



City of Pewaukee

Board of Review Rules and Procedures

Rule 1 Authority

The Board of Review shall operate under the laws set forth in Chapter 70 of the Wisconsin Statutes, relevant published decisions of the Wisconsin Courts, the instructions contained in the Wisconsin Property Assessment Manual for Wisconsin Assessors, Guides published by the Wisconsin Department of Revenue and these Board of Review rules and procedures. All the above may be amended from time to time.

Rule 2 Board of Review

(A) Membership. The Board of Review shall consist of five (5) residents of the City of Pewaukee. The members shall be appointed by the Mayor and confirmed by the Common Council. The terms shall be two (2) years, staggered.

(B) First Meeting. The Board of Review shall meet annually during a 45-day period starting the 4th Monday of April, but not sooner than seven days after the last day which the assessment roll is open for examination under Section 70.45 of the Wisconsin Statutes. At its first meeting, the Board shall comply with the requirements of Section 70.47(3)(A) of the Wisconsin Statutes as follows:

70.47(3) (A) SESSIONS. (a) At its first meeting, the board of review:

1. Shall receive the assessment roll and sworn statements from the clerk.
2. Shall be in session at least 2 hours for taxpayers to appear and examine the assessment roll and other assessment data.
3. Shall schedule for hearing each written objection that it receives during the first 2 hours of the meeting or that it received prior to the first meeting.
4. Shall grant a waiver of the 48-hour notice of an intent to file a written or oral objection if a property owner who does not meet the notice requirement

appears before the board during the first 2 hours of the meeting, shows good cause for failure to meet the 48-hour notice requirement and files a written objection.

At this first meeting, the Board will also elect a Chairperson and a Vice-Chairperson. These officers may succeed themselves.

Rule 3 Duties and Authority of the Board

(A) Chairperson. The Chairperson shall preside over all meetings of the Board. In the absence of the Chairperson, the Vice-Chairperson shall assume the duties of the Chairperson.

(B) Rulings. During the hearing, the Chairperson shall make all rulings regarding procedural matters and the admission or exclusion of evidence. If circumstances prove necessary, the Chairperson will have the authority to make rulings regarding the procedural matters and the admission or exclusion of evidence which may arise at a time when the Board is not in session.

(C) Clerk. The city will provide a Clerk for the Board. The duties of the Clerk shall be to assist the Board in the performance of its duties by keeping accurate records of its proceedings, safeguarding the records, giving notices of meetings and adjournments and notifying property owners of Board determinations.

Rule 4 Quorum

A majority of the members of the Board present shall constitute a quorum, except that two members may hold hearings of evidence. A majority vote of the quorum shall establish the determination of the Board. In the event there is a tie vote, the Assessor's valuation will be sustained. A Board member may not be counted in determining a quorum and may not vote concerning any determination unless the member:

- Attended the hearing when the evidence was presented, or
- Received the transcript of the hearing not less than five days prior to the meeting to make a decision and read the transcript beforehand, or
- Received a recording of the Board hearing not less than five days prior to the meeting to make a decision and listened to the recording beforehand.

Rule 5 Board's Function and Jurisdiction

(A) Board Duties. The Board shall presume that the Assessor's valuation is correct. That presumption may be rebutted by a sufficient showing that the valuation is

incorrect. From the evidence before it, the Board shall determine whether the Assessor's assessment is correct. If the assessment is too high or too low, the Board shall raise or lower the assessment accordingly and shall state on the record the reasons for the corrected assessment and that the revised assessment is reasonable in light of all of the relevant evidence that the Board received. The Board's function is not one of valuation, but of deciding on the validity of the facts presented before it. The Board is a quasi-judicial body whose duty is to hear sworn, oral testimony regarding assessed values. Based only on that testimony, the Board must decide whether an objector has proven the Assessor's assessment incorrect. If the Assessor's valuation has not been proven to be incorrect, the assessment must be upheld.

(B) Manufacturing Assessments. The Board has no jurisdiction to decide the valuation of any property assessed by the Wisconsin Department of Revenue.

