

CODE ORDINANCE

Sponsored by: Assemblymembers Sumner
Bowles and Gamble
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 26-024**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING 3.15.225 BOARD OF EQUALIZATION; HEARING, RELATED TO LIMITING THE BOARD'S AUTHORITY TO RAISE ASSESSMENTS AND MAKING FINDINGS.

WHEREAS the intent and rationale of this ordinance are found in the accompanying Information Memorandum No. 26-035.

BE IT ENACTED:

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

Section 2. Amendment of section. MSB 3.15.225 is hereby amended to read as follows:

MSB 3.15.225 BOARD OF EQUALIZATION; HEARING.

(A) *Preparation of appeal packet*. The borough assessor shall furnish the board of equalization or a panel thereof, and the applicant, with copies of the appellant's appeal and a summary of assessment data relating to the appeal. Such material shall be considered as part of the official testimony the board may hear. The assessor or his representative may supplement the record by additional testimony, documentation and exhibits in accordance with subsection (E) of this section.

(B) *Hearing panel, quorum and voting*.

(1) *Hearing.* A hearing will be conducted before a panel of not more than five members.

(2) *Quorum.* A quorum for hearing appeals shall consist of three members.

(3) *Voting.* The board may not act except upon a concurrence of a majority of the members present. Any appeal or part thereof which is not granted by the panel shall be considered denied.

(C) *Failure of appellant to appear.* If an appellant fails to appear in person, the board of equalization may proceed with the hearing.

(D) *Oath to be administered.* Anyone testifying before the board shall be administered an oath prior to giving testimony.

(E) *Conduct of hearings; decisions.* Except as otherwise provided in this chapter, hearings shall be conducted in accordance with the following rules:

(1) *Record.* The board of equalization clerk shall keep electronic recordings of the board's proceedings. The board of equalization clerk shall prepare written certification at the end of all board proceedings showing the vote of each member on every question and such certification shall be signed by the chair of the board.

(2) *Counsel.* All parties may be represented by counsel during hearings before the board. On procedural matters a borough attorney may offer legal counsel to the board in the course of its

proceedings. Upon the recommendation of the borough attorney, the board may retain legal counsel from another attorney for a particular matter.

(3) *Case number.* Every appeal shall be assigned a case number, which shall be read into the record along with the name of the appellant and the tax identification number, at the commencement of the hearing on that appeal.

(4) *Burden of proof.* The burden of proof rests with the appellant. The only grounds for adjustment of an assessment are unequal, excessive, improper or under valuation based on the facts stated in a valid written appeal or proven at the appeal hearing in accordance with subsections (E) (5) and (E) (7) of this section.

[IF THE VALUATION IS FOUND TO BE TOO LOW, THE BOARD MAY RAISE THE ASSESSMENT.] **The board of equalization may not raise the assessment**

in the current year unless requested to do so by the appellant.

If the appellant provides a long form fee appraisal to support the

appellant's valuation and the board of equalization does not find

in favor of the appellant, the board shall make specific findings

on the record to support its decision. The borough shall make

available to the appellant all reasonably pertinent documents requested for presentation of the appeal, including, but not limited to, documents presented or requested by the board of equalization for presentation of the appeal.

(5) *Rules of evidence.* Evidence shall only be presented by

the appellant and the assessor or their authorized representative. The board shall not be restricted by the formal rules of evidence; however, the presiding chair may exclude evidence irrelevant to the issues appealed. Hearsay evidence may be considered; provided, that there are adequate guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts. The appellant must submit to the assessor's office within 15 days after the close of appeal period, or within ten calendar days after notification of a board-approved late-file request, all documentary evidence in their possession which they wish to be considered and which is relevant to the resolution of the appeal. This evidence includes but is not limited to purchase and closing documents, appraisal reports, broker's opinion of value, engineers' reports, estimates to repair, rent rolls, leases, and income and expense information. The board of equalization may in its discretion decline to accept documents offered at the hearing which should have been provided within 15 days from the close of the appeal period or within ten calendar days after notification of a board-approved late-file request. In exercising this discretion, the board shall consider the relevance and probative value of the documents which are under consideration accepting those documents which in all fairness are necessary to a fair resolution of the appeal. Prior to the board meeting, the appellant

and assessor may agree to an extension of time for the production of evidence.

(6) *Order of presentation.* The appellant shall present evidence and argument first. Following the appellant, the assessor or his representative shall present the borough's evidence and argument. Each party shall be allowed a total of five minutes to present evidence and make oral argument unless additional time is permitted by the presiding chair. The appellant may make a rebuttal presentation, not to exceed two minutes, directed solely to the issues raised by the assessor. The members of the board may ask questions, through the presiding chair, of either the appellant or the assessor at any time during the hearing. After both the appellant and the assessor have made their presentations, each may question the other through the presiding chair. The presiding chair may end the questioning and call for a motion from the other members.

(7) *Witnesses, exhibits and other evidence.* The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing.

(a) At the request of the appellant, evidence submitted pursuant to subsection (E)(5) 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 facts to be presented to the board,

provided the assessor has received credible and reliable evidence to establish the facts.

(8) *Decisions.* At the conclusion of the hearing, the panel shall determine, based solely on the evidence submitted, whether the assessment is unequal, excessive, improper or undervalued. The board or a panel thereof shall render a decision which includes findings of fact and conclusions of law clearly stating the grounds upon which the panel relied to reach its decision and advising all parties of their right to appeal the decision to superior court.

(9) *Certification.* The chair shall certify and issue the written decision of the panel regarding an appeal to the assessor within seven days of its issuance. The board shall notify the appellant in writing of its decision regarding each individual case within seven days.

(10) *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.

(11) *Additional rules and procedures.* Other procedures and rules of operation may be adopted by the board of equalization which are consistent with general rules of administrative procedure.

(F) *Appeal to superior court.* The decision of the board may be appealed to the superior court within 30 calendar days in accordance with the Alaska State Rules of Appellate Procedure.

Section 3. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2026.

EDNA DeVRIES, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)