

Presented by: The Manager
Presented: 11/21/2022
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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 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.

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.

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

4 **15.05.041 Challenges of tax status.**

5 The owner of a property placed on the assessment roll may request the assessor remove
6 such property from the roll if the owner believes the property is exempt. The assessor may
7 require the owner to provide affidavits relating to the use of the property and other information
8 relevant to the determination of tax status of the property. The procedure and period for
9 challenging the tax status of a property shall be the same as for challenging the assessed value
10 except that the appeal from the assessor's final decision shall be directly to superior court. ~~shall~~
11 ~~be to the assembly which shall hear such appeals immediately prior to sitting as a board of~~
12 ~~equalization.~~

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14 (Serial No. 79-48, § 6, 1979)

15 State law reference(s)—Corrections, AS 29.45.180; appeal, AS 29.45.200190.
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17 **Section 3. Amendment of Section.** CBJC 15.05.140 Board of equalization to send
18 additional notices, is repealed and reserved:

19 **15.05.140 Reserved. Board of equalization to send additional notices.**

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21 ~~If it appears to the board of equalization that there are overcharges or errors or invalidities~~
22 ~~in the assessment roll, or in any of the proceedings leading up to or after the preparation of the~~
23 ~~roll, and there is no appeal before the board of equalization, or if the name of a person is~~
24 ~~ordered by the board of equalization to be entered on the assessment roll, by way of addition or~~
25 ~~substitution, for the purpose of assessment, the board of equalization shall require the assessor~~
~~to mail notice of assessment to that person or that person's agent giving him or her at least 30~~

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2 days from the date of mailing within which to appeal to the board of equalization against the
3 assessment.

4 (CBJ Code 1970, § 15.05.140; Serial No. 70-33, § 3, 1971)
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6 **Section 4. Amendment of Section.** CBJC 15.05.150 Appeal by person assessed, is
7 repealed and replaced as follows:
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9 **15.05.150 Appeal to Board of Equalization ~~Appeal by person assessed.~~**

10 (a) *Appellant.* A taxpayer whose name appears on the assessment roll or the agent or assigns
11 of that taxpayer may appeal to the board of equalization for relief from an alleged error in
12 valuation not adjusted by the assessor to the taxpayer's satisfaction. A person who receives
13 notice or whose name appears on the assessment roll, or agent or assigns of that person, may
14 appeal to the board of equalization for relief from any alleged error in the valuation, overcharge,
15 or omission or neglect of the assessor not adjusted to the taxpayer's satisfaction.

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

20 (c) *Late-filed appeal.* A taxpayer who seeks to appeal the assessor's valuation after the 30-day
21 appeal period has closed shall file a letter and supporting documents, if any, with the assessor
22 stating the reasons why the taxpayer was unable to comply within the 30-day appeal period. A
23 panel of the board shall consider each letter but shall not consider evidence regarding property
24 valuation. The board shall only consider reasons the taxpayer was unable to comply within the
25 30-day appeal period. The taxpayer shall have five minutes to make an oral presentation solely

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2 focused on the taxpayer's inability to comply within the 30-day appeal period. The board's
3 determination shall be based on the taxpayer's letter and any supporting documents or oral
4 presentation. If the request is granted, the taxpayer shall have 30 days from the board's
5 decision to file a valuation appeal and submit all evidence required by this title. The assessor
6 shall send notice of the of the board's decision to the taxpayer.

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

18 (CBJ Code 1970, § 15.05.150; Serial No. 70-33, § 3, 1971)

19 State law reference(s)—Appeal, AS 29.45.190.

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

23 **15.05.160 Reserved. Time for appeal and service of notice.**

24 (a) ~~Notice of appeal, in writing, specifying the grounds for the appeal, shall be filed with the~~
25 ~~board of equalization within 30 days after notice of assessment is mailed to the person~~
~~appealing. If notice of appeal is not mailed within 30 days, the right of appeal ceases as to any~~

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2 ~~matter within the jurisdiction of the board, unless it is shown to the satisfaction of the board of~~
3 ~~equalization that the taxpayer was unable to appeal within that time.~~

4 ~~(b) A copy of the notice of appeal shall be sent to the assessor, by the person appealing, and~~
5 ~~the notice filed shall include a certificate that a copy was mailed or delivered to him or her.~~

