Article 12 Procedures for Petitioning

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3 AAC 110.400. Applicability

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

3 AAC 110.410. Petitioners

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

(1) the legislature;

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

(4) a political subdivision of the state;

(5) a regional educational attendance area;

(6) a coastal resource service area;

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

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

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

(10) the number of qualified voters required under

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

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

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

(b) If, to achieve compliance with AS 29.06.100 (a), a petition for merger or consolidation must be signed by a percentage of voters from one or more cities within a borough, and also by a percentage of voters in that borough, all voters who sign the petition as borough voters must reside outside any city or cities joining that petition. The number of borough voters required to sign the petition must be based on the number of registered voters or the number of votes cast in the area of the borough outside any city or cities joining the petition.

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

(d) The staff of the commission or a person designated by the commission may initiate a petition if the commission
(1) determines that the action proposed will likely promote the standards established under the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter; and

(2) directs the staff or designated person to prepare a petition by a motion approved by a majority of the appointed membership of the commission.

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

3 AAC 110.420. Petition

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

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

(1) the name of the petitioner;

(2) the name and class of any

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

and

(B) proposed municipal government;

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

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

(5) a statement of reasons for the petition;

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

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

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

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

(11) the following tax data:

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

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

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

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

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

(14) information about the powers and functions of

   (A) a proposed municipality;

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

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

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

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

   (A) a proposed municipality; and

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

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

(18) a supporting brief that provides a detailed explanation of how the proposal satisfies each constitutional, statutory, and regulatory standard that is relevant to the proposed commission action;
(19) documentation demonstrating that the petitioner is authorized to file the petition under 3 AAC 110.410;

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

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

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

3 AAC 110.425. Legislative review annexation petitions

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

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

(c) The prospective annexation petition and the summary shall be made available to the public on or before the first publication or posting of the notice of the hearing required under (e) of this section. The prospective petitioner shall make one copy of the prospective petition available for public review at a convenient location in or near the territory proposed for annexation for every 500 individuals reasonably estimated to reside in the territory proposed for annexation. However, the prospective petitioner need not provide more than five copies of the prospective petition for public review regardless of the population of the territory proposed for annexation. The prospective petitioner shall make the summary of the annexation proposal available for distribution to the public without charge at a convenient location in or near the territory proposed for annexation.
(d) The public hearing required under (a) of this section must address appropriate annexation standards and their application to the annexation proposal, legislative review annexation procedures, the reasonably anticipated effects of the proposed annexation, and the proposed transition plan required under 3 AAC 110.900. The hearing must be held at a convenient location in or near the territory proposed for annexation. The hearing must allow a period for comment on the proposal from members of the public. If the prospective petitioner is a municipality, the governing body shall conduct the hearing.

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

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

1. the title of the notice of the hearing;
2. the name of the prospective petitioner;
3. a brief description of the nature of the prospective legislative review annexation proposal, including the size and general location of the area under consideration;
4. information about where and when the prospective petition is available for public review;
5. information about where the public may receive, without charge, a summary of the prospective petition;
6. a statement concerning who will conduct the hearing;
7. a statement of the scope of the hearing;
8. notification that public comments will be accepted during the hearing, and a statement of any time limits to be placed on individuals who offer comments;
9. the date, time, and place of the hearing;
10. a statement of compliance with 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act);
11. the name and telephone number of a representative of the prospective petitioner to contact for additional information.

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

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

(3) the name of the prospective petitioner;

(4) a description of the prospective proposed action;

(5) a statement of the size and general location of the area being considered for annexation;

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

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

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

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

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

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

3 AAC 110.430. Consolidation of petitions

If two or more petitions pending action by the commission affect all or some portion of the same territory, the chair of the commission may consolidate the informational session, briefing schedule, department reports, commission hearing, decisional meeting, or other procedure under this chapter for one or more of those petitions. The commission may consider relevant information from concurrent or conflicting petitions during the process of rendering its decision on any one petition.
3 AAC 110.440. Technical review of petition

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

(b) The petitioner is primarily responsible for supplying all supplemental information and documents reasonably necessary for the technical review process, including information identifying who is registered to vote, who resides in a territory, and the number of persons who voted in the territory during the last election.

