

**REGULATIONS GOVERNING FEES
AND
FEE SCHEDULES**

Granby Conservation Commission

Adopted 12 July 2011

SECTION 1. INTRODUCTION.

1.1 Procedural History. On 12 July 2011, the Granby Conservation Commission held a public hearing, pursuant to M.G.L. c. 44, §53G, to consider proposed regulations governing fees. At the close of the public hearing, the Conservation Commission voted to adopt regulations governing fees and a new schedule of fees for review conducted by the Conservation Commission 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 Conservation Commission's rules governing the assessment and collection of fees and its current fee schedules.

1.2 Purpose. As provided by M.G.L. c. 44, §53G, the Granby Conservation Commission may impose reasonable fees with the approval of the Selectboard for the employment of outside consultants, engaged by the Conservation Commission, for specific expert services. The Commission may also assess fees related to application review, permit conditioning, and/or monitoring. 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 Conservation Commission; to take advantage of the procedures offered by M.G.L. c. 44, §53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Conservation Commission.

SECTION 2. FEE STRUCTURES AND REGULATIONS.

2.1 General. The Conservation Commission shall collect reasonable fees for the review of applications that come before it. The Conservation Commission may collect 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 Project Review Fees shall be paid by check or bank certified check, made payable to the Town of Granby, at the discretion of the Commission.

SECTION 3. ADMINISTRATIVE FEES.

3.1 Applicability. An Administrative Fee shall be assessed to offset the expense of review by the Conservation Commission 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 Conservation Commission set forth below. This schedule supersedes all previous schedules as they may have appeared in any listings that may have been compiled from time to time for the benefit of applicants.

- A. Requests for Determination of Applicability – \$65 and may include one site visit;
- B. Abbreviated Notice of Resource Area Delineation – only as per the current MassDEP fee schedule;
- C. Notice of Intent – only as per the current MassDEP fee schedule;
- D. Amendment of an Order of Conditions - \$75;
- E. Request for Extension of an Order of Conditions or Order of Resource Area Delineation - \$100;
- F. Certificate of Compliance - \$100; includes one site visit.
- G. Site visits in connection with Building Permit applications - \$65

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

- A. If the number of proposed lots or units 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 or units. No review of these additional lots or units shall take place until this additional fee is paid to the Conservation Commission office. Failure to make this payment after requesting additional lots shall be grounds for denial of the application.

- B.** If the number of proposed lots or units 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 Conservation Commission, no cost associated with the review of those lots or units has yet been incurred.

3.5 Fee Waivers. The Conservation Commission may waive or reduce any Administrative Fee, if, in the opinion of the Commission, unusual circumstances exist regarding the subject property or the applicant.

3.6 Refund. Once the review process has commenced, the Conservation Commission 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 Conservation Commission shall assess a Project Review Fee on those applications which require, in the judgment of the Conservation Commission, 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 Commission may engage engineers, planners, wetland consultants, lawyers, designers, or other appropriate professionals able to assist the Commission and to ensure compliance with all relevant laws, by-laws and regulations. Specific consultant services may include, but shall not be limited to, application and plan review, site inspections, resource area delineation review, analysis of resource area values, wildlife habitat evaluation review, literature review on an issue, preparation of written review and recommendations, preparation of suggested Orders of Conditions, project compliance monitoring, review of impacts on municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Conservation Commission and/or its Designee.

4.2 Notice. The applicant may meet with the Commission prior to the public hearing to discuss whether an outside consultant will be necessary; however, this does not exclude the Commission from determining whether an outside consultant will be necessary after the applicant presents the project to the Commission at the hearing. The Conservation Commission shall give written notice to the applicant of the selection of an outside consultant. Such 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 mailed and delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five (5) days of the date notice is given.

4.3 Submittal. Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to M.G.L. c. 44, §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.

4.4 Schedule of Project Review Fees. The following schedule applies to the types of applications to the Conservation Commission as set forth below. This schedule supersedes all previous schedules as they may have appeared in any listings, which may be compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Conservation Commission 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. Request for Determination of Applicability, Application for Order of Resource Area Delineation, Notice of Intent:

<u>Project Size</u>	<u>Fee</u>
Less than 1.0 acres	\$1,000
1.0 — 2.0 acres	\$2,000
2.1 — 5.0 acres	\$3,000
Greater than 5.0 acres	\$1,000/acre

<u>Project Characteristics</u>	<u>Additional Fee</u>
Proposals for permits for activities within the following areas and/or within the buffer zones or riverfront areas associated with:	\$500

- Outstanding Resource Waters as designated in 314 CMR 4.00;
- Special Resource Waters as designated in 314 CMR 4.00;
- Recharge areas for public water supplies as defined in 310 CMR 22.02 (Zone I, Zone II, and Interim Wellhead Protection Areas for ground water sources and Zone A for surface water sources);
- Bathing beaches as defined in 105 CMR 445.000

B. Permit for activities by public utility companies for work around utility lines.	<u>Fee</u> \$1,000
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C. Amendment, Modification or Extension of Order of Resource Area Delineation, or Order of Conditions.

<u>Project Size</u>	<u>Fee</u>
Less than 1.0 acres	\$100
1.0 — 2.0 acres	\$200
2.1 — 5.0 acres	\$300
Greater than 5.0 acres	\$100/acre

D. Certificates of Compliance

<u>Project Size</u>	<u>Fee</u>
Less than 0.5 acres	\$100
0.5 — 2.0 acres	\$200
2.0 — 5.0 acres	\$300
Greater than 5.0 acres	\$100/acre

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 Conservation Commission may require a supplemental Project Review Fee to cover the cost of the remaining project review.

4.5 Inspection Phase. After the granting of a Permit, the Conservation Commission 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 M.G.L. c. 44, §53G.

- A. Outside consultants retained by the Conservation Commission 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 Conservation Commission 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 Conservation Commission office 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 Selectboard 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 Conservation Commission 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 Conservation Commission office, 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 Commission with documentation establishing such succession in interest as well as the approval or disapproval of a Permit or Permit Application.

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

- A. The Selectboard 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, M.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 Conservation Commission shall be extended by duration of the appeal.

- D. If no decision is rendered by the Select Board within one month following the filing of the appeal, the selection made by the Conservation Commission 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 Conservation Commission 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 associated with past due accounts shall be borne by the applicant.

5.3 Current Delinquents. All applicants owing fees to the Conservation Commission 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 Conservation Commission may review and revise its regulations and fee schedules from time to time, as it sees fit, with the approval of the Select Board.

- A. A public hearing will precede any amendments.
- 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 Conservation Commission will review its regulations and fee schedule on an annual basis.
 - 1. The Commission may waive this provision in any year with a motion carried by a majority of the Commission members.