6 (CBJ Code 1970, § 15.05.160; Serial No. 70-33, § 3, 1971)
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9 **Section 6. Amendment of Section.** CBJC 15.05.170 Appeal record, is repealed and
10 reserved:

11 **15.05.170 Reserved. Appeal record.**

12 ~~Upon receipt of a copy of the notice of appeal, the assessor shall make a record of the appeal in~~
13 ~~such form as the board of equalization may direct. The record shall contain all the information~~
14 ~~shown on the assessment roll in respect to the subject matter of the appeal, and the assessor~~
15 ~~shall place the record before the board of equalization prior to the time for hearing the appeal.~~

16 (CBJ Code 1970, § 15.05.170; Serial No. 70-33, § 3, 1971)
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18 **Section 7. Amendment of Section.** CBJC 15.05.185 Board of equalization, is
19 amended to read:

20 **15.05.185 Board of equalization.**

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

- 22 (1) *Membership.* The board of equalization shall comprise a pool of no fewer less than
23 five ~~six~~, and up to nine, members, not assembly members, appointed by the
24 assembly. Quorum for the board when conducting non-quasi-judicial matters is five
25 members. ~~There shall be up to three panels established each year. Each panel~~
~~hearing appeals shall consist of three members. The board chair shall assign~~

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2 ~~members to a specific panel and schedule the panels for a calendar of hearing dates.~~

3 The board shall hear appeals in panels consisting of three members. The

4 assignment of members to panels and the establishment of a hearing calendar shall

5 be done in consultation with the individual members. ~~Additionally, members may~~

6 ~~be asked to take the place of regular assigned panel members in the event an~~

7 ~~assigned panel member is unable to attend a scheduled meeting.~~

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9 (2) *Qualifications of members.* Members shall be appointed on the basis of their general
10 business expertise and their knowledge or experience with quasi-judicial
11 proceedings. General business expertise may include, but is not limited to, real and
12 personal property appraisal, the real estate market, the personal property market,
13 and other similar fields.

- 14 (3) *Duties.* The board, acting in panels, shall only hear appeals for relief from an
15 alleged error in valuation on properties brought before the board by an appeal filed
16 by a taxpayer. A panel hearing a case must first make a determination that an
17 error in valuation has occurred. Following the determination of an error in
18 valuation, the panel may alter an assessment of property only if there is sufficient
19 evidence of value in the record. Lacking sufficient evidence on the record, the case
20 shall be remanded to the assessor for reconsideration. ~~A hearing by the board may~~
21 ~~be conducted only pursuant to an appeal filed by the owner of the property as to the~~
22 ~~particular property.~~

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24 (4) *Term of office.* Terms of office shall be for three years and shall be staggered so that
25 approximately one-third of the terms shall expire each year.

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2 (5) *Term limits.* No member of the board of equalization who has served for three
3 consecutive terms or nine years shall again be eligible for appointment until one
4 full year has intervened, provided, however, that this restriction shall not apply if
5 there are no other qualified applicants at the time reappointment is considered by
6 the assembly human resources committee.

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8 (6) Compensation of members. Compensation for members shall be \$100.00 per
9 meeting. Board members may decline compensation by providing written notice to
10 the municipal clerk.

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

14 (c) *Presiding officer.* Each panel shall ~~elect~~ appoint its own a presiding officer who shall ~~to~~ act
15 as the chair for the panel and who shall exercise such control over meetings as to ensure the
16 fair and orderly resolution of appeals. ~~In the absence of the elected presiding officer the panel~~
17 ~~shall appoint a temporary presiding officer at the beginning of a regular meeting.~~ The presiding
18 officer shall make rulings on the admissibility of evidence and shall conduct the proceedings of
19 the panel in conformity with this chapter and with other applicable federal, state and municipal
20 law.
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22 (d) *Report to the assembly.* The board, through its chair, shall submit an independent report to
23 the assembly each year by September 15 identifying, at a minimum, the number of cases
24 appealed, the number of cases scheduled to be heard by the board, the number of cases actually
25 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 ~~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.

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

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

14 (1) *Application of CBJC 01.50.* The appeal procedures of chapter 01.50 do not apply to
15 hearings conducted under this chapter except as specifically provided.

