

## MEMORANDUM

**TO:** CORDOVA CITY COUNCIL  
CORDOVA CITY MANAGER  
CORDOVA CITY CLERK

**FROM:** HOLLY C. WELLS  
COLETTE THOMPSON

**RE:** PRELIMINARY DISCUSSION OF CORDOVA'S CURRENT SALES TAX  
EXEMPTIONS

**CLIENT:** CITY OF CORDOVA, ALASKA

**FILE NO.:** 401777.298

**DATE:** SEPTEMBER 29, 2023

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### **I. Introduction**

The purpose of this memorandum is to provide City Council with a description and discussion of the current sales tax exemptions adopted by the City of Cordova ("City"), the potential implications of these exemptions and recommended Code clarifications that may be needed.

This memo does not address the rate of the City's sales tax (6%), the Alaska Uniform Remote Sellers Tax Code and its interplay with Cordova's "brick and mortar" tax, or the surtax levied by the City on the sale prices, charges for services, and rent collected in Cordova, which includes a surtax on public accommodation services, motor vehicle rentals, excluding watercraft, marijuana taxes, cigarette and tobacco product taxes or taxes on alcoholic beverages, as these provisions were all adopted far more recently by City Council. While the language in these provisions will be updated in the proposed Ordinance, we do not anticipate that they will need the same level of attention by Council.

### **II. Cordova's Current Sales Tax Exemptions**

Cordova has adopted substantial sales tax exemptions. Some of these exemptions were adopted in furtherance of provisions in the State of Alaska Constitution, state statute or federal law. Others reflect the policies and objectives of the City Council at the time of their adoption.

## **A. Exemptions Based on The Class of Buyers**

Cordova's exemptions stem from both the "class of buyers" and the items being bought. Perhaps the easiest exemptions to understand, and the most clearly stated exemptions in Cordova's Code, are those exempting certain classes of buyers from sales tax. CMC 5.40.025 exempts the following classes of buyers from sales tax:

1. The United States, the State of Alaska, or any instrumentality or political subdivision of either, including a city; and
2. Federally recognized tribal entities.

Article X, Section 1 of the Alaska Constitution is intended to prevent the duplication of tax-levying jurisdictions. This exemption is in furtherance of that intention. Also, according to the National Congress of American Indians, Federal law generally recognizes tribes are governments, and many, but not all, state and local governments exempt them from taxation. The Department of Revenue has developed Form 36 0001, Tax Exemption for Sales to Tribes, to apply for tax exemptions for retail sales/use taxes for sellers delivering to the buyer's Indian Country. Accordingly, Cordova's sales tax exemption reflects the exemptions that are afforded to these buyers. As discussed later under "Required Exemptions" in this memorandum, there are limitations on the tax-exempt status of gross receipts of the federal, state, and local governments as well as federally recognized tribes that the City may want to incorporate into its exemptions. These limitations will be included in the draft revisions to Title 5 for Council's review.

## **B. Goods and Services Exemptions**

The vast majority of Cordova's exemptions apply to the goods and services being bought in Cordova. Each of these exemptions are listed as they currently appear in the Code. They have been given "nicknames" in this memo for easy reference during Council discussions. These "nicknames" in no way reflect the full breadth of the exemptions and should not be relied upon to indicate the true nature of the exemption.

### **1. The Garage Sale Exemption**

One of the most common exemptions is the exemption of sales and the provision of services that we consider "casual" sales and services. This exemption protects taxpayers from having to calculate and remit sales taxes on bake sales, garage sales, and so on. Specifically, CMC 5.40.030(A) exempts:

Proceeds from casual, occasional, or isolated sales, which are easily identified as the sale of personal goods or property at such private functions as moving, garage, yard, food and bake sales, sale of private vehicles when the seller is not a dealer in used vehicles, or services such as babysitting or house-sitting.

Requiring sales taxes to be collected for the categories of sales described in this exemption may be difficult to enforce and could cause substantial frustration for Cordova

residents as they navigate their daily lives. Most of these sellers typically only conduct such sales sporadically. They therefore may not be familiar with calculating the taxes owed and complying with required reporting requirements. Further, advertising for such sales may be limited and sporadic, and the taxes collected may not be enough to recover the City's enforcement costs. That said, the lack of clear parameters for this exemption makes it an easy one for taxpayers to rely upon even when their sales fall outside the intended scope of the exemption. As a result, the draft Ordinance will propose clear parameters on when a "casual" sale no longer meets that definition. The following provides an example of a more precise "garage sale exemption."

*Casual and Isolated Sales, Services or Rentals.*

- A. Proceeds from casual, occasional or isolated sales or services which are:
  - 1. Easily identified as a casual or isolated sale of tangible personal property or goods. This includes, but may not be limited to, the sale of tangible personal property at moving, garage, yard or bake sales; or
  - 2. The sale of private vehicles when the seller is not a dealer in used vehicles; or
  - 3. Casual and isolated services such as pet-sitting, babysitting or house-sitting provided the seller does not regularly engage in the business of selling such goods or services or rentals are exempt.
- B. A sale, rental or service shall only qualify for this exemption if:
  - 1. The sale, rental or service does not occur for more than 10 consecutive days in a calendar year;
  - 2. The sale, rental or service is not made through a dealer, broker, agent or consignee; and
  - 3. The rental of personal tangible property does not exceed 60 total days in a calendar year.
- C. Sales, rentals or services made pursuant to a business license or by sellers representing themselves to be in the business of making such sales, rentals or services are not exempt under this exemption.
- D. The rental of real property, buildings or space within buildings are not exempt under this exemption.

