

REGULATIONS OF THE BURLINGTON SELECT BOARD/PLANNING BOARD  
REGARDING THE USE OF OUTSIDE CONSULTANTS FOR SMALL WIRELESS  
FACILITIES

Effective Date: August 15, 2022

**A. Purpose**

As provided by *M.G.L. c.44, §53G*, the Burlington Select Board/Planning Board (“Board”) may impose reasonable review fees to be charged to permit applicants for the employment of outside consultants, engaged by the Board, for specific expert services to assist the Board in reviewing permit applications and monitoring the activities of permits, licenses, or authorizations for small wireless facilities. These review fees may be assessed to applicants for any permits, licenses, or authorizations required by regulations issued by the Board under the authority of Town General Bylaw Article XIII, 1.43/Zoning Bylaw Section 8.4.8.

**B. Authority**

These regulations are issued pursuant to the authority granted to the Board by G.L. c. 44, § 53G and Town General Bylaw Article XIII, 1.43/Zoning Bylaw Section 8.4.8.

**C. Special Account**

Funds received pursuant to these regulations shall be deposited with the Town Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation, as provided in G.L. c. 44, § 53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a review fee has been collected from the applicant. Expenditures of accrued interest may also be made for these purposes.

**D. Consultant Services**

Specific consultant services may include: technical and legal review of applications and additional materials submitted by the applicant or other interested parties; provision of advice, information and recommendations relevant to the Board’s consideration of a permit application; monitoring of permitted activities; review of information (such as monitoring data) submitted to the Board; and provision of advice, information and recommendations relevant to the Board’s oversight of permitted activities. The consultant shall be chosen by, and report only to, the Board and its designee.

**E. Notice**

The Board 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 review fee to be charged

to the applicant for the consultant's services, 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, hand delivered, or electronically transmitted. No review fee shall be required from the applicant if the application or request is withdrawn within five days of the date notice is given.

**F. Payment of Fee**

The initial review fee must be received with the application. The Board may request an additional review fee if information provided by the applicant during the permit proceeding requires additional consultant services. Failure or refusal by the applicant to pay the initial review fee will cause for the Board to reject the permit application as incomplete. Failure or refusal by the applicant to pay an additional review fee may be cause for the Board to deny the permit application.

**G. Appeals**

The applicant may appeal the selection of the outside consultant to the Select Board, who may disqualify the selected consultant 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 a related field. Such an appeal must be in writing and received by the Select Board (with a copy received by the Planning Board) within ten (10) days of the date consultant fees were requested by the Board. The required time limits for action upon the underlying permit application shall be extended by the number of days between receipt of the appeal and its resolution by the Select Board.

**H. Return of Unspent Fees**

When the work of the outside consultant regarding a particular project is completed, any balance in the special account attributable to that project shall be returned within 30 days. The excess amount, including interest, shall be repaid to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with appropriate documentation supporting that claim. A final report of said account shall be made available to the applicant or applicant's successor in interest.