

# Planning Board Special Permit Application Conway

Conway Planning Board, 32 Main St, Conway MA 01341-0059

[www.planningboard@townofconway.com](mailto:www.planningboard@townofconway.com)

Tel: 413-369-4235

## Introduction

According to the Conway Protective Zoning Bylaws, the following types of activities and uses require a Special Permit from the Planning Board or ZBA.

### **22.1: Restricted Uses (Rural/Residential and Agricultural District)**

No use or combination of uses of buildings or premises is permitted except by Special Permit issued by the Planning Board which during ordinary use allows more than 15 persons upon that premises simultaneously, except that for a commercial establishment up to 50 customers shall be permitted on the premises at any one time during ordinary business hours.

### **22.3 Accessory Apartments**

For the purpose of providing an additional small dwelling unit to rent, enabling owners of two-family dwellings that are larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Planning Board may grant a Special Permit in accordance with the following requirements.

### **31.2: Alteration of nonconforming structure or use**

Legally nonconforming structures may be altered if without extension or change of use. Nonconforming structures or nonconforming uses of structures or land may be extended or changed to another nonconforming use only if granted a Special Permit by the Planning Board.

### **32.4: Stripping Land of Soil and Loam**

No person, firm, or corporation shall strip, sever, remove, or convey away any soil, loam, clay, sand or gravel from any land in the Town of Conway not in public use, unless and until such stripping, severance, removal, or conveyance away is first authorized by a Special Permit issued by the Planning Board....

### **32.5-2: Unregistered vehicles (more than one)**

A special permit is granted by the Planning Board. Such a Special Permit may be granted after a duly called public hearing to which all abutters to the premises have received notice, and if the Planning Board finds that such keeping: (1) is in harmony with the general purpose and intent of this Bylaw; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

### **41.2.1 Exceptions to dimensional clearances requirements for accessory buildings or structures (special permit issued by ZBA)**

The Zoning Board of Appeals (ZBA) may reduce, by Special Permit, the dimensional clearance requirements for front, rear, and side yards related to accessory building or structure setbacks provided that the Zoning Board of Appeals makes a determination that the proposed building or structure is consistent in scale or setback with the structures in abutting parcels and the immediate neighborhood. The Zoning Board of Appeals shall make the following determinations before granting an exception:

### **Article 8: Wireless Communication Facilities**

The purpose of this Wireless Communications Facilities Bylaw is to protect the scenic, historic and natural resources of the Town of Conway while accommodating the wireless telecommunications needs of town residents and businesses.

The Conway Planning Board shall issue a Special Permit to duly licensed wireless carriers, as defined in the Telecommunications Act of 1996, 47 U.S.C. §332(c)(7)(ii), in Conway, providing the following....

□ **Article 9: Section 9.1 (b) 3 Large Scale Solar installations** *(added 05 Jun 2021)*

**Special Permit:** Any solar photovoltaic installation 250 kW DC or above not specified in (d)(1) or (d)(2) above requires a special permit in all zoning districts from the Special Permit Granting Authority. For all special permit applications, site plan approval as described below is required, but shall not require a second public hearing, per bylaw or ordinance addressing site plan approval. The provisions set forth in Section 9.3 shall apply to the construction, operation, and/or repair of large scale ground-mounted solar photovoltaic installations.

□ **Article 10: Age Restricted Housing Community (ARHC)**

A master-planned development of land as a unified residential community, constructed expressly for use and residence by persons who have achieved a minimum age of fifty-five (55) years, in accordance with M.G.L. Chapter 151B, Section 4, Subsection 6, and also incorporating the preservation of natural open space areas as an integral element of the development. An Age Restricted Housing Community shall be permitted only within the Rural Residential/Agricultural Overlay District of Conway and only upon the granting of a special permit by the Planning Board.

□ **Article 11: Adult Use Recreational Marijuana Establishments**

It is the purpose of this article to promote public health, safety and general welfare, and to support the availability of recreational marijuana in accordance with State law and regulations (935 CMR 500.000 et.seq.). To mitigate potential impacts to adjacent areas and the environment this bylaw will regulate the locations and site development to promote safe attractive business areas, prevent crime, maintain property values, protect and preserve the quality of residential neighborhoods and to protect the safety of children and young people in the vicinity of schools, public parks and other areas where children congregate.

**11.2 Special Permit Granting Authority & Site Plan Review**

The Planning Board shall be the Special Permit Granting Authority (SPGA) under this section in accordance with M.G.L. Chapter 40A, Sections 9 and 9A.

