

Submitted by: ASSEMBLY MEMBER FLYNN  
Assembly Member BIRCH

Prepared by: Assembly Counsel

AO 2009-74 Introduction: June 9, 2009

AO 2009-74(S-1) Reading: February 16, 2010

CLERK'S OFFICE

APPROVED

Date: 2-16-10

ANCHORAGE, ALASKA

AO NO. 2009-74 (S-1)

1 **AN ORDINANCE AMENDING PROVISIONS OF ANCHORAGE CODE CHAPTER**  
2 **12.35 RELATED TO DETERIORATED PROPERTY AND TO PROVIDE FOR WAIVER**  
3 **OF CERTAIN MUNICIPAL FEES AS AN ECONOMIC DEVELOPMENT INCENTIVE.**

4  
5 THE ANCHORAGE ASSEMBLY ORDAINS:

6  
7 **Section 1.** Anchorage Municipal Code section 12.35.005, Definitions, is hereby  
8 amended to read as follows (*the remainder of the section is not affected and therefore*  
9 *not set out*):

10  
11 **12.35.005 Definitions.**

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13 \*\*\* \*\* f\*\*\*

14 ***Deteriorated area*** means an area within boundaries designated by  
15 ordinance which meets one or more of the following criteria: unsafe, unsanitary  
16 or overcrowded buildings; **environmentally contaminated**; vacant, overgrown  
17 and unsightly lots of ground; [:] a disproportionate number of tax delinquent  
18 properties; excessive land coverage; economically or socially undesirable land  
19 uses. Property adjacent to areas meeting these criteria, but which would not  
20 otherwise qualify, may be included within the deteriorated area designated in the  
21 ordinance if the assembly determines that new construction on such property  
22 would encourage, enhance or accelerate improvement of the adjacent  
23 deteriorated properties.

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26 (AO No. 2002-103(S), § 1, 8-6-02; AO No. 2004-116(S-1), § 1, 9-8-04)

27  
28 **Section 2.** Anchorage Municipal Code subsection 12.35.050.C is hereby amended to  
29 read as follows (*the remainder of the section is not affected and therefore not set out*):

30  
31 **12.35.050 Deteriorated property.**

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33 \*\*\* \*\* \*\*

34 B. An exemption may be transferred, in whole only, to another entity or  
35 owner after substantial completion or beneficial occupancy as set forth in  
36 subsection A.2. above, **or earlier when the change in ownership is**  
37 **required for the inclusion of low income housing, under the low**  
38 **income housing tax credit program or another program funding low**  
39 **income housing** if:

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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. In accordance with section 12.35.010, deteriorated property applications may [, BY ORDINANCE,] be granted [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, **unless the change in ownership is required for the inclusion of low income housing, under the low income housing tax credit program or another program funding low income housing, with municipal approval.**

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(AO No. 2002-103(S), § 1, 8-6-02; AO No. 2004-116(S-1), § 4, 9-8-04; AO No. 2007-69, § 1, 5-1-07)

**Section 3.** Anchorage Municipal Code chapter 12.35, Economic Development Property, is hereby amended by adding a new section to read as follows:

**12.35.055. Municipal fee relief.**

A. Subject to eligibility and qualification under this chapter, partial waiver or total exemption from municipal fees listed in this section may be recommended for development of deteriorated property or development of housing or services for homeless, low-income and workforce residents. An application for municipal fee relief shall be made in writing to the **Municipal Manager** ~~chief fiscal officer or designee~~. The application shall be subject to **the requirements of this section and the [same]** review process, criteria, requirements, and municipal discretion established in this chapter for deteriorated property tax relief.

