

CLERK'S OFFICE  
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Submitted by: Assembly Members TESCHE,  
TRAINI, Taylor, Whittle, Van  
Etten and Shamberg  
Prepared by: Department of Law  
For reading: August 6, 2002

ANCHORAGE, ALASKA  
AO NO. 2002-103(S)

AN ORDINANCE AMENDING AMC SECTIONS 12.35.005, 12.35.010, 12.35.020 & 12.35.025,  
CONFORMING THOSE PROVISIONS TO STATE LAW AS.29.45.050. (M) PROVIDING FOR A  
TAX EXEMPTION FOR ECONOMIC DEVELOPMENT PROPERTY AND PERMITTING THE  
ASSEMBLY TO RENEW ECONOMIC DEVELOPMENT EXEMPTIONS

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** Anchorage Municipal Code Chapter 12.35 is hereby repealed and re-enacted to read as follows: (*Changes, new and deleted language compared to the repealed chapter are shown in legislative format.*)

**12.35.005 Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Deteriorated area means* an area which meets one or more of the following criteria: unsafe, unsanitary or overcrowded buildings; vacant, overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties; excessive land coverage; economically or socially undesirable land uses. Property adjacent to areas meeting these criteria, but which would not otherwise qualify, may be included within the deteriorated area designated if the assembly determines that new construction on such property would encourage, enhance or accelerate improvement of the adjacent deteriorated properties.

*Deteriorated property means* real property that is commercial property not used for residential purposes or that is multi-unit residential property with at least eight residential units, that is located in a deteriorated area with boundaries that have been determined by the municipality after a public hearing and findings of fact by the assembly establishing the deteriorated condition, and that:

Has been the subject of an order by a government agency requiring the property to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations; or

2. Has a structure on it not less than 15 years of age that has undergone substantial rehabilitation, renovation, or replacement.

*Economic development property means* real or personal property, including developed property conveyed under 43 USC 1601-~~1629e~~ [1609e] (Alaska Native Claims Settlement Act), [SUBJECT TO THE TAXATION UNDER CHAPTERS 12.10 AND 12.15,] that:

1. Has not previously been taxed as real or personal property by the municipality;

2. Is used in a trade or business in a way that:
  - a. Creates employment [AND ELIGIBLE JOBS] in the municipality directly related to the use of the property;
  - b. Generates sales outside of the municipality of goods or services produced in the municipality; or
  - c. Materially reduces the importation of goods or services from outside the municipality; and
- 3 Has not been used in the same trade or business in another municipality for at least 12 months before the application for deferral or exemption is filed.

[ELIGIBLE JOB MEANS A FULL-TIME, YEAR-ROUND EQUIVALENT JOB WHICH IS DIRECTLY RELATED TO THE USE OF ECONOMIC DEVELOPMENT PROPERTY. JOBS RELATED TO THE CONSTRUCTION OF THE ECONOMIC DEVELOPMENT PROPERTY ARE EXCLUDED.]

*Qualified inventory* means personal property subject to taxation and consisting of goods held for sale and intended for export outside the state.

*Rehabilitation* means repair, replacement, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed rehabilitation. (AO No. 89-128(S); AO No. 98-135(S-1), § 1, 9-15-98)

Editor's note--This section was codified in the 1977 Code as section 12.35.030.  
Cross reference(s)--Definitions and rules of construction generally, § 1.05.020.

### **12.35.010 [12.35.025] Applications for Tax Incentives.**

A Application for an exemption, deferral, or renewal [TO ESTABLISH REAL OR PERSONAL PROPERTY AS ECONOMIC DEVELOPMENT PROPERTY OR QUALIFIED INVENTORY] under this chapter shall be made in writing to the chief fiscal officer or his designee. The application shall contain:

- 1 A description of the property for which the application is made and the business in which it is to be used;
- 2 A description of the employment and [ELIGIBLE JOBS] created or sustained by the property;
  - a. The requirement of this subsection does not apply to deteriorated property applications.

3. Demonstration that the property meets the requirements of this chapter;
4. Evidence that an exemption, deferral or renewal is necessary to:
  - a. The long-term viability of the business operation after expiration of the tax incentive(s); or
  - b. The economic feasibility of initiating an operation, program or project with a reasonable likelihood of long-term economic viability; and
  - c. Except for an application for deteriorated property, the proposed business operation or program or project will create additional employment for the community; and
  - d. The exemption promotes or improves the economic development of the municipality.

[THE BUSINESS AND THE CREATION OF EMPLOYMENT OR ELIGIBLE JOBS];

5. Financial statement of the applicant; and
6. Other information as may be required by the finance department.

[B. APPLICATION FOR A TAX EXEMPTION AND TAX DEFERRAL FOR DETERIORATED PROPERTY UNDER THIS CHAPTER SHALL BE MADE IN WRITING TO THE CHIEF FISCAL OFFICER OR HIS DESIGNEE. THE APPLICATION FOR TAX EXEMPTION AND DEFERRAL MAY BE SUBMITTED AND APPROVED PRIOR TO THE COMMENCEMENT OF REHABILITATION WORK. THE APPLICATION SHALL CONTAIN:

1. A DESCRIPTION OF THE PROPERTY FOR WHICH THE APPLICATION IS MADE;
2. DEMONSTRATION THAT THE PROPERTY MEETS THE REQUIREMENTS OF THIS CHAPTER;
3. OTHER INFORMATION AS MAY BE REQUIRED BY THE FINANCE DEPARTMENT.]

