

POTTAWATTAMIE COUNTY, IOWA  
**BOARD OF REVIEW**  
(Cities and County)  
COURT HOUSE  
c/o ASSESSOR'S OFFICE  
P.O. BOX 1076  
COUNCIL BLUFFS, IOWA 51502

RULES OF PROCEDURE ADOPTED  
BY THE  
POTTAWATTAMIE COUNTY BOARD OF REVIEW  
**AS AMENDED MAY 2, 2016**  
(Subject to further amendment when the Board meets May 1st)

1. A Protest shall not be considered unless filed in writing in accordance with and during the time prescribed by Iowa law.
2. Protests must be confined to one or more of the grounds specified in Chapter 441.37, Code of Iowa.
3. Any amendment to the protest petition must be in writing and filed with the board of review prior to or on the statutory filing deadline [Iowa Code Section 441.37(1)]. The Board may consider amendments concerning clerical errors at the time of the hearing.
4. A taxpayer may request an oral hearing at the time of filing the protest. All oral hearings shall be by appointment only.
5. Incomplete protest petitions shall be reviewed, but will be denied if not properly filed and /or the taxpayer fails to go forward with the burden of proof.
6. Competent evidence may be offered by the protesting taxpayer; however, if any evidence of market value or any other data prepared by someone other than the protesting taxpayer is offered, the person preparing the material must be present at the hearing to be questioned by the Board and examined by both taxpayer and the office of assessor.
7. All documents that will be presented at the protest hearing must be provided with the completed protest form at the time of filing.
8. If the protester is not the property owner, evidence must be presented showing that the protester is the taxpayer or is authorized by the property owner to file the protest.
9. Comparison of taxes for the current or prior years on the property being protested or any other property is not acceptable or valid.
10. All testimony shall be under oath as administered by the chairperson of the Board. Each taxpayer and their witness shall be sworn or affirmed under oath. The assessor's staff shall be administered the oath at the beginning of the session for the entire session.
11. The chairperson of the Board has the power at the start or at any time during the protest hearing to set a time limit, to continue the hearing, or to stop the hearing.
12. If any party protesting an assessment, their agent, or attorney, fails to fully honor a subpoena or fails to produce or furnish all the records and information requested by the Board of Review, then said protest may be in default and considered as invalid. Further "contempt" action on the defaulter may be at the option of the Board of Review.
13. The Board shall give written notice to the owner or aggrieved taxpayer of the action taken by the Board by regular mail addressed to the address shown on the protest.
14. The chairperson of the Board of Review has the power to act on behalf of the Board of Review during or after the close of the Board of Review's session with regard to any appeal from the Board of Review's decision, including, but not limited to, the retaining of counsel to the extent authorized by the Conference Board, the responding to discovery, and the supervision of such litigation.
15. In all other instances, the Robert's Rules of Order shall guide the Board in conduction of business.

## ASSESSMENT APPEAL GROUNDS EXPLANATION

Adopted 5/1/2012 by the Pottawattamie County Board of Review

By Iowa Code § 441.37, all filed petitions must:

- (1) be timely filed;
- (2) be signed by the protester or a authorized agent;
- (3) be based upon one or more of the grounds permitted by Iowa law; and
- (4) contains all information required for the ground(s) upon which the request is based.

Petitions not meeting the above criteria will be dismissed by the board of review for lack of jurisdiction.

An explanation of the grounds upon which a protest may be based is as follows:

(1) 441.37(1)(a) – “That said assessment is not equitable as compared with assessments of other like property in the taxing district. When this ground is relied upon as the basis of a protest the legal description and assessments of a representative number of comparable properties, as described by the aggrieved taxpayer shall be listed on the protest, otherwise said protest shall not be considered on this ground.”

*The protester must provide the legal description of two or more similar properties that are assessed at a significantly different percentage of market value than the property being appealed. For each comparable property, the protester must show the property's market value and current assessment. The ratio of assessed value to market value can then be established and compared to the property being appealed. Note that the assessed value is not presumed to be the market value; the market value must be established independent of the assessed value.*

(2) 441.37(1)(b) – “The property is assessed for more than the value authorized by law, stating the specific amount which the protesting party believes the property to be over assessed, and the amount which the party considers to be its actual value and the amount the party considers a fair assessment.”

*The protester must prove the market value for the property.*

(3) 441.37(1)(c) – “That the property is not assessable, is exempt from taxes or is misclassified and stating the reasons for the protest.”

*Property owners must state the reasons the property is not assessable. If the protest is a requests for exemption from property taxation, the reason must be based upon the exemptions given in Iowa Code §427.1. The mere fact that the organization is a non-profit does not qualify the organization's property for exemption. The property must be used for the purposes indicated in §427.1.*

*The board of review will examine whether the property is used for profit by anyone. The board of review will also consider whether only a portion of the property qualifies for an exemption. For example, if part of a building occupied by an exempt organization is rented to a business, that portion of the building would be subject to taxation.*

*This ground can also be used in questioning the classification of the property.*

(4) 441.37(1)(d) – “That there is an error in the assessment and state the specific alleged error.”