16 (2) *Record.* The municipal clerk of the assembly is ex officio clerk of the board of
17 equalization. The municipal clerk shall keep electronic recordings of the board's
18 proceedings. The municipal clerk shall record in the minutes of each meeting or
19 record of appeals all proceedings before the board of equalization, the names of
20 persons protesting assessments, and all changes, revisions, corrections, and orders
21 relating to claims or adjustments.

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23 (3) *Counsel.* All parties may be represented by counsel during hearings before the
24 board.

25 (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

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2 tax identification number at the commencement of the hearing. If an appellant fails
3 to appear, the board of equalization may proceed with the hearing in the appellant's
4 absence.

5 (5) Burden of proof. The appellant bears the burden of proof. The only grounds for
6 adjustment of an assessment are proof of unequal, excessive, improper, or under
7 valuation based on facts that are stated in a valid written appeal or proven at the
8 appeal hearing. If the valuation is found to be too low, the board may raise the
9 assessment. The board should sustain the original assessed value if the relevant
10 documentary evidence or briefing is not timely submitted to the assessor's office
11 within 15 days from the close of the 30-day appeal period absent a good faith
12 attempt at compliance.

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14 (6) Rules of evidence. Evidence shall only be presented by the appellant and the
15 assessor or their authorized representatives. The board shall not be restricted by
16 the formal rules of evidence; however, the presiding officer may exclude evidence
17 irrelevant to the issue(s) appealed. Relevant evidence includes but is not limited to
18 purchase and closing documents, appraisal reports, broker opinions of value,
19 engineer reports, estimates to repair, rent rolls, leases, and income and expense
20 information. Hearsay evidence may be considered provided there are adequate
21 guarantees of its trustworthiness and it is more probative on the point for which it
22 is offered than any other evidence that the proponent can procure by reasonable
23 efforts.

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25 (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.

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2 The appellant shall present evidence and argument first. Following the appellant,
3 the assessor shall present evidence and argument. The appellant may reserve up to
4 ten minutes for rebuttal directed solely to issues raised by the assessor. Upon
5 finding good cause, the presiding officer may extend both the appellant's initial
6 presentation and the assessor's presentation by equal amounts. At the conclusion of
7 the parties' presentations, board members may ask questions, through the
8 presiding officer, of either the appellant or the assessor. The presiding officer may
9 end the questioning and call for a motion from the other board members.
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11 (8) *Witnesses, exhibits and other evidence.*

- 12 (i) The appellant and the assessor may offer oral testimony of witnesses and
13 documentary evidence during the hearing.
14 (ii) The appellant and assessor may agree to waive deadlines to supplement the
15 record more than ten days prior to the appeal hearing. However, only the
16 chair can authorize requests to supplement the record—upon motion to the
17 municipal clerk by a party if the evidence being offered satisfies the criteria
18 in CBJC 01.50.110(e)—filed within ten days preceding the appeal hearing.
19 (iii) The assessor shall make available to the appellant all reasonably relevant
20 assessor records requested within 15 days following the close of the 30-day
21 appeal period.
22 (iv) If an appellant has refused or failed to provide the assessor or assessor's
23 agent full access to property or records, the appellant shall be precluded
24 from offering evidence on the issue or issues affected by that access and
25 those issues shall be decided in favor of the assessor.

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

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

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

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

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

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2 ~~(a) At the hearing of the appeal, the board of equalization shall hear the appellant, the~~
3 ~~assessor, other parties to the appeal, and witnesses, and consider the testimony and evidence,~~
4 ~~and shall determine the matters in question on the merits.~~

5 ~~(b) If a party to whom notice was mailed as provided in this title fails to appear, the board of~~
6 ~~equalization may proceed with the hearing in the party's absence.~~

7 ~~(c) The burden of proof in all cases is upon the party appealing.~~

8 ~~(d) The board of equalization shall maintain a record of appeals brought before it, enter its~~
9 ~~decisions therein and certify to them. The minutes of the board of equalization shall be the~~
10 ~~record of appeals unless the board of equalization shall provide for a separate record.~~

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

13 State law reference(s)— Board of Equalization, AS 29.45.210; Hearing, AS 29.45.210.
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15 **Section 9. Amendment of Section.** CBJC 15.05.200 Judicial review, is amended to
16 read as follows:

17 **15.05.200 Judicial review.**

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

22 ~~A person aggrieved by an order of the board of equalization may appeal to the superior~~
23 ~~court for review de novo after exhausting administrative remedy under this title.~~

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25 (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).

