

CHAPTER 102
ASSESSMENT PRACTICES AND EQUALIZATION

[Prior to 12/17/86, Revenue Department[730]]
[Prior to 11/2/22, see Revenue Department[701] Ch 71]

701—102.1(405,427A,428,441,499B) Classification of real estate.

102.1(1) Responsibility of assessors. All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property under this rule, except as provided for in paragraph 71.1(4)“d.” An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building. A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

102.1(2) Responsibility of boards of review, county auditors, and county treasurers. Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall classify property as provided in this rule and adhere to the requirements of this rule.

102.1(3) Agricultural real estate.

a. Generally. Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in paragraph “a” or “b” of this subrule.

b. Vineyards. Beginning with valuations established on or after January 1, 2002, vineyards and any buildings located on a vineyard and used in connection with the vineyard shall be classified as agricultural real estate if the primary use of the land and buildings is an activity related to the production or sale of wine.

c. Algae cultivation and production. Beginning with valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production shall be classified as agricultural real estate if the real estate is an enclosed pond or land which contains a photobioreactor. Pursuant to 2013 Iowa Acts, House File 632, section 1, a photobioreactor is not attached to land upon which it sits and shall not be assessed and taxed as real property.

(1) Determining direct usage. To determine if real estate is used “directly” in the cultivation and production of algae, one must first ensure that the real estate is used to perform activities that cultivate and produce algae and is not used for activities that occur before or after the cultivation and production of algae. If the real estate is used to perform activities for the cultivation and production of algae, to be “directly” so used, the real estate must be used to perform activities that are integral and essential to the cultivation and production, as distinguished from activities that are incidental, merely convenient to, or remote from cultivation and production. The fact that real estate is used for activities that are essential or necessary to the cultivation and production of algae does not mean that the real estate is also “directly” used in production. Even if the real estate is used for activities that are essential or necessary

to the cultivation and production of algae, if the activities are far enough removed from the cultivation or production of algae, the real estate would not qualify for the agricultural designation.

(2) Examples. The following are nonexclusive examples of real estate which would not be directly used in the cultivation and production of algae:

1. Real estate that is used to store, assemble, or repair machinery and equipment that is used for cultivation and production of algae.
2. Real estate that is used in the management, administration, advertising, or selling of algae.
3. Real estate that is used in the management, administration, or planning of the cultivation and production of algae.
4. Real estate that is used for packaging of the algae which has been produced and cultivated.

102.1(4) Residential real estate.

a. Classification of residential real estate—in general. Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. “Used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters, shall not be considered residential real estate. However, regardless of the number of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

b. Horizontal property regimes. An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

c. Classification of residential real estate on or after January 1, 2022. Beginning with valuations established on or after January 1, 2022, residential real estate shall also include:

- (1) Property primarily used or intended for human habitation containing two or fewer dwelling units.
- (2) Mobile home parks.
- (3) Manufactured home communities.
- (4) Land-leased communities.
- (5) Assisted living facilities.
- (6) A parcel primarily used or intended for human habitation containing three or more separate dwelling units. If a portion of such a parcel is used or intended for a purpose that, if the primary use would be classified as commercial property or industrial property, each such portion, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14)“b” and paragraph 71.1(4)“d” below.

(7) For a parcel that is primarily used or intended for use as commercial property or industrial property, that portion of the parcel that is used or intended for human habitation, regardless of the number of dwelling units contained on the parcel, including a proportionate share of the land included in the parcel, if applicable. The portion of such a parcel used or intended for use as commercial property or industrial property, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14)“b” and paragraph 71.1(4)“d” below.

d. Dual classification.

(1) For assessment years beginning January 1, 2022, and after, valuations of parcels for which a portion of the parcel satisfies the requirements for classification as residential property under Iowa Code section 441.21(14)“a”(6) or 441.21(14)“a”(7) and subparagraph 71.1(4)“c”(6) or 71.1(4)“c”(7), the assessor shall assign to that portion of the parcel the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify.

(2) The only permitted combinations of dual classifications are commercial and residential or industrial and residential. The assessor shall assign the classification of residential to that portion of the parcel that satisfies the requirements for the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

e. Section 42 housing. Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, and that has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2), shall not be classified as residential property.

f. Short-term leases. A hotel, motel, inn, or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as residential property.

g. Definitions. For purposes of this subrule, the following definitions apply:

“*Assisted living facility*” means property for providing assisted living as defined in Iowa Code section 231C.2. “Assisted living facility” also includes a health care facility as defined in Iowa Code section 135C.1, an elder group home as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

“*Dwelling unit*” means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building.

“*Land-leased community*” means the same as defined in Iowa Code sections 335.30A and 414.28A.

“*Manufactured home community*” means the same as a land-leased community.

“*Mobile home park*” means the same as defined in Iowa Code section 435.1.

102.1(5) Reserved.

102.1(6) *Commercial real estate.* Commercial real estate shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Commercial realty shall also include hotels, motels, and property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code and has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2). Commercial real estate shall also include data processing equipment as defined in Iowa Code section 427A.1(1)“j,” except data processing equipment used in the manufacturing process. However, regardless of the number of separate living quarters or any commercial use of the property, single- and two-family dwellings, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings used primarily for human habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be classified as residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use as a commercial venture, other than leased for human habitation, shall be classified as commercial real estate. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

102.1(7) *Industrial real estate.*

a. Land and buildings.

(1) Industrial real estate includes land, buildings, structures, and improvements used primarily as a manufacturing establishment. A manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any process of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling the

product for gain or profit. Industrial real estate includes land and buildings used for the storage of raw materials or finished products and which are an integral part of the manufacturing establishment, and also includes office space used as part of a manufacturing establishment.

(2) Whether property is used primarily as a manufacturing establishment and, therefore, assessed as industrial real estate depends upon the extent to which the property is used for the activities enumerated in subparagraph 71.1(7)“a”(1). Property in which the performance of these activities is only incidental to the property’s primary use for another purpose is not a manufacturing establishment. For example, a grocery store in which bakery goods are prepared would be assessed as commercial real estate since the primary use of the grocery store premises is for the sale of goods not manufactured by the grocery and the industrial activity, i.e., baking, is only incidental to the store premises’ primary use. However, property which is used primarily as a bakery would be assessed as industrial real estate even if baked goods are sold at retail on the premises since the bakery premises’ primary use would be for an industrial activity to which the retail sale of baked goods is merely incidental. See *Lichty v. Board of Review of Waterloo*, 230 Iowa 750, 298 N.W. 654 (1941).

Similarly, a facility which has as its primary use the mixing and blending of products to manufacture feed would be assessed as industrial real estate even though a portion of the facility is used solely for the storage of grain, if the use for storage is merely incidental to the property’s primary use as a manufacturing establishment. Conversely, a facility used primarily for the storage of grain would be assessed as commercial real estate even though a part of the facility is used to manufacture feed. In the latter situation, the industrial use of the property — the manufacture of feed — is merely incidental to the property’s primary use for commercial purposes — the storage of grain.

(3) Property used primarily for the extraction of rock or mineral substances from the earth is not a manufacturing establishment if the only processing performed on the substance is to change its size by crushing or pulverizing. See *River Products Company v. Board of Review of Washington County*, 332 N.W.2d 116 (Iowa Ct. App. 1982).

b. Machinery.

(1) Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner*, 247 Iowa 1264, 78 N.W.2d 527 (1956).

(2) Machinery owned or used by a manufacturer but not used within the manufacturing establishment is not assessed as industrial real estate. For example, “X” operates a factory which manufactures building materials for sale. In addition, “X” uses some of these building materials in construction contracts. The machinery which “X” would primarily use at the construction site would not be used in a manufacturing establishment and, therefore, would not be assessed as industrial real estate.

(3) Machinery used in manufacturing but not used in or by a manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

(4) Where the primary function of a manufacturing establishment is to manufacture personal property that is consumed by the manufacturer rather than sold, the machinery used in the manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

102.1(8) Point-of-sale equipment. As used in Iowa Code section 427A.1(1)“j,” the term “point-of-sale equipment” means input, output, and processing equipment used to consummate a sale and to record or process information pertaining to a sale transaction at the time the sale takes place and which is located at the counter, desk, or other specific point at which the transaction occurs. As used in this subrule, the term “sale” means the sale or rental of goods or services and includes both retail and wholesale transactions. Point-of-sale equipment does not include equipment used primarily for depositing or withdrawing funds from financial institution accounts.

102.1(9) Housing development property.

a. Ordinances adopted or amended on or after January 1, 2011.