**2. The Insurance Exemption**

Cordova has also exempted the "sales of insurance and bonds of guaranty and fidelity."<sup>1</sup> In the most general terms, a fidelity bond guarantees the person while a surety bond guarantees the performances. This exemption results from the City's need to avoid double taxation as the State of Alaska taxes insurance and bonds, arguably foreclosing the City's ability to do the same.<sup>2</sup> The proposed ordinance will clarify this and preserve

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<sup>1</sup> CMC 5.40.030(B).

<sup>2</sup> See AS 21.09.210(f), AS 21.79.130, 21.80.130.

the City's ability to tax services that fall outside the tax imposed by the State by making direct reference to the relevant State statutes.

### **3. The \$3,000 General Cap**

Amidst the City's specific tax exemptions, the City provides an exemption for:

*Fees for sales and services in excess of three thousand dollars per single purchase transaction.* This exemption does not apply to accumulative purchases and billed as a lump sum in excess of three thousand dollars except as provided in subsection D relating to sales of construction materials and services. In the event of an oil spill that requires mobilization of the oil spill response vessels, this exemption is automatically suspended for ninety days on all fees for sales and services commencing on the day of the oil spill.<sup>3</sup>

This exemption requires careful reading for taxpayers to understand what is being taxed and what is being exempted from taxation. Further, the scope of the exemption is far more general than the other exemptions and thus would be best separated from the other exemptions to clearly indicate its general nature. For example, a statement such as "the first \$3,000 in fees for sales and services costing \$3,000 or more."

Further, the limitations of this exemption and how they are applied "in real life" are not easily discernable. The main question for Council is what the policy objective of this exemption is and does the exemption language serve this policy objective. Further, this exemption appears to be suspended when there is a sudden influx of sales and services exceeding \$3,000 in response to an oil spill. The incorporation of a sudden suspension of an exemption for 90 days to capture sales and services in response to a specifically named disaster communicates a very clear policy objective.

Perhaps the most important consideration for Council when reviewing the general sale tax cap provision is the amount of the cap. In doing so, Council may want to turn to other communities who have recently revised their respective exemptions. For example, the City of Bethel, which is a second-class city outside an organized borough, has a cap of \$12,000.

### **4. The Construction \$3,000 Cap**

Cordova also provides an exemption for materials and services exceeding \$3,000 where the purchaser has obtained a building permit from the City before starting a project and has all receipts for the materials and services showing the building permit number. The receipts must show the purchases were all for the same project and that the project continued during any consecutive 12-month period. Specifically, CMC 5.40.030(D) exempts:

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<sup>3</sup> CMC 5.40.030(C).

[s]ales of construction materials and services exceeding three thousand dollars for use in each construction project paid for by any one purchaser during any twelve consecutive month period; provided, that the purchaser has obtained a building permit from the city prior to the start of the project and all receipts for construction materials and services clearly show the building permit number. Construction materials are those items becoming a permanent part of the structure. Purchaser may pay all sales tax on such materials and services and may apply for a refund as set out in Section 5.40.042, or may pre-pay applicable city sales tax in advance and receive an exemption card.

CMC 5.40.042 authorizes a full refund to a purchaser seeking a refund for construction materials and services no later than February 1st of each year. That section does not distinguish between refunds of the first \$3,000 or additional expenditures provided the project does not exceed four years. This exemption, alongside the refund provision, creates a very clear policy goal of exempting the purchase of construction materials and services within Cordova but it does not do so very clearly.

The adoption of an exemption for construction materials alongside a refund may lead to confusion for taxpayers and the City. This exemption appears to attempt to incentivize purchasers to obtain a building permit before undergoing construction. Council may want to consider the reasons for this exemption, and its corresponding refund provision and review the amount of the cap. Further, if there is a general cap, is the more specific cap serving the City's goals? These are questions we will explore with Council during and leading up to its consideration of Title 5 revisions.

## **5. The Fish Shipping Exemption**

Cordova exempts "Gross receipts or proceeds derived from servicing, freezing, storing, handling, or wharfing of fisheries commodities awaiting shipment or in the process of being shipped."<sup>4</sup>

This is another exemption that has clear policy objectives but may have less clear application. This exemption implies that gross receipts derived from servicing, freezing, storing, handling or wharfing fisheries commodities for buyers *in the City* are subject to taxation but those leaving the City are not. Does this exemption reflect a deliberate objective of Council?

## **6. The Required Exemptions**

This exemption is straight forward and simply ensures the City's sales tax does not inadvertently violate federal or state law. It exempts:

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<sup>4</sup> CMC 5.40.030(E).

Gross receipts or proceeds derived from sales or services which the municipality is prohibited from taxing under the laws of the state, or under the laws and the Constitution of the United States, including but not limited to:

1. Sales by the U.S. Postal Service,
2. Sales of any items purchased with food coupons, food stamps or other type of certificate issued under 7 U.S.C. Sections 2011-2025(Food Stamp Act),
3. Purchases made under the authority of or made with any type of certificate issued pursuant to 42 U.S.C. Sections 1771-1789 (Child Nutrition Act of 1966).

