

## WELCOME TO THE BOARD OF EQUALIZATION

The Board of Equalization is established to hear appeals from the public concerning alleged valuation errors not adjusted by the Assessor to the Property Owner's satisfaction. The Board may adjust an assessment only upon proof by a preponderance of the evidence at the appeal hearing of an unequal, excessive, improper or under valuation.

In the conduct of its hearings, the Board shall follow the procedures outlined in FNSBC 4.04 and 4.28, provided, however, that failure to adhere strictly to these procedures shall not affect the validity of the Board's action.

The Board is comprised of five members with two alternates who are appointed on the basis of their expertise in property appraisals, real estate market, construction, farming, and other fields. The granting of any appeal or part thereof shall require the concurring vote of at least three Board members. Any appeal or part thereof which is not granted by the Board shall be considered denied.

When hearing appeals the Board sits as a Quasi-Judicial Body, and as such, must avoid any off the record conversations with the appellants or assessing staff. Please do not think that the members of the Board are rude or unsociable, but to guarantee everyone a fair hearing, the Board is prohibited from engaging in any off the record discussions.

### **RULES THAT APPLY IN THE CONDUCT OF HEARINGS AND DECISIONS OF THE BOARD**

1. All persons giving evidence shall do so under oath. The Clerk shall swear in the person(s) providing testimony.
2. Formal rules of evidence do not apply; however, all evidence must be relevant to the matter being heard.
3. **The appellant bears the burden of proof.** The only grounds for adjustment of assessment are proof by preponderance of the evidence of unequal, excessive, improper, or under valuation, or for farm use assessment and deferments, that the Assessor's valuation or classification to the land is erroneous, based on facts that are stated in a valid, written appeal or proven at the hearing before the Board of Equalization.
4. If a valuation is found to be too low, the Board of Equalization may raise the assessment. If the Board finds the valuation too high, the Board may lower the assessment.
5. Following the Board's deliberations, its decision shall be announced in public session in the form of a motion and a roll call vote shall be recorded.
6. A written decision shall follow the oral motion and shall contain specific findings of fact and conclusions.

The Borough Clerk or her designee shall be the ex officio clerk of the Board of Equalization, shall make a recording of all proceedings before the Board, shall mail a copy of the decision of the Board to the appellant at the address on the appellant's appeal form, and shall record the date of mailing in the record. The Board of Equalization shall certify its actions to the Assessor not more than seven days after the last appeal is heard. Except as to supplementary assessments, the Assessor shall enter the changes and certify the final assessment roll by June 1.

### **TELEPHONIC TESTIMONY & TESTIMONY BY AFFIDAVIT**

Under certain circumstances, the Board may permit telephonic testimony (upon request for good cause) or testimony by affidavit (subject to the opposing party's right of cross-examination). Telephonic testimony and testimony by affidavit applications have firm deadlines. Should you wish to utilize this option please contact the Clerk's office at (907) 459-1401 for further details and specific deadlines.

