



Office of the Board of Health  
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## **CPHS Regulations for the Employment of Outside Consultants**

### **Adopted by the Boards of Health in Buckland, Charlemont, Gill, Hawley, Heath, and Leyden**

#### **I. Legal Authority, Purpose, and Related Provisions**

- (1) The purpose of this regulation is to provide for the protection of public health, safety, welfare and the environment by providing a mechanism that may be utilized at the discretion of the Board of Health when, in their opinion, it is necessary and appropriate for the Board to enlist the assistance of outside expertise when reviewing any proposal that comes before the Board of Health for a decision.
- (2) This regulation is promulgated pursuant to the authority of M.G.L. c. 44, § 53G, and c. 111, § 31.
- (3) The provisions of these regulations shall apply to M.G.L. c. 111, § 143, as well as other pertinent laws, regulations, and programs under the purview of the Board of Health.
- (4) These regulations should be read together with M.G.L. c. 21A, § 13, M.G.L. c. 21 §§ 26 through 53, M.G.L. c. 111, §§ 17, 27, 27A, 27B, 27C, 30, 31, 31A, 31B, 31C, 31D, 31E, 122, 124, 125, 125A, 127, 127A, 127P, 127B and 129; M.G.L. c. 83, § 11; and M.G.L. c. 131, § 40.

#### **II. Review by Outside Consultant:**

1. If, after receiving an application, a proposal, a request for assignment, or other request for review or sign-off, the Board of Health determines that in order to deliberate and decide any issue raised by an applicant it requires technical advice unavailable from municipal employees, it may employ outside consultants in accordance with the provisions of M.G.L. c. 44, § 53G. The Board of Health may require that the applicant pay a reasonable consultant fee for the employment of outside consultants chosen by the BOH.
2. All fees assessed pursuant to this section shall be reasonable in light of:
  - (a) the complexity of the proposed project as a whole;
  - (b) the complexity of particular technical issues;
  - (c) the size and character of the site or proposal;
  - (d) the projected construction costs, and
  - (e) fees charged by similar consultants in the area.
3. If the applicant fails to pay the consultant fee within ten days of receiving written notification of the selection of consultant, the Board of Health may deny the permit, approval or other relief requested.
4. Prior to paying the consultant fee, the applicant may appeal the selection of the consultant to the Town's Board of Selectmen.
  - (a) 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.

- (b) 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.
- (c) The required time limits for action upon the application by the Board of Health shall be extended by the duration of the appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board of Health shall stand.
- (d) The appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this regulation.

5. Each consultant fee shall be deposited in a special account established by the municipal treasurer pursuant to M.G.L. c. 44, § 53G.

- (a) Funds from the special account may be expended only for the purposes described in Section II.
- (b) Within 30 days of the completion of the project or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest.
- (c) The municipal accountant shall submit annually a report of the special account to the chief elected body and chief administrative official of the municipality for their review. This report shall be published in the town annual report. The municipal accountant shall submit annually a copy of said report to the director of the bureau of accounts.

Should you have any questions, please feel free to call or email.

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