This exemption does not mirror the mandatory exemption of public assistance programs and thus the revisions in the ordinance will update the language to do so.<sup>5</sup> Further, it does not include an acknowledgement of some of the more common sales and services that fall within it. We recommend updating this exemption to include sales and services to the State and political subdivisions of it, as well as certain sales to federally recognized tribes. While the City identifies “classes of buyers” that are exempt, a more direct and comprehensive provision may be advisable. The following provides examples of more comprehensive provisions that would be appropriate additions to this section that our team anticipates incorporating into the Title 5 revision:

Gross receipts or proceeds derived from sales to the United States Government, the State, a city or any political department thereof are exempt. However, the exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering services for sale to such government units or agencies on a contract bid award, in which event the contractor shall be deemed the buyer, subject to the payment of the tax;

A sale or rental to an employee of the State, its political subdivisions, or the federal government is exempt, but only when the government employee provides proof that the sale is for government business by paying for the sale with a government voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the seller to allow the seller to readily determine that the sale is for government business;

A sale or rental to a federally recognized tribe is exempt, but only when the tribal employee provides proof that the sale is for tribal government business by paying for the sale with a tribal voucher, purchase order, check, credit card, or warrant, or providing other verifiable documentation to the

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<sup>5</sup> See AS 29.45.650(f).

seller to allow the seller to readily determine that the sale is for tribal government business.

These provisions ensure that the legally mandated exemptions are in place but clarifies their scope and provides parameters to assist the City in enforcement.

## **7. Transportation Exemption**

The City also appears to exempt all gross receipts or proceeds from transportation by boat or air. Specifically, the City exempts:

[g]ross receipts or proceeds from the transportation (including freight and shipping charges), loading, unloading, or storing of cargo from marine vessels or aircraft in foreign, interstate, or intrastate commerce.<sup>6</sup>

This exemption combines many forms of transportation into a single exemption without regard for the differences in the underlying bases for these exemptions. Further, currently, Chapter 5.40 does not define “cargo” for the purposes of this exemption.

Cordova also exempts “proceeds from air transportation including that portion of any chartered fishing or hunting expedition which covers the cost of air transportation.”<sup>7</sup>

While much of transportation is exempt from taxation, not all transportation is outside the scope of taxation. For example, AS 29.45.820 prohibits the City from collecting a tax or fee on the air transportation of individuals or goods by a “federally certificated air carrier other than a tax or fee authorized under 49. U.S.C. 40116(e) or 40117. Thus, portions of a sales that charges for recreational flightseeing or air, water, and shore excursions are not exempt unless AS 29.45.820 otherwise requires. Ideally, the City would have clear exemptions for transportation and a separate exemption for freight or wharfage arising out of interstate commerce. The proposed revisions to Title 5 will separate out these exemptions and propose them to the extent mandated by law. Council will then have an opportunity to broaden the scope of these exemptions to serve its policy objectives.

## **8. Medical Services Exemptions**

Cordova has several exemptions that limit sales tax paid for medical services delivered within its borders. Namely, Cordova exempts:

[s]ervices of a person licensed or certified by the state of Alaska as a doctor of medicine and surgery, a doctor of osteopathy and surgery, a doctor of veterinary medicine, a chiropractor, a dentist, a naturopath, an

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<sup>6</sup> CMC 5.40.030(G).

<sup>7</sup> CMC 5.40.030(AD).

optometrist, an audiologist, a hospital, an occupational therapist, a physical therapist, a massage therapist or a licensed or practical nurse; provided, that the service is within the scope of the state license or certificate,<sup>8</sup>

[s]ervices of a person licensed or certified by the state of Alaska as a psychologist or psychological associate, a clinical social worker, an alcohol and drug counselor, or a marital and family therapist,<sup>9</sup>

[f]ees for supplies, equipment and services provided by a hospital, medical clinic or dental clinic for patient treatment including laboratory and x-ray services,<sup>10</sup> and

[g]ross receipts or proceeds of the retail sale of prescription drugs.<sup>11</sup>

Notably, the City does not include within its exemption assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed as such with the State. This is an exemption that other communities, such as the City of Bethel, have incorporated into their respective Tax Codes. We are in the process of researching the origin of the medical services exemption, which appears to arise from tax limitations imposed on the federal level. Ultimately, however, if this is an exemption the City Council wants to retain for policy-based reasons, there is no need to conduct further research on the requirements underlying the exemption.

## **9. The Cemetery Exemption**

The City exempts the “sale of cemetery plots, caskets, funeral and burial related items and the services by a funeral home.” We have not delved into federal or state requirements underlying this exemption but will do so if Council is interested in repealing it.

## **10. Travel Agent Commission Exemption**

An interesting exemption adopted by the City is its exemption on commissions received by travel agencies. Given the shift in travel services over the last 30 years, this may be an exemption Council may want to remove. This exemption provides:

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<sup>8</sup> CMC 5.40.030(H).

<sup>9</sup> CMC 5.40.030(I).

<sup>10</sup> CMC 5.40.030(J).

<sup>11</sup> CMC 5.40.030(K).



[c]ommissions received by travel agencies for their services that are not set by and billed by the travel agencies. Service charges set by and billed by the travel agencies are not exempt from taxation under this chapter.<sup>12</sup>

Once again, we encourage Council to consider the policy objectives underlying the exemption and the basis for retaining it. This section exempts from sales taxes the commissions received by travel agencies for their services, but only where the service charges are set and billed by a party other than the travel agencies. Otherwise, the commissions received by travel agencies are not exempt from sales taxes and are set and billed by the travel agencies.

## **11. Club Dues Exemption**

The City exempts “[d]ues or fees to clubs, labor unions or fraternal organizations” but does not limit this exemption in any way. The City may want to clarify the scope of this exemption by revising this exemption to provide “[d]ues or fees to clubs, labor unions or fraternal organizations *solely for the privilege of membership.*”

## **12. The School Exemptions**

Cordova has several exemptions that apply to schools and education-based services and fees. Cordova exempts:

[f]ees and charges for extracurricular activities or events promoted or undertaken by educational or student organizations,<sup>13</sup>

[s]ales by any student organization, parent/teacher organization or booster club recognized by the school or educational organization in which it operates, which proceeds are utilized to further the purposes for which the organization was formed,<sup>14</sup>

[s]ales and services by schools or other educational organizations made in the course of their regular functions and activities, which proceeds are utilized to further the purposes for which such organization was formed,<sup>15</sup>

and

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<sup>12</sup> CMC 5.40.030(M).

