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3 AAC 110.005 is amended to read:

3 AAC 110.005. Community. Territory [AN AREA] proposed for incorporation as a city must encompass a community. (Eff. 5/19/2002, Register 162; am __/__/__, Register __)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

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

3 AAC 110.010 is repealed and readopted to read:

3 AAC 110.010. Need. (a) In accordance with AS 29.05.011(a)(5), a community must demonstrate a reasonable need for city government. In this regard, the commission may consider relevant factors, including

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

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

(c) In accordance with AS 29.05.021(b), and to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a

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community within an organized borough may not incorporate as a city if essential municipal services can be provided more efficiently or more effectively

- (1) by annexation to an existing city;
- (2) by an existing organized borough on an areawide or nonareawide basis; or
- (3) through an existing borough service area. (Eff. 7/31/92, Register 123; am

5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 29.05.021

Art. X, sec. 5, Ak Const. AS 29.05.011 AS 44.33.812

Art. X, sec. 7, Ak Const.

3 AAC 110.020 is repealed and readopted to read:

3 AAC 110.020. Resources. In accordance with AS 29.05.011(a)(3), the economy of a proposed city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level. In this regard, the commission

- (1) will consider
 - (A) the reasonably anticipated functions of the proposed city;
 - (B) the reasonably anticipated expenses of the proposed city;
 - (C) the ability of the proposed city to generate and collect revenue at the

local level;

- (D) the reasonably anticipated income of the proposed city;

(E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed city through the period extending one full fiscal year beyond the reasonably anticipated date

(i) for receipt of the final organization grant under AS 29.05.180;

(ii) for completion of the transition set out in AS 29.05.130 – 29.05.140 and 3 AAC 110.900; and

(iii) on which the proposed city will make its first full local contribution required under AS 14.17.410(b)(2) if the proposal seeks to incorporate a home rule or first class city in the unorganized borough;

(F) the economic base within the proposed city;

(G) valuations of taxable property within the proposed city;

(H) existing and reasonably anticipated industrial, commercial, and resource development within the proposed city; and

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

(2) may consider other relevant factors, including

(A) land use within the proposed city;

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

(C) the reasonably predictable level of commitment and interest of the residents in sustaining a city government. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

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Authority: Art. X, sec. 1, Ak Const. AS 29.05.011 AS 44.33.812

Art. X, sec. 7, Ak Const.

 Art. X, sec. 12, Ak Const.

3 AAC 110.030(a) is amended to read:

(a) In accordance with AS 29.05.011(a)(4), [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 enumerations [ENUMERATION];

(2) durations of residency;

(3) historical population patterns;

(4) seasonal population changes; [AND]

(5) age distributions;

(6) contemporary and historical public school enrollment data; and

(7) nonconfidential data from the Department of Revenue regarding

applications under AS 43.23 for permanent fund dividends.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

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

3 AAC 110.040 is repealed and readopted to read:

3 AAC 110.040. Boundaries. (a) In accordance with AS 29.05.011(a)(2), the boundaries of a proposed city must include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use, subdivision platting, and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors;
- (5) extraterritorial powers of cities;
- (6) salability of land for residential, commercial, or industrial purposes; and
- (7) suitability of the territory for reasonably anticipated community purposes.

(b) To promote the limitation of community, the boundaries of the proposed city

(1) must be on a scale suitable for city government and may include only that territory comprising a present local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the anticipated date of incorporation; and

(2) may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.005 - 3 AAC 110.042 and are otherwise suitable for city government.

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

(d) If a petition for incorporation of a proposed city describes boundaries overlapping the boundaries of an existing organized borough or city, the petition for incorporation must also address and comply with all standards and procedures to alter the boundaries of the existing organized borough or city to remove the overlapping territory. The commission will consider that petition for incorporation as also being a petition to alter the boundaries of the existing borough or city. (Eff. 7/3/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.011
	<u>Art. X, sec. 3, Ak Const.</u>	Art. X, sec. 12, Ak Const.	AS 44.33.812

3 AAC 110.042(1) is amended to read:

(1) promotes maximum local self-government, **as determined under 3 AAC 110.981;**

3 AAC 110.042(2) is amended to read:

(2) promotes a minimum number of local government units, **as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;**

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(Eff. 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.05.100

3 AAC 110.045(a) is amended to read:

(a) **On a regional scale suitable for borough government, the** [THE] social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated **in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska.** In this regard, the commission may consider relevant factors, including the

- (1) compatibility of urban and rural areas within the proposed borough;
- (2) compatibility of economic lifestyles[,] and industrial or commercial activities;
- (3) existence throughout the proposed borough of customary and simple transportation and communication patterns; [AND]
- (4) extent and accommodation of spoken language differences throughout the proposed borough; **and**
- (5) **existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services.**

3 AAC 110.045(b) is repealed:

(b) Repealed __/__/__.

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The lead-in language of 3 AAC 110.045(c) is amended to read:

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government **in accordance with AS 29.05.031(a)(4) and art. X, sec. 3, Constitution of the State of Alaska.** In this regard, the commission may consider relevant factors, including

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3 AAC 110.045(d) is amended to read:

(d) **In determining whether** [ABSENT A SPECIFIC AND PERSUASIVE SHOWING TO THE CONTRARY, THE COMMISSION WILL PRESUME THAT] communications and exchange patterns are **sufficient, the commission may consider whether**

(1) [INSUFFICIENT UNLESS] all communities within a proposed borough are connected to the **proposed borough** 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, **other customary means of travel including boats and snow machines,** or sufficient electronic media communications; **and**

(2) communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough. (Eff. 10/12/91,

Register 120; am 5/19/2002, Register 162; am __/__/__, Register ____)

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Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.05.031

3 AAC 110.050 is amended to read:

3 AAC 110.050. Population. (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government **in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska**. In this regard, the commission may consider relevant factors, including

- (1) [TOTAL] census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; [AND]
- (5) age distributions;

(6) contemporary and historical public school enrollment data; and

(7) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.

(b) **In determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government** [ABSENT A SPECIFIC AND PERSUASIVE SHOWING TO THE CONTRARY], the commission will presume that **a minimum of** [THE POPULATION IS NOT LARGE ENOUGH AND STABLE ENOUGH TO SUPPORT THE PROPOSED BOROUGH GOVERNMENT UNLESS AT LEAST] 1,000 permanent residents **is required unless specific and persuasive facts are presented showing**

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that a lesser number is adequate [LIVE IN THE PROPOSED BOROUGH]. (Eff. 10/12/91,

Register 120; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.05.031

3 AAC 110.055 is repealed and readopted to read:

3 AAC 110.055. Resources. In accordance with AS 29.05.031(a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level. In this regard, the commission

(1) will consider

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

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

(C) the ability of the proposed borough to generate and collect revenue at the local level;

(D) the reasonably anticipated income of the proposed borough;

(E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough through the period extending one full fiscal year beyond the reasonably anticipated date

(i) for receipt of the final organization grant under AS 29.05.190;

(ii) for completion of the transition set out in AS 29.05.130 –

29.05.140 and 3 AAC 110.900; and

(iii) on which the proposed borough will make its first full local contribution required under AS 14.17.410(b)(2);

(F) the economic base of the area within the proposed borough;

(G) valuations of taxable property within the proposed borough;

(H) land use within the proposed borough;

(I) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough; and

(J) personal income of residents within the proposed borough; and

(2) may consider other relevant factors, including

(A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough government; and

(B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government. (Eff. 10/12/91, Register 120; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.05.031

The lead-in language of 3 AAC 110.060(a) is amended to read:

(a) **In accordance with AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska, the [THE] boundaries of a proposed borough must conform generally to natural geography, [AND] must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal**

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[BOROUGH] services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

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3 AAC 110.060(a)(3) is repealed:

(3) repealed __/__/__;

3 AAC 110.060(a)(6) is repealed

(6) repealed __/__/__; and

3 AAC 110.060(a) is amended by adding a new paragraph to read:

(7) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough.

3 AAC 110.060(b) is repealed and readopted to read:

(b) When reviewing the boundaries proposed in a petition for borough incorporation, the commission may consider

(1) model borough boundaries for the area within the proposed borough;

(2) regional boundaries, including

(A) boundaries of one or more regional educational attendance areas existing in that proposed borough area;

(B) federal census area boundaries;

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(C) boundaries established for regional Native corporations under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act); and

(D) boundaries of national forests;

(3) whether the proposed borough will embrace an area and population with common interests to the maximum degree possible;

(4) whether the proposed borough promotes maximum local self-government, as determined under 3 AAC 110.981;

(5) whether the proposed borough promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and

(6) whether the proposed borough boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3, Constitution of the State of Alaska.

3 AAC 110.060(c) is repealed:

(c) Repealed __/__/__.

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3 AAC 110.060(d) is amended to read:

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that **an area** [TERRITORY] proposed for incorporation that is **noncontiguous** [NON-CONTIGUOUS] or that contains enclaves does not include all land and water necessary to allow for the full development of essential **municipal** [BOROUGH] services on an efficient, cost-effective level.

3 AAC 110.060(e) is amended to read:

(e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping **boundaries** [REGION] from the existing organized borough. The commission will consider [AND TREAT] that petition for incorporation as also being a detachment petition.

3 AAC 110.060 is amended by adding new subsections to read:

(f) The boundaries of a borough may not include only a portion of the territory of an existing city government.

(g) Requirements relating to limitation of community, as set out in 3 AAC 110.040(b), do not apply to boroughs. (Eff. 10/12/91, Register 120; am 5/19/2002, Register 162; am __/__/__, Register ____)

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

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3 AAC 110.065(1) is amended to read:

(1) promotes maximum local self-government, **as determined under 3 AAC 110.981**;

3 AAC 110.065(2) is amended to read:

(2) promotes a minimum number of local government units, **as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska**;

(Eff. 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.05.100

3 AAC 110 is amended by adding a new section to Article 2 to read:

3 AAC 110.067. Applicability. The provisions of 3 AAC 110.045 – 3 AAC 110.065 apply to a petition for borough incorporation using either

(1) the legislative review method provided in art. X, sec. 12, Constitution of the State of Alaska; or

(2) the local option methods provided in AS 29.05. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

 Art. X, sec. 3, Ak Const. AS 29.05.100

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The section heading of 3 AAC 110.090 is changed to read:

3 AAC 110.090. Need [NEEDS OF THE TERRITORY].

3 AAC 110.090(a)(1) is amended to read:

(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 **during the 10 years following the effective date of annexation;**

3 AAC 110.090(a)(5) is amended to read:

(5) extraterritorial powers **available to** [OF] the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and

3 AAC 110.090(b) is amended to read:

(b) Territory may not be annexed to a city if essential **municipal** [CITY] services can be provided more efficiently and more effectively by another existing city or by an organized borough, on an areawide basis or **nonareawide** [NON-AREAWIDE] basis, or through a [AN EXISTING] borough service area **that, in the determination of the commission, was established in accordance with art. X, sec. 5, Constitution of the State of Alaska.** (Eff.

7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** **Art. X, sec. 7, Ak Const.** AS 29.06.040

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

Art. X, sec. 5, Ak Const.

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3 AAC 110.100(1) is amended to read:

- (1) land use, [AND] subdivision platting, **and ownership patterns;**

3 AAC 110.100 is amended by adding new paragraphs to read:

- (6) existing and reasonably anticipated transportation patterns and facilities; and
- (7) natural geographical features and environmental factors. (Eff. 7/31/92,

Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812
 Art. X, sec. 7, Ak Const. AS 29.06.040

The lead-in language of 3 AAC 110.110 is amended to read:

3 AAC 110.110. Resources. The economy within the proposed **expanded** boundaries of the city must include the human and financial resources necessary to provide essential **municipal** [CITY] services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the

3 AAC 110.110(4) is amended to read:

- (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 **period extending one full fiscal year beyond the reasonably anticipated date for completion of the transition set out in 3 AAC 110.900** [THIRD FULL FISCAL YEAR OF OPERATION AFTER ANNEXATION];

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3 AAC 110.110(5) is amended to read:

(5) economic base of the **territory within the** city after annexation;

3 AAC 110.110(6) is amended to read:

(6) [PROPERTY] valuations **of taxable property** in the territory proposed for annexation;

3 AAC 110.110(8) is amended to read:

(8) existing and reasonably anticipated industrial, commercial, and resource development **in the territory proposed for annexation;**

3 AAC 110.110(10) is amended to read:

(10) need for and availability of employable skilled and unskilled persons to serve the city **government** as a result of annexation. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110.120 is amended to read:

3 AAC 110.120. Population. The population within the proposed **expanded** 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 **enumerations** [ENUMERATION];

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- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; [AND]
- (5) age distributions;

(6) contemporary and historical public school enrollment data; and

(7) nonconfidential data from the Department of Revenue regarding

applications under AS 43.23 for permanent fund dividends. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110.130 is repealed and readopted to read:

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

- (1) land use 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

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

(c) To promote the limitation of community, the proposed expanded boundaries of the city

(1) must be on a scale suitable for city government and may include only that territory comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation; and

(2) may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135 and are otherwise suitable for city government.