(1) Adoption of ordinance by board of supervisors. A county board of supervisors may adopt an ordinance providing that property acquired and subdivided for development of housing on or after

January 1, 2011, shall continue to be assessed for taxation in the manner it was assessed prior to the acquisition. Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing or 5 years from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted or otherwise made effective under 2011 Iowa Code Supplement section 405.1(1) "a" to extend the 5-year time period for a period of time not to exceed 5 years beyond the end of the original 5-year period established under 2011 Iowa Code Supplement section 405.1(1). Thus, the maximum special assessment time for ordinances adopted on or subsequent to January 1, 2011, is 10 years. An extension of an ordinance under 2011 Iowa Code Supplement section 405.1(1) "a" may apply to all or a portion of the property that was subject to the original ordinance.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) "a," extending the county ordinance not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or subsequent to January 1, 2011, is 10 years if the city council amends an ordinance originally adopted by the county board of supervisors.

(4) Sale of lot; expiration of 5-year or extended period. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 5-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

(5) Definition of "subdivide." As used in both paragraphs 71.1(9) "a" and "b," "subdivide" means to divide a tract of land into three or more lots.

b. Ordinances adopted on or after January 1, 2004, but prior to January 1, 2011.

(1) Ordinances adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), to the extent such ordinances affect the assessment of property subdivided for development of housing on or after January 1, 2004, but before January 1, 2011, shall remain in effect or otherwise be made effective, and such ordinances:

1. Adopted under 2011 Iowa Code Supplement section 405.1(1), applicable to counties with a population of less than 20,000, shall be extended, from a period of 5 years, to apply to a period of 10 years from the date of subdivision.

2. Adopted under 2011 Iowa Code Supplement section 405.1(2), applicable to counties with a population of 20,000 or more, shall be extended, from a period of 3 years, to apply to a period of 8 years from the date of subdivision.

Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing, or 10 years pursuant to paragraph "1" above or 8 years pursuant to paragraph "2" above (or the extended period, if applicable) from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) or 405.1(2) to extend the 10- and 8-year periods, respectively, for a period of time not to exceed 5 years beyond the end of the 10- and 8-year periods established under 2011 Iowa Code Supplement section 405.1(1) "b." Thus, the maximum special assessment time for ordinances adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years. For counties with a population of 20,000 or more, the maximum shall be 13 years.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), extending the county ordinances not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum

time to appeal an ordinance adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years if the city council amends an ordinance originally adopted by the board of supervisors. For counties with a population of 20,000 or more, the maximum special assessment time shall be 13 years.

(4) Sale of lot. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 10- or 8-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

102.1(10) Assessment of platted lots.

a. When a subdivision plat is recorded pursuant to Iowa Code chapter 354 on or after January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 5 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

b. For subdivision plats recorded pursuant to Iowa Code chapter 354 (relating to division and subdivision of land) on or after January 1, 2004, but before January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 8 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

c. 2011 Iowa Code Supplement section 441.72 does not apply to special assessment levies.

This rule is intended to implement Iowa Code sections 405.1, 427A.1, 428.4 and 441.22 and chapter 499B and Iowa Code Supplement section 441.21 as amended by 2002 Iowa Acts, House File 2584.

[ARC 8559B, IAB 3/10/10, effective 4/14/10; ARC 0400C, IAB 10/17/12, effective 11/21/12; ARC 1196C, IAB 11/27/13, effective 1/1/14; ARC 1765C, IAB 12/10/14, effective 1/14/15; ARC 2146C, IAB 9/16/15, effective 10/21/15; ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.2(421,428,441) Assessment and valuation of real estate.

102.2(1) Responsibility of assessor. The valuation of real estate as established by city and county assessors shall be the actual value of the real estate as of January 1 of the year in which the assessment is made. New parcels of real estate created by the division of existing parcels of real estate shall be assessed separately as of January 1 of the year following the division of the existing parcel of real estate.

102.2(2) Responsibility of other assessing officials. Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall follow the provisions of subrule 71.2(1) and rules 701—71.3(421,428,441) to 701—71.7(421,427A,428,441).

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

[Editorial change: IAC Supplement 11/2/22]

701—102.3(421,428,441) Valuation of agricultural real estate. Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section 421.17(17).

102.3(1) Productivity.

a. In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS), the USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed. The assessor shall determine the actual valuation of agricultural real estate within the assessing jurisdiction and distribute such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

b. In distributing such valuation to each parcel under paragraph 71.3(1) “a,” the assessor shall adjust non-cropland. The adjustment shall be applied to non-cropland with a corn suitability rating (CSR) that is greater than 50 percent of the average CSR for cropland for the county. The adjustment shall be determined for each county based upon the five-year average difference in cash rent between non-irrigated cropland and pasture land as published by NASS. The assessor may utilize the USDA FSA-published Common Land Unit digital data or other reliable sources in determining non-cropland. Counties shall implement the adjustments under this paragraph on or before the 2017 assessment year. The department of revenue may, in a case involving hardship, extend the implementation of the adjustments required under this paragraph to the 2019 assessment year. No extension of time shall be granted unless the county makes a written request to the department of revenue for such action.

c. A taxpayer may apply to the county for the adjustment to non-cropland under paragraph 71.3(1) “b” beginning with the 2014 assessment and until the county’s full implementation of this subrule. Upon application, and subsequent approval by the assessor, the county assessor shall adjust non-cropland as provided in paragraph 71.3(1) “b.” Once a taxpayer applies for the adjustment, and upon approval, the assessor shall make the adjustment to the assessment year for which the application was submitted and until the county’s full implementation of this subrule, without the need to reapply for the adjustment.

d. EXAMPLE. The following is an example of the calculation used to compute adjustment on land determined to be non-cropland with a CSR that is greater than 50 percent of the average CSR for cropland for the county:

Average county CSR rating for cropland	80 CSR
50% of average cropland CSR	40 CSR
Example of non-cropland soil 11b CSR rating	58 CSR
Non-cropland CSR points to be adjusted	$58 - 40 = 18$ CSR points
5-year average rent for non-irrigated cropland	\$163.60
5-year average rent for pasture land	\$48.30
Percent difference (rounded)	$1 - (\$48.30/\$163.60) = 70\%$
Apply the percent difference to points to be adjusted	$18 \text{ CSR points} \times (1 - .70) = 5.40$ adjusted CSR points
Adjusted CSR non-cropland	$40 + 5.40 = 45.40$ adjusted CSR points

102.3(2) Agricultural factor. In order to determine a productivity value for agricultural buildings and structures, assessors must make an agricultural adjustment to the market value of these buildings and structures by developing an “agricultural factor” for the assessors’ jurisdictions. The agricultural factor for each jurisdiction is the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department. The agricultural factor must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building’s actual value is \$500,000 and the agricultural factor is 30 percent, the productivity value of that building is \$150,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

102.3(3) Classification. Land classified as agricultural real estate includes the land beneath any dwelling and appurtenant structures located on that land and shall be valued by the assessor pursuant to rule 701—71.3(421,428,441). An assessor shall not value a part of the land as agricultural real estate and a part of the land as if it is residential real estate.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

[ARC 8542B, IAB 2/24/10, effective 3/31/10; ARC 9478B, IAB 4/20/11, effective 5/25/11; ARC 0770C, IAB 5/29/13, effective 7/3/13; ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.4(421,428,441) Valuation of residential real estate. Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.
[ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.5(421,428,441) Valuation of commercial real estate. Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available. In cases involving the valuation of owner-occupied commercial property, the data relating to the financial performance of the owner or the owner's business, including but not limited to its sales, revenue, expenses, or profits, shall not be considered relevant in determining the property's actual value.

102.5(1) Property of long distance telephone companies. The director of revenue shall assess the property of long distance telephone companies as defined in Iowa Code section 476.1D(10) which property is first assessed for taxation on or after January 1, 1996, in the same manner as commercial real estate.

102.5(2) Low-income housing subject to Section 42 of the Internal Revenue Code.

a. Productive and earning capacity. In assessing property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code which limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property.

b. Direct capitalization method. The income approach to valuation shall be applied using the direct capitalization method. The assessor may use the discounted cash flow method as a test of the reasonableness of the results produced by the direct capitalization method. The direct capitalization method of the income approach involves dividing the Net Operating Income (NOI) on a cash basis by an overall capitalization rate to derive an indication of the value of the property for the assessment year.

In applying the direct capitalization method, the assessor shall develop a normalized measure of annual NOI based on the productive and earning capacity of the development utilizing (1) the actual rent schedule applicable for each of the available units as of January 1 of the year of assessment indicating the actual rent to be paid by the resident plus any Section 8 rental assistance or other direct cash rental subsidy provided to the resident by federal, state or local rent subsidy programs as limited pursuant to Section 42 of the Internal Revenue Code, (2) a normal vacancy/collection allowance, (3) the prior year's actual and current year's projected annual operating expenses associated with the property, excluding noncash items such as depreciation and amortization, but including property taxes and those actual costs expected to be incurred and paid as required by Internal Revenue Code Section 42 regulations, provisions, and restrictions as applicable to the assessment year, and (4) an appropriate provision for replacement reserves.

