

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

Prepared by: Department of Law

For Reading: January 18, 2005

CLERK'S OFFICE
AMENDED AND APPROVED ANCHORAGE, ALASKA
Date: 1-18-05 AO NO. 2004-181(S-1), *As Amended*
IMMEDIATE RECONSIDERATION
FAILED 1-18-05

1 AN ORDINANCE CREATING A NEW ANCHORAGE MUNICIPAL CODE CHAPTER 25.35
2 TO RESTRUCTURE THE PARKING AUTHORITY AS THE ANCHORAGE COMMUNITY
3 DEVELOPMENT AND PARKING AUTHORITY, REPEALING ANCHORAGE PARKING
4 AUTHORITY CHAPTER 9.60, AMENDING SECTION 25.10.030 FOR DEVELOPMENT
5 FACILITIES, AND AMENDING SECTION 4.80.010 TO CHANGE THE NAME OF THE
6 DEVELOPMENT AUTHORITY BOARD.

7
8 THE ANCHORAGE ASSEMBLY ORDAINS:

9
10 **Section 1.** Anchorage Municipal Code section 4.80.010 is amended to read as follows:

11
12 **4.80.010** **Anchorage community development /& PARKING/ authority board**
13 **of directors.**

14
15 There is established an Anchorage community development /& PARKING/ authority
16 board of directors with the powers and duties more particularly set forth in chapter 25.35
17 [TITLE 9].

18 (AO No. 84-10(S))

19 **Cross references:** Anchorage parking authority, Ch. 9.60.

20
21
22 **Section 2.** Anchorage Municipal Code chapter 9.60 is amended to become the new
23 Anchorage Municipal Code chapter 25.35 as follows:

24
25 **Chapter 25.35** **ANCHORAGE COMMUNITY DEVELOPMENT /&**
26 **PARKING/ AUTHORITY**

27
28 **25.35.010** **Established; termination.**

29
30 **A.** There is an Anchorage Community Development /& PARKING/ Authority, a
31 public corporate authority of the municipality. The authority is an instrument of
32 the municipality, but exists independently of and separately from the municipality.
33 The authority shall continue to exist until terminated by ordinance. When the
34 authority's existence is terminated, all of its rights, assets and properties shall pass
35 to the municipality.

36
37 **B.** Within the authority and reporting to the executive director and chief operating
38 officer of the authority, is the following department:

39
40 **1.** Anchorage Parking Authority, responsible for operating, managing and
41 controlling on-street and off-street parking throughout the municipality.
42

(AO No. 84-10(S))

25.35.020 **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:

Authority, community development authority, and parking authority mean the Anchorage Community Development [~~&~~ PARKING] Authority.

Bonds means bonds, notes and any other debt obligation of the authority.

Off-street parking facility means any real property or improvement to real property not within a public right-of-way, used or designed to be used for the parking of motor vehicles, and any improvement to real property subordinate, accessory or reasonably related to that use, including but not limited to building space to be leased for retail, commercial or office purposes.

(AO No. 84-10(S))

25.35.030 **Board of directors.**

The [PARKING] authority shall be governed by a board of directors consisting of nine members appointed by the mayor subject to confirmation by the assembly. Two of the nine members appointed by the mayor shall be executive employees of the municipality. **In addition, ~~one~~ two* assembly members* shall be appointed by the assembly to serve as an ex officio member of the board. Members shall be appointed based on relevant expertise and experience. When transmitting to the Assembly for confirmation the name of appointees to the authority, the Mayor shall cause a notice of a 10 day comment period inviting public comment on the qualifications of such appointees to be published in a newspaper of general circulation in the Municipality. The notice shall advise that comments shall be in writing and filed with the Municipal Clerk. Upon receipt, the Municipal Clerk shall forward comments received to the Mayor and the Assembly. The Assembly shall not take action on any appointment to the authority until after the close of the public comment period. ***

(AO No. 84-10(S); AO No. 84-250)

25.35.040 **Executive director and chief operating officer.**

- A. The executive director of Heritage Land Bank shall serve as the executive director of the authority.
- B. The mayor shall select the chief operating officer [EXECUTIVE DIRECTOR] of the authority subject to confirmation by the assembly. The chief operating officer [EXECUTIVE DIRECTOR] of the authority shall serve at the pleasure of the mayor.

