

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ENACTING MSB 02.80.020 LIBRARY MATERIALS.

AGENDA OF: February 3, 2026

ASSEMBLY ACTION: Removed from introduction at approval of agenda and no action taken. 02/03/26 - BJH

AGENDA ACTION REQUESTED: Introduce and set for public hearing.

Route To	Signatures
Originator	1/16/2026 X N S for Assym Bowles <small>Signed by: Nicholas Spiropoulos</small>
Department Director	1/19/2026 X Jillian Morrissey <small>Signed by: Jillian Morrissey</small>
Borough Attorney	1/19/2026 X Nicholas Spiropoulos <small>Signed by: Nicholas Spiropoulos</small>
Borough Manager	1/19/2026 X Michael Brown <small>Signed by: Mike Brown</small>
Borough Clerk	1/19/2026 X Lonnie Mckechnie <small>Signed by: Lonnie Mckechnie</small>

ATTACHMENT (S): Ordinance Serial No. 25-017 (3 pp)

SUMMARY STATEMENT: This ordinance is sponsored by Assemblymember Bowles.

For years, residents of the Matanuska-Susitna Borough have expressed their concerns over sexually explicit material in libraries operated by the borough.

This ordinance aims to address those concerns and put in place a standard for what material shall not be allowed in libraries operated by the borough. This ordinance is intended to achieve and further the following goals:

- **Parental Rights:** Parents have the right to control when and how their children are exposed to mature sexual content, and libraries should respect this role.
- **Child Protection:** Shielding children from sexually explicit material helps protect them from harm, similar to restricting other adult media like R-rated movies.

- **Community Standards:** Public libraries, funded by taxpayers, should align their collections with community standards, removing materials deemed inappropriate for general audiences, especially children.
- **Focus on Education:** Removing such books allows libraries to focus on educational and age-appropriate materials, rather than controversial or sexually explicit content.

The Borough Assembly is well aware of the claims to First Amendment rights to receive information and nothing in this ordinance impedes the right of private individuals to access and view materials of their choosing. Rather, this ordinance establishes a policy of what the Borough Assembly will allow taxpayer funds to be used for. This ordinance does not apply to private bookstores, does not apply to city libraries, and does not apply to school libraries.

The Matanuska-Susitna Borough provides many public services, but the provision of those services is not infinite and the Borough is empowered and authorized to establish limits and boundaries on the services it provides. Pools are not open 24 hours a day, not all trails are groomed, and at times the animal shelter turns animals away. Indeed, there are certain roads within road service areas where people pay road service area taxes and yet those roads are not maintained by the Matanuska-Susitna Borough. The Borough constantly sets policies on the provision of public services.

Just as with any public service, there is not an infinite amount of shelf space at libraries. Borough libraries already make judgments about what books to have and which not to have, which books to buy and which not to buy, and which books to keep and which books to remove. There is no statute in the State of Alaska and no ordinance within the Matanuska-Susitna Borough establishing any guidelines for these decisions.

As confirmed in MSB 2.12.005, the Borough Assembly formally establishes borough policy by ordinance or resolution. This ordinance sets a policy on library material and computer access at borough owned libraries. Decisions about what to shelve, what to allow on shelves, and what is in Borough libraries are always being made. However, when the Borough Assembly believes a policy needs to be set to address public concerns, it is the right and duty of the Assembly to set such policy.

The United States Supreme Court upheld public library internet restrictions in United States v. American Library Association, 539 U.S. 194 (2003). In the ALA case, a law was challenged that required recipients of federal funds to install internet filters to prevent access to child pornography, obscenity, or material comparably harmful to minors under 20 USC §§ 9134(f)(1)(A)(i) and (B)(i), and 47 USC §§ 254(h)(6)(B)(i) and (C)(i). The Court noted

that "A public library does not acquire Internet terminals in order to create a public forum for Web publishers to express themselves, any more than it collects books in order to provide a public forum for the authors of books to speak." The Court also looked to Congressional intent when it noted "the Internet is simply another method for making information available in a school or library. It is no more than a technological extension of the book stack." In a library, "the government has broad discretion to make content-based judgments in deciding what private speech to make available to the public." The ordinance here sets a minimum standard on what private speech will be made available at Matanuska-Susitna Borough libraries. Any argument otherwise ignores the ruling in ALA.

Moreover, any patron who claims their rights will be violated in the future because they want to compel the Matanuska-Susitna Borough into keeping or acquiring books that the Borough does not want is presenting a failing argument. Even assuming there is a fundamental right at issue, the Court in ALA found "[t]he legislature's decision to not subsidize a fundamental right does not infringe that right." Just as there is no right to force a pool to be open at certain hours, and no right to force a trail or road to be maintained, there is no right to force the government to have particular materials in borough libraries.

Rather, if Matanuska-Susitna Borough library patrons want materials like Hustler, Playboy, Penthouse, or other materials prohibited by this ordinance at the Borough libraries, their remedy is to vote out members of the Borough Assembly and vote in members who would change the policy being set in this ordinance.

In addition to the holding in United States v. American Library Association, the Borough Assembly is also aware of the *en banc* holding in Little v. Llano County issued on May 23, 2025. The US Supreme Court denied *certiorari* on December 8, 2025. The US Supreme Court knew the Llano case was different than some other cases on the issue and left the ruling in Llano undisturbed¹.

Just as the authorities did in Llano County TX, the Matanuska-Susitna Borough Assembly is likewise directing how the Matanuska-Susitna Borough chooses to spend public dollars for materials in public buildings which are staffed and maintained with public monies. If private individuals want to take it upon themselves to have materials available for themselves or others, they are free to do so, but not by using Borough resources or taxpayer-funded facilities.

¹ The opinion in Llano also held that "Pico is of no precedential value as to the application of the First Amendment to these issues."

As noted by the court in Llano:

Take a deep breath, everyone. No one is banning (or burning) books. If a disappointed patron can't find a book in the library, he can order it online, buy it from a bookstore, or borrow it from a friend. All [the Matanuska-Susitna Borough is doing] here is what libraries have been doing for two centuries: decide which books they want in their collections. That is what it means to be a library - to make judgments about which books are worth reading and which are not, which ideas belong on the shelves and which do not.

If you doubt that, next time you visit the library ask the librarian to direct you to the Holocaust Denial Section.

This ordinance prohibits materials without any 'grandfathering' or the like. This means that upon passage of this ordinance, it will require a retroactive review of all materials in the libraries of the Matanuska-Susitna Borough to ensure compliance with the standards being set here.

Because this ordinance prohibits materials that are obscene or harmful to minors from being made available in borough-operated libraries, this means that patrons will be unable to access those materials through inter-library loan. Accordingly, borough administration will have to determine whether libraries will need to withdraw from that service in order to ensure that the requirements of this ordinance are met, or whether there is a way to stay in the loan program while complying with the ordinance.

The ordinance here will also require the Borough Manager to set up internet filters at borough computers at borough libraries to the same standards as required under the federal Children's Internet Protection Act. Libraries across the country already comply with this Act as a condition of receiving federal funds. This Act has been upheld for 25 years so implementing its standards in borough-owned facilities will not be novel or unique. A claim that this ordinance will reduce the adult population to reading only what is fit for children mirrors part of the dissent in ALA. The Court dealt with that by noting "The Constitution does not guarantee the right to acquire information at a public library without any risk of embarrassment."

RECOMMENDATION OF ADMINISTRATION: Introduce and set for public hearing.