(d) 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. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.040

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3 AAC 110.135(1) is amended to read:

(1) promotes maximum local self-government, **as determined under 3 AAC**

110.981;

3 AAC 110.135(2) is amended to read:

(2) promotes a minimum number of local government units, **as determined**

under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of

Alaska; and

(Eff. 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** **Art. X, sec. 7, Ak Const.** AS 29.06.040

Art. X, sec. 5, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

3 AAC 110.140(1) is amended to read:

(1) the territory is **wholly or substantially** [AN ENCLAVE] surrounded by the

annexing city;

3 AAC 110.140(7) is amended to read:

(7) annexation of the territory will promote

(A) maximum local self-government, **as determined under 3 AAC**

110.981; and

(B) [WITH] a minimum number of **local** government units, **as**

determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution

of the State of Alaska;

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3 AAC 110.140(8) is amended to read:

(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 **the Constitution of the State of Alaska**, AS 29.05, and 3 AAC 110.005 - 3 AAC 110.042, **and is in the best interests of the state**;

3 AAC 110.140(9) is amended to read:

(9) the commission determines that specific policies set out in the Constitution of the State of Alaska, [OR] AS 29.04, **AS** 29.05, or **AS** 29.06 are best served through annexation of the territory by the legislative review process, **and that annexation is in the best interests of the state**. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110.150(2) is amended to read:

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

3 AAC 110.150(3) is amended to read:

(3) approval by a majority of **votes on the question cast by** voters residing in

(A) the territory [VOTING ON THE QUESTION AT AN ELECTION];

and

(B) the annexing city.

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3 AAC 110.150(4) is repealed:

(4) repealed __/__/__;

3 AAC 110.150 is repealed:

(5) repealed __/__/__. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162;

am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110.160(a) is amended to read:

3 AAC 110.160. Relationship [COMMUNITY] of interests. (a) **On a regional scale suitable for borough government, the** [THE] social, cultural, and economic characteristics and activities of the people in the **area proposed for annexation** [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 **expanded**

boundaries of the borough [BOUNDARIES];

(2) compatibility of economic lifestyles and industrial or commercial activities within the proposed **expanded boundaries of the** borough [BOUNDARIES];

(3) existence of customary and simple transportation and communication patterns throughout the proposed **expanded boundaries of the** borough [BOUNDARIES]; and

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(4) extent and accommodation of spoken language differences throughout the proposed **expanded boundaries of the** borough [BOUNDARIES].

The lead-in language of 3 AAC 110.160(b) is amended to read:

(b) The communications media and the land, water, and air transportation facilities throughout the proposed **expanded boundaries of the** 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
• • •

3 AAC 110.160 is amended by adding a new subsection to read:

(c) In determining whether communications and exchange patterns are sufficient, the commission may consider whether

(1) all communities within the proposed borough after annexation are connected to the borough seat by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough after annexation, other customary means of travel including boats and snow machines, or sufficient electronic media communications; and

(2) the communications and exchange patterns would adequately facilitate interrelationships and integration of the people in an expanded borough. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X. sec. 1, Ak Const.** Art. X. sec. 12, Ak Const. AS 44.33.812

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Art. X, sec. 3, Ak Const. AS 29.06.040

3 AAC 110.170(1) is amended to read:

(1) [TOTAL] census enumerations;

3 AAC 110.170 is amended by adding new paragraphs to read:

(6) contemporary and historical public school enrollment data; and

(7) nonconfidential data from the Department of Revenue regarding applications

under AS 43.23 for permanent fund dividends. (Eff. 7/31/92, Register 123; am 5/19/2002,

Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.040

3 AAC 110.180 is amended to read:

3 AAC 110.180. Resources. The economy within the proposed **expanded boundaries of the** borough [BOUNDARIES] must include the human and financial resources necessary to provide **the development of** essential **municipal** [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 **area proposed for**

annexation [TERRITORY BEING ANNEXED];

(2) reasonably anticipated new expenses of the borough that would result from

annexation;

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(3) actual income and the reasonably anticipated ability of the borough to generate and collect local revenue and income from the new **area** [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 **period extending one full fiscal year beyond the reasonably anticipated date for completion of the transition set out in 3 AAC 110.900** [THIRD YEAR OF OPERATION AFTER ANNEXATION];

(5) economic base of the **area within the** borough after annexation;

(6) [PROPERTY] valuations **of taxable property** in the **area** [TERRITORY] proposed for annexation;

(7) land use in the **area** [TERRITORY] proposed for annexation;

(8) existing and reasonably anticipated industrial, commercial, and resource development **in the area proposed for annexation**;

(9) personal income of residents in the **area** [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 **government** as a result of annexation. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.040

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The lead-in language of 3 AAC 110.190(a) is amended to read:

(a) The proposed **expanded** 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 **municipal** [BOROUGH] services [ON AN EFFICIENT, COST-EFFECTIVE LEVEL]. In this regard, the commission may consider relevant factors, including
• • •

3 AAC 110.190(a)(3) is repealed:

(3) repealed __/__/__;

3 AAC 110.190(b) is amended to read:

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that **an area** [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 **municipal** [BOROUGH] services [ON AN EFFICIENT, COST-EFFECTIVE LEVEL].

3 AAC 110.190(c) is repealed and readopted to read:

- (c) When considering the annexation of area to a borough, the commission may review
- (1) the model borough boundaries for the area for which annexation is proposed;
 - (2) regional boundaries, including

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(A) boundaries of one or more regional educational attendance areas existing in the area proposed for annexation;

(B) federal census area boundaries;

(C) boundaries for regional Native corporations under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act); and

(D) boundaries of national forests;

(3) whether the borough will, following the proposed annexation, embrace a maximum area and population with common interests;

(4) whether the annexation promotes maximum local self-government, as determined under 3 AAC 110.981;

(5) whether the annexation promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and

(6) whether the proposed borough boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3, Constitution of the State of Alaska.

3 AAC 110.190(d) is repealed:

(d) Repealed __/__/__.

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3 AAC 110.190 is amended by adding new subsections to read;

(f) A petition for annexation to a borough may not include only a portion of the territory of an existing city government.

(g) Requirements relating to limitation of community, as set out in 3 AAC 110.130(c), do not apply to boroughs. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.040

3 AAC 110.195(1) is amended to read:

(1) promotes maximum local self-government, **as determined under 3 AAC 110.981;**

3 AAC 110.195(2) is amended to read:

(2) promotes a minimum number of local government units, **as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;** and

(Eff. 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.040

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3 AAC 110.200 is amended to read:

3 AAC 110.200. Legislative review. Area [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 area [TERRITORY] manifests a reasonable need for borough government that can be met most efficiently and effectively by the annexing borough;

(2) the area [TERRITORY] is wholly or substantially [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 area [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 area [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 area [TERRITORY] is within the boundaries of the borough;

(5) residents or property owners within the area [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

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or outside the **area** [TERRITORY], and no practical or equitable alternative method is available to offset the cost of providing these benefits;

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

(7) repealed 5/19/2002;

(8) annexation of the **area** [TERRITORY] will promote

(A) maximum local self-government, as determined under 3 AAC

110.981; and

(B) [WITH] a minimum number of local government units, as

determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution

of the State of Alaska;

(9) annexation of the **area** [TERRITORY] will enhance the extent to which the **annexing** [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, **and is in the best interests of the state;**

(10) the commission determines that specific policies set out in the Constitution of the State of Alaska, [OR] AS 29.04, **AS** 29.05, or **AS** 29.06 are best served through annexation of the **area** [TERRITORY] by the legislative review process, **and that annexation is in the best interests of the state.** (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

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Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.040

3 AAC 110.210 is amended to read:

3 AAC 110.210. Local action. Area [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 area [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 area [TERRITORY];

(3) approval by a majority of votes on the question cast by voters residing in

(A) the area [TERRITORY VOTING ON THE QUESTION AT AN ELECTION]; and

(B) the annexing borough.

(4) repealed __/__/__;

(5) repealed __/__/__. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162;

am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

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3 AAC 110.220(a) is repealed and readopted to read:

(a) Two or more municipalities may merge if, in accordance with AS 29.06.130, the commission determines that the proposed merger

(1) meets the standards in 3 AAC 110.220 - 3 AAC 110.235 and

(A) for a proposal to form a merged city, meets the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.005 - 3 AAC 110.042, and 3 AAC 110.900 – 3 AAC 110.970; or

(B) for a proposal to form a merged borough, meets the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.045 – 3 AAC 110.067, and 3 AAC 110.900 – 3 AAC 110.970; and

(2) is in the best interests of the state.

3 AAC 110.220 is amended by adding new subsections to read:

(c) If a petition for merger proposes boundaries that include lands or submerged lands not currently within the boundaries of the merging municipalities, the petition for merger must also address and comply with the standards and procedures for annexation of those lands or submerged lands to the new municipality.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that a petition for merger promotes

(1) maximum local self-government, as determined under 3 AAC 110.981; and

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(2) a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 7, Ak Const. AS 29.06.090

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

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.225. Best interests of the state. (a) In determining whether merger is in the best interests of the state under AS 29.06.130, the commission may consider relevant factors, including

(1) the ability of the proposed merged municipality to efficiently and effectively provide reasonably necessary facilities and services after merger;

(2) the effect of the proposed merger on the long-term stability of the finances of the proposed merged municipality, other municipalities, and the state;

(3) whether the proposed merger will promote

(A) maximum local self-government, as determined under 3 AAC 110.981; and

(B) a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and

(4) whether requirements for local government services will be enhanced following merger. (Eff. __/__/__, Register ____)

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Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 7, Ak Const. AS 29.06.090
 Art. X, sec. 3, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

3 AAC 110.230 is amended to read:

3 AAC 110.230. Local option. Municipalities that meet the merger standards required under **3 AAC 110.220 – 3 AAC 110.225** [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 **must** [SHALL] be held in accordance with AS 29.06.140. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** **Art. X, sec. 7, Ak Const.** AS 29.06.090
 Art. X, sec. 3, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

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3 AAC 110 is amended by adding a new section to Article 5 to read:

3 AAC 110.235. Legislative review. (a) Municipalities that meet the merger standards required under 3 AAC 110.220 – 3 AAC 110.225 and are approved by the commission for legislative review merger, may merge 45 days after presentation to the legislature of the commission's final decision on a legislative review petition if the legislature has not disapproved the decision.

(b) Under AS 29.06.140, the director of elections shall conduct the election of officials of the municipality merged through the legislative review process. The date of the election is the effective date of the merger. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 7, Ak Const. AS 29.06.090
 Art. X, sec. 3, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

3 AAC 110.240(a) is repealed and readopted to read:

(a) Two or more municipalities may consolidate to form a new municipality if, in accordance with AS 29.06.130, the commission determines that the proposed consolidation

(1) meets the standards in 3 AAC 110.240 – 3 AAC 110.245 and

(A) for a proposal to form a consolidated city, meets the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.005 - 3 AAC 110.042, and 3 AAC 110.900 – 3 AAC 110.970; or

(B) for a proposal to form a consolidated borough, meets the standards for incorporation of boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.045 - 3 AAC 110.067, and 3 AAC 110.900 – 3 AAC 110.970; and

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(2) is in the best interests of the state.

