

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ADOPTING A SUBSECTION TO MSB 3.15.035 OPTIONAL EXEMPTIONS PROVIDING A TAX EXEMPTION FOR PROPERTY THAT CREATES ECONOMIC DEVELOPMENT WITHIN THE BOROUGH AND REPEALING TITLE 26. ECONOMIC DEVELOPMENT.

AGENDA OF: April 16, 2024

ASSEMBLY ACTION: Pulled from the agenda at approval of the agenda. Public Hearing not held 05/07/24 - BJH

AGENDA ACTION REQUESTED: Introduce and set for public hearing.

Route To	Signatures
Originator M. Brown	 Recoverable Signature X Michael Brown Signed by: Michael Brown 4 / 5 / 2 0 2 4
Finance Director	X Cheyenne Heindel Signed by: Cheyenne Heindel
Borough Attorney	 Recoverable Signature X John Aschenbrenner for N S Signed by: John Aschenbrenner
Borough Manager	 Recoverable Signature X Michael Brown Signed by: Michael Brown
Borough Clerk	 Recoverable Signature X Lonnie Mckechnie Signed by: Lonnie Mckechnie

ATTACHMENT (S): Ordinance Serial No. 24-049 (3 pp)
Attachment: Title 26 (proposed for repeal) (14 pp)

SUMMARY STATEMENT:

The intent of the ordinance is to both repeal the existing economic incentives contained in Title 26 (a copy of which is attached to this IM) and to add an areawide tax exemption for certain property that has been used in a manner creating economic development within the Borough.

In the past, the only existing Borough code provisions addressing economic development were codified under Title 26: Economic Development. However, Title 26 has not been utilized and/or applied since its adoption in 2002. State law permitting municipalities to partially or totally exempt all or some types of economic

development property from property taxes has been modified over the years. The administration intends to work on a more comprehensive set of criteria beyond municipal and State airports and bring that forward for Assembly consideration later this year. Currently, the City of Wasilla is working with a new lease development at the Wasilla airport, and a five-year exemption has been discussed, allowing time for the company to develop a new hangar and for the City to pursue its efforts to expand its runway.

The intent is to provide a tax exemption for developments that help the Borough economy by providing jobs and investment within the Borough. The new approach of using a tax exemption model is intended to spur meaningful economic development within the Borough.

RECOMMENDATION OF ADMINISTRATION: The Administration recommends approval of this legislation.

TITLE 26: ECONOMIC DEVELOPMENT

CHAPTER 26.05: GENERAL PROVISIONS

Section

26.05.010 Definitions

26.05.020 Authorization

26.05.030 Program administration

26.05.040 Incentives

26.05.050 Repayment

26.05.060 Pre-qualification standards

26.05.070 Application contents

26.05.080 Application review standards

26.05.090 Application review process

26.05.100 Discretionary act

26.05.110 Liability for taxes

26.05.120 Annual certification

26.05.130 Project assistance

26.05.140 Contract requirements

26.05.150 Non-areawide authority

26.05.160 Annual report

26.05.010 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- "Airport" means any locality, either land or water, which is used or designed for taking off and the landing of aircraft or for the location of runways, landing fields, aerodromes, hangars, buildings, structures, airport roadways, and other facilities.
- "Borough revenues" means income received from a variety of sources, including but not limited to, taxes, fees, land sales, leases and uses, which can be used to finance government or enterprise operations.
- "Borough services" means an activity carried on to provide people with the use of some government function.
- "Commercial project" means any project, including, but not limited to, one or more buildings and other structures, improvements, machinery, and equipment, whether or not on the same site or sites now existing or hereafter acquired, suitable for use by any retail or wholesale concern, distributorship, or agency, any cultural facilities of a for-profit or not-for-profit type, including, but not limited to, educational, theatrical, recreational and entertainment, sports facilities, stadiums, convention centers, exhibition halls, arenas, theaters, waterfront improvements, swimming pools, boat storage, moorage, docking facilities, restaurants, velodromes, coliseums, sports training facilities, parking facilities, terminals, hotels and motels, gymnasiums, medical facilities, and port facilities.
- "Costs incurred in connection with the development, construction, acquisition, or improvement of a project" means the following: the cost of purchase and construction of all lands and improvements in connection therewith and equipment and other property, rights, easements, and franchises acquired which are deemed necessary for such construction; financing charges; interest costs with respect to bonds, notes, and other evidences of indebtedness of the borough prior to and during construction and for a period of six months thereafter; platting and engineering expenses; the costs of plans, specifications, surveys, and estimates of costs and other expenses necessary or incident to determining the feasibility or practicability of any project, together with such other expenses as may be necessary or incident to the financing, insuring, acquisition, and construction of a specific project and the placing of the same in operation.
- "Economic development property/project" means any new or expanding business or real or personal property including developed property conveyed under 43 USC 1601-1609(e), subject to the taxation under MSB 3.15, that:

