

THETFORD, VERMONT

BOARD OF ABATEMENT

Procedures and Rules of Conduct

For

Abatement Hearings

*** These procedures and rules of conduct shall be made available to all participants in all Thetford Abatement Hearings.*

1. The Chairman of the Thetford Board of Civil Authority or, in his/her absence, the Vice Chairman, will preside at all abatement hearings. In the absence of both, the hearing will be moderated by a chairman pro tempore selected by majority vote of the members of the Thetford Board of Abatement [hereinafter referred as BOA.] who are present.
2. A quorum of the BOA shall consist of a majority of the total number of BOA members [Justices, Town Clerk, Town Treasurer, Selectboard, Listers] **or** may consist of the Treasurer, a majority of the Listers and a majority of the Selectboard. [In either instance, if the Listers testify on their own behalf at an abatement hearing, they are *not* to be considered as members of the BOA.] The concurrence of ***a majority of a quorum*** is required to decide an abatement request.
3. BOA members must avoid all appearance of bias or impropriety and must recuse themselves from hearing proceedings in which they have a conflict of interest or may appear to have such. A *conflict of interest* shall be defined as “any direct or indirect personal or financial interest of a BOA member or the member’s spouse, household member, child, stepchild, parent, grand parent, grandchild, sibling, aunt, uncle, brother or sister-in-law, business associate, employer or employee in the outcome of an abatement request that is greater than that experienced by a member of the general public.” Additionally, a BOA member must recuse if he or she has publicly displayed or expressed a bias or prejudgment of the merits of the abatement request.

4. Any party to the abatement hearing or any BOA member may request that a member recuse himself or herself due to real or perceived conflict of interest or personal bias. Such request shall not constitute a *requirement* that the member recuse. If, after disclosure of real or perceived bias or conflict of interest, a member does not recuse of their own volition, they may continue in the proceeding *if* they provide a statement of why he or she is still able to act fairly, objectively and in the public interest. The statement must be noted in the minutes of the public proceedings. A member who has recused *may* attend the pertinent public hearing, but *must* physically separate himself or herself from the Board of Abatement. A recused member is to be *entirely excluded* from the Board's non-public, decision-making, deliberative session.
5. BOA members should 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 a 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.
6. The Town Clerk shall serve as clerk of the BOA and prepare written minutes of the public portion of the abatement hearing. In the absence of the Town Clerk, a secretary pro tempore will be designated by majority vote of the BOA members present. The BOA clerk shall retain all the same rights and responsibilities as other members of the Board.
7. The BOA Chairman or acting Chairman shall rule on all questions of order or procedure during an abatement hearing, but shall retain the same participation rights as any other BOA member.
8. The BOA Chairman or acting Chairman shall conduct all hearings on tax abatement requests in the following order:
 - A. Open the hearing by a call to order and determine whether a quorum is present. Then identify the date, time, place and purpose of the hearing. The names of the appellant[s] or person[s] authorized in writing to represent their interests, expert witnesses or persons offering testimony, and all BOA members present shall be entered into the record.
 - B. Request that any Board members disclose conflicts of interest, prejudicial opinions or ex parte communications and if so acknowledged, suggest that the member recuse himself or herself from the hearing. (Also see #4 above)

- C. The Chairman or acting Chairman will administer the oath written below to the appellant[s] or their authorized representative[s] and any witnesses who will testify:

“Do you solemnly swear or affirm that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth so help you God? (or) under the pains and penalties of perjury?”

- D. Appellant[s] or their duly authorized representative[s] and any witnesses present their oral testimony and introduce any supportive documentation. All documentary evidence will be acknowledged by the chairman, identified on the record, appropriately marked and retained as part of the file on the abatement request. Personal financial records may be presented to the BOA “*in camera*”; that is, presented for review by Board members in public session, but the document[s] are returned to the appellant[s] and *not* considered part of the public record. Board members retain the information therein only for consideration during subsequent deliberations.
- E. When appropriate, a BOA member such as the Treasurer may provide testimony or introduce documentation pertinent to the abatement request.
- F. During the public hearing, BOA members may request further information or clarification, but should refrain from voicing personal opinions or other commentary and avoid debate with other members or the appellant[s].
- G. Explain to all present that once the public hearing is complete, the Board will go into closed or “non-public deliberative” session to review and discuss the testimony and evidence presented and to reach a decision on the abatement request.
- H. Explain to all present that, as required by 24 V.S.A. § 1535 (c), the Board’s decision, will be rendered in writing in a timely manner and that the document will state in detail the factual bases and reasons for the Board’s conclusion. The decision letter shall be signed by the Board chairman, Vice chairman or Acting Chairman on behalf of the Thetford Board of Abatement. 24 V.S.A. § 1141. The decision letter will be forwarded to the appellant[s] via *certified mail*.
- I. Explain that the Board may deny an abatement request or may abate in whole or in part taxes, interest and collection fees only in situations it deems fit the criteria listed in 24 VSA § 1535. If an amount of tax is abated, so must be the interest and fees related to that amount. Interest on taxes paid and later abated will accrue from the date payment was due or made, whichever is later.

- J. Close the public abatement hearing, accept a motion for the Board to enter deliberative session and clear the room of members of the general public and any BOA members who have recused. After a decision is reached, reconvene the Board in public session to hear any subsequent abatement requests. If there are none, entertain a motion for adjournment.
9. Since formal minutes of closed or non-public deliberative sessions are not required by statute, the resultant written decision will stand as the official record of the outcome of an abatement hearing and the Board's deliberative discussions. It is noted that the *concurrence of a majority of a legal quorum* of the Board of Abatement is required to take action to abate municipal or education property taxes.
10. These procedures and rules of conduct may be revised or amended by majority vote of the total membership of the Thetford Board of Abatement and must be reviewed and readopted biennially.

Readopted without amended by majority vote of the Thetford Board of Abatement on 10 November 2020.