

**DOUGLAS PLANNING BOARD
REGULATIONS GOVERNING FEES
AND
FEE SCHEDULES**

SECTION 1. INTRODUCTION.

1.1 Procedural History. On August 12, 2003 the Planning Board held a public hearing, pursuant to MGL ch. 41, §81Q and MGL ch. 40A, §9, to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing fees and to implement a new schedule of fees for the administration and review of submittals as conducted by the Planning Board, staff and its consultants. This document, subject to revision from time to time in a manner spelled out herein, constitutes the Planning Board'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 made to the Planning Board; to take advantage of the procedures offered by MGL ch. 44, §53E½ and MGL ch. 44, §53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board.

SECTION 2. FEE STRUCTURE AND REGULATIONS.

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

SECTION 3. ADMINISTRATIVE FEES.

3.1 Applicability. An administrative fee shall be assessed, as set forth in Section 3.3 herein, to all permit applications made to the Planning Board in order to offset the expense associated with processing the application as required by statute and/or local bylaws.

3.2 Submittal. Administrative fees shall be paid at the time of the application submittal. Any application filed without this fee shall be deemed to be incomplete and application processing and review shall not commence until the required fee has been paid in full.



3.3 Schedule of Administrative Fees. The following schedule applies to applications made to the Planning Board as set forth below. This schedule supersedes all previous schedules as they may have appeared in the Douglas Rules and Regulations governing the Subdivision of Land, the Douglas Zoning Bylaws, and any listings that may have been compiled from time to time for the benefit of applicants.

- 3.3.1** Approval Not Required (ANR) Plans - \$50.00 base fee plus \$50.00 per lot or parcel modified or created.
- 3.3.2** Preliminary Subdivision Plans - \$225.00 base fee plus \$10.00 per lot or parcel modified or created.
- 3.3.3** Definitive Subdivision Plans - \$500.00 base fee plus \$100.00 per lot or parcel modified or created.
- 3.3.4** Modification of a Definitive Subdivision Plan - \$250.00 plus \$50.00 for each lot affected and for each new building lot created. In addition, a fee of \$50.00 shall be required for the consideration of a modification of a road and a fee of \$50.00 shall be required for the modification of a drainage structure. The total fee required shall be the addition of all fees outlined above.
- 3.3.5** Special Permit - \$250.00 base fee, plus \$5.00 per abutter mailing cost. Modifications or extension of special permit shall be \$250.00 base fee, plus \$5.00 per abutter mailing cost.

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

- 3.4.1** If the number of proposed lots 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 Planning Board office, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.
- 3.4.2** If the number of proposed lots 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 Planning Board, no cost associated with the review of those lots or units has been yet incurred.



3.5 Fee Waivers. The Planning Board 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 Planning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the Applicant, except as provided in Section 3.4.2, above.

SECTION 4. PROJECT REVIEW & INSPECTION FEES.

4.1 Applicability. In addition to an administrative fee, a project review & inspection (R&I) fee shall be assessed as set forth in Section 4.3 herein. This R&I fee shall accompany all permit applications made to the Planning Board in order to defray the expense associated with technical review of the submittal.

There shall be two types of Project Review and Inspection Fees: (a) professional staff R&I fees and (b) independent consultant project R&I fees. These fees shall be administered and accounted for in accordance with the requirements of MGL ch. 44 §53E½, and/or MGL ch. 44 §53G, respectively.

4.1.1 Professional Staff R&I Fees (MGL ch 44 §53E½). Generally, the Planning Board shall make every effort to utilize this account for project and submittal review. However, at times the scope and magnitude of a submittal, or the staff workload may require utilizing outside professionals, as detailed in 4.1.2 below. This type of account is established under MGL ch 44 §53E½.

4.1.2 Independent Consultant Project R&I Fees (MGL ch 44 §53G). 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. The process for compensation and acquiring an outside professional shall be as stipulated in MGL ch 44 §53G.