(a) is used in a trade or business in a way that:

(i) creates employment;

- (ii) generates sales outside of the borough of goods or services produced in the borough;
or
 - (iii) materially reduces the importation of goods or services from outside the borough; and
 - (iv) has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed.
- "Employment" means an actual full-time, year-round, or equivalent job which is directly related to the use of economic development property. Employment or jobs related to the construction of the economic development property are excluded.
 - "Finance director" means the director of finance as defined in MSB 2.28.
 - "Financial aid" means the expenditure of borough funds or funds provided by the borough through the issuance of its revenue bonds, notes, or other evidences of indebtedness for the development, construction, acquisition, or improvement of a project.
 - "Governmental agency" means any federal, state, or local governmental body, and any agency or instrumentality thereof, corporate or otherwise.
 - "Housing project" or "residential project" means a specific work or improvement undertaken to provide non-transient dwelling accommodations, including the acquisition, construction, or rehabilitation of lands, and ancillary buildings related to the dwelling.
 - "Industrial project" means
 - (a) a capital project, including one or more buildings and other structures, improvements, machinery, and equipment whether or not on the same site or sites now existing or hereafter acquired, suitable for use by any manufacturing, industrial, research, transportation, or commercial enterprise including, but not limited to, use as a factory, mill, processing plant, assembly plant, packaging plant, fabricating plant, office building, industrial distribution center, warehouse, repair, overhaul, or service facility, freight terminal, research facility, test facility, railroad facility, solid waste and wastewater treatment and disposal sites and other pollution control facilities, resource or waste reduction, recovery, treatment and disposal facilities, and including also the sites thereof and other rights in land therefor whether improved or unimproved, site preparation, and landscaping and all appurtenances and facilities incidental thereto such as utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot,

terminal, switching and signaling equipment or related equipment, and other improvements necessary or convenient thereto.

(b) any land, buildings, machinery, or equipment comprising an addition to or renovation, rehabilitation, or improvement of any existing capital project.

- "Industrial revenue bond" means a revenue bond issued for the purposes of financing site acquisition, site development, facility construction, machinery, equipment, and project financing costs where the principal and interest of which is payable solely from the revenues or income derived from the project or activity.
- "Infrastructure" means those basic capital improvements and facilities necessary for a functioning enterprise, such as roads, utilities, telecommunications, and water and sewer systems.
- "Lease agreement" means an agreement whereby a project acquired by the borough by purchase, gift, or lease is leased to any person or corporation which will use or cause the project to be used as a project as heretofore defined upon terms providing for lease rental payments at least sufficient to pay when due all principal of and interest and premium, if any, on any bonds, notes, or other evidences of indebtedness of the borough issued with respect to such project, providing for the maintenance, insurance, and operation of the project on terms satisfactory to the borough and providing for disposition of the project upon termination of the lease term, including purchase options or abandonment of the premises, with such other terms as may be deemed desirable by the borough.
- "Loan agreement" means any agreement pursuant to which the borough agrees to loan the proceeds of its bonds, notes, or other evidences of indebtedness issued with respect to a project, providing for maintenance, insurance, and operation of the project on terms satisfactory to the borough and providing for other matters as may be deemed advisable by the borough.
- "Manufacturing project" means an endeavor that results in the production, fabrication, composition, or molding of goods and articles.
- "Person" means any natural person, firm, partnership, corporation, both domestic and foreign, company, association, limited liability corporations, or joint stock association and includes any trustee, receiver, assignee, or personal representative thereof.
- "Port facilities" means all public structures, except terminal facilities as defined herein, that are in, over, under, or adjacent to any tidelands, shorelands, or submerged land and are necessary for or incident to the furtherance of watercommerce and includes the widening and deepening of slips, harbors, and tidelands, shorelands, and submerged lands.