B. The chief fiscal officer or his designee [OF THE CHIEF FISCAL OFFICER], which may be a contractor of the municipality, shall verify the eligibility for the application and shall submit it to the chief fiscal officer. The chief fiscal officer shall advise the mayor and the assembly as to the eligibility of the proposed exemption, deferral or renewal [AND DEFERRAL] within 90 [30] days after receiving the application from his designee or contractor. If the application is recommended for approval by the chief fiscal officer, a resolution may be submitted by the mayor to the assembly for action. If the application is denied by the chief fiscal officer or a resolution is not submitted by the mayor, the applicant may appeal directly to the assembly.

1. The chief fiscal officer may, consistent with title 7, contract with an entity to receive and review applications for tax exemption, the renewal of tax exemption or [AND] deferral and to verify annual certifications that economic development property or qualified inventory remains eligible for exemption, pursuant to this

section. If such a contract is entered into, the chief fiscal officer shall be deemed to have received the application for the purposes of subsection C of this section when he receives it from the contractor.

- C. The assembly may set a public hearing on an application. [RECOMMENDED FOR APPROVAL BY THE MAYOR.] The assembly may grant an exemption to the extent that the property is qualified under this chapter. [IS DETERMINED TO BE DETERIORATED PROPERTY, ECONOMIC DEVELOPMENT PROPERTY OR QUALIFIED INVENTORY.] The assembly shall make an effort to treat similarly situated requesting the same tax relief [DETERIORATED PROPERTY, ECONOMIC DEVELOPMENT PROPERTY AND QUALIFIED INVENTORY] in as reasonable and equitable manner as practicable.

### 12.35.020[12.35.025D.] Annual Certification of Eligibility.

- A. The owner of [ECONOMIC DEVELOPMENT] property [OR QUALIFIED INVENTORY] shall certify annually by February 1 to the chief fiscal officer or his designee that the factors establishing qualification for the tax relief under this chapter [EMPLOYMENT AND NUMBER OF ELIGIBLE JOBS] upon which approval was granted [, IF ANY,] remain in existence and that the property remains eligible for tax relief [EXEMPTION] pursuant to this chapter. All books and records of the owner shall be subject to the inspection of the chief fiscal officer for a period of three years after the annual certification is made. If the property is determined to be wholly or partially ineligible, the tax relief granted [EXEMPTION OR DEFERRAL] shall terminate to the extent of the deficiency[, WHETHER IN ELIGIBLE JOBS OR OTHER FAILED CONDITIONS,] and all sums that would have been levied in that year shall be due and payable to the municipality with interest, if any is due, as if such property has been subject to regular taxation. The nature and extent of any deficiency in the taxpayer's eligibility for the tax incentive or relief or the conditions under which such was granted shall be reported to the Assembly together with a statement of the impact of the tax incentive and deficiencies on the municipality. The Assembly may terminate or modify the tax incentive/relief. [DEFICIENCIES IN NUMBER OF ELIGIBLE JOBS SHALL BE CALCULATED ON THE BASIS OF THE EXEMPTION GRANTED FOR EACH ELIGIBLE JOB. OTHER DEFICIENCIES SHALL BE CALCULATED BASED ON THAT PORTION OF THE TAX YEAR FOR WHICH EXEMPTION WAS GRANTED REMAINING AT THE TIME THE DEFICIENCY AROSE.]

1. The requirement of this subsection A. does not apply to deteriorated property tax relief.

### 12.35.030[12.35.025E] Discretionary Act of the Municipality.

The grant or denial of an application [EXEMPTION AND DEFERRAL BY THE ASSEMBLY] is a discretionary act which shall [WILL] not give rise to any claim against the municipality or its agents.

### 12.35.040[12.35.010A. and B.] Economic Development Property.

2       A.   The municipality may, upon written application, partially or totally exempt all  
3       or some types of economic development property from real and personal  
4       property taxation under this code for up to five years. [ECONOMIC  
5       DEVELOPMENT PROPERTY SHALL BE EXEMPT FROM TAXATION UNDER  
6       CHAPTERS 12.10 AND 12.15 TO THE EXTENT OF THE NUMBER OF  
7       ELIGIBLE JOBS CREATED AND SUSTAINED BY SUCH PROPERTY. EACH  
8       ELIGIBLE JOB MAY REDUCE TAXES UP TO \$7,500.00 ANNUALLY OVER A  
9       PERIOD OF TIME NOT TO EXCEED FIVE YEARS PROVIDED THAT THE  
10      EXEMPTION SHALL NOT EXCEED 50 PERCENT OF THE TAX DUE IN EACH  
11      YEAR.]

