

# SUNSET AUDIT REPORT

2018-S9

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Board of Building Regulation Examiners and  
Appeals

Development Services Department

August 10, 2018

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# Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 10, 2018

Honorable Mayor and Members of the Assembly:

I am pleased to present **Sunset Audit Report 2018-S9, Board of Building Regulation Examiners and Appeals, Development Services Department**, for your review. 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 will sunset on October 14, 2018, unless reauthorized by the Assembly.

Michael Chadwick, CIA, CICA  
Director, Internal Audit



# Municipality of Anchorage

Ethan Berkowitz, Mayor

Internal Audit Department

August 10, 2018

**Sunset Audit Report 2018-S9**  
**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. The audit was performed during the period of May through July 2018.

**Overall Evaluation.** Based on our review of meeting minutes, resolutions, and attendance records, we recommend that the Board be reauthorized.

## **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, 2018

**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. Have Board members been appointed?**

*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.*
- 6. One (1) member shall be a licensed Electrical Contractor actively engaged in the electrical trade.*
- 7. One (1) member shall be a licensed Plumbing Contractor actively engaged in the plumbing trade.*
- 8. One (1) member shall be a licensed Mechanical Contractor actively engaged in the mechanical trade.*
- 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.”*

**Audit Finding.** Currently, the Board is staffed with 13 of the required 11 to 15 members.

| <b><u>Board Member</u></b>              | <b><u>Most Recent<br/>Assembly<br/>Confirmation</u></b> | <b><u>Term<br/>Expiration Date</u></b> |
|---|---|--|
| Troy Feller – Civil Engineer            | 10-27-15  | 10-14-18                               |
| Royal Field – General Contractor        | 10-27-15  | 10-14-18                               |
| Craig Freeden – Mechanical Engineer     | 10-27-15  | 10-14-18                               |
| CB Brady – General Contractor           | 2-23-16   | 10-14-18                               |
| Keith Sobolesky – Mechanical Contractor | 7-12-16   | 10-14-18                               |
| Scott Bohne – Architect                 | 11-15-16  | 10-14-19                               |
| Eric Cowling – Electrical Engineer      | 11-15-16  | 10-14-19                               |
| Tyler Loken – General Contractor        | 11-15-16  | 10-14-19                               |
| Preston McKee – Electrical Contractor   | 11-15-16  | 10-14-19                               |
| Ray Hickel – Residential Contractor     | 12-6-16   | 10-14-19                               |
| Don McCann – Plumbing Contractor        | 1-9-18  | 10-14-20                               |
| Jonathan Steele – Architect             | 1-9-18  | 10-14-20                               |
| Sterling Strait – Civil Engineer        | 1-9-18  | 10-14-20                               |
| 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 Board members are current.

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

*AMC subsection 4.05.060A., Attendance requirements; vacancies, states "... a vacancy shall occur if a member during any 12-month period while in office:*

- 1. Is absent from three regular meetings without excuse;*
- 2. Is absent from:*
  - a. six regular meetings; or*
  - b. eight regular meetings for members of the planning and zoning commission, platting board, or zoning board of examiners and appeals; or*
- 3. Fails to attend a two-thirds majority of the regular meetings."*

Note: Attendance requirements found in AMC subsection 4.05.060A. were amended on April 24, 2018, by Assembly Ordinance Number 2018-31, as amended. According to Assembly Counsel, this ordinance is effective prospectively. As a result, the amended changes did not affect this sunset audit for the period beginning January 2017 and ending June 2018. AMC subsection 4.05.060A. cited above is the language prior to the April 24, 2018, amendment.

**Audit Finding.** No members were absent from three regular meetings without an excuse within any 12-month period from January 2017 through June 2018.

No members were absent from six regular meetings within any 12-month period from January 2017 through June 2018.

Only two meetings were held from January 2017 through June 2018. Two members failed to attend two-thirds of the regular meetings in the 12-month periods from March 2017 through February 2018 and from July 2017 through June 2018. In addition, four members failed to attend two-thirds of the regular meetings in the 12-month period from March 2017 through February 2018. Finally, two members failed to attend two-thirds of the regular meetings in the 12-month period from July 2017 through June 2018. These members have not been removed from the Board. The requirement to attend two-thirds of the meetings may not be practical for this Board, as the Board only meets when required.

7. **Does 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 chairman 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, from which the public may be excluded.”*

**Audit Finding.** From January 2017 through June 2018, the Board met two 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 Mayor’s Boards and Commissions Events website.

8. **Are 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. **Do 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 2017 through June 2018, the Board issued two decisions on filed appeals. The first appeal was regarding the acceptance of credit hours, and the second appeal was regarding the interpretation of a fine. In addition, Board minutes included discussion regarding the staffing of the Board’s panels, the revision of appeal forms, and AMC updates.