

Statutes and Regulations Concerning Annexation to Cities

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ALASKA STATUTES

Article 2. Annexation and Detachment

Section			
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Sec. 29.06.040. Local Boundary Commission

(a) The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812, the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

(1) a proposed annexation must be approved by a majority of votes on the question cast by voters residing in the annexing municipality;

(2) a proposed annexation or detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;

(3) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and

(4) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time. (§ 5 ch 74 SLA 1985; am § 14 ch 58 SLA 1994; am § 36 ch 30 SLA 1996; am § 29 ch 58 SLA 1999; am § 3 ch 86 SLA 1999; am § 3 ch 46 SLA 2006)

Effect of amendments. — The 2006 amendment, effective May 28, 2006, inserted paragraph (c)(1), making related changes, and substituted "or detachment" for "and detachment" in paragraph (c)(2).

The second 1999 amendment, effective September 28, 1999, rewrote subsection (a).

The first 1999 amendment, effective July 1, 1999, made a section reference substitution in the introductory language of subsection (c).

The 1996 amendment, effective May 16, 1996, inserted "must" in the second sentence of subsection (c).

The 1994 amendment, effective August 22, 1994, in subsection (a), in the second sentence, substituted "amend" for "alter the boundaries" and deleted "as altered" at the end.

Cross References. — For further provisions relating to Local Boundary Commission procedures, see AS 44.33.810 - 44.33.828.

Notes to Decisions - Defining boundaries is a legislative function. — The creation of municipalities, and the defining of the extent of the boundaries thereof, involve the exercise of legislative, not judicial, power. *Town of Fairbanks v. Barrack*, 282 F. 417 (9th Cir. 1922), cert. denied, 261 U.S. 615, 43 S. Ct. 361, 67 L. Ed. 828 (1923); *In re Annexation to City of Anchorage*, 146 F. Supp. 98 (D. Alaska 1956), decided under former, similar law.

Expansion of municipal boundaries is matter of statewide concern. — Those who reside or own property in the area to be annexed have no vested right to insist that annexation take place only with their consent. The subject of expansion of municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Annexation procedure may be changed. — The state may permit residents of local communities to determine annexation questions at an election. But when this has been done, the state is not irrevocably committed to that arrangement. If the citizens of the state, in adopting a constitution, decide that it is in the public interest to establish another election procedure, there is no constitutional obstacle to that course of action. *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

One proceeding for annexing several tracts. — See *In re Town of Sitka*, 11 Alaska 201 (1946), decided under former, similar law.

Areas in public utility district may be annexed. — The fact that the areas are embraced within a public utility district constitutes no bar to annexation. *In re Annexation to City of Anchorage*, 129 F. Supp. 551 (D. Alaska 1955), decided under former, similar law. See *Fairview Pub. Util. Dist. No. 1 v. City of Anchorage*, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Consent of voters in district required if annexation proceeds under this article. — The provision of former AS 42.35.370 providing for dissolution of a utility district with the consent of the voters when "the whole or the integral part of a district becomes annexed to an incorporated city" has application only where annexation takes place under the petition-election procedure of this article and has no application where annexation takes place under a different method

established by Alaska Const., art. X, § 12. Fairview Pub. Util. Dist. No. 1 v. City of Anchorage, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (Alaska), appeal dismissed and cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962), decided under former, similar law.

Collateral references.

56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 55-80, 137.

62 C. J. S., Municipal Corporations, §§ 42-46.

Capacity to attack the fixing or extension of municipal limits or boundary. 13 ALR2d 1279; 17 ALR5th 195.

Proper remedy or procedure for attacking legality of proceedings annexing territory to municipal corporation. 18 ALR2d 1255.

What zoning regulations are applicable to territory annexed to a municipality. 41 ALR2d 1463.

What land is contiguous or adjacent to municipality so as to be subject to annexation. 49 ALR3d 589; 64 ALR3d 187.

Right of one governmental subdivision to challenge annexation proceedings by another such subdivision. 17 ALR5th 195.

Cited in State v. Prince, 53 P.3d 157 (Alaska Ct. App. 2002).

Sec. 29.06.050. Annexation of military reservations

A military reservation may be annexed to a municipality in the same manner as prescribed for other territory under AS 29.06.040. If a city in a borough annexes a military reservation under this section, the area encompassing the military reservation automatically is annexed to the borough in which the city is located. (§ 5 ch 74 SLA 1985)

Sec. 29.06.055. Property taxes in annexed or detached areas.

