

Presented by: The Manager
Presented: 11/21/2022
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2022-21(b)

An Ordinance Related to Property Tax Appeals and Codifying the Board of Equalization Rules of Procedure.

WHEREAS, Alaska law articulates standards for property taxation, including appeals to the board of equalization and to the superior court (A.S. 29.45.190-210), which were codified in 1985; and

WHEREAS, A.S. 29.45.200(b) provides the board of equalization is governed in its proceedings by rules adopted by ordinance that are consistent with general rules of administrative procedures; and

WHEREAS, A.S. 29.45.210(d) provides a property owner may appeal a board of equalization determination to the superior court, and that appeal is heard on the record established at the hearing before the board of equalization; and

WHEREAS, many of the property tax appeal provisions in the City and Borough of Juneau (CBJ) code predate the 1985 amendments to Alaska law, and this ordinance is intended to make the CBJ provisions consistent with state law and provide clarity for board of equalization proceedings.

THEREFORE BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJC 15.05.041 Challenges of tax status, is amended to read:

15.05.041 Challenges of tax status.

The owner of a property placed on the assessment roll may request the assessor remove such property from the roll if the owner believes the property is exempt. The assessor may require the owner to provide affidavits relating to the use of the property and other information relevant to the determination of tax status of the property. The procedure and period for challenging the tax status of a property shall be the same as for challenging the assessed value except that the appeal from the assessor's final decision shall be directly to superior court.

(Serial No. 79-48, § 6, 1979)

State law reference(s)—Corrections, AS 29.45.180; appeal, AS 29.45. 200.

Section 3. Amendment of Section. CBJC 15.05.140 Board of equalization to send additional notices, is repealed and reserved:

15.05.140 Reserved.

(CBJ Code 1970, § 15.05.140; Serial No. 70-33, § 3, 1971)

Section 4. Amendment of Section. CBJC 15.05.150 Appeal by person assessed, is repealed and replaced as follows:

15.05.150 Appeal to Board of Equalization.

(a) *Appellant.* A taxpayer whose name appears on the assessment roll or the agent or assigns of that taxpayer may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

(b) *30-day appeal period.* The taxpayer shall, within 30 days after the date of mailing of notice of assessment, submit to the assessor a written notice of appeal specifying grounds in the form that the board of equalization requires. Otherwise, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.

(c) *Late-filed appeal.* A taxpayer who seeks to appeal the assessor's valuation after the 30-day appeal period has closed shall file a letter and supporting documents, if any, with the assessor stating the reasons why the taxpayer was unable to comply within the 30-day appeal period. A panel of the board shall consider each letter but shall not consider evidence regarding property valuation. The board shall only consider reasons the taxpayer was unable to comply within the 30-day appeal period. The taxpayer shall have five minutes to make an oral presentation solely focused on the taxpayer's inability to comply within the 30-day appeal period. The board's determination shall be based on the taxpayer's letter and any supporting documents or oral presentation. If the request is granted, the taxpayer shall have 30 days from the board's decision to file a valuation appeal and submit all evidence required by this title. The assessor shall send notice of the of the board's decision to the taxpayer.

- (1) *Unable to comply.* The board shall interpret the term "unable to comply" as meaning that a taxpayer must demonstrate compelling reasons or circumstances that would have prevented a reasonable person under the circumstances from filing an appeal. The term "unable to comply" does not include situations in which the taxpayer forgot about or overlooked the assessment notice, was out of town during the 30-day appeal period for filing an appeal, or similar situations. Rather, it covers situations that are beyond the control of the taxpayer and, as a practical matter, prevent the taxpayer from recognizing what is at stake and dealing with it. Such situations would include a physical or mental disability serious enough to prevent the taxpayer from dealing rationally with the taxpayer's financial affairs.

(CBJ Code 1970, § 15.05.150; Serial No. 70-33, § 3, 1971)
State law reference(s)—Appeal, AS 29.45.190.

Section 5. Amendment of Section. CBJC 15.05.160 Time for appeal and service of notice, is repealed and reserved:

15.05.160 Reserved.

(CBJ Code 1970, § 15.05.160; Serial No. 70-33, § 3, 1971)

Section 6. Amendment of Section. CBJC 15.05.170 Appeal record, is repealed and reserved:

15.05.170 Reserved.

(CBJ Code 1970, § 15.05.170; Serial No. 70-33, § 3, 1971)

Section 7. Amendment of Section. CBJC 15.05.185 Board of equalization, is amended to read:

15.05.185 Board of equalization.

(a) *Membership; duties; term of office; term limits.*

- (1) *Membership.* The board of equalization shall comprise a pool of no fewer than five, and up to nine, members, not assembly members, appointed by the assembly. Quorum for the board when conducting non-quasi-judicial matters is five members. The board shall hear appeals in panels consisting of three members. The assignment of members to panels and the establishment of a hearing calendar shall be done in consultation with the individual members.
- (2) *Qualifications of members.* Members shall be appointed on the basis of their general business expertise and their knowledge or experience with quasi-judicial proceedings. General business expertise may include, but is not limited to, real and personal property appraisal, the real estate market, the personal property market, and other similar fields.
- (3) *Duties.* The board, acting in panels, shall only hear appeals for relief from an alleged error in valuation on properties brought before the board by an appeal filed by a taxpayer. A panel hearing a case must first make a determination that an error in valuation has occurred. Following the determination of an error in valuation, the panel may alter an assessment of property only if there is sufficient evidence of value in the record. Lacking sufficient evidence on the record, the case shall be remanded to the assessor for reconsideration.

