



Board of Health

Edward Cosgrove, PhD
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Stephen Epstein, MD, MPP
Member

Jane Fogg, MD, MPH
Vice Chair

ARTICLE 14 **REGULATION FOR OUTSIDE CONSULTANT FEES**

Under section 31 of Chapter 111 and section 53G of Chapter 44 of the Massachusetts General Laws, the Needham Board of Health sets forth the following regulations to provide for fees for the employment of outside consultants.

(1) When reviewing an application for approval, the Board and/or Director of the Health Department may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. The Board and/or Director may require that the applicants pay an "outside consultant fee" consisting of the reasonable costs incurred by the Board and/or Director to assist in the review of an application.

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

(3) Funds received by the Board and/or Director pursuant to this regulation shall be deposited with the municipal treasurer who shall establish a special account for this purpose in accordance with the provisions of G.L. c.44, section 53G. Expenditures from this special account may be made at the direction of the Board and/or Director without further appropriation. Expenditures from this special account shall be made only in connection with the review of a special 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 be grounds for denial of the application.

(4) Outside consultant fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board and/or Director's review of a project, any excess amount in the account, including interest, attributable to the 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 the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be the applicant's successor in interest shall provide the Board and/or Director with the documentation establishing such succession in interest.

(5) The Board and/or Director shall determine whether one or more outside consultants will be necessary in order for the Board and/or Director to make a fully informed decision on the selection of the outside consultant(s), which notice shall state the identity of the consultant(s), 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. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date the notice is given.

(6) The fee must be received in its entirety prior to the institution of consulting services. The Board and/or Director may request additional consultant fees if the necessary review requires a larger expenditure than originally anticipated or new

information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Board and/or Director within ten (10) business days of the request for payment shall be cause for the Board and/or Director to deny the application.

(7) Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected 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. The required time limit for action upon an application by the Board and/or Director 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 following the appeal, the selection made by the Board and/or Director shall stand.

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