

CODE ORDINANCE

Sponsored by: Borough Manager
Introduced: 08/02/16
Public Hearing: 08/17/16
Amended: 08/17/16
Postponed to 09/06/16: 08/17/16
Amended: 09/06/16
Postponed to 09/20/16: 09/06/16
Amended: 09/20/16
Adopted: 09/20/16

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-100**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING
AND UPDATING TITLE 23 REAL PROPERTY.

WHEREAS, the intent and rationale of this ordinance is contained within IM No. 16-094 accompanying this ordinance.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough code.

Section 2. Amendment of Section. MSB 23.05.020 (B) and (C) is hereby amended as follows:

(B) Boroughowned real property dispositions and acquisitions are unenforceable unless approved in accordance with this title. Where any conflicting Chapters of Borough code may occur, provisions of this title shall take precedence with the exception of real property and natural resources acquired as part of an active construction project or right-of-way reserved for future road expansion, which were funded with state or

federal monies to the extent that the Code of Federal regulations or the Alaska State Department of Transportation and Public Facilities Right-of-Way Acquisition Manual control.

(C) In accordance with this title a Land and Resource Management Division Policy and Procedures Manual is adopted providing policies and procedures for Boroughowned real property and resources. Amendments to this Manual shall be adopted by Assembly resolution.

Section 3. Amendment of Section. MSB 23.05.025 (F), (G), (K), and (L) is hereby amended as follows:

(F) A copy of the public notice shall be mailed to all landowners within at least 600 feet of the exterior boundary of the area for land or agricultural sales, leases, exchanges, or other land disposal. If any portion of a recorded subdivision lies within at least 600 feet of the area being noticed, all property owners within the subdivision shall be provided a notice.

(1) A copy of the public notice shall be mailed to all land owners within one quarter mile of the boundaries of the area subject to resource sales, leases, exchanges, or other resource disposal. If any portion of a recorded subdivision lies within one

quarter mile of the area being noticed, all property owners within the subdivision shall be provided a notice.

(G) All public notices shall be mailed to members of the Borough Parks, Recreation, and Trails Advisory Board and [REAL PROPERTY ASSET MANAGEMENT BOARD] other Borough appointed boards as appropriate.

(K) [IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SECTION, A COPY OF THE FOLLOWING INFORMATION SHALL BE MAILED TO THE ORGANIZATIONS AND PERSONS IDENTIFIED IN SUBSECTIONS (E) THROUGH (I) OF THIS SECTION:

- (1) COMPLETED APPLICATION (IF APPLICABLE);
- (2) PROPOSED OPERATIONS PLAN (IF APPLICABLE); AND
- (3) PRELIMINARY BEST INTEREST FINDING (IF APPLICABLE).]

Supporting information shall be made available for review at the Borough building during normal business hours.

[(L) IF ITEMS IN SUBSECTION (K) OF THIS SECTION ARE NOT APPLICABLE, A LETTER EXPLAINING SUCH AND THE REASONS THEREFOR SHALL BE MAILED.]

Section 4. Amendment of Section. MSB 23.05.030 (D) and (G) are hereby amended as follows:

(D) The Manager may in accordance with this title and adopted procedures [,] and with the consent of the Assembly if required, convey real property to or negotiate an exchange of real property with the United States of America, the state of Alaska, or other entity where, it is in the best interests of the Borough to do so. The best interests of the Borough may include, but are not limited to, obtaining real property in a location better suited for a public facility than real property owned by the Borough, or making Borough real property available for a purpose of specific benefit to the public.

(G) A best interest finding, approved by the Assembly [RESOLUTION,] shall be completed when disposing of, exchanging, or otherwise conveying an interest in real property at less than fair market value or waiving of permit fees unless the waiving of permit fees is permitted by this title.

Section 5. Amendment of Section. MSB 23.05.050 (A) and (B) is hereby amended as follows:

(A) No person or entity shall disturb, place improvements or place personal property upon, or make unauthorized use of Boroughowned real property without written permission from the manager or in accordance with Borough code or the Land and Resource Division Policy and Procedures Manual.

(B) No person shall remove timber or other vegetation, natural resources, gravel or other materials from Boroughowned real property without written permission from the Manager or in accordance with Borough code or the Land and Resource Division Policy and Procedures Manual.

Section 6. Amendment of Section. MSB 23.05.060 (A) and (B) are hereby amended as follows:

(A) The Manager shall establish a schedule of fees for applications, permits, and other uses of Boroughowned real property under this title. The Assembly shall approve the fee schedule by resolution.

