

**ZONING BOARD OF APPEALS**  
**REGULATIONS GOVERNING FEES**  
**AND**  
**FEE SCHEDULES**

**Adopted October 3, 2007**

**SECTION 1. INTRODUCTION.**

**1.1 Procedural History.** Pursuant to G.L. c. 40A, ss. 9 and 12, the Zoning Board of Appeals has adopted regulations governing fees and a new schedule of fees for review conducted by the Zoning Board of Appeals and its consultants on the various types of applications which come before it. This document, subject to revision from time to time in a manner spelled out herein, constitutes the Zoning Board of Appeals's rules governing the imposition of fees and its current fee schedules.

**1.2 Purpose.** These regulations and fee schedules have been adopted to produce a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Zoning Board of Appeals; to take advantage of the procedures offered by G.L. c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Zoning Board of Appeals.

**SECTION 2. FEE STRUCTURES AND REGULATIONS.**

**2.1 General.** The Zoning Board of Appeals shall impose reasonable fees for the review of applications which come before it. The Zoning Board of Appeals may impose Administrative Fees and Project Review Fees as may be applicable to the types of applications set forth below.

**2.2 Form of Payment.** All Administrative and Technical Review Fees shall be paid by bank or certified check.

**SECTION 3. ADMINISTRATIVE FEES.**

**3.1 Applicability.** An Administrative Fee shall be assessed to offset the expense of review by the Zoning Board of Appeals and its office with regard to all applications set forth in Section 3.3, below.

**3.2 Submittal.** Administrative Fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

**3.3 Schedule of Administrative Fees.** The following schedule applies to the types of applications to the Zoning Board of Appeals set forth below. This schedule supersedes all previous schedules as they may have appeared in the Zoning By-Laws and any listings which may have been compiled from time to time for the benefit of applicants.

- A.** Special Permit - \$300. Modification or extension of special permit shall also require of a fee of \$300.00.
- B.** Variance - \$300. Modification or extension of variance shall also require of a fee of \$300.00.
- C.** Administrative Appeal of a Decision of the Building Commissioner - \$300.00.
- D.** Comprehensive Permit - As set forth in the Model Rules of the Housing Appeals Committee.

**3.4 Fees for Revised Applications.** Where an Administrative Fee has been calculated by the number of lots or units proposed, and the application is revised after payment of said fee, the following rules shall apply:

- A.** If the number of proposed lots or units increases, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the office of the Zoning Board of Appeals, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.
- B.** If the number of proposed lots or units decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the Zoning Board of Appeals, no cost associated with the review of those lots or units has been yet incurred.

**3.5. Fee Waivers.** The Zoning Board of Appeals may waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

**3.6 Refund.** Once the review process has been commenced, the Zoning Board of Appeals shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, except as provided in Section 3.4.B, above.

**SECTION 4. PROJECT REVIEW FEES.**

**4.1 Applicability.** In addition to an Administrative Fee, the Zoning Board of Appeals shall impose a Project Review Fee on those applications which require, in the judgment of the Zoning Board of Appeals, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

**4.2 Submittal.** Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G.L. c. 44, s. 53G (53G Account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

**4.3 Schedule of Project Review Fees.** The following schedule applies to the types of applications to the Zoning Board of Appeals set forth below. This schedule supersedes all previous schedules as they may have appeared in the Zoning By-Laws and any listings which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Zoning Board of Appeals for action, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees. The dollar amounts listed below shall be considered the initial deposit required in order to proceed

- A. Original Special Permit, Variance, or Comprehensive Permit or Modification thereof:

<u>Project Size</u>	<u>Fee</u>
2 - 15 Lots/Units	\$ 4,000
16 - 20 Lots/Units	\$ 6,000
21 - 25 Lots/Units	\$ 10,000
More than 25 Lots/Units	\$ 20,000
Twenty or fewer Parking Spaces	\$ 2,500
Twenty-One or more Spaces	\$ 5,000
Wireless Communications Facility	\$ 3,000

- B. Administrative Appeal of a Decision of the Building Commissioner \$ 1,000

**4.4 Replenishment.** When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Zoning Board of Appeals shall consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

**4.5 Inspection Phase.** After the granting of a Special Permit, Variance, or Comprehensive Permit, the Zoning Board of Appeals may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

**4.6 Handling of Project Review Fees.** The Project Review Fee is to be deposited into a special account as set forth in G.L. c. 44, s. 53G.