<sup>13</sup> CMC 5.40.030(O).

<sup>14</sup> CMC 5.40.030(P).

<sup>15</sup> CMC 5.40.030(Q).

[s]ales of food at educational and hospital cafeterias and lunchrooms which are operated primarily for staff and/or students, and which are not operated for the purpose of sale to the general public for profit.<sup>16</sup>

These provisions and their wording are fairly common among Alaska communities.

### **13. The Non-Profit Organization Exemptions**

Cordova has several exemptions that apply to specific types of organizations that have obtained 501(c)(3) or 501(c)(4) exemption certificates from the IRS. Specifically, Cordova exempts:

[s]ales, services, and rentals by or to religious organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of religious activity; provided, the income from the exempt transaction is also exempt from federal income taxation,<sup>17</sup>

[s]ales, services, and rentals by or to scouting, 4H or similar youth organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation,<sup>18</sup> and

[s]ales, services, and rentals by or to benevolent or civic organizations which have obtained a 501(c)(3) or 501(c)(4) exemption certificate from the Internal Revenue Service and which are made in the normal conduct of activity; provided, the income from the exempt transaction is also exempt from federal income taxation and the income is donated to a charity. Such organizations shall pay the sales taxes at the time of purchase and shall apply to the city for a refund as provided in Section 5.40.040.<sup>19</sup>

The City may be able to simplify these provisions, and enforcement of them, by consolidating them into a single provision that exempts nonprofit organizations provided that any income from the exempt sale is also exempt under federal taxation. This prevents the City from having to conduct a separate analysis of the activity or conduct of the nonprofit organization. Further, the City may want to expand its exemption to

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<sup>16</sup> CMC 5.40.030(R).

<sup>17</sup> CMC 5.40.030(S).

<sup>18</sup> CMC 5.40.030(T).

<sup>19</sup> CMC 5.40.030(U).

include 501(c)(19) organizations, which are organizations of past or present members of the U.S. Armed Forces.

#### **14. Child Care exemptions**

“Proceeds from contract services provided by a state-licensed childcare contractor”<sup>20</sup> are also exempt. This exemption is clearly a policy-based exemption that is found in the vast majority of local Alaska Tax Codes. However, it excludes from the exemption childcare provided by unlicensed childcare providers. Unlike other jurisdictions, Cordova also exempts “[p]roceeds from contract services provided by a person for the purpose of taking temporary care of minors for another person.”<sup>21</sup> To the extent Council wants to retain both of these exemptions, it would be clearer to the public to consolidate them. It is also worth noting that some communities are considering other subsidy programs for childcare rather than or in addition to tax exemptions.

#### **15. The Wholesale Exemption**

The City’s wholesale exemption works alongside its resale exemption to ensure that the sale of goods is only taxed once. This provision provides:

[p]roceeds from products sold as wholesale sales to businesses designated by the state of Alaska as wholesalers. These include the sales of goods, wares, or merchandise to a retail dealer, manufacturer, or contractor, for resale within the city as is or incorporated into a product or commodity to be sold by the dealer, manufacturer, or contractor within the city, if the subsequent sale is subject to the city sales tax. In this connection a retailer must stock that merchandise for resale, display the same to the public and hold himself out as regularly engaged in the business of selling such products.<sup>22</sup>

Some communities separate out sales tax regarding wholesale and retail to provide greater clarity.

#### **16. The Resale Exemption**

The resale tax exemptions are primarily designed to exempt the sale of goods, wares, and merchandise that are taxed when sold by the dealer, manufacturer or contractor. The language of this exemption mirrors that of many other communities within Alaska:

Sales of goods, wares or merchandise to a retail dealer, manufacturer, or contractor, for resale within the city as is or incorporated into a product or

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<sup>20</sup> CMC 5.40.030(V).

<sup>21</sup> CMC 5.40.030(W).

<sup>22</sup> CMC 5.40.030(X).

commodity to be sold by the dealer, manufacturer or contractor within the city, if the subsequent sale is subject to the city sales tax. The product must be an item that is sold as part of the reseller's primary business and must be of such nature that it can be purchased by the general public in a transaction that is not dependent upon the purchase of another product or service.<sup>23</sup>

Paragraph 1 exempts from sales taxes “the sale of goods, etc. to a retail dealer, manufacturer, or contractor in the City, when it is for resale in the City either as-is or built into a product or commodity.” This exemption does contain a limitation, taxing “[g]oods, wares, or merchandise that can be purchased only as part of a package purchase of services, such as a bed-and-breakfast or a fishing or hunting charter and not by the general public as separate and individual items...” It also requires that, in order to qualify for the exemption, “[f]ood products that are purchased for resale must be purchased and sold as is or prepared in a kitchen that is DEC-certified...” Finally, it clarifies that “services that are provided by a subcontractor to a contractor for a third party is considered services for resale and is exempt from taxation.”

## **17. Property Sales Exemptions**

Cordova also has exemptions that prevent the City from imposing sales tax on sales of real property and a portion of the brokerage commissions on those sales. Cordova’s Tax Code exempts the sale of real property but not the rental of real property.<sup>24</sup> It also exempts “[c]ommissions or fees in excess of three thousand dollars earned by brokers or agents in real estate sales transactions.”<sup>25</sup> Council should consider if this approach aligns with its revenue-raising objectives.

