



TOWN OF SOUTHBOROUGH PLANNING BOARD GENERAL PROCEDURE RULES AND REGULATIONS

SECTION 1. AUTHORITY AND EFFECTIVE DATE

A. The following "General Procedure Rules and Regulations" are adopted by the Town of Southborough (the "Town") Planning Board (the "Board") under the authority of, and in compliance with, the General Laws of the Commonwealth of Massachusetts (the "General Laws"), Chapter 40A and Chapter 41, and Chapter 244 of the Code of the Town of Southborough.

B. These Rules and Regulations shall be filed with the Town Clerk, and after such filing are effective as of July 10, 2007, and revised through September 21, 2015. These procedural Rules and Regulations supersede any and all previous Planning Board regulations concerning matters contained herein.

C. These Rules and Regulations may be amended at any time by a vote of four of the five then-sitting members of the Board. Any such amendments shall be filed with the Town Clerk in the same manner in which these Rules and Regulations were so filed and will be effective as of such filing date (or other later date as specified as part of such filing).

SECTION 2. MEETINGS, HEARINGS AND DECISIONS

The Board shall conduct its affairs, meetings and hearings and render its decisions according to the requirements of the Town Zoning By-Law (the "By-Law"), Chapter 244 of the Town Code (the "Town Code", Rules and Regulations Governing the Subdivision of Land) and the General Laws of the Commonwealth of Massachusetts (the "General Laws"), as applicable.

SECTION 3. PROCESS FOR PROJECT REVIEW

The Board's process for considering and disposing of project review shall be according to the requirements of the By-Law, the Town Code and the General Laws, as applicable. The Board may establish related administrative processes not inconsistent with the By-Law, the Town Code and the General Laws as it deems necessary, and such administrative processes may be modified from time to time by a vote of four of the five then-sitting members of the Board.

If there is any conflict between these Rules and Regulations and the By-Law, the Town Code and the General Laws pertaining to a zoning matter, then the order of precedence for resolution of such conflict shall be first, the General Laws, then second the Town Code (including Chapter 244, Rules and Regulations Governing the Subdivision of Land, and the By-Law) and then third, these Rules and Regulations.

3.1. Filing of Materials

All filings for project review to the Board shall be presented on forms to be supplied by the Board, according to the instructions provided with these forms. Such forms and instructions may



be modified from time to time as the Board deems necessary, by a vote of four of the five then-sitting members of the Board.

Any material (in addition to that included with the Application Form) that will be referred to by the Applicant (or the Applicant's representatives) at any public hearing or public meeting must be submitted to the Planning Department at least **7** days prior to such hearing or meeting to ensure adequate and proper review by the Board and accessibility to the public. Any material submitted later than this deadline may, at the Board's discretion, constitute a constructive request by the Applicant for a continuation of the hearing if, in the opinion of the Board, the Board, Town staff, or the public have not had adequate time to appropriately consider such material.

Applicants should note that this additional material includes amended plans, renderings, visual displays, models, etc., that may have been prepared after the Application Form was filed and are expected to be used by the Applicant during a public hearing presentation.

Any material to be included in the public record must be submitted to the Planning Board as referenced above. This includes any materials from other town boards and committees, residents, and any other interested parties. ***Materials submitted after the deadline will not be heard or considered at the meeting, out of respect for the Board, the Applicant, and the public process, unless permitted by the Board.***

3.2 Stenographic Record

By majority vote of the Board, the Applicant may be required to provide, at the Applicant's own expense, a professional stenographer to produce verbatim minutes of all public meetings related to the Application. These minutes will be provided to the Town and will become part of the public record for the project.

SECTION 4. ADMINISTRATIVE FEES

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 Board; to take advantage of the procedures offered by G.L. c. 44, s. 53G, which allow for the imposition of reasonable fees for the employment of outside consultants which are to be deposited in a special account. Such procedures also provide for an administrative appeal from the selection of the outside consultant to the Board of Selectmen (see below); to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Board. The Board shall impose reasonable fees for the review of applications which come before it. The Board shall impose Administrative Fees and may impose Project Review Fees as may be applicable to the types of applications.

The fee schedule applies to the types of applications to the Board as permit granting authority. This schedule supersedes all previous schedules and any listings which may have been compiled from time to time for the benefit of applicants. The Fee Schedule may be amended at any time by a vote of four of the five then-sitting members of the Board at a properly posted public meeting.



4.1 Applicability

An Administrative Fee shall be assessed to offset a portion of the expense of review by the Board and its office with regard to all applications set forth in the Fee Schedule.

4.2 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.

4.3 Fee Waivers

The Board may waive or reduce any Administrative Fee, if, in the opinion of the Board, circumstances warrant.

4.4 Refund

Once the review process has commenced, the Board shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, unless by a vote of four of the five then-sitting members of the Board.

SECTION 5. PROJECT REVIEW FEES

5.1 Applicability

In addition to the Administrative Fee, the Board may, by majority vote, determine that due to the size, scale or complexity of a proposed project, or the project's potential impacts, and that review of the Application requires technical advice unavailable or within a timely fashion from Town employees, Town Counsel, or the Town's Engineering Consultant, it may employ outside consultants for such purpose. The Board may, by majority vote, require that the Applicant pay a reasonable "Review Fee" for the employment of outside consultants chosen by the Board alone. The Board shall work cooperatively with the Applicant to identify appropriate consultants and to negotiate payment of an appropriate portion or all of consultant fees by the Applicant. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, attorneys, urban designers or other appropriate professionals who can assist the Board in analyzing a project to assess compliance with all relevant laws, bylaws, regulations, and make recommendations with regard to Board approvals or findings. 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 decision or regulations, or inspecting a project during construction or implementation.



5.2 Handling of Project Review Fees

Each Review Fee shall be deposited in a special account established by the Town treasurer pursuant to M.G.L. c. 44, § 53G. Funds from the special account may be expended only for the purposes described above, and in compliance with the Uniform Procurement Act, M.G.L. c. 30B, §§ 1-19. The Review Fees shall be managed according to the procedures specified below.

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 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 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 Board office as soon as it is received for timely and accurate accounting.
- D.** The Town Treasurer shall prepare a report on activity in the 53G 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.
- E.** An accounting of an applicant's funds held in the 53G Account may be requested by the applicant at any time.
 - 1.** The 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 Board office, based on the latest statement from the banking institution, as well as a listing of any outstanding payable amounts.
 - 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 awarding or denying a Special Permit, a Site Plan, a Subdivision Plan, or an ANR.
2. With the filing of a decision with the Town Clerk regarding an Appeal.

5.3 Appeal

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

A. The Selectmen shall conduct a formal hearing within twenty days of receiving a written appeal of consultant selection 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, or be in association with an individual or entity that will financially benefit 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.

5.4 Performance Guaranty/Bond

As per §244-11.C, and in accordance with MGL, Chapter 41, Section 81U, the Planning Board shall require that the construction of ways and the installation of municipal services be secured via bond/performance guaranty.

Approved by the Southborough Planning Board on September 21, 2015.