*An error in the assessment typically involves erroneous mathematical computations or errors in listing the property. The board of review will determine (1) if such an error exists, and (2) how the error might be corrected. The correction of the error does not necessarily change the assessed value. This ground does not include “over-assessed” as an error; grounds 2 above should be stated instead.*

(5) 441.37(1)(e) – “That there is fraud in the assessment which shall be specifically stated.”

*The board of review will first determine if there is validity to the taxpayer's allegation. If it is determined there is indeed fraud in the assessment, the board of review may take action to correct the assessment if the value is found to be different.*

(6) 441.37 (1) – “In addition to the above, the property owner may protest annually to the board of review under the provisions of section 441.35, but such protest shall be in the same manner and upon the same terms as heretofore prescribed in this section.”

441.35 – “In any year after the year in which an assessment has been made of all of the real estate in any taxing district, ... and where the board finds the [property] has changed in value, the board shall revalue and reassess any part or all of the real estate contained in such taxing district, and in such case, the board shall determine the actual value as of January 1 of the year of the revaluation and reassessment and compute the taxable value thereof. Any aggrieved taxpayer may petition for a revaluation of the taxpayer's property, but no reduction or increase shall be made for prior years.”

*This ground may only be used in even number years when the property has not been reassessed. The protester must show the market value of the property on January 1 of the prior year, and of January 1 of the current year. If the protester shows a change in value, the board of review may take action to correct the assessment.*

**THE ABOVE IS PROVIDED BY THE BOARD OF REVIEW FOR THE SOLE PURPOSE OF GIVING GENERAL INFORMATION TO THE PUBLIC. THE INFORMATION IS NOT, NOR SHOULD IT BE CONSIDERED, LEGAL ADVICE. THE INFORMATION MAY NOT BE AN ACCURATE STATEMENT OF THE LAW, AS THE LAW MAY HAVE CHANGED SINCE THIS WAS POSTED. ANY LEGAL QUESTIONS REGARDING APPEALS SHOULD BE DIRECTED TO YOUR PRIVATE ATTORNEY.**

# Petition to Local Board of Review

## Regular Session

This petition must be filed or mailed to your city or county assessor from April 2 through April 30. It must be postmarked no later than April 30. Contact information for all assessors can be found at the Iowa State Association of Assessors website:

[www.Iowa-Assessors.org](http://www.Iowa-Assessors.org).

For use by Board of Review Only  
 Petition # \_\_\_\_\_ Class \_\_\_\_\_  
 Parcel # \_\_\_\_\_

To the Board of Review of the County/City of \_\_\_\_\_, Iowa  
 The undersigned (print name), \_\_\_\_\_  
 as owner or aggrieved taxpayer of the following described real estate: \_\_\_\_\_

with the property address: \_\_\_\_\_

and as such, liable for the payment of taxes thereon, do hereby respectfully object to the assessment made against said real estate as of current year January 1, 20\_\_\_\_ in the sum of (enter total assessment) \$ \_\_\_\_\_ for the following reasons, and upon the following grounds: (Complete all grounds that apply – see instructions on back.)

1.a.(1)(a). That said assessment is not equitable as compared with assessments of other like property in the county or city. (Give address, legal description and assessment of representative number of comparable properties.)

Assessed at:\$ \_\_\_\_\_

1.a.(1)(b). That said property is assessed for more than the value authorized by law (Section 441.21, Code of Iowa); that the amount of said over-assessment is \$ \_\_\_\_\_; and that \$ \_\_\_\_\_ is its actual value (Land: \$ \_\_\_\_\_ Building: \$ \_\_\_\_\_) and is a fair assessment.

1.a.(1)(c). That said property is not assessable, is exempt from taxes or is misclassified for the following reason: \_\_\_\_\_

1.a.(1)(d). That there is an error in the assessment as follows: \_\_\_\_\_

1.a.(1)(e). That there is fraud in the assessment as follows: \_\_\_\_\_

1.a.(2).That there has been a change downward in the value since the last assessment (Section 441.37, Code of Iowa). This is the only ground upon which a protest pertaining to the valuation of a property can be filed in a year in which the assessor has not assessed or reassessed the property pursuant to Iowa Code section 428.4 (701 IAC 71.20 (4)"b"(6)): \_\_\_\_\_

The undersigned respectfully requests that the assessment made against said real estate be adjusted accordingly based upon the facts presented. I hereby state that the facts in this petition are true and correct.

