

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

CITY OF BEVERLY  
CLERK AND RECORDER  
PUBLIC WORKS OFFICE

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Adopted March 16, 2004, Revised October 17, 2006 & November 16, 2010

**SECTION 1. INTRODUCTION.**

**1.1 Procedural History.** On March 16, 2004, the Planning Board held a public hearing, pursuant to G.L. c. 41, s. 81Q and G.L. c. 40A, s. 9, to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing fees and a new fee schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications, which come before it. 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 to the Planning Board; to take advantage of the procedures offered by G.L. c. 44, s. 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 STRUCTURES AND REGULATIONS.**

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

**2.1 Form of Payment.** All administrative and Project Review Fees shall be paid by bank or certified check.

**SECTION 3. ADMINISTRATIVE FEES.**

**3.1 Applicability.** An Administrative Fee shall be assessed to offset the expense of review by the Planning Board and its office with regard to all applications set forth in Section 3.3, below.

**3.2 Submittal.** Administrative Fees shall be submitted at the time of submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

**3.3 Schedule of Administrative Fees.** The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supercedes all previous schedules as they may have appeared in the Zoning By-Laws, 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.

- A. Approval Not Required (ANR) Plans – \$100, to adjust lot lines  
\$200, per lot created
  
- B. Preliminary Plans – Residential: <10 lots, \$500 plus \$25 per lot created  
=>10 lots, \$1,000 plus \$25 per lot created  
Commercial: \$1,000, plus \$25 per acre  
Modification: ½ of original filing fee
  
- C. Definitive Plans – Residential: <10 lots, \$1,000 plus \$50 per lot created  
=>10 lots, \$1,500 plus \$50 per lot created  
Commercial: \$1,500, plus \$50 per acre  
Modification: ½ of original filing fee
  
- D. Special Permit – \$400
  
- E. Site Plan Review – \$35 per 1,000 s.f. gross floor area (min. of \$350, max. of \$5,000)
  
- F. Modification of Site Plan Review - \$350
  
- G. Repetitive Petition – \$200
  
- H. Waiver of Frontage - \$100
  
- I. Open Space Residential Design Site Plan - \$400
  
- J. Inclusionary Housing - \$100

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

- A. If the number of proposed lots or units increases, the applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid and 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 Department, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.

B. If the number of proposed lots or units 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.B, above.

#### **SECTION 4. PROJECT REVIEW FEES.**

**4.1 Applicability.** In addition to an Administrative Fee, the Planning Board shall impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale, or complexity of a proposed project, the project's potential impacts, or because the City lacks the necessary expertise to perform the review work related to the permit or approval. 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.

**4.2 Submittal.** In the event the Planning Board requires review by an outside consultant as described in 4.1 above, the Planning Board shall obtain a scope of work and cost estimate from the chosen consultant. The cost estimate shall constitute the initial Project Review Fee. The Planning Board shall subsequently forward the Project Review Fee amount to the owner/applicant for payment. The owner/applicant shall immediately transmit payment in the full amount of the Project Review Fee for deposit in an account established pursuant to G.L. c. 44, s. 53G (53G Account). Failure to submit the fee as required by the Board or a designee of the Board shall render the submission incomplete and all further review, hearings and official progress on the application shall cease, and shall begin anew only when such fee has been paid.

The owner/applicant shall assume full responsibility for payment of the Project Review Fee, including any additional charges beyond the original estimated amount, which may be required to complete the above-referenced review. The Beverly Planning Board or its designee shall disclose additional costs beyond the original cost estimate to the owner/applicant prior to the time that the additional work is undertaken. The outside consultant shall provide a written cost estimate for the additional work and the owner/applicant shall submit an additional payment to be

held in escrow until the work is completed and the invoice is submitted to the City of Beverly. Nonpayment of the full project review fee may result in the denial, revocation or suspension of licenses or permits for this project or any other project within the City initiated by the owner/applicant and related parties, all as set forth in M. G. L. Chapter 268.

**4.3 Handling of Project Review Fees.** The Project Review Fee is to be deposited into a special account as set forth in G.L. c. 44 s. 53G.

- A. Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
- B. Project Review Fees shall be turned over to the City Collector/Treasurer by the Planning Board for deposit into a 53G Account.
- C. The City Accountant shall prepare a report on activity in the 53G Account on an annual basis.
  - 1. This report shall be submitted to the City Council for their review.
  - 2. This report shall be printed in the Annual Report for the City.
- D. An accounting of an applicant's funds held in a 53G Account may be requested by the applicant at any time.
  - 1. The Planning Department shall respond to the request in a timely fashion.
  - 2. This accounting shall include the following information:
    - a. A report of all credits made by the applicant.
    - b. A report of all checks authorized for issuance against the applicant's deposits.
- E. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- F. Excess fees in the 53G Account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review 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.
  - 1. With the approval or disapproval of a Preliminary Subdivision Plan.

2. With the disapproval of a Definitive Subdivision Plan.
3. With the release of a performance bond at the end of construction of an approved Definitive Subdivision Plan.
4. With the final inspection or the approval or disapproval on all other types of applications under the Zoning By-Law, whichever comes later.

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

- A. The City Council shall convene a formal hearing within twenty days of receiving a written appeal by the applicant.
- B. Two circumstances may disqualify the selected consultant. These conditions constitute the only grounds for an appeal.
  1. 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.
  2. 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.
- C. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.
- D. If no decision is rendered by the City Council within one month following the filing of the appeal, the selection made by the Planning Board shall stand.
- E. 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 fees owed to the Planning Board by applicants:

**5.1 Monthly Interest Charge.** All fees 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 of the regulations shall be sent the following:

- A. A duplicate notice of the amount past due.
- B. A copy of the applicable sections of these regulations with all amendments clearly indicated.
- C. Notice of a 30-day grace period before the commencement of any changes in interest rates or charges.

## **SECTION 6. REVISION OF FEE SCHEDULES AND REGULATIONS GOVERNING FEES.**

**6.1 Amendment.** The Planning Board may review and revise its regulations and fee schedules, from time to time, as it sees fit.

- A. Amendments shall be preceded by a public hearing.
- B. Any new regulations or alterations to the fee schedule shall take effect upon filing a copy of the amendments with the City Clerk.
- C. The Planning Board may review its regulations and fee schedule on an annual basis.