

BOARD OF ASSESSMENT REVIEW ORDINANCE

TOWN OF PHIPPSBURG, May 17, 1997

Amended through May 4, 2010

1. **AUTHORITY:** This Board is established in accordance with 36MRSA Section 843, Sub-section 1 and 1-A.
2. **RESPONSIBILITY:** This board shall have the responsibility for the arbitration of taxpayer appeals and shall have the authority to abate assessments on the basis of the information presented.
3. **ASSESSMENT REVIEW BOARD:** This board shall consist of three (3) members and two (2) associate members who shall be appointed by the municipal officers.
 - A. One member shall be appointed for one year, one member for two years, and one for three years. Initial terms of associate members shall be one year and two years respectively. Vacancies due to death, resignation, or other cause shall be filled by appointment by the municipal officers for the remainder of the unexpired term.
 - B. One member shall be elected annually by the members as chairperson and one member as secretary of the board. A majority of the voting members, or associate members designated by the chair to serve in their place, shall constitute a quorum.
 - C. This board shall not contain any members who are currently elected municipal officers or town employees.
4. **HEARING PROCEDURES:** The taxpayer, upon receiving a decision that their abatement request has been denied, has sixty (60) days to appeal the decision to the Board of Assessment Review. If a taxpayer requests a hearing, the individual is to be notified of the date, time, and place for that hearing in writing and he will also be given adequate preliminary information and time to ensure effective preparation of his case. Both the taxpayer and the tax assessor(s) shall have the option to present their positions themselves or with the aid of others, including legal counsel. All hearings will:
 - A. Be conducted at the Phippsburg Town Hall, unless otherwise notified, and will be open:
 - (1) to the public,
 - (2) to the taxpayer, witnesses, legal counsel, or others whom he wishes to be present,
 - (3) to the tax assessor(s) and /or his agents, legal counsel, or others selected by the hearing authority for their planned participation in the hearing,

- B. Be opened with presentation of the issue by the Chairperson or Chairperson pro tem.
- C. Be conducted informally, but under oath, without technical rules of evidence, but subject to requirements of due process. All evidence having reasonable relationship to the hearing shall be admissible, but all immaterial, irrelevant, and unduly repetitious evidence shall be excluded.
- D. Provide all participants an opportunity to:
 - (1) present oral and/or written testimony or documentary evidence,
 - (2) offer rebuttal,
 - (3) question witnesses,
 - (4) examine all evidence presented at the hearing,
 - (5) view the property at issue, provided both parties (the taxpayer, the assessor(s), and, if desired, legal counsel) have been given the right to be present at the property to be viewed. No evidence or testimony shall be offered at this review. Questions, asked by the Board, shall be answered to the best of the parties' ability. Both parties may nevertheless call to the attention of the Board, those things which they wish the Board to observe, (this should shall be done prior to the start of the review), without further comment during the review. Persons disrupting or causing undue interference during the review, shall be asked to leave the property. This review may precede or follow the hearing itself as the Board shall determine. The Board may ask to review the property again, if it feels the need to do so. The Board may also elect not to review the property, although it is strongly recommended that they do so.
- E. Result in a decision, based exclusively on evidence or testimony presented at the time of the hearing(s) and the observation of the Board on any review taken.
- F. Be permanently recorded, having a written decision (see below, DISPOSITION OF HEARING DECISION) filed with evidence introduced at the hearing. The hearing will allow the taxpayer to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Non-record information that either party does not have an opportunity to hear or see shall not be used in the hearing decision or made part of the hearing record. The Board shall not review any material prior to the hearing, unless the same material is made available to both parties and their legal counsel, if any.

5. DISPOSITION OF HEARING DECISION: The decision of the Board of Assessment Review will be binding on the Tax Assessor(s) and will be communicated in writing to the taxpayer and to the tax assessor, tax collector and treasurer within ten (10) days after completion of the hearing. For reason of possible appeal, this notice shall be sent by registered mail.

- A. Written notice of the decision will contain the following:
 - (1) A statement of the issue.
 - (2) Pertinent provisions in the law related to the decision.
 - (3) Relevant facts brought out at the hearing.
 - (4) The decision and the reason for it.
- B. The taxpayer shall be furnished with a copy of the notice of decision, the hearing record and a copy of the tax or assessment record maintained by the tax assessor(s) or their agent, if requested.
- C. The written NOTICE OF DECISION shall state that the taxpayer and the Town, if either is dissatisfied with the decision, shall have the right to judicial review under the provisions of Maine Revised Statutes Annotated. To take advantage of this right, the taxpayer or the Town must file a petition for review in the Superior Court or to the State Board of Property Tax Review within thirty (30) days from receipt of notice of the hearing decision. The procedure or appeal shall be as set forth in Rule 80 B of the Maine Rules of Civil Procedure.

6. ROLE OF THE CHAIRPERSON:

- A. The Board of Assessment Review shall make such other reasonable rules of procedure as may be required.
- B. The Chairperson or Chairperson pro tem shall make such rulings as may be required during the hearing, unless any member objects, in which case the ruling shall be determined by majority vote.
- C. The Chairperson or Chairperson pro tem shall swear all witnesses, using the following oath of affirmation: Do you solemnly swear (affirm) that the testimony you are about to give in the matter now before this Board shall be the truth, the whole truth, and nothing but the truth, so help you God (under the pains or penalties of perjury).
- D. The Chairperson or Chairperson pro tem shall maintain order at all hearings and may exclude any person or persons from the hearing room who are disorderly and interfere with the orderly conduct of the hearing.

7. EFFECTIVE DATE:

- A. This ordinance shall become effective immediately upon adoption by the May 17, 1997 Town Meeting, and remain in effect until repealed or replaced.
- B. Under 30 MRSA Section 2526, Sub-section 6A, this Board cannot be seated until after the 1998 Annual Town Meeting.

8. CONFLICTS: If any section of this Ordinance conflicts with State Laws and Regulations, the more stringent provisions shall apply.

9. SEPERABILITY: If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

Attest to be a true copy: John M. Young
 Deputy Town Clerk
 Town of Phippsburg

Amendment Summary		
Date	Section	Amendment
5/08/07	Section 3.A.	Removed term limit
5/04/10	Section 5.	Changed Board decision time from 60 days to 10 days