(a) Unless the annexation takes effect on January 1, the annexing municipality may not levy property taxes in an annexed area before January 1 of the year immediately following the year in which the annexation takes effect. However, notwithstanding other provisions of law, the municipality may provide services in the annexed area that are funded wholly or partially with property taxes during the period before the municipality may levy property taxes in the annexed area.

(b) If an area is detached from a municipality, all property taxes that are levied by that municipality on property in the detached area based on an assessment that occurred before the effective date of the detachment remain valid. AS 29.45.290 - 29.45.500 apply to the enforcement of those taxes. (§ 2 ch 12 SLA 2004)

Effective Date Notes. Section 2, ch. 12, SLA, which enacted this section, became effective July 5, 2004.

Local Boundary Commission Regulations

Chapter 110. Municipal Boundary Changes.

(Only municipal boundary changes relating to annexation included)

- 1. Standards for Annexation to Cities. (3 AAC 110.090 - 3 AAC 110.150)**
- 2. General Provisions. (3 AAC 110.900 - 3 AAC 110.990)**

Article 3 Standards for Annexation to Cities

Section

090. Need.	130. Boundaries.
100. Character.	135. Best interests of state.
110. Resources.	140. Legislative review.
120. Population.	150. Local action.

3 AAC 110.090. Need

- (a) The territory must exhibit a reasonable need for city government. In this regard, the commission may consider relevant factors, including
- (1) existing or reasonably anticipated social or economic conditions, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city during the 10 years following the effective date of annexation;
 - (2) existing or reasonably anticipated health, safety, and general welfare conditions;
 - (3) existing or reasonably anticipated economic development;
 - (4) adequacy of existing services;
 - (5) extraterritorial powers available to the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and
 - (6) whether residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of services and facilities provided by the annexing city.
- (b) Territory may not be annexed to a city if essential municipal services can be provided more efficiently and more effectively by another existing city or by an organized borough, on an areawide basis or nonareawide basis, or through a 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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	Art. X, sec. 7, Ak Const.	AS 44.33.812
Art. X, sec. 3, Ak Const.	Art. X, sec. 12, Ak Const.	
Art. X, sec. 5, Ak Const.	AS 29.06.040	

3 AAC 110.100. Character

- The territory must be compatible in character with the annexing city. In this regard, the commission may consider relevant factors, including the
- (1) land use, subdivision platting, and ownership patterns;
 - (2) salability of land for residential, commercial, or industrial purposes;
 - (3) population density;
 - (4) cause of recent population changes;
 - (5) suitability of the territory for reasonably anticipated community purposes;

- (6) existing and reasonably anticipated transportation patterns and facilities; and
- (7) natural geographical features and environmental factors.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 7, Ak Const.

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

AS 44.33.812

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

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city that would result from annexation;
- (3) actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
- (4) feasibility and plausibility of those aspects of the city's anticipated operating and capital budgets that would be affected by the annexation through the period extending one full fiscal year beyond the reasonably anticipated date for completion of the transition set out in 3 AAC 110.900;
- (5) economic base of the territory within the city after annexation;
- (6) valuations of taxable property in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development in the territory proposed for annexation;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled persons to serve the city government as a result of annexation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 7, Ak Const.

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

AS 44.33.812

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) census enumerations;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes;
- (5) age distributions;
- (6) contemporary and historical public school enrollment data; and
- (7) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.

Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 7, Ak Const.

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

AS 44.33.812

3 AAC 110.130. Boundaries

- (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 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.

Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 7, Ak Const.

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

AS 44.33.812

3 AAC 110.135. Best interests of state

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

- (1) promotes maximum local self-government, as determined under 3 AAC 110.981;
- (2) promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and
- (3) will relieve the state government of the responsibility of providing local services.

History: Eff. 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.
 Art. X, sec. 5, Ak Const.

Art. X, sec. 7, Ak Const.
 Art. X, sec. 12, Ak Const.

AS 29.06.040
 AS 44.33.812

3 AAC 110.140. Legislative review

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

- (1) the territory is wholly or substantially surrounded by the annexing city;
- (2) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
- (3) the extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
- (4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;
- (5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city;
- (6) repealed 5/19/2002;
- (7) annexation of the territory will promote
 - (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;
- (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;
- (9) 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 annexation of the territory by the legislative review process, and that annexation is in the best interests of the state.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority

Art. X, sec. 1, Ak Const.
Art. X, sec. 7, Ak Const.

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

AS 44.33.812

3 AAC 110.150. Local action

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

- (1) city ordinance if the territory is wholly owned by the annexing city;
- (2) city ordinance and a petition signed by all the voters and property owners of the territory;
- (3) approval by a majority of votes on the question cast by voters residing in
 - (A) the territory; and
 - (B) the annexing city;
- (4) repealed 1/9/2008;
- (5) repealed 1/9/2008.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185
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Authority:

Art. X, sec. 1, Ak Const.
Art. X, sec. 7, Ak Const.