**B. The application shall include:**

- 1. A comprehensive project scope, schedule and budget;**
- 2. A pro forma forecast of the project cash flows demonstrating the financial feasibility of the project and identifying the impact that the requested fee waivers will have on the project's financial results;**

1                   **3. A narrative description and analysis showing how the project**  
2                   **will meet or exceed established community goals and**  
3                   **objectives of the comprehensive plan for the targeted area.**  
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6           **C B. An application for partial waiver or total exemption from municipal fees**  
7           **may be included in an application for deteriorated property tax relief under**  
8           **this chapter, or submitted in a supplemental application, or submitted in a**  
9           **stand-alone application without a request for tax relief. The chief fiscal**  
10           **officer or designee shall make separate recommendations on tax relief**  
11           **and municipal fee relief if property designated as deteriorated is the**  
12           **subject of a request for tax relief and a request for municipal fee relief.**  
13           **The Municipal Manager shall identify departmental review based on**  
14           **the scope of the application.**  
15

16           **D G. Other provisions of municipal code notwithstanding, partial waiver or total**  
17           **exemption from municipal fees listed in this section for the development of**  
18           **deteriorated property shall be approved by ordinance. Municipal fee relief**  
19           **under this section shall not waive code compliance and does not authorize**  
20           **work to proceed without the permits, inspections, and land use**  
21           **authorizations required by law.**  
22

23           **E D. If partial waiver or total exemption of a fee is granted, the applicant may**  
24           **be required to pay the municipal fee, subject to refund to the applicant**  
25           **only if a Certificate of Occupancy is issued. Change order fees and permit**  
26           **application amendment fees shall not be waived for development of**  
27           **deteriorated property. Municipal fee relief may be granted for the following**  
28           **fees:**  
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31           **1. Building permit fees under AMC 23.10.104.13.2, set out in AMC**  
32           **23.10 Table 3-A, 1 – 5 for New Construction (Commercial); New**  
33           **Construction (Residential); Alternations and/or Addition (Residential**  
34           **or Commercial); Change of Use Only; Electrical, Mechanical,**  
35           **Plumbing (Residential or Commercial – No Structural Work).**  
36

37           **2. Demolition permit fees under AMC 23.10.104.13.2, set out in AMC**  
38           **23.10 Table 3-A, 6.C.**  
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40           **3. Elevator, escalator, dumbwaiter and other lift permit fees under**  
41           **AMC 23.10.104.13.2, set out in AMC 23.10 Table 3-F, 1 and 2.**  
42           **Annual registration fees set out in AMC 23.10 Table 3-F 3 shall not**  
43           **be granted municipal fee relief by assembly resolution.**  
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45           **4. Grading, excavation and fill permit fees under AMC 23.10.104.13.2,**  
46           **set out in AMC 23.10 Table 3-G.**  
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48           **5. Plan review fees under AMC 23.10.104.13.3, set out in AMC 23.10**  
49           **Table 3-B, 1. Building Permits Plan Review Fees, except that fees**

1 for expedited plan review, commercial out-sourcing plan review,  
2 and express permitting shall not be granted municipal fee relief by  
3 assembly resolution.

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5 6. Inspection fees for alteration, additions, remodels, and retro-fits  
6 under AMC 23.10.106, set out in AMC 23.10 Table 3-C, 1.  
7 Inspection or re-inspection hourly fee. Fees for inspections and re-  
8 inspections that are unscheduled, outside normal business hours,  
9 on Sundays or holidays, or for code compliance, or a fine, set out in  
10 AMC 23.10 Table 3-C, 2 – 6, shall not be granted municipal fee  
11 relief by assembly resolution.

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13 7. Electrical Permit fees under AMC 23.10.104.13.2, set out in AMC  
14 23.10 Table 3-D, 1. B.

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16 8. Plumbing Permit fees under AMC 23.10.104.13.2, set out in AMC  
17 23.10 Table 3-E, 1. A.

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19 9. Grading, excavation and fill permit fees under AMC 23.10.104.13.2,  
20 set out in AMC 23.10 Table 3-G.