- "Project" means an industrial, manufacturing, commercial, or service project, or any combination thereof provided that all uses shall fall within one of the categories described above. Any project, of any nature whatsoever, shall automatically include all site improvements and new construction involving sidewalks, sewers, solid waste and wastewater treatment, and disposal sites and other pollution control facilities, resource or waste reduction, recovery, treatment and disposal facilities, parks, open spaces, streets, highways, and runways.
- "Public/private partnership agreement" means an agreement executed between the borough and a person that describes the conditions and requirements that each party to the agreement will abide by in order to implement an economic development project and provide or receive new or expanding business incentives.
- "Qualified inventory" means personal property subject to taxation and consisting of goodsheld for sale and intended for export outside the borough.
- "Rehabilitation" means repair, replacement, construction, or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances, or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed rehabilitation.
- "Revenue bond" means any bond authorized and issued pursuant to AS 29.47.390 issued by the borough, the principal and interest of which is payable solely from revenues or income derived from the project or activity.
- "Service" means an activity carried on to provide people with the use of something, such as electrical power, water, transportation, telecommunications, and delivery.
- "Small business" means a person, corporation, partnership, or other entity that employs 25 or fewer people (based on full-time equivalent on an annual basis).
- "Tax increment financing (TIF)" means a method of financing public improvements, usually the redevelopment of urban areas. TIF combines elements of the special district (by singling out a particular geographic area for treatment different from other areas), special assessments (by charging property owners who benefit from a public improvement for its costs), and revenue bonds (by pledging the revenues produced by a public improvement to liquidate the debt incurred to finance its constructions.) TIFs are generally used to promote one target development in a particular geographic area.

- "Terminal" means a public place, station, or depot for receiving and delivering passengers, baggage, mail, freight, or express matter and any combination thereof in connection with the transportation of persons and property on water, land, or in the air.
- "Terminal facilities" means all land, buildings, ancillary structures, and improvements associated with the operation of public warehouse, storage, and transportation facilities for the accommodation of or in connection with commerce.
- "Wage" for the purposes of this section of the borough code means the wages paid for a position created by an economic development or employment creation activity.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.020 AUTHORIZATION.

The Matanuska-Susitna Borough may provide economic development incentives pursuant to the terms of this chapter for those particular economic development projects, which upon consideration and determination of the borough assembly meet the standards and criteria of this chapter.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.030 PROGRAM ADMINISTRATION.

The manager is authorized to administer the new and expanding business incentive program.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.040 INCENTIVES.

(A) The manager, after reviewing a completed application, may recommend options for those developments qualifying under the following incentive mechanisms, singly or packaged, by the terms of this chapter:

- (1) *Site development assistance.* Through approved funding sources, the assembly may choose to:
 - (a) pay part or all of the cost of the business' infrastructure expenses;
 - (b) pay part or all of the business' infrastructure expenses and then defer the reimbursement of these expenses for a maximum of three years; or
 - (c) pay part or all of the business' utility connection charges associated with new construction for the project.

(2) *Industrial revenue bond financing.* The assembly may issue industrial revenue bonds for the purpose of financing and providing funds for site acquisition, site construction, machinery, equipment, and financing costs for those projects that meet the criteria and requirements set forth in this chapter.

