AS 29.05.060; AS 29.06.040; AS 29.06.090; AS 29.06.100; AS 29.06.450; AS 29.06.460; AS 44.33.812

### **3 AAC 110.410. Petitioners**

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

- (1) the legislature;
- (2) the commissioner;

(3) the staff of the commission or a person designated by the commission, subject to (d) of this section;

(4) a political subdivision of the state;

(5) a regional educational attendance area;

(6) a coastal resource service area;

(7) at least 10 percent of the persons registered to vote in a political subdivision of the state, in a regional educational attendance area, or in a coastal resource service area, if the petition seeks the alteration of a municipality under AS 29.06, other than by local option under AS 29.06.090 (b)(2) or AS 29.06.450 (a)(2);

(8) at least 10 percent of the persons registered to vote in a territory proposed for annexation by election under AS 29.06.040 (c)(1) or by legislative review under AS 29.06.040 (b) or AS 44.33.812 (b)(2);

(9) at least 25 percent of the persons registered to vote in a territory proposed for detachment by election under AS 29.06.040 (c)(1) or by legislative review under AS 29.06.040 (b) or AS 44.33.812 (b)(2); or

(10) the number of qualified voters required under

(A) AS 29.04.040 , if the petition seeks reclassification of a city;

(B) AS 29.05.060 , if the petition seeks a municipal incorporation; and

(C) AS 29.06.090 (b)(2) or AS 29.06.450 (a)(2), if the petition is a local option petition under those provisions.

(b) If, to achieve compliance with AS 29.06.100 (a), a petition for merger or consolidation must 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. The number of borough voters required to sign the petition must be based on the number of registered voters or the number of votes cast in the area of the borough outside any city or cities joining the petition.

(c) The provisions of (a)(10) of this section may not be construed to apply to petition procedures established by the commission under AS 44.33.812 (a)(2), AS 29.06.040 (c) for annexation and detachment, AS 29.06.090 (b)(1) for merger and consolidation, or AS 29.06.450 (a)(1) for dissolution.

(d) The staff of the commission or a person designated by the commission may initiate a petition if the commission

(1) determines that the action proposed will likely promote the standards established under the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter; and

(2) directs 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 entity or group initiating a petition under (a) of this section is the petitioner. A petition must include a designation of one person as representative of the petitioner.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.060; AS 29.06.040; AS 29.06.090; AS 29.06.100; AS 29.06.450; AS 29.06.460; AS 44.33.812

### **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 supporting materials with the department.

(b) A petition must be filed on forms provided by the department. On the forms provided, the department shall require that the petition include the following information and supporting materials:

(1) the name of the petitioner;

(2) the name and class of any

(A) existing municipal government for which a change is proposed;

and

(B) proposed municipal government;

(3) a general description of the nature of the proposed commission action;

(4) a general description of the area proposed for change;

(5) a statement of reasons for the petition;

(6) legal descriptions, maps, and plats for a proposed municipality, or for any existing municipality for which a change is proposed;

(7) the size of the area proposed for change;

(8) the physical address and mailing address of the petitioner's representative designated under 3 AAC 110.410(e), and the telephone number, facsimile number, and electronic mail address, if any, for the representative;

(9) data estimating the population of the area proposed for change;

(10) information relating to public notice and service of the petition;

(11) the following tax data:

(A) the assessed or estimated value of taxable property in the territory proposed for change, if the proposed municipal government, or any existing municipal government for which a change is proposed, levies or proposes to levy property taxes;

(B) projected taxable sales in the territory proposed for change, if the proposed municipal government, or any existing municipal government for which the change is proposed, levies or proposes to levy sales taxes;

(C) each municipal government tax levy currently in effect in the territory proposed for change.

(12) a three-year projection of revenue, operating expenditures, and capital expenditures for a proposed municipality, or for any existing municipality for which a change is proposed;

(13) information about any existing long-term municipal debt;

(14) information about the powers and functions of

(A) a proposed municipality;

(B) any existing municipality for which a change is proposed, before and after the proposed change; and

(C) alternative service providers, including regional educational attendance areas and other service areas within the area proposed for change;

(15) the transition plan required under 3 AAC 110.900;

(16) information about the composition and apportionment of the governing body of

(A) a proposed municipality; and

(B) any existing municipality for which a change is proposed, before and after the proposed change;

(17) information regarding any effects of the proposed change upon civil and political rights for purposes of 42 U.S.C. 1971 - 1974 (Voting Rights Act of 1965);

(18) a supporting brief that provides a detailed explanation of how the proposal satisfies each constitutional, statutory, and regulatory standard that is relevant to the proposed commission action;

(19) documentation demonstrating that the petitioner is authorized to file the petition under 3 AAC 110.410;

(20) for petitions to incorporate or consolidate a home rule city or borough, the proposed municipal charter;

(21) an affidavit from the petitioner's representative that, to the best of the representative's knowledge, information, and belief, formed after reasonable inquiry, the information in the petition is true and accurate.