(B) The Manager may, within guidelines approved by Assembly resolution, waive fees under this title if found to be in the best interest of the Borough. [AFTER THE MANAGER COMPLETES A BEST INTEREST FINDING IN FAVOR

OF THE BOROUGH. THE BEST INTEREST] Such a finding shall be forwarded to the Assembly for their information.

Section 7. Amendment of Section. MSB 23.05.070 (E) is hereby amended as follows:

(E) The manager shall make public an accounting of the funds deposited into the land management fund from sales, leases, or transfers of Boroughowned real property on an annual basis via an informational memorandum to the Borough Assembly. The informational memorandum will contain at a minimum an accounting of the fair market value of any Boroughowned land and resource obligated, disposed of, or otherwise encumbered regardless of purpose, when these revenues are not deposited in the land management fund. [AT LEAST ONCE A YEAR, AND REPORT TO THE ASSEMBLY THE TOTAL OF LANDS SELECTED, THE TOTAL OF DISPOSALS, LAND PLACED IN OR EASEMENTS SOLD FROM THE WETLAND MITIGATION BANK, AND THE BALANCE REMAINING IN ACREAGE. THE NAME OF THIS REPORT SHALL BE THE "ANNUAL REPORT OF THE MATANUSKA-SUSITNA BOROUGH'S REAL PROPERTY ASSETS." THIS REPORT SHALL BE PREPARED AFTER THE END OF EACH FISCAL YEAR.]

Section 8. Amendment of Section. MSB 23.05.075 (D) is hereby amended as follows:

(D) The Manager shall:

(1) ensure that the required technical and scientific expertise is provided to support certification of the bank and any Borough land placed in it. This shall include wetland delineations, wetland functional assessments, fish surveys, boundary delineations, and other special studies as required;

(2) provide for continuous refinement of the selection of Boroughowned properties that may be placed in the wetland mitigation bank [AND THAT MAY BE IN THE PATH OF DEVELOPMENT, BUT LEAST SUITABLE FOR DEVELOPMENT];

Section 9. Amendment of Section. MSB 23.05.080 (A) is hereby amended as follows:

(A) Upon reasonable notice, conveyed by certified mail and regular mail, to a person or entity with an interest in Boroughowned real property, and notice conveyed by certified mail and regular mail, to those holding a security interest therein or having a validly recorded lien against the real property, the Manager may cancel or terminate the agreement when:

(1) the other party has violated a condition of the agreement, and the violation has not been corrected in accordance with the terms and conditions of the agreement; or

(2) the Manager determines there has been a material misrepresentation made to the Borough by the other party regarding the agreement.

Section 10. Amendment of Section. MSB 23.05.090 (A) is hereby amended as follows:

(A) The Manager may order a reconsideration of all or part of a decision regarding an application or an existing interest in Boroughowned real property on the Manager's determination of need or on written petition of the applicant or a person with the existing interest in Boroughowned real property. The power to petition for reconsideration expires ten calendar days after delivery of a certified mailing and regular mailing of a decision to the affected person. If no action is taken by the Manager on a petition within ten calendar days following receipt by the Manager of the petition, the petition is considered denied. A notice of the denial will be conveyed by certified mail.

Section 11. Amendment of Section. MSB 23.05.100 (A) and (B) are hereby amended as follows:

(A) Boroughowned land shall be classified in accordance with this title and such classifications shall be used as a tool to identify types of land use for those lands included in competitive land sales or retained for public purpose or facilities.

[(A)] (B) The following are classifications of Borough lands which recognize and depict potential suitable uses of those lands:

Section 11. Amendment of Section. MSB 23.05.150 (A) is hereby amended as follows:

(A) The following definitions shall apply in this title:

- "Natural resource management unit" (NRMU) is an Assembly-designated geographic area of Boroughowned land that has and is managed for multiple-use values. This includes land classified or with management intent for important fish and wildlife habitat, forest management, material, mineral, public recreation, watershed, and important wetlands. These units shall not include non-Boroughowned land or land classified for agricultural, commercial, industrial, private

recreation, or residential land.

- ["OPERABLE FOREST LAND" MEANS THAT PART OF COMMERCIAL FOREST LAND CONTAINING TIMBER VOLUMES AND VALUES THAT ARE OR HAVE BEEN CAPABLE OF BEING ACCESSED AND HARVESTED UNDER COMMERCIAL TIMBER SALE AGREEMENTS USING CURRENTLY AVAILABLE TIMBER HARVEST TECHNOLOGY AND METHODS.]

- "Permitee" means the person authorized to occupy and use Boroughowned real property under the Permit.