(AO No. 84-10(S); AO No. 89-69(S))

25.35.050 **Fiscal management.**

The chief fiscal officer shall be advisor to the authority regarding its financial affairs, including but not limited to establishing and maintaining the authority's funds. The chief fiscal officer, auditors appointed by the chief fiscal officer, and the internal auditor may examine and audit the books and records of the authority regarding its financial affairs, and the chief fiscal officer and the internal auditor may make recommendations to the authority, the mayor and the assembly regarding the authority's financial affairs. The chief fiscal officer shall be custodian of the authority's funds. Notwithstanding section 25.35.060C., t[T]he [PARKING] authority shall comply with and utilize the competitive bidding processes of t [T]itle 7 for procurement of supplies only.

(AO No. 84-10(S); AO No. 89-69(S))

25.35.055 **Legal counsel.**

The municipal attorney shall advise and assist the authority on legal matters.

(AO No. 89-69(S))

25.35.060 **Powers.**

A. In furtherance of its corporate purposes, the authority has the following powers, in addition to its other powers, subject to the approval of the mayor and the assembly as required by the c [C]harter:

1. To sue and be sued.
2. To have a seal and alter it at pleasure.
3. To adopt, amend and repeal bylaws for its organization and internal management, however, bylaws regarding notice of meetings shall be adopted consistent with s [S]ection 1.25.015.
4. To operate, manage and control municipal land [PROPERTY] and facilities in authority inventory, including off-street parking facilities [AND ALL PROPERTIES PERTAINING THERETO, PLACED INTO AUTHORITY INVENTORY].
5. To design, construct, improve, alter or repair municipal land and facilities [OR FACILITY] in [THE] authority inventory, including an off-street parking facility or any part of an off-street parking facility in accordance with section 25.35.170 [SECTION 9.60.170].
6. To acquire an interest in real property or a facility, including an off-street parking facility, as necessary or appropriate to provide financing for the facility, whether by purchase, gift or lease.

7. As authorized by ordinance in accordance with the c [C]harter, to lease to others municipal land or facilities in authority inventory, including an off-street parking facility or any part of an off-street parking facility, for [THE] rentals and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for options to purchase or renew.
8. As authorized by ordinance in accordance with the c [C]harter, to acquire, own, sell, lease, exchange, donate, convey or encumber in any manner, by mortgage or by creation of any other security interest, real or personal property owned by it or in which it has an interest. **However, development authority action involving leasing, purchasing or selling of real property with over \$6 million of municipal interest must have approval of the assembly.***
9. As authorized by ordinance setting forth the form and manner of sale of bonds and notes in accordance with the c [C]harter, to issue bonds in accordance with section 25.35.070 [SECTION 9.60.070] to pay the cost of a municipal facility, including an off-street parking facility, or to retire any bonds previously issued by it, and to secure payment of the bonds as provided in this chapter.
10. Subject to s [S]ection 13.08 of the c [C]harter, to accept gifts, grants or loans from and enter into contracts, partnerships, joint ventures and similar agreements, or other transactions regarding them with any governmental or private agency or entity as the authority considers appropriate.
11. To deposit or invest its funds, subject to agreements with bondholders.
12. To purchase its bonds, with all bonds so purchased to be cancelled.

B. The authority also shall have the following powers:

1. To investigate and study real estate, housing and parking conditions in the municipality.
2. To establish and revise rent and fee schedules for municipal land [PROPERTY] and facilities in authority inventory, including on-street parking in the municipality, [AND] for off-street parking owned or managed by the authority, and off-street public parking owned by the municipality.
3. To make and enforce rules governing the use of municipal land [PROPERTY] and facilities in authority inventory, including off-street parking facilities, owned or managed by the authority.