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

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

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162 | Authority: Art. X, sec. 12, Ak Const.; AS 29.04.040; AS 29.05.070; AS 29.06.040; AS 29.06.110; AS 29.06.480; AS 44.33.020; AS 44.33.812

3 AAC 110.450. Notice of petition

(a) No later than 45 days after receipt of the department's written notice of acceptance of the petition for filing, the petitioner shall

(1) publish public notice of the filing of the petition in a display ad format of no less than six inches long by two columns wide at least once each week for three consecutive weeks in one or more newspapers of general circulation designated by the department; if the department determines that a newspaper of general circulation, with
publication at least once a week, does not circulate in the territory, the department shall
require the petitioner to provide notice through other means designed to reach the public;

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

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

(B) other locations designated by the department;

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

(4) hand-deliver or mail, postage prepaid, public notice of the filing of the
petition, correctly addressed to the municipalities having jurisdictional boundaries within
an area extending up to 20 miles beyond the boundaries of the territory proposed for
change, and to other persons and entities designated by the department; and

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

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

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

(2) the name of the petitioner;

(3) a description of the proposed action;

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

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

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

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

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

(9) a statement that responsive briefs and comments regarding the petition
may be filed with the commission;
(10) a reference to the regulations applicable to the filing of responsive briefs,

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

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

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

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

(1) the title of the public service announcement;

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

(3) the name of the petitioner;

(4) a description of the proposed action;

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

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

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

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

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

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

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

3 AAC 110.460. Service of petition

(a) No later than 25 days after receipt of the department's notice of acceptance of the petition for filing, the petitioner shall hand-deliver or mail, postage prepaid, one complete set of petition documents to every municipality within an area extending 20 miles beyond the boundaries of the territory proposed for change, and to other interested persons and entities designated by the department. Copies of the petition documents,
including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.

(b) From the first date of publication of notice of the filing of the petition under 3 AAC 110.450(a) (1), through the last date on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction, the petitioner shall make a full set of petition documents, including public notices, responsive briefs, the reply brief, and department reports, available for review by the public at a central and convenient location such as a municipal office or public library. The petition documents must be available for review during normal working hours, and the petitioner shall accommodate specific requests for public review of the petition documents at reasonable times in the evening and on weekend days. All published and posted notices of filing of a petition must identify the specific location of the petition documents, and the hours when the documents can be reviewed.

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

3 AAC 110.470. Proof of notice and service

No later than 50 days after receipt of the department’s written notice of acceptance of the petition for filing, the petitioner shall deliver to the department five additional complete sets of petition documents and an affidavit that the notice, posting, service, deposit, and publishing requirements of 3 AAC 110.450 - 3 AAC 110.460 have been satisfied. Copies of the petition documents, including maps and other exhibits, must conform to the originals in color, size, and other distinguishing characteristics.

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

3 AAC 110.480. Responsive briefs and written comments

(a) If an interested person or entity seeks to participate as a respondent to a petition, that person or entity must have the capacity to sue and be sued, and must file with the department an original and five complete copies of a responsive brief containing facts and analyses favorable or adverse to the petition. If the respondent is a group, the group shall designate one person to represent the group. Copies of the responsive briefs, including maps and other exhibits, must conform to the original in color, size, and other distinguishing characteristics. The respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the respondent lacks a readily accessible means or the capability to provide items in an electronic format.
(b) The responsive brief, and any companion exhibits, must be filed with an affidavit by the respondent that, to the best of the respondent's knowledge, information, and belief, formed after reasonable inquiry, the responsive brief and exhibits are founded in fact and are not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.

(c) A responsive brief must be received by the department in a timely manner in accordance with 3 AAC 110.640. A responsive brief must be accompanied by an affidavit of service of two copies of the brief on the petitioner by regular mail, postage prepaid, or by hand-delivery.

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

3 AAC 110.490. Reply brief

The petitioner may file an original and five copies of a single reply brief in response to all responsive briefs and written comments filed timely under 3 AAC 110.480. The petitioner shall provide the department with a copy of the reply brief in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format. The reply brief must be received by the department in a timely manner in compliance with 3 AAC 110.640. The reply brief must be accompanied by an affidavit of service of the brief on all respondents by regular mail, postage prepaid, or by hand-delivery.
3 AAC 110.500. **Limitations on advocacy**

(a) Unless otherwise ordered by the commission, for good cause shown, the commission will not, and the department may not, accept a document, letter, or brief for filing and consideration except in accordance with the procedures, timeframes, hearings, and meetings specified in 3 AAC 110.400 - 3 AAC 110.660.

(b) A member of the commission is prohibited from ex parte contact and communication with any person except the staff of the commission, concerning a matter pending before the commission that has been filed as a petition, from the date the petition was first submitted to the department through the last date on which the petition may be subject to action by the commission, including the last date of proceedings of the commission ordered by a court of competent jurisdiction.

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

3 AAC 110.510. **Informational sessions**

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

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

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

3 AAC 110.520. **Departmental public meetings**

(a) During its investigation and analysis of a petition for incorporation, the department shall convene at least one public meeting in the territory proposed for incorporation. During its investigation and analysis of a petition for a change other than incorporation, the department may convene at least one public meeting in or near the territory proposed for change.