- "Permitior" means the Borough as the authorizing party to the Permit.

- "Person(s)" includes any individual, firm, partnership, corporation, company, association, joint venture, estate, trust, or any other legal entity, and the plural as well as the singular number.

- "Public health, safety and welfare" means a specific benefit to or furtherance of the public's health, safety, or welfare as determined by the Manager and/or Assembly or which would otherwise be required by local ordinance or state law or federal law.

• "Public purposess" means a specific benefit to the public ['S HEALTH, SAFETY, OR WELFARE] as determined by the Manager and/or Assembly which provides for charitable, religious, scientific, educational or youth encampment, or otherwise provides a benefit to the public at large.

Section 12. Amendment of Section. MSB 23.10.030 (B) and (C) are hereby amended as follows:

[(B) UNLESS OTHERWISE PROVIDED BY ORDINANCE OR THIS TITLE, NO BOROUGHOWNED REAL PROPERTY MAY BE SOLD, LEASED FOR A TERM OF TEN YEARS OR LONGER, OR EXCHANGED UNTIL THE SAME HAS BEEN CLASSIFIED IN ACCORDANCE WITH THE PROVISIONS OF TITLE 15 OF THE BOROUGH CODE.]

[(C)] (B) Leases for a term of ten years or more, regardless of value, shall be approved by the Assembly by ordinance.

Section 13. Amendment of Section. MSB 23.10.040(D) is hereby amended as follows:

(D) In the event that the Borough does not acquire title to the land within ten years from the date of the agreement, either the Borough or the other party to the agreement may cancel the agreement upon 30 calendar days' written notice to the other party. In the event

the Borough does not acquire title to the real property, and there is no written settlement with regard to final disposition of the monies received, all monies received by the Borough in connection with the agreement shall be considered as rent, and shall be retained by the Borough.

Section 14. Amendment of Section. MSB 23.10.060 (B),

(C), and (D) are hereby amended as follows:

(B) Fair market value shall be based on [AN APPRAISAL PREPARED IN CONFORMANCE WITH APPRAISAL INSTRUCTIONS ISSUED BY THE MANAGER. THE APPRAISAL] one of the following:

(1) [SHALL CONFORM] A third party appraisal pursuant to the criteria set forth in the Uniform Standards of Professional Appraisal Practice (USPAP) as published by the Appraisal Foundation; or

(2) with the approval of the manager, [FAIR MARKET VALUE BASED ON] the value assigned by the certified tax roll of the Borough; or

(3) determination by a broker's opinion of value; and

[(3)] (4) with the approval of the Manager, the fair market value of easements may be established by either:

(a) a percentage of the value assigned by the certified tax roll of the Borough; or

(b) by an appraisal; or

(c) by a fee schedule adopted by resolution of the Assembly.

[(4)] **(5)** with the approval of the Manager, the fair market value of resource sales may be established by either the fee schedule which sets the minimum prices or by market price trends, the per acre price trends based on past timber sales, or both.

(C) Pursuant to a best interest finding, the minimum fee to be paid to the Borough for a sale or lease at less than fair market value shall be as follows: [THE GREATER OF \$500 OR 10 PERCENT OF THE FAIR MARKET VALUE OF THE LAND. FOR A LEASE AT LESS THAN FAIR MARKET VALUE, THE ANNUAL LEASE RATE SHALL BE THE GREATER OF \$500 OR ONE PERCENT OF THE FAIR MARKET VALUE OF THE LAND.]

(1) A sale at less than fair market value shall be the greater of \$500.00 or a range between 50 percent and 90 percent of the market value which shall be determined by the Assembly.

(2) A lease at less than fair market value shall be an annual rate of the greater of \$500.00 or:

(a) 5% of fair market value for
beneficial or commercial enterprise; or

(b) 2.5% of fair market value for public
health, safety, and welfare or public purposes.

[(D) THE CONSIDERATION TO BE PAID TO THE BOROUGH FOR LESS THAN FEE SIMPLE TITLE INTERESTS IN BOROUGHOWNED REAL PROPERTY SHALL BE SPECIFIED IN THE FEE SCHEDULE ADOPTED BY THE ASSEMBLY IN ACCORDANCE WITH THE MSB 23.05.060.]

Section 15. Amendment of Section. MSB 23.10.080(B) is hereby amended as follows:

(B) Except as otherwise provided under this title, the [MANAGER SHALL ISSUE A] applicant will be provided notice of acceptance or rejection 30 calendar days after receipt of the application.

