

Presented by: Finance Comm.  
Presented: 02/07/2022  
Drafted by: R. Palmer III

## ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

### Serial No. 2022-13

#### **An Ordinance Repealing the Confidentiality Provision for Real Estate Transaction Disclosures and Establishing a Penalty for Failure to Disclose a Real Estate Transaction.**

WHEREAS, Ordinance 2020-47(am) was adopted on October 26, 2020, and imposed a property sale disclosure requirement, with a number of exemptions, and allowed disclosed sales records to be confidential; and

WHEREAS, the purpose of the property sale disclosure was to increase the information available to the Assessor such that assessments would more accurately reflect the full and true value of property and result in more equitable taxation between taxpayers (A.S. 29.45.110); and

WHEREAS, the confidentiality provision was added to encourage grantees/buyers to more willingly provide the property sale disclosure; and

WHEREAS, since enactment of Ordinance 2020-47(am), a substantial number of commercial property owners appealed their 2021 assessments, and the appeal proceedings identified the confidentiality provision was creating inequities between information the Assessor relied upon and information the Assessor could disclose especially considering the appeal process and assessments are public; and

WHEREAS, since enactment of Ordinance 2020-47(am), the property sale disclosure requirement did not result in a noticeable increase of sale disclosures as compared to the voluntary disclosures before enactment, and a penalty would encourage more compliance; and

WHEREAS, property sale information is not uniformly confidential and is commonly disclosed to third parties because the asking price is generally widely publicized: A.S. 40.17.040 requires the State Recorder's Office to maintain an index of property records by parcel and by grantor/grantee, lenders record deeds of trust that publicly identify the loan amount, uninvolved real estate professionals have access to the actual sale price, and private appraisers commonly produce reports that include comparable property sales (*see Studley v. Alaska Public Offices Commission*, 389 P.3d 18 (AK 2017)); and

WHEREAS, upon balancing the statutory need to assess property at its full and true value, balancing the property tax inequities resulting from the lack of a sale disclosure requirement, balancing the privacy interests of people involved in property transactions, and balancing other public interests, repealing the confidentiality provision and imposing a penalty for non-disclosure results in more benefits to the community.

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.

**Section 2. Amendment of Section.** CBJC 15.05.105, Transaction disclosures, is amended as follows:

**15.05.105 Transaction disclosures.**

(a) *Disclosure requirement.* When a deed, contract, or other document transferring legal or equitable title to real property is presented for recording with the State of Alaska, the grantee (buyer) shall provide the assessor with a statement under signed oath by the grantee (buyer) or agent that discloses:

- (1) The names of the grantor (seller) and grantee (buyer);
- (2) The date of transfer;
- (3) The date of sale;
- (4) A legal description of the property transferred;
- (5) The actual full amount paid or to be paid for the property;
- (6) The terms of sale; and
- (7) An estimate of the value of any personal property included in the sale.

(b) *Disclosure exemptions.* The disclosure required by subsection (a) does not apply to the following:

- (1) An instrument that confirms, corrects, modifies or supplements a previously recorded instrument without added consideration;
- (2) A transfer pursuant to mergers, consolidations, or reorganizations of business entities;
- (3) A transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of a subsidiary stock;
- (4) A transfer that constitutes a gift of more than one-half of the actual value;
- (5) A transfer with only nominal consideration between immediate family members. Immediate family members are defined as mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, brother- or sister-in-law, son- or daughter-in-law, father- or mother-in-law, stepfather, stepmother, stepsister, stepbrother, stepson, and stepdaughter;

- (6) An instrument the effect of which is to transfer the property to the same party; or
  - (7) A sale for delinquent taxes or assessments, or a sale or a transfer pursuant to a foreclosure.
- (c) Reserved.
- (d) Penalty. Any person (i.e. grantee/buyer) required to disclose a property transfer under subsection 15.05.105(a) and who fails to file the disclosure with the assessor within 90 days of recording the transfer shall be subject to a civil fine as follows:
- (1) \$50.00 per day.
  - (2) Each day that a violation continues is a separate offense.
  - (3) Any undisclosed property transfer required to be disclosed by subsection 15.05.105(a) (Ordinance 2020-47(am), effective date Nov. 26, 2020) accrues penalties consistent with subsection 15.05.105(d) as of the effective date of Ordinance 2022-13.

**Section 3. Amendment of Section.** Section 03.30.070 Violations; civil fines, is amended by adding the following:

<b>CBJ</b>	<b>Type of Violation</b>	<b>Civil Fine</b>
<b>15.05.105</b>	<b>Real Estate Transaction Disclosure</b>	
15.05.105(d)	Failure to Disclose within 90 days	50.00

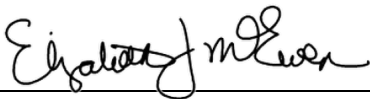
**Section 4. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this 28<sup>th</sup> day of February, 2022.



Beth A. Weldon, Mayor

Attest:



Elizabeth J. McEwen, Municipal Clerk