## BOARD OF EQUALIZATION PROCEDURAL RULES

1. The Chair of the Board of Equalization shall call the meeting to order, determine a quorum is present, exercise control over meetings to insure the fair and orderly resolution of appeals, and conduct the proceedings of the Board in accordance with Chapter 4.04 and 4.28 of the Fairbanks North Star Borough Code of Ordinances.
2. The Hearing shall proceed in the following manner:
  - a. Appeals are heard in the order that the Assessor schedules them; unless an appellant is not present then the next appeal will be heard.
  - b. Prior to hearing an appeal, the Board will determine whether any member has a conflict of interest or is required to make a disclosure statement.
  - c. The Board will determine whether the procedural rules and staff report were available to the Appellant at least five working days prior to the hearing, and whether the parties have exchanged all documentary evidence intended to be submitted to the Board. Documents that were not previously copied and exchanged with the other party will be admitted, over objection of the other party, only if there is a good faith reason for its failure to be included. If the late-admission creates any prejudice to the opposing party the Chair shall provide the opposing party additional time or take other allowable measures to address any resulting prejudice.
  - d. After being called by the Chair, the appellant shall present the appeal. The appellant may be represented by counsel, an agent or other representative, and may call witnesses and submit exhibits. The appellant's presentation must contain evidence which, if not contradicted, would prove an unequal, excessive, improper or under valuation, or, if for a farm use assessment and deferment, that the Assessor's valuation or classification of land is erroneous. All documents and information used to support the appeal must be submitted to the Clerk and placed officially into the record. The presentation is limited to 15 minutes unless the Chair allows for an extension of time. Time limits shall be applied evenly to all parties.
  - e. At the conclusion of the appellant's presentation, the Chair and members of the Board, may question the appellant. Then the Assessor and the assessor's representative may question the appellant. Questions are intended to inform and clarify and shall not be argumentative.
  - f. The Assessor and the assessor's representative may then make a presentation and shall answer questions of the Chair, members of the Board, and the appellant. The presentation is limited to 15 minutes unless the Chair allows for an extension of time. Time limits shall be applied evenly to all parties.
  - g. At the conclusion of the Assessor's presentation, the appellant shall have an opportunity to rebut the Assessor's presentation, except that new evidence shall not be presented.
  - h. If an appellant has refused or failed to provide the Assessor or the 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 that issue or issues shall be decided in favor of the assessor.
  - i. When the appellant and the Assessor have completed their presentations, the Chair shall close the hearing and no further evidence or argument shall be considered. The Chair will ask for a motion. The Board shall then deliberate and may do so in executive session. The Board may then decide the appeal or it may defer decision until a time no later than one day following the last day scheduled for hearing appeals. The Board shall issue its findings and conclusions in written form.
  - j. When the Board has heard the appeals of all appellants at the hearing, it shall take up the appeals of absent appellants. The appeals of absent appellants shall be considered on the date scheduled, upon material previously filed. If the material does not prove an unequal, excessive, improper or under valuation, the Board shall find in favor of the assessor.

## **AFTER THE DECISION IS MADE BY THE BOARD OF EQUALIZATION WHAT CAN BE DONE?**

An appellant or the Assessor may appeal a determination of the Board of Equalization to the Superior Court not later than thirty (30) days from the date that the order appealed from is mailed or delivered to the appellant, and as provided by the rules of court applicable to appeals from the decisions of administrative agencies. Appeals to the Superior Court are heard on the record established at the hearing before the Board of Equalization.

#### **4.04.150 Procedure.**

A. Notwithstanding any language to the contrary, all boards and commissions shall follow, as a minimum, the procedural rules set forth in this section. A board or commission may adopt other rules but those rules may not conflict with this section. In all matters of procedure not covered by this or other code sections or rules adopted by the board or commission, Robert's Rules of Order, as revised, shall be applicable and shall govern.

1. Boards and commissions conducting quasi-judicial hearings shall adopt rules permitting participation by teleconference (e.g., telephone, videoconferencing, or similar technology) by a party or witness upon request for good cause and in the absence of substantial prejudice to opposing parties. Adopted rules may limit the number of individuals testifying by teleconference due to technological or other valid considerations; however, if an individual's participation is denied because of these limits, the rules shall permit other reasonably available alternatives such as setting an additional or alternate date for the testimony.
2. Boards and commissions conducting quasi-judicial hearings shall also adopt rules permitting parties to submit their testimony by affidavit subject to the opposing parties' right of cross-examination that the chair determines to be reasonably necessary to explore any matters which tend to contradict, modify or explain the testimony.
3. Boards and commissions conducting quasi-judicial hearings shall establish rules providing for a determination concerning an individual's status as a party sufficiently in advance of the hearing to allow the person to timely request participation by teleconference or submit testimony by other allowable means. If an individual qualifies as an interested person, the individual may provide testimony but the chair may otherwise limit participation at the hearing unless the person possesses a significant property interest that is not adequately represented by existing parties.
4. Formal rules of evidence do not apply to quasi-judicial hearings; however, the chair may exclude irrelevant, immaterial or unduly repetitious evidence.
5. A person may provide citizen comments and/or testify on public hearing items by teleconference; provided, that reasonable technical capabilities are available at the meeting location to allow participation by teleconference. To participate by teleconference, the person shall sign up to testify in the manner prescribed by the Clerk by 4:30 p.m. on the day of the meeting. If the person is not available at time of citizen comments or testimony for the item, the chair will take comments from the next person on the sign-up sheet. A person participating by teleconference must be able to hear and engage in discussion and be audible to all persons participating in the meeting.