4.2 Submittal. Project Review Fees shall be paid at the time of the submittal of the application for deposit in an account established pursuant to MGL ch 44 §53 G (“53G Account”) and/or MGL ch 44 §53 E½ (“53E½ Account”) as determined appropriate by the Planning Board or its Agent. 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 Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Town of Douglas Zoning By-Law, the Rules and Regulations for the Subdivision of Land, and any listings which may have been compiled from time to time for the benefit of applicants. These fees should not be construed as the final costs, true costs will be determined on an hourly basis.

4.3.1 Preliminary Plan:

\$50 per lot and \$0.50 per linear foot of proposed road.

4.3.2 Initial Definitive Plan, Modification of a Definitive Plan:

\$150.00 per lot plus \$3.50 per linear foot of proposed road.

4.3.3 Special Permits:

A. Aquifer Protection: \$500 per acre of impervious area created, or fraction thereof.

B. Common Driveway: \$200 per lot serviced by the Common Driveway.

C. Earth Removal: \$2,000 for the first acre and \$500 for each additional acre or fraction thereof.

D. Limited Density: \$100 per unit created and \$2 per linear foot of internal road.

E. Wireless Facility: \$500

F. Other Special Permits not listed herein do not have an established fee structure for review and inspection, however, the Planning Board may request that a fee be posted by the Applicant, if warranted.



4.4 Replenishment. When the balance in an applicant's R&I Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the account shall be replenished to its initial project review value to cover the cost of the remaining project review fees.

4.5 Inspection Phase. After the granting of a Special Permit, or Definitive Plan approval, the Planning Board 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 MGL ch 44 §53G ("53G") or MGL ch 44 §53E½ ("53E½") as appropriate.

4.6.1 Project Review Fees shall be submitted to the Town Treasurer for deposit into the R&I Account(s).

4.6.2 A copy of the latest statement from the banking institution handling the R&I Account(s) shall be forwarded from the office of the Town Treasurer to the Planning Board office as soon as it is received for timely and accurate accounting.

4.6.3 The Town Accountant shall prepare a report on activity in the R&I Account(s) on an annual basis.

A. This report shall be submitted to the Selectmen and Planning Board for their review.

B. This report shall be printed in the Annual Report for the Town of Douglas.

4.6.4 An accounting of an applicant's funds held in the R&I Account(s) may be requested by the applicant at any time.

A. The Planning Board shall respond to the request in a timely fashion.

B. This accounting shall include the following information:



1. The latest statement from the banking institution handling the account, which should include any 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 Planning Board office, based on the latest statement from the banking institution. Please note that interest accrued under a 53E½ account is not returned to the Applicant, but is submitted to the general fund annually in accordance with the Statute.
2. A report of all checks authorized for issuance since that last banking statement.

4.6.5 An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.

4.6.6 Fees in the 53G Account shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the R&I 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.

- A. With the approval or disapproval of a Preliminary Subdivision Plan.
- B. With the disapproval of a Definitive Subdivision Plan.
- C. With the release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.
- D. With the final inspection or the approval or disapproval on all other types of applications, whichever comes later.

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

4.7.1 The Selectmen shall convene a formal hearing within twenty days of receiving a written appeal by an applicant.

4.7.2 Two circumstances may disqualify the selected consultant. These following two conditions constitute the *only* grounds for an appeal.



- A. 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.
 - B. 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.
- 4.7.3 The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.
- 4.7.4 If no decision is rendered by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Planning Board shall stand.
- 4.7.5 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 Review & Inspection fees owed to the Planning Board 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 associated with past due accounts shall be borne by the applicant.
- 5.3 Current Delinquents.** All applicants owing fees to the Planning Board at the time of any amendment to these provisions or the adoption of these provisions of the regulations shall be sent the following:
- 5.3.1 A duplicate notice of the amount past due.
 - 5.3.2 A copy of the applicable sections of these regulations with all amendments clearly indicated.
 - 5.3.3 Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.



SECTION 6. REVISION OF FEE SCHEDULE AND REGULATIONS GOVERNING FEES.

6.1 Amendment. The Planning Board may review and revise its regulations and fee schedules, from time to time, in the following manner:

6.1.1 Amendments shall be preceded by a public hearing.

6.1.2 Any new regulations or alterations to the fee schedule shall take affect upon filing a copy of the amendments with the Douglas Town Clerk.