

Rules for Hiring Outside Consultants
Under MGL Ch. 44 §53G

As provided by GL Ch. 44 §53G, and in accordance with GL Ch. 111 § 31, the Hamilton Board of Health ("the Board") may impose reasonable fees for the employment of outside consultants, engaged by the Board, for specific expert services deemed necessary by the Board in implementing its authority and issuing final decisions on applications submitted to the Board pursuant to the requirements of any state or municipal statutes, bylaws or regulations, as they may be amended or enacted from time to time.

Funds received by the Board pursuant to these rules shall be deposited with the town of Hamilton 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 GL Ch. 44 §53G. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purposes of this rule, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation acceptable to the Board establishing such succession in interest.

In hiring outside consultant(s), the Board may engage engineers, planners, lawyers, urban designers or any other appropriate professional who can assist the Board in analyzing the project and to ensure compliance with all relevant federal state, and local laws, statutes, bylaws, and regulations. Specific consultant services may include, but are not limited to, plan review and/or construction inspections for subdivisions, septic systems, swimming and special purpose pools, food service establishments, body art/piercing establishments, and tanning establishments. The consultant shall be chosen by, and report only to, the Board and/or its Agent.

The Board 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 given on the date it is mailed by first class United States Postal Service. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within one week of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Board may request additional consultant fees if the 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 Board within twenty (20) days of the request for payment shall be cause for the Board to determine that the application is administratively incomplete and may serve as the basis for denying the application (except in the case of an appeal of the selection of the consultant under GL Ch. 44 §53G and these Rules).The Board shall state such in a letter to the applicant. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee.

The applicant may appeal the selection of the outside consultant to the selectboard (Hamilton Board of Selectmen), 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 a related field. Such an appeal must be in writing and received by the selectboard and a copy received by the Board of Health, so as to be received within twenty (20) days of the date consultant fees were requested by the Board of Health. The required time limits for action upon application shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Hamilton Board of Selectmen within one month following the filing of the appeal, the selection made by the Board of Health shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in GL Ch. 44 §53G.