

Issues worth addressing

1. State statutory authority

Before codifying this, confirm that AS 29.45.030 actually authorizes this exemption. Alaska grants municipalities fairly broad exemption authority under 29.45.030(e) and elsewhere, but tribal property specifically may already be covered — or may be preempted — by federal Indian law or state law. If the city is creating an exemption that federal law already mandates (e.g., for trust land held by the United States for a tribe), the ordinance is redundant. If it's extending beyond that, you need to confirm the statutory hook.

2. ANCSA entity distinction

This is important given Dillingham's specific landscape. Federally recognized tribes and ANCSA entities (village corporations, regional corporations like BBNC) are legally distinct. BBNA, for example, is a tribal association — not itself a federally recognized tribe. Property owned by ANCSA corporations would not qualify under this language even if the beneficial community is entirely Native. That may be intentional, but it should be a conscious policy choice, not an oversight.

3. "Primarily" needs a threshold

Subsection (J)(3) uses "primarily for commercial or profit-generating purposes" without defining the threshold. Most well-drafted mixed-use exemption provisions specify a percentage — commonly 50% or more of floor area, or time of use. Without it, assessors will apply the term inconsistently and you'll get appeals. Consider adding: "For purposes of this subsection, 'primarily' means more than fifty percent (50%) of the usable area or operational use of the property."

4. Revenue impact and fiscal note

Given that Dillingham's tax base is already significantly constrained by Native allotment, ANCSA, federal, and state exempt properties — something you know well — this ordinance could further erode assessed value. Before council adoption, a fiscal note identifying known tribally owned parcels currently on the tax rolls and their assessed values would be prudent. Otherwise the city could be surprised by the revenue impact.

5. What happens when use changes?

Subsection (J)(3) handles mixed use at a point in time, but the ordinance is silent on mid-cycle changes — what if a property transitions from a qualifying exempt use to a commercial use (or vice versa) during the tax year? Standard practice is to include a provision requiring the property owner to notify the assessor within a defined period (often 30–60 days) of a change in use, with proration or reassessment triggered accordingly. Without it, you have an enforcement gap.

6. "Profit-generating" is overbroad as written

A tribe operating a health clinic that charges fees, or a store selling essentials to community members at cost, could be characterized as "profit-generating" even if the

purpose is entirely community-serving. Consider whether the intent is to carve out net profit activities (i.e., commercial enterprises operated for economic gain) versus fee-for-service nonprofit or governmental functions. Language like "operated for the primary purpose of producing commercial income or private economic gain" would be more targeted.

AMENDMENT TO DILLINGHAM MUNICIPAL CODE SECTION 4.15.030

Section 4.15.030 is hereby amended to add a new subsection (J) as follows:

4.15.030(J) — Federally Recognized Tribe Property Exemption

J.1 — Exemption Generally

Real property owned in fee simple by a federally recognized Tribe shall be exempt from ad valorem taxation, provided that the property is used primarily for governmental, tribal, cultural, social, health, educational, or other non-commercial purposes directly serving the tribal community.

J.2 — Definition of Federally Recognized Tribe

For purposes of this section, "federally recognized Tribe" means any tribal entity recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, as published in the current list maintained in the Federal Register pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Pub. L. 103-454; 108 Stat. 4791). The City Assessor shall consult the most recently published Federal Register list when making determinations under this section.

J.3 — Commercial Use Exception

The exemption provided in subsection (J)(1) shall not apply to any property, or any portion thereof, used primarily for commercial or profit-generating purposes. For purposes of this section:

(a) "Used primarily for commercial or profit-generating purposes" means that more than fifty percent (50%) of the usable area of the property, or more than fifty percent (50%) of the operational use of the property measured on an annual basis, is devoted to activities conducted for the purpose of producing commercial income or private economic gain beyond the reasonable needs of the tribal community served.

(b) Fee-for-service activities that are incidental to an otherwise qualifying purpose — including health clinics, community stores, or similar operations where revenue is applied to community benefit rather than private profit — shall not alone constitute commercial use under this subsection.

(c) Where a property is used for both exempt and non-exempt purposes, the exemption shall apply only to the portion of the property devoted to qualifying exempt purposes, apportioned by usable area unless an alternative method is approved in writing by the City Assessor as more accurately reflecting actual use.

J.4 — Notification of Change in Use

The owner of any property receiving an exemption under this section shall notify the City Assessor in writing within thirty (30) days of any material change in the use of the property that may affect eligibility for the exemption. Upon receipt of such notice, or upon the

Assessor's own determination that a change in use has occurred, the Assessor may reassess the property and adjust the exemption accordingly. If a change in use is discovered without prior notification, the City may recover taxes that would have been due from the date the disqualifying use commenced, plus applicable interest under DMC 4.15.

J.5 — Application and Annual Certification

To claim the exemption provided under this section, the tribal owner shall file an exemption application with the City Assessor by March 1 of each tax year on a form prescribed by the Assessor. The application shall include a description of current use of the property sufficient to establish eligibility. The Assessor may require annual certification of continued qualifying use as a condition of maintaining the exemption.

J.6 — Scope and Limitation

Nothing in this section shall be construed to exempt property owned by Alaska Native Claims Settlement Act (ANCSA) corporations, tribal associations, tribal consortia, or other affiliated entities that are not themselves federally recognized Tribes as defined in subsection (J)(2). The determination of whether a particular entity qualifies as a federally recognized Tribe shall be made solely by reference to the Federal Register list described in subsection (J)(2) and shall not be subject to supplemental local determination.

J.7 — Relationship to Other Exemptions

This exemption is in addition to, and not in lieu of, any other exemption to which a property may be entitled under state law or other provisions of this Code. Where federal law independently mandates exemption of tribal trust land or other property, this section shall be construed consistently with that mandate and shall not be interpreted to impose conditions on federally required exemptions.

Notes for council consideration prior to adoption:

A fiscal note identifying all parcels currently held in fee simple by federally recognized Tribes within the city, their current assessed values, and the estimated annual revenue impact should be prepared by the Finance Director before this ordinance is placed on the adoption agenda. Council should also be advised on the record that the limitation in subsection (J)(6) — excluding ANCSA corporations and tribal associations — is a deliberate policy distinction and does not reflect on the status or standing of those entities.

*Prepared by the Planning Department as points to consider