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**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2024-12**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH AMENDING
KODIAK ISLAND BOROUGH CODE TITLE 3 REVENUE AND FINANCE, CHAPTER 3.35
REAL PROPERTY TAX, SECTION 3.35.050 BOARD OF EQUALIZATION**

WHEREAS, Kodiak Island Borough Code 3.35.050(E)(4), regarding the burden of proof for appeals to the Board of Equalization, currently requires appellants to prove their case to a clear and convincing evidence standard, which standard requires evidence showing that the facts asserted are highly probable; and

WHEREAS, other Borough governments across the state either provide for a standard of proof by a preponderance of the evidence, which requires a showing that the fact asserted is more likely true than not, or are silent on the standard of proof; and

WHEREAS, the Alaska Supreme Court has held that the default standard of proof is proof by a preponderance of the evidence unless a statute provides otherwise; and

WHEREAS, it is in the best interest of the Kodiak Island Borough and its taxpayers to have the standard of proof called for in Board of Equalization hearings consistent with the standard provided for in other communities and the standard the appellate courts would likely apply because it reduces the likelihood of additional expenses of all parties if a Board of Equalization decision being reversed on a procedural grounds and a rehearing being required.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH that:

Section 1: This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances.

Section 2: That Section 3.35.050 of the Kodiak Island Borough Code of Ordinances is amended to read as follows:

3.35.050 Board of Equalization.

E. Hearings -Procedures.

4. *Burden of Proof.* The burden of proof rests with the appellant, who must convince the board, ~~by clear and convincing evidence~~ by a preponderance of evidence that the valuation appealed from is ~~that the assessment was~~ unequal, excessive, improper, or undervalued based on the facts stated in a 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 borough shall make available to the appellant all reasonably pertinent documents requested for presentation of the appeal, including but not limited to documents

45 presented or requested by the board of equalization for presentation of the appeal in accordance
46 with subsection (C)(5) of this section.

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48 **Effective Date:** This ordinance takes effect upon adoption. (Note: KIBC 2.30.070 states an
49 ordinance takes effect upon adoption or at a later date specified in the ordinance.)

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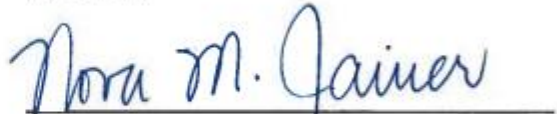
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**ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
THIS SEVENTH DAY OF MARCH, 2024**

52

KODIAK ISLAND BOROUGH

ATTEST:



Scott Arndt, Mayor

Nova M. Javier, MMC | Borough Clerk

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Introduced by: Manager

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First reading: 02/15/2024

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Second reading/public hearing: 03/07/2024

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VOTES:

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Ayes: LeDoux, Sharratt, Smiley, Turner, Whiteside, and Ames

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Noes: None

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Absent: Griffin

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