(C) Exemption. The Board has no jurisdiction to grant or deny an exemption or to consider allegations that a claim for exemption from property taxes has been improperly denied.

(D) Legislative Powers. The Board has no legislative power except for the promulgation of these rules and procedures.

(E) Denial of Valuation Hearing. A determination by the Board to deny a request for a valuation hearing must use the language "denial of valuation hearing". Upon a request for a valuation hearing, the Board shall either deny the request or grant the request. The Board's determination is not a ruling on the whether to sustain the Assessor's valuation determination. The Clerk shall send out a written notification of the denial of the valuation hearing based on the Board of Review's determination. The Board of Review should not state "sustained valuation" on the notification because that language might permit the property owner to pursue a Section 74.37(3), Wis. Stat. excessive assessment claim in circuit court, even if the notification is the result of an inadvertent error.

Rule 6 Location of Assessment Roll

The local assessment roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours in the Assessor's Office and the City Clerk's Office.

Rule 7 Objection Filing

(A) Objection Forms. An objection to assessment of real property shall be in writing and made on Form PA-115A as prescribed by the City Assessor and approved by the

Wisconsin Department of Revenue. An objection to an assessment of personal property shall be in writing and made on Form PA-115B, as prescribed by the City Assessor and approved by the Wisconsin Department of Revenue.

- Objection forms shall be provided by the City Clerk's office and are available online at www.revenue.wi.gov/forms.
- A separate objection form shall be completed for each tax parcel property assessment or personal property account being appealed.

(B) Who May File. Objection to an assessment may be made by the owner of the property or the owner's authorized agent. If the objection is made by an agent, written authorization must be filed with the objection form by completing Wisconsin Department of Revenue Agent Authorization Form PA-105, and the authorization must be signed by the property owner.

No person may appear before the Board of Review, testify to the Board by telephone, or object to a valuation if that valuation was made by the Assessor or the objector using the income method, unless no later than 7 days before the first meeting of the Board of Review the person supplies to the Assessor all of the information about income and expenses, as specified in the manual under Section [73.03 \(2a\)](#), that the Assessor requests. Contact information including email and telephone number should be provided at the same time. The City shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the Assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph is not subject to the right of inspection and copying under Section [19.35 \(1\)](#) unless a court determines before the first meeting of the Board of Review that the information is inaccurate.

(C) Signature and Verification. The objection form shall be in writing and signed by the owner or a duly authorized agent. If the owner is a corporation, the objection form must be signed by an officer of the corporation indicating the position (office) held.

(D) Completion of the Objection Form. The objection form must be completed in its entirety and filed with the Board Clerk and a copy given to the Assessor to ensure that the Board of Review has the necessary information to perform its statutory duties properly. The objection form must contain contact information including the current e-mail and phone numbers for the owner and agent, if applicable.

(1) In addition to responding to all of the items requested on the objection form, Wisconsin statute Section 70.47(7)(ae) must also be satisfied requiring the persons' objection to specify the information that the objector used to arrive at

their estimate of the market value of the property. This statute is satisfied if the objector adequately completes Section 3 of the objection form, including attaching additional sheets of information. (PA-115A or PA-115B). This section is satisfied only if the objector states with specificity the reasons why the assessment is too high/too low and identifies and/or attaches the information that the objector used in support of their opinion of valuation. Simply stating the assessment exceeds market value, and nothing more is insufficient.

(2) If the objection form is incomplete or if a response is non-responsive, the clerk shall notify the property owner or property owner's agent to resubmit a corrected and completed form by the close of business within two days after notice of the incomplete notification is given. The Clerk will notify by telephone contact and follow up by email, certified mail or regular mail, any one of which suffices as proper notice. The Assessor or the Board of Review cannot properly perform their duties if the necessary information is not provided.

(3) For any rule requiring a property owner or the property owner's agent to file a document with the City of Pewaukee departments, "file" means to submit in person, by e-mail, fax or by U.S. mail. Filings are timely if received by the close of the business day, which is 4:30 P.M., central time. Any document filed after that time is considered to be filed the following day.