## **18. Heating Oil Exemption**

Cordova exempts home heating oil when certain conditions are met. Specifically, Cordova exempts:

[h]ome heating oil purchased for use in a dwelling, as defined in [Section 18.08.190], for use at that location conditioned on the following:

1. That no more than fifty percent of the floorspace of the building(s) considered as dwellings be used as nonresidential use, including business activities.

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<sup>23</sup> CMC 5.40.030(Y)(1).

<sup>24</sup> CMC 5.40030(AA).

<sup>25</sup> CMC 5.40.030(AB).

2. That the dwelling be operated in compliance with all other regulations and laws.
3. If a fuel tank is used to supply more than one structure or area then no more than fifty percent of the floorspace and area supplied shall be non-dwelling and nonresidential including business activities.<sup>26</sup>

Cordova's exemption of heating oil may no longer provide the relief initially anticipated as the types of heating fuel sources. While Cordova adopted a rebate on home heating oil in 2008, it only applied to home heating oil purchases occurring before July 1, 2009, unless extended by Council.<sup>27</sup>

### **III. Exploring Other Sales Tax Exemptions**

While Cordova exempts numerous sales and services that are not required by federal or state law, there are other exemptions available to it that may be used to incentivize sales and services within its borders. For example, some communities wanting to encourage long term rentals have adopted exemptions on a portion of rentals that exceed 30 days.<sup>28</sup> Communities aiming to incentivize retail sales have implemented tax free days in which all sales, with some exclusions, are exempt on a specific day or for a specific period.<sup>29</sup> Other communities, predominately outside Alaska, have used sales tax exemptions to promote the use or installation of alternative energy or the purchase of alternative fuel vehicles.

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<sup>26</sup> CMC 5.40.030(AC).

<sup>27</sup> CMC 5.40.044(C).

<sup>28</sup> Kodiak City Code ("KCC") 3.08.040(Z).

<sup>29</sup> KCC 3.08.045.

## MEMORANDUM

**TO: CORDOVA CITY COUNCIL  
CORDOVA CITY MANAGER  
CORDOVA CITY CLERK**

**FROM: HOLLY C. WELLS  
JESSICA J. SPUHLER**

**RE: ECONOMIC DEVELOPMENT EXEMPTION  
WORK SESSION BACKGROUND**

**CLIENT: CITY OF CORDOVA**

**FILE NO.: 401777.298**

**DATE: SEPTEMBER 29, 2023**

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### **I. Introduction**

This memo provides follow up information and answers related to City Council's September 20, 2023 work session on potential revisions to the Cordova tax code, focusing primarily on the desire for an economic development property exemption. The focus of Council's discussion in September was the use of the newly expanded economic development exemption in state statute to encourage and incentivize housing, redevelopment of underutilized and vacant properties, and "Main Street" revitalization focused on the half-mile surrounding the City Center. This memo provides a clear road map of the structure required by statute for any economic development exemption ordinance, an overview of the deteriorated property exemption currently available under state statute for Council's consideration, and some brief answers to follow up on questions from Council members.

As we work on the draft ordinance and the development of an economic development exemption, we have identified three approaches to the exemption, as follows:

1. Craft a broad exemption meant to capture as much new development and rehabilitation as possible, without being overly prescriptive, to allow the City flexibility in administering the exemption.
2. Put in place clear exemptions dictating the most desirable and incentivized types of development (Council Member Jones has provided one potential

framework that illustrates this approach, and your work session materials includes Juneau’s exemptions, which are similarly specific).

3. The City can look to tie economic development exemptions to certain “districts” or broader efforts to revitalize the City Center and other areas of the City.

The third approach would likely affect titles of Cordova’s Code beyond the tax code, so we believe feedback and discussion about the scope of the City’s efforts on these issues is appropriate for next week’s work session. The City should keep in mind that it may adopt either the first or second approach in the near term, and then follow up with a more robust or targeted exemption program that would require more time and coordination to create.

## **II. Statutory Requirements For The Economic Development Exemption**

As discussed at our last work session with Council, AS 29.45.050(m) was amended in 2022 to provide a more flexible economic development exemption. We are providing an easy-to-use roadmap here outlining the requirements and parameters of the exemption for Council to consider as it navigates what kind of economic development exemption to adopt for Cordova:

- The tax base has to consider and afford the mandatory school contribution set forth at AS 14.17.410(b)(2). Practically speaking, the City has to watch the bottom line as to how all of its exemptions “stack up” to ensure revenue streams are protected in the near and long-term.
- The economic development exemption can exempt or defer payment of taxes on all or just some types of economic development property.
- The exemption or deferral has to be for a designated period (not open ended).
  - In addition to establishing this designated period, the City may sunset the timeframe during which economic development exemption applications are received. This may help in a targeted planning effort in the context of Main Street revitalization or City Center Tourism programs discussed by Council at our last work session.
- The City has to provide specific eligibility requirements.
  - The scope of these requirements is fodder for further discussion at our upcoming October 2, 2023 work session. The City can provide specific, but broad, requirements that would allow it to consider a wide array of properties for exemption or deferral, or it can provide a more tailored system or set of independent exemptions.

- The City has to require a written application for each exemption or deferral.

Remember that “economic development” now means “an action intended to result in an outcome that causes an increase in, or avoids a decrease of, economic activity, gross domestic product, or the tax base.” AS 29.71.800.

### **III. Deteriorated Property Exemption Overview**

State law provides a deteriorated property exemption that Cordova could provide by ordinance. We provide this overview here as illustration of one structure for an exemption seeking to spur rehabilitation/development. The definition of deteriorated property in state law does not align directly with some of the recommendations and examples provided by Council members after our last work session; nonetheless, we want to make sure Council is aware of this existing statutory exemption. AS 29.45.050(o) provides the following parameters for exemptions and deferrals related to deteriorated properties:

10-year exemption available: A municipality may by ordinance partially or totally exempt all or some types of deteriorated property from taxation for up to 10 years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins.