□ **Article 12: Large Scale Industrial & Commercial Facilities Zoning Bylaw**

An applicant for a proposed LSICF must seek a Special Permit from the Special Permit Granting Authority which is the Conway Planning Board. The Planning Board shall conduct a Special Permit process in accordance with Conway's Zoning Bylaws upon receipt of a completed Application and will determine if the proposed LSICF and ASEFs will meet the requirements of this Bylaw. The Planning Board may request additional information needed to determine compliance with this bylaw. The Applicant may not proceed with the construction or operation of the LSICF or ASEFs until a Special Permit has been granted by the Planning Board based on their determination that all the requirements of the Bylaw will be met.

In some cases, a proposed project in these categories will also require Site Plan Review by the Planning Board prior to receiving a Building Permit from the Building Commissioner. In those cases, the Planning Board shall consolidate Site Plan Review into the Special Permit process, applying the Special Permit procedures and timetable for decision. Applicants proposing uses that require both a Special Permit and Site Plan Review from the Planning Board should submit both application forms. (Additional permits may also be required from other Town Boards, such as the Zoning Board of Appeals, Conservation Commission, or Board of Health.)

Pursuant to Section 63, special permits may be granted by the Special Permit Granting Authority upon its written determination that benefits of the proposed use outweigh its detrimental impacts on the town and the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any criteria set forth in specific provisions of this by-law, the determination shall include consideration of each of the following:

- ✓ Social economic, or community needs which are served by the proposal;
- ✓ Traffic flow and safety, including parking and loading;
- ✓ Adequacy of utilities and other public services;
- ✓ Neighborhood character and social structures;
- ✓ Impacts on the natural environment;
- ✓ Potential fiscal impact, including impact on town services, tax base, and employment.

Public Hearings are required for all Special Permit applications. The applicant shall obtain a list of abutters, being all "parties in interest" as defined in G.L. c. 40A, s. 11, from the Conway Assessor's Office, and shall attach the certified list to the application when filed. At least fourteen (14) days prior to the day of the Public Hearing, written notices shall be sent by the administrative staff by certified mail at the applicant's expense to the parties in interest. Legal notice of the public hearing shall be published at the applicant's expense in a newspaper of general circulation in the town in each of two (2) successive weeks, the first publication to appear not less than fourteen (14) days prior to the day of the Public Hearing. Notice of the Public Hearing shall also be posted in a conspicuous place in the Town Office for a period of not less than fourteen (14) days before the day of such hearing.

The Planning Board may require narrative assessments of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise, and other environmental factors.

The Planning Board may require that such narrative assessments be prepared by qualified experts at the applicant's expense.

The Conway Planning Board meets on the *1<sup>st</sup> & 3<sup>d</sup> Thursdays of each month*. Applicants that wish to appear before the board must comply with the following:

- Carefully read all sections of the application for procedures that you must follow.
- Please type or print all information.
- All applications must be reviewed by a member in the Planning Board once completed.
- The Planning Board must review and sign the application, and then the original application, nine (9) hard copies, and the application fee must be submitted to the Town Clerk's Office. **Please keep a copy of the entire application packet for your own records.**
- The Planning Board will create the notice of hearing.
- An official abutters list from the Assessors' Office must be obtained as required by M.G.L. Chapter 40A, Section 11. It is the responsibility of the applicant to pay for the cost of the abutters mailing (certified / return receipt) plus \$2.00 for the cost of paper and processing. We will notify you of the final cost after we have processed your application.
- Legal advertisements will be generated by the Planning Board office staff and emailed directly to The Recorder. If the applicant supplies an email address, the advertisement will be forwarded accordingly, otherwise it will be mailed or available for pickup during regular office hours.
- Applicants pay publication costs directly to the Recorder.** Please contact Recorder Legal Ads to arrange payment: Telephone: 413-772-0261 ext. 219  
Email: [legalads@recorder.com](mailto:legalads@recorder.com)  
Fax: 413-774-5511
- Please allow a minimum of two (2) days' notice to publish and pay for an advertisement as required by the newspaper. **The Town of Conway is not responsible if an advertisement is not published in time to hold the hearing.**

#### Attachments:

1. Special Permit Application Form
2. Special Permit Application Checklist
3. Section 63 Special Permit Guidelines
4. Conway Planning Board Fee Schedule

#### Additional Resources:

1. MassGIS Standard for Digital Plan Submittals to Municipalities (Version 2.0--October 2007)
2. Town Website: [www.TownofConway.com](http://www.TownofConway.com)

