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2 **Staff Recommended Amendment to 2025-17 with**
3 **Companion Rules of Procedure Resolution #4019**

4 Presented by: The Manager
5 Presented: 04/28/2025
6 Drafted by: Law Department

7 **ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

8 **Serial No. 2025-17 v Staff Amendment 1**

9 **An Ordinance Amending the City and Borough Code Relating to Quasi-**
10 **Judicial and Appeal Review Boards.**

11 BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

12 **Section 1. Classification.** This ordinance is of a general and permanent nature and
13 shall become a part of the City and Borough of Juneau Municipal Code.

14 **Section 2. Amendment of Chapter.** Chapter 01.50, Administrative appeal
15 procedures, is amended by adding the following section:

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17 **01.50.270 Hearing officers.**

18 In the event of an appeal, a group of three hearing officers will be randomly selected to hear
19 the appeal. Should any one of the persons selected not be available, the clerks will randomly
20 select the next name, until a panel of three hearing officers are available.

21 (a) If a hearing officer is needed to review decisions made under Title 19, Title 53, or Title
22 69, a list of available hearing officers will be established by the manager. Members of
23 the Bidding Review Board, Sales Tax Board of Appeals, Building Code Advisory
24 Committee, and Building Code Board of Appeals will be offered a position as a hearing
25 officer as part of the repeal of these boards. To the extent feasible, hearing officers will
have experience in the legal, financial, land use, fire, or building code fields. Hearing
officers will be appointed for a period of three years. If no hearing officer is available,
the manager may seek an outside appointment.

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2 (b) Rules of Procedure will be established by resolution and reviewed and approved by the
3 Assembly every five years.

4 ~~(b)~~(c) The hearing officers may:

- 5 (1) Hold prehearing conferences to settle, simplify, or identify the issues in a
6 proceeding, or to consider other matters that may aid in the expeditious
7 disposition of the proceeding;
8 (2) Require parties to state their positions concerning the various issues in the
9 proceeding;
10 (3) Require parties to produce for examination those relevant witnesses and
11 documents under their control;
12 (4) Rule on motions and other procedural matters;
13 (5) Regulate the course of the hearing and conduct of the participants;
14 (6) Establish time limits for submission of motions or memoranda;
15 (7) Impose appropriate sanctions against a person who fails to obey an order of the
16 manager, including:
17 (A) Prohibiting the person from asserting or opposing designated claims or
18 defenses or introducing designated matters into evidence;
19 (B) Excluding all testimony of an unresponsive or evasive witness; and
20 (C) Excluding a person from further participation in the hearing.
21 (8) Take official notice of a material fact not appearing in evidence, if the fact is
22 among the traditional matters subject to judicial notice;
23 (9) Administer oaths or affirmations.

24 ~~(e)~~(d) A transcribed record of the hearing shall be made available at cost to a party that
25 requests it.

~~(d)(e) The hearing officer shall recommend a decision to the manager based on the evidence~~
~~presented. The recommendation must include findings of fact and conclusions of law.~~
~~The hearing officers shall issue a written recommendation containing findings of fact~~
~~and conclusions of law on each of the issues presented. A recommendation may affirm,~~
~~modify, or set aside an agency decision in whole or in part. The decision shall be~~
~~submitted to the manager no later than 10 working days after the close of the hearing.~~

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- 2 ~~(e)(f) The manager may remand the matter to the hearing officer if additional findings are~~
- 3 ~~necessary. The manager shall review the recommended decision of the hearing officers.~~
- 4 ~~Within 10 working days, the manager shall (a) accept the recommendation, (b) reject the~~
- 5 ~~recommendation and issue an independent decision, or (c) remand to the hearing~~
- 6 ~~officers for additional findings. The manager's decision shall be in writing and set forth~~
- 7 ~~the reasons for the decision with specificity.~~
- 8 ~~(f) The manager shall release the final decision after the hearing or upon failure of the~~
- 9 ~~person to timely request a hearing. The decision shall be issued within 20 days of the~~
- 10 ~~hearing, unless otherwise noted in code. A decision takes effect immediately.~~
- 11 ~~(g) A final decision may be appealed to the Assembly as designated in code or superior court~~
- 12 ~~in accordance with the Alaska Rules of Appellate Procedure.~~
- 13 ~~(h) If, provided by code, a manager or manager's designee makes a Best Interest Finding,~~
- 14 ~~the hearing officers' role is deemed moot and the appeal will be closed. Parties shall be~~
- 15 ~~notified and will receive a copy of the finding within 24 hours of issuance. The Best~~
- 16 ~~Interest Finding must include findings of fact and a determination on each issue~~
- 17 ~~presented based on the record available. The Best Interest Finding shall be submitted to~~
- 18 ~~the Assembly for review at the next regular Assembly meeting. The parties may include~~
- 19 ~~an objection/response in writing to the Best Interest Finding for consideration by the~~
- 20 ~~Assembly. The objection/response must be provided no later than 10 working days after~~
- 21 ~~receiving notice of the Best Interest Finding. The Assembly may affirm or reject the~~
- 22 ~~Best Interest Finding. If affirmed, the decision of the Assembly is final. If rejected the~~
- 23 ~~case will go back to the Hearing Officers at the stage in the process when the Finding~~
- 24 ~~was made. The Assembly may provide comments for consideration to the Hearing~~
- 25 ~~Officers.~~