(b) Notice of the date, time and place of the public meeting under (a) of this section must be mailed, postage prepaid, to the petitioner and to each respondent at least 15 days before the public meeting. The department shall publish the notice at least once.
each week, for two consecutive weeks, immediately preceding the date of the meeting, in a newspaper of general circulation selected by the department to reach the people and entities within or near the area of the proposed change. If the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate in the area of the proposed change, the department shall provide notice through other means designed to reach the public. The petitioner shall post notice of the meeting in at least three prominent locations readily accessible to the public in or near the territory proposed for change, and at the same location where the petition documents are available for review, for at least 14 days immediately preceding the date of the meeting. On or before the date of the public meeting, the petitioner shall submit to the department an affidavit certifying that the posting requirements of this subsection have been met.

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

(d) The department may postpone the time or relocate the place of the public meeting by conspicuously posting notice of the postponement or relocation at the original time and location of the public meeting, if the meeting is relocated within the same community or territory, and is rescheduled no more than 72 hours after the originally scheduled time.

3 AAC 110.530. Departmental report

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

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

(c) The petitioner, respondents, and other interested persons may submit to the department written comments pertaining directly to the preliminary report with recommendations. The written comments must be received by the department in a timely manner in accordance with 3 AAC 110.640.
(d) In its final written report with recommendations, the department shall consider timely submitted written comments addressing the preliminary report with recommendations.

3 AAC 110.540. Amendments and withdrawal

(a) A petitioner may amend or withdraw the original petition at any time before the first mailing, publishing, or posting of notice of the commission’s hearing on the petition under 3 AAC 110.550. The original and five copies of the amendment or withdrawal must be filed with the department. The petitioner shall provide the department with a copy of the amended petition and supporting materials in an electronic format, unless the department waives this requirement because the petitioner lacks a readily accessible means or the capability to provide items in an electronic format. If voters initiated the original petition,

(1) the amended petition must contain the dated signatures of the same number of voters required by AS 29.04, AS 29.05, AS 29.06, or this chapter for the original petition, and must include the dated signatures of at least a majority of the same voters who signed the original petition; and

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

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

(c) The chair of the commission may determine whether the amendment is significant enough to warrant an informational session, opportunity for further responsive briefing, an additional public meeting by the department, or a repeat of any other step or process specified in 3 AAC 110.400 - 3 AAC 110.660. Additional informational sessions, meetings, briefings, or other steps or processes will be conducted in accordance with the procedures specified in 3 AAC 110.400 - 3 AAC 110.660 for the processing of the original petition, except that the chair of the commission may shorten the timing.

(d) A petitioner may not amend or withdraw the original petition after the first mailing, publishing, or posting of notice of the commission’s hearing on the petition, except upon a clear showing to the commission that the public interest of the state and of the persons and entities within or near the area of the proposed change is best served by allowing the proposed amendment or withdrawal.
3 AAC 110.550. Commission public hearing

(a) The commission will convene one or more public hearings at convenient locations in or near the territory of the proposed change as required under AS 29.04, AS 29.05, AS 29.06, AS 44.33.810-44.33.828, and this chapter.

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

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

(2) published by the department at least three times, with the first date of publishing occurring at least 30 days before the date of the hearing, in a display ad format no less than three inches long by two columns wide, in one or more newspapers of general circulation selected by the department to reach the people in the territory; if the department determines that a newspaper of general circulation, with publication at least once a week, does not circulate in the territory, the department shall provide notice through other means designed to reach the public; and

(3) posted by the petitioner in at least three prominent locations readily accessible to the public in the area in which the hearing is to be held, and where the petition documents are available for review, for at least 21 days preceding the date of the hearing.

(c) The department shall submit a request for a public service announcement of the hearing notice required under this section to at least one radio or television station serving the area of the proposed change and request that it be announced during the 21 days preceding the date of the hearing.

(d) The commission may postpone the time or relocate the place of the hearing by conspicuously posting notice of the postponement or relocation at the original time and location of the public hearing, if the hearing is relocated within the same community or territory and is rescheduled no more than 72 hours after the originally scheduled time.

(e) At least 14 days before the hearing, the petitioner and each respondent shall submit to the department a list of witnesses that the respective party intends to call to provide sworn testimony. The list must include the name and qualifications of each witness, the subjects about which each witness will testify, and the estimated time anticipated for the testimony of each witness. On the same date that the petitioner submits
its witness list to the department, the petitioner shall provide a copy of its witness list to each respondent by hand-delivery or postage-prepaid mail. On the same date that a respondent submits its witness list to the department, the respondent shall provide a copy of its witness list to the petitioner and to all other respondents by hand-delivery or postage-prepaid mail.