**FEES AND OTHER EXPENSES:**

- SP Application fee:** \$150.00 **plus** \$10.00 per 1000 square feet of land disturbance
- Notice Mailing fee:** Total cost will vary depending on the number of abutters, and will include the cost/piece for Certified Mail/Return Receipt plus \$2.00 processing costs per piece
- Newspaper Publishing fee:** Total cost will vary; to be paid directly to the Greenfield Recorder in-person or by phone prior to publication of legal notices
- Consultant Review fee:** May be required for some projects; fee to be determined by Planning Board and deposited in advance by applicant per MGL 44, section 53G.

**CONTACTS:**

- Building Commissioner FCCIP:** 413-774-3167 x113  
FCCIP, Transit Center  
2 Olive St., Greenfield, MA 01301  
Email: [jhawkins@frcog.org](mailto:jhawkins@frcog.org)
- Board of Selectmen's Office  
Planning Board Admin. Staff:** 413-369-4235 x3  
32 Main St., Conway, MA 01341-0059  
Email: [Planningboard@townofconway.com](mailto:Planningboard@townofconway.com)
- Town Clerk:** 413-369-4235 x4  
32 Main St., Conway, MA 01341-0059  
Email: [Clerk@townofconway.com](mailto:Clerk@townofconway.com)
- Board of Assessors:** 413-665-1400 x  
32 Main St., Conway, MA 01341-0059  
Email: [Assessors@townofconway.com](mailto:Assessors@townofconway.com)
- Registry of Deeds:** 413-772-0239  
Franklin County Courthouse, 425 Main St., Greenfield, MA 01301
- Greenfield Recorder:** Please contact Legal Ads to arrange payment:  
Telephone: 413-772-0261 ext. 219  
Email: [legalads@recorder.com](mailto:legalads@recorder.com)  
Fax: 413-774-5511
- Town Website:** [www.townofconway.com](http://www.townofconway.com)

**HOURS AND SCHEDULES:**

- Building Commissioner's Office:** 9:00 a.m. to 4:00 p.m. Monday through Friday
- Town Clerk's Office:** 9:00 a.m. to 1:00 p.m. Tuesday & Thursday
- Board of Selectmen's Office:** 9:00 a.m. to 4:00 p.m. Monday through Friday  
(Planning Board administrative staff in this office will assist you.)
- Board of Assessors Office:** 9:00 a.m. to 4:00 p.m. Monday, Tuesday, Thursday, Friday  
9:00 a.m. to 12:00 p.m. Wednesday
- Planning Board Schedule:** Typically meets the first & third Thursdays of each month at 7:00 p.m. in Town Office Selectboard's Room. This schedule or location may change due to holidays, earlier meeting start times, extra meetings in addition to the monthly meeting, etc. Please check with the Selectmen's Office to determine the next scheduled Planning Board meeting.

# Special Permit Application

# Town of Conway Planning Board

1. **Name of Applicant:** \_\_\_\_\_ Phone #: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

2. **Property Owner(s)** (If different from above. All entities listed on deed must be included. Please attach additional sheets if necessary.)

**Name:** \_\_\_\_\_ Phone #: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

3. **Name of Registered Land Surveyor/Engineer:** \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone #: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

4. **Parcel ID: Street Address:** \_\_\_\_\_

**Map:\*** \_\_\_\_\_ **Lot/Parcel #:\*** \_\_\_\_\_ **Zoning District:\*** \_\_\_\_\_

*\*This information can be found on your tax bill or can be obtained from the Board of Assessors.*

5. **Deed Reference: Book:** \_\_\_\_\_ **Page:** \_\_\_\_\_

6. **Plan Reference: Book:** \_\_\_\_\_ **Page:** \_\_\_\_\_

7. **Parcel Area:** (all figures should be in square feet)

**Total Land Area:** \_\_\_\_\_ **Area of Disturbed Land:** \_\_\_\_\_

**Gross Floor Area** of proposed construction: \_\_\_\_\_ **Net Floor Area:** \_\_\_\_\_

8. **Proposed Use:**

\_\_\_ 22.1: Restricted uses (15/50)

\_\_\_ 22.3: Accessory Apartments

\_\_\_ 32.5-2: Unregistered vehicles

\_\_\_ 31.2: Alteration of structure or use

\_\_\_ 32.4: Stripping land of soil and loam

\_\_\_ 41.2.1: Exceptions to clearances for accessory buildings and structures

\_\_\_ Article 8: Wireless Communication Facilities.