21  
22 ~~10. Solid waste disposal charges under the fee schedules in AMC~~  
23 ~~26.80.050, consistent with municipal implementation of state law.~~

24  
25 ~~10 11. Land use permit fees under AMCR 21.20.001.~~

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27 ~~11 12. Zoning fees for services under AMCR 21.20.002.~~

28  
29 ~~12 13. Platting fees for services under AMCR 21.20.003.~~

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31 ~~13 14. Permit and inspection fees under AMC chapter 24.30 for~~  
32 ~~temporary uses during construction.~~

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34 **E. Inclusion of workforce housing. The application for municipal fee**  
35 **relief shall state whether the municipal fee relief will assist the**  
36 **applicant in the inclusion of homes for workforce households, and**  
37 **the applicant's level of commitment for inclusion of workforce**  
38 **homes, if any. The inclusion of workforce housing is a factor in the**  
39 **exercise of municipal discretion under this section. To qualify for**  
40 **inclusion as workforce housing, these conditions shall apply:**

41  
42 **1. Workforce homes shall mean homes developed on the same**  
43 **site as the proposed development and made affordable for**  
44 **sale, rent, or lease as permanent, primary year-round**  
45 **residences for families and individuals with household**  
46 **income at or below 120% of the median annual income for the**  
47 **Anchorage metropolitan statistical area, adjusted for**  
48 **household size, as determined annually by the United States**  
49 **Department of Housing and Urban Development.**

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- a.** **For rental housing, affordable means that the rent will be no more than 80% of the United States Department of Housing and Urban Development (HUD) Fair Market Rents (FMR) adjusted annually by the United States Department of Housing and Urban Development. not exceed 30% of the gross income of the household.**
- b.** **For ownership housing, affordable means that the total monthly payments, including principal, interest, taxes, insurance, homeowner's association fees and assessments, will not exceed 95% of the median purchase price as determined by the Municipality of Anchorage under the United States Department of Housing and Urban Development Home Investment Partnership Program 30% of the total monthly household income.**
- 2.** **Workforce homes in the project shall be mixed with market rate housing units and shall not be clustered together or segregated in any way from market-rate units. The exterior appearance of workforce units shall be made similar to market-rate units by the provision of exterior building materials and finishes substantially the same in type and quality. The workforce units must be the same size, in terms of square footage and number of bedrooms, as the market rate units. If the project contains a phasing plan, the phasing plan shall provide for the development of workforce units concurrently with the market-rate units.**
- 3.** **Workforce homes shall continue to be affordable to households at or below 120% of the annually adjusted median household income for at least 15 years commencing upon issuance of the certificate of occupancy for the development. If the project has a phasing plan, the fifteen year period commences upon the issuance of the certificate of occupancy for each phase.**
- 4.** **Prior to the issuance of a building permit for any portion of the project, the applicant shall have entered into a Workforce Home Development Agreement with the Municipality. The development agreement shall set forth the commitments and obligations of the Municipality and the applicant.**
- 5.** **Prior to the issuance of a building permit for any portion of the project, the applicant shall record a Declaration of Covenants, Conditions, and Restrictions on the property to ensure the continued affordability of the workforce housing units in accordance with this ordinance.**

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2 **F. Compliance requirements shall include, but are not limited to, the**  
3 **following:**

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5 **1. Development of the property shall be subject to public site**  
6 **plan review by the Planning and Zoning Commission.**

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8 **a. The parcel, or a larger unit of a phased development of**  
9 **which the parcel is a part, shall be developed in**  
10 **conformance with an approved site plan.**

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12 **b. Development of the property shall comply with the**  
13 **comprehensive plan, district plan and neighborhood**  
14 **plan in effect at the time of the application, or as**  
15 **otherwise set out in the approval.**

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17 **2. The applicant shall submit annually a financial performance**  
18 **report, including an income and expense budget showing**  
19 **performance against the budget, and a status report on the**  
20 **inclusion of work force housing, showing occupancy, financial**  
21 **performance, other matters required by the Workforce Home**  
22 **Development Agreement or made a condition of approval, for**  
23 **each year of the compliance period.**

