

# CHAPTER 7

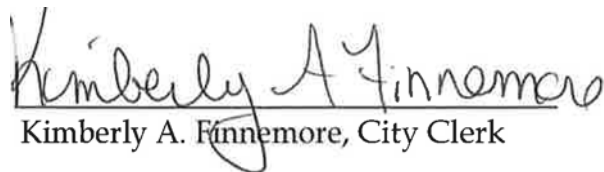
## CITY OF PRESQUE ISLE

*Assessors and Board of Assessment Review  
Ordinance*



First Hearing: January 4, 1999  
Second Hearing: January 20, 1999  
Repassed: January 6, 2014  
Repassed: January 3, 2018  
Repassed: January 5, 2022

Attest:

  
Kimberly A. Finnemore, City Clerk

City Seal

## CHAPTER 7

### **ASSESSOR AND BOARD OF ASSESSMENT REVIEW ORDINANCE**

#### **Section 1 Assessor**

There shall be single Assessor appointed by the City Manager. The single Assessor shall perform all duties and responsibilities provided for Assessor under general law.

The Assessor may be removed by the City Manager for cause, after notice and hearing. Cause shall not include any disagreement with respect to an assessing practice employed by the Assessor where such practice is generally accepted in the trade and is lawful.

The Assessor shall be appointed to serve one year and until another is chosen and qualified in his or her place.

#### **Section 2 Board of Assessment Review**

There shall be established a Board of Assessment Review for the purpose of deciding upon taxpayer appeals from decisions of the Assessor or the City Council. The Board shall have the opportunity to grant such reasonable abatement of property tax as they think proper on the basis of evidence presented at appeal.

- A. The Board of Assessment Review shall be organized as follows:
1. The Board shall consist of five (5) Board members, serving three (3) year staggered terms, and two (2) Associate members appointed yearly by the City Council. Associate members shall not take part in any hearing unless designated by the Chairman to serve in the place of an absent member.
  2. One (1) member shall be elected annually by the members as Chairperson, and one (1) member as Secretary of the Board. A majority of the voting members, or associate members designated by the Chairperson to serve in the place of absent members shall constitute a quorum.
  3. Neither a municipal officer nor a spouse of a municipal officer may be a member or associate member of the Board.
  4. Any question of whether a particular issue involves a conflict of interest, or a direct or indirect pecuniary interest, sufficient to disqualify a member from voting on that issue shall be decided by a majority vote of the members, excluding the member who is being challenged.

5. Vacancies due to death, resignation, removal by the municipal officers or failure to maintain legal residence in Presque Isle, shall be filled by interim appointment by the Council for the remainder of the unexpired term.
  6. The municipal officers may dismiss a member of the Board for cause before the member's term expires. Cause may include failure to attend meetings as called by the Chairman.
  7. The City Council shall have the right to discontinue the Board of Assessment Review at any time, by vote of the Council, provided such vote to discontinue shall take place at least ninety (90) days before January 1<sup>st</sup> of any year. If so voted to discontinue, the Board shall cease to exist at the end of the then current year.
- B. The Board shall adopt rules of procedure for internal governance to include the following:
1. The Chairman shall call meetings of the Board as required. The Chairman shall also call meetings of the Board when requested to do so by a majority of the members. A quorum of the Board necessary to conduct an official Board meeting must consist of at least a majority of the Board's members or such associates as determined by the Chairman to serve in the place of an absent member.
  2. The Secretary shall maintain a permanent record of all Board meetings and correspondence of the Board. The Secretary is responsible for maintaining those records which are required as part of the proceedings which may be brought before the Board. All records to be maintained or prepared by the Secretary are public records excepting those records which, pursuant to 36 M.R.S.A. §841, are confidential. They shall be filed in the Assessor's office and may be inspected at reasonable times, excepting those records which pursuant to 36 M.R.S.A. §841 are confidential.
  3. The Board, may provide, by regulation which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that the Chair may waive any regulation upon good cause shown.
  4. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.
  5. The transcript or tape recording of testimony is 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. All decisions become a part of the record and must include a statement of

findings and conclusions, as well as the reasons or basis for the findings and conclusions.

6. The Board shall be subject to the same provisions for notice of decision and appeal as required by 36 M.R.S.A. §842 and 36 M.R.S.A. §843.

C. Severability

In the event any part or portion of the Ordinance is deemed by a Court of competent jurisdiction to be void and unenforceable, the remaining portions as parts shall remain in full force and effect.