- A. Outside consultants retained by the Zoning Board of Appeals to assist in the review of an application shall be paid from this account.
- B. Project Review Fees shall be turned over to the Town Finance Director by the Zoning Board of Appeals for deposit into a 53G Account.
- C. A copy of the latest statement from the banking institution handling the 53G Account shall be forwarded from the office of the Town Finance Director to the office of the Zoning Board of Appeals as soon as it is received for timely and accurate accounting.
- D. The Town Accountant shall prepare a report on activity in the 53G Account on an annual basis.
  - 1. This report shall be submitted to the Board of Selectmen for its review.
  - 2. This report shall be printed in the Annual Report for the Town.
- E. An accounting of an applicant's funds held in the 53G Account may be requested by the applicant at any time.
  - 1. The Zoning Board of Appeals shall respond to the request in a timely fashion.
  - 2. This accounting shall include the following information:
    - a. The latest statement from the banking institution handling the account, which should include an accurate accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' accounts. Otherwise, a statement of principal and interest, prepared by the office of the Zoning Board of Appeals, based on the latest statement from the banking institution.

- b.** A report of all checks authorized for issuance since that last banking statement.
- F.** An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- G.** Excess fees in the 53G Account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
  - 1.** With the filing of a decision with the Town Clerk denying or awarding a Special Permit, Variance, or Comprehensive Permit.
  - 2.** With the filing of a decision with the Town Clerk regarding an Administrative Appeal.

**4.7. Appeal.** The choice of a consultant selected by the Zoning Board of Appeals for the review of an application may be appealed in writing to the Board of Selectmen by the applicant, providing such appeal is initiated within two weeks of the initial selection.

- A.** The Council shall convene a formal hearing within twenty days of receiving a written appeal by an applicant.
- B.** Two circumstances may disqualify the selected consultant. These conditions of constitute the only grounds for an appeal.
  - 1.** Conflict of interest: A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process. Consultants must be in compliance with the Massachusetts Conflict of Interest Law, G.L. c. 268A.
  - 2.** Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.
- C.** The required time limits for action upon an application by the Zoning Board of Appeals shall be extended by duration of the appeal.
- D.** If no decision is rendered by the Council within one month following the filing of the appeal, the selection made by the Zoning Board of Appeals shall stand.

- E. This appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

**SECTION 5. DELINQUENT ACCOUNTS.** The following rules apply to fees owed to the Zoning Board of Appeals by applicants:

**5.1 Monthly Interest Charge.** All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based upon an annual interest rate of 14%.

**5.2 Costs of Collection.** All costs of collection associate with past due accounts shall be borne by the applicant.

**5.3. Current Delinquents.** All applicants owing fees to the Zoning Board of Appeals at the time of any amendment to these provisions of the regulations shall be sent the following:

- A. A duplicate notice of the amount past due.
- B. A copy of the applicable sections of these regulations with all amendments clearly indicated.
- C. Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.

**SECTION 6. REVISION OF FEE SCHEDULES AND REGULATIONS GOVERNING FEES.**

**6.1 Amendment.** The Zoning Board of Appeals may review and revise its regulations and fee schedules, from time to time, as it sees fit.

- A. Amendments shall be preceded by a public hearing.
- B. Any new regulations or alterations to the fee schedule shall take affect upon filing a copy of the amendments with the Town Clerk.
- C. The Zoning Board of Appeals will review its regulations and fee schedule on an annual basis.
  - 1. The Board may waive this provision in any year with a motion carried by a majority of the Board members.

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