Section 3. Amendment of Chapter. Chapter 19.02, Board of appeals, is amended as follows:

19.02.010.1 ~~Created; membership~~ Reserved.

~~In order to determine the appropriateness of orders, decisions and determinations made by the building official or fire chief concerning the application and interpretation of the codes, there is created a board of appeals consisting of seven members. Members shall be appointed by the assembly on the basis of their general building construction expertise. General building~~

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2 ~~construction expertise may include, but is not limited to, knowledge, experience, or training~~
3 ~~relating to building construction, plumbing, mechanical, electrical, property maintenance, fire~~
4 ~~safety or other similar fields. Members of the board of appeals shall be appointed by the~~
5 ~~assembly for three year staggered terms. The board of appeals shall elect from its membership~~
6 ~~a chair and a vice chair and shall adopt reasonable rules for the conduct of its proceedings. The~~
7 ~~City and Borough shall provide secretarial and other staff support required by the board of~~
8 ~~appeals.~~

(Serial No. 2009-16(b), § 2, 9-21-2009; Ord. No. 2012-34, § 2, 8-27-2012)

9 **19.02.010.2 Appeals.**

10 Appeals shall be conducted in accordance with the adopted rules of procedure and must be
11 filed within 20 days after the day the decision, notice, or order was served, except that if the
12 order appealed from relates to a building or structure which has been determined by the
13 building official to be in such condition as to make it immediately dangerous to life, limb,
14 property or safety of the occupants, the public, or adjacent property and is ordered vacated and
15 is posted in accordance with the applicable section of the International Property Maintenance
16 Code as adopted, such appeal must be filed within ten days from the date of the service of
17 notice and order of the building official. Appeals will be heard by a panel of hearing officers
18 under CBJC 01.50.270.

(Serial No. 2009-16(b), § 2, 9-21-2009; Ord. No. 2012-34, § 2, 8-27-2012)

18 **19.02.010.3 Limitations of authority.**

19 An application for appeal shall be based on a claim that the true intent of the building codes
20 or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of
21 these codes do not fully apply, or an equally good or better form of construction is proposed. The
22 hearing officers ~~board of appeals~~ shall not be empowered to waive requirements of the building
23 codes.

24 All variance requests to IRC ~~323.3.1 through 323.3.5~~ 306 and IBC 1612 shall be heard by
25 the Planning Commission, under procedures established per 49.70.410.

(Serial No. 2009-16(b), § 2, 9-21-2009; Serial No. 2021-19, § 11, 8-2-2021, eff. 9-1-2021)

Section 4. Amendment of Section. CBJC 19.01.119, Adoption of new
international, national and uniform codes; procedures, is amended as follows:

19.01.119 Adoption of new international, national and uniform codes; procedures.

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2 Upon the publication of new or updated versions of the international, national and uniform
3 codes adopted under this title, ~~the building code advisory committee, with the assistance of the~~
4 building official and the fire chief, shall review the new codes and proposed changes. It is the
5 policy of the assembly to adopt international, national and uniform codes under this title with a
6 minimum of changes. Changes proposed should be justified primarily on the basis of conditions
7 in the City and Borough that require additional consideration. ~~Prior to proposing adoption of~~
8 ~~new codes and changes thereto, the building code advisory committee, with the assistance of~~
9 ~~the building official and the fire chief, shall conduct a public hearing on the proposed code and~~
10 ~~changes. After the hearing, the~~ The manager shall present an ordinance for the adoption of the
11 new code and changes recommended by the building code advisory committee. The building
12 official shall include with the ordinance a synopsis of the comments presented at the public
13 hearing.

