



CITY OF WAUWATOSA  
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## City of Wauwatosa

# Board of Review Rules and Procedures

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### 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.

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### Rule 2 Board of Review

(A) Membership. The Board of Review shall consist of seven (7) residents of the City of Wauwatosa. The members shall be appointed by the Mayor and confirmed by the Common Council. The terms shall be five (5) years, staggered.

(B) First Meeting. The Board of Review shall meet annually at any time during the 30-day period beginning on the 2<sup>nd</sup> Monday of May. At its first meeting, the Board shall comply with the requirements of Section 70.47(3) (a) of the Wisconsin Statutes. At this first meeting, the Board will also elect a Chairman and a Vice-Chairman. These officers may succeed themselves.

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### Rule 3 Duties and Authority of Officers

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

(B) Rulings. During the hearing, the Chairman shall make all rulings regarding procedural matters and the admission or exclusion of evidence. If circumstances prove necessary, the Chairman 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) Secretary. The city will provide a Secretary for the Board. The duties of the Secretary 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.

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## **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 of the evidence, or
- Received the transcript of the hearing no less than five days prior to the meeting to make a decision and read the transcript, or
- Received a recording of the evidence no less than five days prior to the meeting to make a decision and listed to the recording, or
- Received a copy of a summary and all exceptions thereto no less than five days prior to the meeting to make a decision and read the summary and exceptions.

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## **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 correct assessment and that the 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 individual has proven the Assessor's assessment incorrect. If the Assessor's value has not been proven incorrect, it must be upheld.

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

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

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

(E) Denial of Hearing. A determination by the Board on a request for hearing must use the language "denial of hearing". Upon a request for a 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 value determination.

The clerk must send out a notification of denial of the hearing based on the Board of Review's determination. The Board of Review cannot state sustained value because it allows the property owner to pursue (74.37(3)) even if it is inadvertent.

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## **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.

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## **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](http://www.revenue.wi.gov/forms).
- A separate objection form shall be completed for each 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 agent. If the objection is made by an agent, written authorization by completing Wisconsin Department of Revenue Agent Authorization form PA-105, signed by the owner must be filed with the objection form.

1. Pursuant to Section 70.47 (7)(aa) of the Wisconsin Statutes, the Board of Review shall be authorized to reject any objection form filed by a party which has refused a reasonable written request by certified mail of the assessor to view such property. Such objection shall not be dismissed and not acted upon by the Board.

2. Pursuant to Section 70.47 (7)(af) of the Wisconsin Statutes, the Board of Review shall be authorized to reject any objection form filed by a party which has failed

to supply to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests, if the valuation of the property in question was made by the assessor or the objector using the income method. Such objection shall not be dismissed and not acted upon by the Board.

(C) Signature and Verification. The objection shall be in writing and signed by the owner or a duly authorized agent. If the owner is a corporation, the objection 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 submitted to the clerk and a copy given to the assessor to ensure that the Board of Review has the necessary information to perform their statutory duties properly.

(1) In addition to responding to all of the items requested on the objection form, Wisconsin statute 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 (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 the information that the objector used in support of their opinion of value.

(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 two days after notice of the incomplete notification. The Clerk will notify by telephone contact followed up by a letter via email or regular mail. The assessor or the Board of Review cannot properly perform her/his duties if the necessary information is not provided.

(E) Failure to Complete Objection Form or provide information after notification as outlined in Rule 7(D). If 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 is invalid and shall not be acted on by the Board.

(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 property owner appears before the Board during the first two hours of the first meeting of the Board; and

(2) Provides 'good cause' for failure to meet the 48 hour notice requirement;  
and

(3) Files a fully completed and compliant written objection.

Good cause as used in section 2 above may be a legally sufficient reason for the non-action of the taxpayer including but not limited to:

- a.) The reason for the taxpayer's delay,
- b.) The extent to which the taxpayer undertook effort for compliance with the Board of Review rules and state statutes,
- c.) The taxpayer's professional experience,
- d.) And the taxpayer's prior experience with taxing authorities,
- e.) other than the taxpayer's negligence, lack of knowledge of the law and procedures, and the taxpayer's disregard for the assessor and 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) Provides evidence of 'extraordinary circumstances'; and

(3) Personally appears before the Board to request a waiver of the notice requirements at any time up to the end of the fifth day of the session or up to the end of the final session if the Board of Review is in session less than five days.