\_\_\_ Article 10: Age Restricted Housing

\_\_\_ Article 11: Adult Use Recreational Marijuana Establishments

\_\_\_ Article 12: Large Scale Industrial & Commercial Facilities

\_\_\_ Article 9.3 Large Scale Solar Installation *(added 05 Jun 2021)*

**Describe the proposed use in detail, including square footages, where applicable:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

File # \_\_\_\_\_

9. Property listed under Chapter 61, 61A or 61B for tax purposes?      \_\_\_ Yes      \_\_\_ No

10. Modification of Existing Permit?                      \_\_\_ Yes      \_\_\_ No

11. Site Plan Review Application Pending?              \_\_\_ Yes      \_\_\_ No

12. Stormwater Permit Required?                      \_\_\_ Yes      \_\_\_ No

13. List any other Federal, State, and/or Municipal Permits required: \_\_\_\_\_

14. I hereby certify that the information contained in this application is true and complete:

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Owner(s) Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

(if different from applicant;  
attach additional sheets if necessary) \_\_\_\_\_ Date: \_\_\_\_\_

15. Building Commissioner Certification: \_\_\_\_\_ Date: \_\_\_\_\_

Comments: \_\_\_\_\_

15. Town Clerk Certification: \_\_\_\_\_ Date: \_\_\_\_\_

Special Permit Application Checklist

Reason for Special Permit: \_\_\_\_\_

Site Plan Review application associated with this SP application?  Yes  No (If yes, please attach copy)

**Special Permit Submission Requirements** (see Zoning Bylaws Section 63, Special Permits)

- An original and nine (9) copies of the signed Special Permit application
- An original plan prepared by a registered professional engineer, registered architect, registered landscape architect, or registered land surveyor submitted on 24-inch by 36-inch sheets with a minimum scale of 1" = 40' **and**
- A compact disk containing a Standard Digital File (SDF) as defined by Version 2.0 of the MassGIS Standard for Digital Plan Submittals to Municipalities **and**  
 \_\_\_\_\_ a copy of the original CADD file in PDF format **plus**  
 \_\_\_\_\_ accompanying documents in PDF format
- Copies distributed to:
 

_____ Board of Health	_____ Building Commissioner
_____ Highway Department	_____ Conservation Commission
_____ Police Chief	_____ Board of Selectmen
_____ Fire Chief	_____ Assessors

35-day deadline for comments: \_\_\_\_\_

**Contents of Plan** (see Zoning Bylaws Section 63)

- Identification of Applicant, Property Owner (if different), and Site Plan Preparer (incl. e-mail addresses)
- Property Description
- Applicant and Property Owner(s) signatures
- Town signatures: \_\_\_\_\_ Town Clerk and \_\_\_\_\_ Building Commissioner
- Certified list of abutters from Board of Assessors (+ 2 sets of mailing labels)
- All boundary line information pertaining to the land sufficient to permit location of same on ground with existing and proposed topography at 2 foot contour intervals and the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding and unique natural features
- Existing and proposed buildings and structures, including fences, loading areas, accessory buildings, signs, waste disposal areas, and storage areas, with proposed building elevations or renderings; utilities and snow disposal methods
- Water provision, including fire protection measures
- Sanitary sewerage
- Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board's & State DEP (MassDEP) Stormwater management regulations.
- Parking, walkways, driveways, and other access and egress provisions
- Existing trees 10" caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening
- Existing and proposed exterior lighting
- Signage

**For Office Use Only**

**File #** \_\_\_\_\_

**Base Fee paid:** \$ \_\_\_\_\_ Date: \_\_\_\_\_ Town Clerk stamp: \_\_\_\_\_  
 Fee = \$150.00 **plus** \$10.00 per 1000 square feet of land disturbance  
 Calculation: Land disturbance = \_\_\_\_\_ sq. ft./1000 = \_\_\_\_\_ x \$10.00 = \$ \_\_\_\_\_

**Mailing fee paid:** \$ \_\_\_\_\_ Date: \_\_\_\_\_ Town Clerk stamp: \_\_\_\_\_  
 Fee = cost/piece for Certified Mail/Return Receipt plus \$2.00 processing costs per piece

