

Town of Wakefield
Conservation Commission
Rule Authorizing Hiring Independent Consultants
(Effective November 1, 2018)

[The following Rule was adopted by the Wakefield Conservation Commission at its meeting on November 1, 2018 pursuant authority granted to the Commission under Massachusetts General Laws chapter 44, Section 53G.]

1. Authority to Hire Independent Consultants. As provided by Massachusetts General Laws chapter 44, Section 53G, the Wakefield Conservation Commission (the “Commission”) may impose reasonable fees, payable by the applicant, for the employment of independent consultants engaged by the Commission for specific expert services deemed necessary by the Commission in order to reach final decisions on applications submitted by the applicant to the Commission pursuant to the requirements of the Wetlands Protection Act, G.L. Ch. 131 §40, Ch. 62, the Conservation Commission Act, G.L. Ch. 40 §8C, or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

2. Consulting Services; Selection of Consultant. Specific consulting services may include, but are not limited to, resource area survey and delineation, analysis of resource area values, analysis of likely impacts of activity in a buffer zone on bordering vegetated wetlands, hydrogeological and drainage analysis, impacts on municipal conservation lands, wildlife studies and environmental or land use law. The Commission may also impose fees for other consultant services relating to application review, permit condition or monitoring under any of the above-referenced laws or related regulations, or on-site monitoring during construction, or other services related to the project deemed necessary by the Commission. The consultant shall be chosen by, and report only to, the Commission and/or its Agent.

3. Notice to Applicant. The Commission shall give written notice to the applicant of the selection of an independent consultant. Such notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered.

4. Applicant’s Right to Appeal Selection of Consultant. The applicant may appeal the selection of the independent consultant to the Wakefield Town Council, who may disqualify the independent consultant selected only on the grounds that the consultant has conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Town Council and a copy received by the Commission, so as to be received within ten (10) days of the date of the

written notice describe in Section 3 above. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

5. *Payment of Consulting Fee.* The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if, because of unforeseen circumstances, necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Funds received by the Commission pursuant to these rules shall be deposited with the Town of Wakefield treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Commission without further appropriation as provided in G.L. Ch. 44 §53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

6. *Applicant's Failure to Pay Consulting Fee.* Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment (or, if a timely appeal is filed pursuant to Section 4 above, ten (10) business days following a decision on the appeal), or refusal of payment, shall be cause for the Commission to deny the application based on the application being administratively incomplete. The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the permit/order request until the applicant has paid the requested fee.

7. *Return of Unspent Funds to Applicant.* When the Commission's review of a project is completed, any balance in the special account attributable to that project shall be returned to the applicant. The excess amount, including any interest actually earned on such funds, shall be repaid to the applicant or the applicant's successor in interest. Any person or entity claiming to be an applicant's successor in interest shall provide the Commission with documentation deemed appropriate by the Commission in its reasonable discretion. A final report of said account shall be made available to the applicant or applicant's successor in interest.