4. To manage on behalf of the municipality municipal land ~~[PROPERTY]~~ and facilities in authority inventory, including off-street public parking facilities and spaces designated by the municipal traffic engineer for on-street parking.
 5. Subject to ~~s~~ [S]ection 13.08 of the ~~c~~ [C]harter, to enter into contracts or agreements with respect to the exercise of any of its powers and to do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter.
 6. To enforce, through its employees, agents or designees (i.e., the fire department, department of health and human services or other municipal agencies), the provisions of the code [CHAPTERS 9.30, 9.32 AND 9.34].
- C. Except as this chapter provides otherwise, the authority is not subject to ~~t~~ [T]itles 3, 6, 7 or other chapters of title 25.

(AO No. 84-10(S); AO No. 89-69(S); AO No. 92-28; AO No. 94-132(S), § 7, 8-25-94)

25.35.065 Designation for and withdrawal from inventory.

- A. Designation and withdrawal of municipal land to the authority. The mayor, with assembly approval, or a super majority of the assembly* may designate municipal land, interests in land, or facilities for placement in the Anchorage Community Development [& PARKING] Authority inventory. Such land [OR], interests in land, or facilities designated for the authority shall be consistent with the authority's purpose, and will generally be:
1. Land not reserved for a specific future municipal use, or needed for future municipal uses; or
 2. Land determined to be excess to present or future municipal needs and which may have present or future market value for industrial, commercial, residential, recreational, institutional, or other development.
 3. A designation for withdrawal shall include a pro forma projecting a positive revenue stream within five (5) years. A withdrawal placement* without a positive revenue stream within five (5) years shall be reported to the assembly.
- B. Withdrawal of land or facilities from authority inventory. The mayor, with assembly approval, may withdraw land or facilities from the authority inventory for any lawful municipal purpose, consistent with the comprehensive plan and implementing measures or applicable site specific land use studies. Such a withdrawal shall become effective only after at least 30 days' prior written notice to the authority board of directors, and after at least one public hearing regarding the proposed withdrawal. If land is withdrawn from the authority inventory for

use and management by a non-municipal public agency which is not supported by municipal taxes, compensation shall be paid to the authority for at least the current appraised fair market value of the land, unless otherwise provided in this chapter.

1. During the pendency of the withdrawal process or any hearing thereon, no action shall be taken by the authority to encumber, transfer, sell, lease or otherwise change the status of ownership.

2. Any assembly action to withdraw land or facilities from the authority shall require a super majority.

25.35.070 Form and sale of bonds.

A. Bonds of the authority are authorized by resolution of its board of directors and shall be dated and shall mature as the resolution may provide. Bonds shall bear interest at the rate, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

B. All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

C. The form and manner of sale of bonds and notes pursuant to this section shall be authorized by ordinance in accordance with the c [C]harter.

(AO No. 84-10(S); AO No. 89-69(S))

25.35.080 Security for bonds.

As authorized by ordinance in accordance with the c [C]harter, the authority may issue bonds, including but not limited to bonds on which the principal and interest are payable exclusively from the income and revenue of the municipal land [PROPERTY] and/or facilities, including an off-street parking facility, financed with the proceeds of the bonds, exclusively from the income and revenue of those [OFF-STREET PARKING] facilities whether or not they are financed in whole or in part with the proceeds of the bonds, or from the authority's revenue generally. Bonds may be secured additionally by a pledge of a grant or contribution from the federal or state government or from another source, by a pledge of income or revenue of the authority, or by a mortgage of municipal land or facility, including an off-street parking facility or other property in the inventory of the authority or a pledge of authority [OFF-STREET PARKING] revenues.

(AO No. 84-10(S); AO No. 89-69(S))

25.35.090 Limitation of liability on bonds.

A. Neither the members of the authority's board of directors nor a person executing the bonds are personally liable on the bonds or are subject to personal liability or accountability by reason of issuance of the bonds.

- B. The bonds issued by the authority do not constitute an indebtedness or other liability of the state or the municipality or other political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or the municipality or other political subdivision of the state, except the authority, to the payment of a bond, and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or the municipality or other political subdivision of the state to apply money from or levy or pledge any form of taxation whatever to the payment of the bond.