(c) The petitioner shall provide the department with a copy of the petition and supporting materials in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.060; AS 29.06.040; AS 29.06.090; AS 29.06.100; AS 29.06.450; AS 29.06.460; AS 44.33.812

### **3 AAC 110.425. Legislative review annexation petitions**

(a) Before a petition for annexation by the legislative review process may be submitted to the department under 3 AAC 110.420, the prospective petitioner shall prepare a complete draft of the prospective annexation petition and a summary of the prospective petition. The prospective petitioner shall also conduct a public hearing on the annexation proposal in accordance with (d) - (e) of this section.

(b) The prospective annexation petition required under (a) of this section shall be prepared using forms provided by the department under 3 AAC 110.420. The summary required under (a) of this section must include a map of the territory proposed for annexation, a synopsis of the views of the prospective petitioner regarding the application of applicable annexation standards to the proposed annexation, a summary of the reasonably anticipated effects of annexation, and an abstract of the transition plan required under 3 AAC 110.990.

(c) The prospective annexation petition and the summary shall be made available to the public on or before the first publication or posting of the notice of the hearing required under (e) of this section. The prospective petitioner shall make one copy of the prospective petition available for public review at a convenient location in or near the territory proposed for annexation for every 500 individuals reasonably estimated to reside in the territory proposed for annexation. However, the prospective petitioner need not provide more than five copies of the prospective petition for public review regardless of the population of the territory proposed for annexation. The prospective petitioner shall make the summary of the annexation proposal available for distribution to the public without charge at a convenient location in or near the territory proposed for annexation.

(d) The public hearing required under (a) of this section must address appropriate annexation standards and their application to the annexation proposal, legislative review annexation procedures, the reasonably anticipated effects of the proposed annexation, and the proposed transition plan required under 3 AAC 110.900. The hearing must be held at a convenient location in or near the territory proposed for annexation. The hearing must allow a period for comment on the proposal from members of the public. If the prospective petitioner is a municipality, the governing body shall conduct the hearing.

(e) In the manner provided for a hearing of the commission under 3 AAC 110.550, a prospective petitioner shall give public notice and a public service announcement of the public hearing required under (a) of this section.

(f) The department shall specify the text of the public notice required under (e) of this section, to ensure that the notice contains the following information:

(1) the title of the notice of the hearing;

(2) the name of the prospective petitioner;

(3) a brief description of the nature of the prospective legislative review annexation proposal, including the size and general location of the area under consideration;

(4) information about where and when the prospective petition is available for public review;

(5) information about where the public may receive, without charge, a summary of the prospective petition;

(6) a statement concerning who will conduct the hearing;

(7) a statement of the scope of the hearing;

(8) notification that public comments will be accepted during the hearing, and a statement of any time limits to be placed on individuals who offer comments;

(9) the date, time, and place of the hearing;

(10) a statement of compliance with 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act);

(11) the name and telephone number of a representative of the prospective petitioner to contact for additional information.

(g) The department shall specify the text of the public service announcement required under (e) of this section, to ensure that the announcement contains the following information:

- (1) the title of the public service announcement;
- (2) the period during which the public service announcement is requested to be broadcast;
- (3) the name of the prospective petitioner;
- (4) a description of the prospective proposed action;
- (5) a statement of the size and general location of the area being considered for annexation;
- (6) information about where and when the prospective petition is available for public review;
- (7) information about where the public may receive, without charge, a summary of the prospective petition;
- (8) a statement concerning who will conduct the hearing;
- (9) the date, time, and place of the hearing;
- (10) the name and telephone number of a representative of the prospective petitioner to contact for additional information.

(h) When filing a petition with the department under this section, the prospective petitioner shall submit evidence of compliance with the requirements of (e) of this section, a written summary or transcript of the hearing, a copy of any written materials received during the hearing, and an audio recording of the hearing.