3 AAC 110.240 is amended by adding new subsections to read:

(c) If a petition for consolidation proposes boundaries that include lands or submerged lands not currently within the boundaries of the consolidating municipalities, the petition for consolidation must also address and comply with the standards and procedures for annexation of those lands or submerged lands to the new municipality.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that a petition for consolidation promotes

(1) maximum local self-government, as determined under 3 AAC 110.981; and

(2) a minimum number of local government units, as determined under 3 AAC

110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 7, Ak Const. AS 29.06.090

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

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.245. Best interests of state. (a) In determining whether consolidation is in the best interests of the state under AS 29.06.130, the commission may consider relevant factors, including

(1) the ability of the proposed consolidated municipality to efficiently and effectively provide reasonably necessary facilities and services after consolidation;

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(2) the effect of the proposed consolidation on the long-term stability of the finances of the proposed consolidated municipality, other municipalities, and the state;

(3) whether the proposed consolidation will promote

(A) maximum local self-government, as determined under 3 AAC 110.981; and

(B) a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and

(4) whether requirements for local government services will be enhanced following consolidation. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 7, Ak Const. AS 29.06.090
 Art. X, sec. 3, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

3 AAC 110.250 is amended to read:

3 AAC 110.250. Local option. Municipalities that meet the consolidation standards required under **3 AAC 110.240 – 3 AAC 110.245** [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 **must** [SHALL] be held in accordance with AS 29.06.140. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** **Art. X, sec. 7, Ak Const.** AS 29.06.090

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Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

 Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110.260(a)(1) is amended to read:

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

3 AAC 110.260(a)(6) is amended to read:

 (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 **the Constitution of the State of Alaska**, AS 29.05, [AND] 3 AAC 110.005 - 3 AAC 110.042, **and 3 AAC 110.900 – 3 AAC 110.970**;

3 AAC 110.260(a)(9) is amended to read:

 (9) whether the proposed detachment will promote

(A) maximum local self-government, **as determined under 3 AAC 110.981; and**

(B) [WITH] a minimum number of **local government** [GOVERNMENTAL] units, **as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska**; [AND]

3 AAC 110.260(a) is amended by adding new paragraphs to read:

 (11) contemporary and historical public school enrollment data; and

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(12) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.

3 AAC 110.260(b) is amended to read:

(b) If, to fulfill the requirements of (a)(10) of this section, **the petitioner has** [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.

3 AAC 110.260(c) is amended to read:

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

3 AAC 110.260(d) is amended to read:

(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 **maximum** local self-government and does not meet the standards for detachment.

3 AAC 110.260 is amended by adding a new subsection to read:

(e) In order to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a petition for detachment that also seeks to

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incorporate a new city must propose that the new city will encompass a substantially larger population and territory than the population and territory proposed for detachment. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.263. Legislative review. Territory that meets the detachment standards specified in 3 AAC 110.257 - 3 AAC 110.260 may detach from a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

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

(2) it is impossible or impractical for the city to extend facilities or services to the territory;

(3) residents or property owners within the territory have not received, and do not reasonably expect to receive, directly or indirectly, the benefit of city government without significant additional tax contributions;

(4) the commission determines that specific policies set out in the Constitution of the State of Alaska, AS 29.04, AS 29.05, or AS 29.06 are best served through detachment of the territory by the legislative review process, and that detachment is in the best interests of the state.

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Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812
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3 AAC 110 is amended by adding a new section to read:

3 AAC 110.265. Local action. Territory that meets the detachment standards specified in 3 AAC 110.257 - 3 AAC 110.260 and has been approved for local action detachment by the commission may be detached from a city upon approval by a majority of voters residing in the territory voting on the question at an election. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812
 Art. X, sec. 7, Ak Const. AS 29.06.040

3 AAC 110 is amended by adding a new section to Article 8 to read:

3 AAC 110.267. Standards for detachment from boroughs. In accordance with AS 29.06.040(a), the commission may approve a proposal for detachment from a borough only if the commission determines that the proposal

- (1) meets applicable standards under the Constitution of the State of Alaska;
- (2) meets standards in 3 AAC 110.267 - 3 AAC 110.270 and 3 AAC 110.900 –

3 AAC 110.970; and

- (3) is in the best interests of the state. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812
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3 AAC 110.270(a)(1) is amended to read:

(1) the health, safety, and general welfare of the proposed remnant borough and the **area** [TERRITORY] after detachment;

3 AAC 110.270(a)(3) is amended to read:

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

3 AAC 110.270(a)(4) is amended to read:

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

3 AAC 110.270(a)(5) is amended to read:

(5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant borough and the people of the **area** [TERRITORY];

3 AAC 110.270(a)(6) is amended to read:

(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, **and**
3 AAC 110.900 – 3 AAC 110.970;

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3 AAC 110.270(a)(9) is amended to read:

(9) whether the proposed detachment will promote

(A) maximum local self-government, **as determined under 3 AAC 110.981; and**

(B) [WITH] a minimum number of **local government** [GOVERNMENTAL] units, **as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; [AND]**

3 AAC 110.270(a)(10) is amended to read:

(10) whether the **area's** [TERRITORY'S] requirements for local government services will be adequately met following detachment; **[.]**

3 AAC 110.270(a) is amended by adding new paragraphs to read:

(11) contemporary and historical public school enrollment data; and

(12) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.

3 AAC 110.270(b) is amended to read:

(b) If, to fulfill the requirements of (a)(10) of this section, **the petitioner has** [PETITIONERS HAVE] proposed, or the commission requires, incorporation of the **area** [TERRITORY] into a new municipality, the commission will condition the approval of the detachment upon voter approval of the incorporation.

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3 AAC 110.270(c) is amended to read:

(c) Absent a specific and persuasive showing to the contrary, the commission will presume that **area** [TERRITORY] proposed for detachment that would create **noncontiguous** [NON-CONTIGUOUS] parts of the **borough** [CITY] or enclaves within the **borough** [CITY] does not meet the standards for detachment.

3 AAC 110.270(d) is amended to read:

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

3 AAC 110.270 is amended by adding a new subsection to read:

(e) In order to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a petition for detachment that also seeks to incorporate a new borough must propose that the new borough will encompass a substantially larger population and area than the population and area proposed for detachment. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812
 Art. X, sec. 3, Ak Const. AS 29.06.040

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3 AAC 110 is amended by adding a new section to read:

3 AAC 110.272. Effect of detachment on education. In addition to the information required by a petition form under 3 AAC 110.420, a petition that proposes to detach an area from an organized borough and include that area in the unorganized borough must explain in the brief required under 3 AAC 110.420(b)(19) the plan for education by a regional educational attendance area in the detached area, including a proposal to work with the department and the Department of Education and Early Development to implement the plan. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812
 Art. X, sec. 3, Ak Const. AS 29.06.040

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.273. Legislative review. An area that meets the detachment standards specified in 3 AAC 110.267 - 3 AAC 110.270 may detach from a borough by the legislative review process if the commission also determines that any one of the following circumstances exists:

(1) the health, safety, or general welfare of borough residents is or will be endangered by conditions existing or potentially developing in the area, and detachment will enable the area to regulate or control the detrimental effects of those conditions;

(2) it is impossible or impractical for the borough to extend facilities or services to the area;

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

(C) is included within an organized borough that assumes, on an areawide, nonareawide, or service-area basis, all the rights, powers, duties, assets, and liabilities of the city.

3 AAC 110.280(b) is repealed

(b) Repealed __/__/__.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** **Art. X, sec. 14, Ak Const.** AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.06.450

 Art. X, sec. 12, Ak Const. **AS 44.33.020**

Editor's note: The substance of 3 AAC 110.280(b) was relocated to 3 AAC 110.295.

3 AAC 110.290(a) is amended to read:

(a) A city may **dissolve** [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.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** AS 29.06.450 AS 29.06.500

Art. X, sec. 7, Ak Const. AS 29.06.460 **AS 44.33.020**

 Art. X, sec. 12, Ak Const. AS 29.06.470 AS 44.33.812

Art. X, sec. 14, Ak Const.

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.295. Legislative review. 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. (Eff. __/__/__, Register ____)

Authority:	Art. X, sec. 1, Ak Const.	AS 29.06.450	AS 29.06.500
	Art. X, sec. 7, Ak Const.	AS 29.06.460	AS 44.33.812
	Art. X, sec. 12, Ak Const.	AS 29.06.470	

Editor's note: The substance of 3 AAC 110.295 was formerly located at 3 AAC 110.280(b). The history note does not reflect the history of the earlier regulation.

3 AAC 110.300(5) is amended to read:

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

3 AAC 110.300(7) is amended to read:

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

3 AAC 110.300 is amended by adding a new subsection to read:

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a petition for dissolution of a city within an organized borough promotes a

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minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 29.06.500

Art. X, sec. 7, Ak Const. AS 29.06.450 AS 44.33.812

3 AAC 110.310(a)(3) is amended to read:

(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, **and dissolution is in the best interests of the state;** [OR]

(B) has ceased to exercise any of its mandatory powers; **or**

(C) **is a unified municipality and is subject to a petition for deunification under 3 AAC 110.331 – 3 AAC 110.333.**

3 AAC 110.310(b) is repealed:

(b) Repealed __/__/__.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.450

Editor's note: The substance of 3 AAC 110.310(b) was relocated to 3 AAC 110.325.

3 AAC 110.320(a) is amended to read:

(a) A borough may **dissolve** [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.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. AS 29.06.450 AS 29.06.500
 Art. X, sec. 3, Ak Const. AS 29.06.460 AS 44.33.812
 Art. X, sec. 12, Ak Const. AS 29.06.470

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.325. Legislative review. 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. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. AS 29.06.450 AS 29.06.500
 Art. X, sec. 3, Ak Const. AS 29.06.460 AS 44.33.812
 Art. X, sec. 12, Ak Const. AS 29.06.470

Editor’s note: The substance of 3 AAC 110.325 was formerly located at 3 AAC 110.310(b). The history note does not reflect the history of the earlier regulation.

3 AAC 110.330(2) is amended to read:

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(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 **area** [COMMUNITY];

3 AAC 110.330(5) is amended to read:

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

3 AAC 110.330(7) is amended to read:

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

7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	Art. X, sec. 12, Ak Const.	AS 29.06.500
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.06.450	AS 44.33.812

3 AAC 110 is amended by adding new sections to read:

Article 11. Standards for Deunification.

Section

331. Standards for deunification of a unified municipality

332. Local option

333. Best interests of the state

3 AAC 110.331. Standards for deunification of a unified municipality. (a) After filing a petition as required under 3 AAC 110.310 and 3 AAC 110.420, a unified municipality may deunify and incorporate as a non-unified home rule borough if the commission determines that

(1) the municipality to deunify meets the standards for incorporation of a borough, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.045 - 3 AAC 110.065, and 3 AAC 110.900 – 3 AAC 110.970;

(2) deunification of the unified municipality is in the best interest of that municipality and its citizens;

(3) deunification of the unified municipality is in the best interests of the state;

(4) the non-unified home rule borough has all the rights, powers, duties, assets, and liabilities of the former unified municipality, and all charter provisions, ordinances, resolutions, regulations, procedures, and orders of the former unified municipality remain in effect except to the extent that any of them would otherwise prohibit the incorporation of a city government within the boundaries of the former unified municipality or is inconsistent with other provisions of the law and require an amendment to any of those laws as provided in (b) of this section.

(b) A petition for deunification of a unified municipality must comply with the requirements for amending the charter or other laws of the unified municipality if a provision of the charter or other laws are affected by the dissolution and incorporation. If that compliance

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requires an election by the qualified voters of the municipality, that election becomes a condition of approval whether the petition is by legislative review or local option.

(c) The commission may accept or deny a petition for deunification and may amend or attach conditions to it. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. AS 29.05.031 AS 29.06.500
 Art. X, sec. 3, Ak Const. AS 29.06.450 AS 44.33.812
 Art. X, sec. 12, Ak Const.

3 AAC 110.332. Local option. A unified municipality may deunify using the local option method if

(1) a deunification petition is filed with the department on the form prescribed by the department;

(2) the petition is signed by the number of voters equal to at least 25 percent of the number of votes cast in the last regular election of the unified municipality; and

(3) the commission determines that the municipality qualifies for deunification and accepts the petition in accordance with AS 29.06.450(a)(1), AS 29.05.031 – 29.05.100, and 3 AAC 110.310 – 3 AAC 110.333. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. AS 29.05.031 AS 29.06.500
 Art. X, sec. 3, Ak Const. AS 29.06.450 AS 44.33.812
 Art. X, sec. 12, Ak Const.