B. All de novo quasi-judicial hearings by a board or commission involving an appeal from an administrative determination shall be conducted according to the following procedures:

1. Copies of all procedural rules and any written staff report must be available at least five working days prior to the hearing and at the hearing. At least five working days prior to the hearing, the parties shall exchange copies of all documents intended to be submitted to the board or commission. Staff shall also ensure that the relevant public files are available for inspection and copying by the parties.
2. At the beginning of the hearing, the chair shall give a brief introduction regarding the matter and inquire as to whether any member needs to make any disclosures required by the code of ethics or disclose any ex parte communications regarding the matter at issue. All parties must at this time express their objections, if any, to a member participating in the hearing.
3. Testimony must be taken under oath or affirmation. A group oath or affirmation, including all parties, may be given prior to taking any testimony. Relevant testimony and evidence may be submitted at the hearing. To the extent time limits are imposed, those time limits shall not include time spent responding to questions and shall be evenly applied to all parties.
4. All parties shall, unless their participation is limited by the chair as authorized in this chapter, have the right to present evidence including testimony and exhibits and the right of cross-examination of witnesses to the extent the chair determines to be reasonably necessary to explore any matters which tend to contradict, modify, or explain testimony given on direct. The party bearing the burden of proof shall have the right to first provide testimony and present all relevant witnesses and evidence and shall have the right to rebuttal.
5. If a party seeks to introduce a document not previously copied and exchanged with the other party and the other party objects, the document shall be admitted only if the board finds a good faith reason for its failure to be

included in the documentary exchange. A “good faith reason” includes, but is not limited to, the portion of an animal behavior log for the days occurring after the required documentary exchange. If the late admission creates any prejudice to the opposing party, the chair shall provide the opposing party additional time or take other allowable measures to address any resulting prejudice.

C. All de novo quasi-judicial hearings by a board or commission not involving an appeal from an administrative determination shall be conducted according to the following procedures:

1. Copies of all procedural rules and any written staff report must be available at least five working days prior to the hearing and at the hearing. Staff shall also ensure that the relevant public files are available for inspection and copying by the parties. If additional documents or information is submitted to staff after the report is written, those documents and information shall become part of the public file. If documents or information is added to the public file after the staff report is written, staff shall notify the parties who have previously inspected the file as soon as reasonably practicable and provide a copy to the parties if requested. Documents or information added to the file in compliance with this section may be provided to the board or commission.

2. At the beginning of the hearing, the chair shall give a brief introduction regarding the matter and inquire as to whether any member needs to make any disclosures required by the code of ethics or disclose any ex parte communications regarding the matter at issue. All parties must at this time express their objections, if any, to a member participating in the hearing.

3. Testimony must be taken under oath or affirmation. A group oath or affirmation, including all parties, may be given prior to taking any testimony. Relevant testimony and evidence may be submitted at the hearing. To the extent time limits are imposed, those time limits shall not include time spent responding to questions and shall be evenly applied to staff and the applicant. Time limits for interested persons shall be set by the chair.

4. *Staff Report.* Staff may provide a report on any technical or other issues within their expertise and may make recommendations to the board or commission. Questions of staff by the decision-making body and by the applicant, if present, should be asked at this point.

5. *Applicant.* The applicant or the applicant’s representative, if present, may present testimony and evidence to support the application. To the extent the applicant wishes to present expert witnesses, they should testify at this point. Questions of the applicant by the decision-making body or staff should be asked at this point. The applicant shall be provided a minimum of 10 minutes which may be extended by the chair dependent upon the complexity of the issue. In addition, if the staff report opposes the application in whole or in part, the applicant’s time shall be extended if necessary to ensure the applicant receives time equivalent to that provided to staff.

6. All parties shall, unless their participation is limited by the chair as authorized in this chapter, have the right to present evidence including testimony and exhibits and the right of cross-examination of witnesses to the extent the chair determines to be reasonably necessary to explore any matters which tend to contradict, modify, or explain testimony given on direct.

7. *Rebuttal.* The applicant shall be provided a minimum of five additional minutes to respond to any testimony presented by interested persons. This time may be extended by the chair in consideration of lengthy or complex testimony. In addition, to the extent the decision-making body decides, after testimony, to ask any further questions, the applicant shall be given a reasonable time to respond.