History: Eff. 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 44.33.812

### **3 AAC 110.430. Consolidation of petitions**

If two or more petitions pending action by the commission affect all or some portion of the same territory, the chair of the commission may consolidate the informational session, briefing schedule, department reports, commission hearing, decisional meeting, or other procedure under this chapter for one or more of those petitions. The commission may consider relevant information from concurrent or conflicting petitions during the process of rendering its decision on any one petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.060; AS 29.06.040; AS 29.06.090; AS 29.06.100; AS 29.06.450; AS 29.06.470; AS 44.33.812; AS 44.33.814; AS 44.33.818; AS 44.33.822; AS 44.33.826

**3 AAC 110.440. Technical review of petition**

(a) The department shall review the petition and supporting materials to determine whether they include a budget sufficient for commission review, a transition plan sufficient for commission review, and other required information. When applicable, the department shall also determine whether the petition contains the legally required number of valid signatures. The department shall complete the technical review of the petition within 45 days after receiving it, except that the chair of the commission, for good cause, may grant the department additional time to complete its technical review.

(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 it determines that the petition or supporting materials are deficient in form or content, the department shall consult with the chair of the commission. With the concurrence of the chair of the commission, the department shall return the defective petition or supporting materials to the petitioner for correction or completion. With the concurrence of the chair of the commission, the department shall determine whether the deficiencies in the petition are significant enough to require new authorization for the filing of the corrected or completed petition. The department shall complete the technical review of any corrections or materials needed to complete the petition within 30 days after receiving them, except that the chair of the commission, for good cause, may grant the department additional time to complete its technical review. If the department determines that the petition and brief are in substantial compliance with applicable provisions of AS 29.04, AS 29.05, AS 29.06, and this chapter, the department shall notify the petitioner that the petition and brief have been accepted for filing, and the department shall file the petition.

(d) The petitioner may appeal to the commission a determination by the department under (c) of this section that a petition is deficient in form and content or that new authorization will be required for the filing of a corrected or completed petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.070; AS 29.06.040; AS 29.06.110; AS 29.06.480; AS 44.33.020; AS 44.33.812
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**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 public notice of the filing of the petition in a display ad format of no less than six inches long by two columns wide at least once each week for three consecutive weeks in one or more newspapers of general circulation designated by the department; if the department determines that a newspaper of general circulation, with

publication at least once a week, does not circulate in the territory, the department shall require the petitioner to provide notice through other means designed to reach the public;

(2) post public notice of the filing of the petition in

(A) at least three prominent locations readily accessible to the public and in or near the territory proposed for change; and

(B) other locations designated by the department;

(3) ensure that notices posted under (2) of this subsection remain posted through the deadline set under 3 AAC 110.640 by the chair of the commission for the filing of responsive briefs;

(4) hand-deliver or mail, postage prepaid, public notice of the filing of the petition, 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; and

(5) submit a request for a public service announcement of the filing of the petition to at least one radio or television station serving the area of the proposed change and request that it be announced for the following 14 days.

(b) The department shall specify the text of the public notices required in (a)(1) - (a)(4) of this section, to ensure that the notices contain the following information:

(1) the title of the notice of the filing of the petition;

(2) the name of the petitioner;

(3) a description of the proposed action;

(4) a statement of the size and general location of the territory proposed for change;

(5) a map of the territory proposed for change, or information where a map of the territory is available for public review;

(6) a reference to the constitutional, statutory, and regulatory standards applicable to the commission's decision;

(7) a reference to the statutes and regulations applicable to procedures for consideration of the petition;

(8) designation of where and when the petition is available for public review;

(9) a statement that responsive briefs and comments regarding the petition may be filed with the commission;

briefs,

(10) a reference to the regulations applicable to the filing of responsive

(11) the deadline for receipt of responsive briefs and comments;

(12) the mailing address, facsimile number, and electronic mail address for the submission of responsive briefs and comments to the department;

(13) a telephone number for inquiries to the commission staff.

(c) The department shall specify the text of the public service announcement required in (a)(5) of this section, to ensure that the announcement contains the following information:

(1) the title of the public service announcement;

(2) the period during which the public service announcement is requested to be broadcast;

(3) the name of the petitioner;

(4) a description of the proposed action;

(5) a statement of the size and general location of the territory proposed for change;

(6) a statement of where and when the petition is available for public review;

(7) a statement that responsive briefs and comments regarding the petition may be filed with the commission;

(8) a statement of the deadline for responsive briefs and comments;

(9) a statement of where the complete notice of the filing may be reviewed;

(10) a telephone number for inquiries to the petitioner.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.812
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### **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 interested persons and entities designated by the department. Copies of the petition documents,

including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.