14 (Serial No. 2009-16(b), § 2, 9-21-2009)

15 **Section 5. Repeal of Section.** CBJC 53.50.061, Bidding review board, is repealed
16 in its entirety.

17 **53.50.061 Bidding review board Reserved.**

18 (a) ~~There is established a bidding review board. The bidding review board shall consist of~~
19 ~~five persons appointed by the assembly. To the extent possible, one of the members shall~~
20 ~~be an attorney licensed to practice law in the state. The members of the bidding review~~
21 ~~board shall serve three year terms. The bidding review board shall adopt written rules~~
22 ~~of procedure for the purpose of ensuring the expeditious resolution of protests. No~~
23 ~~member of the bidding review board who has served for three consecutive terms or nine~~
24 ~~years shall again be eligible for appointment until one full year has intervened,~~
25 ~~provided, however, that this restriction shall not apply:~~

(1) ~~If there are no other qualified applicants at the time reappointment is considered~~
~~by the assembly human resources committee, or~~

(2) ~~To qualified board members serving in board seats for which a specific~~
~~occupation or expertise is set forth by ordinance.~~

(b) ~~The bidding review board shall hear protests as provided in this chapter and may~~
~~perform such other related duties as the manager or assembly may, from time to time,~~
~~request.~~

(Serial No. 93-11am, § 11, 1993; Serial No. 99-03, § 3, 1999; Serial No. 2004-08, § 7, 3-22-2004)

Section 6. Amendment of Section. CBJC 53.50.062, Protests, is amended as follows:

53.50.062 Protests.

- (a) A party may protest award to any other party of a competitive sealed bid or competitive sealed proposal, but such protest shall be heard only if protests have also been filed against the award recommended by the purchasing officer and against any other bid or proposal having a higher ranking than that of the party filing the protest.
- (b) A party shall provide written notice of intent to protest. Notice of intent to protest shall be delivered to the purchasing officer by 4:30 p.m. Alaska time the working day following posting by the purchasing officer of a notice of apparent low bidder or successful proposer. Late notices of intent to protest shall not be considered. The notice of intent to protest shall include the name and address of the protestor and a brief description of the grounds for the protest.
- (c) A written protest shall be filed with the purchasing officer within five working days after posting of notice of apparent low bidder or successful proposer.
- (d) A written protest shall, at a minimum, contain the following:
 - (1) The name, address, and telephone number of the interested party filing the protest;
 - (2) The signature of the interested party or the interested party's representative;
 - (3) Identification of the proposed award at issue;
 - (4) A statement of the legal or factual grounds for the protest;
 - (5) Copies of all relevant documents; and
 - (6) The fee required by section 53.50.080.
- (e) The purchasing officer shall reject an untimely or incomplete protest.
- (f) If a timely and complete protest is filed, the award of the contract shall be stayed until the protest is resolved, unless the manager determines in writing that award of the contract pending resolution of the protest is in the best interests of the City and Borough.
- (g) The purchasing officer shall issue a written response to the protestor within ten working days of the date the protest is filed. If multiple protests have been filed, they may be

consolidated for purposes of the response. Copies of the response shall be provided to any other protestor requesting one. The response may include an amendment of all or any part of the recommended award. The manager may, upon written request of the purchasing officer, for good cause shown, extend the date for the purchasing officer's response for such additional period as may be necessary.

- (h) A protestor aggrieved by the purchasing officer's response pursuant to subsection (g) of this section may request review ~~by a hearing officer~~ the bidding review board.
- (i) The protestor may seek review of the purchasing officer's response by providing written notice of intent to request review. The protestor shall notify the purchasing officer of the intent to request review by 4:30 p.m. Alaska time the working day following issuance of the purchasing officer's response. Late notices shall not be considered. ~~A written request for review shall be filed within five working days after the response is issued by the purchasing officer. The notice of intent to request review and the written request for review shall be in the same form as provided in subsections (b), (c), and (d) of this section.~~
- (j) A written request for review shall be filed within five working days after the response is issued by the purchasing officer. The notice of intent to request review and the written request for review shall be in the same form as provided in subsections (b), (c), and (d) of this section.
- ~~(k)(j)~~ Upon receipt of a timely and complete request for review of the purchasing officer's response, the matter shall be forwarded to the ~~hearing officers~~ under CBJC 01.50.270 ~~bidding review board~~ and a hearing date shall be established. Once the hearing date has been established, all bidders or proposers shall be notified of the hearing in writing.
- ~~(l)(k)~~ The ~~hearing officers~~ ~~bidding review board~~ shall conduct a hearing ~~and issue a recommendation~~ within ~~seven calendar~~ ten working days of the date the referral is made ~~to the board~~. The ~~hearing officers~~ ~~bidding review board~~ may, by written notice ~~to all bidders or proposers~~, extend this ~~seven-day~~ period to a maximum of 30 days. The hearing officers shall issue a recommendation no later than ten working days after closing the hearing. Hearings shall be conducted informally, with due regard for the rights of the parties involved. Hearings shall be recorded.