(E) Failure to Fully Complete Objection Form or Provide Additional Information After Notification Is Given As Outlined in Rule 7(D). If after being notified of a deficient objection form, the property owner or the property owner's agent does not complete the objection form in its entirety or fails to furnish any of the information requested on the objection form, the assessment objection shall be deemed invalid and shall not be acted on by the Board. The Board shall hold a procedural hearing, after at least 48 hours' notice is given to the objector, where the Board will decide if the objection form is incomplete as to any item and the dismissal of the objection is warranted.

(F) Late Filed Notice of Intent – Good Cause. The Board shall grant a waiver of the 48-hour notice of intent to file a written or oral objection provided that:

(1) The objector personally appears before the Board during the first two hours of the first meeting of the Board; and

(2) The objector provides 'good cause' for failure to meet the 48-hour notice of intent requirement; and

(3) The objector files a fully completed and compliant written objection

For this purpose, 'good cause' shall mean a sufficient reason for the untimely filing determined on a case by case basis by the Board. To determine if good cause exists the

Board may consider the following factors:

- a.) The reason for the taxpayer's delay,
- b.) The extent to which the objector undertook any effort to comply with the Board of Review filing deadlines and other Board rules and state statutes,
- c.) The taxpayer's or representative's professional experience in filing objections before any board of review, and
- d.) The objector's prior experience with this Board and the objector's previous disregard, if any, for the Board of Review procedures.

(G) Late Filed Objection – Extraordinary Circumstances. The Board of Review may waive all notice requirements and hear a property assessment objection provided that:

- (1) The objector files a fully completed and compliant written objection form; and
- (2) The objector provides in person evidence of "extraordinary circumstances"; and
- (3) The objector personally appears before the Board to request a waiver of the notice requirements at any time up to the end of the fifth day that the Board is in session or up to the end of the final session of the Board if the Board of Review is in session less than five days. The end of session of the Board for a tax year is determined by the schedule of the Board of Review for that year.

For this purpose, the evidence of "extraordinary circumstances" shall be determined on a case by case basis and must rise to the level of being very unusual, or highly remarkable or non-reoccurring circumstances that are more severe than the circumstances to justify good cause.

(H) Property Owner May Deny View of Property. A property owner may deny the Assessor entry to the property's interior to view the property and such denial to enter shall not prevent the owner from appearing at the Board of Review to object. The Assessor may not increase the assessment solely on the property owner's refusal to allow entry.

The Assessor, if requesting a view of the interior, shall provide written notice that includes the property owner's rights as follows:

You have the right to refuse entry into your residence pursuant to section 70.05

(4m) of the Wisconsin Statutes. Entry to view your property is prohibited unless voluntarily authorized by you. Pursuant to section 70.05 (4m) of the Wisconsin Statutes, you have the right to refuse a visual viewing of the interior of your residence and your refusal to allow an interior viewing will not be used as the sole reason for increasing your property tax assessment. Refusing entry to your residence also does not prohibit you from objecting to your assessment pursuant to section 70.47(7) of the Wisconsin statutes. Please indicate your consent or refusal to allow an interior visual viewing of your residence by calling the Assessor at the phone number listed on your notice or emailing the Assessor at assessor@pewaukee.wi.us

(I) Confidentiality of Income and Expense Data. Except as otherwise provided in Section 70.47(7)(af) of the Wisconsin Statutes, information about the income and expenses of the property that is provided to the Assessor shall be treated as confidential.

(J) Failure to receive a notice **is not** sufficient reason to accept a late objection form. The Board will not consider valuation arguments to determine if a late filed objection should be accepted.

(K) Board to Analyze Objections That Do Not Comply with Established Procedures. The Board, in open session, shall review all objections the Assessor believes may not comply with the requirements of the Wisconsin Statutes. The Board shall inform the objector of any dismissal and the reason(s) for any dismissal. The Board may not hold a hearing on the merits of any dismissed objection.

(L) Objections Must Be On The Aggregate Value. Persons who own land and improvements to that land may object to the aggregate value of the property, but no person who owns an improved property may object to only the valuation of the land or the valuation of the improvements to that land. The amount of the tax or the amount of an increase in assessed value shall not constitute facts sufficient to warrant a change in assessed valuation.