(AO No. 84-10(S))

25.35.100 **Covenant with bondholders.**

The municipality pledges to and agrees with the holders of the bonds issued under this chapter that the municipality will not limit or alter the rights vested in the authority to establish and collect fees or other charges convenient or necessary to produce sufficient revenues to meet the expenses of operation of the authority and to fulfill the terms of any agreement made with the holders of its bonds or in any way impair the rights or remedies of the holders of the bonds until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged.

(AO No. 84-10(S))

25.35.110 **Trust indentures and trust agreements.**

- A. In the discretion of the authority, and as authorized by an ordinance setting forth the form and manner of sale of bonds in accordance with the c [C]harter, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank or national banking association with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (referred to in this section as trust agreement) by means of which the authority may:

- 1 [A]. Make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to:

- a [1]. The application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

- b [2]. The fixing and collection of rents or other consideration for and the other terms to be incorporated in a lease or contract of sale of municipal land or facilities in the authority inventory, including an off-street parking facility;

1
2 c [3]. The assignment by the authority of its rights in the lease or contract
3 of sale of municipal land or facilities in the authority inventory,
4 including an off-street parking facility, or in a mortgage or other
5 security interest created with respect to municipal land or facilities
6 in the authority inventory, including an off-street parking facility,
7 to a trustee for the benefit of bondholders;

8
9 d [4]. The terms and conditions upon which additional bonds of the
10 authority may be issued;

11
12 e [5]. The vesting in a trustee of rights, powers, duties, funds or property
13 in trust for the benefit of bondholders, including, without
14 limitation, the right to enforce payment, performance and all other
15 rights of the authority or of the bondholders, under a lease, contract
16 of sale, mortgage, security agreement or trust agreement with
17 respect to municipal land or facilities in the authority inventory,
18 including an off-street parking facility, by mandamus or other
19 proceeding or by taking possession of by agent or otherwise and
20 operating municipal land or facilities in the authority inventory,
21 including an off-street parking facility, and collecting rents or other
22 consideration and applying the rents or other consideration in
23 accordance with the trust agreement;

24
25 2 [B]. Pledge, mortgage or assign money, leases, agreements, property or other
26 assets of the authority either presently in hand or to be received in the
27 future or both; and

28
29 3 [C]. Provide for any other matters of like or different character which in any
30 way affect the security or protection of the bonds.

31 (AO No. 84-10(S); AO No. 89-69(S))

32
33 **25.35.120 Exemption from taxes.**

34
35 A. The real and personal property of the authority and its assets, income and receipts
36 are declared to be the property of a political subdivision of the state and, together
37 with any municipal land or facilities in the authority inventory, including an off-
38 street parking facility, financed under this chapter, devoted to an essential public
39 and governmental function and purpose, and the property, assets, income, receipts
40 and facilities, including any off-street parking facility, shall be exempt from all
41 municipal taxes.

42
43 B. Nothing in this section creates a tax exemption with respect to the interest of any
44 business enterprise or other person, other than the authority, in any property,
45 assets, income, receipts, facilities or off-street parking facility, whether or not
46 financed under this chapter.

47 (AO No. 84-10(S))
48

25.35.125 Municipal Enterprise Service Assessment (MESA).

- A. It is the public policy of the municipality to require the [ANCHORAGE PARKING A] authority to pay a municipal service assessment for governmental services provided by the municipality, other than those services received on a contract or interfund basis between the [ANCHORAGE PARKING A] authority and the municipality.
- B. The MESA for the [ANCHORAGE PARKING A] authority shall be calculated [IN ACCORDANCE WITH SUBSECTION 26.10.025C. THE MESA SHALL BE CALCULATED] by applying the mill[AGE] rate established annually [FOR EACH SERVICE AREA] by the assembly for each service area where the authority's property is located to the net book value of the authority's property in each of those service areas, [CLASSIFIED NON-CONTRIBUTED PLANT IN SERVICE] plus 1.25 percent of the [ANCHORAGE PARKING A] authority's actual gross operating revenues for the calendar year preceding the MESA payment. $MESA = (\text{net book [ADJUSTED PLANT IN SERVICE] value} \times \text{mill rate}) + (1.25\% \times \text{actual gross operating revenue})$.
- C. For purposes of this section, the following terms are defined as follows:
1. Mill rate shall means the general property tax mill rate levied area-wide and in the service areas where the authority's property is located for the calendar year preceding the MESA payment;
 2. Net book value means book value which is net of accumulated depreciation and amortization; and
 3. Property means personal property and real property which is placed in service.
- D [C]. The [ANCHORAGE PARKING A] authority shall budget annually for the MESA as an operating expense.
- E. Private ownership interests, if any, in authority land or facilities, shall be added to the municipal tax base and assessed accordingly.

