

Barre City Board of Abatement

Rules of Procedure for

Abatement Hearings

PURPOSE: Abatement is a statutory process for relieving taxpayers from the burden of property taxes, water and/or sewer charges, penalty (collection fees) and interest when the law authorizes abatement and when the board, in its discretion agrees that the request is reasonable and proper. It exists to permit the board to prevent an injustice or to help a taxpayer who faces extraordinary circumstances that make it difficult for the taxpayer to meet his or her obligations.

AUTHORITY: The Board of Abatement (BOA) may abate in whole or in part taxes, water charges, sewer charges, interest, or collection fees, or any combination of those, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the city in the following cases:

1. Taxes or charges of persons who have died insolvent;
2. Taxes or charges of persons who have moved from the state;
3. Taxes or charges of persons who are unable to pay their taxes, charges, interest and collection fees;
4. Taxes in which there is manifest error or a mistake of the listers (assessor);
5. Taxes or charges upon real or personal property lost or destroyed during the tax year ;
6. The exemption amount available under 32V.S.A § 3802 (11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement, but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;
7. & 8. Repealed by state;
9. Taxes or charges upon a mobile home moved from the city during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 B.S.A § 6237.

The Board may abate taxes, charges, interest and/or penalties. If taxes or charges are abated, they must also abate any interest and fees related to that amount. Interest on taxes or charges paid and later abated will accrue from the date payment was due or made, whichever is later. The abatement differs from tax appeal in that the subject of the hearing is taxes or charges, not assessment of property.

APPLICATION: These rules of procedure shall apply to all abatement hearings conducted by the City of Barre BOA. A copy of these rules shall be provided to each party bringing an appeal before the BOA.

PROCEDURE:

1. WHERE: All BOA Abatement Hearings will be held at Barre City Hall, Barre, Vermont, unless otherwise warned and noticed.
2. OPEN MEETING LAW: All hearings will be conducted in accordance with 1 VSA §310(2) – Open Meeting Law. Draft meeting minutes will be available in the City Clerk’s Office 5 days from the date of the meeting (1 VSA §312(b)).
3. QUORUM OF THE BOA: A quorum of the BOA shall consist of a majority of the total number of the BOA members (justices, city council, city clerk/treasurer, and assessor) or the clerk/treasurer, assessor and majority of the city council. If the assessor testifies on their own behalf at an abatement hearing, he/she is not counted towards a quorum as a member of the BOA. A concurrence of a majority of the quorum is required to decide an abatement request.
4. OATHS: The BOA members, Assessor (and any agents), and Appellants (and any agents) shall take the oath at the commencement of the abatement hearing. (See page 3)
5. DISQUALIFICATIONS/CONFLICT OF INTEREST: BOA members must avoid all appearances of bias or impropriety and must recuse themselves from proceedings in which they have a conflict of interest or may appear as such. A conflict of interest shall be defined as “any direct or indirect personal or financial interest of a BOA member or a member’s spouse, household member, child, stepchild, parent, grandchild, sibling, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, business associate, employer, or employee, in the outcome of the abatement request that is greater than that experienced by a member of the general public.” Additionally, a BOA member must recuse himself or herself if he or she has publicly displayed or expressed a bias or prejudgment of the merits of the abatement request.
6. EX PARTE COMMUNICATION. BOA members shall avoid all *ex parte* communication. *Ex parte* communication shall be defined as “any direct or indirect communication between a BOA member and a party (appellant, appellant’s counsel, authorized representative) to an abatement request regarding the substance or merits of the proceeding that occurs outside of the duly warned abatement hearing.” Such communications are prejudicial and violate due process rights. Any board member who inadvertently conducts *ex parte* communication regarding an abatement request must disclose such upon request by providing copies of all written documents received or transmitted and stating in the public record (minutes) the substance of any oral communications that occurred. The names of the persons involved must be duly noted in the record.
7. MAINTAINING ORDER: The Chair of the BOA, or in the Chair’s absence, the Vice-Chair, shall chair all abatement hearings. If both the Chair and Vice-Chair are absent, a member selected by the BOA shall chair the hearing. The Chair may make motions and may vote on all questions before the BOA. The Chair shall rule on all questions, or order and procedure. All parties wishing to speak must state their name for the record after

being recognized by the Chair. No profanity/slander or unprofessional conduct will be allowed by any party. Any individual who displays these actions will be removed from the meeting. The Chair has the right to limit participation in the process to only those who have a legal interest and are relevant to the evidence.

8. TIME: Every recognized participant will be allocated three to five (3-5) minutes to orally present their respective evidence. The BOA Chair will recognize participants at the beginning of each hearing, and may appropriate additional time for multiple property appeals. Cross examination will be allowed by all parties at the discretion of the chair

9. EVIDENCE: To ensure due process, evidence will be limited to “what is relevant” as determined by the BOA Chair. The Chair, or the BOA, may exclude any irrelevant, unreliable or unnecessarily repetitive evidence. Evidence is any verbal testimony or document that is relevant to the hearing. Reliable evidence is any relevant evidence commonly relied upon by reasonably prudent people in the conduct of their affairs. It is the responsibility of the respective parties to collect and present their own evidence. One official copy of any evidence shall be presented to the Clerk of the Board. In addition to the official copy presented to the Clerk, all parties are asked to bring 15 additional copies for distribution to BOA members.

10. DELIBERATIVE SESSION: BOA meetings to hear abatements are quasi-judicial meetings. After hearing evidence, the BOA can go into deliberative session without regard to the provision of the open meeting law pertinent to warning, minutes, and/or executive session. Deliberative session may take place after each hearing or at the conclusion of all hearings. Decisions may be made by the BOA in deliberative session, with written decisions being sent to appellants within 15 days of the decision.

11. MEETING AGENDA: Each BOA meeting shall have an agenda prepared by the clerk. All hearings shall be conducted in the same order as they appear on the agenda, except that at the discretion of the chair, the order of the hearings may be modified to accommodate those in attendance.

12. MEETING SEQUENCE: The chair shall generally conduct abatement hearings in the following sequence:

- 1) Open the hearing, stating the name of the appellant.
- 2) Ask the appellant and parties to take the following oath: **Under pains and penalties of perjury, do you solemnly swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth?**
- 3) Ask the appellant if he/she has received a copy of these rules of procedure and whether he/she has any questions about how the hearing will proceed.
- 4) Request BOA members to disclose any conflicts of interest and/or *ex parte* communications.
- 5) Ask the appellant to present his/her supporting evidence.
- 6) Invite questions from BOA members.
- 7) Ask the assessor and/or clerk to present his/her evidence or opinion statements
- 8) Ask the appellant to respond to the information presented by the assessor or the clerk
- 9) Invite questions from BOA members.

- 10) Invite final comments from the appellant.
- 11) Invite motion from BOA to close testimony
- 12) Close the public abatement hearing and accept a motion to go into deliberative session and clear the room of members of the general public and any BOA members who have recused themselves. Explain that there will be a written decision within 15 days.

These rules may be amended by a majority vote of the Board of Abatement and must be reviewed and readopted annually.

These Abatement Hearing Rules of Procedure were adopted by the Barre City Board of Civil Authority at a duly warned meeting, held May 9, 2011 at the Barre City Hall Council Chambers, Barre, Vermont.

ATTEST: Carolyn S. Dawes /S/
Barre City Clerk/Treasurer

DATE: May 10, 2011
revised and approved 3/5/15
revised 1/4/19 to reflect changes in state statute