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**TOWN OF LEICESTER
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**LEICESTER PLANNING BOARD
REGULATIONS GOVERNING FEES
AND
FEE SCHEDULES**

Adopted May 6, 2003
Amended March 7, 2006

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1.0 Introduction

On November 19, 2002, the Leicester Planning Board held a public hearing, pursuant to MGL Ch.41, §81Q and MGL Ch.40A, §9, to consider proposed regulations governing fees and a new schedule of fees for review conducted by the Planning Board and its consultants. The public hearing was continued several times. At the close of the public hearing on May 3, 2003, the Planning Board voted to adopt said regulations governing fees and new schedule of fees. This document, subject to revision from time to time in a manner spelled out herein, constitutes the current fee schedule and rules governing the imposition of fees on the various types of applications that come before the Planning Board. On December 20, 2005, the Planning Board held a public hearing to amend these regulations in accordance with Section 6.0 herein. The public hearing was continued to January 17, 2006, February 7, 2006, and March 7, 2006. At the close of the public hearing on March 7, 2006 the Board voted to approve the proposed amendments, which are incorporated herein.

1.1 *Purpose*

These regulations and fee schedules have been adopted to produce a schedule of fees which accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by MGL c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote informed decision-making by the Planning Board.

1.2 *General*

The Planning Board shall impose reasonable fees for the review of applications that come before it. One or both of the following fee structures (Section 2.0 Application Fees and Section 3.0 Project Review Fees) may apply to various types of applications. Where both fees are applicable, fees shall be paid by separate checks.

2.0 Application Fees

2.1 *Applicability*

The Planning Board shall assess an Application Fee to cover the cost of processing all Planning Board applications. Such Application Fees shall be deposited into the general treasury of the Town. This Application Fee applies to all applications except those exempted in Section 2.7 below. Application Fees are to be submitted as part of the initial applications. An application filed without the inclusion of these fees shall be determined to be incomplete and no review work shall commence until the fee has been paid in full.

2.2 *Refunds of Application Fees*

Once the review process has been started, there shall be no refunding of Application Fees, including the case of withdrawal of the application by the Applicant. For this reason, it is important that Applicants consult with the Planning Board office prior to formal application to insure that the appropriate permits and review are being sought.

2.3 *Modification of Application*

For those applications that are assessed Application Fees calculated in part by the number of lots or units being sought, which during the review process undergo a change in design resulting in a change in the number of lots or units being sought, the following rules shall apply:

- a.) If the number of lots or units being sought increases over the number previously sought, 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 or units. No review of these additional lots or units shall take place until this additional fee is paid to the Planning Board office, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.
- b.) If the number of lots or units being sought decreases from the number originally sought, a refund of that portion of the application fee predicted on those lots or units shall be granted only if, in the judgment of the Planning Board, no review of those lots or units has taken place or no incremental expense has been incurred by the Board in the review process which would not have been incurred in the absence of the lots or units to be deleted. Such judgment by the Planning Board shall require a motion carried by a majority of elected or appointed Board members and the Board's judgment in such matters shall be deemed final.

2.4 Schedule of Application Fees:

The following is the schedule of fees for all types of applications that come before the Planning Board. This schedule supersedes all previous schedules as they appeared in the Leicester Zoning Bylaws, the Rules and Regulations for the Subdivision of Land, and any listings which may have been compiled from time to time for the benefit of Applicants.

Type of Application	Application Fee
a) ANR Plans	\$150
b) Preliminary Subdivision Plans	\$500, plus \$50 per lot/unit for every lot/unit above 5, up to a maximum of \$5,000
c) Definitive Subdivision Plan	\$1,000 plus \$50 per lot/unit for every lot/unit above 5, up to a maximum of \$10,000
d) Modification of a Definitive Subdivision Plan	\$500
e) Special Permits, except as listed under f) & g). below	\$500
f) Special Permit for Senior Village Developments and Recreational Developments	\$500, plus Preliminary Subdivision or Definitive Subdivision Fee, as applicable.
g) Special Permit for waiver of dimensional requirements for municipal public utilities (Section 4.3.0.2)	\$0 (cost of legal advertisement and notification may apply)
h) Site Plan Review, except as listed under i), below	\$500
i) Site Plan Review for new commercial structures over 3,000 square feet.	\$3,000
j) Request to Release Lots from Covenant or Reduce Amount of Performance Guarantee	\$100
k) Request for public road acceptance	\$200
l) Lost document fee for documents that require signatures of Planning Board members	\$25
m) Major and Complex Projects	See Section 2.7

2.5 *Legal Advertising and Abutter Notification Expenses*

In addition to the Application Fees in Section 2.4, the Applicant shall be responsible for the cost of legal advertisement and notification of abutters and parties in interest, as applicable to a particular application. If a project is also subject to a Project Review Fee, the Applicant may choose to have these expenses paid from the 53G Account.

2.6 *Multiple Applications*

When more than one type of application is being sought at the same time (for the same project), only the highest of the applicable Application Fees shall be collected, and not the sum of those fees.

2.7 *Major and Complex Projects*

Additional Application fees may also be assessed for "Major and Complex" Projects. For the purposes of assessing a fee under this subsection 2.7, a major and complex project is a project for which the Town is likely to incur substantial administrative expense during review, approval, and construction of the project due to factors such as the novelty and technical complexity of the project; and/or the potential for adverse impacts; and/or the need for close scrutiny of the project; and/or the size and scope of the project. Such fee shall be determined on a case by case and shall be based upon the Town's estimated administrative expenses.

