

BOARD OF HEALTH

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Board of Health Rules and Regulations Application Review Fees Special Account

I. Authority

This regulation is promulgated pursuant to the authority set forth in Massachusetts General Law Chapter 44, Section 53G and Chapter 111, Section 31.

II. Hiring of consultants

When reviewing an application under its broad statutory authority, the Board of Health may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because of the expertise required. The Board of Health may require applicants to pay a "review fee" consisting of the reasonable costs incurred by the Board of Health for the employment of outside consultants engaged by the Board of Health to assist in the review of such an application.

In hiring outside consultants, the Board of Health may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board of Health in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations.

III. Funds

Funds received by the Board of Health pursuant to this regulation shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board of Health, or its duly authorized agent, without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall constitute valid grounds for denial of the application/permit.

Review fees may only be spent for services rendered in connection with the specific project in connection with which they were collected. Accrued interest may also be spent for this purpose. Upon the completion of the Board of Health's review of a particular project, any excess amount in the account, including interest, attributable to said project, shall be repaid to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity

claiming to be an applicant's successor in interest shall provide the Board of Health with documentation establishing such succession in interest.

IV. Notice

The Board of Health shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant and the amount of the fee to be charged to the applicant. Such notice shall be deemed to have been given on the date it is mailed or delivered.

V. Appeal

Any applicant may appeal the selection of the outside consultant to the Board of Selectmen who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of 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. Such appeal shall be in writing and received by the Board of Selectmen, and a copy received by the Board of Health, within 10 calendar days of the date of the notice of the selection of the consultant. The required time limit for action upon an application by the Board of Health shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month of the filing of the appeal, the selection made by the Board of Health shall stand.

VI. Severability

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

VII. Effective date

This regulation shall take effect on February 1, 2013.

Public hearing:	January 16, 2013
Legal notice	January 24, 2013
Copy sent to DEP	January 22, 2013