(AO No. 2002-77, § 1, 6-25-02)

25.35.130 Cooperation with authority by public officers and agencies.

Any public body, officer or agency of the municipality may:

- A. Cooperate with the authority in the planning, construction or operation of municipal land or facilities in the authority inventory, including an off-street parking facility;
- B. Purchase bonds of the authority; and

C. In general, do all things necessary to cooperate in the planning, construction or operation of municipal land or facilities in the authority inventory, including an off-street parking facility.

(AO No. 84-10(S))

25.35.140 Reports and recommendations.

The authority shall file with the mayor and the assembly an annual report, **and schedule an annual work session,** of its activities and shall make recommendations for the legislation or other action it considers necessary to carry out its corporate purposes. The authority shall include in its annual report an estimate of the amount of the bonds to be issued during the following 12-month period. **The annual report shall include an annual audit, including income, expenditures, investment and inventory.***

(AO No. 84-10(S))

25.35.150 Annual budget.

The authority shall [HAVE A SEPARATE BUDGET WITHIN THE ANNUAL MUNICIPAL BUDGET, AND SHALL] prepare and submit an annual budget **to the mayor and the assembly prior to approval of the municipality's annual budget [IN ACCORDANCE WITH TITLE 6].**

(AO No. 84-10(S); AO No. 89-69(S))

25.35.160 Annual audit.

The authority shall be subject to the audit requirements of the c [C]harter and t [T]itle 6.

(AO No. 84-10(S))

25.35.170 Review of plans.

All plans of the authority to acquire, design, construct, improve, alter or repair municipal land or facilities in the authority inventory, including an off-street parking facility or any part of an off-street parking facility, are subject to any review that may be required under s [S]ections [4.60.125,] 21.15.015 and 21.15.025.

(AO No. 84-10(S))

Section 3. Anchorage Municipal Code section **25.10.030** is amended as follows (*the remainder of the section is not affected, and therefore not set out*):

25.10.030 Powers and duties of department of property and facility management.

*** *** ***

B. The powers and duties of the department of property and facility management shall include but are not limited to the following:

*** *** ***

7. In leasing or renting facilities or floor space, proceeding in accordance with Section 7.20.020 or 7.20.060, with the relevant section to be determined by the purchasing officer, except this requirement shall not apply if the space being acquired for municipal use is in a facility or project in which the Anchorage Community Development [AND PARKING] Authority holds a financial interest.

(AO No. 79-170; AO No. 82-49; AO No. 88-163; AO No. 90-31)

Section 4. Anchorage Municipal Code chapter 9.60, **Anchorage Parking Authority**, is repealed in its entirety.


Section 5. **A five-year strategic work plan shall be submitted to the Assembly within 90 days of passage and approval of this ordinance.**

Section 6. *Intent and interpretation of this ordinance. Except as otherwise specifically provided herein, this ordinance does not repeal, abolish or amend existing provisions of law delineating the responsibilities, powers and functions of the public, the voters of Anchorage, the Assembly, or the executive branch with respect to the acquisition, management or disposal of municipal lands or interests therein. This ordinance shall be interpreted broadly to protect and preserve the role of the public, the voters, and the Anchorage Assembly in these decisions as provided in law and the Home Rule Charter.*

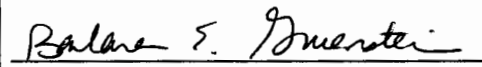
Section 7. **The Authority shall abide by the purchasing policy applicable to the Anchorage Parking Authority (APA) adopted June, 2000.***

Section 78. This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED this 18th day of January, 2005.


Chair

ATTEST:


Municipal Clerk

* indicates changes made to AO 2004-181 (S-1), As AMENDED on January 18, 2005.