3 AAC 110.560. Commission hearing procedures

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

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

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

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

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

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

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

3 AAC 110.570. Decisional meeting

(a) Within 90 days after the last commission hearing on a proposed change, the commission will convene a decisional meeting to examine the written briefs, exhibits, comments, and testimony, and to reach a decision regarding the proposed change. The commission will not receive new evidence, testimony, or briefing during the decisional meeting. However, the chair of the commission may ask the department or a person for a point of information or clarification.

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

(c) If the commission determines that a proposed change must be altered to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, the commission may alter the proposed change and accept the petition as altered. If the commission determines that a precondition must be satisfied before the proposed change can take effect, the commission will include that precondition in its decision. A motion to alter, impose preconditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval.
(d) If the commission determines that a proposed change fails to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, the commission will reject the proposed change. If a motion to grant a proposed change receives fewer than three affirmative votes by commission members, the proposed change is rejected.

(e) The commission will keep written minutes of a decisional meeting. Each vote taken by the commission will be entered in the minutes. The approved minutes are a public record.

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

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

3 AAC 110.580. Reconsideration

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

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

(c) A person or entity filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person or entity requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for
reconsideration is founded in fact, and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.

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

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

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

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

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

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

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

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

3 AAC 110.590. Certain local action annexations

(a) Except as otherwise provided in this section, if a petition is filed with the department under a local action method provided for in AS 29.06.040 (c)(2) or (c)(3) for annexation of adjacent municipally owned property or adjacent property by unanimous
consent of voters and property owners, only the following procedures specified in 3 AAC 110.400 - 3 AAC 110.660 are required:

(1) filing a petition under 3 AAC 110.420;

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

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

(4) responsive briefs and comments under 3 AAC 110.480, except that the chair of the commission may limit the time allowed under 3 AAC 110.640 for the filing of responsive briefs and comments to 14 days from the date of first publication of the notice of filing of the petition;

(5) a reply brief under 3 AAC 110.490, except that the chair of the commission may limit the time allowed under 3 AAC 110.640 for the filing of a reply brief to seven days from the date that the petitioner received the responsive brief;

(6) a departmental report under 3 AAC 110.530, except that the department shall issue only one report concerning the local action annexation proposal at least 21 days before the public hearing under 3 AAC 110.550; interested persons may submit written comments to the department on its report no later than seven days before the public hearing;

(7) the commission's public hearing under 3 AAC 110.550, except that the commission may conduct the hearing by teleconference;

(8) the decisional meeting under 3 AAC 110.570;

(9) reconsideration under 3 AAC 110.580.

(b) The commission may expand local action procedures for annexations under (a) of this section, so that those procedures include other requirements of 3 AAC 110.400 - 3 AAC 110.660, such as informational sessions, and public meetings and hearings, if the commission determines that the best interests of the state will be enhanced.

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

(d) Repealed 5/19/2002.
(e) If the commission determines that the balanced best interests of the locality and the state are enhanced by statewide participation, the commission may convert a local action petition for an annexation described in (a) of this section to a legislative review petition.

3 AAC 110.600. Local action/local option elections

(a) In accordance with AS 29.04, AS 29.05, and AS 29.06, the commission will notify the director of elections of its acceptance of a local action or local option petition proposing city reclassification under AS 29.04, municipal incorporation under AS 29.05, and municipal dissolution, merger, or consolidation under AS 29.06.

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

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

3 AAC 110.610. Legislative review

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

(b) If a decision of the commission requires legislative review, the commission will present a recommendation for the decision to the legislature during the first 10 days of a regular session in accordance with art. X, sec. 12, Constitution of the State of Alaska.
3 AAC 110.620. Judicial review

A final decision of the commission made under AS 29.04, AS 29.05, AS 29.06, or this chapter may be appealed to the superior court in accordance with the Administrative Procedure Act (AS 44.62).

3 AAC 110.630. Effective date and certification

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

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

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

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

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

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

(d) When the requirements in (a) of this section have been met, the department shall issue a certificate describing the effective change. The department shall hand-deliver or mail, postage prepaid, a copy of the certificate to the municipality that has been changed, and shall file a copy of the certificate in each recording district of all territory within the municipality that has been changed.
3 AAC 110.640. Scheduling

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

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

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

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

(3) 28 days after the date of mailing of a departmental preliminary report with recommendations to the petitioner for receipt of written summary comments to the department; and

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

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

3 AAC 110.650. Resubmittals and reversals

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

(1) is substantially similar to a petition denied by the commission, rejected by the legislature, or rejected by the voters during the immediately preceding 24 months; or
(2) requests a substantial reversal of a decision of the commission that first became effective during the immediately preceding 24 months.

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

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

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