

Fee Schedules and Regulations Governing Fees

Town of Groton Board of Health Adopted by the Board of Health on April 3, 2006

1.0. On April 3, 2006 the Board of Health held a public hearing, pursuant to G.L. Chapter 41 Section 81Q and Chapter 40A Section 9, to consider a proposed change in fee structures and regulations governing their imposition. At the close of that meeting the Board of Health voted to adopt a new schedule of fees for the review work, conducted by the Board of Health 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 within, constitutes the current fee schedule and those rules governing the imposition of fees.

1.1. INTRODUCTION: In the past, fees imposed for the consideration of various types of applications have been approximations of the costs of processing those applications. These new regulations and fees are designed to produce, as much as possible, a more equitable schedule of fees which more accurately reflects the costs of review. It is not possible to guarantee complete accuracy in a fee structure, but the Board of Health has analyzed applications going back more than 10 years¹ in an attempt to forge a system that is as fair and equitable as possible.

In late 1989 the state enacted legislation² authorizing towns to establish special accounts, hereafter referred to as "593 Accounts", to pay for the employment of outside consultants. Fees charged to applicants specifically to pay outside consultants are to be deposited into these 593 Accounts by the Town Treasurer. The Board of Health may then expend the funds, without Town Meeting appropriation, in connection with the employment of these consultants. With the addition of this new structure, the Board of Health is able to create a more exact method of assessing fees.

2.0. FEE STRUCTURES AND REGULATIONS: The Board of Health shall impose reasonable fees for the review of applications which come before it. One or both of the following fee structures (3.0 Administrative Fees and 4.0 Project Review Fees) may apply to various types of applications:

3.0. ADMINISTRATIVE FEES:

- A.** An Administrative Fee shall be assessed to offset the expense of review by the Board of Health and its office. This Administrative Fee applies to all applications except those exempted in subsection 3.2. below.
- B.** Administrative Fees are to be submitted as part of the initial application. An application filed without the inclusion of these fees shall be determined to be

¹ *Some supporting materials are available from the Board of Health office.*

² *This act was approved on December 8, 1989 and became effective on March 8, 1990. The Act, Chapter 593 of the Acts of 1989, inserts a new section 53G in G.L. Chapter 44. A copy of the legislation is available from the Board of Health office.*

incomplete and no review work shall commence until all submission requirements have been met.

- C. Since Administrative Fees are imposed for the review process, they are not linked in any way to the determinations of the Board of Health. There are no fees charged for approvals or permits resulting from that review process.
- D. Once the review process has been started, there shall be no refunding of Administrative Fees, including the case of withdrawal of the application by the applicant. For this reason, it is important that applicants consult with the Board of Health office prior to formal application to insure that the appropriate permits and review are being sought.

3.1. SCHEDULE OF ADMINISTRATIVE FEES: The following is the schedule of fees for all types of applications which come before the Board of Health. This schedule supersedes all previous schedules as they appeared in the TOWN OF GROTON.

BOARD OF HEALTH FEE SCHEDULE

Sewage Disposal System Permits:

New Permits	\$100.00
Repair/Upgrade Permits	\$ 50.00
Renewal Permits	\$ 25.00
Transfer Permits	\$ 25.00
Well Permits	\$ 20.00

Variance Hearings Per lot

Local Variance	\$ 20.00
State Variance	\$ 30.00

Pool Safety Inspection \$ 5.00

Hazardous Waste/Incident Remediation \$100.00

Subdivision Soil Remediation \$100.00

3.2. EXEMPTIONS: Some types of Board of Health activities require no Administrative Fee.

- A. Informal discussions shall require no fee.
- B. The Board of Health may waive any Administrative Fee under these provisions for applications brought forward by other Town Departments.

3.3. WAIVERS AND MODIFICATIONS: The Board of Health, at its option, may waive or reduce any fee under these provisions, if, in the opinion of the Board, unusual circumstances result in an application fee not envisioned or intended with the adoption of these regulations and fee schedules. The Board of Health must be consistent in applying this provision. Such judgment by the Board of Health shall require a motion carried by a majority of the Board members.

4.0 PROJECT REVIEW FEES: In addition to an Administrative Fee, which the Board of Health has traditionally imposed, a new second type of fee, referred to herein as the "Project Review Fee", is now possible. This fee is to be deposited into a special account as enabled by G.L. Chapter 44, Section 53G, referred to herein as the "593 Account". This fee³ shall be imposed on those applications which, as designated by the Board of Health, require the services of outside consultants for the review process due 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 review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws 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 decisions or regulations, or inspecting a project during construction or implementation.