Rule 8 Procedure for Sworn Telephone Testimony Requests

(A) The Board shall hear upon oath all persons who are eligible to appear before it in relation to the assessment.

(B) The Board **shall** hear upon oath, by telephone, all ill or disabled persons who present to the Board a letter from a physician, osteopath, physician assistant, as defined in Wisconsin statute Section 448.01 (6), or advanced practice nurse prescriber certified under Section 441.16 (2) that confirms their illness or disability.

(C) At the request of the property owner or the property owner's representative, the Board **may** postpone and reschedule a hearing under this subsection, but may not postpone and reschedule a hearing more than once during the same tax year for the same property.

(D) Before the Board of Review can consider any requests to testify by telephone under oath all statutory requirements for filing an objection under Rule 7 must be met first.

Rule 9 Scheduling

(A) Scheduling. The Clerk of the Board shall schedule hearings after consultation with the Chairperson. Modification of the scheduling must be approved by the Chairperson.

(B) Notification of Hearing Date. The Clerk of the Board will notify the Assessor and the property owner or property owner's agent of the date, time, and time allotted for the hearing at least 48 hours in advance of the hearing, unless this requirement is waived by the property owner, the property owner's agent, and the Assessor.

(C) Interest Accrual. If a property owner or a property owner's agent requests a postponement, continuance, or adjournment, interest on the claim shall permanently stop accruing at the date of the request as provided in Section 70.511 (2) of the Wisconsin Statutes.

(D) Postponements. Postponements, continuances, or adjournments may not be granted in other than emergency situations or for other good cause shown. The Board has the right to require proof of any medical situation or substantiation of the good cause. If the Board determines that an emergency exists or other good cause is shown, the hearing shall be rescheduled.

Rule 10 Hearings

(A) Public Meetings. All meetings of the Board shall be publicly held and open to all citizens. Meetings shall be held in locations that are accessible to persons with disabilities. No formal action of any kind shall be introduced, deliberated upon, or adopted at any closed session or meeting of the Board.

(B) Public Notice. The Clerk of the Board shall post public notice of all meetings. Included in the notice will be the time, place and date of the meeting.

(C) Hours. Subject to the provisions of Section 70.47 of the Wisconsin Statutes, the Board shall determine their own hours as they feel necessary in order to act on all objections. The Board shall establish time limits for the hearing on any objection and such time limits shall be strictly enforced. The default time limit for residential cases is thirty minutes. The default time limit for commercial cases is three hours. The actual scheduling of cases will be performed by the City Clerk's office.

(D) Role of Clerk of the Board. At each hearing, the Clerk will announce the names of the owners who are scheduled for hearing and will ascertain whether they or their agents are present. At that point, the Clerk of the Board will swear all persons testifying before the Board. Once that is accomplished, the hearing is ready to begin.

(1) The Clerk shall introduce the case, year, key number, etc. and provide the Board with a copy of the objection form.

(2) All proceedings shall be taken by a recording device at the expense of the City. The Clerk is responsible for keeping an accurate record of all the Board's proceedings and shall keep a list of the persons speaking in the order in which they speak.

(3) At the conclusion of each hearing, the Clerk shall notify the owner or the property owner's agent in writing of the decision of the Board. If the notice is not personally provided at the hearing, this notice shall be sent by United States mail, return receipt requested, addressed to the property owner or the property owner's agent at the address given on the objection form. The form shall include options as to how the property owner may appeal the assessment of their property.

(4) Upon completion of the hearings, the Clerk will post all changes in red ink to the official copy of the assessment roll, complete Board of Review Summary reports, and balance the assessment roll. The Vice Chairperson is responsible to check all reports for accuracy.

(E) Hearing Process. The Board shall hear, under oath, all persons who appear regarding their objection. The hearing shall proceed as follows:

(1) Once the Clerk has introduced the case outlined in D (1) above, the owner or the owner's agent and the owner's witnesses shall be heard first. The owner or the owner's agent shall specify in writing their estimate of the value of the property that is subject to the objection and shall specify the information used to arrive at that estimate. The Board and the Assessor may ask the owner, the owner's agent, and the owner's witnesses questions.

