

TOWN OF ESSEX PLANNING BOARD
RULES AND REGULATION REGARDING CONSULTANT FEES
Adopted by vote on January 17, 2024

The following Regulation is adopted, pursuant to G.L. c.44, §53G ½.

When reviewing an application for, or when conducting inspections in relation to, any decision, special permit, site plan review, or other matter within its jurisdiction, the Planning Board (“Board”) may determine by a two-thirds vote that the assistance of outside consultants is warranted due, for instance and without limitation, to the size, scale or complexity of a proposed project, because of a project’s potential impacts, or because the Town lacks the necessary expertise to perform the work related to the matter before the Board. The Board may require that an Applicant deposit a lump sum of funds in order to retain such consultants.

1. **Hiring a Consultant** - In hiring outside consultants, the Board may engage engineers, scientists, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, standards and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board’s decision or regulations, or inspecting a project during construction or implementation.
2. **Fee Payment and Expenditures** - Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G ½. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.
3. **Failure to Pay Fee**- Failure of an applicant to pay a review fee shall be grounds for denial of the application. Alternatively, approval of such application may be conditioned upon payment of any outstanding review fees.
4. **Excess Fees** - At the completion of the Board’s review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant’s successor in interest. A final report of said account shall be made available to the applicant or applicant’s successor in interest upon request. For the purpose of this regulation, any person or entity claiming to be an applicant’s successor in interest shall provide the Board with documentation establishing such succession in interest.

5. **Administrative Appeals** - Any applicant may make an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to:

- a) claims that the consultant selected has a conflict of interest or
- b) does not possess the minimum required qualifications.

The minimum qualifications of the consultant 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. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within thirty days following the filing of the appeal, the selection made by the Board shall stand.

Approved for adoption at the Wednesday, January 17, 2024 Planning Board meeting.

Participants: Chairperson Lisa O'Donnell, Vice-Chairperson Simone Early, Shelly Bradbury, Jud Lane, Peter Levasseur, and Jay Tetzloff.

The motion to approve as written for adoption was made by Simone Early, seconded by Shelly Bradbury, and was approved unanimously by roll call vote.

Submitted to Town Clerk Marie Felzani Friday, January 19, 2024.