Section 16. Amendment of Section. MSB 23.10.110 (A) and (B) is hereby amended as follows:

(A) In accordance with policies and procedures adopted by Assembly resolution, the Manager may negotiate the grant reservation, or dedication of permanent easements or rights-of-way for roads, pipelines, electric transmission lines, telecommunication facilities, trails, pathways, alleys,

or similar facilities. Within 30 calendar days of [ACCEPTANCE] receipt of the easement or right-of-way application, the manager shall approve, reject, or notify the applicant of the discovery of additional requirements of the proposed easement or right-of-way.

(B) Easements or rights-of-way created under this section shall be dedicated, vacated, or terminated in accordance with the provisions of MSB [TITLE 15] code and applicable state law.

Section 17. Amendment of Section. MSB 23.10.160(A) is hereby amended as follows:

(A) In accordance with policies and procedures adopted by Assembly resolution, the manager may enter into a management agreement with the state for purposes of joint use planning or management of Boroughowned real property, or for sales, leases, or transfer of Boroughowned real property and resources to the general public, private persons, or other agencies, and to manage Boroughowned real property or to conduct such sales, leases, and transfers in accordance with procedures set forth under Alaska statutes.

Section 18. Amendment of Section. MSB 23.10.180 (D) and (E) are hereby amended as follows:

(D) The annual rent on a lease for a public purpose to a governmental agency or a not-for-profit corporation formed for the purpose of carrying on a public service may be at less than fair market value in accordance with MSB 23.05.030 (G) and 23.10.060 (C) [BUT SHALL NOT BE LESS THAN \$500].

(E) The manager may solicit business for new leases on Boroughowned land through a real estate broker licensed by the State of Alaska and in accordance with procedures adopted by Assembly resolution.

Section 19. Amendment of Section. MSB 23.10.210 (A), (B), and (C) are hereby amended as follows:

(A) The Manager may maintain an inventory of real properties for sale, lease, or other disposal over-the-counter. Each parcel in the inventory must meet the following criteria:

(1) the parcel must have previously been made available in a competitive[LY] bid disposal program in which no acceptable offers or bids were received for the purchase [OR USE] of the parcel, or if accepted, the transaction failed to close; and

[(B) PARCELS IN THE OVER-THE-COUNTER INVENTORY SHALL NOT BE SOLD FOR LESS THAN THEIR FAIR MARKET VALUE.]

[(C)] **(B)** Nothing in this section shall require the manager to include all real properties eligible for over-the-counter disposal in the over the counter inventory.

Section 20. Amendment of Section. MSB 23.10.230 (A) is hereby amended as follows:

(A) The manager may, with the approval of the Assembly by ordinance when required by this title, approve a sale or lease of Boroughowned real property by application if **one of** the following conditions exists:

(1) the application is:

(a) by a public utility or public agency for facilities serving the general public; or

(b) [Repealed by Ord. 01-049 (AM) § 2, 2001]

(c) [Repealed by Ord. 01-049 (AM) § 2, 2001]

(d) for an adjacent property owner for access or to address a substandard or unusable lot condition; or

(e) for use for a non-profit organization; or

(f) for a disposal where the Assembly

has determined it is in the best interest of the Borough to process the application based on economic development incentives or is a beneficial industrial or commercial enterprise.

Section 20. Amendment of Section. MSB 23.10.270 is hereby repealed in its entirety:

[(A) *POLICY.* IT IS THE POLICY OF THE BOROUGH THAT ALL PROPERTY OWNERS SHALL BE DEALT WITH FAIRLY AND EQUITABLY IN THE ACQUISITION OR EXCHANGE OF LAND OR INTERESTS THEREIN. ONLY A WILLING SELLER AND WILLING BUYER RELATIONSHIP SHALL BE USED TO ACQUIRE OR EXCHANGE LAND UNDER THIS CHAPTER UNLESS ANOTHER METHOD SUCH AS CONDEMNATION, EMINENT DOMAIN, OR PRESCRIPTIVE RIGHTS IS APPROVED IN ADVANCE BY THE ASSEMBLY. SETTLEMENTS SHALL BE BASED ON THE CONCEPT OF FAIR MARKET VALUE SUPPORTED BY CURRENT APPRAISAL PRACTICES AS PROVIDED BY MSB 23.10.060(B), UNLESS OTHERWISE PROVIDED. NEGOTIATIONS WITH PROSPECTIVE SELLERS WILL CONTINUE IN GOOD FAITH AS LONG AS REASONABLE HOPE OF A SETTLEMENT EXISTS.

