

Amendment – Proposed to the Assembly

Amendment to Chapter 3.72. Chapter 3.72 of the Haines Borough Code is hereby amended by repeal of Section 3.72.110 and by the addition of a new Section 3.72.110 as follows:

3.72.110 Board of Equalization Membership & Duties.

- A. *Board of Equalization Established.* There shall be a board of equalization consisting of no fewer than five nor more than nine members that shall hear appeals from determinations of the assessor.
- B. The board of equalization may alter an assessment of a tract only pursuant to an appeal filed as to that particular tract.
- C. *Appointment and Term.* Members shall be appointed by the assembly and, except as provided in this subsection, shall serve a term of three years, which shall terminate on November 30th of the year the member's term expires. By December 1, 2024, the assembly shall appoint three members who shall serve one-year terms, three members who shall serve two-year terms, and three members who shall serve three-year terms. By December 1 of each subsequent year, the assembly shall appoint three members who shall succeed the members whose term expires that year. Should a member cease to hold office prior to the expiration of the appointed term, the assembly shall, by December 1, appoint a member to shall serve the balance of that term.
- D. *Qualifications.* A member shall be a qualified voter of the Haines Borough and a resident for at least one year immediately preceding the date of appointment. A member who no longer resides in Haines Borough shall forfeit the office. Assembly members shall not be qualified to serve on the board of equalization. The assembly shall consider personal and professional experience in property development, property management, construction, insurance, banking, real estate, and other relevant fields when appointing members to the board.
- E. *Presiding Officer.* In December of each year, the board of equalization shall elect a member who shall serve as presiding officer. The presiding officer's term shall continue until a successor presiding officer is elected and qualified. The presiding officer's term shall immediately terminate if the officer ceases to be a member of the board of equalization. The presiding officer shall coordinate with the assessor and borough clerk to set and publish agenda for meetings and hearings of the board and hearing panels. The presiding officer shall designate members to serve on hearing panels as panelists and alternates. The presiding officer shall perform other duties reasonably necessary to administer the business of the board and other such duties as may be assigned by the assembly.
- F. *Rules and Regulations.* The board of equalization and hearing panels are governed in proceedings by the same rules governing the assembly. The board may adopt reasonable rules and regulations governing proceedings before the board and hearing panels. These rules shall be reviewed by the board annually after the conclusion of all appeals with recommended changes submitted to the assembly for approval by December 1 of the assessment year.
- G. *Quorum and Acts of the Board.* A majority of the members shall be a quorum for the transaction of business of the board of equalization. In the absence of a quorum, any number less than a quorum may recess a meeting to a later time or date. In the presence of a quorum, no action shall be taken except upon an affirmative vote of a majority of the quorum present at a properly noticed meeting.

Amendment to Chapter 3.72. Chapter 3.72 of the Haines Borough Code is hereby amended by the addition of a new Section 3.72.115 as follows:

3.72.115 Hearing Panels of the Board of Equalization.

Commented [CC1]: When a section or chapter of a code is extensively revised, repealing the replacing the section or chapter is often preferable.

Commented [CC2]: Not clear if the committee intended to incorporate the one year requirement or if being a resident as of the date of appointment is sufficient. I believe the intent is to require a year's residency and incorporated that. The committee should confirm. This provision can be easily changed to a resident as of the date of appointment.

Commented [PR3R2]: We intend it to be a one year resident as of the date they are appointed

Commented [CC4]: Codified ordinances should avoid initialisms when it is reasonable to do so. For brevity, "board" can be used in lieu of "board of equalization" after the first use of "board of equalization in a code section as long as no ambiguity as to the meaning of "board."

Commented [PR5R4]: Use "board" instead of "BOE"

Commented [CC6]: I believe this reflects the committee's intent. Committee confirmation should be obtained.

Commented [PR7R6]: Yes, this is the intent of the committee that the assembly shall consider the various qualifications listed.

Commented [CC8]: The board is empowered to adopt its own rules and regulations. It is unclear why the board is submitting proposed changes to the assembly when it's the board that must amend its own rules.

Commented [PR9R8]: I sent a separate email to Annette Kreitzer explaining this. It has to do with due process.

Commented [CC10]: When a section or chapter of a code is extensively revised, repealing the replacing the section or chapter is often preferable.

Commented [PR11R10]: OK

- A. Notwithstanding HBC 3.72.110.F, a duly constituted hearing panel shall be empowered to hear appeals from determinations of the assessor on behalf of the board of equalization. A hearing panel's decisions on an appeal shall be considered decisions of the board of equalization for the purpose of this chapter.
- B. A hearing panel shall be composed of not less than five members. For each hearing panel, the presiding officer shall designate at least three members as panelists and two members as alternates.
- C. Three panelists shall constitute a quorum for the transacting of business of the hearing panel. In the absence of a quorum, any number of panelists less than a quorum may recess a hearing to a later time or date. In the presence of a quorum, no action shall be taken except upon an affirmative vote of a majority of the panelists present at a properly noticed hearing.
- D. Panelists shall participate in hearings and shall be entitled to vote on business before the panel. Alternates shall not participate in hearings nor vote on business before the panel. A panelist may be replaced by an alternate **under what circumstances and procedure?** and upon the occurrence of same shall be considered a panelist.
- E. Hearing panels shall commence hearing appeals on the second Monday in May of each year unless a different date is established by resolution of the assembly. The hearing panel shall adjourn over and continue its session as business requires.
- F. The panelists shall choose a hearing chair at the beginning of each hearing session.
- G. An appellant may request that a panelist be excused from the panel hearing the appellant's appeal by providing a written request for excusal of the member, without stating any reason for the requested excusal, to the presiding officer not less than 48 hours prior to the time set for the hearing. The presiding officer may grant the request if an alternate is available to serve as a panelist. No more than one request may be made for any appeal.