5-year deferral available: A municipality may by ordinance permit deferral of 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.

Protections to ensure rehabilitation occurs:

- If the entire 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.
- The amount deferred each year is a lien on that property for that year.
- Only one exemption and only one deferral may be granted to the same property under this subsection, and, if an exemption and a deferral are granted to the same property, both may not be in effect on the same portion of the property during the same time.
- An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral.
- An application for a deferral must specify when payment of taxes for each year of deferral will become due, together with an explanation of the reasons for each proposed date for consideration by the municipality.



For purposes of this exemption, “deteriorated property” means real property that, either at the time of application for exemption or deferral or at the time of completion of the project for which an exemption or deferral is requested, is:

(1) residential property located in a deteriorating or deteriorated area **with boundaries that have been determined by the municipality**, if the property is owned by an entity that owns at least two residential properties and eight or more residential units among those properties in that deteriorating or deteriorated area;

or

(2) commercial property not used for residential purposes or that is multi-unit residential property with at least eight residential units, and that meets one of the following requirements:

(A) within the last five years, 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;

(B) has a structure on it not less than 15 years of age that has not undergone substantial rehabilitation, renovation, demolition, removal, or replacement, subject to any conditions prescribed in the ordinance; or

(C) is located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality.

#### **IV. Council Questions**

Since our last work session, administration has passed on some questions and recommendations from Council. The specific recommendations for exemption structure provided by Council Member Jones will be best addressed Monday through further discussion as the Council determines the scope and focus of any economic development exemption it ultimately chooses to adopt. Brief answers to two tangential questions from Council on property taxes are provided here.

##### **1) Can the City provide a prepayment discount on property taxes?**

Available property tax exemptions and deferrals are addressed by the Alaska Constitution and in state statute. A “discount” or rebate of property tax liabilities issued on a prepayment basis does not fall within the parameters of the required and optional exemptions available to the City. This kind of flexibility to abate or incentivize different payment structures involving discounts is more suited to the sales tax realm under Alaska law and may be fodder for sales tax discussions. We do advise considering the administrative burden on the City of factoring in discounts based on payment deadlines

to the extent they add another step to the tax assessment and collection process. It may be preferable to remain focused on exemptions and deferrals that align with existing or soon to be revised City processes.

## **2) Can the City levy a tax on “eyesore” or “blighted” properties?**

Questions have been posed regarding whether taxes or penalties may be crafted to address underutilized or vacant (and even nuisance) properties in Cordova.

We have provided with this memo the draft of Senate Bill 77 from the last session of the Alaska Legislature and an ADN article providing an overview of the bill. In its current form, the bill allows municipalities to define “blight” within a certain set of parameters, and then to levy a tax on blighted property. It also allows the City to provide an exemption for properties found to be blighted that are being actively redeveloped. Incentives in the form of exemptions for blighted property can be provided by ordinance under the deteriorated property exemption addressed above, and through the use of the economic development exemption, as previously discussed.

Under current law, the City is not empowered to levy an increased tax or penalty on blighted buildings (the City does of course have authority to abate nuisance property and recover its costs, as outlined in CMC 8.08). We do not recommend considering further the imposition of a tax on blighted property until the Legislature has acted to provide municipalities this authority. Be aware that the scope of the discretion provided to municipalities is one of the topics of debate related to SB 77, so if a law is eventually passed providing the City the authority to impose the tax, the parameters and definitions may be significantly changed from the current version of the bill.

JJS/CSC

HOUSE CS FOR CS FOR SENATE BILL NO. 77(FIN)

"An Act relating to municipal property tax; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

**Sec. 29.45.057. Levy of tax on blighted property.** (a) A municipality may levy a tax on real property that the municipality designates as blighted if, before levying the tax, the municipality adopts an ordinance that establishes

- (1) standards for determining whether a property is blighted; the standards must specify that a property is blighted if at least one of the following applies:
  - (A) the condition of the property endangers public health and safety;
  - (B) the property has been declared a public nuisance under a local housing, building, plumbing, fire, or other related code or ordinance;
  - (C) the unsecured, vacant, or deteriorated state of the property has caused it to become the subject or center of repeated illegal activity; or
  - (D) the property has been vacant for not less than one year and is
    - (i) open to the elements;
    - (ii) unfit for occupancy; or
    - (iii) a fire hazard;
- (2) a procedure for designating a property as blighted that provides to the property's owner notice of the proposed designation and an opportunity to challenge the designation at a hearing;
- (3) the tax rate, not to exceed 50 percent of the annual property tax assessed on a property, that applies to a property designated as blighted;
- (4) standards for remediating or redeveloping a property to remove the property's designation as blighted; and
- (5) a reduced tax rate, and the duration of time that the reduced tax rate will apply, for a property that is undergoing remediation or redevelopment to remove the property's designation as blighted.
  - (b) For the owner of a property designated as blighted to qualify for a reduced tax rate established under (a)(5) of this section, the property owner must submit to the municipality a plan for remediating or redeveloping the property, the municipality must approve the plan, and the property owner must comply with the terms of the plan.
  - (c) An ordinance adopted under (a) of this section may require tax collected under this section to be segregated from other property tax and dedicated to community redevelopment purposes.
  - (d) A municipality may not designate as blighted a property owner's primary residence.

\* **Sec. 3.** [AS 29.45.560](#) is amended by adding a new subsection to read:

- (b) Home rule and first class cities inside boroughs may levy a tax under [AS 29.45.057](#).