(B) *IMPLEMENTATION VIA PUBLIC SOLICITATION.* ONCE A NEED IS IDENTIFIED FOR ACQUISITION OR EXCHANGE OF REAL PROPERTY, THE COMMUNITY DEVELOPMENT DEPARTMENT MAY PREPARE A SCOPE OF WORK FOR A PROPOSAL TO BE SOLICITED

THROUGH THE PURCHASING DIVISION. NOTWITHSTANDING MSB 3.08.320, ACQUISITIONS OR EXCHANGES MAY BE OFFERED THROUGH A FORMAL PUBLIC SOLICITATION.

(1) THE PUBLIC SOLICITATION OF WORK SHALL CONTAIN AT A MINIMUM:

(A) INTENDED USE OF THE PROPERTY AND DESIRED LOCATION PROXIMITY;

(B) DESIRED DEVELOPMENT CHARACTERISTICS, SUCH AS SIZE OF PROPERTY, PHYSICAL NEEDS, PROXIMITY TO UTILITIES, AND CONDITION OF ACCESS; AND

(C) IDENTIFY SOURCE OF FUNDING, INCLUDING AMOUNT AVAILABLE, OR POOL OF APPRAISED LAND FOR EXCHANGE.

(2) SOLICITATION WITHIN A MINIMUM AREA WITHIN A RADIUS OF ONE MILE MUST BE USED IN ANY PROPOSAL SEEKING ACQUISITION OR EXCHANGE OF PROPERTY UNDER THIS PROCEDURE. THE ADVERTISED PERIOD FOR THE REQUEST FOR PROPOSAL SHALL NOT BE LESS THAN 30 CALENDAR DAYS. NOTWITHSTANDING PUBLIC NOTICE REQUIREMENTS AS ADOPTED IN THE LAND MANAGEMENT POLICY AND PROCEDURE MANUAL, COMMUNITY DEVELOPMENT SHALL, IN CONJUNCTION WITH THE ADVERTISING PERIOD, PROVIDE PUBLIC NOTICE OF THE

OFFERING FOR NOT LESS THAN 30 CALENDAR DAYS TO A MAILING AREA AS DESCRIBED IN PUBLIC NOTICE PROCEDURES.

(3) IN ADDITION TO THE REQUIREMENTS OF MSB 23.10.090 AND MSB 3.08, TO HAVE A RESPONSIBLE, RESPONSIVE PROPOSAL, A PROPOSER IS REQUIRED TO INCLUDE IN THE PROPOSAL DOCUMENT:

(A) THE PROPERTY OWNER'S WILLINGNESS TO SELL;

(B) THE PROPOSED OFFER SUBMITTED SHALL BE EFFECTIVE FOR A PERIOD OF 120 DAYS FROM DATE OF ACCEPTANCE BY THE BOROUGH;

(C) THE SUBMISSION OF A CURRENT TITLE REPORT;

(D) AUTHORIZATION OF ENTRY BY THE OWNER TO INSPECT AND ASSESS THE SITE FOR UTILIZATION; AND

(E) VERIFICATION OF PROPERTY OWNERSHIP.

(4) EVALUATION OF RESPONSIBLE AND RESPONSIVE PROPOSALS RECEIVED SHALL BE WEIGHED ON THE FOLLOWING MINIMUM CRITERIA:

(A) LOCATION OF THE PROPERTY OFFERED WITH ADDITIONAL WEIGHT PLACED ON PROPERTIES LOCATED CLOSER TO THE DESIRED LOCATION;

(B) THE DEVELOPABILITY OF THE PROPERTY OFFERED;

(C) A TITLE REPORT SHOWING THE ABILITY TO DELIVER MARKETABLE TITLE, FREE AND CLEAR OF LIENS AND ENCUMBRANCES, INCLUDING ONLY COVENANTS, RESTRICTIONS, RESERVATIONS, AND EASEMENTS ACCEPTABLE TO THE BOROUGH; AND

(D) ENVIRONMENTAL AND PHYSICAL CHARACTERISTICS OF THE PROPERTY OFFERED.

(5) IF LESS THAN TWO QUALIFIED AND RESPONSIVE PROPOSALS ARE RECEIVED BY THE BOROUGH THROUGH THE REQUEST FOR PROPOSALS, A BEST INTEREST FINDING MUST ACCOMPANY ANY RECOMMENDATION TO ACQUIRE OR EXCHANGE A SINGLE PROPERTY. IN THE BEST INTEREST FINDING IT MUST BE STATED HOW THE OFFERING COULD BE PRESENTLY IMPROVED TO OBTAIN MORE THAN ONE RESPONSIVE AND QUALIFIED PROPOSAL.