(2) The Assessor and the Assessor's witnesses shall be heard second. The Assessor shall provide to the Board, specific information about the valuation to which an objection is made and shall provide to the Board the information that the Assessor used to determine the valuation and to defend the assessment. The Board and the property owner may ask the Assessor and the Assessor's witnesses questions.

(3) The Board may examine, under oath, other persons it believes may have knowledge of the valuation of the property being appealed.

(4) The Board may, and upon the request of the Assessor, shall compel the attendance of witnesses and the production of all books, inventories, appraisals, documents, and other data which may be useful in determining the valuation of the property pursuant to Section 70.47(8)(d).

(F) Evidence. The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted if the evidence is the sort of evidence that reasonable persons are accustomed to relying upon in the valuation process. An appraisal report may only be introduced if the appraiser who conducted the appraisal is present to testify before the Board as to the appraiser's opinions. Failure to enter timely objection to evidence constitutes a waiver of the objection. The Board may act only upon the basis of evidence properly admitted into the record. Copies of all exhibits introduced at the hearing shall be provided to opposing parties, the Board Clerk, the court reporter, as well as, each member of the Board and its counsel. The taxpayer or taxpayer's agent and the Assessor must provide eight copies of any documents used at a hearing which will be for the Assessor, Board members, the Clerk and the Objector.

Rule 11 Conflict of Interest

In the event a conflict of interest exists that involves a Board member, that Board member should excuse himself or herself from the hearing. That member should not be counted in determining a quorum for the hearing and shall not participate in the hearing in any manner. However, that does not mean that the Board member has to physically excuse himself or herself from the hearing. If a Board member has a conflict and refuses to excuse himself or herself the remaining Board members shall determine at what level the member with the conflict of interest may participate.

Rule 12 Board of Review Hearing Waiver

(A) Starting with 2015 objections, Wis. Stat. Section 70.47(8m) has been revised to permit a Board of Review hearing waiver. The new statute provides: "The board, may

at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or, in a 1st class city, under sub. (16) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on the excessive assessment under sec. 74.37(3) and notwithstanding the time period under sec. 74.37(3) (d), the taxpayer has 60 days from the notice of the hearing waiver in which to commence an action under s. 74.37(3) (d)."

The Board may consider any or all of the following in determining whether to grant a request to waive a Board valuation hearing:

- (1) A request by the Assessor to deny the hearing waiver because the objector or objector's representative has not been in contact or provided information to the Assessor in support of their opinion of valuation,
- (2) The benefits or detriments of having a Board of Review record for a court review,
- (3) The avoidance of lengthy and burdensome appeals,
- (4) The inability to cross examine the person otherwise providing testimony to the Board,
- (5) Failure to comply with a Board issued subpoena of documents or witnesses.
- (6) Any other circumstances that the Board deems pertinent to deciding whether to waive the hearing.

Any objector that requests a waiver of a Board of Review valuation hearing must submit a written request on the state prescribed Form PA-813.

Rule 13 Withdrawal of Objection

An objection to an assessment may be withdrawn at any time prior to or at the time of the hearing upon written request signed by the owner or the owner's agent. In such cases, the objection is dismissed. The Board of Review may, upon proper notification, review and change any assessment it believes to be incorrect, regardless of a withdrawn appeal or a non-filing of an objection, pursuant to Section 70.47 (10) of the Wisconsin Statutes.

Rule 14 Failure to Appear

If the property owner or the property owner's agent fails to appear at the time scheduled for the hearing before the Board, the assessment objection shall be dismissed without a hearing.

Rule 15 Legal Counsel

The property owner, the Assessor, and the Board of Review may be represented by legal counsel. In the case where the Assessor and the Board are represented, this representation will not be by the same person.

Rule 16 Witnesses

The property owner and the Assessor may call witnesses to testify about the property.