(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 on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction, the petitioner shall make a full set of petition documents, including public notices, responsive briefs, the reply brief, and department reports, available for review by the public at a central and convenient location such as a municipal office 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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.812

### **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 five additional complete sets of petition documents and an affidavit that the notice, posting, service, deposit, and publishing requirements of 3 AAC 110.450 - 3 AAC 110.460 have been satisfied. Copies of the petition documents, including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.812

### **3 AAC 110.480. Responsive briefs and written comments**

(a) If an interested person or entity seeks to participate as a respondent to a petition, that person or entity must have the capacity to sue and be sued, and must file with the department an original and five complete copies of a responsive brief containing facts and analyses favorable or adverse to the petition. If the respondent is a group, the group shall designate one person to represent the group. Copies of the responsive briefs, including maps and other exhibits, must conform to the original in color, size, and other distinguishing characteristics. The respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the respondent lacks a readily accessible means or the capability to provide items in an electronic format.

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

(d) An interested person or entity may file with the department written comments supporting or opposing the petition. Upon receiving those comments, the department shall provide promptly a copy of the written comments to the petitioner by hand-delivery, electronic mail, facsimile, or postage-prepaid mail. If the written comments, including attachments, exceed 20 pages or if they include colored materials or materials larger than 11 inches by 17 inches, the correspondent shall provide an additional five complete sets of the written comments to the department. Copies of the written comments, including attachments, must conform to the original in color, size, and other distinguishing characteristics. Written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.080; AS 29.05.100; AS 29.06.040; AS 29.06.110; AS 29.06.130; AS 29.06.480; AS 29.06.500; AS 44.33.812

### **3 AAC 110.490. Reply brief**

The petitioner may file an original and five copies of a single reply brief in response to all responsive briefs and written comments filed timely under 3 AAC 110.480. The petitioner shall provide the department with a copy of the reply brief in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format. 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 an affidavit of service of the brief on all respondents by regular mail, postage prepaid, or by hand-delivery.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.080; AS 29.05.100; AS 29.06.040; AS 29.06.110; AS 29.06.130; AS 29.06.480; AS 29.06.500; AS 44.33.812

### **3 AAC 110.500. Limitations on advocacy**

(a) Unless otherwise ordered by the commission, for good cause shown, the commission will not, and the department may not, accept a document, letter, or brief for filing and consideration 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 on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.080; AS 29.05.100; AS 29.06.040; AS 29.06.110; AS 29.06.130; AS 29.06.480; AS 29.06.500; AS 44.33.812

### **3 AAC 110.510. Informational sessions**

(a) If the department determines that persons or entities within or near the area of the proposed change have not had adequate opportunity to be informed about the scope, benefits and detriments of the proposed change, the department shall require the petitioner to conduct informational sessions, and to submit a recording, transcription, or summary of those sessions to the department.

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

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.080; AS 29.05.100; AS 29.06.040; AS 29.06.110; AS 29.06.130; AS 29.06.480; AS 29.06.500; AS 44.33.812

### **3 AAC 110.520. Departmental public meetings**

(a) During its investigation and analysis of a petition for incorporation, the department shall 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 may 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 each respondent at least 15 days before the public meeting. The department shall publish the notice 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 and entities within or near the area of the proposed change. If the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate in the area of the proposed change, the department shall provide notice through other means designed to reach the public. The petitioner shall post notice of the meeting in at least three prominent locations readily accessible to the public in or near the territory proposed for change, and at the same location where 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 an affidavit certifying that the posting requirements of this subsection have been met.

(c) Staff assigned to the commission shall preside at the public meeting. If the public meeting is held within the time period established under 3 AAC 110.640 for receiving written comments, the presiding staff person shall accept written materials submitted at the public meeting. However, except in extraordinary circumstances, the petitioner and the respondents may not submit further written materials at the meeting. The public meeting shall be recorded and summarized in the report with recommendations of the department prepared under 3 AAC 110.530.

(d) The department may 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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.05.080; AS 29.06.040; AS 29.06.090; AS 29.06.110; AS 29.06.480; AS 44.33.812

### **3 AAC 110.530. Departmental report**

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

(b) The department shall mail to the petitioner and respondents its preliminary report with recommendations before submitting its final report with recommendations to the commission. Within 24 hours after receipt of the preliminary report with 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 preliminary report with recommendations. The written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.

