



Town of Barnstable
Conservation Commission
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CHAPTER 708

**Regulations for Hiring Outside
Consultants Under GL Ch. 44 § 53G**

As provided by GL Ch. 44 § 53G, the Barnstable Conservation Commission may impose reasonable fees for the employment of outside consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (GL Ch. 131 § 40), Chapter 237 of the General Ordinance, Conservation Commission Act (GL Ch. 40 § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time. It is the intention of the Commission to use this authority judiciously, generally limited to complex technical matters as those of substantial impact to the Town of Barnstable.

Funds received by the Conservation Commission pursuant to these rules shall be deposited with the Town of Barnstable treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in GL Ch. 44 § 53G. Expenditures from this account shall be made only in connection with the review of specific project or projects for which a consultant fee has been collected from the applicant. Unexpended funds, if any, will be returned to the applicant at the conclusion of the proceedings.

Specific consultant services may include but are not limited to resource area survey and delineation, analysis of impacts on protected resources, areas, values and functions, hydrogeologic and drainage analysis, impacts on municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator.

The Conservation Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, 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 sent by certified mail or hand 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 No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if 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 Commission within ten (10) business days of the request for payment shall be cause for the Commission to determine the application is administratively incomplete (except in the case of an appeal). The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to deny the permit application.

The applicant may appeal the selection of the outside consultant to the Barnstable Town Council, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or related field. Such an appeal must be in writing and received by the Town Council and a copy received by the Conservation Commission, so as to be received within ten (10) days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

Effective 1/14/2004

Revised: March 14, 2006