



## **FREEPORT BOARD OF ASSESSMENT REVIEW**

### **RULES OF PROCEDURE**

#### **I. AUTHORITY OF THE BOARD**

These Rules of Procedure are adopted pursuant to Section 4.04 of the *Charter of the Town of Freeport*; 36 M.R.S.A. § 843; 30-A M.R.S.A. §§ 2526(6), 2961(3); and any other enabling statutes. The Freeport Board of Assessment Review (the "Board") shall hear and decide property tax abatement appeals properly taken, and shall have the same powers that are granted to such boards by the laws of the State of Maine.

#### **II. ORGANIZATION OF THE BOARD**

- A. Establishment of Board. The Board shall consist of five qualified voters of the Town who shall be appointed by the Town Council for a term of 3 years. Initial appointments must be such that the terms of office of no more than 2 members will expire in any single year.
- B. Officers. The Board shall annually elect a chairperson, a vice-chairperson, and a secretary from its membership. The chairperson shall preside at all meetings and hearings and fulfill the customary functions of that office. The chairperson may administer oaths. The secretary or their designee shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member on every question, or their absence or failure to vote, and shall maintain the permanent records and decisions of all Board meetings, hearings, and proceedings and all correspondence of the Board.
- C. Board Official Duties. In carrying out their official duties, the members of the Board shall act in a quasi-judicial capacity, acting fairly, independently, and impartially. The Board's findings of fact and determinations of each case shall be based only upon the evidence presented to the Board in its public proceedings, which shall become the record in the case.
- D. Office. The office of the Board is located at the Freeport Town Hall, 30 Main Street, Freeport, ME 04032, and all written communications to the Board shall be sent in care of the Freeport Board of Assessment Review.

#### **III. PROCEDURES OF THE BOARD**

- A. Meetings; Quorum. The chairperson shall call all meetings of the Board as required. The chairperson shall also call meetings of the Board when requested to do so by a majority of the members of the Board or by the Town Council. A quorum of the Board is necessary to conduct any official Board business, including hearing and deciding any abatement appeal brought to the Board, and shall consist of at least three members. The Board shall act by a majority vote of those members present and voting. When a motion results in a tie vote, the motion fails. The chairperson shall preside at all Board meetings and be the Board's official spokesperson. The vice-chairperson shall preside and be the official spokesperson in the chairperson's absence. The Board shall give reasonable notice of all meetings, and its meetings shall be open to the public.

- B. Board Records. The record shall consist of the minutes of the secretary or their designee, the transcript if one is made, all applications, exhibits, or stipulations filed in any proceeding before the Board, any summaries prepared of an inspection of the property, and the decision of the Board. Such records shall be public records, shall be filed in the Town Clerk's office, and are open to inspection during regular Town office hours upon reasonable notice.
- C. Conflict of Interest. Any question of whether a member has a conflict of interest sufficient to disqualify the member from voting thereon shall be decided by a majority vote of the other members present and voting. Where such vote results in a tie, the subject member shall be disqualified. No member of the Board shall participate in the hearing or disposition of any matter in which they have a conflict of interest.
- D. Standard of Review; Evidence. The Board shall conduct a *de novo* review of any matter before the Board, subject to the requirements of these rules of procedure. Each party to an abatement appeal shall have the right to present their case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as required for a full and true disclosure of facts. The Board may receive any oral or documentary evidence but shall exclude irrelevant, immaterial, or unduly repetitious evidence. The Board may continue any hearing to obtain a clarification of the facts or legal issues involved, or for other good cause or as fairness requires, as determined by the Board.
- E. Site Visit. The Board may schedule and conduct a site visit of the property at issue upon a majority vote of the Board. The purpose of any such site visit is to enable the Board to better understand testimony presented at the hearing, not to receive evidence or testimony. At any property site visit, all parties and members of the public shall have the right to be present. The Board shall make a summary of the inspection on the record at the next scheduled meeting of the Board, and any party to the proceeding may offer their summary of the inspection for the record.
- F. Deliberations. After all evidence has been submitted, the Board shall close the hearing record and thereafter enter into deliberations. The Board may continue its deliberations until a subsequent Board meeting. The Board may in its discretion reopen the hearing record at any time to accept additional evidence or testimony. All deliberations of the Board on all appeals shall be at a public meeting.
- G. Other Rules. The Board may, by majority vote, make other reasonable rules of procedure for the conduct of meetings or hearings, as may be necessary or appropriate in the Board's discretion. The chairperson may waive any of the rules of procedure set forth herein upon good cause shown.

#### **IV. APPEAL PROCEDURES**

- A. Written Abatement and Assessor's Decision. Prior to filing an appeal to the Board, the appellant must have filed a written abatement application to the Assessor and must have received a written denial from the Assessor (or expiration of 60 days from the date of filing if no written denial was given, unless the appellant shall have in writing consented to further delay).
- B. Appeal Application. The appellant must file 6 copies of the written appeal and any supporting documentation to the Board on forms for that purpose available in the Assessor's Office. The appeal forms shall give the name and address of the appealing party,

a description of the property involved, the amount assessed by the Assessor, and the amount the appellant asserts constitutes the proper assessment and the reasoning (for example, based on assessments of comparable properties).

- C. Time for Filing. The appeal application must be filed in writing to the Board within 60 days after the notice of decision from which such appeal is being taken or after the application to the Assessor is deemed to have been denied. The application shall be filed to the Board or the Board's designated representative, the submission will be distributed to all Board members, and the Board shall schedule a hearing on the appeal within a reasonable time.
- D. Payment of Taxes Prerequisite. For any property with an assessed valuation of \$500,000 or more, a taxpayer filing an appeal must pay an amount of current taxes equal to the greater of (i) the amount of taxes paid in the immediately preceding tax year (up to the amount of taxes due in the current tax year) or (ii) the amount of current year taxes that is not in dispute. Such payment must be paid by or after the due date as committed by the Assessor. If the taxpayer has filed an appeal to the Board without paying the appropriate amount of taxes by or after such due date or according to a payment schedule mutually agreed to in writing by the taxpayer and the Town Council, the appeal process shall be suspended until the taxes, together with any accrued interest and costs, have been paid. If an appeal is in process upon expiration of such due date or such written payment schedule, without the appropriate amount of taxes having been paid, whether the taxes are due for the year under appeal or a subsequent tax year, the appeal process shall be suspended until the appropriate amount of taxes described herein, together with any accrued interest and costs, has been paid.

## V. BOARD PROCEDURES FOR HEARINGS AND MEETINGS

- A. Preliminary Matters. The chairperson will call the meeting to order, conduct a roll call, and address any old business, approval of minutes, and other preliminary matters. For any property tax abatement appeal properly before it, the Board shall determine whether the appellant has satisfied all of the following preliminary requirements for filing an appeal:
  - 1. Was the initial abatement application filed with the Assessor within the relevant application deadline pursuant to 36 M.R.S.A. § 841(1)?
  - 2. Was the appeal application submitted to the Board within the relevant appeal submission deadline pursuant to 36 M.R.S.A. §§ 842 or 843?
  - 3. Did the proper person file the appeal?
  - 4. Did the appeal application identify the correct property and ownership?
  - 5. Did the appeal application state the amount of the request and the reason for the abatement?
  - 6. Did the taxpayer submit a "true and perfect list" to the Assessor where a request for such a list was made in writing by the Assessor and provided directly to the taxpayer, by mail or otherwise, pursuant to 36 M.R.S.A. § 706-A?
  - 7. Did the taxpayer answer any requests from the Assessor for additional, detailed information pursuant to 36 M.R.S.A. § 706-A?

8. Did the taxpayer pay the amount of the tax required by 36 M.R.S.A. § 843(4) as a prerequisite to pursuing the abatement appeal?
  9. If the abatement application claims that the property is exempt from taxation, did the taxpayer file an application for an exemption prior to April 1?
- B. Order of Presentations. The chairperson shall open the public hearing and direct the order of presentation on the hearing as follows:
1. The Board will initially confirm with the appellant and the Assessor (i) the property's current assessed value and (ii) the requested abatement amount.
  2. The appellant will present their case, followed by questions by Board members and cross-examination by the Assessor.
  3. The Assessor will present their case, followed by questions from Board members and cross-examination by the appellant.
  4. The Board may in its discretion allow any public member to speak.
- C. Decorum. Parties and other meeting attendees shall conduct themselves in a civil, courteous manner. Attendees shall refrain from interrupting other speakers.
- D. Questions. Speakers should address questions through the chairperson. Speakers shall not attempt to engage in debate with other meeting participants.
- E. Public Comment. Persons wishing to address the Board on an agenda item shall signify their desire to speak by raising their hands when the chairperson announces that public comment will be considered on such item. After being recognized to speak by the chairperson, such persons will preface their comments by giving their first and last names.

## **VI. DECISIONS OF THE BOARD**

- A. Time of Decision. The Board shall render a decision on all abatement appeals within 60 days from the date the appeal application is filed unless the applicant agrees in writing to further delay. If the Board should fail to give written notice of its decision within 60 days or the agreed upon extended period, in that case, the appeal shall be deemed denied.
- B. Written Decision. The Board shall issue a written decision upon all abatement appeals after it takes final action thereon. The written decision shall set forth the Board's findings of fact and reason or reasons for its decision, upon all material issues of fact, law, or discretion presented, and the appropriate order, relief, or denial of relief. Notice of any decision must be mailed or hand delivered to the appellant, the appellant's representative or agent, the Assessor, and the Town Council within 7 days of the Board's decision.
- C. Transcripts; Recordings. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the Board, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record of the proceeding. All decisions become a part of the record.
- D. Reconsideration. A request to the Board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. The Board may reconsider any decision within 45 days of its prior decision. A vote to reconsider and any action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the

original decision. If the Board votes to reconsider the decision, it may conduct additional hearings and receive further evidence and testimony as provided herein.

- E. Appeal. Any appeal from any final decision of the Board may be taken pursuant to the provisions of 36 M.R.S.A. § 843.
  
- F. Conflicts. Where there is a conflict between the Board's rules of procedure and applicable state law, the applicable state law shall control.

Adopted by Board: \_\_\_\_\_

Approved by the Town Council: \_\_\_\_\_