

Presented by: The Manager
Presented:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2022-21 vCOW

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;

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;

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;

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 is amended to read:

3 **15.05.041 Challenges of tax status.**

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

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13 (Serial No. 79-48, § 6, 1979)

14 State law reference(s)—Corrections, AS 29.45.180; appeal, AS 29.45.200190.
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16 **Section 3. Amendment of Section.** CBJC 15.05.140 is repealed and reserved:

17 **15.05.140 Reserved. Board of equalization to send additional notices.**

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

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

Section 4. Amendment of Section. CBJC 15.05.150 is repealed and replaced as follows:

15.05.150 Appeal to Board of Equalization ~~Appeal by person assessed.~~

(a) *Appellant.* A person whose name appears on the assessment roll or the agent or assigns of that person 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. ~~A person who receives notice or whose name appears on the assessment roll, or agent or assigns of that person, may appeal to the board of equalization for relief from any alleged error in the valuation, overcharge, or omission or neglect of the assessor not adjusted 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 board's determination shall be based on the letter and supporting

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2 documents. A taxpayer may not make an oral presentation at this hearing. If the request is
3 granted, the taxpayer shall have 30 days from the board's decision to file a valuation appeal and
4 submit all evidence required by this title. The assessor shall send notice of the of the board's
5 decision to the taxpayer.

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

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

17 State law reference(s)—Appeal, AS 29.45.190.
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20 **Section 5. Amendment of Section.** CBJC 15.05.160 is repealed and reserved:

21 **15.05.160 Reserved. ~~Time for appeal and service of notice.~~**

22 (a) ~~Notice of appeal, in writing, specifying the grounds for the appeal, shall be filed with the~~
23 ~~board of equalization within 30 days after notice of assessment is mailed to the person~~
24 ~~appealing. If notice of appeal is not mailed within 30 days, the right of appeal ceases as to~~
25 ~~any matter within the jurisdiction of the board, unless it is shown to the satisfaction of the~~
~~board of equalization that the taxpayer was unable to appeal within that time.~~

~~(b) A copy of the notice of appeal shall be sent to the assessor, by the person appealing, and the notice filed shall include a certificate that a copy was mailed or delivered to him or her.~~
(CBJ Code 1970, § 15.05.160; Serial No. 70-33, § 3, 1971)

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

15.05.170 Reserved ~~Appeal record.~~

~~Upon receipt of a copy of the notice of appeal, the assessor shall make a record of the appeal in such form as the board of equalization may direct. The record shall contain all the information shown on the assessment roll in respect to the subject matter of the appeal, and the assessor shall place the record before the board of equalization prior to the time for hearing the appeal.~~
(CBJ Code 1970, § 15.05.170; Serial No. 70-33, § 3, 1971)

Section 7. Amendment of Section. CBJC 15.05.185 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 less than six, and up to nine, members, not assembly members, appointed by the assembly. ~~There shall be up to three panels established each year. Each panel hearing appeals shall consist of three members. The board chair shall assign members to a specific panel and schedule the panels for a calendar of hearing dates. 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. ~~Additionally, members may be asked to take the place of regular assigned~~

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2 ~~panel members in the event an assigned panel member is unable to attend a scheduled~~
3 ~~meeting.~~

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

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

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

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

25 (6) *Compensation of members.* Compensation for members shall be \$100.00 per meeting.

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- 2 (b) *Chair*. The board annually shall elect a member to serve as its chair. The chair shall
- 3 coordinate all board activities with the municipal clerk ~~assessor~~ including assignment of
- 4 panel members, scheduling of meetings, and other such board activities.
- 5 (c) *Presiding officer*. Each panel shall elect its own presiding officer to act as the chair for the
- 6 panel and shall exercise such control over meetings as to ensure the fair and orderly
- 7 resolution of appeals. In the absence of the elected presiding officer the panel shall appoint a
- 8 temporary presiding officer at the beginning of a regular meeting. The presiding officer shall
- 9 make rulings on the admissibility of evidence and shall conduct the proceedings of the panel
- 10 in conformity with this chapter and with other applicable federal, state and municipal law.
- 11
- 12 (d) *Report to the assembly*. The board, through its chair, shall submit an independent report to
- 13 the assembly each year by September 15 identifying, at a minimum, the number of cases
- 14 appealed, the number of cases scheduled to be heard by the board, the number of cases
- 15 actually heard, the percentage of cases where an error of valuation was determined to exist,
- 16 the number of cases remanded to the assessor for reconsideration, the number of cases
- 17 resulting in the board altering a property assessment, and the net change to taxable property
- 18 caused by board action. The report shall also include any comments and recommendations
- 19 the board wishes to offer concerning changes to property assessment and appeals processes.
- 20

21 (Serial No. 2005-51(c)(am), § 4, 1-30-2006)

22 State law reference(s)—Appeal, AS 29.45.200.

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24 **Section 8. Amendment of Section.** CBJC 15.05.190 is repealed and replaced as

25 follows:

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2 **15.05.190 Board of Equalization hearing ~~Hearing~~ of appeal.**

3 (a) Preparation of appeal packet.

4 The taxpayer must submit to the assessor's office all documentary evidence and briefing in their
5 possession that the taxpayer believes is relevant and wishes the board to consider within 15
6 days following the close of the 30-day appeal period. Upon receipt of the notice of appeal and the
7 taxpayer's documentary evidence, the assessor shall make a record of the appeal for
8 presentation to the board of equalization. The record shall contain the notice of appeal, the
9 taxpayer's timely filed documentary evidence and briefing, all the information shown on the
10 assessment roll in respect to the subject matter of the appeal, and the assessor's briefing. The
11 parties may supplement the record by a witness list and additional documents in accordance
12 with subsection (c)(7) of this section up to ten days prior to the appeal hearing. The assessor
13 shall place the complete record before the board of equalization at least seven days prior to the
14 appeal hearing.