For this purpose 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 good cause.

(H) Property Owner Must Allow Property Inspection. No person shall be allowed to appear before the Board, to testify to the Board by telephone, or to contest the amount of any assessment of real or personal property, if the owner has refused a reasonable written request by certified mail of the Assessor to view the property.

(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 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. 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 property owner 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 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 value.

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## **Rule 8 Procedure for Sworn Telephone Testimony Requests by Ill or Disabled Persons**

(A) 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 448.01 (6), or advanced practice nurse prescriber certified under s. 441.16 (2) that confirms their illness or disability.

(1.) 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 session for the same property.

(2.) 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 Secretary of the Board shall schedule hearings after consultation with the Chairman. Modification of the scheduling must be approved by the Chairman.

(B) Notification of Hearing Date. The Secretary 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.

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## 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.

(B) Public Notice. The Secretary 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 these 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 Secretary of the Board. At each hearing, the Secretary 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 Secretary of the Board will swear all persons testifying before the Board. Once that is accomplished, the hearing is ready to begin.

(1) The Secretary 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 Secretary 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 Secretary shall notify the owner or the property owner's agent in writing of the decision of the Board. If the notice is not 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 value of their property.

(4) Upon completion of the hearings, the Secretary 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 Chairman is responsible to check all reports for accuracy.

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

(1) Once the secretary 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 validity of the valuation to which objection is made and shall provide to the Board the information that the Assessor used to determine the valuation. The Board and the property owner may ask the Assessor and the Assessor's witnesses questions.

(3) The property owner or the property owner's agent, may briefly summarize their case.

(4) The Assessor may briefly summarize their case.

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

(6) The Board may, and upon 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 value of the property.

(F) Evidence. The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted if it is the sort of evidence that reasonable persons are accustomed to rely on in the conduct of serious affairs. 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 Secretary, the court reporter, as well as, each member of the Board and its counsel. The taxpayer or taxpayer's agent must provide six copies of any documents used at a hearing which will be for the assessor, Board members and the clerk.

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## **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.

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## **Rule 12 Board of Review Hearing Waiver**

(A) Starting with 2015 objections, Wis. Stat. sec. 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 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 value

(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) Any other circumstances that the Board deems pertinent to deciding whether to waive the hearing.

Any objector that wants to request a waiver of a Board of Review hearing must submit a request on the state prescribed form PA-813.

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### **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 any assessment it believes incorrect, regardless of a withdrawn appeal or a non-filing of an objection pursuant to ss.70.47(10).

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### **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.

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### **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.

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### **Rule 16    Witnesses**

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

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### **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 evidence relevant to the market value of the property.

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## **Rule 18 Subpoenas**

At the request of the Assessor, either in advance of or at the hearing, the Board, or any member thereof, shall issue subpoenas for the attendance of witnesses and/or the production of documents at the hearing. The Board may issue a subpoena on its own motion. The Board has the right to refuse to hear objections if the owner or the owner's agent fails to provide the information subpoenaed. In such an event, owner's objection will be dismissed without a hearing on the merits of the valuation.

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## **Rule 19 Continuances**

The Board may continue a hearing at a later date. If the hearing is continued, the Chairman will direct the Secretary 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 the hearing, upon request, the Board shall grant a continuance for a reasonable period of time.

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## **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 Secretary 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 Secretary the per diem fee established with the court reporter. The court reporter will be selected by the Secretary.

(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 correct assessment and that the assessment is reasonable in light of all of the relevant evidence that the Board received.

(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 ss.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.

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## **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.

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## **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.

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## **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.

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**Rule 25 SIGNATURE PAGE**

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Adopted by City of Wauwatosa Board of Review

Dated: *April 26, 2016*

Board Chairman Name: James A. Benz

Board Chairman Signature: *James A. Benz*

Board Secretary Signature: Carla A. Ledesma

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