(d) In its final written report with recommendations, the department shall consider timely submitted written comments addressing the preliminary report with recommendations.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.080; AS 29.06.040; AS 29.06.110; AS 29.06.490; AS 44.33.812

### **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. The original and five copies of the amendment or withdrawal must be filed with the department. The petitioner shall provide the department with a copy of the amended petition and supporting materials in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format. If voters initiated the original petition,

(1) the amended petition must contain the dated signatures of the same number of voters required by AS 29.04, AS 29.05, AS 29.06, or this chapter 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 amended 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 amended petition with the original petition documents, post the public notice of the amended petition, and submit an affidavit of service and notice in the same manner required for the original petition.

(c) The chair of the commission may 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 steps or processes 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 chair of the commission may shorten the timing.

(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 persons and entities within or near the area of the proposed change is best served by allowing the proposed amendment or withdrawal.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.060; AS 29.06.040; AS 29.06.090; AS 29.06.100; AS 29.06.450; AS 29.06.460; AS 44.33.812; AS 44.33.814

### **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 29.04, 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 shall be

(1) mailed, postage prepaid, by the department to the petitioner and to each respondent;

(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 three 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; if the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate in the territory, the department shall provide notice through other means designed to reach the public; and

(3) posted by the petitioner in at least three prominent locations readily accessible to the public 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 shall 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 during the 21 days preceding the date of the hearing.

(d) The commission may 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.

(e) At least 14 days before the hearing, the petitioner and each respondent shall submit to the department a list of witnesses that the respective party intends to call to provide sworn testimony. The list must include the name and qualifications of each witness, the subjects about which each witness will testify, and the estimated time anticipated for the testimony of each witness. On the same date that the petitioner submits

its witness list to the department, the petitioner shall provide a copy of its witness list to each respondent by hand-delivery or postage-prepaid mail. On the same date that a respondent submits its witness list to the department, the respondent shall provide a copy of its witness list to the petitioner and to all other respondents by hand-delivery or postage-prepaid mail.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.090; AS 29.06.040; AS 29.06.120; AS 29.06.490; AS 44.33.812; AS 44.33.814; AS 44.33.818; AS 44.33.826

### **3 AAC 110.560. Commission hearing procedures**

(a) The chair of the commission shall preside at the hearing, and shall regulate the time and the content of statements, testimony, and comments to exclude irrelevant or repetitious statements, testimony, and comments. The department shall record the hearing and preserve the recording. Two members of the commission constitute a quorum for purposes of a hearing under this section.

(b) As part of the hearing, the commission may include

- (1) a report with recommendations from the department;
- (2) an opening statement by the petitioner, not to exceed 10 minutes;
- (3) an opening statement by each respondent, not to exceed 10 minutes;
- (4) sworn testimony of witnesses
  - (A) with expertise in matters relevant to the proposed change; and
  - (B) called by the petitioner;
- (5) sworn testimony of witnesses
  - (A) with expertise in matters relevant to the proposed change; and
  - (B) called by each respondent;
- (6) sworn responsive testimony of witnesses
  - (A) with expertise in matters relevant to the proposed change; and
  - (B) called by the petitioner;
- (7) a period of public comment by interested persons, not to exceed three minutes for each person;

- (8) a closing statement by the petitioner, not to exceed 10 minutes;
- (9) a closing statement by each respondent, not to exceed 10 minutes; and
- (10) a reply by the petitioner, not to exceed five minutes.

(c) If more than one respondent participates, the chair of the commission, at least 14 days before the hearing, may establish for each respondent time limits on the opening and closing statements that are lower than those time limits set out in (b) of this section.

(d) A member of the commission may question a person appearing for public comment or as a sworn witness. The commission may call additional witnesses.

(e) 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 reports with recommendations of the department.

(f) The commission may 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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.090; AS 29.06.040; AS 29.06.120; AS 29.06.490; AS 44.33.812; AS 44.33.814; AS 44.33.816; AS 44.33.820; AS 44.33.826
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### **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. The commission will not receive new evidence, testimony, or briefing during the decisional meeting. However, the chair of the commission may ask the department or a 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 must be altered to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, the commission may alter the proposed change and accept the petition as altered. If the commission determines that a precondition must be satisfied before the proposed change can take effect, the commission will include that precondition in its decision. A motion to alter, impose preconditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval.