**An oral hearing is requested: Yes \_\_\_\_\_ No \_\_\_\_\_**

Mailing Address: \_\_\_\_\_

Signature (Owner or Duly Authorized Agent): \_\_\_\_\_ Date: \_\_\_\_\_

Day Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ eMail: \_\_\_\_\_

**FOR BOARD OF REVIEW:** Action Taken: \_\_\_\_\_ Date: \_\_\_\_\_

## Protest of Assessment to Local Board of Review

### Iowa Code Section 441.37 Protest of assessment — grounds.

1. a. Any property owner or aggrieved taxpayer who is dissatisfied with the owner's or taxpayer's assessment may file a protest against such assessment with the board of review on or after April 2, to and including April 30, of the year of the assessment. In any county which has been declared to be a disaster area by proper federal authorities after March 1 and prior to May 20 of said year of assessment, the board of review shall be authorized to remain in session until June 15 and the time for filing a protest shall be extended to and include the period from May 25 to June 5 of such year. The protest shall be in writing and, except as provided in subsection 3, signed by the one protesting or by the protester's duly authorized agent. The taxpayer may have an oral hearing on the protest if the request for the oral hearing is made in writing at the time of filing the protest. The protest must be confined to one or more of the following grounds:

- (1) For odd-numbered assessment years and for even-numbered assessment years for property that was reassessed in such even-numbered assessment year:
    - (a) That said assessment is not equitable as compared with assessments of other like property in the taxing district. When this ground is relied upon as the basis of a protest the legal description and assessments of a representative number of comparable properties, as described by the aggrieved taxpayer shall be listed on the protest, otherwise said protest shall not be considered on this ground.
    - (b) That the property is assessed for more than the value authorized by law. When this ground is relied upon, the protesting party shall state the specific amount which the protesting party believes the property to be over assessed, and the amount which the party considers to be its actual value and fair assessment.
    - (c) That the property is not assessable, is exempt from taxes, or is misclassified and stating the reasons for the protest.
    - (d) That there is an error in the assessment and state the specific alleged error. When this ground is relied upon, the error may include but is not limited to listing errors, clerical or mathematical errors, or other errors that result in an error in the assessment.
    - (e) That there is fraud in the assessment which shall be specifically stated.
  - (2) For even-numbered assessment years, when the property has not been reassessed in such even-numbered assessment year, that there has been a decrease in the value of the property from the previous reassessment year. When this ground is relied upon, the protesting party shall show the decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the previous reassessment year. Such protest shall be in the same manner as described in this section and shall be reviewed by the local board of review pursuant to section 441.35, subsection 2, but a reduction or increase shall not be made for prior years.
- b. The burden of proof for all protests filed under this section shall be as stated in section 441.21, subsection 3.
- c. The property owner or aggrieved taxpayer may combine on one form protests of assessment on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of such protests, the person making the combined protests may request that the oral hearings be held consecutively.

2. a. A property owner or aggrieved taxpayer who finds that a clerical or mathematical error has been made in the assessment of the owner's or taxpayer's property may file a protest against that assessment in the same manner as provided in this section, except that the protest may be filed for previous years. The board may correct clerical or mathematical errors for any assessment year in which the taxes have not been fully paid or otherwise legally discharged.

b. Upon the determination of the board that a clerical or mathematical error has been made the board shall take appropriate action to correct the error and notify the county auditor of the change in the assessment as a result of the error and the county auditor shall make the correction in the assessment and the tax list in the same manner as provided in section 443.6.

c. The board shall not correct an error resulting from a property owner's or taxpayer's inaccuracy in reporting or failure to comply with section 441.19.

3. For assessment years beginning on or after January 1, 2014, the board of review may allow property owners or aggrieved taxpayers who are dissatisfied with the owner's or taxpayer's assessment to file a protest against such assessment by electronic means. Electronic filing of assessment protests may be authorized for the protest period that begins April 2, the protest period that begins October 9, or both. Except for the requirement that a protest be signed, all other requirements of this section for an assessment protest to the board of review shall apply to a protest filed electronically. If electronic filing is authorized by the local board of review, the availability of electronic filing shall be clearly indicated on the assessment roll notice provided to the property owner or taxpayer and included in the published equalization order notice.

4. After the board of review has considered any protest filed by a property owner or aggrieved taxpayer and made final disposition of the protest, the board shall give written notice to the property owner or aggrieved taxpayer who filed the protest of the action taken by the board of review on the protest. The written notice to the property owner or aggrieved taxpayer shall also specify the reasons for the action taken by the board of review on the protest. If protests of assessment on multiple parcels separately assessed were combined, the written notice shall state the action taken, and the reasons for the action, for each assessment protested.

**For information regarding appeals to the Property Assessment Appeal Board or district court, please see Iowa Code chapters 441.37A thru 441.39.**