3 AAC 110.333. Best interests of the state. In determining whether deunification of a unified municipality 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) whether deunification promotes maximum local self-government;
- (2) whether deunification promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;
- (3) whether deunification is likely to endanger the health, safety, or general welfare of residents in or near the municipality proposed for deunification;
- (4) the effect of deunification on the harmony of relations among residents of the municipality proposed for deunification;
- (5) the social and economic impacts of deunification on other municipalities or communities in the state;
- (6) the effect of deunification on the long-term stability of the finances of the successor non-unified home rule borough, 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 maximum local self-government with a minimum number of local governmental units. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. AS 29.05.031 AS 29.06.500
Art. X, sec. 3, Ak Const. AS 29.06.450 AS 44.33.812

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Art. X, sec. 12, Ak Const.

3 AAC 110.340 is amended to read:

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 **the Constitution of the State of Alaska**, AS 29.05.011, AS 29.05.021, [AND] 3 AAC 110.005 - 3 AAC 110.042, **and 3 AAC 110.900 – 3 AAC 110.970**. (Eff. 11/27/96, Register 140; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 7, Ak Const.** AS 29.04.040 AS 44.33.812

Art. X, sec. 12, Ak Const.

3 AAC 110.350(b) is amended to read:

(b) In considering the factors in (a)(1) and **(2)** [(a)(2)]of this section, the commission **may** [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.

3 AAC 110.350 is amended by adding a new subsection to read:

(e) Absent a specific and persuasive showing to the contrary, the commission will presume that reclassification of a city under this section promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1,

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Constitution of the State of Alaska. (Eff. 11/27/96, Register 140; am 5/19/2002, Register 162;

[AM 5/19/2002, Register 162;] am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** Art. X, sec. 12, Ak Const. AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.04.040

3 AAC 110.360(a)(3) is repealed:

 (3) repealed __/__/__;

3 AAC 110.360(a)(4) is amended to read:

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

3 AAC 110.360(b) is amended to read:

 (b) In considering the factors in **(a)(1) and (2)** [(a)(1) - (a)(3)] of this section, the commission may 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.

(Eff. 11/27/96, Register 140; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 7, Ak Const.** AS 29.04.040 AS 44.33.812

 Art. X, sec. 12, Ak Const.

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3 AAC 110.370(a)(2) is amended to read:

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

(Eff. 11/27/96, Register 140; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 7, Ak Const.** AS 29.04.040 AS 44.33.812

Art. X, sec. 12, Ak Const.

The article heading for Article 12 is changed to read:

Article 13 [12]. Procedures for Petitioning and for Other Commission Matters.

3 AAC 110.400 is amended to read:

3 AAC 110.400. Applicability. Except as provided in 3 AAC 110.590, **3 AAC 110.410 - 3 AAC 110.700** [3 AAC 110.410 - 3 AAC 110.660] apply to petitions for city reclassification under AS 29.04, for incorporation under AS 29.05 **or art. X, sec. 12, Constitution of the State of Alaska,** and for alterations to municipalities under AS 29.06 **or art. X, sec. 12, Constitution of the State of Alaska.** However, only those sections of **3 AAC 110.410 - 3 AAC 110.700** [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)(3) or (4)** [AS 29.06.040(c)(2) or (c)(3)]. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** **AS 29.04.040** AS 29.06.100

Art. X, sec. 3, Ak Const. AS 29.05.060 AS 29.06.450

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Art. X, sec. 7, Ak Const. AS 29.06.040 AS 29.06.460

Art. X, sec. 12, Ak Const. AS 29.06.090 AS 44.33.812

[AS 20.04.040]

3 AAC 110.410(a)(3) is amended to read:

(3) [THE STAFF OF THE COMMISSION OR] a person designated by the commission, subject to (d) of this section;

3 AAC 110.410(a)(6) is repealed:

(6) repealed __/__/__;

3 AAC 110.410(a)(7) is amended to read:

(7) at least 10 percent of the persons registered to vote in a political subdivision of the state **or** [,] 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);

3 AAC 110.410(a)(8) is repealed and readopted to read:

(8) at least 10 percent of the persons registered to vote in

(A) the area proposed for borough annexation by election under 3 AAC 110.210(3) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2); or

(B) the territory proposed for city annexation by election under 3 AAC 110.150(3) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2);

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3 AAC 110.410(a)(9) is repealed and readopted to read:

(9) at least 25 percent of the persons registered to vote in

(A) the area proposed for borough detachment by election under AS 29.06.040(c)(2) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2); or

(B) the territory proposed for city detachment by election under AS 29.06.040(c)(2) or by legislative review under AS 29.06.040(b) or AS 44.33.812(b)(2); or

3 AAC 110.410(a)(10) is amended to read:

(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 under

AS 29.05.060; [AND]

(C) AS 29.06.100(a), if the petition seeks a municipal merger or consolidation under AS 29.06.090(b)(2); or

(D) AS 29.06.460(a), if the petition seeks a municipal dissolution under AS 29.06.450(a)(2) [, IF THE PETITION IS A LOCAL OPTION PETITION UNDER THOSE PROVISIONS].

3 AAC 110.410(d) is amended to read:

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(d) A [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 is in the best interests of the state**; 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.

3 AAC 110.410(e) is amended to read:

(e) The **person** [ENTITY OR GROUP] initiating a petition under (a) of this section is the petitioner. A petition must include a designation of

(1) one person as representative of the petitioner; **and**

(2) a second person as an alternate representative, who may act if the primary representative is absent, resigns, or fails to perform the representative's duties.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** AS 29.04.040 AS 29.06.450

Art. X, sec. 3, Ak Const. AS 29.05.060 AS 29.06.460

Art. X, sec. 7, Ak Const. AS 29.06.040 **AS 44.33.020**

 Art. X, sec. 12, Ak Const. AS 29.06.090 AS 44.33.812

Art. X, sec. 14, Ak Const. AS 29.06.100

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.415. Additional requirements of a voter-initiated petition. (a) In determining whether a voter-initiated petition under 3 AAC 110.410(a)(7) - (10) or 3 AAC 110.410(b) contains at least the minimum number of required signatures, the department may not consider a signature

(1) unless the voter who signed the form printed the voter's name, physical address of place of residence, and a numerical identifier, and dated the signature;

(2) that is dated more than one year before the date that the petition was submitted to the department.

(b) If a voter-initiated petition is unacceptable under (a)(2) of this section, the department is not required to perform a technical review of the petition under 3 AAC 110.440. The department shall return the petition to the petitioner with a letter explaining the reason for the return.

(c) A person who has signed a petition form may withdraw that person's name only by giving written notice to the petitioner's representative before the date the petition is submitted to the department.

(d) Information that is confidential under AS 15.07.195 is not open to public inspection unless otherwise required by law. (Eff. __/__/__, Register ____)

Authority:	Art. X, sec. 1, Ak Const.	AS 29.04.040	AS 29.06.450
	Art. X, sec. 3, Ak Const.	AS 29.05.060	AS 29.06.460
	Art. X, sec. 7, Ak Const.	AS 29.06.040	AS 44.33.020
	Art. X, sec. 12, Ak Const.	AS 29.06.090	AS 44.33.812

3 AAC 110.420 is repealed and readopted to read:

3 AAC 110.420. Petition. (a) A proposal for one or more actions by the commission under this chapter is initiated by submitting a petition and supporting materials to the department.

(b) A petition must be submitted 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) for the petitioner's representative and alternative representative designated under 3 AAC 110.410(e),

(A) the physical address of each individual's place of residence;

(B) each individual's mailing address; and

(C) each individual's telephone number, facsimile number, and electronic mail address, if any;

(3) the name and class of the

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

(B) proposed municipal government;

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

(5) a general description of the

(A) area proposed for borough boundary change; or

- (B) territory proposed for city boundary change;
- (6) a statement of reasons for the petition;
- (7) legal metes and bounds descriptions, maps, and plats for a proposed municipality, or for any existing municipality for which a change is proposed;
- (8) the size of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
- (9) data estimating the population of the
 - (A) area proposed for borough boundary change; or
 - (B) territory proposed for city boundary change;
- (10) information relating to public notice and service of the petition;
- (11) the following tax data for a borough boundary change:
 - (A) the assessed or estimated value of taxable property in the area 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 area 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 area proposed for change;
- (12) the following tax data for a city boundary change:

(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;

(13) for a proposed municipality, or for any existing municipality for which a change is proposed, projections of revenue, operating expenditures, and capital expenditures through the period extending one full fiscal year beyond the reasonably anticipated date

(A) for receipt of any final organization grant under AS 29.05.180 or 29.05.190;

(B) for completion of any transition set out in AS 29.05.130 – 29.05.140 or 3 AAC 110.900; and

(C) on which a proposed new borough or city will make its first full local contribution required under AS 14.17.410(b)(2), if the proposal seeks to incorporate a municipality that would be subject to AS 14.17.410(b)(2);

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

(15) information about the powers and functions of

(A) the 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 borough boundary change or territory proposed for city boundary change;

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

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

(A) the proposed municipality; and

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

(18) 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);

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

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

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

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(22) 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;

(23) other information or supporting material that the department believes the petitioner must provide for an adequate review of the proposal.

(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.

(d) For a voter-initiated petition, the petition form must include sufficient space for the printed name, a numerical identifier, the signature, the date of signature, and the address of each person signing the petition. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	AS 29.04.040	AS 29.06.450
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.060	AS 29.06.460
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.040	<u>AS 44.33.020</u>
	Art. X, sec. 12, Ak Const.	AS 29.06.090	AS 44.33.812
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.100	

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.421. Name of municipal government. The name of the municipal government specified in accordance with 3 AAC 110.420(b)(3)(B) must contain the word “city,”

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“borough,” or “municipality,” as applicable to the type of municipal government proposed. The name may not contain a word or phrase that indicates or implies that the municipal government is organized for a purpose other than that authorized by its incorporation or alteration. (Eff.

__/__/__, Register ____)

Authority: AS 44.33.812

3 AAC 110.425(a) is amended to read:

(a) **Except as provided in (i) of this section, before** [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.

3 AAC 110.425(b) is amended to read:

(b) The prospective annexation petition required under (a) of this section **must** [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 **area proposed for borough annexation or** territory proposed for **city** 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 110.900** [3 AAC 110.990].

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3 AAC 110.425(c) is amended to read:

(c) The prospective annexation petition and the summary **must** [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 **within** [IN] or near the **boundaries** [TERRITORY] proposed for annexation for every 500 individuals reasonably estimated to reside **within those boundaries** [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 **within** [OF] the **boundaries** [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 **within** [IN] or near the **boundaries** [TERRITORY] proposed for annexation.

3 AAC 110.425(d) is amended to read:

(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 **selected by the prospective petitioner within** [IN] or near the **boundaries** [TERRITORY] proposed for annexation. The hearing must allow a period for comment on the

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proposal from members of the public. If the prospective petitioner is a municipality, the governing body shall conduct the hearing.

3 AAC 110.425(f)(3) is amended to read:

(3) a brief description of the nature of the prospective legislative review annexation proposal, including the size and general location of the **boundaries** [AREA] under consideration;

3 AAC 110.425(g)(4) is amended to read:

(4) a description of the prospective **legislative review annexation proposal** [PROPOSED ACTION];

3 AAC 110.425(g)(5) is amended to read:

(5) a statement of the size and general location of the **boundaries** [AREA] being considered for annexation;

3 AAC 110.425 is amended by adding a new subsection to read:

(i) This section does not apply to a petition for annexation that is submitted at the request of the legislature. (Eff. 5/19/2002, Register 162; am __/__/__, Register ____)

Authority	<u>Art. X, sec. 1, Ak Const.</u>	Art. X, sec. 12, Ak Const.	<u>AS 44.33.020</u>
	<u>Art. X, sec. 3, Ak Const.</u>	<u>Art. X, sec. 14, Ak Const.</u>	AS 44.33.812
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.040	

3 AAC 110.430 is amended to read:

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 **boundaries** [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.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: <u>Art. X, sec. 1, Ak Const.</u>	AS 29.06.040	AS 44.33.812
<u>Art. X, sec. 3, Ak Const.</u>	AS 29.06.090	AS 44.33.814
<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.100	AS 44.33.818
Art. X, sec. 12, Ak Const.	AS 29.06.450	AS 44.33.822
AS 29.04.040	AS 29.06.470	AS 44.33.826
AS 29.05.060		

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.435. Role of department staff. (a) A department employee assigned under AS 44.33.020(a)(4) as a member of the commission staff serves as an advisor. The advisory staff may not act in an advocacy capacity as a petitioner under 3 AAC 110.410.