- A.** Monies shall be collected from the applicant and deposited into the *593 Account* upon submission of the application. The applicant must also furnish the Town Treasurer with either a federal identification number or a social security number for earned interest reporting to the Internal Revenue Service.
- B.** Outside consultants retained by the Board of Health to assist in the review of an application shall be paid from this account.
- C.** The Board of Health shall determine the amount of initial deposit to be made, as put forth in the accompanying schedule, and the amount of any additional funds required during the process, should the applicant's *593 Account* approach depletion. Such determinations shall be consistent with the requirements of section 5.1.B.
- D.** Any excess amount attributable to a particular project, including accrued interest, will be repaid to the applicant, or the applicant's successor in interest, at the conclusion of the review process. 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.

³ *The term "fee" has a different connotation when used in the phrase "Administrative Fee" than when used in the phrase "Project Review Fee". Administrative Fees are exact payments assessed to an applicant and are therefore a precise, known project cost. Project Review Fees are really deposits into a special "escrow" account from which actual review costs will be paid. Because any excess left in the account will be returned to the applicant, it is not known at the time the Project Review Fee is imposed what the actual eventual project cost will be.*

- E. Should it become apparent to the Board of Health, and the applicant is in agreement, that an application requires the services of outside consultants for proper review, the board may require the imposition of this second type of fee, even if it is not normally part of the review process for that type of application, and providing that said imposition is in compliance with the state enabling legislation.

4.1. ADMINISTRATIVE APPEAL:

- A. The choice of a consultant selected by the Board of Health 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.
- B. The Selectmen shall convene a formal hearing within twenty days of receiving a written appeal filed by an applicant.
- C. There are two conditions which will disqualify the selected consultant:
 - 1. Conflict of interest; A consultant may not have a financial interest in a 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 (Chapter 268A).
 - 2. Lack of appropriate qualifications; a consultant must 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.
- D. The two conditions of section 4.1.C. above are the only grounds for an appeal.
- E. The required time limits for action upon an application by the Board of Health shall be extended by the duration of the administrative appeal.
- F. If no decision is rendered by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board of Health shall stand.
- G. This administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

4.2. ADMINISTRATION OF FUNDS FOR PROJECT REVIEW FEES:

- A. Funds collected from various applicants for the 593 Account shall be turned over to the Town Treasurer by the Board of Health office for deposit into an account separate from other funds.
- B. A copy of the latest statement from the banking institution handling the 593 Account shall be forwarded from the office of the Town Treasurer to the Board of Health office as soon as it is received to allow for timely and accurate accounting.

- C. The Town Accountant shall prepare a report on activity in the 593 Account on an annual basis.
 - 1. This report shall be submitted to the Selectmen for their review.
 - 2. This report shall be printed in the Annual Report for the Town of Groton.
- D. An accounting of an applicant's funds held in the 593 Account may be requested by the applicant at any time.
 - 1. The Board of Health shall respond to the request in a timely fashion.
 - 2. This accounting shall include a report of all deposits made to the account and invoices paid from the account for the project.
 - 1. This accounting shall not include an estimate of accumulated interest since the last banking statement.
- E. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced. It should be understood that this information will take a longer time period to gather. Because of the extra work involved, applicants should request this further accounting only if they are contemplating withdrawal or suspension of their application.
- F. If available, a brief account summary of the type described under item 4.2.D. above shall be furnished to both the Board of Health and the applicant at each hearing. This will allow the Board to determine if further funds will need to be collected and deposited into the 593 Account should it approach depletion.
- G. Excess fees in the 593 Account, including accumulated interest, shall be returned to the applicant at the conclusion of the review process as defined herein:
 - 1. With the approval or disapproval (final action) of a Preliminary Subdivision Plan. The applicant may choose to leave the remaining funds in the 593 Account and those funds, including accumulated interest, shall be credited toward the definitive plan project review fee.
 - 2. With the approval or disapproval (final action) of a Definitive Subdivision Plan. The applicant may choose to leave the remaining funds in the 593 Account and those funds, including accumulated interest, shall be credited toward the inspection phase project review fee.
 - 3. With the final release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.
 - 4. With the final inspection or the approval or disapproval (final action) on all other types of applications under the Groton Zoning By-Law, whichever comes later.