If no separate line item is included for reserves for replacement in the historic income and expense data, then the maintenance and repair categories of the historic expense data must be itemized. For properties that have attained a normalized operating history, the NOI results of the prior three years (as represented in the statements variously named as the Income and Loss Statement, the Profit and Loss Statement, the Income Statement, the Actual to Budget Comparison Statement, Balance Sheet, or some name variation of these) may be used to provide the basis for determining the normalized NOI used for purposes of applying the direct capitalization method for the year of assessment, provided an appropriate replacement reserve is included in the NOI determination and provided any additional costs required as a result of Section 42 regulation or compliance changes for the assessment year are included

as an operating expense in the NOI determination. In addition, the assessor may utilize the current year operating budget to develop a measure of NOI for the assessment year. The assessor, in developing the measure of annual NOI on a cash basis, shall not consider as income any potential rental income differential that could otherwise be received from the property if the rents were not limited pursuant to Section 42 of the Internal Revenue Code, any tax credit equity, any tax credit value, or other subsidized financing.

c. *Filing of reports.* It shall be the responsibility of the property owner to file income and expense data with the local assessor by March 1 of each year. The assessor may require the filing of additional information if deemed necessary.

d. *Capitalization rate.* The overall capitalization rate to be used in applying the direct capitalization method for a Section 42 property is developed through the band-of-investment technique. The capitalization rate will be calculated annually by the Iowa department of revenue and distributed to all Iowa assessors by March 1. The capitalization rate is a composite rate weighted by the proportions of total property investment represented by debt and equity. The capital structure weights equity at 80 percent and debt at 20 percent unless actual market capital structure can be verified to the assessor. The yield, or market rate of return, for equity is calculated using the capital asset pricing model (CAPM). The yield for debt is equivalent to the average yield on 25-year Treasury bonds referred to as the Treasury long-term average rate. An example of the band-of-investment technique to be utilized is as follows:

	% to Total	Yield	Composite
Equity	80%	11.05%	8.84%
Debt	20%	5.94%	1.19%
	100%		10.03%

e. *Capital asset pricing model.* The capital asset pricing model (CAPM) is utilized to develop the equity rate. The formula is:

$$Re = B (Rm - Rf) + Rf$$

Where:

- Re = return on equity
- B = beta
- Rm = return on the market
- Rf = risk-free rate of return
- Rm - Rf = market-risk premium

The beta is assumed to be 1 which indicates the risk level to be consistent with the market as a whole. The risk-free rate is calculated by finding the average of the three-month and six-month Treasury bill. The return on the market is calculated by taking the average of the return on the market for the Merrill Lynch Universe and Standard and Poor’s 500 or by reference to other published secondary sources.

f. *Properties under construction.* For Section 42 properties under construction, the assessor may value the property by applying the percentage of completion to the replacement cost new (RCN) as calculated from the Iowa Real Property Appraisal Manual and adding the fair market value of the land. Alternatively, projected income and expense data may be utilized if available.

g. *Negative or minimal NOI.* If the Section 42 property shows a negative or minimal net operating income (NOI), the indicator of value as set forth in these rules shall not be utilized.

h. Eligibility withdrawn. The property owner shall notify the assessor when property is withdrawn from Section 42 eligibility under the Internal Revenue Code. The notification must be provided by March 1 of the assessment year or the owner is subject to a penalty of \$500.

This rule is intended to implement Iowa Code sections 421.17, 428.4, 441.21 as amended by 2004 Iowa Acts, Senate File 2296, and 476.1D(10).

[ARC 3107C, IAB 6/7/17, effective 7/12/17; ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.6(421,428,441) Valuation of industrial land and buildings. Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(17), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

[ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.7(421,427A,428,441) Valuation of industrial machinery. Industrial machinery as referred to in Iowa Code section 427A.1(1) “e” shall include all machinery used in manufacturing establishments and shall be assessed as real estate even though such machinery might be assessed as personal property if not used in a manufacturing establishment.

In determining the actual value of industrial machinery assessed as real estate, the assessor shall give consideration to the “Industrial Machinery and Equipment Valuation Guide” issued by the department of revenue and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 427A.1, 428.4 and 441.21.

[Editorial change: IAC Supplement 11/2/22]

701—102.8(428,441) Abstract of assessment. Each city and county assessor shall submit annually to the department of revenue at the times specified in Iowa Code section 441.45 an abstract of assessment for the current year. The assessor shall use the form of abstract prescribed and furnished by the department and shall enter on the abstract all information required by the department. However, the department may approve the use of a computer-prepared abstract if the data is in essentially the same format as on the form prescribed by the department. The information entered on the abstract of assessment shall be reviewed and considered by the department in equalizing the valuations of classes of properties.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.9(428,441) Reconciliation report. The assessor’s report of any revaluation required by Iowa Code section 428.4 shall be made on the reconciliation report prescribed and furnished by the department of revenue. The assessor shall enter on the report all information required by the department. The reconciliation report shall be a part of the abstract of assessment required by Iowa Code section 441.45 and shall be reviewed and considered by the department in equalizing valuations of classes of property.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.10(421) Assessment/sales ratio study.

102.10(1) Basic data. Basic data shall be that submitted to the department of revenue by county recorders and city and county assessors on forms prescribed and provided by the department, information furnished by parties to real estate transactions, and information obtained by field investigations made by the department of revenue.

102.10(2) Responsibility of recorders and assessors. County recorders and city and county assessors shall complete the prescribed forms as required by Iowa Code subsection 421.17(6) and rule 701—79.3(428A) in accordance with instructions issued by the department. Assessed values entered on the prescribed form shall be those established as of January 1 of the year in which the sale takes place.

102.10(3) Normal sales. All real estate transfers shall be considered by the department of revenue to be normal sales unless there exists definite information which would indicate the transfer was not an arms-length transaction or is of an excludable nature as provided in Iowa Code section 441.21.

This rule is intended to implement Iowa Code section 421.17.

[Editorial change: IAC Supplement 11/2/22]

701—102.11(441) Equalization of assessments by class of property.

102.11(1) Commencing in 1977 and every two years thereafter, the department of revenue shall order the equalization of the levels of assessment of each class of property as provided in rule 701—71.12(441) by adding to or deducting from the valuation of each class of property, as reported to the department on the abstract of assessment and reconciliation report that is a part of the abstract, the percentage in each case as may be necessary to bring the level of assessment to its actual value as defined in Iowa Code section 441.21. Valuation adjustments shall be ordered if the department determines that the aggregate valuation of a class of property as reported on the abstract of assessment submitted by the assessor is at least 5 percent above or below the aggregate valuation for that class of property as determined by the department pursuant to rule 701—71.12(441). Equalization orders of the department shall be restricted to equalizing the aggregate valuations of entire classes of property among the several assessing jurisdictions. All classifications of real estate shall be applied uniformly throughout the state of Iowa.

102.11(2) Equalization percentage adjustments determined for residential realty located outside incorporated areas and not located on agricultural land shall apply to buildings located on agricultural land outside incorporated areas, which are primarily used or intended for human habitation, as defined in subrule 71.1(4).

Equalization percentage adjustments determined for residential realty located within incorporated cities and not located on agricultural land shall apply to buildings located on agricultural land within incorporated cities that are primarily used or intended for human habitation as defined in subrule 71.1(4).

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.

[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.12(441) Determination of aggregate actual values.

102.12(1) Agricultural real estate.

a. Use of income capitalization study. The equalized valuation of agricultural realty shall be based upon its productivity and net earning capacity and shall be determined in accordance with the provisions of this subrule. Data used shall pertain to crops harvested during the five-year period ending with the calendar year in which assessments were last equalized. The equalized valuation of agricultural realty shall be determined for each county as follows:

(1) Computation of county acres. This information shall be obtained from the USDA National Agricultural Statistics Service.

1. Total acres in farms: Total acreage used for agricultural purposes.
2. Corn acres: Sum of corn acres harvested including silage, popcorn and acres planted for sorghum.
3. Oats and wheat acres: Sum of oats and wheat acres harvested.
4. Soybean acres: Soybean acres harvested.
5. Hay acres: All hay acres harvested.
6. Pasture acres: All pasture acres. Total pasture acres shall be determined by multiplying the total acres in farms reported by the USDA National Agricultural Statistics Service by the percentage which total pasture land as reported in the most recent U.S. Census of Agriculture bears to the total acreage in farmland also reported in the most recent U.S. Census of Agriculture. The amount of tillable and nontillable pasture acres shall be determined as follows:

1.	From the most recent U.S. Census of Agriculture obtain the following:		
	Cropland used only for pasture and grazing	_____	acres
	Woodland pasture	_____	acres
	Pasture land and rangeland (other than cropland and woodland pasture)	_____	acres
	TOTAL PASTURE LAND (total of above):	_____	acres
2.	Determine what percentage of the total pasture land is cropland used only for pasture:	_____	%
3.	Apply the percentage in "2" above to the 5-year average total acres of pasture as determined above to determine the pasture acres to be classified as tillable pasture. The remainder of the 5-year average shall be classified as nontillable pasture land.	_____	acres

7. Government programs: Determine the 5-year average acres participating in applicable government programs. Obtain data from the USDA Farm Service Agency, including but not limited to acreage devoted to the Payment-In-Kind (PIK), diverted and deficiency programs.

