

CITY OF VALDEZ, ALASKA

ORDINANCE NO. 25-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AMENDING CHAPTER 3.12 ENTITLED PROPERTY TAXES

WHEREAS, the City desires to amend Chapter 3.12 as provided herein to define the scope of appeals properly heard by the Board of Equalization.

WHEREAS, the City desires that the Board of Equalization hear appeals regarding both valuation and taxability.

WHEREAS, an appeal to the Board of Equalization shall be a prerequisite to any appeal to the superior court.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA THAT, the following:

Section 1. The City of Valdez hereby amends Section 3.12.110 as follows:

3.12.110 Appeals to board of equalization.

A. 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.

B. The appellant shall, within thirty days after the date of mailing of the notice of assessment, submit to the assessor a written appeal using the appeal form available at the city clerk's office specifying: (1) the name of the property owner; (2) a legal description of the property; (3) grounds for appeal; (4) supporting evidence; and (5) the appellant's opinion of value. For purposes of this section, the appeal is submitted on the date it is received in the office of the city clerk. If an appeal is not properly submitted to the city clerk's office within thirty days after the mailing of the notice of assessment, the right of appeal ceases unless the board of equalization finds that the taxpayer was unable to comply.

1. Before the initial board of equalization hearing, a taxpayer who seeks to appeal the assessor's valuation after the thirty-day appeal period has closed shall file a letter and supporting documents, if any, with the city clerk stating the reasons why the taxpayer was unable to comply within the thirty-day appeal period. 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 thirty-

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 thirty-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 seven days from the board's decision to file a valuation appeal and submit all evidence required by this title. The city clerk shall send notice of the board's decision to the taxpayer.

2. 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 thirty-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.

C. The grounds for appeal are unequal, excessive, improper or undervaluation of the property not adjusted by the assessor to the property owner's satisfaction or that the property is not taxable. The potential validity or invalidity of asserted errors in assessment shall have no bearing on the determination of whether the taxpayer was unable to timely file an appeal.

D. If the party making the appeal is an assign of the record owner, documentation of the assignment must bear a stamp reflecting the recording district and the book and page number or serial number of the recorded assignment. If the party making the appeal is an agent of the property owner, the property owner's signature granting the authority must be notarized and attached to the appeal form.

E. After the time for filing valuation appeals has expired and after consultation with the assessor, and at the direction of the chair of the board of equalization, the city clerk shall schedule appeals to be heard by the board of equalization beginning on the dates identified in the notice of assessment. The city clerk on behalf of the assessor shall notify each appellant by mail of the time and place of hearing at least fifteen days before the hearing.

F. The board of equalization is given the discretion to determine whether to grant a request for a continuance. A hearing shall be scheduled for all appeals timely filed by submitting a completed appeal form.

G. Upon receipt of a timely filed and completed appeal form, the assessor shall make a record of the same in such form as the city council may direct. The assessor shall prepare for use by the board of equalization a summary of assessment data relating to each assessment that is appealed.

H. If the assessor and the appellant mutually resolve a duly filed appeal prior to a hearing by the board of equalization, the appellant may withdraw that appeal. The appellant's withdrawal must be filed in writing with the assessor or stated under oath at a board of equalization hearing prior to the assessor closing the appeal.

I. The city may appeal an assessment to the board of equalization in the same manner as a taxpayer. Within five days after receipt of an appeal by the city, the assessor shall notify the person whose property assessment is being appealed. The property owner may appear and participate in an appeal of an assessment by the city. (Ord. 23-01 § 1)

Section 2. The City of Valdez hereby amends Section 3.12.120 as follows:

3.12.120 Board of equalization—Composition and procedure.

A. The city council sits as the board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three people, who shall be members of the city council, city residents, or a combination of city council members and residents. Qualifications for membership shall be established by ordinance.

B. The board may alter an assessment of a property only pursuant to an appeal filed as to the particular property.

C. All appeals must be heard and decided before June 1st, unless the board finds a hearing after this date will not prejudice the appellant and the delay is administratively justified. The board must also find that the proposed hearing date will enable the assessor to substantially comply with the requirements that the assessment roll be certified by June 1st. The meetings of the board may be scheduled either on weekends, during business hours, or during evening hours. In no event may an appeal hearing begin after midnight and the board shall adjourn no later than one a.m. If an appeal hearing is continued, the chair shall schedule a date and time for continuance of the appeal hearing.

D. A quorum of the board must be present for the board of equalization to convene and take action. No actions shall be taken by the board except by concurrence of at least four members.