4.3. SCHEDULE OF PROJECT REVIEW FEES: When more than one type of application is being sought at the same time (for the same project), only the highest of the

applicable Project Review Fees shall be collected for deposit into the 593 Account, and not the sum of those fees.

A. INITIAL DEPOSITS: The following Project Review Fees for the indicated application types are to be submitted with their initial applications.

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| 1. Community or Industrial Septic Systems: | \$2500.00 |
| 2. Hazardous Material/Waste Cleanup/Remediation | \$5000.00 |
| 3. Subdivision project remediation | \$1000 + \$250/lot |

B. EXEMPTIONS FROM INITIAL DEPOSITS: Applications involving a single lot do not require the submission of a Project Review Fee with the initial application. The Board of Health shall consider at the first review session, or at any subsequent review session, whether such a fee is warranted, and if so, the amount of the fee. Such flexibility is necessary because the wide range of scope and scale to such applications makes it difficult to calculate an equitable Project Review Fee without consideration of the project on a case by case basis. In addition to those application types listed here, any other type of application not specifically listed in 4.3.A. above shall be subject to provision 4.0.

C. SUBSEQUENT DEPOSITS: When the balance in an applicant's 593 Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed under 4.3.A above or 4.0.E, the Board of Health shall consider whether to require a supplemental Project Review Fee to cover the remaining project review and the attendant costs still to come. The Board may also choose to set a different threshold (other than 25% of the initial deposit) to trigger a reconsideration of the issue.

D. INSPECTION PHASE OF PROJECTS: After the granting of any permit or approval which will culminate in construction requiring inspections by Board of Health consultants, the Board may wish to make an adjustment in the funds held in an applicant's 593 Account.

1. The 593 Account may be adjusted by issuing a refund to the applicant or by requiring a supplemental Project Review Fee.
2. Adjustments should be made after all bills for review services have been accounted for.
4. The Board of Health has the right to require supplemental Project Review Fees if the applicant's 593 Account approaches depletion during the inspection phase of the review process. Such findings of the Board, while subject to the provisions of 5.1.B., do not require a formal hearing or prior notice to interested parties.

5.0. REVISION OF FEE SCHEDULES AND REGULATIONS GOVERNING FEES:

A. The Board of Health may review and revise its regulations and fee schedules, from time to time.

1. The Board must do so within an advertised public hearing.
 2. Voting requirements shall be those spelled out in section 5.1.B. below.
 3. Any new regulations or alterations to the fee schedule shall take effect upon filing a copy of the amendments with the Groton Town Clerk
- B.** The Board of Health 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.
 2. At the time of the Board of Health's annual review, the Board will consider any petitions submitted by an applicant or other member of the public to make revisions in the regulations or the fee schedules.
 - a) This is the only review initiated by the public.
 - b) Results of the hearing and any action or changes to the regulations or fee schedules undertaken by the Board are final.

5.1. DECISIONS: The Board shall be required to make decisions, from time to time, about fees and about monies held in the 593 Account. The following rules shall apply:

- A.** Any practices which evolve whereby the Board exempts or reduces fees in a given, definable situation, not spelled out in these regulations, requires the following:
1. Such practices, once recognized, must be applied uniformly to the extent practical and possible.
 2. Such practices should be reviewed during the annual review hearing or sooner to see if they can be codified and incorporated into these regulations.
- B.** Decisions require the following Board of Health participation:
1. Decisions about individual applications require motions affirmed by a majority of those present in order to carry.
 2. Decisions concerning revisions in the regulations or the fee schedules require motions affirmed by a majority of those holding office at the time of the vote regardless of the number of members in attendance during the vote.

6.0. DELINQUENT ACCOUNTS: The following rules apply to fees owed to the Board of Health by applicants:

- A.** 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 a one year treasury bill plus 10% as published by the Federal Reserve Bank.

- B.** All costs of collection associated with past due accounts shall be born by the applicant.
- C.** All applicants owing fees to the Board of Health at the time of any amendment to these provisions of the regulations shall be sent the following:
 - 1. A duplicate notice of the amount past due.
 - 2. A copy of the applicable sections of these regulations with all amendments clearly indicated.
 - 3. Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.
- D.** In the event an account is delinquent for more than 90 days, the Board of Health may request that the Tax Collector place a municipal lien on the applicant's property.

**A public hearing was conducted on April 3, 2006.
Adopted: April 3, 2006**

FILED WITH THE TOWN CLERK:

_____ **Date:** _____