8. Other acres: The difference between the total acreage for land uses listed above and the total of all land in farms. Add the total of the corn, oats, soybeans, hay, tillable and nontillable pasture and diverted acres. Subtract this total from total acres in farms. The residual is classified as other acres.

(2) Computation of county yields. This information shall be obtained for each county from the USDA National Agricultural Statistics Service.

1. Corn yield (including silage): Number of bushels of corn harvested for grain per acre.
2. Oat yield (including wheat): Number of bushels of oats harvested per acre.
3. Soybean yield: Number of bushels per acre harvested.
4. Hay yield in tons: Number of tons per acre harvested.

(3) Computation of county gross income.

1. Corn: One-half of the 5-year average production multiplied by the 5-year average price received for corn.

2. Silage: One-half of the 5-year average number of acres devoted to the production of silage multiplied by the 5-year average production per acre for corn. The amount of production so determined shall be added to the 5-year average production for corn and included in the determination of the gross income for corn.

3. Soybeans: One-half of the 5-year average production multiplied by the 5-year average price received.

4. Oats: One-half of the 5-year average production of oats and wheat multiplied by the 5-year average price received for oats.

5. Price adjustment: For corn, soybeans, hay, and oats, the prices used shall be as obtained from the USDA National Agricultural Statistics Service and shall be adjusted to reflect any individual county price conditions prior to the 2007 crop year. For the 2007 crop year and later, the USDA National Agricultural Statistics Service district prices shall be used and shall be adjusted to reflect any individual county price conditions.

6. Government programs: Gross income shall be one-half of the 5-year average amount of cash payments or equivalent (such as PIK bushels) including but not limited to diverted, deficiency and PIK programs as reported by the USDA Farm Service Agency.

7. Hay: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to hay by the product obtained by multiplying one-fourth of the 5-year average hay yield by the 5-year average price received for all types of hay.

8. Tillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to tillable pasture by the product obtained in “hay” above.

9. Nontillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to nontillable pasture by one-half the product obtained in “hay” above.

10. Other acres: Income shall be the product of the number of other acres multiplied by 17 percent of the net income per acre for all other land uses.

(4) Computation of county production costs. The following data and procedures shall be used to determine specific county production costs.

1. Basic average landlord production costs. Landlord production costs for corn, soybeans, oats, diverted acres, hay, tillable pasture, nontillable pasture, fertilizer costs, and facilities’ costs shall be obtained for each year from Iowa State University.

2. Production cost adjustment. The production costs for corn, soybeans, oats, and hay are adjusted for each county by multiplying the difference between the 5-year state average yield per acre and the 5-year county average yield per acre by the 5-year average facilities’ costs. If a county’s yield exceeds the state yield, production costs are increased by this amount. If a county’s yield is less than the state yield, production costs are reduced by this amount.

3. Fertilizer cost adjustment. The adjustment for fertilizer costs is determined as follows: Multiply the difference between the 5-year state average corn yield per acre and the 5-year county average corn yield per acre obtained from the USDA National Agricultural Statistics Service by the fertilizer cost amount per bushel determined by dividing the statewide average cost of landlord’s share of fertilizer cost per acre from Iowa State University by the statewide average corn yield per acre to produce the corn fertilizer cost per bushel adjustment. This amount is then multiplied by the 5-year county average corn acres determined in (2) above.

4. Expense adjustments. If a county’s 5-year average corn yield is greater than the state 5-year average corn yield, this amount is allowed as an additional expense. If the county’s average is less than the state average, this amount is an expense reduction.

5. Liability insurance cost adjustment. The 5-year average per acre cost of obtaining tort liability insurance shall be determined.

(5) Computation of county net income. From the total gross income, subtract the total expenses. Divide the resulting total by the total number of acres.

(6) Computation of dwelling adjustment factor. The amount determined in (5) above shall be reduced by 10.6 percent.

(7) Computation of county tax adjustment. Subtract the 5-year average per acre real estate taxes levied for land and structures including drainage and levee district taxes but excluding those levied against agricultural dwellings from the amount determined in (6) above. Taxes shall be the tax levied for collection during the 5-year period as reported by county auditors, and reduced by the amount of the agricultural land tax credit.

(8) Calculation of county valuation per acre. Divide the net income per acre ((7) above) for each county as determined above by the capitalization rate specified in Iowa Code section 441.21. The quotient shall be the actual per acre equalized valuation of agricultural land and structures for the current equalization year.

b. Use of other relevant data. The department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department, to determine the level of assessment of agricultural real estate.

c. Determination of value. The aggregate actual value of agricultural real estate in each county shall be determined by multiplying the equalized per acre value by the number of acres of agricultural real estate reported on the abstract of assessment for the current year, adjusted where necessary by the results of any field investigations conducted by the department of revenue and any other relevant data available.

102.12(2) Residential real estate outside and within incorporated cities.

a. Use of assessment/sales ratio study.

(1) Basic data shall be that set forth in rule 701—71.10(421) refined by eliminating any sales determined to be abnormal or by adjusting the sales to eliminate the effects of factors that resulted in the determination that the sales were abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The department of revenue may also supplement the assessment/sales ratio study with appraisals made by department appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of residential real estate in each assessing jurisdiction. The department may consider sales and appraisal data for prior years if it is determined the use of the sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

b. Use of other relevant data. The department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department, to determine the level of assessment of residential real estate.

c. Equalization appraisal selection procedures for residential real estate. Residential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the following manner:

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser assigned to the jurisdiction shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 1,397 improved residential units. Dividing 1,397 by 10, 139.7 is arrived at, which is rounded down to 139. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 139 is to be selected. The person randomly selected number 20.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 20 and adding the interval number of 139 to it, each resulting number provides the following systematic sequence: 20, 159, 298, 437, 576, 715, 854, 993, 1,132, 1,271.

(2) Number of improved properties.

County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers
Franklin Twp.	57	1-57
Pleasant View	160	58-217
Jackson Twp.	56	218-273
Johnston	300	274-573
Polk Twp.	110	574-683
Washington Twp.	114	684-797
Maryville	306	798-1103
Camden Twp.	110	1104-1213
Salem	184	1214-1397
Total	<u>1,397</u>	

(3) Determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	57	1-57	20	20
Pleasant View	160	58-217	159	102
Jackson Twp.	56	218-273		
Johnston	300	274-573	298,437	25,164
Polk Twp.	110	574-683	576	3
Washington Twp.	114	684-797	715	32
Maryville	306	798-1103	854,993	57,196
Camden Twp.	110	1104-1213	1132	29
Salem	184	1214-1397	1271	58
Total	<u>1,397</u>			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 20. Since the improved residential properties in Franklin Township have been assigned code numbers 1 to 57, sequence number 20 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the twentieth improved residential entry.

Document the parcel number, owner’s name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

- Current year sale
- Partial assessment
- Prior equalization appraisal
- Tax-exempt
- Value established by court action
- Value is not more than \$10,000
- Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 20 is ineligible, use code number 21 as a substitute. If code number 21 is ineligible, use code number 22, etc., until an eligible property is found.

If the procedure described in 71.12(2)“c”(3)“3” moves the substitute property to another city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(2)“c”(3)“3” even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(2)“c”(3)“2.” Alternate properties are selected by using the same procedure described in 71.12(2)“c”(3)“3.”

5. Follow procedures 71.12(2)“c”(3), items “1” to “4,” for each of the other originally selected sequence numbers.

102.12(3) Reserved.

102.12(4) *Commercial real estate.*

a. Use of assessment/sales ratio study.

(1) Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors that resulted in the determination that the sales were abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The department of revenue may also supplement the assessment/sales ratio study with appraisals made by department appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The department may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years are used, consideration shall be given for any subsequent changes in either assessed value or market value. Properties receiving a dual classification with the primary use being commercial shall be included.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

b. Use of other relevant data. The department of revenue may also consider other relevant data and statistical measures, including field investigations conducted by representatives of the department, to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

c. Equalization appraisal selection procedures for commercial real estate. Commercial properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the manner outlined below. Properties receiving a dual classification with the primary use being commercial shall be included.