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

AS 44.33.812

Article 14 General Provisions

Section

900. Transition.	980. (Repealed).
910. Statement of nondiscrimination.	981. Determination of maximum local self-government.
920. Determination of community.	982. Minimum number of local government units.
970. Determination of essential municipal services.	990. Definitions.

Annotations

Publisher's note: As of Register 185 (April 2008), new Article 11 was added and former Article 11 was renumbered as present Article 12, and subsequent articles were numbered accordingly.

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 services into the boundaries proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for 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 detachment, dissolution, or city reclassification.
- (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 other appropriate entity located within the boundaries 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 the boundaries 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 the boundaries proposed for 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 the boundaries of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.
- (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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185

Authority:

Art. X, sec. 1, Ak Const.	AS 29.05.100	AS 29.06.130
Art. X, sec. 3, Ak Const.	AS 29.05.130	AS 29.06.150
Art. X, sec. 7, Ak Const.	AS 29.05.140	AS 29.06.160
Art. X, sec. 12, Ak Const.	AS 29.06.040	AS 44.33.812
AS 29.04.040	AS 29.06.090	

3 AAC 110.910. Statement of nondiscrimination

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

History: Eff. 7/31/92, Register 123

Authority:

Art. X, sec. 12, Ak Const.	AS 44.33.812
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Publisher's note:

As of Register 185 (April 2008), the heading to this section is set out in the supplement to show a change in the heading as it appears in the main pamphlet.

3 AAC 110.920. Determination of community

- (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the
 - (1) settlement is inhabited by at least 25 permanent residents;

- (2) the permanent residents live in a geographical proximity that allows frequent personal contacts and interaction; and
 - (3) the permanent residents 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 service centers.
- (b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if
- (1) public access to or the right to reside at the location of the population is restricted; or
 - (2) repealed 1/9/2008;
 - (3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.
- (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.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185
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Authority:

Art. X, sec. 1, Ak Const.
 Art. X, sec. 3, Ak Const.

Art. X, sec. 7, Ak Const.
 Art. X, sec. 12, Ak Const.

AS 44.33.812

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;
 - (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.

History: Eff. 5/19/2002, Register 162; am 1/9/2008, Register 185

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. Determination of best interests of the state

Repealed.

History: Eff. 5/19/2002, Register 162; repealed 1/9/2008, Register 185

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.

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 110.982. 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.

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. Definitions

Unless the context indicates otherwise, in this chapter

- (1) "borough" means a general law borough, a home rule borough, or a unified municipality;
- (2) repealed 1/9/2008;
- (3) "commission" means the Local Boundary Commission;
- (4) "commissioner" means the commissioner of commerce, community, and economic development;
- (5) a "community" means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920;
- (6) "contiguous" means, with respect to area, territory, or property, adjacent, adjoining, and touching; contiguous area, territory, or property includes area, territory, or property separated by public rights-of-way;
- (7) "department" means the Department of Commerce, Community, and Economic Development;
- (8) "mandatory power" means an authorized act, duty, or obligation required by law to be performed or fulfilled by a municipality in the course of its fiduciary obligations to citizens and taxpayers; "mandatory power" includes one or more of the following:
 - (A) assessing the value of taxable property, and levying and collecting taxes;
 - (B) providing education, public safety, public health, and sanitation services;
 - (C) planning, platting and land use regulation;
 - (D) conducting elections; and
 - (E) other acts, duties, or obligations required by law to meet the local governmental needs within the boundaries proposed for change;
- (9) "model borough boundaries" means those boundaries set out in the commission's publications
 - (A) 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 Legislature Pursuant to Chapter 53, Session Laws of Alaska 2002, dated February 2003 and adopted by reference;
- (10) "permanent resident" means a person who has maintained a principal domicile within the boundaries 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 at any time during the pendency of a petition before the commission;
- (11) "political subdivision" means a borough or city organized and operated under state law;

- (12) "property owner" means a legal person holding a vested fee simple interest in the surface estate of any real property including submerged lands;
- (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;
- (14) "witnesses with expertise in matters relevant to the proposed change" means individuals who are
 - (A) specialists in relevant subjects, including municipal finance, municipal law, public safety, public works, public utilities, and municipal planning; or
 - (B) long-standing members of the community or region that are directly familiar with social, cultural, economic, geographic, and other characteristics of the community or region;
- (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;

(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.