(d) If the commission determines that a proposed change fails to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, the commission will reject the proposed change. If a motion to grant a proposed change receives fewer than three affirmative votes by commission members, the proposed change is rejected.

(e) The commission will keep written minutes of a decisional meeting. Each vote taken by the commission will 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, respondents, and other interested persons requesting a copy. The department shall execute and file an affidavit of mailing as a part of the public record of the proceedings.

(g) Unless reconsideration is requested timely under 3 AAC 110.580 or the commission, on its own motion, orders reconsideration under 3 AAC 110.580, a decision by the commission is final on the day that the written statement of decision is mailed, postage prepaid to the petitioners and the respondents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.812; AS 44.33.814; AS 44.33.816; AS 44.33.818; AS 44.33.820; AS 44.33.822; AS 44.33.826
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### **3 AAC 110.580. Reconsideration**

(a) Within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person or entity may file an original and five copies of a request for reconsideration of all or part of that decision, describing in detail the facts and analyses that support the request for reconsideration.

(b) Within 20 days after a written statement of decision is mailed under 3 AAC 110.570(f), the commission may, on its own motion, order reconsideration of all or part of that decision.

(c) A person or entity filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person or entity requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for

reconsideration is founded in fact, and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.

(d) If the person or entity filing the request for reconsideration is a group, the request must identify a representative of the group.

(e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision if the commission determines that

(1) a substantial procedural error occurred in the original proceeding;

(2) the original vote was based on fraud or misrepresentation;

(3) the commission failed to address a material issue of fact or a controlling principle of law; or

(4) new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.

(f) If the commission does not act on a request for reconsideration within 20 days after the decision was mailed under 3 AAC 110.570(f) , the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within 20 days after the decision was mailed under 3 AAC 110.570(f) , the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The petitioner or respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the petitioner or respondent lacks a readily accessible means or the capability to provide items in an electronic format.

(g) Within 90 days after the department receives timely filed responsive briefs, the commission, by means of the decisional meeting procedure set out in 3 AAC 110.570(a) - (f), will issue a decision on reconsideration. A decision on reconsideration by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.812; AS 44.33.814; AS 44.33.820; AS 44.33.822; AS 44.33.826

### **3 AAC 110.590. Certain local action annexations**

(a) Except as otherwise provided in this section, if a petition is filed with the department under a local action method provided for in AS 29.06.040 (c)(2) or (c)(3) for annexation of adjacent municipally owned property or adjacent property by unanimous

consent of voters and property owners, 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) responsive briefs and comments under 3 AAC 110.480, except that the chair of the commission may limit the time allowed under 3 AAC 110.640 for the filing of responsive briefs and comments to 14 days from the date of first publication of the notice of filing of the petition;
  - (5) a reply brief under 3 AAC 110.490, except that the chair of the commission may limit the time allowed under 3 AAC 110.640 for the filing of a reply brief to seven days from the date that the petitioner received the responsive brief;
  - (6) a departmental report under 3 AAC 110.530, except that the department shall issue only one report concerning the local action annexation proposal at least 21 days before the public hearing under 3 AAC 110.550; interested persons may submit written comments to the department on its report no later than seven days before the public hearing;
  - (7) the commission's public hearing under 3 AAC 110.550, except that the commission may conduct the hearing by teleconference;
  - (8) the decisional meeting under 3 AAC 110.570;
  - (9) reconsideration under 3 AAC 110.580.
- (b) The commission may expand local action procedures for annexations under (a) of this section, so that those procedures include other requirements of 3 AAC 110.400 - 3 AAC 110.660, such as informational sessions, and public meetings and hearings, if the commission determines that the best interests of the state will be enhanced.
- (c) The commission may 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) Repealed 5/19/2002.

(e) If the commission determines that the balanced best interests of the locality and the state are enhanced by statewide participation, the commission may convert a local action petition for an annexation described in (a) of this section to a legislative review petition.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 29.06.090; AS 29.06.450; AS 44.33.812; AS 44.33.814; AS 44.33.818; AS 44.33.826

### **3 AAC 110.600. Local action/local option elections**

(a) In accordance with AS 29.04, 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 city reclassification under AS 29.04, municipal incorporation under AS 29.05, and municipal dissolution, merger, or consolidation under AS 29.06.