- (4) *Term of office.* Terms of office shall be for three years and shall be staggered so that approximately one-third of the terms shall expire each year.
- (5) *Term limits.* No member of the board of equalization who has served for three consecutive terms or nine years shall again be eligible for appointment until one full year has intervened, provided, however, that this restriction shall not apply if there are no other qualified applicants at the time reappointment is considered by the assembly human resources committee.
- (6) *Compensation of members.* Compensation for members shall be \$100.00 per meeting. Board members may decline compensation by providing written notice to the municipal clerk.

(b) *Chair.* The board annually shall elect a member to serve as its chair. The chair shall coordinate all board activities with the municipal clerk including assignment of panel members, scheduling of meetings, and other such board activities.

(c) *Presiding officer.* Each panel shall appoint a presiding officer who shall act as the chair for the panel and who shall exercise such control over meetings as to ensure the fair and orderly resolution of appeals. The presiding officer shall make rulings on the admissibility of evidence and shall conduct the proceedings of the panel in conformity with this chapter and with other applicable federal, state and municipal law.

(d) *Report to the assembly.* The board, through its chair, shall submit an independent report to the assembly each year by September 15 identifying, at a minimum, the number of cases appealed, the number of cases scheduled to be heard by the board, the number of cases actually heard, the percentage of cases where an error of valuation was determined to exist, the number of cases remanded to the assessor for reconsideration, the number of cases resulting in the board altering a property assessment, and the net change to taxable property caused by board action. The report shall also include any comments and recommendations the board wishes to offer concerning changes to property assessment and appeals processes.

(Serial No. 2005-51(c)(am), § 4, 1-30-2006)
State law reference(s)—Appeal, AS 29.45.200.

Section 8. Amendment of Section. CBJC 15.05.190 Hearing of appeal, is repealed and replaced as follows:

15.05.190 Board of Equalization hearing of appeal.

(a) *Preparation of appeal packet.*

The appellant must submit to the assessor's office all documentary evidence and briefing in their possession that the appellant believes is relevant and wishes the board to consider within 15 days following the close of the 30-day appeal period. Upon receipt of the notice of appeal and the appellant's documentary evidence, the assessor shall make a record of the appeal for presentation

to the board of equalization. The record shall contain the notice of appeal, the appellant's timely filed documentary evidence and briefing, all the information shown on the assessment roll in respect to the subject matter of the appeal, and the assessor's briefing. The parties may supplement the record by a witness list and additional documents in accordance with subsection (c)(8) of this section up to ten days prior to the appeal hearing. The assessor shall place the complete record before the board of equalization at least seven days prior to the appeal hearing.

(b) *Quorum and voting.*

- (1) *Quorum.* A quorum for hearing appeals shall consist of three board members.
- (2) *Voting.* To alter an assessment or to grant an appeal in part or in whole for the appellant, at least two members of the board must vote in the affirmative to either (i) reverse and remand to the assessor for further consideration or (ii) alter the assessment. Any appeal or part thereof that is not granted by the board shall be deemed denied, and the assessor's original assessment giving rise to the appeal remains the final valuation determination. Any alteration to the assessment made by the assessor during a hearing shall require an affirmative vote by at least two members in order to become a final valuation determination.

(c) *Conduct of hearings; decisions.* Except as otherwise provided in this chapter, hearings shall be conducted by each panel of the board of equalization in accordance with the following rules:

- (1) *Application of CBJC 01.50.* The appeal procedures of chapter 01.50 do not apply to hearings conducted under this chapter except as specifically provided.
- (2) *Record.* The municipal clerk of the assembly is ex officio clerk of the board of equalization. The municipal clerk shall keep electronic recordings of the board's proceedings. The municipal clerk shall record in the minutes of each meeting or record of appeals all proceedings before the board of equalization, the names of persons protesting assessments, and all changes, revisions, corrections, and orders relating to claims or adjustments.
- (3) *Counsel.* All parties may be represented by counsel during hearings before the board.
- (4) *Commencement of hearing.* Every appeal shall be assigned an appeal case number, which should be read into the record along with the name of the appellant and the tax identification number at the commencement of the hearing. If an appellant fails to appear, the board of equalization may proceed with the hearing in the appellant's absence.
- (5) *Burden of proof.* The appellant bears the burden of proof. The only grounds for adjustment of an assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. If the valuation is found to be too low, the board may raise the

assessment. The board should sustain the original assessed value if the relevant documentary evidence or briefing is not timely submitted to the assessor's office within 15 days from the close of the 30-day appeal period absent a good faith attempt at compliance.