D. All legislative hearings by a board or commission shall be conducted according to the following procedures:

1. *Sponsor Report.* If present, the sponsor(s) of the proposed legislation or the sponsor’s designee(s) shall first be afforded an opportunity to provide a report on the proposed legislation. The sponsor may choose to present before or after the staff report. If time limits are applied, the sponsor and staff shall receive equivalent time. Questions of the sponsor by the decision-making body concerning the proposed legislation should be asked at this point so that the members of the public wishing to comment can be reasonably informed.

2. *Staff Report.* Staff may then provide a report on any technical or other issues within their expertise. Questions of staff by the sponsor(s) or the decision-making body concerning the proposed legislation should be asked at this point so that the members of the public wishing to comment can be reasonably informed.

3. *Public Comment.* Members of the public may comment on legislative issues. Time limits may be placed on individual comments. If time limits are placed, they should be applied in an equal manner to all individuals providing public comment. Comments may be limited to the hearing subject.

4. *Sponsor Response.* The sponsor(s) or designee(s) shall be afforded a reasonable opportunity to respond to any questions, issues or concerns raised during the staff report or public comment.

E. If a hearing involves both a legislative issue and a quasi-judicial matter, the quasi-judicial procedures shall apply except that if the matter is scheduled for a public hearing, the public may comment on the legislative issue. Time limits may be placed on individual comments (excluding applicant and staff presentation). If time limits are placed, they should be applied in an equal manner to all individuals providing public comment. Comments should be limited to those relevant to the hearing subject.

F. *Definitions.*

1. "Applicant" means any person or entity whose specific legal rights are being adjudicated in the quasi-judicial hearing.

2. "Staff" means Borough employees who as part of their job responsibilities are tasked with providing the board or commission with technical or other relevant information or those individuals from whom the board has specifically sought, after notice to the applicant, their input or advice.

3. "Sponsor" means the Mayor, Assembly member, chairperson of committee draft, or a member of the public whose authorized application created the proposed legislation. If the authorized application involves multiple owners or multiple properties, "sponsor" only includes one owner representative for each property.

4. "Party" means the applicant, any appellant(s) and staff. It also includes "interested persons" or "persons aggrieved" to the extent their participation is expressly permitted by Borough code in a quasi-judicial matter. It does not include members of the public testifying under public comment.

#### **4.28.010 Establishment.**

In accordance with AS 29.45, there is established the board of equalization. The board shall be composed of five regular board members and two alternate board members appointed by the assembly. The alternate board members shall be designated by the board chairman, as need arises, to serve in the absence or disability of regular members.

#### **4.28.020 Appointment and terms.**

Regular board members and alternate members shall be appointed on the basis of their expertise in property appraisals, real estate market, construction, farming, and other fields related to their functions as members of the board of equalization. Regular board members and alternate board members shall serve for three years or until their successors are appointed and qualified. Terms shall be staggered so that approximately one-third of the terms expire each year.

#### **4.28.030 Quorum.**

A quorum of the board shall consist of five members. No hearing may be held or decision made in the absence of a quorum, except that a member disqualified by law from voting on a question may be considered present for purposes of constituting a quorum.

#### **4.28.040 Voting.**

The granting of any appeal or part thereof shall require the concurring vote of at least three board members. Any appeal or part thereof which is not granted by the board shall be considered denied.

#### **4.28.050 Duties.**

The board shall hear appeals brought to it and shall determine equalization thereon. The board may alter an assessment of a property only pursuant to an appeal filed as to the particular property. The board shall not hear appeals that do not relate to assessed valuation unless specifically required to do so by law. The board may adjust an assessment only upon proof by a preponderance of the evidence at the appeal hearing of an unequal, excessive, improper or under valuation.

#### **4.28.060 Procedures.**

In the conduct of its hearings, the board shall follow the procedures outlined in this chapter or as set forth in code or state statute; provided, however, that failure to adhere strictly to this procedure shall not affect the validity of the board's action.

A. The presiding officer shall call the board to order at the time set for the first meeting and shall direct an explanation of board procedures, duties, etc. The presiding officer shall then conduct elections at which the board shall elect a chair and deputy chair. It is then the duty of the chair to call meetings of the board, determine that a quorum is present, arrange to keep a record of the actions of the board, exercise control over meetings so as to ensure the fair and orderly resolution of appeals, make rulings on the admissibility of evidence, and conduct the proceedings of the board in conformity with this chapter.