(b) If AS 29.06.040 requires a municipal election for a proposed annexation or detachment, the commission will notify the clerk of the municipality proposed for change of the commission's acceptance of a local action petition. The election must be administered by the municipality proposed for change at the municipality's own cost, and in the manner prescribed by its municipal election ordinances, except that the commission may specify the wording of the ballot measure and broaden the election notice requirements.

(c) Under AS 29.06.040 (c) and AS 44.33.812 (a)(2), the commission may approve a petition for annexation subject only to approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing municipality. If the territory proposed for annexation is uninhabited, the commission may approve a petition for annexation of that territory subject only to approval by a majority of the voters who vote on the question within the annexing municipality.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.110; AS 29.05.120; AS 29.06.040; AS 29.06.140; AS 29.06.510; AS 44.33.812

### **3 AAC 110.610. Legislative review**

(a) The commission may determine during the course of proceedings that a legislative review petition must 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 a decision of the commission requires legislative review, the commission will present a recommendation for the decision to the legislature during the first 10 days of a regular session in accordance with art. X, sec. 12, Constitution of the State of Alaska.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.06.040; AS 29.06.090; AS 29.06.450; AS 44.33.812; AS 44.33.822; AS 44.33.826; AS 44.33.828

### **3 AAC 110.620. Judicial review**

A final decision of the commission made under AS 29.04, 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).

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.812

### **3 AAC 110.630. Effective date and certification**

(a) Except as provided in (b) or (c) 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 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 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) The commission may defer the effective date of a city reclassification under AS 29.04, municipal incorporation under AS 29.05, or municipal annexation, detachment, merger, consolidation, or dissolution under AS 29.06 for a period of no more than two years.

(d) When the requirements in (a) of this section have been met, the department shall issue a certificate describing the effective change. The department shall hand-deliver or mail, postage prepaid, a copy of the certificate to the municipality that has been changed, and shall file a copy of the certificate in each recording district of all territory within the municipality that has been changed.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.120; AS 29.06.040; AS 29.06.140; AS 29.06.510; AS 44.33.812; AS 44.33.828

### **3 AAC 110.640. Scheduling**

(a) The chair of the commission shall set or amend the schedule for action on a petition.

(b) In a schedule under (a) of this section, and except as provided by 3 AAC 110.590 for certain local action annexations, the chair of the commission shall allow at least

(1) 49 days after 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 or written comments concerning the petition;

(2) 14 days after 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 after the date of mailing of a departmental preliminary report with recommendations to the petitioner for receipt of written summary comments to the department; and

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

(c) The commission may postpone proceedings on a petition that has been accepted for filing to allow concurrent consideration and action on another petition that pertains to some or all of the same territory and that has either been accepted for filing or is anticipated to be filed. The commission may postpone the proceedings for an anticipated competing petition only if the anticipated competing petition is received by the department no later than 90 days after the date of the first publication of notice of the earlier petition under 3 AAC 110.450.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.070; AS 29.05.080; AS 29.05.090; AS 29.06.040; AS 29.06.090; AS 29.06.110; AS 29.06.120; AS 29.06.480; AS 29.06.490; AS 44.33.020; AS 44.33.812; AS 44.33.814; AS 44.33.826
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### **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.

History: Eff. 7/31/92, Register 123; Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.090; AS 29.06.130; AS 29.06.450; AS 29.06.500; AS 44.33.812

Publisher's note: The authorities list is set out above to reflect changes from the list set out in the main pamphlet.

### ***3 AAC 110.660. Purpose of procedural regulations; relaxation or suspension of procedural regulation***

The purpose of the procedural requirements set out in 3 AAC 110.400 - 3 AAC 110.660 is to facilitate the business of the commission, and will be construed to secure the reasonable, speedy, and inexpensive determination of every action and proceeding. Unless a requirement is strictly provided for in the Constitution of the State of Alaska, AS 29, or AS 44.33.810 - 44.33.849, the commission may relax or suspend a procedural regulation if the commission determines that a strict adherence to the regulation would work injustice, would result in a substantially uninformed decision, or would not serve relevant constitutional principles and the broad public interest.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.090; AS 29.06.450; AS 44.33.812

## Article 13 General Provisions

### Section

- 900. Transition.
- 910. Statement of non-discrimination.
- 920. Determination of community.
- 970. Determination of essential city or borough services.
- 980. Determination of best interests of the state.
- 990. Definitions.