E. The chair shall preside over the board hearing. In the absence of the chair, the vice-chair shall preside. If both are absent, the members present shall select a person to preside. The city clerk shall attend the hearings to record the proceedings, record votes, administer the oaths to witnesses, and prepare the decision forms. The city attorney or designee shall attend the hearing to advise the board.

F. The chair shall open the board session by calling the board to order, reading a summary of procedures for the board, and by calling each appellant's name and asking if the appellant or representative is present. The chair shall bring each appeal before the board in the order scheduled by the city clerk.

G. Hearing.

1. An appeal before the board of equalization shall be conducted in accordance with the procedures adopted by the board, in addition to the following rules:

a. Order of Appeals—Failure of Appellant to Appeal. Appeals shall be heard in the order scheduled by the city clerk. If an appellant is not present at the time scheduled, the appeal will be deferred and the next scheduled appellant heard. When the board has heard the appeals of all scheduled appellants who have appeared at the hearing, it shall take up the appeals of absent appellants. If any appellant remains absent after deferral of the hearing, the board may proceed with the hearing upon whatever material has been previously filed by such absent appellant.

b. Oath to Be Administered. Anyone testifying before the board shall be administered an oath prior to giving testimony.

c. Record. The city clerk shall be ex officio clerk of the board and shall keep verbatim stenographic records or electronic recordings of the board's proceedings, showing the vote of each member on every question and all the evidence presented.

d. Counsel. All parties may be represented by counsel during hearings before the board. The city attorney may offer legal counsel to the board in the course of its proceedings.

e. 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 or that the property is not taxable based on the facts that are stated in a valid written appeal or provided at the appeal hearing. If the valuation is found to be too low, the board of equalization may raise the assessment. The city shall make available to the appellant all reasonably pertinent documents requested for presentation of the appeal.

f. Rules of Evidence. The hearing of an ordinary routine appeal shall be conducted informally. The board shall not be restricted by the formal rules of evidence; however, the chair may exclude evidence irrelevant to the issues appealed. Hearsay evidence may be considered, provided 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.

g. Ordinary Routine Appeal. In a hearing for an ordinary routine appeal, each side shall have a total of no more than thirty minutes to present their case. Each side shall be responsible for dividing their thirty minutes between oral presentation, argument, testimony (including witness testimony), and rebuttal. The board may expand or limit the length of the hearing depending on its complexity or take other action to expedite the proceedings.

h. Complex Appeal. In the event of a complex appeal, the chair may elevate the appeal to include a more formal hearing. If an appeal is determined by the chair to be complex, then the appeal process will follow complex appeal procedures adopted by the board.

i. Order of Presentation. The appellant shall present argument first. Following the appellant, the assessor shall present the city's argument. The appellant may, at the discretion of the chair, make rebuttal presentations directed solely to the issues raised by the assessor. The members of the board may ask questions through the chair of either the appellant or the assessor at any time during the hearing.

j. Witnesses and Exhibits. The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing. All testimony before the board shall be under oath.

k. Board Decisions. Upon presentation of all evidence and testimony, the board may conclude the hearing and render a decision on the appeal. The board may adjust a valuation upwards or downwards. Decisions shall be in the form of motions, with specific findings of fact therefor, and the vote shall be taken by "yes" and "no," which shall be permanently entered on the record of the proceedings. A majority vote in the affirmative adopts any motion.

l. Certification. The board of equalization shall certify its actions to the assessor within seven days. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1st.

m. Additional Rules and Procedures. Other procedures and rules of operation may be adopted by the board of equalization.

n. Appeal of Board Decision. The appellant or the assessor may appeal a decision of the board to the superior court within thirty calendar days in accordance with the Alaska Rules of Appellate Procedure. (Ord. 23-01 § 1)

Section 3. The City of Valdez hereby amends Section 3.12.140 as follows:

3.12.140 Appeals to superior court.

An appellant or the assessor may appeal a determination of the board of equalization to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agents. Appeals are heard on the record established at the hearing before the board of equalization. An appeal to the Board of Equalization is required prior to any appeal to the superior court. ~~Notwithstanding other provisions in this chapter, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court.~~ (Ord. 23-01 § 1)

Section 4. This ordinance shall become effective immediately upon final approval and adoption by the Valdez City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ,
ALASKA, this _____ day of _____, 2025.

CITY OF VALDEZ, ALASKA

Austin Love, Mayor Pro-Tempore

ATTEST:

Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

Jake Staser, City Attorney
Brena, Bell, & Walker, P.C.

Adoption:
Yeas:
Noes:
Absent:
Abstaining: