

BYLAWS OF THE ROCKPORT BOARD OF ASSESSMENT REVIEW

Section 1. Name

This organization shall be known as the Rockport Board of Assessment Review.

Section 2. Purpose and Scope

The purpose of these bylaws is to establish reasonable rules of procedure for Board meetings and to promote the fair, orderly and efficient conduct of the Board's proceedings and affairs. These bylaws shall govern the Board's practices and procedures and shall be liberally construed so as to accomplish their purpose.

Section 3. Board Membership

The Board of Assessment Review shall consist of five regular members who are residents of the Town of Rockport. The members shall be appointed by the Selectmen to serve for staggered three (3) year terms expiring on June 30.

All Board members shall attend all meetings. If a member fails, without good cause, to attend four (4) consecutive regular meetings, or at least 75% of all meetings during the preceding twelve month period, it shall result in a recommendation to the Selectmen for removal of the member from the Board.

Section 4. Officers and Duties

Officers of the Board shall consist of a Chairman and Vice-Chairman/Secretary to be elected annually at the first regular meeting in each fiscal year by and from among Board members unless otherwise provided by law. The Chairman shall preside at all Board meetings and shall have authority to rule on questions of procedure, to maintain order and determine the course of proceedings, and to take such other action as may be necessary and not inconsistent with these bylaws or other law to enable the Board to perform its duties and conduct its affairs. The Chairman also shall, together with the Town Assessor, set the agenda for each meeting. In the absence of the Chairman, the Vice-Chairman/Secretary shall preside and shall have the same authority as the Chairman.

The Town shall provide a Recording Secretary to take minutes and maintain a record of all Board proceedings. Records, correspondence, and Minutes of meetings and hearings shall be maintained in the Town Office and may be inspected during municipal business hours.

Section 5. Meetings

Meetings of the Board shall be held as necessary.

Notice of all Board meetings shall be posted in the Town Office at least seven (7) days prior to the meeting. The notice shall include the date, time, and place of meeting. All such meetings shall be open to the public except as otherwise provided by law.

No business may be conducted by the Board except at a duly called and noticed meeting with a quorum consisting of at least three (3) Board members being present.

Section 6. Timeline for Hearings

A property owner may file an Application for Appeal to the BAR within sixty (60) days of receiving written notification of the Assessor's final decision or after the application is deemed to have been denied.

Following receipt of nine (9) copies of a complete application for appeal and supporting documentation, the Chair of the BAR shall draft an agenda, schedule a public hearing, and notify the appellant of such date.

Any additional supporting material must be submitted, in nine (9) copies, at least twelve (12) days prior to the public hearing.

At least ten (10) days prior to the public hearing, the Town Office shall distribute the appellant's application and supporting documentation, and any documentation deemed pertinent by the Assessor, to the BAR. As a matter of policy, the BAR will not accept written material during the hearing that was not provided to the BAR in advance as stated above, except for rebuttal evidence. The BAR may in its discretion allow further written submission once the hearing has begun, but is not under any obligation to do so.

At least seven (7) days prior to the public hearing, the Town Office shall post and distribute notice of the date, time, and place of the public hearing.

A decision on an application for appeal shall be made at the public hearing held within sixty (60) days after receipt of the application. However, applicant, in writing, may extend the time period for decision.

Failure of the BAR to make a decision on an application for appeal within sixty (60) days, or within requested and agreed upon extension period, shall constitute a denial of the appeal.

Within ten (10) days of making a decision on an application for appeal, the BAR shall provide the appellant with a written statement of the decision.

If the applicant is denied by the BAR or if the BAR fails to act within sixty (60) days or within the stipulated extension period, the applicant is entitled by law to appeal pursuant to 36 M.R.S.A. §843.