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 397 improved commercial units. Dividing 397 by 10, 39.7 is arrived at, which is rounded down to 39. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 39 is to be selected. The person randomly selected number 2.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 2 and adding the interval number of 39 to it, each resulting number provides the following systematic sequence: 2, 41, 80, 119, 158, 197, 236, 275, 314, 353.

(2) Number of improved properties.

1. City jurisdictions—Utilizing the assessment book or a computer printout which follows the same order as the assessment book, consecutively number all the improved units and document the procedure.

2. County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers
Franklin Twp.	4	1-4
Pleasant View	60	5-64
Jackson Twp.	9	65-73
Johnston	100	74-173
Polk Twp.	10	174-183
Washington Twp.	14	184-197
Maryville	106	198-303
Camden Twp.	10	304-313
Salem	84	314-397
Total	<u>397</u>	

(3) The department appraiser shall determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

<u>City or Township</u>	<u>Number of Improved Commercial Units</u>	<u>Code Numbers</u>	<u>Sequence Number</u>	<u>Entry on Rolls</u>
Franklin Twp.	4	1-4	2	2
Pleasant View	60	5-64	41	37
Jackson Twp.	9	65-73		
Johnston	100	74-173	80,119,158	7,46,85
Polk Twp.	10	174-183		
Washington Twp.	14	184-197	197	14
Maryville	106	198-303	236,275	39,78
Camden Twp.	10	304-313		
Salem	84	314-397	314,353	1,40
Total	<u>397</u>			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 2. Since the improved commercial properties in Franklin Township have been assigned code numbers 1 to 4, sequence number 2 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the second improved commercial entry.

The department appraiser shall document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

Vacant building

Current-year sale

Partial assessment

Prior equalization appraisal

Tax-exempt

Only one portion of a total property unit (example—a parking lot of a grocery store)

Value established by court action

Value is not more than \$10,000

Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 2 is ineligible, use code number 3 as a substitute. If code number 3 is ineligible, use code number 4, etc., until an eligible property is found.

If the procedure described in 71.12(4) "c"(3)"3" moves the substitute property to a city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(4) "c"(3)"3" even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(4) "c"(3)"2." Alternate properties are selected by using the same procedure described in 71.12(4) "c"(3)"3."

5. Follow procedures 71.12(4) "c"(3), items "1" to "4," for each of the other originally selected sequence numbers.

102.12(5) Industrial real estate. It is not possible to determine the level of assessment of industrial real estate by using accepted equalization methods. The lack of sales data precludes the use of an

assessment/sales ratio study, the diverse nature of industrial real estate precludes the use of a countywide or citywide income capitalization study, and the limited number of industrial properties precludes the use of sample appraisals. The level of assessment of industrial real estate can only be determined by the valuation of individual parcels of industrial real estate. Any attempt to equalize industrial valuations by using accepted equalization methods would create an arbitrary result. However, under the circumstances set forth in Iowa Code subsection 421.17(10), the department may correct any errors in such assessments that are brought to the attention of the department, including errors related to property with a dual classification if the primary use of the property is from the industrial portions.

102.12(6) Centrally assessed property. Property assessed by the department of revenue pursuant to Iowa Code chapters 428 and 433 to 438, inclusive, is equalized internally by the department in the making of the assessments. Further, the assessments are equalized with the aggregate valuations of other classes of property as a result of actions taken by the department pursuant to rule 701—71.11(441).

102.12(7) Miscellaneous real estate. Since it is not possible to use accepted equalization methods to determine the level of assessment of mineral rights and interstate railroad and toll bridges, these classes of property shall not be subject to equalization by the department of revenue. However, under the circumstances set forth in Iowa Code section 421.17(10), the department may correct any errors in assessments which are brought to the attention of the department.

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.
[ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 9478B, IAB 4/20/11, effective 5/25/11; ARC 1765C, IAB 12/10/14, effective 1/14/15; ARC 2657C, IAB 8/3/16, effective 9/7/16; ARC 4170C, IAB 12/5/18, effective 1/9/19; ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.13(441) Tentative equalization notices. Prior to the issuance of the final equalization order to each county auditor, a tentative equalization notice providing for proposed percentage adjustments to the aggregate valuations of classes of property as set forth in rule 701—71.12(441) shall be mailed to the county auditor whose valuations are proposed to be adjusted. The tentative equalization notice constitutes the ten days' notice required by Iowa Code section 441.48.

This rule is intended to implement Iowa Code sections 441.47 and 441.48.
[Editorial change: IAC Supplement 11/2/22]

701—102.14(441) Hearings before the department.

102.14(1) Protests. Written or oral protest against the proposed percentage adjustments as set forth in the tentative equalization notice issued by the department of revenue shall be made only on behalf of the affected assessing jurisdiction. The protests shall be made only by officials of the assessing jurisdiction, including, but not limited to, an assessing jurisdiction's city council or board of supervisors, assessor, or city or county attorney. An assessing jurisdiction may submit a written protest in lieu of making an oral presentation before the department, or may submit an oral protest supported by written documentation. Protests against the adjustments in valuation contained in the tentative equalization notices shall be limited to a statement of the error or errors complained of and shall include such facts as might lead to their correction. No other factors shall be considered by the department in reviewing the protests. Protests and hearings on tentative equalization notices before the department are excluded from the provisions of the Iowa Administrative Procedure Act governing contested case proceedings.

102.14(2) Conduct of hearing. The department shall schedule each hearing so as to allow the same amount of time within which each assessing jurisdiction can make its presentation. During the hearing each assessing jurisdiction shall be afforded the opportunity to present evidence relevant to its protest. The division administrator for the local government services division shall act as the department's representative. The department's representative shall preside at the hearing, which shall be held at the time and place designated by the department or such other time and place as may be mutually agreed upon by the department and the protesting assessing jurisdiction.

This rule is intended to implement Iowa Code section 441.48.
[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22; ARC 6958C, IAB 3/22/23, effective 4/26/23]

701—102.15(441) Final equalization order and appeals.

102.15(1) *Issuance of final equalization order.* After the tentative equalization notice has been issued and an opportunity for a hearing described in rule 701—71.14(441) has been afforded, the department of revenue shall issue a final equalization order by mail to the county auditor. The order shall specify any percentage adjustments in the aggregate valuations of any class of property to be made effective for the county as of January 1 of the year in which the order is issued. The final equalization order shall be issued on or before October 1 unless for good cause it cannot be issued until after October 1. The final equalization order shall be implemented by the county auditor.

102.15(2) *Appeal of final equalization order.* The city or county officials of the affected county or assessing jurisdiction may appeal a final equalization order to the director of revenue by filing a notice of appeal with the clerk of the hearings section of the department of revenue. The notice of appeal must be filed or postmarked not later than ten days after the date the final equalization order is issued.

a. Form of appeal. The notice of appeal shall be in writing and in the same format as provided in 701—subrule 7.8(6).

(1) The notice of appeal shall substantially state in separate numbered paragraphs the following:

1. The county or assessing jurisdiction;
2. The date on which the final equalization order was issued;
3. The portion of the equalization order being appealed;
4. A clear and concise assignment of each and every error;
5. A clear and concise statement of the facts upon which the affected county or assessing jurisdiction relies as sustaining the assignment of error;
6. The relief requested;
7. The signature of the city or county officials bringing the appeal, or their representative, along with the address to which all subsequent correspondence, notice or papers shall be served or mailed.

(2) A county or assessing jurisdiction may amend its notice of appeal at any time prior to the commencement of the evidentiary hearing. The department may request that the county or assessing jurisdiction amend the notice of appeal for clarification.

b. Filing of notice of appeal. The notice of appeal must either be delivered to the department by electronic means or by United States Postal Service or a common carrier, by ordinary, certified, or registered mail, directed to the attention of the clerk of the hearings section at P.O. Box 14457, Des Moines, Iowa 50319, or be personally delivered to the clerk of the hearings section or served on the clerk of the hearings section by personal service during business hours. For the purpose of mailing, a notice of appeal is considered filed on the date of the postmark. If a postmark date is not present on the mailed article, then the date of receipt of protest will be considered the date of mailing. Any document, including a notice of appeal, is considered filed on the date personal service or personal delivery to the office of the clerk of the hearings section is made. See Iowa Code section 622.105 for the evidence necessary to establish proof of mailing.

c. Answer. The department of revenue shall file an answer with the clerk of the hearings section within 30 days after the filing of the pleading responded to, unless attacked by motion as provided in 701—subrule 7.17(5), and then the answer shall be filed within 30 days after the date on which the fact finder issues a ruling on the motion. The department may amend its answer at any time prior to the commencement of the evidentiary hearing.

d. Docketing. Appeals shall be assigned a docket number as provided in rule 701—7.10(17A). Records consisting of the case name and the corresponding docket number assigned to the case must be maintained by the clerk of the hearings section. The records of each case shall also include each action and each act done, with the proper dates as follows:

- (1) The title of the appeal;
- (2) Brief statement of the date of the final equalization order, the property tax classification affected, and the relief sought;
- (3) The manner and time of service of notice of appeal;
- (4) The appearance of all parties;
- (5) Notice of hearing, together with manner and time of service; and

(6) The decision of the director or administrative law judge or other disposition of the case and the date.

e. Hearing. Rules 701—7.14(17A) through 701—7.22(17A) shall apply to any hearing or proceeding regarding the appeal of a final equalization order to the director of revenue.

