

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

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2025-17

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

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 Chapter. Chapter 01.50, Administrative appeal procedures, is amended by adding the following section:

01.50.270 Hearing officer(s).

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

(a) If a hearing officer is needed to review decisions made under Title 19, Title 53, or Title 69, a list of available hearing officers will be established by the manager. Members of the Bidding Review Board, Sales Tax Board of Appeals, Building Code Advisory Committee, and Building Code Board of Appeals will be offered a position as a hearing 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.

(b) The hearing officer may:

- (1) Hold prehearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
 - (2) Require parties to state their positions concerning the various issues in the proceeding;
 - (3) Require parties to produce for examination those relevant witnesses and documents under their control;
 - (4) Rule on motions and other procedural matters;
 - (5) Regulate the course of the hearing and conduct of the participants;
 - (6) Establish time limits for submission of motions or memoranda;
 - (7) Impose appropriate sanctions against a person who fails to obey an order of the manager, including:
 - (A) Prohibiting the person from asserting or opposing designated claims or defenses or introducing designated matters into evidence;
 - (B) Excluding all testimony of an unresponsive or evasive witness; and
 - (C) Excluding a person from further participation in the hearing.
 - (8) Take official notice of a material fact not appearing in evidence, if the fact is among the traditional matters subject to judicial notice;
 - (9) Administer oaths or affirmations.
- (c) A transcribed record of the hearing shall be made available at cost to a party that requests it.
- (d) 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.
- (e) The manager may remand the matter to the hearing officer if additional findings are necessary.

1
2 (f) The manager shall release the final decision after the hearing or upon failure of the
3 person to timely request a hearing. The decision shall be issued within 20 days of the
4 hearing, unless otherwise noted in code. A decision takes effect immediately.

5 (g) A final decision may be appealed to the Assembly as designated in code or superior court
6 in accordance with the Alaska Rules of Appellate Procedure.

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

9 **~~19.02.010.1 Created; membership.~~**

10 ~~In order to determine the appropriateness of orders, decisions and determinations made by~~
11 ~~the building official or fire chief concerning the application and interpretation of the codes,~~
12 ~~there is created a board of appeals consisting of seven members. Members shall be appointed~~
13 ~~by the assembly on the basis of their general building construction expertise. General building~~
14 ~~construction expertise may include, but is not limited to, knowledge, experience, or training~~
15 ~~relating to building construction, plumbing, mechanical, electrical, property maintenance, fire~~
16 ~~safety or other similar fields. Members of the board of appeals shall be appointed by the~~
17 ~~assembly for three year staggered terms. The board of appeals shall elect from its membership~~
18 ~~a chair and a vice chair and shall adopt reasonable rules for the conduct of its proceedings. The~~
19 ~~City and Borough shall provide secretarial and other staff support required by the board of~~
20 ~~appeals.~~

21
22
23 ~~(Serial No. 2009-16(b), § 2, 9-21-2009; Ord. No. 2012-34, § 2, 8-27-2012)~~

24 **19.02.010.2 Appeals.**

25 Appeals shall be conducted in accordance with the adopted rules of procedure and must be
filed within 20 days after the day the decision, notice or order was served, except that if the

1
2 order appealed from relates to a building or structure which has been determined by the
3 building official to be in such condition as to make it immediately dangerous to life, limb,
4 property or safety of the occupants, the public, or adjacent property and is ordered vacated and
5 is posted in accordance with the applicable section of the International Property Maintenance
6 Code as adopted, such appeal must be filed within ten days from the date of the service of
7 notice and order of the building official. Appeals will be heard by a hearing officer under CBJC
8 01.50.270.
9

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

11 **19.02.010.3 Limitations of authority.**
12

13 An application for appeal shall be based on a claim that the true intent of the building codes
14 or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of
15 these codes do not fully apply, or an equally good or better form of construction is proposed. The
16 hearing officer ~~board of appeals~~ shall not be empowered to waive requirements of the building
17 codes.
18

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

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

22 **Section 4. Amendment of Section.** CBJC 19.01.119, Adoption of new
23 international, national and uniform codes; procedures, is amended as follows:
24

25 **19.01.119 Adoption of new international, national and uniform codes; procedures.**

Upon the publication of new or updated versions of the international, national and uniform
codes adopted under this title, ~~the building code advisory committee, with the assistance of the~~

1
2 building official and the fire chief, shall review the new codes and proposed changes. It is the
3 policy of the assembly to adopt international, national and uniform codes under this title with a
4 minimum of changes. Changes proposed should be justified primarily on the basis of conditions
5 in the City and Borough that require additional consideration. ~~Prior to proposing adoption of~~
6 ~~new codes and changes thereto, the building code advisory committee, with the assistance of~~
7 ~~the building official and the fire chief, shall conduct a public hearing on the proposed code and~~
8 ~~changes. After the hearing, the~~ The manager shall present an ordinance for the adoption of the
9 new code and changes recommended ~~by the building code advisory committee. The building~~
10 ~~official shall include with the ordinance a synopsis of the comments presented at the public~~
11 ~~hearing.~~

12
13 (Serial No. 2009-16(b), § 2, 9-21-2009)

14
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.~~**

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

4
5 (2) ~~To qualified board members serving in board seats for which a specific~~
6 ~~occupation or expertise is set forth by ordinance.~~

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

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

11
12 **Section 6. Amendment of Section.** CBJC 53.50.062, Protests, is amended as
13 follows:

14 **53.50.062 Protests.**

15 ***

16
17 (c) A written protest shall be filed with the purchasing officer within five working days
18 after posting of notice of apparent low bidder or successful proposer.