(b) During a proceeding, the advisory staff to the commission may provide technical assistance, information, and forms to petitioners, respondents, and interested persons who have procedural questions regarding local government or boundary issues. If the commissioner, a department subdivision, or a department employee not assigned under AS 44.33.020(a)(4) to the

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commission's advisory staff serves in an official capacity as a petitioner in a case before the commission,

(1) communications with the commission's advisory staff regarding the case are subject to the limitations of this subsection and 3 AAC 110.500; and

(2) communications with members of the commission are subject to the ex parte limitations of 3 AAC 110.500.

(c) Nothing in this section limits the role and ability of the commission's advisory staff to ensure that the commission is fully and accurately informed by providing to the commission new or additional information that supplements, questions, or refutes information provided by, or a position taken by, a petitioner, respondent, or other person. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 12, Ak Const. AS 44.33.020 AS 44.33.812

 Art. X, sec. 14, Ak Const.

3 AAC 110.440(b) is amended to read:

(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 **within** [IN] the **boundaries proposed for change** [A TERRITORY], and the number of persons who voted **within those boundaries** [IN THE TERRITORY] during the last election.

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3 AAC 110.440(c) is amended to read:

(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].

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.110
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.04.040	AS 29.06.480
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.070	AS 44.33.020
	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812

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3 AAC 110.450(a)(1) is amended to read:

(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 **within** [IN] the **boundaries proposed for change** [TERRITORY], the department shall require the petitioner to provide notice through other means designed to reach the public;

3 AAC 110.450(a)(2)(A) is amended to read:

(A) at least three prominent locations readily accessible to the public and **within** [IN] or near the **boundaries** [TERRITORY] proposed for change; and

3 AAC 110.450(a)(4) is amended to read:

(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 **of** [BEYOND] the boundaries [OF THE TERRITORY] proposed for change, and to other persons [AND ENTITIES] designated by the department; and

3 AAC 110.450(a)(5) is amended to read:

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

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3 AAC 110.450(b)(2) is amended to read:

(2) the name of the petitioner **and the petitioner's representative designated under 3 AAC 110.410(e)**;

3 AAC 110.450(b)(4) is amended to read:

(4) a statement of the size and general location of the **boundaries**
[TERRITORY] proposed for change;

3 AAC 110.450(b)(5) is amended to read:

(5) a map of the area or territory proposed for change[,] or information where
that [A] map [OF THE TERRITORY] is available for public review;

3 AAC 110.450(b)(6) is amended to read:

(6) a reference to the constitutional, statutory, and regulatory standards applicable
to the **proposal** [COMMISSION'S DECISION];

The lead-in language of 3 AAC 110.450(c) is amended to read:

(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:]

• • •

3 AAC 110.450(c)(5) is amended to read:

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(5) a statement of the size and general location of the

(A) area proposed for borough boundary change; or

(B) territory proposed for city boundary change;

3 AAC 110.450(c)(9) is amended to read:

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

3 AAC 110.450 is amended by adding a new subsection to read:

(d) For a municipal incorporation, the department shall ensure that, in addition to the information required in (b) of this section, the notice also contains the following information:

(1) for a petition using the local option method, a statement regarding voter eligibility in the incorporation election;

(2) for a petition using the legislative review method, a statement regarding the election of initial officials for the municipality. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register __)

Authority:	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.04.040	AS 29.06.130
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.100	AS 29.06.500
	Art. X, sec. 12, Ak Const.	<u>AS 29.05.120</u>	<u>AS 44.33.020</u>
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.040	AS 44.33.812

3 AAC 110.460(a) is amended to read:

(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

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petition documents to every municipality within [AN AREA EXTENDING] 20 miles **of** [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.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.04.040	AS 29.06.130
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.100	AS 29.06.500
	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812

The authority citation following 3 AAC 110.470 is changed to read:

Authority:	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.04.040	AS 29.06.130
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.100	AS 29.06.500
	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.475. Summary determination. (a) If the staff for the commission or a person who may serve as a petitioner under 3 AAC 110.410(a) believes that a petition accepted for filing under 3 AAC 110.440 was prepared using defective procedures, that the petition lacks certain information needed to determine and fully evaluate the merits of the petition, or that a reasonable probability exists that the petition fails to meet the standards applicable to the petition, that person may request a summary determination of the petition in accordance with this

section. If the person requesting a summary determination is the commissioner, a department subdivision, or a department employee not assigned under AS 44.33.020(a)(4) to the commission's advisory staff, and that person is making the request in an official capacity, the limitations of 3 AAC 110.435(b) apply.

(b) Not later than 21 days after the initial publication of notice of the petition under 3 AAC 110.450(a)(1), the person seeking a summary determination must file an original and five copies of a request that the petition be rejected or be returned to the petitioner for substantial correction or modification.

(c) A request for summary determination must include

(1) the name of the person requesting a summary determination and that person's representative;

(2) the physical address of place of residence and mailing address of the representative designated under (1) of this subsection and the telephone number, facsimile number, and electronic mail address, if any, for that representative;

(3) if a person other than the staff of the commission seeks a summary determination, documentation demonstrating that the person may serve as a petitioner under 3 AAC 110.410(a);

(4) a description of the proposed summary determination action;

(5) a statement of reasons for the request for summary determination;

(6) a supporting brief that provides a detailed explanation of how

(A) the petition accepted for filing was prepared using defective procedures, or lacks certain information needed to determine and fully evaluate the merits of the petition; or

(B) a reasonable probability exists that the petition fails to meet constitutional, statutory, and regulatory standards that apply to the petition;

(7) legal metes and bounds descriptions, maps, and plats needed to assess the proposed determination; and

(8) an affidavit by the representative designated under (1) of this subsection that

(A) to the best of the representative's knowledge, information, and belief, formed after reasonable inquiry, the information in the request for summary determination is true and accurate;

(B) the request for summary determination is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition; and

(C) three copies of the request for summary determination have been served on the petitioner by mail, postage prepaid, or hand delivery, or one copy has been delivered by facsimile or electronic mail, unless prohibited under (d) of this section.

(d) Copies of the request for summary determination, including maps and other exhibits, provided to the department and the petitioner under this section must conform to the original in color, size, and other distinguishing characteristics. If the request, including attachments, contains colored materials or materials larger than 11 inches by 17 inches, the person requesting a summary determination may not serve the request and copies by facsimile or electronic mail.

The person shall provide the department with a copy of the request for summary determination in an electronic format, unless the department waives this requirement because the person lacks a readily accessible means or the capability to provide items in an electronic format.

(e) Within 24 hours after receipt of a request for summary determination, the petitioner shall place a copy of the request with the petition documents available for review under 3 AAC 110.460(b).

(f) Within two days after the receipt of a request for summary determination, the department shall determine whether the request is complete, filed in a timely manner, groundless, or filed for purposes of delay. The department shall immediately notify the person who filed the request, the petitioner, and the commission of the department's determination. If the department determines that the request for summary determination was incomplete or untimely, the person who filed the request may appeal the department's determination to the commission. If the department determines that a request for summary determination was complete and timely, the provisions of (g) – (p) of this section apply. If the department determines that the request was filed for the purpose of delay or is groundless, the provisions of (q) of this section apply.

(g) If the department determines that a request for summary determination is complete and timely, the deadline for filing responsive briefs and comments under 3 AAC 110.480 is suspended pending a decision by the commission regarding the request for summary determination.

(h) If it determines that the request is complete and timely, the department shall issue public notice of the request in accordance with 3 AAC 110.450(a)(1), except that publication of

the notice is required only one time. The department shall issue public notice of the commission hearing under (k) of this section in accordance with 3 AAC 110.550, except that the first date of publishing must occur at least 20 days before the date of the hearing. The person who filed the request shall bear the cost of publication of the public notices.

(i) Within 10 days after receipt of notice under (f) of this section that the request is complete and timely, the petitioner shall file with the department an original and five copies of a brief responding to the request for summary determination. At the same time the petitioner files its responsive brief with the department, the petitioner shall serve a copy of that responsive brief by mail, postage prepaid, or by electronic mail, facsimile transmission, or hand delivery on the person who filed the request, and shall file an affidavit of service to that effect. The petitioner shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives that requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format.

(j) Within 10 days after receipt of the petitioner's responsive brief under (i) of this section, the department shall provide the commission with a written report of the department's analysis, findings, and recommendation regarding the request for summary determination. The report must include a summary of the request, petitioner's responsive brief, and public comments, if any. A copy of the report must be provided to the person who filed the request and the petitioner at the same time the report is provided to the commission. The chair may, for good cause, grant additional time, not to exceed five days, for the department to file the report required under this subsection.

(k) After service of the report under (j) of this section, the commission will hold a public hearing on the request for summary determination.

(l) As part of the hearing conducted under (k) of this section, the commission will include

(1) a summary of the analysis and recommendation by the department;

(2) an opening statement by the person who filed the request, not to exceed 10 minutes;

(3) an opening statement by the petitioner, not to exceed 10 minutes;

(4) oral argument by the person who filed the request, on the merits of the request;

(5) oral argument by the petitioner on its opposition to the request;

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

(7) a closing statement by the person who filed the request, not to exceed 10 minutes;

(8) a closing statement by the petitioner, not to exceed 10 minutes; and

(9) a reply by the person who filed the request, not to exceed five minutes.

(m) Within three days after the public hearing under (k) of this section, the commission will hold a decisional meeting in accordance with 3 AAC 110.570(a), (b), and (d) - (f) and either grant the request for summary determination or deny the request.

(n) If a request for summary determination seeking rejection of a petition is granted, the petitioner may not submit a substantially similar petition for at least three years after the date of commission’s decision on the request. If a request for summary determination seeking substantial correction or modification of a petition is granted, the petitioner may modify the petition and resubmit it as a new petition, with no restriction as to the time of filing.

(o) If the request for summary determination is denied, the chair of the commission shall determine a new schedule for the filing of responsive briefs and comments on the petition in accordance with 3 AAC 110.640.

(p) The person who filed the request or the petitioner may seek reconsideration of a commission decision on a request for summary determination under this section.

(q) The commission will deny, without hearing, a request for summary determination under this section if the commission concludes that the request is filed for purposes of delay or is groundless. (Eff. __/__/__, Register ____)

Authority:	Art. X, sec. 1, Ak Const.	AS 29.06.120	AS 44.33.814
	Art. X, sec. 12, Ak Const.	AS 29.06.490	AS 44.33.816
	Art. X, sec. 14, Ak Const.	AS 44.33.020	AS 44.33.818
	AS 29.04.040	AS 44.33.812	AS 44.33.820
	AS 29.05.090		

3 AAC 110.480(a) is amended to read:

(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

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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. **A responsive brief must provide the physical address of the place of residence and mailing address of the respondent or the respondent's representative, and must provide the telephone number, facsimile number, and electronic mail address, if any, for the respondent or respondent's representative.** 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.

3 AAC 110.480(c) is amended to read:

(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 **stating that** [OF SERVICE OF] two copies of the brief **have been served** on the petitioner by regular mail, postage prepaid, or by **electronic mail, facsimile transmission, or hand delivery** [HAND-DELIVERY].

3 AAC 110.480(d) is amended to read:

(d) An interested person [OR ENTITY] may file with the department written comments supporting or opposing the petition. **The department shall request that the commentor either**

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serve a copy of the comments on the petitioner and file a statement on or with the comments that service was made on the petitioner or notify the department of an inability to serve comments on the petitioner. If the department receives comments without a statement that they were served on the petitioner [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 **commentor** [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. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.080	AS 29.06.480
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.100	AS 29.06.500
	Art. X, sec. 12, Ak Const.	AS 29.06.040	<u>AS 44.33.020</u>
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.110	AS 44.33.812
	AS 29.04.040	AS 29.06.130	

3 AAC 110.490 is amended to read:

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

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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 **stating that** [OF SERVICE OF] the brief **has been served** on all respondents by regular mail, postage prepaid, or by **electronic mail, facsimile transmission, or hand delivery** [HAND-DELIVERY]. (Eff. 7/31/92, Register 123;

am 5/19/2002, Register 162); am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.080	AS 29.06.480
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.100	AS 29.06.500
	Art. X, sec. 12, Ak Const.	AS 29.06.040	<u>AS 44.33.020</u>
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.110	AS 44.33.812
	AS 29.04.040	AS 29.06.130	

3 AAC 110.500(a) is amended to read:

(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 110.410 - 3 AAC 110.700** [3 AAC 110.400 - 3 AAC 110.660].

