

SUNSET AUDIT REPORT

2024-S8

Board of Building Regulation Examiners and
Appeals

Development Services Department

August 7, 2024

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MUNICIPALITY OF ANCHORAGE
MAYOR SUZANNE LAFRANCE

OFFICE OF INTERNAL AUDIT

August 7, 2024

Honorable Mayor and Members of the Assembly:

I am pleased to present for your review **Sunset Audit Report 2024-S8, Board of Building Regulation Examiners and Appeals, Development Services Department**. A brief summary of the report is presented below.

In accordance with Assembly Ordinance Number 2011-64(S-1), Section 14, we have performed a sunset audit of the Board of Building Regulation Examiners and Appeals. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Board of Building Regulation Examiners and Appeals should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Board of Building Regulation Examiners and Appeals be reauthorized. The Board of Building Regulation Examiners and Appeals is staffed with 10 of the required 11 to 15 members. In addition, the Assembly should consider removing the sunset clause for the Board of Building Regulation Examiners and Appeals from Anchorage Municipal Code since the Board of Building Regulation Examiners and Appeals is mandatory to hear and decide appeals of orders, decisions, or determinations made by the building or fire code official relative to the application and interpretation of Title 23.

The Board of Building Regulation Examiners and Appeals will sunset October 14, 2024, unless reauthorized by the Assembly.

Scott Lee
Acting Director, Internal Audit



MUNICIPALITY OF ANCHORAGE
MAYOR SUZANNE LAFRANCE

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August 7, 2024

Sunset Audit Report 2024-S8
Board of Building Regulation Examiners and Appeals
Development Services Department

Introduction. We have performed a sunset audit of the Board of Building Regulation Examiners and Appeals (Board) as required by Assembly Ordinance Number 2011-64(S-1), Section 14 which states:

“The Municipal Clerk shall notify the Assembly and the Mayor by assembly memorandum at least 120 days prior to the sunset of any board or commission, and an ordinance for reauthorization shall be introduced through the Assembly Chair with the assembly memorandum. The assembly memorandum shall include direction to the Office of Internal Audit to audit the board or commission under Anchorage Municipal Code section 3.20.110 D.3. and 4. The Office of Internal Audit shall report its findings to the Mayor and Assembly at least 60 days, prior to sunset, prior to vote by the Assembly on reauthorization.”

Objective and Scope. The objective of this audit was to provide information to the Mayor and Assembly to assist them in determining if the Board should be reauthorized. Our audit included a review of meeting minutes, resolutions and agendas, and member authorization and participation.

We conducted this performance audit in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Overall Evaluation. Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Board be reauthorized. The Board is staffed with 10 of the required 11 to 15 members. In addition, the Assembly should consider removing the sunset clause for the Board from

AMC since the Board is mandatory to hear and decide appeals of orders, decisions, or determinations made by the building or fire code official relative to the application and interpretation of Title 23.

SUNSET FACTORS

The following factors were used in our evaluation and are presented for information to the Mayor and Assembly:

1. Name of Board.

Board of Building Regulation Examiners and Appeals

2. Sunset Date.

October 14, 2024

3. The purpose and goal of the Board.

Anchorage Municipal Code (AMC) section 23.10.103.4.1, General, states “In order to hear and decide appeals of orders, decisions or determinations made by the building or fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of building regulation examiners and appeals (hereafter ‘building board’). The building board may, in its discretion, offer comment or recommendation concerning amendments to this code. The building board shall be appointed by the governing body and shall hold office at its pleasure. The building board shall follow rules of procedure approved by the Assembly for conducting business. All decisions and findings in an appeal shall be rendered in writing to the appellant, with a duplicate copy to the building official.”

4. Is the Board fully staffed?

AMC subsection 23.10.103.4.4A., Members, voting, and hearings before the building board, states “The building board, as described in Section 4.40.030, and this title shall consist of no fewer than 11 and up to 15 members appointed by the mayor, subject to confirmation by the Assembly, qualified by experience or training to pass on matters pertaining to building construction, as follows:

- 1. Two (2) members shall be Architects registered in the State of Alaska.*
- 2. Two (2) members shall be Professional Engineers registered as Civil Engineers in the State of Alaska.*
- 3. One (1) member shall be a Professional Engineer, registered as a Mechanical Engineer in the State of Alaska.*
- 4. One (1) member shall be a Professional Engineer, registered as an Electrical Engineer in the State of Alaska.*
- 5. Two (2) to four (4) members shall be licensed General Contractors actively engaged in general building construction and at least one of the members shall be actively engaged in home building in the State of Alaska.*
- 6. One (1) member shall be a licensed Electrical Contractor actively engaged in the electrical trade in the State of Alaska.*
- 7. One (1) member shall be a licensed Plumbing Contractor actively engaged in the plumbing trade in the State of Alaska.*
- 8. One (1) member shall be a licensed Mechanical Contractor actively engaged in the mechanical trade in the State of Alaska.*
- 9. Up to two (2) additional members, qualified by experience or training and actively engaged in any of the above listed disciplines, trades, or professions in the State of Alaska.”*

Audit Finding. Currently, the Board is staffed with 10 of the required 11 to 15 members.