Section 7. Conduct of Hearings

The Chairman shall convene all hearings by describing the purpose of the hearing and the general procedures to be followed. The Board may receive any oral or documentary evidence, but shall exclude irrelevant, immaterial or unduly repetitious evidence, provided, however, that formal rules of evidence shall not apply. Every party shall have the right to present its case, with the aid of others including legal counsel, in the order determined by the Board and without interruption, provided, however, that the Board may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard. In any adjudicatory proceeding, every party shall also have the right to submit rebuttal evidence and to conduct cross-examination of any other party through the Chairman, provided however, that the Chairman may impose such other reasonable limitations as may be necessary to prevent an abuse of such process.

The Board may view the property in issue at the request of either party or on the Board's initiative, provided both parties shall have the right to be present. Evidence or testimony shall not be offered at the time of the viewing. Both parties may nevertheless call to the attention of the Board those things which they wish the Board to observe, without further comment at that time. The viewing may precede or follow the hearing itself as the Board shall determine.

Section 8. Participation and Voting

Any action of the Board shall require the affirmative vote of a majority of its membership.

Prior to consideration of any agenda item before the Board, each Board member shall declare any potential conflict of interest or other disqualification to the Board with respect to that item. A Board member may voluntarily refrain from participation on an agenda item. If a question of a possible conflict of interest or other disqualification is raised and the Board member asserts that there is no conflict or other disqualification that will influence his or her conduct, the Board, after discussion, shall determine by a majority vote of the remaining members whether a conflict or other disqualification exists. A Board member with such conflict or other disqualification shall refrain from participating, influencing, and voting on the item that precipitated the conflict or other disqualification by physically removing him or herself from the table, but may participate in the discussion from the audience as a member of the public.

Section 9. Decisions

All decisions of the Board on applications for appeal shall become a part of the Board's permanent record, and shall, where required by law, include a statement of findings and conclusions and the reasons or basis therefore. All such decisions, together with any tape recording or transcript of testimony and deliberations and any documents and exhibits offered to the Board, shall constitute the record of the proceedings and shall be a public record, except as otherwise provided by law.

The Board may reconsider any decision at the same meeting or at a subsequent meeting within forty-five (45) calendar days of its original decision, provided, however, that both a vote to reconsider and any action taken pursuant thereto shall occur and be completed within said forty-five (45) days. Notice of any reconsideration shall be given to the parties concerned a reasonable time in advance of the reconsideration. The Board may conduct additional hearings and receive additional evidence and testimony as provided herein.

Section 10. Decision Considerations

The decision is based on the record which is created at the hearing.

Before the Board hears the appellant and makes a decision, the following must be reviewed:

- Did the taxpayer file a written application?
- Was the initial abatement application filed with the proper person or board within the deadline?
- Did the taxpayer file in a timely manner with the Board?
- Did the taxpayer pay the amount of tax as required by 36 M.R.S.A. 843(4)?

The initial appeal to the Assessor is not reviewed by the Board unless it is made part of the taxpayer's submission.

The appeal to the Board is "de novo", or "all new" submissions. The entire record at the appeal is final. This same information proceeds to the courts if denied.

Neither party is restricted with regard to the evidence presented.

The burden of proof is on the taxpayer. Based solely on the evidence adduced at the hearing, the Board should make their decision based on whether the taxpayer was able to prove that the following occurred:

- The judgment of the Assessor was irrational or so unreasonable in light of the circumstances that the property is substantially overvalued and an injustice results; and/or
- The assessment resulted in unjust discrimination; and/or
- The assessment was fraudulent, dishonest or illegal.

Section 11. Conflict with Laws

Any conflict or inconsistency between these bylaws and any applicable law shall be resolved in favor of the law.

Section 12. Waivers; Amendments

These bylaws, or any provision thereof, may be waived on any occasion by majority vote of the Board unless provided by law. These bylaws may be amended at any time by majority vote of the Board, provided the proposed amendment has been distributed in draft form and discussed at the previous meeting of the Board.

Approved by the Board of Assessment Review on June 18, 2009

Approved by the Select Board on July 13, 2009