

Submitted by: Chair of the Assembly at the  
Request of the Mayor

Prepared by: Department of Law

For reading: September 8, 2004

CLERK'S OFFICE  
**AMENDED AND APPROVED**  
Date: 9-8-04

ANCHORAGE, ALASKA

AO No. 2004-116(S-1)

**AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.35  
TO INCORPORATE AMENDMENTS ADOPTED BY THE STATE OF ALASKA  
REGARDING DETERIORATED PROPERTY AND DETERIORATED AREAS, AND  
TO CLARIFY TAX INCENTIVE APPLICATION REQUIREMENTS.**

THE ANCHORAGE ASSEMBLY ORDAINS:

**Section 1.** That Anchorage Municipal Code section 12.35.005 is amended as follows:

**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, at the time of application, 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 meets one of the following:

1. Within the last five years, [H]has been the subject of an order by a government agency requiring environmental remediation of the property or 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, demolition, removal or replacement;  
or
3. Is located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality after a public hearing.

*Economic development property* means real or personal property, including developed property conveyed under 43 USC 1601--1629e (Alaska Native Claims Settlement Act), 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 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.

*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. 2002-103(S), § 1, 8-6-02)

**Section 2.** That Anchorage Municipal Code section 12.35.010 is amended to read as follows (*the remainder of this section is not affected, and therefore not set out*):

**12.35.010 Applications for tax incentives.**

- A. Application for an exemption, deferral, or renewal 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] 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] P[p]romote[S] or improve[S] the economic development of the municipality.
5. Evidence that an exemption, deferral or renewal will provide measurable public benefits commensurate with the level of incentive granted.
- 6 [5]. Financial statement of the applicant; and
- 7 [6]. Other information as may be required by the finance department.
- B. The chief fiscal officer may adopt administrative procedures for determining standards for designation of areas as deteriorated.
- C [B]. The chief fiscal officer or his designee, 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 within 90 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 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 D. [C.] of this section when he receives it from the contractor.

D [C]. The assembly may set a public hearing on an application. The assembly may grant an exemption to the extent that the property is qualified under this chapter. The assembly shall make an effort to treat similarly situated **applications** requesting the same tax relief in as reasonable and equitable manner as practicable.

(AO No. 2002-103(S), § 1, 8-6-02)

**Section 3.** That Anchorage Municipal Code section 12.35.030 is amended to correct a technical error as follows:

**12.35.030      Discretionary act of the municipality.**

The grant or denial of an application is a discretionary act which shall not [SHALLNOT] give rise to any claim against the municipality or its agents.

(AO No. 2002-103(S), § 1, 8-6-02)

**Section 4.** That Anchorage Municipal Code section 12.35.050 is amended as follows (*the remainder of the section is not affected, and therefore not set out*):

**12.35.050      Deteriorated property.**

A. Deteriorated property shall be partially exempt from taxation under chapter 12.15 for up to ten [FIVE] years starting in the year beginning January 1 after:

1. An application for exemption has been approved in accordance with section 12.35.010 [12.35.025], and
2. Substantial completion or beneficial occupancy of the rehabilitation, renovation, demolition, removal or replacement.

**B.      An exemption may be transferred, in whole only, to another entity or owner after substantial completion or beneficial occupancy as set forth in subsection A.2. above, if:**

- 1.      The original applicant has affirmatively exercised the exemption;**
- 2.      The exemption authorized by state statute has not sunset; and**
- 3.      The transfer is recommended by the municipality and approved by**

**the assembly by resolution.**

**C [B]. Deteriorated property may, by ordinance, be permitted to defer payment of taxes on all or some types of deteriorated property for up to five years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal or replacement of any structure on the property begins. However, if the ownership of property for which a deferral has been granted is transferred, all tax payments deferred under this subsection are immediately due and the deferral ends or, if ownership of any part of the property is transferred, all tax payments are immediately due.**

**[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 SUBSECTION 12.35.070C.]  
[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 section [AMC] 12.05.055 within 30 days from the date the assessment notice was mailed.**

**2. The amount deferred each year is a lien on that property for that year.**

**3 [2]. The deferral shall be effective until;**

**[A. THE LAST DAY OF THE APPROVED DEFERRAL PERIOD. ALL TAXES DEFERRED SHALL BE DUE IN FULL, WITHOUT INTEREST OR PENALTY, WITHIN 180 DAYS AFTER THE LAST DAY OF THE DEFERRAL PERIOD. DEFERRED TAXES NOT PAID WITHIN 180 DAYS SHALL BEGIN TO ACCRUE INTEREST AND PENALTIES EFFECTIVE THE FIRST DAY FOLLOWING THE END OF THE APPROVED DEFERRAL PERIOD; OR]**

**a [b]. The ownership of the property for which a deferral has been granted is transferred, in whole or in part. 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]. Deferred taxes not paid at the time of transfer shall be assessed interest and penalties from date of the transfer.**

4 [3]. This subsection C [B]. shall not apply to a lease of all or part of the property.

D [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.

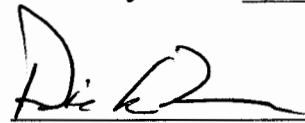
E [D]. An application for deteriorated property tax relief may be submitted and approved prior to the commencement of rehabilitation work.

F. Any amendments or revisions to an approved application including, but not limited to, extended time periods under subsequent amendments to state statute or this chapter, shall be submitted by the original applicant, prior to substantial completion or beneficial occupancy and prior to scheduled sunset of the statute authorizing the exemption or deferral, under the process set forth in subsection 12.35.010.


(AO No. 2002-103(S), § 1, 8-6-02)

**Section 5.** This ordinance shall become effective immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 8<sup>th</sup> day of September, 2004.

  
Chair of the Assembly

ATTEST:

  
Municipal Clerk