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2 ~~(m)(4)~~ The hearing officers' ~~bidding review board's~~ recommendation shall be based on the
3 provisions of this Code interpreted in light of applicable state case law and generally
4 accepted principles of government purchasing as set forth in standard treatises,
5 decisions of the United States Comptroller General, and similar authorities. The
6 recommendation shall contain findings of fact and conclusions of law.

7 ~~(n)(m)~~ The hearing officers' recommendation:

8 (1) May include the following:

9 (A) A recommendation that a designated bid in a competitive sealed bid or
10 proposal process be accepted as the lowest qualified bid or proposal; or

11 (B) A recommendation that one or more bids or proposals be considered or
12 rejected or that the procurement process at issue be canceled;

13 (2) Shall not, except to the extent necessary to correct a failure to follow the
14 procedures required by this chapter, include a recommendation for:

15 (A) An amendment of the specifications for a bid or request for proposals;

16 (B) A change in the criteria for selection of a proposal; or

17 (C) An amendment, reordering, or reassessment of any qualitative judgment
18 in the rating of a proposal;

19 (3) Shall not include a recommendation for:

20 (A) Selection or rejection of any additive or deductive alternate; or

21 (B) The payment of money, including attorney's fees, by the City and Borough
22 or any party, provided that the recommendation may recommend a refund
23 of protest fees or payment of bid preparation costs by the City and
24 Borough to one or more bidders or proposers;

25 (4) Shall be forwarded to the manager, or assembly. If the bid amount is over
\$750,000.00 as appropriate, for consideration in the award of the contract, the
award shall not be made until after Assembly approval.

~~(o)(m)~~ The protest procedures established by this section, may be adapted for a procurement as
necessary to maintain eligibility for state or federal funding for that procurement,
provided that no such adaptation may authorize the board to grant a form of relief
prohibited by subsection (m)(3) of this section.

(Serial No. 93-11am, § 12, 1993; Serial No. 95-20, § 2, 1995; Serial No. 96-31, § 5, 1996; Serial No. 97-11, § 2, 1997; Serial No. 99-03, § 4, 1999; Serial No. 2001-38, § 2, 7-2-2001; Serial No. 2019-43, § 2, 11-25-2019, eff. 12-25-2019)

Section 7. Amendment of Section. CBJC 69.05.104, Protest of tax, is amended as follows:

69.05.104 Protest of tax.

- (a) A buyer who protests the payment of the tax levied under this chapter shall pay the tax and shall provide the seller, marketplace facilitator collecting and remitting sales tax on behalf of the seller, or any transportation network company collecting the sales tax on behalf of a transportation network company driver, and the sales tax administrator with a written statement of protest within five working days of the sale that identifies the sale, rental, or service that is the subject of the tax protested, the amount of tax paid, the buyer's and seller's name, mailing address, telephone number, and the basis for the protest.
- (b) If the seller or marketplace facilitator collecting and remitting sales tax on behalf of the seller ~~a transportation network company that has collected or remitted sales tax on behalf of a transportation network company driver~~ protests liability for sales tax, penalties, or interest, the seller or marketplace facilitator ~~transportation network company~~ shall pay the tax, penalties, and interest under a written protest filed before or with the payment and setting forth the basis for the protest. No appeal under CBJC 01.50.270 ~~from the sales tax board of appeals~~ nor any action for a refund may be filed or maintained nor may a defense to nonpayment be maintained in a civil action unless the amount in dispute has been paid under protest as provided in this subsection. A protest accompanying a payment shall be deemed waived unless the protestor files an appeal under this chapter pursuant to and within 90 days of the protest.
- (c) An appeal under CBJC 01.50.270 ~~from the sales tax board of appeals~~ or an action for a refund may be filed, maintained, or both without the payment under protest otherwise required by subsection (b) of this section:
- (1) Upon a finding by the director of finance that:
- (A) The seller or marketplace facilitator collecting and remitting sales tax on behalf of the seller ~~the transportation network company on behalf of the~~

~~transportation network company driver~~ has registered for the sales tax and filed returns according to the schedule specified in this chapter;

(B) The contested liability arises from an audit finding;

(C) The contested liability is not of a kind regularly remitted by similarly situated sellers; and

(2) Subject to the requirement that if the appeal or action for refund is denied, interest, but not penalty, shall be charged notwithstanding relief under this subsection.