24  
25 **a. If the annual report is not timely provided, or shows**  
26 **material inconsistency with what was presented in the**  
27 **application, or the development is not in compliance**  
28 **with the terms of approval, the municipality shall give**  
29 **notice to the applicant that the municipal fee waivers are**  
30 **revoked and subject to repayment as set out in the**  
31 **approval or the Workforce Home Development**  
32 **Agreement.**

33  
34 **Section 4.** Anchorage Municipal Code section 23.10.104.13.5, governing building  
35 permit fee refunds, is hereby amended by adding a new subsection to read as follows  
36 *(the remainder of the section is not affected and therefore not set out):*

37  
38 **23.10.104.13.5 Fee refunds.**

39 \*\*\*

40  
41 **E. The building official may refund a permit fee in accordance with permit fee**  
42 **relief granted by Assembly action under chapter 12.35.**

43  
44 ~~**Section 5.** Anchorage Municipal Code section 26.80.050, governing municipal~~  
45 ~~charges for solid waste disposal, is hereby amended by adding a new subsection to~~  
46 ~~read as follows *(the remainder of the section is not affected and therefore not set out):*~~

47  
48 ~~**26.80.050 Charges.**~~

49 \*\*\*

~~E. Exemption from municipal disposal fees for development of deteriorated property: By resolution, the assembly may grant a partial or total waiver and exemption from charges for the disposal of waste material generated from the substantial rehabilitation, renovation, demolition, removal, or replacement of a structure on deteriorated property. Deteriorated property shall meet the definition in AMC 12.35.005, and the same criteria in AMC 12.35.010 for exemption and deferral of taxes for deteriorated property shall apply to waiver and exemption from municipal solid waste disposal charges. The application shall be made in accordance with AMC chapter 12.35.~~

\*\*\* \*\*

~~(AO No. 82-224; AO No. 83-196; AO No. 83-221; AO No. 85-9; AO No. 86-203, 1-9-87; AO No. 87-19, 4-1-87; AO No. 89-2; AO No. 93-96(S), § 1, 5-11-93; AO No. 96-18(S), § 1, 4-9-96; AO No. 96-100, § 1, 1-1-96; AO No. 99-107, § 1, 8-10-99; AO No. 2003-76, § 1, 5-13-03; AO No. 2005-13, § 2, 2-15-05; AO No. 2007-146(S), § 2, 4-1-08)~~

~~State law reference: AS 29.35.050 (d—e), HB 156, SLA 2009~~

**Section 5 6.** Anchorage Municipal Code of Regulations section 21.20.001 (Planning and Zoning – regulations governing land use fees), Schedule of Fees - Land use permits, is hereby amended to add a new subsection to read as follows (*the remainder of the section is not affected and therefore not set out*):

**21.20.001 Schedule of fees--Land use permits.**

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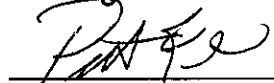
H. If partial municipal fee relief has been granted for land use fees by Assembly action under AMC chapter 12.35, payment of any amount not waived shall be in accordance with this section.


~~(GAAB 21.05.090; AO No. 77-407; AR No. 78-12; AR No. 79-55; AO No. 82-49; AR No. 83-96; AR No. 83-289(S); AR No. 86-63; AO No. 2001-145(S-1), § 23, 12-11-01; AO No. 2003-152S, § 19, 1-1-04; AO No. 2004-151, § 12, 1-1-05)~~

~~**Section 7.** Upon passage and approval by the Assembly, Section 5 of this ordinance, amending AMC 26.80.050 governing municipal charges for solid waste disposal, shall become effective on the effective date of authorizing state legislation.~~

~~**Section 6 8.** This ordinance Sections 1—5 and Sections 7—8 shall become effective immediately upon its passage and approval by the Assembly.~~

PASSED AND APPROVED by the Anchorage Assembly this 16<sup>th</sup> day of February, 2010.

  
\_\_\_\_\_  
Chair

ATTEST:  
  
\_\_\_\_\_  
Municipal Clerk