(C) *IMPLEMENTATION VIA AGENT.* ONCE A NEED IS IDENTIFIED FOR ACQUISITION OR EXCHANGE OF REAL PROPERTY, IF THE BOROUGH MANAGER MAKES A DETERMINATION THAT THE USE OF A PUBLIC SOLICITATION IS IMPRACTICABLE, WILL NOT SERVE THE BEST INTERESTS OF THE BOROUGH, OR WILL UNDULY RESTRICT OR IMPEDE THE BOROUGH'S BARGAINING POSITION IN ACQUIRING PROPERTY, THE COMMUNITY DEVELOPMENT DEPARTMENT

MAY ACT DIRECTLY FOR THE BOROUGH OR EMPLOY A REAL ESTATE AGENT OR BROKER TO ACT ON BEHALF OF THE BOROUGH TO ACQUIRE PROPERTY. AN AGENT OR BROKER MAY BE INSTRUCTED TO REPRESENT THE BOROUGH AS AN UNNAMED CLIENT AND THE BOROUGH MAY HIRE MULTIPLE AGENTS OR BROKERS. NOTWITHSTANDING MSB 3.08, HIRING OF AGENTS AND ACQUISITIONS OR EXCHANGES OF LAND UNDER THIS PROCEDURE MAY BE ACCOMPLISHED THROUGH DIRECT NEGOTIATION WITH A QUALIFIED INDIVIDUAL OR FIRM.

(D) *ENVIRONMENTAL ASSESSMENT.* ONCE A PROPERTY HAS BEEN APPROVED IN ACCORDANCE WITH SUBSECTION (B) OR (C) OF THIS SECTION, THE COMMUNITY DEVELOPMENT DEPARTMENT SHALL COMMENCE A MINIMUM OF A PHASE ONE ENVIRONMENTAL ASSESSMENT.

(1) THE BOROUGH SHALL SELECT THE CONTRACTOR TO CONDUCT THE ENVIRONMENTAL ASSESSMENT. THE ENVIRONMENTAL ASSESSMENT SHALL BE PERFORMED IN CONFORMANCE WITH THE SCOPE AND LIMITATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS PRACTICE E1527-05 AND THE EPA ALL APPROPRIATE INQUIRY STANDARDS.

(E) *APPRAISAL.* ONCE A PROPERTY HAS BEEN APPROVED IN ACCORDANCE WITH SUBSECTION (B) OR (C) OF THIS SECTION, OR ANY TIME THE COMMUNITY DEVELOPMENT DIRECTOR DEEMS IT

NECESSARY TO APPRAISE A PROPERTY, THE COMMUNITY DEVELOPMENT DEPARTMENT SHALL CONTRACT FOR A THIRD-PARTY APPRAISAL. ANY APPRAISER SELECTED BY THE BOROUGH SHALL BE BASED ON THE APPRAISER BEING ABLE TO MEET BOROUGH QUALIFICATIONS, LICENSED BY THE STATE OF ALASKA PURSUANT TO A.S. 08.87.100 AND THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE. THE BOROUGH SHALL SUBMIT PAYMENT FOR THE APPRAISAL DIRECTLY AND PROVIDE APPRAISAL INSTRUCTIONS TO THE APPRAISER. IF THE APPRAISED VALUE OF THE PROPERTY IS EXPECTED TO EXCEED \$500,000, THE APPRAISAL MUST BE DONE BY A MEMBER OF THE APPRAISAL INSTITUTE (MAI) CERTIFIED APPRAISER.

(1) OWNERS SHALL BE ADVISED OF THE COMMENCEMENT OF THE APPRAISAL AND SHALL BE AFFORDED THE OPPORTUNITY TO PRESENT ANY EVIDENCE, THROUGH THE BOROUGH, DEEMED PERTINENT TO THEIR PROPERTY AND SUCH EVIDENCE SHALL BE DULY CONSIDERED BY THE APPRAISER. A BOROUGH REPRESENTATIVE MAY BE PRESENT DURING THE APPRAISER'S SITE VISIT.

(2) THE APPRAISER SHALL EMPLOY RECOGNIZED APPRAISAL TECHNIQUES TO ENSURE THAT THE VALUATION IS UNBIASED AND IS FAIR AND EQUITABLE TO BOTH PARTIES.

(F) *PURCHASE OFFER.* UPON COMPLETION OF THE

APPRAISAL AND ENVIRONMENTAL ASSESSMENT, A PURCHASE OFFER SHALL BE MADE AND THE DESIRED RESULT WILL BE TO PRODUCE A SETTLEMENT BASED ON MARKET VALUE.