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register __))

Authority:	Art. X, sec. 12, Ak Const.	AS 29.05.100	AS 29.06.480
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.040	AS 29.06.500

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AS 29.04.040 AS 29.06.110 **AS 44.33.020**

AS 29.05.080 AS 29.06.130 AS 44.33.812

3 AAC 110.510(a) is amended to read:

(a) If the department determines that persons [OR ENTITIES] within or near the [AREA OF THE] proposed **boundary** change have not had adequate opportunity to be informed about the scope, benefits, **or** [AND] detriments of the proposed change, the department shall require the petitioner to conduct informational sessions, and to submit a recording, **transcript** [TRANSCRIPTION], or summary of those sessions to the department.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 12, Ak Const. AS 29.05.100 AS 29.06.480

Art. X, sec. 14, Ak Const. AS 29.06.040 AS 29.06.500

AS 29.04.040 AS 29.06.110 **AS 44.33.020**

AS 29.05.080 AS 29.06.130 AS 44.33.812

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3 AAC 110.520 is amended to read:

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 **within** [IN] the **boundaries** [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 **within** [IN] or near the **boundaries** [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 **boundaries** [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 **within or near** [IN] the **boundaries** [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 **within** [IN] or near the **boundaries** [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.

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(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 **must** [SHALL] be recorded and **must be** summarized in the **department's preliminary or final** 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** [, IF] the meeting is relocated, **the new location must be** within the same **vicinity** [COMMUNITY OR TERRITORY], and **be** [IS] rescheduled no more than 72 hours after the originally scheduled time.

(e) The department staff presiding at the public meeting may request that respondents with similar positions coordinate their participation and use a single spokesperson to present their common views or positions. The department staff presiding at the public meeting may request the same coordination by commentators with similar positions. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 29.06.480
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.090	<u>AS 44.33.020</u>
	<u>AS 29.04.040</u>	AS 29.06.110	AS 44.33.812
	AS 29.05.080		

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3 AAC 110.530 is amended to read:

3 AAC 110.530. Departmental reports [REPORT]. (a) The department shall investigate and analyze a petition filed with the department under this chapter. **The department** [, AND] shall **prepare** [SUBMIT TO THE COMMISSION] a written **preliminary and a written final** report [OF ITS FINDINGS WITH RECOMMENDATIONS] regarding the petition. **Each report must contain the department's findings and recommendations regarding the petition.**

(b) The department shall mail **or hand-deliver its preliminary report** to the **commission**, 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. **The petitioner shall file an affidavit with the department stating the preliminary report has been made available for public 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

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RECOMMENDATIONS]. The department shall mail its final report to the commission, petitioner, and respondents.

(e) If a preliminary or final report of the department contains a recommendation to amend or condition approval of a municipal incorporation petition subject to AS 29.05.060 – 29.05.110,

(1) the department shall issue a public notice regarding the recommended amendment or condition;

(2) the public notice required under (1) of this subsection

(A) must be issued contemporaneously with that report;

(B) must be published in conformance with the requirements of 3 AAC 110.450(a)(1), except that the notice need be published only one time;

(C) if the recommendation is part of a preliminary report, must state that comments on the recommendation must be filed on or before the same date as comments on the preliminary report under 3 AAC 110.640(b)(3); that date must be set out in the notice;

(D) if the recommendation is only part of a final report, must specify a date on or before which written comments on the recommendation may be filed; that date must allow at least 14 days for written comment; and

(E) must contain a statement that oral comments on a recommendation for amendment or conditional approval may also be provided at the public hearing under 3 AAC 110.560; and

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(3) public comment received in response to a public notice required under (1) of this subsection must be included in the department’s final report or summarized at the public hearing, whichever occurs first.

(f) A report required from the department under this section does not constitute acting in an advocacy capacity as a petitioner under 3 AAC 110.410. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.05.080	AS 29.06.490
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.040	<u>AS 44.33.020</u>
	AS 29.04.040	AS 29.06.110	AS 44.33.812

3 AAC 110.540 is repealed and readopted to read:

3 AAC 110.540. Amendment of petition. (a) A petitioner may amend the 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 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.

(b) A petitioner may not amend the 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 within or near the boundaries of the proposed change is best served by allowing the proposed amendment.

(c) If voters initiated the petition, 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.

(d) The petitioner shall serve the amended petition on each person designated by the department, and by 3 AAC 110.410 - 3 AAC 110.700 to receive the original petition, and on the respondents to the original petition. The 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.

(e) The chair of the commission shall 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 110.410 - 3 AAC 110.700. Additional informational sessions, meetings, briefings, or other steps or processes will be conducted in accordance with the procedures specified in 3 AAC 110.410 - 3 AAC 110.700 for the processing of the original petition, except that the chair of the commission may shorten the timing. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	AS 29.04.040	AS 29.06.450
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.060	AS 29.06.460
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.040	<u>AS 44.33.020</u>
	Art. X, sec. 12, Ak Const.	AS 29.06.090	AS 44.33.812

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.545. Withdrawal of petition. (a) A petitioner may withdraw the 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 withdrawal must be filed with the department.

(b) A petitioner may not withdraw the 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 the persons within or near the boundaries of the proposed change is best served by allowing the proposed withdrawal.

(c) If voters initiated the petition, a statement withdrawing a petition must contain the dated signatures of at least 30 percent of the voters residing within the boundaries of the proposed change and must include at least a majority of the same voters who signed the original petition.

(d) If the petition was submitted by a municipality under AS 29.06.040(c)(4) at the request of all property owners and voters within the boundaries of the proposed change, the petition may be withdrawn only with the approval of the petitioning municipality.

(e) If the petitioning municipality declines to withdraw the petition,

(1) the consent of a property owner or voter to the filing of the petition is binding on any subsequent purchaser of the property if the property is purchased before the boundary change is approved; and

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(2) the municipality and the state are not responsible for ensuring that the subsequent purchaser receives notice of the proposed boundary change before purchase, by recording or otherwise. (Eff. __/__/__, Register ____)

Authority:	Art. X, sec. 1, Ak Const.	AS 29.04.040	AS 29.06.450
	Art. X, sec. 3, Ak Const.	AS 29.05.060	AS 29.06.460
	Art. X, sec. 7, Ak Const.	AS 29.06.040	AS 44.33.812
	Art. X, sec. 12, Ak Const.	AS 29.06.090	AS 44.33.814
	Art. X, sec. 14, Ak Const.	AS 29.06.100	

3 AAC 110.550 is amended to read:

3 AAC 110.550. Commission public hearing. (a) The commission will convene one or more public hearings at convenient locations within [IN] or near the boundaries [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. **If the proposed change is for legislative-review borough incorporation under AS 29.05.115, the commission will convene two or more public hearings within the boundaries of the proposed change.**

(b) Notice of the date, time, place, and subject of the hearing must [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

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selected by the department to reach the people **within** [IN] the **boundaries of the proposed change** [TERRITORY]; if the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate **within** [IN] the **boundaries of the proposed change** [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 **within** [IN] the **boundaries of the proposed change** [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 **within the boundaries** [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** [, IF] the hearing is relocated, **the new location will be** within the same **vicinity** [COMMUNITY OR TERRITORY] and **will be** [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

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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, **facsimile, electronic mail,** 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, **facsimile, electronic mail,** or postage-prepaid mail.

(f) In conjunction with a public hearing under this section, the commission may tour the area or territory. The purpose of a tour is to enable the commission to gain first-hand perceptions regarding the characteristics of the area or territory. If a tour is conducted,

(1) the tour will be recorded; and

(2) conversations relating to the pending petition will be limited to factual questions by commission members to the department staff and concise factual answers by the department staff. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__,

Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.120	AS 44.33.814
	AS 29.04.040	AS 29.06.490	AS 44.33.818
	AS 29.05.090	<u>AS 44.33.020</u>	AS 44.33.826

3 AAC 110.560(b) is amended by adding a new paragraph to read:

(11) points of information or clarification by the department.

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3 AAC 110.560(e) is amended to read:

(e) A brief, [OR] document, **or other evidence** may not be **introduced** [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 or for consideration in the reports [WITH RECOMMENDATIONS] of the department **under 3 AAC 110.530**.

3 AAC 110.560(f) is amended to read:

(f) The commission may amend the order of proceedings and change allotted times for presentations **to** [IF AMENDMENT OF THE AGENDA WILL] promote efficiency **if the amendment does not detract** [WITHOUT DETRACTING] from the commission's ability to make an informed decision.

3 AAC 110.560 is amended by adding a new subsection to read:

(g) If the petition at hearing is for municipal incorporation subject to AS 29.05.060 – 29.05.110 and the department has recommended an amendment to or conditional approval of the petition, during the hearing the commission will invite specific comments on that recommendation. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.120	AS 44.33.814
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.490	AS 44.33.816
	AS 29.04.040	<u>AS 44.33.020</u>	AS 44.33.820

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AS 29.05.090

AS 44.33.812

AS 44.33.826

AS 29.06.040

3 AAC 110.570 is amended to read:

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. **During the decisional meeting,**

(1) the [THE] commission will not receive new evidence, testimony, or briefing

(2) [DURING THE DECISIONAL MEETING. HOWEVER,] the chair of the commission **or a commission member** may ask the department or a person for a point of information or clarification; **and**

(3) the department may raise a point of information or clarification.

(b) **Repealed** / / [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 **or a condition must be satisfied** 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, **and be in the best interests of the state,** the commission may alter **or attach a condition to** the proposed change and accept the petition as altered **or conditioned.** **A motion to alter, impose conditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval.** If **the proposed change is a**

(1) municipal annexation, detachment, deunification, dissolution, merger, or consolidation, a city reclassification, or a legislative-review borough incorporation under AS 29.05.115, and if the commission determines that **the proposed change must be altered or a condition** [PRECONDITION] must be satisfied before the proposed change can take effect, the commission will include that **condition or alteration** [PRECONDITION] in its decision; **or**

(2) municipal incorporation subject to AS 29.05.060 – 29.05.110, and if the commission determines that an amendment to the petition or the placement of a condition on incorporation may be warranted, the department shall provide public notice and an opportunity for public comment on the alteration or condition before the commission amends the petition or imposes a condition upon incorporation; if the department recommended the proposed change or condition and the public had an opportunity to comment on the proposed change or condition at a commission hearing, an additional notice or comment period is not required. [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, **or is not in the best interests of the state,** 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.

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(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 **issue a written decision** [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. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.130	AS 44.33.816
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.500	AS 44.33.818
	AS 29.04.040	<u>AS 44.33.020</u>	AS 44.33.820
	AS 29.05.100	AS 44.33.812	AS 44.33.822
	AS 29.06.040	AS 44.33.814	AS 44.33.826

3 AAC 110.580 is amended to read:

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

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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 **30** [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. **Each request for reconsideration must provide the physical residence address and mailing address of the person filing the request for reconsideration and the telephone number, facsimile number, and electronic mail address, if any, for the person or representative of the group.**

(e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision **only** 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 **30** [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 **30** [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

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final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.130	AS 44.33.814
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.500	AS 44.33.820
	AS 29.04.040	<u>AS 44.33.020</u>	AS 44.33.822
	AS 29.05.100	AS 44.33.812	AS 44.33.826
	AS 29.06.040		

3 AAC 110.590 is amended to read:

3 AAC 110.590. Modified procedures for certain [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)(3) or (4)** [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 110.700** [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,

unless the petitioning municipality, at least 30 days before passage of its authorizing ordinance under AS 29.06.040(c)(3) or (4) by the council or assembly, publishes notice of

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the annexation proposal in a newspaper of general circulation in the area or territory proposed for annexation and provides the notice to each owner of property abutting the boundaries proposed for annexation; the pre-ordinance notice

(A) must be published at least once in the format prescribed by 3 AAC 110.450(a)(1);

(B) must be served on each municipality within 20 miles of the boundaries of the area or territory proposed for change;

(C) must be posted in accordance with 3 AAC 110.450(a)(2) except that the posting must occur on or before the date that the notice is published under (A) of this paragraph;

(D) must remain posted in accordance with 3 AAC 110.450(a)(3) except that the posting deadline is determined under (4)(B) of this subsection; and

(E) may be broadcast as a public service announcement under 3 AAC 110.450(a)(5);

(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 **is limited** to 14 days from

(A) the date of first publication of the notice of filing of the petition; or

(B) passage of the ordinance required by AS 29.06.040(c)(3) or (4) by the council or assembly, if the petitioning municipality published notice at least 30 days before passage of the ordinance;

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(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 **is limited** 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 **10** [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 **three** [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, **except that 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 within 10 days after the last commission hearing on the petition;**

(9) reconsideration under 3 AAC 110.580, **except that a request for reconsideration must be filed within 10 days after a written statement of decision is mailed under 3 AAC 110.570(f);**

(10) the amendment and withdrawal provisions of 3 AAC 110.540 and 3 AAC 110.545.