(Serial No. 83-66, § 13, 1983; Serial No. 85-44, § 7, 1985; Serial No. 2001-04am, § 2, 2-26-2001; Serial No. 2018-38(b)(am), § 10, 9-17-2018, eff. 10-18-2018)

Section 8. Amendment of Section. CBJC 69.05.180, Appeals, is amended as follows:

69.05.180 Appeals.

(a) *Informal appeal.* For controversies involving taxable sales, sales taxes, penalties and interest not exceeding \$500.00, or involving procedures implemented by the treasurer, an appeal by a financially aggrieved taxpayer or merchant shall be directed to the treasurer. The treasurer shall advise the appellant of a date certain for a hearing and shall informally review the appeal claim, make written findings and state reasons for the decision. The decisions shall be maintained and indexed by the treasurer for review by the public. The appellant may appeal the decision of the treasurer to a panel of hearing officers ~~the board of appeals~~ within 15 days after receipt of the written decision of the treasurer and failure of the appellant to so appeal shall be deemed to be a waiver of any right to appeal such decision.

(b) Hearing officers ~~Board of appeals~~.

(1) In order to provide an appeal mechanism for controversies involving taxable sales, sales taxes, penalties and interest, and exceeding \$500.00, and in order to hear appeals from decisions of the manager as provided under subsection (a) of this section, a panel of hearing officers will be appointed, under CBJC 01.50.270, to hear controversies. ~~there is established a board of appeals which shall consist of five members appointed by the assembly for staggered three year terms. To the extent possible, one member of the board of appeals shall be a certified public~~

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2 accountant, one member shall be licensed to practice law in the state, and the
3 remainder shall be members of the general public. The board of appeals shall
4 elect from its membership a chair, a vice chair and a secretary. Three members
5 of the board of appeals shall constitute a quorum for the transaction of business.
6 The City and Borough shall provide secretarial and other staff support required
7 by the board of appeals.

8 No member of the sales tax board who has served for three consecutive terms or
9 nine years shall again be eligible for appointment until one full year has
10 intervened, provided, however, that this restriction shall not apply:

11 (A) — If there are no other qualified applicants at the time reappointment is
12 considered by the assembly human resources committee, or

13 (B) — To qualified board members serving in board seats for which a specific
14 occupation or expertise is set forth by ordinance.

- 15 (2) The hearing officers ~~s board of appeals~~ shall conduct a hearing on a protest no
16 more than 60 days after the protest is filed. Decisions of the hearing officers
17 ~~board of appeals~~ shall be in writing and shall be maintained and indexed by the
18 manager for review by the public. Records and proceedings before the hearing
19 officers ~~s board of appeals~~ are public, except that the hearing officers ~~s board~~ may
20 deliberate in closed session. The hearing officers ~~s board's~~ authority in its review
21 of sales tax appeals includes the authority to recommend, in writing, that the
22 manager compromise and abate penalties and interest, and to recommend, in
23 writing, that the manager negotiate and enter into payment plans for delinquent
24 sales taxes, penalties and interest.

- 25 (3) Hearings shall be conducted informally, with due regard for the rights of the
parties involved. Hearings shall be recorded. ~~The board of appeals shall adopt~~
~~rules of procedure governing sales tax appeals and proceedings before the board~~
~~of appeals which rules shall become effective upon adoption, or such later date as~~
~~the board may specify. Rules adopted by the board of appeals may not be~~
~~inconsistent with this chapter. Upon adoption by the board of appeals, the rules~~
~~and all additions and changes thereto shall be submitted to the assembly. The~~

~~assembly may, by motion or resolution, modify any rules adopted by the board of appeals.~~

(c) *Review by assembly.* Any party to an appeal proceeding in this chapter shall have a right to review by the assembly in accordance with chapter 01.50 of this Code. (Serial No. 85-72, § 2, 1985; Serial No. 86-73, § 3, 1986; Serial No. 96-32, § 4, 1996; Serial No. 2001-04am, § 3, 2-26-2001; Serial No. 2002-13, § 2, 4-15-2002; Serial No. 2004-08, § 9, 3-22-2004)

Section 9. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2025.

Beth A. Weldon, Mayor

Attest:

Brecken L. Hendricks, Municipal Clerk