Compensation for members shall be \$100.00 per meeting beginning January 1, 2024. Thereafter, compensation will be set pursuant to HBC 2.60.040. Board members may decline compensation by providing written notice to the municipal clerk.

Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court within 30 days after final decision, following the procedures set out in AS 44.62.560 through 44.62.570.

Commented [CC12]: The redrafted version of the committee's proposed amendment sufficiently establishes the panel's authority to hear and decide appeals as though the panel were the board.

The committee's proposed amendment does not address to what extent the hearing panel is to execute the duties of the board that are set forth in 3.72.120 D & E.

Commented [PR13R12]: Generally the committee was concerned when a panelist had a conflict of interest with the appellant which could be for many reasons. This would then lead to the replacement by an alternate.

Commented [CC14]: I could not discern from the committee's draft how and under what circumstances an alternative subs in for a panelist. Direction from the committee is required.

Commented [PR15R14]: Section G states that an appellant may request that a panelist be excused. This is when this would happen.

Commented [CC16]: For how long? Is the replaced panelist now an alternate?

Commented [PR17R16]: Only for the appellant who who requested the panelist be excused.

Commented [CC18]: Meaning of "hearing session" is unclear. Subsection E suggests that a session is the entirety of the panel's hearings for a given year.

HBC 3.72.010 sets forth definitions of terms used in the chapter. The committee should consider adding certain ... [1]

Commented [PR19R18]: This was intended to be for all appeals to be heard on one date with the same panelists.

Commented [CC20]: Shall?

Commented [PR21R20]: Shall probably makes more sense.

Commented [CC22]: As stated in the committee's draft and repeated here, a hearing panel requires two alternates ... [2]

Commented [PR23R22]: If an alternate becomes a panelist, the intent was for the hearing for the appella ... [3]

Commented [CC24]: I interpreted the committee's draft to be limited to a requesting a single panelist be excus ... [4]

Commented [PR25R24]: Yes - one request only

Commented [CC26]: This should not be in code. Instead, if the assembly adopts an ordinance along the lines of ... [5]

Commented [PR27R26]: Do you mean that HBC 2.60.040 would need to be amended to include BOE panelists? ... [6]

Commented [CC28]: This should be added as a new subsection E in Section 3.72.100.

Commented [PR29R28]: Ok

Page 2: [1] Commented [CC18] Charles Cacciola 1/22/2024 1:23:00 AM

Meaning of “hearing session” is unclear. Subsection E suggests that a session is the entirety of the panel’s hearings for a given year.

HBC 3.72.010 sets forth definitions of terms used in the chapter. The committee should consider adding certain terms to that section. Defined terms are an efficient way to draft clearer, more concise ordinances. Defining “hearing session” and other key terms in accordance with the committee’s intent will result in a superior product.

Page 2: [2] Commented [CC22] Charles Cacciola 1/22/2024 1:09:00 AM

As stated in the committee’s draft and repeated here, a hearing panel requires two alternates. What happens to a panelist when an alternate subs in for the panelist?

If upon excusal a panelist becomes an alternate (in other words, the alternate and panelist essentially swap roles), alternatives are necessarily available because a hearing panel requires two alternatives: Without two alternates, there is no hearing panel.

As noted above, the committee needs to provide further direction on the procedure and result of an alternate becoming a panelist (i.e., an active, voting member of the hearing panel). Once that is established, other components of this draft can be revised accordingly.

Page 2: [3] Commented [PR23R22] Paul Rogers 1/31/2024 5:36:00 PM

If an alternate becomes a panelist, the intent was for the hearing for the appellant who had a request for a panelist to be excused. As soon as that appeal is over, the original panelist can return to being a panelist for the hearings scheduled for that date.

Page 2: [4] Commented [CC24] Charles Cacciola 1/22/2024 1:10:00 AM

I interpreted the committee’s draft to be limited to a requesting a single panelist be excused. If that’s not the intent, this should be deleted and replaced with language that reflects committee’s the intent.

Page 2: [5] Commented [CC26] Charles Cacciola 1/22/2024 1:26:00 AM

This should not be in code. Instead, if the assembly adopts an ordinance along the lines of the committee’s proposal, the ordinance can have a non-codes section that establishes member honoraria.

Page 2: [6] Commented [PR27R26] Paul Rogers 1/31/2024 5:40:00 PM

Do you mean that HBC 2.60.040 would need to be amended to include BOE panelists? If yes, that is easy to do.