### **3 AAC 110.900. Transition**

(a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government 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 city reclassification under AS 29.04, or municipal detachment or dissolution under AS 29.06, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after city reclassification, detachment, or dissolution.

(b) Each petition 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, unorganized borough service area, and other appropriate entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city and unorganized borough 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) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included in the area proposed for 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 occur 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 may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included in the area of the proposed change 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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.05.130; AS 29.05.140; AS 29.06.040; AS 29.06.090; AS 29.06.130; AS 29.06.150; AS 29.06.160; AS 44.33.812

### **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.

History: Eff. 7/31/92, Register 123 | Authority: Art. X, sec. 12, Ak Const.; AS 44.33.812

Publisher's note: The authorities list is set out above to reflect changes from the list set out in the main pamphlet.

### **3 AAC 110.920. Determination of community**

(a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the

(1) settlement is inhabited by at least 25 individuals;

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

(3) inhabitants residing permanently at a location are a discrete and identifiable social 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 if

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

(2) the population is adjacent to a community and is dependent upon that community 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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 44.33.812

### **3 AAC 110.970. Determination of essential city or borough services**

(a) If a provision of this chapter provides for the identification of essential borough services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the territory; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(b) The commission may determine essential borough services to include

(1) assessing and collecting taxes;

(2) providing primary and secondary education;

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

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

(c) If a provision of this chapter provides for the identification of essential city services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the community; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(d) The commission may determine essential city services to include

- (1) levying taxes;
- (2) for a city in the unorganized borough, assessing and collecting taxes;
- (3) for a first class or home rule city in the unorganized borough, providing primary and secondary education in the city;
- (4) public safety protection;
- (5) planning, platting, and land use regulation; and
- (6) other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

History: Eff. 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.011; AS 29.05.031; AS 29.05.100; AS 29.06.040; AS 29.06.090; AS 29.06.130; AS 29.06.450; AS 29.06.500; AS 44.33.812
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### **3 AAC 110.980. Determination of best interests of the state**

If a provision of AS 29 or this chapter requires the commission to determine whether a proposed municipal boundary change or other commission action is in the best interests of the state, the commission will make that determination on a case-by-case basis, in accordance with applicable provisions of the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, and this chapter, and based on a review of

- (1) the broad policy benefit to the public statewide; and
- (2) whether the municipal government boundaries that are developed serve
  - (A) the balanced interests of citizens in the area proposed for change;
  - (B) affected local governments; and
  - (C) other public interests that the commission considers relevant.

History: Eff. 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.011; AS 29.05.031; AS 29.05.100; AS 29.06.040; AS 29.06.090; AS 29.06.130; AS 29.06.450; AS 29.06.500; AS 44.33.812
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### **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) "coastal resource service area" means a service area established and organized under AS 29.03.020 and AS 46.40.110 - 46.40.180;

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

(4) "commissioner" means the commissioner of community and economic development;

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

(6) "contiguous" means, with respect to territories and properties, adjacent, adjoining, and touching each other;

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

(8) "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" includes one or more of the following:

(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;

(9) "model borough boundaries" means those boundaries set out in the commission's publication Model Borough Boundaries, revised as of June 1997 and adopted by reference;

(10) "permanent resident" 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 or city organized and operated under state law;

(12) "property owner" means a legal person holding a vested fee simple interest in the surface estate of any real property including submerged lands; "property owner" does not include lienholders, mortgagees, deed of trust beneficiaries, remaindermen, lessees, or holders of unvested interests in land;

(13) "regional educational attendance area" means an educational service area established and organized under AS 14.08 and AS 29.03.020 ;

(14) "witnesses with expertise in matters relevant to the proposed change" means individuals who are

(A) specialists in relevant subjects, including municipal finance, municipal law, public safety, public works, public utilities, and municipal planning; or

(B) long-standing members of the community or region that are directly familiar with social, cultural, economic, geographic, and other characteristics of the community or region.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162   Authority: Art. X, sec. 12, Ak Const.; AS 44.33.812
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Editor's note: The Local Boundary Commission's publication Model Borough Boundaries, adopted by reference in 3 AAC 110.990, is on file at the offices of the Local Boundary Commission staff, Department of Community and Economic Development, 550 W. 7th Ave., Suite 1770, Anchorage, Alaska, and is available at the web site of the Department of Community and Economic Development, at [www.dced.state.ak.us/cbd/lbc/lbc.htm](http://www.dced.state.ak.us/cbd/lbc/lbc.htm).

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