(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 110.700** [3 AAC 110.400 - 3 AAC 110.660], such as informational sessions, and public meetings

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and hearings, if the commission determines that the best interests of the state will be enhanced.

(c) The commission may **further** relax [, REDUCE,] or **suspend local action procedures for annexation under (a) of this section as provided under 3 AAC 110.660** [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.

(f) If the petitioning municipality publishes a pre-ordinance notice as provided under (a)(3) of this section, the municipality shall file with the department a copy of

(1) the publisher's affidavit of publication of the notice;

(2) written comments submitted to the municipality regarding the annexation proposal; and

(3) the minutes of all council or assembly meetings at which the proposal was addressed by the petitioning municipality. (Eff. 7/31/92, Register 123; am 5/19/2002,

Register 162; am __/__/__, Register ____)

Authority: **Art. X, sec. 1, Ak Const.** AS 29.06.040 AS 44.33.812

Art. X, sec. 3, Ak Const. AS 29.06.090 AS 44.33.814

Art. X, sec. 7, Ak Const. AS 29.06.450 AS 44.33.818

Art. X, sec. 12, Ak Const. **AS 44.33.020** AS 44.33.826

Art. X, sec. 14, Ak Const

3 AAC 110.600 is repealed and readopted to read:

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 the commission's acceptance of a local action or local option petition proposing city reclassification under AS 29.04, municipal incorporation under art. X, sec. 12 of the Constitution of the State of Alaska or AS 29.05, and municipal dissolution, deunification, 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) If a petition for detachment under AS 29.06.040 and incorporation under AS 29.05 requires a municipal election, the commission will notify the director of elections of the commission's acceptance of a local option petition and that the election must be a combined one for detachment and incorporation. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

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Authority:	<u>Art. X, sec. 1, Ak Const.</u>	AS 29.04.040	AS 29.06.140
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.110	AS 29.06.510
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.120	AS 44.33.812
	Art. X, sec. 12, Ak Const.	AS 29.06.040	

3 AAC 110.610(a) is amended to read:

(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.

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.450	AS 44.33.826
	AS 29.06.040	AS 44.33.812	AS 44.33.828
	AS 29.06.090	AS 44.33.822	

3 AAC 110.620 is amended to read:

3 AAC 110.620. Judicial review. A final decision of the commission made under **the Constitution of the State of Alaska**, 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).

(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 29.06.500
	AS 29.04.040	AS 29.06.130	AS 44.33.812

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AS 29.05.100

3 AAC 110.630(c) is amended to read:

(c) The commission may defer the effective date of a city reclassification under AS 29.04, municipal incorporation under **the Constitution of the State of Alaska or** AS 29.05, or municipal annexation, detachment, **deunification**, merger, consolidation, or dissolution under AS 29.06 for a period of no more than two years.

3 AAC 110.630(d) is amended to read:

(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.

3 AAC 110.630 is amended by adding a new subsection to read:

(e) If a minor error is found in the certificate issued under (d) of this section, the person discovering the error shall notify the department and the commission. If the commission determines that the error resulted from an oversight during the petition proceeding or the issuance of the certificate, the commission will direct the department to issue a corrected certificate. The commission will not consider a request for a corrected certificate to include area or territory not proposed in the boundary change proceeding for which the certificate was issued.
(Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

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Authority:	Art. X, sec. 12, Ak Const.	AS 29.06.040	<u>AS 44.33.020</u>
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.140	AS 44.33.812
	AS 29.04.040	AS 29.06.510	AS 44.33.828
	AS 29.05.120		

3 AAC 110.640(b)(2) is amended to read:

(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. **Contemporaneously with notice to the petitioner of the date for filing its reply brief, the department shall provide notice to respondents and commentors of that date;**

3 AAC 110.640(b)(3) is amended to read:

(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

3 AAC 110.640(b)(4) is amended to read:

(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.

3 AAC 110.640(c) is amended to read:

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(c) **As provided under 3 AAC 110.430, the** [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 **boundaries** [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.

3 AAC 110.640 is amended by adding a new subsection to read:

(d) The chair of the commission will adjust the schedule in (b)(1) - (4) of this section to accommodate the procedures under 3 AAC 110.475 if a request for summary determination is filed on the petition. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	AS 29.05.080	AS 29.06.480
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.090	AS 29.06.490
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.040	AS 44.33.020
	Art. X, sec. 12, Ak Const.	AS 29.06.090	AS 44.33.812
	<u>Art. X, sec. 14, Ak Const.</u>	AS 29.06.110	AS 44.33.814
	AS 29.04.040	AS 29.06.120	AS 44.33.826
	AS 29.05.070		

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3 AAC 110.650 is repealed and readopted to read:

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 during the immediately preceding three years; for purposes of this paragraph, the three-year period will be measured from the date that the denial is final at the agency level, including reconsideration, or through the end of the appeal process, whichever is later;

(2) is substantially similar to a petition rejected by the legislature or rejected by the voters during the immediately preceding two years; or

(3) requests a substantial reversal of a decision of the commission that first became effective during the immediately preceding two years. (Eff. 7/31/92, Register 123; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.100	AS 29.06.450
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.040	AS 29.06.500
	Art. X, sec. 12, Ak Const.	AS 29.06.090	AS 44.33.812
	AS 29.04.040	AS 29.06.130	

3 AAC 110.660 is amended to read:

3 AAC 110.660. Purpose of procedural regulations; relaxation or suspension of procedural regulations. The purpose of the procedural requirements set out in **3 AAC 110.400 - 3 AAC 110.700** [3 AAC 110.400 - 3 AAC 110.660] is to facilitate the business of the

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commission and will be construed to secure the reasonable, speedy, and inexpensive determination of every action and proceeding. Unless a requirement is specifically provided for in the Constitution of the State of Alaska, AS 29, or AS 44.33.810 - 44.33.849, the commission, **by a vote of at least three members,** 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. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	AS 29.04.040	AS 29.06.090
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.100	AS 29.06.450
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.06.040	AS 44.33.812
	Art. X, sec. 12, Ak Const.		

3 AAC is amended by adding new sections to Article 13 (formerly Article 12), to read:

3 AAC 110.680. Meetings. (a) When providing public notice of a commission meeting, the department shall include the date, time, and place of the meeting, the general topics to be discussed or considered, and the originating site of any teleconferencing facilities that will be used. If at least three days remain before the date of the meeting, and unless AS 44.33.818 or an applicable provision of this chapter sets out a more stringent publication requirement, the department shall publish notice of that meeting in a newspaper of general circulation in the vicinity where the meeting will be held or teleconferenced. If time is insufficient to arrange for publication of a complete notice as described in this subsection, the department shall publish an

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abbreviated notice that includes the date, time, and place of the meeting, the originating site of any teleconferencing facilities that will be used, and a statement that additional information regarding the meeting is available at the commission's offices and on the commission's website.

Before the date and time of the meeting, the department shall

(1) post the complete notice of the meeting on the commission's website;

(2) transmit the complete notice to subscribers to the commission's electronic notice list;

(3) notify by telephone, electronic mail, or facsimile transmission those persons whom the chair of the commission determines to warrant notice by those means;

(4) mail or otherwise provide the complete notice to each person who requests it;

and

(5) mail or otherwise distribute notice as directed by the commission chair.

(b) The department shall prepare an agenda of each public meeting as directed by the chair, make the agenda available for public inspection and copying at the commission's offices, post it on the commission's website, serve it by electronic mail on subscribers to the commission's electronic notice service, and mail or otherwise provide it to each person who requests a copy. The department shall also make copies of the agenda available at the public meeting.

(c) To the extent time permits, a public meeting agenda must be available at least 48 hours before the scheduled time of the meeting. If time does not allow that advanced

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publication, the agenda must be posted and distributed as soon as it is available but no later than the date of the meeting.

(d) If the commission allows public testimony regarding a matter on the agenda or pending before the commission, that testimony is limited to three minutes for each person except that the chair may allow an extended period for good cause shown. (Eff. __/__/__, Register ____)

Authority: Art. X, sec. 12, Ak Const. AS 44.33.020 AS 44.33.814

 Art. X, sec. 14, Ak Const. AS 44.33.812

Editor's note: The office and mail address of the commission and its staff within the Department of Commerce, Community, and Economic Development is 550 West Seventh Avenue, Suite 1770, Anchorage, Alaska 99501. The commission's electronic mail address is lbc@alaska.gov. The commission's website is found at <http://www.commerce.state.ak.us/dca/lbc/lbc.htm>. The commission's facsimile number is (907) 269-4539.

3 AAC 110.690. Teleconference policy and procedures. (a) If the commission conducts a hearing by teleconference on a proposed boundary change, at least two members shall attend the hearing in person within or near the boundaries affected by the proposed change under consideration at the hearing. The department shall reflect in the minutes of a meeting or hearing whether a commission member attended in person or by teleconference.

(b) If the commission conducts a hearing or meeting by teleconference, and teleconference access is arranged by the department, the petitioner, respondent, witness, or other

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deadline set under (b) and (e) of this section. For good cause shown, the commission chair will consider a request to accept a late-filed document.

(d) The original of a document served by electronic mail or facsimile transmission must be submitted to the commission within 10 days after the submission of the filing by either electronic method.

(e) The time in which to perform an act required or permitted under this chapter is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or state holiday. If the last day is a Saturday, Sunday, or state holiday, that day is excluded and the act shall be performed on or before the end of the next state business day.

(Eff. __/__/__, Register ____)

Authority: AS 44.33.812

3 AAC 110.900 is amended to read:

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 **municipal** [CITY OR ESSENTIAL BOROUGH] services into the **boundaries** [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, **or a city reclassification under AS 29.04,** must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after [CITY RECLASSIFICATION,] detachment, [OR] dissolution, **or city reclassification.**

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(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, **or** [AND] other appropriate entity located **within** [IN] the **boundaries** [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 **within** [IN] the **boundaries** [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 **within** [IN] the **boundaries** [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 **within** [IN] the **boundaries** [AREA] of the proposed change execute an agreement prescribed or

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approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

(e) The transition plan must state the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed.

(f) If a prospective petitioner has been unable to consult with officials of an existing borough, city, or unorganized borough service area because those officials have chosen not to consult or were unavailable during reasonable times to consult with a prospective petitioner, the prospective petitioner may request that the commission waive the requirement for consultation with those officials. The request for a waiver must document all attempts by the prospective petitioner to consult with officials of each existing borough, city, and unorganized borough service area. If the commission determines that the prospective petitioner acted in good faith and that further efforts to consult with the officials would not be productive in a reasonable period of time, the commission may waive the requirement for consultation. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am

__/__/__, Register ____)

Authority:	<u>Art. X, sec. 1, Ak Const.</u>	AS 29.05.100	AS 29.06.130
	<u>Art. X, sec. 3, Ak Const.</u>	AS 29.05.130	AS 29.06.150
	<u>Art. X, sec. 7, Ak Const.</u>	AS 29.05.140	AS 29.06.160
	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812

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AS 29.04.040

AS 29.06.090

The section heading of 3 AAC 110.910 is changed to read:

3 AAC 110.910. Statement of nondiscrimination [NON-DISCRIMINATION].

3 AAC 110.920(a)(1) is amended to read:

(1) settlement is inhabited by at least 25 **permanent residents** [INDIVIDUALS];

3 AAC 110.920(a)(2) is amended to read:

(2) **the permanent residents live** [[INHABITANTS RESIDE

PERMANENTLY] in a [CLOSE] geographical proximity that allows frequent personal contacts and **interaction** [COMPRISE A POPULATION DENSITY THAT IS CHARACTERISTIC OF NEIGHBORHOOD LIVING]; and

3 AAC 110.920(a)(3) is amended to read:

(3) **the permanent residents** [[INHABITANTS RESIDING PERMANENTLY]

at a location are a discrete and identifiable social unit, as indicated by such factors as **resident public** school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial **or industrial** establishments, **community services**, and [OTHER] service centers.