This rule is intended to implement Iowa Code chapter 17A and sections 441.48 and 441.49.
[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.16(441) Alternative method of implementing equalization orders.

102.16(1) Application for permission to use an alternative method.

a. A request by an assessing jurisdiction for permission to use an alternative method of applying the final equalization order must be made in writing to the department of revenue within ten days from the date the county auditor receives the final equalization order. The written request shall include the following information:

(1) Facts evidencing the need to use an alternative method of implementing the final equalization order. Such facts shall clearly show that the proposed method is essential to ensure compliance with the provisions of Iowa Code section 441.21.

(2) The exact methods to be employed in implementing the requested alternative method for each class of property.

(3) The specific method of notifying affected property owners of the valuation changes.

(4) Evidence that the alternative method will result in an aggregate property class valuation adjustment equivalent to that prescribed in the department's final equalization order.

b. The department of revenue shall review each written request for an alternative method and shall notify the assessing jurisdiction of acceptance or rejection of the proposed method by October 15. The assessing jurisdiction shall immediately inform the county auditor of the department's decision. The county auditor shall include a description of any approved alternative method in the required newspaper publication of the final equalization order. In those instances where the approved alternative method includes individual property owner notification, the publication shall not be considered proper notice to the affected property owners.

102.16(2) Implementation of alternative method. If an alternative method is approved by the department of revenue, any individual notification of property owners shall be completed by the assessor by not later than October 25.

102.16(3) Appeal by property owners. If an alternative method is approved by the department of revenue, the special session of the local board of review to hear equalization protests shall be extended to November 30. In such instances, protests may be filed up to and including November 4.

This rule is intended to implement Iowa Code section 441.49.
[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.17(441) Special session of boards of review.

102.17(1) Grounds for protest. The only ground for protesting to the local board of review reconvened in special session pursuant to Iowa Code section 441.49 is that the application of the department's final equalization order results in a value greater than that permitted under Iowa Code section 441.21.

102.17(2) Authority of board of review. When in special session to hear protests resulting from equalization adjustments, the local board of review shall only act upon protests for those properties for which valuations have been increased as a result of the application of the department of revenue's final equalization order.

The local board of review may adjust valuations of those properties it deems warranted, but under no circumstance shall the adjustment result in a value less than that which existed prior to the application of the department's equalization order. The local board of review shall not adjust the valuation of properties for which no protests have been filed.

102.17(3) Report of board of review. In the report to the department of revenue of action taken by the local board of review in special session, the board of review shall report the aggregate valuation

adjustments by class of property as well as all other information required by the department of revenue to determine if such actions may have substantially altered the equalization order.

102.17(4) Meetings of board of review. If the final equalization order does not increase the valuation of any class of property, the board of review is not required to meet during the special session. If the final equalization order increases the valuation of one or more classes of property but no protests are filed by the times specified in Iowa Code section 441.49, the board of review is not required to meet during the special session.

This rule is intended to implement Iowa Code sections 421.17(10) and 441.49.
[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.18(441) Judgment of assessors and local boards of review. Nothing stated in these rules should be construed as prohibiting the exercise of honest judgment, as provided by law, by the assessors and local boards of review in matters pertaining to valuing and assessing of individual properties within their respective jurisdictions.

This rule is intended to implement Iowa Code sections 441.17 and 441.35.
[Editorial change: IAC Supplement 11/2/22]

701—102.19(441) Conference boards.

102.19(1) Establishment and abolition of office.

a. As referred to in Iowa Code section 441.1, the term “federal census” includes any special census conducted by the Bureau of the Census of the U.S. Department of Commerce as well as the Bureau’s decennial census.

b. Within 60 days of receiving the certified results of a federal census indicating the population of a city having its own assessor has fallen below 10,000, the city council of the city shall repeal the ordinance providing for its own assessor.

c. Whenever the office of city assessor is abolished, all moneys in the assessment expense fund and the special appraiser fund shall be transferred to the appropriate accounts in the county assessor’s office, and all equipment and supplies shall be transferred to the county assessor’s office. Employees of the city assessor’s office may, at the discretion of the county assessor, become employees of the county assessor. However, any deputy assessor of the city may not be appointed a deputy county assessor unless certified as eligible for appointment pursuant to Iowa Code sections 441.5 and 441.10.

102.19(2) Membership.

a. County conference boards. A county conference board consists of the county board of supervisors, the mayor of each incorporated city in the county whose property is assessed by the county assessor, and one member of the board of directors of each high school district in the county, provided the member is a resident of the county. Members representing school districts serve one-year terms, and the board of directors each year must notify the clerk of the conference board of its representative on the conference board. A member of the board of directors of a school district may serve on the county conference board even though the member lives in a city having its own assessor (1978 O.A.G. 466).

b. City conference boards. A city conference board consists of the county board of supervisors, the city council, and the entire board of directors of each school district whose property is assessed by the city assessor.

102.19(3) Voting.

a. Votes on matters before a conference board shall be by units as provided in Iowa Code section 441.2. At least two members of each voting unit must be present in order for the unit to cast a vote (1960 O.A.G. 226). In the event the vote of the members of a voting unit ends in a tie, that unit shall not cast a vote on the particular matter before the conference board.

b. If a member of a conference board is absent from a meeting, the member’s vote may not be cast by another person, except that a mayor pro tem as provided in Iowa Code section 372.14(3) may vote for the mayor when the mayor is absent from or unable to perform official duties.

This rule is intended to implement Iowa Code section 441.2.
[Editorial change: IAC Supplement 11/2/22]

701—102.20(441) Board of review.**102.20(1) Membership.**

a. Occupation of members. One member of the county board of review must be actively engaged in farming as that member's primary occupation. However, it is not necessary for a board of review to have as a member one licensed real estate broker and one licensed architect or person experienced in the building and construction field if the person cannot be located after a good-faith effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

b. Residency of members. A person must be a resident of the assessor jurisdiction served to qualify for appointment as a member of the board of review. However, a member changing assessing jurisdiction residency after appointment to the board may continue to serve on the board until the member's current term of office expires.

c. Term of office. The term of office of members of boards of review shall be for six years and shall be staggered as provided in Iowa Code section 441.31. In the event of the death, resignation, or removal from office of a member of a board of review, the conference board or city council shall appoint a successor to serve the unexpired term of the previous incumbent.

d. Membership on other boards. A member of a board of review shall not at the same time serve on either the conference board or the examining board, or be an employee of the assessor's office (1948 O.A.G. 120, 1960 O.A.G. 226).

e. Number of members. A conference board or city council may at any time change the composition of a board of review to either three or five members. To reduce membership from five members to three members, the conference board or city council shall not appoint successors to fill the next two vacancies which occur (1970 O.A.G. 342). To increase membership from three members to five members, the conference board or city council shall appoint two additional members whose initial terms shall expire at such times so that no two board members' terms expire at the end of the same year. Also, the conference board or city council may increase the membership of the board of review by an additional two members if it determines that a large number of protests warrant the emergency appointments. If the board of review has ten members, not more than four additional members may be appointed by the conference board. The terms of the emergency members will not exceed two years.

f. Removal from office. A member of a board of review may be removed from office by the conference board or city council but only after specific charges have been filed by the conference board or city council.

g. Appointment of members. Members of a county board of review shall be appointed by the county conference board. Members of a city board of review shall be appointed by the city conference board in cities with an assessor or by the city council in cities without an assessor. A city without an assessor can only have a board of review if the population of the city is 75,000 or more. A city with a population of more than 125,000 may appoint a city board of review or request the county conference board to appoint a ten-member county board of review.

102.20(2) Sessions of boards of review.

a. It is mandatory that a board of review convene on May 1 and adjourn no later than May 31 of each year. However, if either date falls on a Saturday, Sunday, or legal holiday, the board of review shall convene or adjourn on the following Monday.

b. Extended session. If a board of review determines it will be unable to complete its work by May 31, it may request that the director of revenue extend its session up to July 15. The request must be signed by a majority of the membership of the board of review and must contain the reasons the board of review cannot complete its work by May 31. During the extended session, a board of review may perform the same functions as during its regular session unless specifically limited by the director of revenue.

c. Special session. If a board of review is reconvened by the director of revenue pursuant to Iowa Code section 421.17, the board of review shall perform those functions specified in the order of the director of revenue and shall perform no other functions.