<u>Board Member</u>	<u>Most Recent Assembly Confirmation</u>	<u>Term Expiration Date</u>
Bryce Hamels - Architect	5-10-22	10-14-24
Daniel Vannoy – Electrical Contractor	12-5-23	10-14-26
Craig Freeden – Mechanical Engineer	11-9-21	10-14-24
Keith Sobolesky – Mechanical Contractor	1-25-22	10-14-24
Jason Arnold - Architect	10-11-22	10-14-25
Eric Cowling – Electrical Contractor	4-11-23	10-14-25
Jason Dial – General Contractor	9-27-22	10-14-25
Donald McCann – Plumbing Contractor	12-5-23	10-14-26
Daniel Folmer – Structural Engineer	9-27-22	10-14-25
Andre Spinelli – At-Large	10-11-22	10-14-25
Vacant		
Vacant		
Vacant		
Vacant		
Vacant		

Source: Assembly Memorandums

5. Are the terms of the Board members current?

AMC section 4.05.040, Terms, states “Except as otherwise specified in this Code, the regular term of each member of a board or commission is three years commencing on October 15 of the year in which appointed and ending three years thereafter on October 14, provided however, to avoid a vacancy until new appointments can be made and confirmed, an appointed member's term is extended until a new appointment is confirmed or a maximum of 120 days which ever occurs first. The terms of initial or subsequent appointments to a board or commission shall be

staggered so that, as nearly as possible, a pro rata number of its members shall be appointed each year of the established regular term of office.”

Audit Finding. The terms for all 10 Board members are current.

6. **Were positions deemed vacant after the maximum number of absences?**

AMC subsection 4.05.060A., Attendance requirements; vacancies, states “The office of a member of a board or commission member shall become vacant if the member:

1. *Ceases to meet the qualifications prescribed for the office;*
2. *Resigns;*
3. *Dies;*
4. *Is judicially determined to be incompetent;*
5. *Is convicted of a felony;*
6. *Is removed from office for breach of the public trust; or*
7. *During any 12-month period while in office:*
 - a. *Is absent from three regular meetings without excuse;*
 - b. *Is absent from:*
 - i. *Six regular meetings; or*
 - ii. *Eight regular meetings for members of the planning and zoning commission, urban design commission, platting board, or zoning board of examiners and appeals; or*
 - c. *Fails to attend a two-thirds majority of the regular meetings.”*

Audit Finding. No members were absent from three regular meetings without an excuse during any 12-month period from January 2023 through June 2024.

No members were absent from six regular meetings during any 12-month period from January 2023 through June 2024.

No members failed to attend two-thirds of the regular meetings during any 12-month period from January 2023 through June 2024.

7. **Did the Board meet regularly?**

AMC section 4.05.090, Meetings, states “A board or commission shall hold regular monthly meetings at such time and place as may from time to time be designated by the board or commission, but meetings need not be held if no business is pending. Boards and commissions shall advise the public of their meeting schedules, or publicly advertise their meetings where necessitated by statutory requirements. The chair of a board or commission, or the municipal employee who is designated as an ex officio member of the board or commission pursuant to section 4.05.140, or a majority of the board or commission, may call a special meeting of the board or commission. Meetings of all boards and commissions shall be open to the public, except for an executive session, or when meeting solely to make a decision on a procedural motion brought by a party in an adjudicatory proceeding, from which the public may be excluded.”

Audit Finding. From January 2023 through June 2024, the Board met three times. The Board only meets when required and does not have a regular meeting schedule. Meetings are publicly announced on the Board’s website on an as-needed basis and on the Municipality of Anchorage’s Public Notices website and Municipal Events calendar website.

8. **Were minutes taken and published?**

AMC section 4.05.130, Reports, minutes and public hearing records, states “A board or commission shall keep minutes of the board or commission proceedings, and such minutes shall record the vote of each member physically present upon every question formally presented to the board or commissions for its consideration. The minutes shall be maintained in the custody of the municipal agency which supplies staff support to the board or commission and shall be a public record, open to inspection by any person.”

Audit Finding. Meeting minutes were taken at each Board meeting. Development Services Department staff keeps a copy available for the public. In addition, the meeting minutes are available on the Development Services Department’s website.

9. **Did meetings have action items or other business?**

AMC section 23.10.103.4.1 states “In order to hear and decide appeals of orders, decisions or determinations made by the building or fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of building regulation examiners and appeals (hereafter ‘building board’). The building board may, in its discretion, offer comment or recommendation concerning amendments to this code. The building board shall be appointed by the governing body and shall hold office at its pleasure. The building board shall follow rules of procedure approved by the Assembly for conducting business. All decisions and findings in an appeal shall be rendered in writing to the appellant, with a duplicate copy to the building official.”

Audit Finding. From January 2023 through June 2024, Board minutes included discussion regarding the staffing of the Board’s panels and AMC updates, as well as staff reports.