(G) *NEGOTIATION.* NEGOTIATIONS SHALL CONTINUE UNTIL EITHER A SETTLEMENT IS EFFECTED OR AN IMPASSE IS REACHED AND IN AN EFFORT TO ACHIEVE THE FORMER, ANY INFORMATION WHICH MAY COME TO LIGHT THAT WAS NOT KNOWN OR CONSIDERED BY THE APPRAISER SHALL BE EXAMINED TO DETERMINE ITS EFFECT ON THE FAIRNESS OF THE APPRAISAL. IF JUSTIFIED, ADJUSTMENTS IN THE APPRAISAL SHALL BE MADE.

(H) *EXCLUSIONS.* THIS SECTION SHALL NOT APPLY WHEN:

(1) ACQUIRING OR EXCHANGING REAL PROPERTY OR INTERESTS INTENDED FOR USE AS A PUBLIC RIGHT-OF-WAY OR PUBLIC USE EASEMENT;

(2) WHERE THE OTHER PARTY TO THE TRANSACTION IS A PUBLIC AGENCY, SUCH AS FEDERAL, STATE, OR LOCAL GOVERNMENTS; OR

(3) ACQUIRING PROPERTY WITHIN ONE-QUARTER MILE OF EXISTING BOROUGH REAL PROPERTY OR FACILITY, WHEN THE PURPOSE IS TO IMPROVE, MAKE MORE FEASIBLE, OR EXPAND AN EXISTING FACILITY.]

Section 21. Amendment of Section. MSB 23.10.275 is hereby added as follows:

(A) In accordance with this title and the policy and procedures adopted by Assembly resolution, the manager may through solicitation or through negotiation acquire or exchange land or interest therein when for public purpose.

Section 22. Amendment of Section. MSB 23.20.020(A) is hereby amended as follows:

(A) The Borough shall maintain an inventory of all [FOREST LAND SUITABLE FOR] commercial timber or forest product uses that may include:

(1) an inventory of commercial forest land [AND OPERABLE COMMERCIAL FOREST LAND] including an analysis of existing forest management units that is statistically defensible and field verified to produce a gross timber volume and an average volume per acre by timber type;

[(2) AN INVENTORY OF LAND THAT IS SUITABLE FOR OTHER NON-TIMBER FOREST PRODUCT USES;]

[(3)] (2) an evaluation of the forest health to include age and quality of the wood for various markets and uses; and

[(4)] (3) an evaluation of markets for
Boroughowned forest resources.

Section 23. Amendment of Section. MSB 23.20.030 (A), is
hereby amended as follows:

(A) All commercial [AND NON-COMMERCIAL]
Boroughowned forest land will be managed on a sustained
yield basis to provide forest timber [AND FOREST
PRODUCTS] based on the rotation period for the dominant
timber type.

Section 23. Amendment of Section. MSB 23.20.040 (B), (C),
and (F) are hereby amended as follows:

(B) Annual allowable cut equals the total volume
of commercial [, NOT ACREAGE OF OPERABLE] forest land in
all Borough natural resource management units classified
as "forest management lands" or "resource management
lands" and has a primary or secondary land use
designation for forest management divided by the
rotation period of the dominant timber stand type
established in MSB 23.20.020.

(C) The total commercial [AND OPERABLE] forest
land by volume in all Borough forest management units
will be determined by the forest inventory in
MSB 23.20.020.

(F) Land that is classified as "forest management lands" or "resource management lands" and that has a primary or secondary land use designation for forest management and that will undergo a conversion of use from forest management to another primary use within five years of a timber harvest shall not be considered as [OPERABLE] commercial forest land acreage for determining annual allowable cut. [THE ANNUAL ALLOWABLE CUT SHALL BE RECOMPUTED TO REFLECT THE REDUCTION IN THE OPERABLE FOREST LAND ACREAGE BASE TO ENSURE THAT TIMBER HARVESTS ARE CONDUCTED ON A SUSTAINED YIELD BASIS.] Land that is converted to another use shall be reclassified to the most appropriate use prior to the conversion of use.

Section 24. Amendment of Section. MSB 23.20.060 (D) and

(E) are hereby amended as follows:

(D) The plans shall contain, at a minimum, the following elements:

(1) an analysis and determination of commercial forest land, [OPERABLE COMMERCIAL FOREST LAND,] and, potential timber harvests, access, and market demand;

(E) Natural resource management plans shall be

reviewed [ON A REGULAR BASIS, UNDERGO FULL PUBLIC REVIEW AND COMMENT UNDER MSB 23.05.025, AND ANY PROPOSED CHANGES TO THE PLAN SHALL BE APPROVED BY THE ASSEMBLY] at a minimum on a decadal basis. Requirements of the natural resource management plan may be waived by the Borough manager if a proposed action is found consistent with the goals of the natural resource management plan.