\* **Sec. 4.** This Act takes effect immediately under [AS 01.10.070\(c\)](#).

Available online at: <https://www.akleg.gov/basis/Bill/Text/33?Hsid=SB0077E>

Alaska Legislature

# Alaska Senate advances bill allowing municipalities to fully exempt property taxes on new buildings, impose tax on 'blighted' properties

By Sean Maguire  
Updated: April 11, 2023  
Published: April 11, 2023

JUNEAU — The Alaska Senate advanced legislation Tuesday that would allow municipal governments to levy taxes on “blighted” buildings and fully exempt property taxes for new development in an effort to address the state’s housing crisis.

For developers, the current property tax abatement allowed in state statute is capped at the minimum amount that local governments are required to contribute to public schools. [Senate Bill 77](#) would allow for all of that tax burden to be exempted, but municipalities would still need to provide the minimum contribution for education from other sources.

The second section of the bill would allow municipal governments to impose property taxes on blighted buildings that are not a person’s primary residence. The tax would be incurred until the building is renovated or remediated.

Both measures would be optional for local governments and would only apply to a small number of municipalities across Alaska that levy property taxes.

Senate Bill 77 was introduced by freshman Sen. Forrest Dunbar, a Democrat and former member of the Anchorage Assembly. He said both measures were intended to address Alaska’s housing crisis, and incentivize new development. Dunbar also raised concerns that old and abandoned buildings can become a public safety problem and magnets for crime.

The details of what constitutes a blighted property and what constitutes remediation would be left up to local governments to define, along with any new tax rates and how long a property tax abatement would be in place. As an example, Dunbar cited how the Assembly passed [an ordinance](#) in 2019 that offered housing developers a 12-year property tax break for construction in downtown Anchorage.

Property taxes can currently be exempted by local governments for new construction up to 2.65 mills, which represents the minimum amount set [in statute](#) that municipalities are required to collect to contribute for public schools. Dunbar said removing that cap could incentivize new construction because developers operate on such tight margins.

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SB77 received support from Mike Robbins, executive director of the Anchorage Community Development Authority, who said it would help “stimulate economic and housing development around the state.” Robbins, a former conservative candidate for Anchorage mayor, said it would be a “multiple win” for the economy and could help arrest the state’s population losses.

Bill Popp, president and CEO of the Anchorage Economic Development Corp., said he believed the bill could be an important tool for “multifamily development” and that local communities could get to work in tailoring their own ordinances.

On the Senate floor, Palmer Republican Shelley Hughes raised concerns that local governments could potentially abuse the definition of what constituted an old and derelict building. Hughes introduced an amendment to say that a blighted property would have to include conditions that endangered health or safety. But it was solidly rejected.

Dunbar said that there would be an appeals process written in state statute, and that some local governments may also want a “public nuisance” property to be defined as blighted.

SB77 advanced from the Senate on a 13-6 vote. All six of the no votes were from Republicans. Wasilla Republican Rep. Jesse Sumner introduced a similar version of the same bill in the House of Representatives in February, but it has yet to have a hearing in that chamber.

**Do you have additional ideas for coverage on this topic? Do you have questions? Do you see an error? What's missing? Are you involved in the story or affected by it and have additional thoughts about it? Let us know here.**

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## 69.10.023 - Property tax incentives for economic development property.

- (a) *Purpose.* This section authorizes property tax exemptions for the following on a property that meets the definition of economic development property in AS 29.45.050(m):
- (1) *Assisted living for senior citizens:* At least 15 new residential units on one lot of assisted living for senior citizens. The term residential units includes the assisted living residential units for senior citizens and only those building spaces that are necessary and incidental to the assisted living of senior citizens that qualify for inclusion in the exemption like common space, support space, and shared facilities. A residential unit qualifies for the exemption even if a non-senior citizen resides in the unit with a senior citizen. The property is located entirely within the urban service area as defined by Title 49. An assisted living for senior citizens tax exemption runs with the land for the duration of the exemption so long as all of the tax-exempt residential units remain under a single common ownership. The tax abatement terminates on the following January 1 for any residential unit sold, during the prior year, to an individual owner that terminates the common unit ownership.
  - (2) *Downtown multifamily:* At least four new residential units on one lot in the Downtown Juneau Residential Tax Abatement Map, dated January 20, 2021. Such units must not be used as short-term rentals during the property tax abatement period. A downtown multifamily tax exemption runs with the land for the duration of the exemption so long as all of the tax-exempt residential units remain under a single common ownership. The tax abatement terminates on the following January 1 for any residential unit sold, during the prior year, to an individual owner that terminates the common unit ownership. No new downtown multifamily tax exemption applications may be accepted or granted after October 1, 2032.
  - (3) *High-density residential:* At least four new residential units on one lot and the residential development meets or exceeds 75 percent of the maximum density for the lot as allowed by Title 49. Such units must not be used as short-term rentals during the property tax abatement period. The property is located entirely within the urban service area as defined by Title 49. A high-density tax exemption runs with the land for the duration of the exemption so long as all of the tax-exempt residential units remain under a single common ownership. The tax abatement terminates on the following January 1 for any residential unit sold, during the prior year, to an individual owner that terminates the common unit ownership. No new high-density tax exemption applications may be accepted or granted after October 1, 2032.
- (b) *Reserved.*
- (c) *Exclusions.* Repair and rehabilitation property as defined in CBJC 69.10.025 for which an exemption application has been filed or granted is not eligible for this housing tax incentive. Submission of an application for exemption pursuant to this section shall automatically terminate any existing CBJC 69.10.025 application or designation for the property.
- (d) *Application.* An application for an exemption under this section shall be made in writing to the assessor's office prior to issuance of a building permit for the residential units. Applications made after issuance of a building permit for the residential units shall not be accepted, or rejected if accepted. The application shall at a minimum contain the following:
- (1) *Name.* The name of the applicant;
  - (2) *Address.* The legal description and street address of the property for which the application is made;
  - (3) *New residential units.* Drawings of the residential units that the applicant will construct, including a floor plan that includes approximate square footages;
  - (4) *Existing structures.* Drawings showing the square footage of all existing structures and structures to be constructed on the property;
  - (5) *Increase in residential units.* Plans showing the construction will increase the total number of residential units on the property;
  - (6) *Acknowledgement of liability.* Applicant acknowledges that the residential units will be taxable if and when the residential units are no longer eligible for tax exemption under this section;
  - (7) *Economic development property justification.* A narrative describing how the application qualifies as economic development property consistent with AS 29.45.050(m);
  - (8) *Other information.* Other information as may be required by the assessor; and
  - (9) *Application requirements specific to the Downtown Juneau Residential Tax Abatement.* In an application for CBJC 69.10.023(a)(2), the property owner must agree not to rent any new residential units as short-term rentals while receiving the tax abatement. A property owner who breaches this provision forfeits the remaining property tax abatement and must reimburse the City and