(3) *Tax increment financing.* The assembly may approve the use of tax increment financing for the purpose of financing and providing funds for site acquisition, site construction, machinery, equipment, and financing costs for those projects that meet the criteria and requirements set forth in this chapter.

(4) *Job training.* The assembly may reimburse for job training of borough residents for the first six months and direct the manager to work with the University of Alaska Anchorage, Mat-Su Campus, as well as other specified federal and state agencies, for the development of appropriate programs.

(5) *Fast track permitting.* The assembly may authorize the manager to expedite the application process for any required borough permit or land use requirement. However, public notice, public participation requirements, and public hearing requirements shall not be waived or expedited.

(6) *Sale or lease of borough land at less than fair market value.* The assembly may authorize the sale or lease of property owned by the borough at less than fair market value for those projects that meet the criteria and requirements set forth in this chapter and consistent with MSB 23.10.060; however, land within the Point MacKenzie port district shall not be sold pursuant to MSB 18.02.010.

(7) *Project financial assistance.* The assembly may agree to participate, in cooperation with other financing or lending institutions, in financing, lending, or guaranteeing a portion of a financial loan package to assist the development of a new or expanded business.

(8) *Deferral of property taxes.*

(a) The assembly may permit deferral of payment of taxes for up to five years on all or some types of economic development property that meet the eligibility requirements of this chapter and AS 29.45.050(m) upon submission of a written application prior to March 15 of the application year.

(b) Taxes deferred pursuant to this section will be repaid on an equal pro rata basis within the same number of years as the authorized deferment. No penalties or interest shall accrue

on deferred taxes as long as the deferred taxes are timely paid. Any deferred taxes not paid shall accrue penalties and interest back to the date of the original deferral.

(c) Deferred taxes shall be assessed in the year of deferral in accordance with MSB 3.15.190 and any appeal of an assessment of deferred taxes shall be filed in accordance with MSB 3.15.200 within 30 borough business days from the date the assessment notice was mailed.

(d) The deferral shall be effective until the ownership of the property for which a deferral has been granted is transferred or until the deferral period has ended. Upon transfer of title, all tax payments deferred under this subsection are immediately due and the deferral ends, or, if ownership of only part of the property is transferred, all tax payments attributable to that part are immediately due and the deferral attributable to that part ends. This section does not apply to a lease of all or part of the property. Only one property deferral may be granted to the same property or project.

(9) *Exemption of property taxes.*

(a) The assembly may grant a 50 percent exemption of property taxes during the first year of operation, a 25 percent exemption during the second year of operation, and a ten percent exemption during the third year of operation on all or some types of economic development property that meet the eligibility requirements of this chapter and AS 29.45.050(m) upon submission of a written application prior to March 15 of the application year. To qualify for a property exemption the applicant must create a minimum of 15 full-time employee positions as defined in MSB 26.05.060(A)(1) of this chapter as well as meet all other pre-qualification and application standards.

(b) Exempted taxes shall be assessed in the year of exemption in accordance with MSB 3.15.190 and any appeal of an assessment of exempted taxes shall be filed in accordance with MSB 3.15.200 within 30 borough business days from the date the assessment notice was mailed.

(c) The exemption shall be effective until the ownership of the property for which an exemption has been granted is transferred or until the exemption period has ended. Upon transfer of title, all tax payments exempted under this subsection are immediately due and the exemption ends, or, if ownership of only part of the property is transferred, all tax payments attributable to that part are immediately due and the exemption attributable to that

part ends. This section does not apply to a lease of all or part of the property. Only one property exemption may be granted to the same property or project.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.050 REPAYMENT.

(A) An applicant that receives an incentive under this chapter shall repay to the borough ten percent of the total approved incentive. Such repayment is due in total five years after assembly approval of the incentive.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.060 PRE-QUALIFICATION STANDARDS.