Section 25. Amendment of Section. MSB 23.20.090 (A), (B), and (C) is hereby amended as follows:

(A) Only land that is classified as "forest management lands" or "resource management lands" and has been determined to be [OPERABLE TIMBER] commercial forest land and has a primary or secondary land use designation for forest management [AND IS LOCATED WITHIN A NATURAL RESOURCE MANAGEMENT UNIT AND IS SUBJECT TO AN ADOPTED NATURAL RESOURCE ASSET MANAGEMENT PLAN] may be included in the five-year timber harvest schedule.

(B) Land that is not classified as "forest management land" may be utilized for [FIREWOOD] commercial sales, salvage sales, personal use, or for non-forest products. This land does not have to be located within a natural resource management unit and does not need to be subject to an adopted natural

resource asset management plan; however, firewood and personal use harvests shall be included in the five-year timber harvest schedule.

(C) At least every [TWO] **three** years, the director shall prepare a five-year schedule of timber harvests planned on forest land owned by the Borough.

Section 26. Amendment of Section. MSB 23.20.110(E) is hereby repealed in its entirety.

[(E) THE PERIODIC TIMBER HARVEST IMPLEMENTATION SCHEDULE SHALL BE SUBJECT TO PUBLIC REVIEW AND COMMENTS PROVIDED BY MSB 23.05.025. REVIEW AND COMMENTS SHALL BE LIMITED TO THE TIMBER HARVEST SCHEDULE AND TERMS AND CONDITIONS OF THE TIMBER HARVEST.]

Section 27. Amendment of Section. MSB 23.20.140 (A)(4) and (B) are hereby amended as follows:

(A) All sale contracts shall include the following:

(4) performance bond **if required;**

[(B) ALL SALES OR LEASES OF TIMBER AND NON-TIMBER FOREST PRODUCTS SHALL BE REVIEWED BY THE REAL PROPERTY ASSET MANAGEMENT BOARD. PRIOR TO THE SALE, LEASE OR PERMIT THE BOARD MAY MAKE RECOMMENDATIONS CONCERNING THE TERMS AND CONDITIONS TO THE DIRECTOR.]

Section 28. Amendment of Section. MSB 23.20.165 (A), (B), (C), and (D) is hereby amended as follows:

(A) [IF FEASIBLE, A] All timber with a commercial value or that can be used for personal use that exists on Borough land where the timber will be removed because of a conversion of land use to another public non-forest use shall be either:

(1) sold by the Borough prior to conversion of use; or

(2) made available under MSB 23.20.170. [FOR NON-COMMERCIAL PERSONAL USE; OR]

[(3) REMOVED BY THE CONTRACTOR AND EITHER SOLD OR USED FOR A COMMERCIAL PURPOSE; OR]

[(4) REMOVED OR OTHERWISE MADE AVAILABLE TO THE PUBLIC FOR NON-COMMERCIAL PERSONAL USE.]

(B) In order to be considered as a conversion of land use and subject to a salvage sale or permit, the project must be approved [AND FUNDED] prior to timber salvage operations commencing.

(C) The decision on whether the timber salvage operations should be considered as a sale or permit shall be made by the [BOROUGH MANAGER] Community Development Director based on such factors as location, size of the

area, and time to harvest the timber. [IF A SALE IS USED, ALL NORMAL CONTRACT PROVISIONS WHEN CONDUCTING A TIMBER SALE SHALL BE FOLLOWED.]

(D) Timber removed because of conversion to land use, unless within a natural resource management unit and on [OPERABLE] commercial forest land, does not apply to annual allowable cut or sustained yield requirements under MSB 23.20.030 and 23.20.040.

Section 29. Amendment of Section. MSB 23.20.170 (D) is hereby amended as follows:

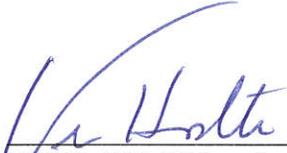
(D) Quantities for personal use timber resources shall be limited to:

(1) ten cords per year for firewood per household; and

(2) six hundred lineal feet for saw or house logs per household.

Section 3. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 20 day
of September, 2016.


VERN HALTER, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk
(SEAL)

PASSED UNANIMOUSLY: Sykes, Beck, McKee, Colligan, Mayfield, Doty,
and Kowalke