3 AAC 110.920(b)(1) is amended to read:

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

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3 AAC 110.920(b)(2) is repealed:

(2) repealed __/__/__;

3 AAC 110.920 is amended by adding a new subsection to read:

(c) A city that absorbs one or more municipalities through merger comprises a single community. A city that is formed through the consolidation of one or more municipalities comprises a single community. (Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 7, Ak Const. AS 44.33.812
 Art. X, sec. 3, Ak Const. Art. X, sec. 12, Ak Const.

3 AAC 110.970 is repealed and readopted to read:

3 AAC 110.970. Determination of essential municipal services. (a) If a provision of this chapter calls for the identification of essential municipal services for a borough, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that

- (1) are reasonably necessary to the area; and
- (2) promote maximum local self-government.

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

- (1) assessing the value of taxable property if the proposed or existing borough proposes to levy or levies a property tax;

(2) levying and collecting taxes if the proposed or existing borough proposes to levy or levies taxes;

(3) establishing, maintaining, and operating a system of public schools on an areawide basis as provided in AS 14.14.065;

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

(5) other services that the commission considers reasonably necessary to meet the borough governmental needs of the residents of the area.

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

(1) are reasonably necessary to the community;

(2) promote maximum local self-government; and

(3) cannot be provided more efficiently and more effectively by the creation or modification of some other political subdivision of the state.

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

(1) levying taxes;

(2) for a city in the unorganized borough, assessing the value of taxable property;

(3) levying and collecting taxes;

(4) for a first class or home rule city in the unorganized borough, establishing, maintaining, and operating a system of public schools within the city as provided in AS 14.14.065;

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(5) public safety protection;

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

(7) other services that the commission considers reasonably necessary to meet the

local governmental needs of the residents of the community. (Eff. 5/19/2002, Register 162; am

___/___/___, Register ____)

Authority: Art. X, sec. 1, Ak Const. AS 29.05.011 AS 29.06.130

Art. X, sec. 3, Ak Const. AS 29.05.031 AS 29.06.450

Art. X, sec. 7, Ak Const. AS 29.05.100 AS 29.06.500

 Art. X, sec. 12, Ak Const. AS 29.06.040 AS 44.33.812

 AS 29.04.040 AS 29.06.090

3 AAC 110.980 is repealed:

3 AAC 110.980. Repealed. (Eff. 5/19/2002, Register 162; repealed ___/___/___, Register ___)

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.981. Determination of maximum local self-government. In determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, the commission will consider

 (1) for borough incorporation, whether the proposal would extend local government on a regional scale to a significant area and population of the unorganized borough;

(2) for borough annexation, whether the proposal would extend local government to portions of the unorganized borough;

(3) for merger or consolidation of municipalities, whether the proposal would expand or diminish the level of local government currently provided by the municipalities being merged or consolidated;

(4) for borough detachment, whether the

(A) proposal would

(i) diminish the provision of local government to the area and population being detached; or

(ii) detrimentally affect the capacity of the remnant borough to serve the local government needs of its residents; and

(B) local government needs of the detached area can be adequately met by an existing local government;

(5) for borough dissolution, whether the proposal substantiates that the provision of local government is no longer necessary or supportable for the area;

(6) for deunification, whether the proposal substantiates that the provision of local government is not diminished by deunification or that deunification could lead to better local government by incorporation of other local governments better suited to needs of the area and population;

(7) for city incorporation or annexation in the unorganized borough, whether the proposal would extend local government to territory and population of the unorganized borough where no local government currently exists;

(8) for city incorporation or annexation in an organized borough, whether the proposal would extend local government to territory or population of the organized borough where local government needs cannot be met by the borough on an areawide or nonareawide basis, by annexation to an existing city, or through an existing borough service area;

(9) for city detachment in an organized borough, whether the

(A) proposal would

(i) diminish the provision of local government to the territory and population being detached; or

(ii) detrimentally affect the capacity of the remnant city to serve the local government needs of its residents; and

(B) local government needs of the territory and population to be detached can be adequately met by the borough;

(10) for city detachment in the unorganized borough, whether the

(A) proposal would

(i) diminish the provision of local government to the territory and population being detached; or

(ii) detrimentally affect the capacity of the remnant city to provide local government services; and

(B) local government needs of the detached territory and population can be adequately met by another existing local government;

(11) for city dissolution in an organized borough, whether the proposal substantiates that the

(A) provision of local government is no longer necessary or supportable for the territory; or

(B) local government needs of the territory could be better provided by the borough;

(12) for city dissolution in the unorganized borough, whether the proposal substantiates that the

(A) provision of local government is no longer necessary or supportable for the territory; or

(B) local government needs of the territory could be better provided by a governmental organization other than the city;

(13) for city reclassification, whether the proposal would expand or diminish the provision of local government to the territory being reclassified;

(14) whether the petition proposes incorporation of a home rule municipality.

(Eff. __/__/__, Register ____)

Authority:	Art. X, sec. 1, Ak Const.	AS 29.04.040	AS 29.06.090
	Art. X, sec. 3, Ak Const.	AS 29.05.011	AS 29.06.130
	Art. X, sec. 5, Ak Const.	AS 29.05.031	AS 29.06.450

Art. X, sec. 7, Ak Const. AS 29.05.100 AS 29.06.500

Art. X, sec. 12, Ak Const. AS 29.06.040 AS 44.33.812

3 AAC 110 is amended by adding a new section to read:

3 AAC 110.982. Minimum number of local government units. Among the factors to be considered in determining whether a proposed boundary change promotes a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, the commission will consider

(1) for borough incorporation, whether a new borough will be created from the unorganized borough and whether the proposed boundaries maximize an area and population with common interests;

(2) for borough annexation, whether the jurisdictional boundaries of an existing borough are being enlarged rather than promoting the incorporation of a new borough and whether the proposed boundaries maximize an area and population with common interests;

(3) for borough merger or consolidation, whether the merged or consolidated borough minimizes the number of local government units and whether the boundaries of the merged or consolidated borough maximize an area and population with common interests;

(4) for borough detachment, whether the detached area by itself is likely to be incorporated as an organized borough;

(5) for deunification of a unified municipality, whether

(A) incorporation of one or more new cities is likely to occur as a result of the proposed action, and, if so, the reasons why a new incorporation is or will be needed;
or

(B) the action is proposed as an alternative to detachment of area and incorporation of one or more new boroughs;

(6) for city incorporation, whether incorporation of a new city is the only means by which residents of the territory can receive essential municipal services;

(7) for city annexation, whether the jurisdictional boundaries of an existing city are being enlarged rather than promoting the incorporation of a new city or creation of a new borough service area;

(8) for city merger or consolidation, whether the merged or consolidated city minimizes the number of local government units;

(9) for city detachment, whether the detached area, by itself, is likely to be incorporated as a new city. (Eff. __/__/__, Register ____)

Authority:	Art. X, sec. 1, Ak Const.	AS 29.04.040	AS 29.06.090
	Art. X, sec. 3, Ak Const.	AS 29.05.011	AS 29.06.130
	Art. X, sec. 5, Ak Const.	AS 29.05.031	AS 29.06.450
	Art. X, sec. 7, Ak Const.	AS 29.05.100	AS 29.06.500
	Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812

3 AAC 110.990(2) is repealed:

(2) repealed __/__/__;

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3 AAC 110.990(6) is amended to read:

(6) “contiguous” means, with respect to **area, territory, or property** [TERRITORIES AND PROPERTIES], adjacent, adjoining, and touching; **contiguous area, territory, or property includes area, territory, or property separated by public rights-of-way** [EACH OTHER];

3 AAC 110.990(8)(A) is amended to read:

(A) assessing **the value of taxable property, and** levying [,] and collecting taxes;

3 AAC 110.990(8)(E) is amended to read:

(E) other acts, duties, or obligations required by law to meet the local governmental needs **within the boundaries proposed for change** [OF THE COMMUNITY];

3 AAC 110.990(9) is amended to read:

(9) “model borough boundaries” means those boundaries set out in the commission's **publications**

(A) [PUBLICATION] *Model Borough Boundaries*, revised as of June 1997 and adopted by reference; **and**

(B) *Unorganized Areas of Alaska That Meet Borough Incorporation Standards: A Report by the Alaska Local Boundary Commission to the Alaska*

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Legislature Pursuant to Chapter 53, Session Laws of Alaska 2002, dated February

2003 and adopted by reference;

3 AAC 110.990(10) is amended to read:

(10) “permanent resident” means a person who has maintained a principal domicile **within** [IN] the **boundaries** [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;

3 AAC 110.990(12) is amended to read:

(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];

3 AAC 110.990(13) is amended to read:

(13) “regional educational attendance area” means an educational service area established **in the unorganized borough under AS 14.08.031 by the department; “regional educational attendance area” includes the territory within the boundaries of a**

(A) home rule city in that area;

(B) first class city in that area; or

(C) federal transfer regional educational attendance area formed under ch. 66, SLA 1985 in that area [AND ORGANIZED UNDER AS 14.08 AND AS 29.03.020];

3 AAC 110.990 is amended by adding new paragraphs to read:

(15) “area” means the geographical lands and submerged lands forming the boundaries described in a petition regarding a borough government or forming the boundaries of an incorporated borough;

(16) “boundary change” means the type of action the commission takes to create, alter, or abolish a municipal government; “boundary change” includes

(A) annexation, consolidation, detachment, dissolution, incorporation, and merger of boroughs or cities; and

(B) reclassification of cities if jurisdictional boundaries for public school districts are affected;

(17) “city” has the meaning given in AS 29.71.800;

(18) “consolidation” has the meaning given in AS 29.71.800;

(19) “debt” means an obligation or alleged obligation of a municipality to pay money; “debt” includes funded debt and floating debt;

(20) “deunification” and “deunify” mean to change a unified municipality into a non-unified home rule borough;

(21) “floating debt” means a municipal obligation that is payable on demand;

(22) “funded debt” means a municipal obligation

(A) evidenced by bonds payable at a time beyond the current fiscal year of their issue, with periodic payment of interest; and

(B) for which provision is made for payment by future taxation;

(23) “merger” has the meaning given in AS 29.71.800;

(24) “numerical identifier” has the meaning given in AS 15.60.010;

(25) “non-unified home rule borough” means a home rule borough in which a city government does or could exist;

(26) “person” has the meaning given in AS 01.10.060;

(27) “public right-of-way” means a public easement or public property that is or may be used for a street, an alley, or another public purpose;

(28) “region”

(A) means a relatively large area of geographical lands and submerged lands that may include multiple communities, all or most of which share similar attributes with respect to population, natural geography, social, cultural, and economic activities, communications, transportation, and other factors;

(B) includes a regional educational attendance area, a state house election district, an organized borough, and a model borough described in a publication adopted by reference in (9) of this section;

(29) “regional” means having the characteristics of a region;

(30) “remnant city” means the portion of a city that will remain if a petition to detach territory from that city is approved under AS 29.06.040;

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(31) “remnant borough” means the portion of a borough that will remain if a petition to detach area from that borough is approved under AS 29.06.040;

(32) “territory” means the geographical lands and submerged lands forming the boundaries in a petition regarding a city government or forming the boundaries of an incorporated city;

(33) “unified municipality” has the meaning given in AS 29.71.800;

(34) “unorganized borough” has the meaning given in AS 29.03.010. (Eff. 7/31/92; Register 123; am 5/19/2002, Register 162; am __/__/__, Register ____)

Authority: Art. X, sec. 1, Ak Const. Art. X, sec. 12, Ak Const. AS 29.71.800

Art. X, sec. 3, Ak Const. AS 29.05.011 AS 44.33.812

Art. X, sec. 7, Ak Const. AS 29.05.031

Editor's note: The Local Boundary Commission's **publications** [PUBLICATION *MODEL BOROUGH BOUNDARIES*,] adopted by reference in 3 AAC 110.990, **are** [IS] on file at the offices of the Local Boundary Commission staff, Department of Commerce, Community, and Economic Development, 550 **West Seventh Avenue** [W. 7TH AVE.] , Suite 1770, Anchorage, Alaska, and **are** [IS] available at the **website** [WEB SITE] of the Department of Commerce, Community, and Economic Development, at www.commerce.state.ak.us/cbd/lbc/lbc.htm.

As of Register 171 (October 2004), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Community and Economic Development to the Department of Commerce, Community, and Economic

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Development made by ch. 47, SLA 2004 and the corresponding title change of the
Commissioner of Community and Economic Development.