19 ***

20 (g) The purchasing officer shall issue a written response to the protestor within ten working
21 days of the date the protest is filed. If multiple protests have been filed, they may be
22 consolidated for purposes of the response. Copies of the response shall be provided to
23 any other protestor requesting one. The response may include an amendment of all or
24 any part of the recommended award. The manager may, upon written request of the
25

1
2 purchasing officer, for good cause shown, extend the date for the purchasing officer's
3 response for such additional period as may be necessary.

4 (h) A protestor aggrieved by the purchasing officer's response pursuant to subsection (g) of
5 this section may request review by a hearing officer ~~the bidding review board~~.

6
7 (i) The protestor may seek review of the purchasing officer's response by providing written
8 notice of intent to request review. The protestor shall notify the purchasing officer of the
9 intent to request review by 4:30 p.m. Alaska time the working day following issuance of
10 the purchasing officer's response. Late notices shall not be considered.

11
12 (j) A written request for review shall be filed within five working days after the response is
13 issued by the purchasing officer. The notice of intent to request review and the written
14 request for review shall be in the same form as provided in subsections (b), (c), and (d) of
15 this section.

16 (k)(j) Upon receipt of a timely and complete request for review of the purchasing officer's
17 response, the matter shall be forwarded to the hearing officer under CBJC 01.50.270
18 ~~bidding review board~~ and a hearing date shall be established. Once the hearing date has
19 been established, all bidders or proposers shall be notified of the hearing in writing.

20
21 (l)(k) The hearing officer ~~bidding review board~~ shall conduct a hearing and issue a
22 recommendation within seven calendar days of the date the referral is made to the
23 ~~board~~. The hearing officer ~~bidding review board~~ may, by written notice to all bidders or
24 proposers, extend this seven-day period to a maximum of 30 days. Hearings shall be
25 conducted informally, with due regard for the rights of the parties involved. Hearings
shall be recorded.

1
2 ~~(m)-(4)~~ The ~~hearing officer's 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

8 ~~(n)-(m)~~ The recommendation:

9 ***

10 (4) Shall be forwarded to the manager, or assembly if the bid amount is over
11 \$750,000.00 ~~as appropriate~~, for consideration in the award of the contract.
12

13 ~~(o)-(n)~~ The protest procedures established by this section, may be adapted for a procurement as
14 necessary to maintain eligibility for state or federal funding for that procurement,
15 provided that no such adaptation may authorize the board to grant a form of relief
16 prohibited by subsection (m)(3) of this section.
17

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

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

23 **69.05.104 Protest of tax.**

24 ***

25 (b) If the seller or a transportation network company that has collected or remitted sales tax
on behalf of a transportation network company driver protests liability for sales tax,

1
2 penalties, or interest, the seller or transportation network company shall pay the tax,
3 penalties, and interest under a written protest filed before or with the payment and
4 setting forth the basis for the protest. No appeal under CBJC 01.50.270 ~~from the sales tax~~
5 ~~board of appeals~~ nor any action for a refund may be filed or maintained nor may a defense
6 to nonpayment be maintained in a civil action unless the amount in dispute has been paid
7 under protest as provided in this subsection. A protest accompanying a payment shall be
8 deemed waived unless the protestor files an appeal under this chapter pursuant to and
9 within 90 days of the protest.
10

- 11 (c) An appeal under CBJC 01.50.270 ~~from the sales tax board of appeals~~ or an action for a
12 refund may be filed, maintained, or both without the payment under protest otherwise
13 required by subsection (b) of this section:
14

15 (1) Upon a finding by the director of finance that:

16 (A) The seller or the transportation network company on behalf of the transportation
17 network company driver has registered for the sales tax and filed returns according
18 to the schedule specified in this chapter;

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

20 (C) The contested liability is not of a kind regularly remitted by similarly situated
21 sellers; and
22

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

25 (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)

1
2 **Section 8. Amendment of Section.** CBJC 69.05.180, Appeals, is amended as
3 follows:

4 **69.05.180 Appeals.**

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

16
17 (b) Hearing officer ~~Board of appeals~~.

18 (1) In order to provide an appeal mechanism for controversies involving taxable
19 sales, sales taxes, penalties and interest, and exceeding \$500.00, and in order to
20 hear appeals from decisions of the manager as provided under subsection (a) of
21 this section, a hearing officer will be appointed, under CBJC 01.50.270, to hear
22 controversies. ~~there is established a board of appeals which shall consist of five~~
23 ~~members appointed by the assembly for staggered three year terms. To the~~
24 ~~extent possible, one member of the board of appeals shall be a certified public~~
25 ~~accountant, one member shall be licensed to practice law in the state, and the~~
~~remainder shall be members of the general public. The board of appeals shall~~

1
2 elect from its membership a chair, a vice chair and a secretary. Three members
3 of the board of appeals shall constitute a quorum for the transaction of business.
4 The City and Borough shall provide secretarial and other staff support required
5 by the board of appeals.
6

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

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

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

Elizabeth J. McEwen, Municipal Clerk