12       1.   The Assembly may grant a partial or total exemption under this section,  
13       with or without conditions, if it finds the exemption is necessary to:

14           a.   The long-term viability of the business operation after expiration of  
15           the tax incentive(s); or

16           b.   The economic feasibility of initiating an operation, program or project  
17           with a reasonable likelihood of long-term economic viability; and

18           c.   The proposed business operation or program or project will create  
19           additional employment for the community.

20       B.   The municipality may renew an exemption granted under this section provided  
21       that:

22       1.   The Assembly finds, upon consideration of the renewal application, that the  
23       property continues to meet the definition of economic development property  
24       and that continuation of an exemption is necessary pursuant to subsection  
25       A.1. of this section and the creation or sustaining of employment related to  
26       the use of the property and;

27       2.   Under any renewal which extends the exemption beyond a total period of  
28       five years, the municipality may only exempt the amount of taxes that  
29       exceeds the amount levied on other property for the school district.  
30       [ECONOMIC DEVELOPMENT PROPERTY SHALL BE EXEMPT FROM  
31       TAXATION UNDER CHAPTERS 12.10 AND 12.15 FOR THE YEAR  
32       BEGINNING JANUARY 1 AFTER NEW PLANT OR FACILITY  
33       CONSTRUCTION BEGINS; AND IN TAX YEARS SUBSEQUENT TO  
34       THAT YEAR, ECONOMIC DEVELOPMENT PROPERTY SHALL BE  
35       EXEMPT FROM TAXATION UNDER CHAPTERS 12.10 AND 12.15 TO  
36       THE EXTENT OF THE NUMBER OF ELIGIBLE JOBS CREATED AND  
37       SUSTAINED BY SUCH PROPERTY. EACH ELIGIBLE JOB MAY  
38       REDUCE TAXES UP TO \$7,500.00 ANNUALLY OVER A PERIOD OF  
39       TIME NOT TO EXCEED TWO YEARS.]

40       C.   This section does not apply to inventories.  
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- D.** The authorization for a renewal of a tax exemption under this section may be applied to all real and personal property of a **qualified applicant** previously granted an economic development exemption under this chapter as now or previously constituted. Any property granted a renewal under this section may be exempt from real and personal property taxes to the full extent authorized by this section.

**12.35.050**[12.35.010C.D.,E.,F.; and G.] **Deteriorated Property**

- A.** Deteriorated property shall be partially exempt from taxation under chapter 12.15 for up to five years starting in the year beginning January 1 after:

1. An application for exemption has been approved in accordance with section 12.35.025, and
2. Substantial completion or beneficial occupancy of the rehabilitation, renovation or replacement.

- B.** Deteriorated property shall be subject to a deferral of payment of taxes under chapter 12.15 for up to five years starting in the year beginning January 1 after expiration of any exemption in accordance with AMC 12.35.010(C).

1. Deferred taxes shall be assessed in the year of deferral in accordance with chapter 12.15 and any appeal of an assessment of deferred taxes shall be filed in accordance with AMC 12.05.055 within 30 days from the date the assessment notice was mailed.
2. The deferral shall be effective until the ownership of the property for which a deferral has been granted is transferred. Upon transfer of title, all tax payments deferred under this subsection are immediately due and the deferral ends, or, if ownership of only part of the property is transferred, all tax payments attributable to that part are immediately due and the deferral attributable to that part ends.
3. This subsection B. **shall** [DOES] not apply to a lease of all or part of the property.

- C.** Only one exemption and only one deferral may be granted to the same property **under this section. An exemption and deferral granted the same property may not be in effect on the same portion of the property during the same time.**

- D.** An application for deteriorated property tax relief may be submitted and approved prior to the commencement of rehabilitation work.

**12.35.060** [12.36.015] **Qualified [TAX EXEMPTION OF] Inventory.**

Qualified inventory shall be exempt from taxation under chapter 12.10 as provided in AS 29.45.050 [(M) AND] (n).

(AO No. 89-128(S); AO No. 97-93, § 2, 7-1-97)



**12.35.070 [12.35.020] Liability for taxes.**

**A.** Real and personal property taxes for property exempted from tax under this chapter shall be due and payable in the same manner as nonexempt property taxes as billed by the municipality, except:

1. If the application for exemption, **deferral or renewal** is approved by the assembly or an annual certification is approved prior to the date the taxes are due, the amount of the exemption shall be credited against the real and personal property taxes.
2. If the application for exemption, **deferral or renewal** is approved by the assembly or an annual certification is approved after the date the taxes are due and paid, the amount of the exemption shall be refunded to the person who paid the tax.

(AO No. 89-128))

**Section 2.** This ordinance is enacted pursuant to Alaska Statutes 29.45.050 (m), **(n) and (o)** authorizing the Municipality to exempt from or defer taxes on economic development **and deteriorated property and qualified inventory**, as defined therein.

**Section 3.** This ordinance may be repealed by voters through referendum.

**Section 4.** This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED and approved by the Anchorage Assembly this 6th day of August, 2002.

  
Chair

ATTEST:

  
Municipal Clerk