B. The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing.

C. The hearing shall proceed in the following manner:

1. Appeals shall be heard in the order scheduled by the assessor. If an appellant is not present at the time scheduled, the next appellant will be heard.

2. After being called by the chair, the appellant shall present the appeal. The appellant may be represented by counsel, an agent or other representative, and may call witnesses and submit exhibits. The appellant's presentation must contain evidence which, if not contradicted, would prove an unequal, excessive, improper or under valuation.

3. At the conclusion of the appellant's presentation, the chair, members of the board and the assessor and the assessor's representative may question the appellant. Questions are intended to inform and clarify and shall not be argumentative.

4. The assessor and the assessor's representative may then make a presentation and shall answer questions of the chair, members of the board and appellant.

5. At the conclusion of the assessor's presentation, the appellant shall have an opportunity to rebut the assessor's presentation, except that new evidence shall not be presented.

6. If an appellant has refused or failed to provide the assessor or the 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 that issue or issues shall be decided in favor of the assessor.

7. When the appellant and the assessor have completed their presentations, the chair shall close the hearing and no further evidence or argument shall be considered. The board shall then deliberate and may do so in executive session. The board may then decide the appeal or it may defer decision until a time no later than one day following the last day scheduled for hearing appeals. The board shall issue its findings and conclusions in written form.

8. When the board has heard the appeals of all appellants who have appeared at the hearing, it shall take up the appeals of absent appellants. The appeals of absent appellants shall be considered on the date scheduled, upon material previously filed. If the material does not prove an unequal, excessive, improper or under valuation, the appeal shall be dismissed. This ends the appeal.

9. An appellant or the assessor may appeal a determination of the board of equalization to the superior court not later than 30 days from the date that the order appealed from is mailed or delivered to the appellant, and as provided by the rules of court applicable to appeals from the decisions of administrative agencies. Appeals to the superior court are heard on the record established at the hearing before the board of equalization.

#### **4.28.070 Rules.**

The following rules apply in the conduct of hearings and decisions of the board:

A. All persons giving evidence shall do so under oath. The borough clerk or a notary public shall administer the oath.

B. Formal rules of evidence do not apply; however, all evidence must be relevant to the matter being heard.

C. The chair may limit the time of the hearing and otherwise expedite the proceedings; provided, however, that the appellant and assessor shall have full opportunity to present all relevant, nonrepetitive evidence desired, and shall have reasonable time for comment thereon.

D. The appellant bears the burden of proof. The only grounds for adjustment of assessment are proof by preponderance of the evidence 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 a valuation is found to be too low, the board of equalization may raise the assessment. If the board finds the valuation too high, the board may lower the assessment.

E. Following the board's deliberations, its decision shall be announced in public session in the form of a motion, and a roll call vote shall be recorded. If no motion is made, the appeal fails and assessor's assessment is upheld. A written decision shall follow the oral motion within the time prescribed in this title and shall contain specific findings of fact and conclusions.

#### **4.28.080 Hearing date establishment.**

Prior to the time for mailing assessment notices the assembly shall, by resolution, establish the dates of board of equalization hearings which shall commence not earlier than April 1st nor later than May 15th of the assessment year and shall continue until all appeals have been heard. Hearings for assessments listed on a supplemental roll shall be scheduled as necessary by the borough clerk upon request by the assessor.

#### **4.28.090 Recording and certifying proceedings.**

The borough clerk shall be ex officio clerk of the board of equalization, shall make a record of all proceedings before the board, shall mail a copy of the decision of the board to the appellant at the address on the appellant's appeal form, and shall record the date of mailing in the record. The board of equalization shall certify its actions to the assessor not more than seven days after the last appeal is heard. Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1st. The board of equalization shall certify its actions with respect to a supplementary assessment within seven days after the hearing on each supplemental assessment appeal.

---

<sup>1</sup> For statutory provisions outlining the procedure for appeal to the board of equalization, see AS 29.45; for provisions establishing the board of equalization, see AS 29.45; for provisions relating to the board hearings, see AS 29.45.