15
16 (b) Quorum and voting.

17 (1) Quorum. A quorum for hearing appeals shall consist of three board members.

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19 (2) Voting. To alter an assessment or to grant an appeal in part or in whole for the taxpayer,
20 at least two members of the board must vote in the affirmative to either (i) reverse and
21 remand to the Assessor for further consideration or (ii) alter the assessment. Any appeal
22 or part thereof that is not granted by the board shall be considered denied, and the
23 Assessor's original assessment giving rise to the appeal remains the final valuation
24 determination unless the Assessor altered the assessment during the hearing, which
25 becomes the final valuation determination.

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

5 (1) Application of CB-JC 01.50. The appeal procedures of chapter 01.50 do not apply to
6 hearings conducted under this chapter except as specifically provided.

7
8 (2) Record. The municipal clerk of the assembly is ex officio clerk of the board of equalization.
9 The municipal clerk shall keep electronic recordings of the board's proceedings. The
10 municipal clerk shall record in the minutes of each meeting or record of appeals all
11 proceedings before the board of equalization, the names of persons protesting
12 assessments, and all changes, revisions, corrections, and orders relating to claims or
13 adjustments.

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

15 (4) Commencement of hearing. Every appeal shall be assigned an appeal case number, which
16 should be read into the record along with the name of the taxpayer (appellant) and the
17 tax identification number at the commencement of the hearing. If a taxpayer fails to
18 appear, the board of equalization may proceed with the hearing in the taxpayer's
19 absence.

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21 (5) Burden of proof. The taxpayer bears the burden of proof. The only grounds for adjustment
22 of an assessment are proof of unequal, excessive, improper, or under valuation based on
23 facts that are stated in a valid written appeal or proven at the appeal hearing. If the
24 valuation is found to be too low, the board may raise the assessment. The board should
25 sustain the original assessed value if the relevant documentary evidence or briefing is

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2 not timely submitted to the assessor's office within 15 days from the close of the 30-day
3 appeal period absent a good faith attempt at compliance.

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

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14 (7) Order of presentation. Each party shall be allowed a total of fifteen minutes to present
15 evidence including personal presentations and direct =or cross-examinations) The
16 taxpayer shall present evidence and argument first. Following the taxpayer, the assessor
17 shall present evidence and argument. The taxpayer may reserve up to ten minutes for
18 rebuttal directed solely to issues raised by the assessor. Board members may ask
19 questions, through the presiding officer, of either the taxpayer or the assessor at any
20 time during the hearing. The presiding officer may end the questioning and call for a
21 motion from the other board members.

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23 (8) Witnesses, exhibits and other evidence.

24 (i) The taxpayer and the assessor may offer oral testimony of witnesses and documentary
25 evidence during the hearing.

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2 (ii) The taxpayer and assessor may agree to waive deadlines to supplement the record
3 more than ten days prior to the appeal hearing. However, only the presiding officer of the
4 upcoming panel can authorize requests to supplement the record—upon motion to the
5 municipal clerk by a party if the evidence being offered satisfies the criteria in CBJC
6 01.50.110(e)—filed within ten days preceding the appeal hearing.

7
8 (iii) The assessor shall make available to the taxpayer all reasonably relevant assessor
9 records requested within 15 days following the close of the 30-day appeal period.

10 (iv) If a taxpayer has refused or failed to provide the assessor or assessor's agent full access
11 to property or records, the taxpayer shall be precluded from offering evidence on the issue
12 or issues affected by that access and those issues shall be decided in favor of the assessor.

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

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

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

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2 (11) Termination of appeal upon agreement between taxpayer and assessor. After an appeal to
3 the board of equalization has been filed, any value which has been agreed to by the
4 assessor and the taxpayer shall constitute a withdrawal and termination of the appeal
5 by the taxpayer and the agreed upon valuation shall become the assessed value.
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8 ~~(a) At the hearing of the appeal, the board of equalization shall hear the appellant, the~~
9 ~~assessor, other parties to the appeal, and witnesses, and consider the testimony and~~
10 ~~evidence, and shall determine the matters in question on the merits.~~

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

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

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

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

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

23 **15.05.200 Judicial review.**

24 A taxpayer or the assessor may appeal a determination of the board of equalization to the
25 superior court within 30 days as provided by rules of court applicable to appeals from the

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2 decisions of administrative agencies. Appeals are heard on the record established at the hearing
3 before the board of equalization.

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

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

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

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9 **Section 10. Amendment of Section.** CBJC 15.05.210 is amended to read as
10 follows:

11 **15.05.210 Municipal clerk record keeping certification of changes.**

12 ~~The municipal clerk of the assembly is ex officio clerk of the board of equalization. The~~
13 ~~municipal clerk shall record in the minutes of each meeting or record of appeals all proceedings~~
14 ~~before the board of equalization, the names of persons protesting assessments, and all changes,~~
15 ~~revisions, corrections, and order relating to claims or adjustments.~~ Within three days following
16 the final hearings of the board of equalization the municipal clerk shall certify to the assessor
17 corrections, revisions, and changes authorized and approved by the board of equalization.
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21 **Section 11. Effective Date.** This ordinance shall be effective 30 days after its
22 adoption.

23 Adopted this _____ day of _____, 2022.

24
25 _____
Beth A. Weldon, Mayor

Attest:

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Elizabeth J. McEwen, Municipal Clerk