Borough of Juneau for the property tax abatement received since first granted plus interest at the legal maximum rate of interest allowed by state law. If the property owner does not reimburse the City and Borough within 30 calendar days of notice being mailed or served, a lien shall be recorded against the property with the new residential units.

- (e) *Provisional approval.* The assessor shall provisionally approve an application for tax exemption if:
- (1) The applicant submitted a complete application; and
  - (2) The applicant acknowledges it must:
    - (i) Construct not less than the required residential units in accordance with the plans and drawings submitted with its application; and
    - (ii) Increase the total number of residential units on the property in order to receive final approval under this section.
- (f) *Final approval of exemption.* The assessor shall finally approve an application for tax exemption if:
- (1) The applicant has completed construction of residential units in accordance with the plans and drawings submitted with its application and a certificate of occupancy has been issued pursuant to Title 19 for each structure that contains a residential unit described in the application; and
  - (2) The total number of residential units on the property has increased.
- (g) *Magnitude of exemption.* Consistent with this subsection, the total potential exemption shall not reduce the amount of taxes below the amount levied on other property for the school district's required local contribution under AS 14.17.410(b)(2). The taxes eligible for exemption under this section are those attributable only to the newly constructed residential units exclusive of previously existing residential units (whether remodeled or not), all nonresidential improvements, and land. Except as provided by subsection (m), the magnitude of exemption shall be determined on a spatial basis as follows: the square footage of the newly constructed residential units shall be divided by the square footage of all structures on the property, then multiplied by the assessed value of all improvements on the property and by the mill rate applicable to the property.
- (h) *Duration of tax exemption.* Tax exemptions approved under this section shall be for a period of 12 consecutive years beginning on January 1 of the first full calendar year after final approval of the application.
- (i) *Recording of exemption.* The assessor shall memorialize the terms of an exemption granted under this section in a memorandum recorded in the Juneau Recording District and kept on file in the assessor's office.
- (j) *Termination of exemption upon reduction in number of residential units.* An exemption granted under this section shall terminate immediately if and when the number of residential units on the property is less than the number existing at the time of final approval of the application under this section. An exemption granted under this section does not terminate if the property or residential unit is sold and the new owner continues to comply with this section.
- (k) *Appeal.* Any decision of the assessor under this section may be appealed to the assembly in accordance with CBJC 01.50.
- (l) *Annual compliance and status report.* Not later than March 31 of each year, the owner of the property for which an exemption has been granted, shall file with the assessor a report with the following information:
- (1) *Occupancy.* A statement of occupancy and vacancy of the residential units for the prior 12 months;
  - (2) *Residential units remain as described.* A certification that the newly constructed residential units described in the application continue to exist and have not been converted to a nonresidential use;
  - (3) *Further changes.* A description of physical changes or other improvements constructed since the last report or, on first report, since the filing of the application; and
  - (4) *Additional information.* Any additional information requested by the assessor.
- (m) *Late-file penalty.* The failure for the owner to file the annual compliance and status report by March 31 shall result in ten percent reduction of the taxes exempted in the prior year.
- (n) *Definitions.* In this section, the following definitions apply:

*Assisted living* means a facility providing housing and institutional care for people unable to live independently or without assistance. Assisted living includes facilities that provide nursing care services.

*New residential unit* means new construction and a condemned or uninhabitable existing dwelling unit that is renovated to current code for a residential dwelling unit according to CBJC Title 19.

*Previously exempt property* means real or personal property exempt under CBJC Title 69 in the prior calendar year but taxable in the next calendar year.

*Residential unit* means a dwelling unit as defined by CBJC 49.80.120 and is either owner-occupied or only leased for periods of at least one month.

*Senior citizen* means a person who is:

- (1) Sixty-five years or older; or
- (2) At least 60 years of age and the widow or widower of a senior citizen who qualified for an exemption under AS 29.45.030(e) and CBJC 69.10.020(1)(A)(i) and (ii).

*Short-term rental* means a dwelling unit that is rented, leased, or otherwise advertised for occupancy for a period of less than 30 days.

*Widow or widower* means a person whose spouse has died and who has not remarried.

( Serial No. 2019-23, § 3, 7-22-2019, eff. 8-22-2019; Serial No. 2021-01(c)(am), § 2, 3-1-2021, eff. 3-31-2021; Serial No. 2022-42, § 2, 10-24-2022, eff. 11-24-2022)