102.20(3) Actions initiated by boards of review.

a. Internal equalization of assessments. A board of review in reassessment years as provided in Iowa Code section 428.4 has the power to equalize individual assessments as established by the assessor, but cannot make percentage adjustments in the aggregate valuations of classes of property (1966 O.A.G. 416). In nonreassessment years, a board of review can adjust the valuation of an entire class of property by adjusting all assessment by a uniform percentage. Nothing contained in this rule shall restrict the director from exercising the responsibilities set forth in Iowa Code section 421.17.

b. Omitted assessments. A board of review may assess for taxation any property which was not assessed by the assessor, including property which the assessor determines erroneously is not subject to taxation by virtue of enjoying an exempt status (*Talley v. Brown*, 146 Iowa 360, 125 N.W. 248 (1910)).

c. Notice to taxpayers. If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers shall be provided by newspaper publication as described in Iowa Code section 441.35 and in the manner specified in Iowa Code section 441.36.

102.20(4) Appeals to boards of review.

a. Jurisdiction. A board of review may act only upon written protests which have been filed with the board of review in compliance with Iowa Code section 441.37(1) "a."

(1) Protests must be filed between April 2 and April 30, inclusive. In the event April 30 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by April 30 or the following Monday if April 30 falls on a Saturday or Sunday shall also be considered to have been timely filed.

(2) The protest must identify one or more grounds for protest under Iowa Code section 441.37.

(3) All protests must be in writing, on forms prescribed by the director of revenue, and signed by the protester or the protester's authorized agent. A protest shall not be rejected for the sole reason that the protest was not filed using the prescribed form if the protest otherwise complies with Iowa Code section 441.37(1) "a." A written request for an oral hearing must be made at the time of filing the protest. The protester may combine on one form assessment protests 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 the protests, the person making the combined protests may request that the oral hearings be held consecutively.

(4) A board of review may allow protests to be filed in electronic format. Protests transmitted electronically are subject to the same deadlines as written protests.

b. Grounds for protest. Taxpayers may protest to a board of review on one or more of the grounds specified in Iowa Code section 441.37. The grounds for protest and procedures for considering protests are as follows:

(1) The assessment is not equitable when compared with those of similar properties in the same taxing district. If this ground is a basis for the protest, the protester may identify comparable properties to support the claim. In considering a protest based upon this ground, the board of review should examine carefully all information used to determine the assessment of the subject property, consider any comparable properties, and determine whether the evidence demonstrates the subject property is inequitably assessed.

(2) The property is assessed at more than the value authorized by law. If this ground is the basis for a protest, the protester may indicate the amount considered to be the actual value of the property.

(3) The property is not assessable, is exempt from taxes, or is misclassified. If this ground is the basis for a protest, the protester may indicate why the property is exempt, misclassified, or not assessable.

(4) There is an error in the assessment. An error may include, but is not limited to, listing errors, assessment of subject property for less than authorized by law, or erroneous mathematical calculations. If this ground is the basis for a protest, the protester must indicate the alleged error.

A board of review must determine:

1. If an error exists, and
2. How the error might be corrected.

(5) There is fraud or misconduct in the assessment. If this ground of protest is used, the protester must state the specific fraud or misconduct alleged, and the board of review must first determine if there is validity to the protester's allegation. If it is determined that there is fraud in the assessment or that there has been misconduct by the assessor, the board of review shall take action to correct the assessment and report the matter to the director of revenue. For purposes of this subrule, "misconduct" means the same as defined in 2017 Iowa Code section 441.9.

(6) Protests may be filed for previous years if the protester discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged.

c. Disposition of protests. After reaching a decision on a protest, the board of review shall give the taxpayer written notice of its decision. The decision shall be mailed no later than three days after the board of review's adjournment. The notice shall contain the following information:

(1) The valuation and classification of the property as determined by the board of review.

(2) If the protest was based on the ground the property was not assessable, the notice shall state whether the exemption is allowed and the value at which the property would be assessed in the absence of the exemption.

(3) The specific reasons for the board's decision with respect to the protest.

(4) That the board of review's decision may be appealed to either the property assessment appeal board or district court within 20 days of the board's adjournment or May 31, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the date will be no earlier than May 31.

1. Appeal to property assessment appeal board. An appeal from the board of review to the property assessment appeal board may be made pursuant to the provisions of Iowa Code section 441.37A and rule 701—126.1(421,441).

2. Appeal to district court. An appeal from the board of review to the district court may be made pursuant to the provisions of Iowa Code section 441.38. The appeal shall be filed in the county where the property is located. Notice of the appeal shall be served on the chairperson, presiding officer, or clerk of the board of review after the written notice of appeal has been filed with the clerk of district court.

This rule is intended to implement Iowa Code sections 441.31 to 441.37 and Iowa Code Supplement section 441.38 as amended by 2006 Iowa Acts, House File 2794.

[ARC 2707C, IAB 9/14/16, effective 10/19/16; ARC 3312C, IAB 9/13/17, effective 10/18/17; ARC 3771C, IAB 4/25/18, effective 5/30/18; Editorial change: IAC Supplement 11/2/22]

701—102.21(421,17A) Property assessment appeal board. Rescinded ARC 6858C, IAB 2/8/23, effective 3/15/23.

701—102.22(428,441) Assessors.

102.22(1) Conflict of interest. An assessor shall not act as a private appraiser, or as a real estate broker or option agent in the jurisdiction in which serving as assessor (1976 O.A.G. 744).

102.22(2) Listing of property.

a. Forms. Assessors may design and use their own forms in lieu of those prescribed by the department of revenue provided that the forms contain all information contained on the prescribed form, are not substantially different from the prescribed form, and are approved by the director of revenue.

b. Assessment rolls. Assessment rolls must be prepared in duplicate for each property in a reassessment year as defined in Iowa Code section 428.4. However, the copy of the roll does not have to

be issued to a taxpayer unless there is a change in the assessment or the taxpayer requests the issuance of the duplicate copy.

c. Whenever a date specified in Iowa Code chapter 441 falls on a Saturday, Sunday, or legal holiday, the action required to be completed on or before that date shall be considered to have been timely completed if performed on or before the following day which is not a Saturday, Sunday, or holiday.

d. Buildings erected or improvements made by a person other than the owner of the land on which they are located are to be assessed to the owner of the buildings or improvements. Unpaid taxes are a lien on the buildings or improvements and not a lien on the land on which they are located.

102.22(3) Notice of protest. If a protest or appeal is filed with the board of review, property assessment appeal board, or district court against the assessment of property valued at \$5 million or more, the assessor shall provide notice to the school district in which the property is located within ten days of the filing of the protest or the appeal, as applicable.

This rule is intended to implement Iowa Code chapter 428 and Iowa Code chapter 441 as amended by 2006 Iowa Acts, House File 2797.

[Editorial change: IAC Supplement 11/2/22]

701—102.23 Reserved.

701—102.24(421,428,441) Valuation of dual classification property. Real estate with a dual classification of commercial/residential or industrial/residential shall be assessed at its actual value as defined in Iowa Code section 441.21.

102.24(1) Allocation of dual classification values. The assessor shall value as a whole properties that have portions classified as residential and portions classified as commercial or industrial. After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

102.24(2) Notice of valuation. The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

102.24(3) Protest of assessment. The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

[ARC 1765C, IAB 12/10/14, effective 1/14/15; ARC 6096C, IAB 12/15/21, effective 1/19/22; Editorial change: IAC Supplement 11/2/22]

701—102.25(441,443) Omitted assessments.

102.25(1) Property subject to omitted assessment.

a. Land and buildings. An omitted assessment can be made only if land or buildings were not listed and assessed by the assessor. The failure to list and assess an entire building is an omission for which an omitted assessment can be made even if the land upon which the building is located has been listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412 (Iowa 1984). However, the failure to consider the value added as a result of an improvement made does not constitute an omission for which an omitted assessment can be made if the building or land to which the improvement was made has been listed and assessed.

b. Previously exempt property. Property which has been erroneously determined to be exempt from taxation may be restored to taxation by the making of an omitted assessment. See *Talley v. Brown*, 146 Iowa 360, 125 N.W. 243 (1910). An omitted assessment is also made to restore to taxation previously exempt property which ceases to be eligible for an exemption.