**Consultant Peer Review** requested by Planning Board: \_\_\_\_ Yes \_\_\_\_ No (If yes, complete below)

Date plans forwarded to reviewer(s): \_\_\_\_\_ List: \_\_\_\_\_

Date project-specific account established: \_\_\_\_\_ Town Accountant's initials: \_\_\_\_\_  
 (per MGL Ch. 44, §53g) Acct. #: \_\_\_\_\_

**Consultant fee paid:** \$ \_\_\_\_\_ Date: \_\_\_\_\_ Town Clerk stamp: \_\_\_\_\_

Funds deposited into account: \_\_\_\_\_ Date: \_\_\_\_\_ Treasurer's initials: \_\_\_\_\_

Additional funds deposited: \$ \_\_\_\_\_ Date: \_\_\_\_\_ Treasurer's initials: \_\_\_\_\_

Unused funds returned: \$ \_\_\_\_\_ Date: \_\_\_\_\_ Treasurer's initials: \_\_\_\_\_  
 (with interest)

**FRCOG Review** requested by Planning Board: \_\_\_\_ Yes \_\_\_\_ No

Date plans forwarded to FRCOG: \_\_\_\_\_

Date Special Permit rejected by Planning Board and sent back as incomplete: \_\_\_\_\_ (if applicable)

**Effective Date** of application (signed by Town Clerk): \_\_\_\_\_

**Decision Deadline:**

90 days from Public Hearing date: \_\_\_\_\_

Continuation request form filed with Town Clerk (if applicable) **Revised Decision Deadline:** \_\_\_\_\_

**Public Hearing Date:** \_\_\_\_\_ (Notice and postings pursuant to M.G.L. Ch. 40A, Sec. 11)

Date notice sent to newspaper: \_\_\_\_\_

Date confirmation of payment received: \_\_\_\_\_

Date of **first** legal notice in newspaper: \_\_\_\_\_ (not less than 14 days prior to hearing)

Date of **second** legal notice in newspaper: \_\_\_\_\_ (at least 7 days prior to hearing)

Date of certified mailing of notice to abutters: \_\_\_\_\_ (to be done by Administrative Staff)

Date posted in Town Hall: \_\_\_\_\_ (period not less than 14 days prior to hearing)

Date notice mailed to abutting Towns: \_\_\_\_\_

**Date Special Permit Approved:** \_\_\_\_\_

Date Special Permit mailed to applicant: \_\_\_\_\_

Date Special Permit filed with Town Clerk: \_\_\_\_\_

NO APPEAL has been filed with the Conway Town Clerk after 20 days Town Clerk stamp: \_\_\_\_\_

APPEAL has been filed within 20 days: \_\_\_\_\_ Date: \_\_\_\_\_ Town Clerk stamp: \_\_\_\_\_



## SECTION 63: Special Permit Guidelines

Application for Special Permits shall be accompanied by a written report detailing the effects of the development in relation to the criteria of Section 63. In granting a Special Permit the Planning Board has the power to impose any conditions, safeguards, and/or limitations on time or use of premises.

- a) Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.
- b) **Filing Procedure for Special Permits.** Special Permits shall be granted, denied, or issued with conditions by the Planning Board according to the provisions of Chapter 40A of the Massachusetts General Laws. An applicant for a Special Permit shall file a completed application with the Town Clerk. The application shall include nine (9) copies each of the Special Permit application and a plan of the site. The Town Clerk shall acknowledge receipt of the application by signing and dating the application. The Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, the Zoning Board of Appeals, the Board of Health, the Historical Commission, the Highway Superintendent, the Fire Chief, the Energy Committee, and the Building Inspector. Town Boards and municipal officials shall have **30 days** from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations. The date of receipt by the Town Clerk on behalf of the Planning Board, shall be the date of submission of the Special Permit application.
- c) All other special permits otherwise in compliance with the provisions of this Bylaw and of Chapter 40A, shall be issued only upon written determination by the Planning Board that there be no significant adverse effects (to the neighborhood and/or town) in any of the following categories:
  - (a) **Traffic Flow and Safety:** for example, to what degree will the service level of abutting streets be reduced because of added traffic volume? Will hazardous egress conditions result? Is traffic generation in relation to street frontage unusually high or low relative to nearby uses? Have such efforts been made as spacing egresses more widely than required, or sharing of egresses? Is the town capable of servicing the premises considering existing roads and town equipment?
  - (b) **Adequacy of Utilities and other Public Services:** for example, will pressures on the highway department, school system, or other public services mount more rapidly than the town is reasonably able to relieve these pressures?
  - (c) **Qualities of the Natural Environment:** for example, what will the consequences for wildlife, vegetation, hydrology, water quality, and air quality be? Does the proposal take into account the effects of large topographic change, tree removal, or increased storm water flow from the site?
  - (d) **Impact on Other Properties:** for example, will the use or value of abutting or otherwise related properties be affected? What will be consequences for other property of sound, light, odor, traffic, and other disturbances?
  - (e) **Community Health:** for example, will the development tend to increase unemployment, decrease public revenues, destroy neighborhoods, or otherwise on balance take more from the town than it returns?

