



WESTMINSTER

RULES GOVERNING HEARINGS BEFORE THE FINANCE DIRECTOR

The following rules shall govern all City tax hearings and are promulgated by the Finance Director in accordance with the requirements of the Westminster Municipal Code.

1. A copy of these rules shall be made available on request to those persons who, pursuant to a Notice of Assessment or denial of a Claim for Refund, have filed a timely protest requesting a hearing contesting the assessment or denial, or who do not agree with the determination made after an informal meeting.
2. As used in these rules, unless the context otherwise clearly requires, the following terms shall have the following meanings:
 - a. "City" means the Municipality of Westminster.
 - b. "Code" means the Westminster Municipal Code.
 - c. "Finance Director" means the Finance Director of the City of Westminster, or such other person designated by the City. "Finance Director" shall also include such person's designee.
 - d. "Hearing Officer" means the Finance Director.
 - e. "Protest" means a timely protest requesting a hearing on disputed tax, penalty or interest.
 - f. "Taxes" means monies due from Taxpayers under any Chapter of Title IV of the Westminster Municipal Code.
 - g. "Taxpayer" means the person who has filed a protest of a Notice of Assessment or a denial of a claim for Refund.

The definitions provided in Title IV of the Code shall apply and prevail over any conflicting definitions in these rules.

3. The Finance Director, the officer of the City charged with the administration of Title IV of the Code by which taxes are levied, and empowered to formulate and promulgate appropriate regulations relating to any matter pertaining to said administration, shall act as the Hearing Officer charged with making the Findings of Fact, Conclusions and Decision. Jurisdiction may be based upon such Findings in proceedings in the District Court to review all questions of law and fact so determined by the Hearing Officer by writ or process under Rule 106(a)(4), C.R.C.P., or other proceeding in the nature of certiorari by virtue of which the exercise of quasi-judicial functions may be reviewed for abuse of discretion by, or exceeding the jurisdiction vested in, the Hearing Officer.
4. All hearings shall be conducted by the Hearing Officer.

5. The Finance Director shall bear the sole responsibility for determining claims for refund and protests for modification of assessments that are made in compliance with the requirements of the Code.
6. The Hearing Officer shall perform those duties and functions necessary and incidental to determining the matter, including but not limited to, issuing subpoenas, hearing all testimony, examining all documentary evidence, ruling on evidentiary questions, and generally conducting the quasi-judicial proceeding in conformance with any procedures and time limitations set forth in the Code. All testimony in proceedings before the Hearing Officer shall be given under oath administered at the hearing.
7. A protest shall be filed within thirty (30) calendar days from the date of the notice or denial. The time limitation for filing a protest shall not be extended.
8. The Taxpayer shall file a legible protest with the Finance Director containing the following information
 - a. The Notice of Assessment or denial of claim for refund protested and amount and type of tax disputed;
 - b. A concise statement of all claims asserted by the Taxpayer as the basis for the protest.
 - c. The name, address and telephone number of the legal representative of the Taxpayer who is authorized to present the case.
 - d. The name and address of the Taxpayer.
 - e. The signature of the Taxpayer or its corporate agent.
9. The Hearing Officer may require the City to file a response to the petition or the Hearing Officer may require the parties to furnish additional information as necessary to frame the issues prior to the hearing. Additional information may include a statement of agreed and disputed facts, lists of exhibits, witnesses, and law relied upon. No ex parte communications with the Hearing Officer shall take place except in accordance with accepted practice in Colorado courts of general jurisdiction.
10. The Finance Director shall schedule the time and place of the hearing and shall notify the Taxpayer in writing.
11. All hearings will be held within ninety days after receipt of the Taxpayer's written petition; however, this time may be extended at the request of the taxpayer.
12. All requests for a continuance must be for cause, in writing, and received by the Finance Director not less than three days prior to the date scheduled for the hearing. A copy of the request shall be served on the opposing party.
13. The Taxpayer may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required.

14. The order of proceeding in hearings shall be as follows:
 - a. Hearing Officer opens hearing.
 - b. Chronology of case by the City.
 - c. Opening statement by Taxpayer (petitioner) and by the representative of the City unless waived by either party or reserved by City until the opening of the City's case.
 - d. Presentation of evidence by Taxpayer, allowing cross-examination by City; redirect by Taxpayer and City's re-cross examination. Exhibits shall be lettered for identification by the Court Reporter.
 - e. Presentation of evidence by the City, allowing cross-examination by Taxpayer; re-direct by City and Taxpayer's re-cross examination. Exhibits shall be numbered for identification by the Court Reporter.
 - f. The Hearing Officer may at any time address questions to any witness for the purpose of clarification.
 - g. Rebuttal and surrebuttal evidence, if any.
 - h. Closing argument by Taxpayer followed by answering argument from City with opportunity to reply to answering argument by Taxpayer. The Hearing Officer may require the Taxpayer or the City to submit written briefs in addition to or in lieu of closing argument. If the Taxpayer elects to submit a brief, then the City shall be permitted to file an answer brief. The schedule for filing such briefs shall be set by the Hearing Officer.

15. The conduct of hearings and the admission of evidence shall generally be in accordance with these rules without regard to conformity with common-law or statutory rules of procedure or evidence or other technical rules; provided that the Taxpayer shall have the burden of proof to show by clear and convincing evidence the correctness of the position of the Taxpayer; and provided that the rules of evidence followed shall conform generally with those in civil, non-jury cases in the district courts for the State of Colorado. The admissibility of evidence shall be encouraged, however, and the Hearing Officer shall be guided in receiving evidence by the provisions of the State Administrative Procedure Act.

16. Carbon copies, photographic copies, and copies made by duplicating machines, all properly authenticated, may be admitted into evidence or substituted in evidence in place of original documents.

17. A Taxpayer may appear in person to represent himself and /or be represented by an attorney admitted to practice in Colorado. The City may be represented by an employee of the Sales Tax Division and/or and attorney from the City Attorney's office.

18. Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the Hearing Officer.

19. The proceedings of the hearing shall be recorded by a court reporter provided by the City, or by electronic means. Transcripts of such record shall be made at the expense of the party requesting the transcript.

20. Whenever it appears that a protest has not been filed within the time period required by the Code, or that the City lacks jurisdiction, the case shall be dismissed by the Hearing Officer after providing the Taxpayer an opportunity to show that the City does have jurisdiction.
21. Mailings, notices, computations of time, time limitations, service, and filings shall conform to the provisions of the Code, and in any instance where these rules are inconsistent or alleged to be inconsistent with the Code, the provisions of the Code shall govern as determined by the Hearing Officer, subject to judicial review as provided under the Colorado Rules of Civil Procedure.
22. Based on the evidence presented at the hearing, the Finance Director shall issue a Findings of Fact, Conclusions, and Decision which may modify or abate the tax, penalties and interest protested at the hearing, approve a refund or uphold the assessment.
23. Unless the decision of the Finance Director is appealed as provided in the Code, the remaining total tax liability, if any, shall be paid on or before thirty (30) days after the date of the Findings of Fact, Conclusions and Decision.
24. After such hearing, the taxpayer shall not be entitled to a second hearing on the same Notice of Assessment or denial of refund.
25. In the event that any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application, and to this end, the various provisions of these rules are declared to be, and are severable.