(A) In order to submit an application for business incentives described in this chapter, the applicant shall first submit a pre-qualification statement and meet all of the following pre-qualification standards in order to have an application considered:

- (1) the project described within the pre-qualification statement has not previously been taxed as real or personal property by the borough;
- (2) the property is used in a trade or business in a way that creates new employment in the borough;
- (3) the applicant has a state and borough business license at the date of application;
- (4) the applicant is not in arrears on any payment due to the borough;
- (5) the applicant is not debarred doing business with the borough or State of Alaska;
- (6) the applicant is current in the payment of all borough, state, and federal taxes;
- (7) the project is located wholly within the borough;
- (8) the project conforms with the non-area-wide provisions of the borough's economic development authority;
- (9) the project is nonresidential in character;
- (10) the project serves a public purpose by advancing economic prosperity and employment with consideration to the overall natural and economic environment of the borough;

- (11) the activity provides specific benefits to the borough including, but not limited to, increased ad valorem taxation, education, import substitution, economic diversification, and increased revenues for existing utilities;
- (12) the activity generates more in terms of borough revenues than it consumes in borough services;
- (13) the project provides gainful employment to the citizens of the borough;
- (14) the project does not require a conditional use permit per Title 17 of the borough code;
- (15) the project is economically and financially feasible and able to produce revenue adequate to repay the bonds or loans with which it is financed, if any; and
- (16) the project complies with all applicable borough, state, and federal laws and regulations.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.070 APPLICATION CONTENTS

Application for incentives authorized under this chapter shall be made in writing to the manager in accordance with the instruction and application package.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.080 APPLICATION REVIEW STANDARDS.

(A) An application for new and expanding business incentives shall be submitted in accordance with the business incentive instruction and application package. The following standards will be used in determining the eligibility of applications.

(1) Eligibility standards:

- (a) the project shall be wholly located within the borough;
- (b) the project shall conform with the borough's non-area-wide economic development power; and
- (c) the project must have been in operation wholly within the borough for five years prior to the submittal of the application for incentives and result in an expanded business and creation of at least five new full-time positions or its equivalent having an annual income per full-time employee that is at least the average wage rate for the Matanuska-Susitna Borough as determined by the State of Alaska, Department of Labor; or

(d) the project shall result in a new or expanded non-industrial or non-manufacturing facility that creates 15 new full-time employees or its equivalent having an average annual income per full-time position that is at least the average wage rate for the Matanuska-Susitna Borough as determined by the State of Alaska, Department of Labor; and 10,000 square feet of enclosed permanent structure for non-retail projects; or

(e) the project shall result in a new or expanded industrial or manufacturing facility that creates a minimum of ten new full-time employees or its equivalent having an average annual income per full-time position that is at least the average wage rate for the Matanuska-Susitna Borough as determined by the State of Alaska, Department of Labor; and 10,000 square feet of enclosed permanent structure.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.090 APPLICATION REVIEW PROCESS.

(A) Applications will be reviewed in the order in which they are received until the appropriated funds are exhausted.

(B) The borough assembly shall appropriate funds for the incentives authorized under this part of the borough code during the annual budget process or by special appropriation.

(C) Applications shall be submitted in writing to the manager for consideration. The manager will complete an assessment report within 120 borough business days of the submittal of a completed application. The assessment report will include: an economic analysis, cost-benefit analysis, or other acceptable fiscal or economic analyses to determine the costs and benefits of the application, a review of the need for the requested incentives, and appropriate permit and comprehensive plan compliance reviews in order to make a recommendation of the type of incentive or incentive package and the amount to be offered, if any.

(D) In addition, the finance director or a contractor of the borough shall verify and report on the eligibility for the completed application and shall submit it to the manager in writing. The finance director shall advise the manager as to the eligibility of the applicant within 120 borough business days after receiving the completed application. The finance director shall also prepare a fiscal note, to be submitted to the manager, that describes the fiscal impact of the request and the proposed incentives, if any.