### **63.1: Time to Begin Construction**

Construction must begin within one year after a Special Permit or building permit is issued, except for

good cause.

**63.2: Time to Use Special Permit**

A Special Permit shall lapse within two years, including such time as may be required to pursue or wait the determination of an appeal from the grant of the permit, if a substantial use of the permit has not begun within those two years, except for good cause.

**63.3: Subsequent Amendments**

A Special Permit or building permit shall conform to any subsequent amendments to this Bylaw unless the use or construction has commenced, within six (6) months, and if construction is involved, unless such construction is continued through to completion at reasonable speed.

**CONWAY PLANNING  
BOARD**

**REGULATIONS GOVERNING FEES  
AND  
FEE SCHEDULES**

**Adopted 7 Feb 2019**

**SECTION 1. INTRODUCTION.**

**1.1 Procedural History.** Pursuant to G.L. c. 41, §81Q and G.L. c. 40A §§ 9 and 12, the Planning Board has adopted regulations governing fees and a new 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, §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.

**2.2 Form of Payment.** All Administrative and Technical 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 the 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 supersedes all previous schedules as they may have appeared in the Zoning By-Law, and Subdivision Rules and Regulations, and any listings which may have been compiled from time to time for the benefit of applicants.

**A. Site Plan Review** | \$100.00 Basic Fee **plus** \$10.00 per 1000 square feet of land

disturbance.

- B. Modification or extension of a Site Plan shall also require the fee specified above.
- C. Special Permit Review | \$150.00 Basic Fee **plus** \$10.00 per 1000 square feet of land disturbance.
- D. Modification or extension of a Special Permit shall also require fee specified above.

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

- A. If the number of proposed lots, units, or sq. ft. of disturbed soil 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, units, or sq. ft. of disturbed soil. No review of these additional lots, units, or sq. ft. of disturbed soil shall take place until this additional fee is paid to the office of the Planning Board, 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, units, or sq. ft. of disturbed soil 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, units, or disturbed soil 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 Town 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.** Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G.L. c. 44, s. 53G (53G Account). 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 Zoning By-Law and any other listings which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Planning Board for action, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees.

**A. Original Special Permit, Site Plan Review**

	<u>Fee</u>
Special Permit	\$150.00 + Consultant's Fee
Site Plan Review	\$100.00 + Consultant's Fee

**4.4 Replenishment.** When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Planning Board shall consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

**4.5 Inspection Phase.** After the granting of a Special Permit, Site Plan 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 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 Town Treasurer by the Planning Board for deposit into a 53G Account.
- C.** A copy of the latest statement from the banking institution handling the 53G Account shall be forwarded from the office of the Town Treasurer to the office of the Planning Board as soon as it is received for timely and accurate accounting.
- D.** The Town Accountant shall prepare a report on activity in the 53G Account on an annual basis.
  - 1.** This report shall be submitted to the Board of Selectmen for its review.
  - 2.** This report shall be printed in the Annual Report for the Town.
- E.** An accounting of an applicant's funds held in the 53G Account may be requested by the applicant at any time.
  - 1.** The Planning Board shall respond to the request in a timely fashion.
  - 2.** This accounting shall include the following information:
    - a.** The latest statement from the banking institution handling the account, which should include an accurate 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 office of the Planning Board, based on the latest statement from the banking institution.

- b.** A report of all checks authorized for issuance since that last banking statement.
- F.** An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- G.** 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 filing of a decision with the Town Clerk denying or awarding a Special Permit, Site Plan.
  - 2.** With the filing of a decision with the Town Clerk regarding an Administrative Appeal.

**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 Selectmen by the applicant, providing such appeal is initiated within two weeks of the initial selection.

- A.** The Board of Selectmen shall convene a formal hearing within twenty days of receiving a written appeal by an 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 Board of Selectmen 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 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 associate 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 Town Clerk.
- C. The Planning Board will review its regulations and fee schedule on an annual basis.
  - 1. The Board may waive this provision in any year with a motion carried by a majority of the Board members.