

Town of Shelburne Board of Abatement Rules of Procedure for Abatement Hearings

PURPOSE: Abatement is a statutory process for relieving taxpayers from the burden of property taxes, penalties 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 choose to exercise its discretion to address a clear injustice or to choose to mitigate a taxpayer's extraordinary circumstances that make it difficult for the taxpayer to meet a property tax obligation.

AUTHORITY: The Shelburne Board of Abatement (BOA) is comprised of the members of the Town's Board of Civil Authority (the 15 Justices of the Peace; the five Selectboard members; and the Town Clerk), plus the Town Treasurer. As provided under 24 VSA § 1535, the BOA may abate in whole or in part an owner's property taxes, interest and/or collection fees accruing to the Town in the following cases:

1. Taxes of persons who have died and left no money or assets;
2. Taxes of persons who have removed from the state;
3. Taxes of persons who are unable to pay their taxes, interest and collection fees;
4. Taxes in which there is manifest error or a mistake of the listers (assessor);
5. Taxes upon real or personal property lost or destroyed during the tax year;
6. Failure to claim a veteran's exemption under 32 V.S.A § 3802 (11) in time, so long as the exemption application is filed before October 1st and so long as the failure to file was due to the claimant's sickness or disability or other good cause as determined by the BOA; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of the month the claim is late;
7. Taxes upon a mobile home moved from the Town 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 V.S.A § 6237.

The Board may abate taxes, interest and/or penalties. 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. The abatement differs from tax appeal in that the subject of the hearing is taxes, not assessment of property.

APPLICATION: These Rules of Procedure shall apply to all abatement hearings conducted by the BOA. A copy of these rules shall be posted on the Town's Board of Abatement website and shall be given to a taxpayer at the time of the filing of an abatement application.

PROCEDURE:

1. **WHERE:** All BOA abatement hearings will be held at the Town offices, unless otherwise duly noticed.
2. **OPEN MEETING LAW:** All BOA meetings will be conducted in accordance with the Vermont Open Meeting Law, Subchapter 2 of Chapter 5 of Title 1, Vermont Statutes Annotated. Draft meeting minutes will be posted on the Town website five days from the date of each BOA meeting as provided in 1 VSA §312(b)). When the BOA is acting in a quasi-

judicial capacity to deliberate and act on an abatement petition, it may enter a closed, deliberative session as provided by the Open Meeting Law. (1 VSA §312(e), (f)).

3. Notice. Pursuant to 24 V.S.A. §§ 801 and 1534, written notice for a hearing must be given to the taxpayer applying for abatement and to each member of the BOA and notice must be posted in two or more public places in town at least five days before the hearing. In addition, written notice shall be given to the Town Assessor at least five days before the hearing.
4. QUORUM OF THE BOA: A quorum of the BOA shall consist of a majority of the membership of the BOA. The concurrence of a majority of the quorum is required to decide an abatement petition.
5. OATHS: All persons testifying at an abatement hearing shall be duly sworn under oath, using the oath set forth in Section 11, below.
6. RECUSALS: BOA members must comply with the Town Ethics and Conflict of Interest Ordinance and make the disclosures and recusal decisions, and take the other actions, as provided in that ordinance.
6. MAINTAINING ORDER: The Chair of the BOA, or in the Chair's absence, the Vice-Chair, shall chair all BOA meetings and hearings. If both the Chair and Vice-Chair are absent, a member selected by the BOA shall serve as Chair *pro tempore*. The Chair may make motions and may vote on all questions before the BOA. The Chair shall rule on all questions of order and procedure. All parties wishing to speak must state their name for the record after being recognized by the Chair.
7. TIME: Every abatement applicant will be allocated up to 15 minutes to present oral and written evidence. BOA members and the Town Assessor may ask questions of the applicant and the applicant's witnesses, and the applicant may ask questions of the Assessor. The Assessor may make an oral and written presentation not to exceed 15 minutes.
8. EVIDENCE; BURDEN OF PROOF: To ensure due process, evidence will be limited to what is relevant to the abatement request as determined by the Chair with the advice of the BOA. The Chair may exclude any irrelevant, unreliable or unnecessarily repetitive evidence. 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 applicant to collect and present the evidence in favor of an abatement application. One official copy of any written evidence shall be presented to the Clerk of the Board at least seven days prior to the hearing date. The burden of proof is on the taxpayer who applied for the abatement.
9. DELIBERATIVE SESSION: BOA meetings to hear abatements are quasi-judicial meetings. After hearing evidence, the BOA may 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, at the conclusion of all hearings, or at a later time.
10. MEETING AGENDA: Each BOA meeting shall have an agenda prepared by the clerk, with 30 minutes allotted for each hearing. 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. At a meeting where the BOA is not acting in a quasi-judicial capacity, time on the Agenda shall be made for public comment.

11. MEETING SEQUENCE: The Chair shall generally conduct abatement hearings in the following sequence:
 - 1) Open the hearing, stating the name of the applicant.
 - 2) Ask the applicant, any other witnesses, and the Assessor to take the following oath: *Under the pains and penalties of perjury, do you solemnly swear or affirm that the evidence you give in the abatement hearing under consideration shall be the whole truth and nothing but the truth?*
 - 3) Ask if the applicant has any questions about how the hearing will proceed.
 - 4) Request BOA members to make any disclosures and recusal required under the Ethics and Conflict of Interest Ordinance.
 - 5) Ask the applicant to identify the statutory abatement category under which the abatement request is being made, and then present his or her testimony and other evidence, followed by the testimony of any other witnesses on behalf of the petitioner.
 - 6) Invite BOA members and the Assessor to question the applicant and any applicant witnesses.
 - 7) Ask the Assessor to present his or her testimony and other evidence.
 - 8) Invite BOA members and the applicant to question the Assessor.
 - 9) Invite brief closing statements from the applicant and the Assessor.
 - 10) Entertain a motion from the BOA to close the testimony; take action on the motion.
 - 11) Close the public abatement hearing and enter deliberative session, clearing the room except for BOA members who will be deliberating. In the alternative, schedule a deliberative session for another time. Explain that the BOA expects to issue a written decision within 30 days of the close of its deliberations. The BOA's decision must state in detail the reasons for its decision. See 24 V.S.A. § 1535(c).
12. SITE VISIT: In its discretion, the BOA may recess a hearing to a date certain in order to conduct a site visit to the subject property, and then reconvene at the designated date to complete the hearing or, if the hearing previously was completed, for a deliberative session.
13. FORMS: The BOA may adopt model forms for abatement proceedings, including forms for taxpayers to use in making abatement requests and submitting financial hardship information, and for the BOA's Agendas, Hearing Notices, and Notices of Decision, and may revise the forms from time to time.

These rules may be amended by a majority vote of the Board of Abatement at a meeting duly noticed for that action, and will be reviewed and readopted annually or prior to the next abatement hearing if that occurs later than one year from the last hearing.

These Abatement Hearing Rules of Procedure were adopted by the Town of Shelburne Board of Abatement at a duly warned meeting held August 27, 2018.

ATTEST:


Diana Vachon, Town Clerk

DATE: August 28, 2018