(E) Within 30 borough business days of receipt of the finance director's or the contractor's eligibility report, the manager's recommendation will be presented to the assembly for consideration. If the completed application is recommended for approval by the manager, an ordinance with the completed

application, assessment report, eligibility report, fiscal note, and any other associated information shall be submitted by the manager to the assembly for consideration. If the application is denied by the manager the denial shall be made in writing stating the reasons for the denial.

(F) The assembly may set a public hearing on an application recommended for approval by the manager. The assembly may grant an incentive to the extent the project is determined to be qualified for incentives under this chapter.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.100 DISCRETIONARY ACT.

The grant or denial of an incentive by the assembly is a discretionary act, which will not give rise to any claim against the borough, its agents, officers, or elected officials.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.110 LIABILITY FOR TAXES.

(A) Real and personal property taxes for property exempted or deferred from tax under this chapter shall be due and payable in the same manner as nonexempt property taxes as billed by the borough, except:

(1) If the assembly approves the application for exemption or deferral or an annual certification is approved prior to the date that taxes are due, the amount of the exemption shall be credited against the real and personal property taxes.

(2) If the assembly approves the application for exemption or deferral or an annual certification is approved after the date the taxes are due and paid, the amount of the exemption or deferral shall be refunded to the person who paid the tax.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.120 ANNUAL CERTIFICATION.

(A) Annual compliance reports in accordance with report guidelines and requirements as prepared by the manager will be required for new and expanding businesses or economic development projects which receive an incentive award. These reports will be reviewed by the manager, and enforcement actions, if any, will be undertaken by the manager.

(B) The owner of economic development property or qualified inventory shall certify annually to the finance director that the employment and number of eligible jobs upon which approval was granted, if any, remain in existence and that the property remains eligible for the incentive grant pursuant to this

chapter. All books and records of the owner shall be subject to the inspection of the finance director for a period of three years after the last required annual certification is made. If the property is determined to be wholly or partially ineligible, the incentive shall terminate to the extent of the deficiency, whether in eligible jobs or other failed conditions, and all sums that would have been levied in that year shall be due and payable to the borough with interest, if any is due, as if such property has been subject to regular taxation. Deficiencies in number of eligible jobs shall be calculated on the basis of the exemption granted for each eligible job. Other deficiencies shall be calculated based on that portion of the tax year for which incentives were granted remaining at the time the deficiency arose.

(C) The finance director may, consistent with MSB 3.08, contract with an entity to receive and review applications for new and expanding business incentives and to verify annual certifications that the new or expanding business, economic development property, or qualified inventory remains eligible for the incentive grant pursuant to this chapter. If such a contract is entered into, the finance director shall be deemed to have received the application for the purposes of this section when the finance director receives it from the contractor.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.130 PROJECT ASSISTANCE.

The manager will assign borough staff to facilitate or expedite procedural assistance for approved new and expanding businesses.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.140 CONTRACT REQUIREMENTS.

Once an incentive package has been approved, the assembly will authorize the manager to draft an agreement, including but not limited to, the incentive or incentive package; specific performance criteria based on investment, employment, and public recourse for nonperformance; annual monitoring mechanisms; and the penalties, repayments, or recalibrations that will be used and enforced should the applicant fail to meet its requirements. Reparation will be capped at incentive amounts prorated over, and limited to, a five-year period.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.150 NON-AREAWIDE AUTHORITY.

The borough's economic development power is a non-areawide power under MSB 1.10.240. Incentives provided under this chapter may only be granted on a non-areawide basis.

(Ord. 02-103AM, § 3 (part), 2002)

26.05.160 ANNUAL REPORT.

The manager shall provide the assembly with a report describing the implementation of this section no less than on an annual basis.

(Ord. 02-103AM, § 3 (part), 2002)

The Matanuska-Susitna Borough Code is current through Ordinance 24-009, passed January 16, 2024.

Disclaimer: The borough clerk's office has the official version of the Matanuska-Susitna Borough Code. Users should contact the borough clerk's office for ordinances passed subsequent to the ordinance cited above.

Borough Website: <https://www.matsugov.us/>

Borough Telephone: (907) 861-7801

Code Publishing Company