- D. The Board shall comply with all respects with the confidential provisions of 36 M.R.S.A. §841 concerning applications for abatement due to infirmity or poverty and the Board's actions regarding said application.

E. Sunset Provision

This Ordinance shall be in force for the term of four years from its effective date. This Ordinance shall become null and void upon the expiration of four years from the said effective date; unless recommended and required by the City Council to remain effective, prior to such expiration date.

## **RULES OF PROCEDURE**

When a Taxpayer requests a hearing, it shall be in writing. Such Taxpayer is to be notified of the date, time and place for the hearing in writing, and will also be given preliminary information. The hearing shall be set to allow time to ensure effective preparation by the Taxpayer.

All hearings will be governed by the following, which information shall be furnished to the Taxpayer:

- A. Be held and conducted in a convenient place within the City of Presque Isle, open to the public, except those matters involving appeals based on poverty or infirmity pursuant to 36 M.R.S.A. §841:
  1. The Taxpayer, his witnesses, legal counsel, and other whom the Taxpayer elects to be present at the hearing;
  2. The Tax Assessor, the City Solicitor (at the Assessor's discretion), and such others selected by the Assessor, and/or, the Board.
- B. The hearing shall be opened with a presentation of the issue(s) by the Chairperson (or in absence of the Chairperson, the Chairperson Pro. Tem.).
- C. The hearing shall be conducted in an informal manner, by the Chairperson, but all person(s) testifying thereat shall be under oath. The "Rules of Evidence" shall not be adhered to, but subject to requirements of "due process." All evidence having reasonable probative value shall be admissible, but any immaterial, irrelevant and unduly repetitious evidence, as determined by the Chair, shall be excluded.
- D. The Taxpayer and the Assessor shall have the right to present their positions themselves, or by their legal counsel, or with the aid of others.
- E. All participants shall be given the opportunity:
  1. to present oral and/or written testimony or documentary evidence;
  2. to offer rebuttal evidence;
  3. to questions and to cross-examine any witness presented at the hearing;
  4. to examine all evidence presented at the hearing; and
  5. to request a view of the property in issue. The Board may allow such a view, or may, at its own Motion order a view of the property, if the Board, in its sole discretion feels that such a view is needed to enhance the hearing process. If a view is so ordered, both parties (the Taxpayer and the Assessor, together with legal counsel) shall have the right to be present, and evidence or testimony shall not be offered at the time of the view. Both parties may nevertheless call to the attention of the Board those things which either of them wish the Board to observe, without further comments during such view. The view may precede or follow the hearing itself, at the sole discretion of the Board.

- F. Result in a decision, based on the evidence and/or testimony presented at the hearing, and the observation of the Board on any view taken of the property on issue.
- G. Be permanently recorded, having a written decision and evidence will be kept on file with the Board. The hearing will allow the Taxpayer to establish all pertinent facts and circumstances, and to advance any supportive arguments without undue interference.

Information that either party does not have an opportunity to hear or see is not used in the hearing decision or made a 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.

- H. To maintain orderly procedure, the Chairperson shall have the right to require that all questions asked of either party or witnesses be made through the Chair, and all persons at the hearing shall abide by the Order of the Chairperson.

## **DISPOSITION OF HEARING DECISION**

The decision of the Board of Assessment Review will be communicated in writing to the Taxpayer and to the Assessor, and a copy thereof given to the Tax Collector and the City Treasurer within ten (10) days after completion of the hearing.

The decision of the Board will be binding on the Assessor. Written notice of the decision will contain the following:

1. A statement of the issue(s);
2. Pertinent provisions in the law related to the decision;
3. Relevant facts brought out at the hearing;
4. The decision and the reason(s) for it;
5. The notice of decision will state that the Taxpayer and/or City of Presque Isle, if either is dissatisfied with the decision of the Board, shall have the right to a judicial review by the Superior Court, under Rule 80(b) of the Maine Rules of Civil Procedure; and that if the Taxpayer and/or the City are to take advantage of this judicial review, the party requesting such review must file a petition for review in the Superior Court within thirty (30) days after receipt of notice of the decision.

## **ROLE OF CHAIRPERSON OF BOARD**

1. The Chairperson shall swear in all witnesses, using the following oath or affirmation:

“Do you solemnly swear (affirm) that the testimony you are about to give in the matter now in hearing shall be the truth, the whole truth and nothing but the truth, so help you God (under the pains or penalties of perjury).”

2. The Chairperson shall maintain order at all hearings and may exclude any person or persons from the hearing room who are, in the opinion of the Chair, disorderly and/or interfere with the orderly conduct of the hearing process.