102.25(2) Officials authorized to make an omitted assessment.

a. Local board of review. A local board of review may make an omitted assessment of property during its regular session only if the property was not listed and assessed as of January 1 of the current assessment year. For example, during its regular session which begins May 1, 1986, a local board of review may make an omitted assessment only of property that was not assessed by the assessor as of January 1, 1986. During that session, the board of review could not make an omitted assessment for an assessment year prior to 1986.

b. County auditor and local assessor. The county auditor and local assessor may make an omitted assessment. However, no omitted assessment can be made by the county auditor or local assessor if taxes based on the assessment year in question have been paid or otherwise legally discharged. For example, if a tract of land was listed and assessed and taxes levied against that assessment have been paid or legally discharged, no omitted assessment can be made of a building located upon that tract of land even though the building was not listed and assessed at the time the land was listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984).

c. County treasurer. The county treasurer may make an omitted assessment within two years from the date the tax list which should have contained the assessment should have been delivered to the county treasurer. For example, for the 1999 assessment year, the tax list is to be delivered to the county treasurer on or before June 30, 2000. Thus, the county treasurer may make an omitted assessment for the 1999 assessment year at any time on or before June 30, 2002. The county treasurer may make an omitted assessment of a building even if taxes levied against the land upon which the building is located have been paid or legally discharged. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984). The county treasurer may not make an omitted assessment if the omitted property is no longer owned by the person who owned the property on January 1 of the year the original assessment should have been made.

d. Department of revenue. The department of revenue may make an omitted assessment of any property assessable by the department at any time within two years from the date the assessment should have been made.

This rule is intended to implement Iowa Code chapter 440 and sections 443.6 through 443.15 as amended by 1999 Iowa Acts, chapter 174.

[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.26(441) Assessor compliance.

102.26(1) The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the Iowa Real Property Appraisal Manual prepared by the department. The assessor may use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the department.

102.26(2) If the department finds that an assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for that assessing jurisdiction. The notice shall be mailed by restricted certified mail and shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

102.26(3) The conference board shall respond to the department within 30 days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a hearing before the director of revenue shall be held on the matter within 60 days of receipt of the notice of noncompliance. The director's decision is subject to judicial review in accordance with Iowa Code chapter 17A. If it is agreed that the assessor is not in compliance, the conference board shall submit a plan of action within 60 days of receipt of the notice of noncompliance.

102.26(4) The plan of action shall contain a time frame under which compliance shall be achieved, which shall be no later than January 1 of the following assessment year. The plan shall contain the

signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within 30 days of receipt of the plan, the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

102.26(5) By January 1 of the assessment year following the calendar year in which the plan of action was submitted to the department, the conference board shall submit a report to the department verifying that the plan was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to 5 percent of the reimbursement payment authorized in Iowa Code section 425.1 until the department determines that the assessor is in compliance.

102.26(6) If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the director of revenue under 701—Chapter 7.

This rule is intended to implement Iowa Code section 441.21.

[ARC 2657C, IAB 8/3/16, effective 9/7/16; Editorial change: IAC Supplement 11/2/22]

701—102.27(441) Assessor shall not assess own property.

102.27(1) *Assessor and deputy assessor prohibited from assessing own property.* An assessor or deputy assessor shall not personally assess a property if the assessor or deputy assessor owns the property, has a financial interest in the property, or has a financial interest in the entity that owns the property. The assessing jurisdiction shall pay all costs and expenses associated with the assessment of the above property.

102.27(2) *Certification to the department.*

a. Not later than January 1 of each year, assessors shall certify to the director that the assessor did not personally assess the following property in the previous assessment year:

- (1) Property owned by the assessor;
- (2) Property in which the assessor has a financial interest;
- (3) Property owned by an entity in which the assessor has a financial interest.

b. Not later than January 1 of each year, deputy assessors shall certify to the director that the deputy assessor did not personally assess the following property in the previous assessment year:

- (1) Property owned by the deputy assessor;
- (2) Property in which the deputy assessor has a financial interest;
- (3) Property owned by an entity in which the deputy assessor has a financial interest.

c. Assessors and deputy assessors shall use forms and procedures prescribed and provided by the director for the certifications described in paragraphs 71.27(2) “a” and “b.”

102.27(3) *Powers and duties of director.* The director shall have and assume all of the powers and duties under Iowa Code section 421.17 in administering this rule.

102.27(4) *Definitions.* For purposes of this rule, the following definitions shall govern.

“*Financial interest*” includes but is not limited to the holding of legal title to real property or any ownership interest in an entity that holds legal title to real property. Notwithstanding the preceding sentence, ownership interest in an entity shall not be deemed a “financial interest” when a person’s ownership interest equals less than 10 percent of the entity’s total ownership interest.

“*Personally assess*” means engaging in the listing, valuation, and classification of real property.

This rule is intended to implement Iowa Code section 441.17.

[ARC 5288C, IAB 11/18/20, effective 12/23/20; ARC 6025C, IAB 11/3/21, effective 12/8/21; Editorial change: IAC Supplement 11/2/22]

701—102.28(441) Special counsel.

102.28(1) Before the conference board may employ special counsel to assist the city legal department or county attorney under Iowa Code section 441.41, the city legal department in the case of cities having an assessor, or county attorney in the case of counties, shall first provide written approval

of the employment of special counsel for each matter in which the special counsel will be employed on a case-by-case basis.

102.28(2) In the event special counsel is employed, the assessor shall provide the department with written notice of said employment, including the matter being litigated, justification for the hiring of special counsel, and the special counsel's name and hourly rate, within ten days of the hiring. In the event that special counsel has been employed by the conference board as of December 23, 2020, the assessor shall provide the department with written notification of said employment, including the matter being litigated, justification for the hiring of special counsel, and the special counsel's name and hourly rate, within ten days of December 23, 2020, for each case. On or before January 1 of each year, the assessor shall submit to the director, on forms prescribed by the director, a report of all matters litigated by special counsel in the previous 12-month period and the cost of said litigation for each case.

This rule is intended to implement Iowa Code section 441.41 as amended by 2020 Iowa Acts, House File 2641.

[ARC 5288C, IAB 11/18/20, effective 12/23/20; Editorial change: IAC Supplement 11/2/22]

701—102.29(441) Application of two-tier assessment limitation.

102.29(1) Following receipt of the certification of assessment limitations described in Iowa Code section 441.21(9), the county auditor shall determine the assessed values of property by applying the assessment limitations as required under Iowa Code section 441.21(9).

102.29(2) When a property unit of commercial property, industrial property, or property valued by the department pursuant to Iowa Code chapter 434 is comprised of more than one parcel, the county auditor shall apply the assessment limitations described in Iowa Code sections 441.21(5) "b"(2)(a) and 441.21(5) "c"(2)(a), as applicable, to each parcel within the property unit by dividing 150,000 by the value of the entire property unit and multiplying the quotient by the value of each parcel within the property unit. Any remaining value of each parcel within the property unit shall receive the assessment limitations described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b), as applicable. The assessment limitations shall be applied as whole numbers.

EXAMPLE A: Parcels 1, 2, and 3 comprise one property unit of commercial, industrial, or railway property valued at \$300,000 total.

Parcel 1 is assessed at \$100,000.

Parcel 2 is assessed at \$100,000.

Parcel 3 is assessed at \$100,000.

The first \$50,000 of value of each parcel receives the assessment limitation applicable to residential property. The additional value of each parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

EXAMPLE B: Parcels 1, 2, 3, and 4 comprise one property unit of commercial, industrial, or railway property valued at \$850,000 total.

Parcel 1 is assessed at \$500,000.

Parcel 2 is assessed at \$200,000.

Parcel 3 is assessed at \$100,000.

Parcel 4 is assessed at \$50,000.

The first \$88,235 of value of Parcel 1 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

The first \$35,294 of value of Parcel 2 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) "b"(2)(b) and 441.21(5) "c"(2)(b).

The first \$17,647 of value of Parcel 3 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial,

industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) “b”(2)(b) and 441.21(5) “c”(2)(b).

The first \$8,824 of value of Parcel 4 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) “b”(2)(b) and 441.21(5) “c”(2)(b).

EXAMPLE C: Parcels 1 and 2 comprise one property unit of commercial, industrial, or railway property valued at \$500,000 total.

Parcel 1 is assessed at \$400,000.

Parcel 2 is assessed at \$100,000.

The first \$120,000 of value of Parcel 1 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) “b”(2)(b) and 441.21(5) “c”(2)(b).

The first \$30,000 of value of Parcel 2 receives the assessment limitation applicable to residential property. The additional value of the parcel receives the applicable assessment limitation for commercial, industrial, or railway property assessed under Iowa Code chapter 434 described in Iowa Code sections 441.21(5) “b”(2)(b) and 441.21(5) “c”(2)(b).

This rule is intended to implement Iowa Code sections 441.21(5) and 441.21(9) as amended by 2022 Iowa Acts, House File 2552.

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¹ Amendments nullified by 2000 Iowa Acts, SJR 2005, editorially removed IAC Supplement 7/12/00 pursuant to Iowa Code section 17A.6(3).