Rule 17 Burden of Proof

The law presumes that the assessments contained in the assessment rolls have been fairly and equitably assessed in proper relationship to each other per state statute 70.49(1). The effect of this presumption is to impose upon the property owner the burden of proving that the property in question has not been correctly assessed. The law requires that the property owner present its own evidence relevant to the market value of the property. It is insufficient to overcome the burden of proof if the objector fails to provide its own valuation evidence and instead only criticizes the work of the Assessor.

Rule 18 Subpoenas

At the request of the Assessor, either in advance of or at a hearing, the Board, or any member thereof, shall issue a subpoena for the attendance of witnesses and/or the production of documents. The Board may issue a subpoena on its own motion at any time. In the event the Board issues a subpoena, the objector shall have 10 days to produce the documents subpoenaed by the Board. The Board need not be in session on the return date for the subpoena documents and any such documents produced shall be delivered to the Board's Clerk. Any valuation hearing shall be scheduled for a subsequent date no less than 7 days to provide the Assessor with the opportunity to review the documents produced.

The Board has the right to refuse to hear an objection if the owner or the owner's agent fails to comply with the terms of the subpoena. Failure to fully comply with a subpoena may result in a dismissal of the objection without a hearing on the merits of

the valuation upon a vote of the Board to that effect.

Rule 19 Continuances

The Board may continue a hearing at a later date. If the hearing is continued, the Chairperson will direct the Clerk of the Board to work with the property owner, the Board members and the Assessor to determine a mutually acceptable hearing time and no further notice to either party needs to be given. If a party introduces new material at a hearing, upon request, the Board shall grant a continuance for a reasonable period of time so that the newly introduced materials can be evaluated.

Rule 20 Record of Meetings

(A) Recordings. All proceedings shall be recorded in full by a recording device at the expense of the City.

(B) Transcript. The Board may order that the notes be transcribed, and in the case of an appeal or other court proceedings, they shall be transcribed at the property owner's expense.

(C) Court Reporter. If the property owner requests the Clerk provide for a court reporter, the property owner must make that request at least 72 hours prior to the date of the hearing, and must deposit with the Clerk the per diem fee established with the court reporter. The court reporter will be selected by the Clerk.

(D) Citizen Requests. Citizens may request a copy of the tape recording of the proceedings at a fee set by the City.

Rule 21 Decision of the Board

(A) Assessor Presumed Correct. The Board shall presume that the Assessor's valuation is correct. That presumption may be rebutted by a sufficient showing that the valuation is incorrect. From the evidence before it, the Board shall determine whether the Assessor's assessment is correct. If the assessment is too high or too low, the Board shall lower or raise the assessment accordingly and shall state on the record the reasons for the corrected assessment and that the revised assessment is reasonable in light of all of the relevant evidence that the Board received during the valuation hearing.

(B) Roll Call Vote. All determinations made by the Board shall be by roll call vote.

(C) Written Decisions. If a written decision is made, it should fairly and accurately disclose the basis for the Board's decision.

(D) Dismissal of an Objection. In the event an objection is dismissed by the Board for any of the reason provided for in these rules and procedures, the Board shall not act on the objection as to the merits of the valuation and a letter advising the objector shall be sent by the Clerk notifying that the objection has been dismissed. No Notice of Determination pursuant to Section 70.47 (12) shall be sent to the objector. The Board’s action on the dismissal of the objection can be appealed via *a certiorari* action in court within 90 days of receiving the determination of the objection dismissal.

Rule 22 Reconsideration and Rehearing

The decision of the Board regarding an objection is final. The Board shall not reconsider or rehear an objection unless ordered to do so by the Court.

Rule 23 Amendments to Rules and Procedures

These rules and procedures may be amended from time to time as required or determined by the Board of Review to be consistent with Wisconsin Statutes.

Rule 24 Copies of Rules

Copies of these rules and procedures shall be kept on file in the Office of the City Assessor and the Office of the City Clerk, and shall be made available for public review on the City’s website and in person at City Hall during regular business hours.

Rule 25 SIGNATURE PAGE

Adopted by City of Pewaukee Board of Review

Date Adopted: _____

Board Chairperson’s Name: _____

Board Chairperson’s Signature: _____

Board Clerk’s Signature: _____