2.8 *Exemptions and Waivers of Application Fees:*

- a.) Applications submitted by the Town of Leicester, other Town Departments, or any of the Town Water and Sewer Districts are exempt from Application Fees, except that the Planning Board may require reimbursement of legal advertisement and abutter notification fees.
- b.) The Planning Board may waive or reduce any fee under these provisions, if in the opinion of the Board, unusual circumstances regarding the subject project or the Applicant result in an application fee not envisioned or intended with the adoption of these regulations and fees schedules.

3.0 Project Review Fees

3.1 *Applicability*

- a.) In addition to Application Fees, the Planning Board may also impose a Project Review Fee. This fee is to be deposited into a special account as enabled by M.G.L. Chapter 44, Section 53G, referred to herein as the "53G Account". This fee shall be imposed on those applications which, in the judgement of the Planning Board, 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, lawyers, 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.
- b.) Should it become apparent to the Planning Board that an application requires the services of outside consultants for proper review, the Board may require the imposition of a Project Review fee, *even if it is not normally part of the review process for that type of application.*

3.2 Procedures

- a.) Monies shall be collected from the Applicant and deposited into the 53G Account upon submission 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.
- b.) Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
- c.) The Planning Board shall determine the amount of initial deposit to be made as put forth in Section 3.3, and the amount of any additional funds required during the process, should the Applicant's 53G Account approach depletion.
- d.) Failure of an Applicant to pay a review fee shall be grounds for denial of the application.
- e.) Any excess amount attributable to a particular project, including accrued interest, will be repaid to the Applicant, or the Applicants successor in interest, upon final action on an application as specified under Section 4.2. 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.

3.3 Schedule of Project Review Fees (Initial Deposit)

The following Project Review Fees for the indicated application types are to be submitted with their initial applications. These fees may be modified at the sole discretion of the Planning Board as warranted by a particular project.

Type of Application	Initial Project Review Fee
a) ANR Plan	Cost of any necessary inspection by Town Engineer
b) Preliminary Subdivision Plan	\$3,000
c) Definitive Subdivision Plan	\$6,000*
d) Special Permits, except as listed under e) & f), below.	\$2,000*
e) Special Permits for Senior Village Developments	Same as Preliminary or Definitive Subdivision, as applicable
f) Special Permit or Site Plan Review applications not requiring outside consultant review	Cost of advertising & notification
g) Site Plan Review	\$2,000*
h) Site Plan Review for commercial structures over 3,000 square feet	\$4,000*
i) Request to Release Lots from Covenant or Reduce Amount of Performance Guarantee	Cost of Town inspection-minimum of \$500 deposit (unless there is a remaining balance of \$1,000 or more in the review account for the applicable project).
j) Request for public road acceptance	\$1,000 (unless there is a remaining balance of \$1,000 or more in the review account for the applicable project).
k) Major and Complex Projects	See Section 3.4

*The Initial Project Review Fee covers general civil engineering review. Projects requiring additional consultant review, such as a traffic consultant, may require an additional review fee.

3.4 Major and Complex Projects

A fee may also be assessed for "Major and Complex" Projects. For the purposes of assessing a fee under this subsection 3.4, a major and complex project is a project for which the Board is likely to require substantial outside technical and/or legal assistance due to factors such as the novelty and technical complexity of the project; and/or the potential for adverse impacts; and/or the need for close scrutiny of the project; and/or the size and scope of the project. Such fee shall be determined on a case by case basis in consultation with the Town Engineer and other Town Departments and shall be based upon the estimated expenses for professional services required to review and/or inspect the project for compliance the Town's Bylaws and Regulations.

3.5 Other Types of Applications

The Planning Board may impose outside review fees for other types of applications or review not specifically listed in Section 3.3 (e.g. complicated ANR plans, request for review of substandard roadways). Such fees shall be based upon an estimate of the anticipated review costs.

3.6 Multiple Applications

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 53G Account, and not the sum of those fees.

3.7 Replenishment/Subsequent deposits.

When the balance in an Applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee the Planning Board shall consider whether to require a supplemental Project Review Fee to cover the remaining project review. The Planning Board may also require a supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

4.0 Administration of Project Review Fees

4.1 General

Funds collected from various Applicants for the 53G Account shall be submitted to the Town Treasurer for deposit into an account separate from other funds and shall be administered in accordance with MGL Ch. 44, Section 53G.

4.2 Excess Fees

Excess fees in the 53G Account including accumulated interest, shall be returned to the Applicant at the conclusion of the review process as defined herein:

- a.) With the approval or disapproval (final action) of a Preliminary Subdivision Plan.
- b.) With the disapproval (final action) of a Definitive Subdivision Plan.
- c.) With the release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.
- d.) With the final inspection or the approval or disapproval (final action) on all other types of applications under the Leicester Zoning By-law, whichever comes later.

4.3 *Delinquent Accounts*

All costs of collection associated with past due accounts shall be borne by the Applicant. A Stop Work Order may be placed on any projects with an outstanding balance.

5.0 Appeal of the Selection of the Consultant(s)

The Applicant may appeal the selection of an outside consultant to the Board in accordance with MGL Ch. 44, Section 53G. 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 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. The Applicant must specify the specific grounds which the Applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements. The required time limits for action upon an application by the Planning Board shall be extended by duration of the administration appeal.

6.0 Revision of Fee Schedules and Regulations Governing Fees

The Planning Board may review and revise its regulations and fee schedules from time to time, following an advertised public hearing. Any amendments to these regulations shall take effect upon filing a copy the amendments with the Leicester Town Clerk.

Adopted by the Leicester Planning Board on the 6th day of May, 2003, amended the 7th day of March, 2006

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