- (6) *Rules of evidence.* Evidence shall only be presented by the appellant and the assessor or their authorized representatives. The board shall not be restricted by the formal rules of evidence; however, the presiding officer may exclude evidence irrelevant to the issue(s) appealed. Relevant evidence includes but is not limited to purchase and closing documents, appraisal reports, broker opinions of value, engineer reports, estimates to repair, rent rolls, leases, and income and expense information. Hearsay evidence may be considered provided there are adequate guarantees of its trustworthiness and it is more probative on the point for which it is offered than any other evidence that the proponent can procure by reasonable efforts.
- (7) *Order of presentation.* Each party shall be allowed a total of fifteen minutes to present evidence including personal presentations and direct or cross-examinations. The appellant shall present evidence and argument first. Following the appellant, the assessor shall present evidence and argument. The appellant may reserve up to ten minutes for rebuttal directed solely to issues raised by the assessor. Upon finding good cause, the presiding officer may extend both the appellant's initial presentation and the assessor's presentation by equal amounts. At the conclusion of the parties' presentations, board members may ask questions, through the presiding officer, of either the appellant or the assessor. The presiding officer may end the questioning and call for a motion from the other board members.
- (8) *Witnesses, exhibits and other evidence.*
 - (i) The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing.
 - (ii) The appellant and assessor may agree to waive deadlines to supplement the record more than ten days prior to the appeal hearing. However, only the chair can authorize requests to supplement the record—upon motion to the municipal clerk by a party if the evidence being offered satisfies the criteria in CBJC 01.50.110(e)—filed within ten days preceding the appeal hearing.
 - (iii) The assessor shall make available to the appellant all reasonably relevant assessor records requested within 15 days following the close of the 30-day appeal period.
 - (iv) If an appellant has refused or failed to provide the assessor or assessor's agent full access to property or records, the appellant shall be precluded from offering evidence on the issue or issues affected by that access and those issues shall be decided in favor of the assessor.

(v) At the request of the appellant, evidence submitted pursuant to subsection (c)(6) or (c)(8) of this section relating to the assessed valuation of property used in an income-producing commercial enterprise shall be confidential. The assessor and the appellant may stipulate to facts to be presented to the board provided the assessor has received credible and reliable evidence to establish the facts.

(9) *Decisions.* At the conclusion of the hearing the board shall determine, based solely on the evidence submitted, whether the assessment is unequal, excessive, improper, or an under valuation. The board should issue findings of fact and conclusions of law clearly stating the grounds upon which the board relied to reach its decision and advising all parties of their right to appeal the decision to superior court.

(10) *Certification.* The presiding officer shall review and give final board certification to all appeal decisions.

(11) *Termination of appeal upon agreement between appellant and assessor.* After an appeal to the board of equalization has been filed, any value which has been agreed to by the assessor and the appellant shall constitute a withdrawal and termination of the appeal by the appellant and the agreed upon valuation shall become the assessed value.

(d) *Relaxation of requirements.* This section is designed to facilitate the business of the board and shall be construed to secure the reasonable, speedy, and inexpensive determination of every appeal. The procedural requirements of this section may, in the discretion of the presiding officer, be relaxed in any case in which a strict adherence to requirements will work injustice.

(CBJ Code 1970, § 15.05.190; Serial No. 70-33, § 3, 1971)

State law reference(s)— Board of Equalization, AS 29.45.210; Hearing, AS 29.45.210.

Section 9. Amendment of Section. CBJC 15.05.200 Judicial review, is amended to read as follows:

15.05.200 Judicial review.

An appellant or the assessor may appeal a determination of the board of equalization to the superior court within 30 days as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

(CBJ Code 1970, § 15.05.200; Serial No. 70-33, § 3, 1971)

State law reference(s)—Appeal to superior court, AS 29.45.210(d).

Section 10. Amendment of Section. CBJC 15.05.210 Municipal clerk record keeping certification of changes, is amended to read as follows:

15.05.210 Municipal clerk record keeping certification of changes.

Within three days following the final hearings of the board of equalization the municipal clerk shall certify to the assessor corrections, revisions, and changes authorized and approved by the board of equalization.

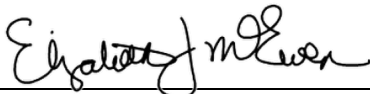
Section 11. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this 12th day of December, 2022.



Beth A. Weldon, Mayor

Attest:



Elizabeth J. McEwen, Municipal Clerk