

Article VI Fees

[Adopted 3-18-2003, effective 4-15-2003; amended in its entirety 3-12-2013; amended in part 12-10-2019]

§ 145-44 Fees established.

- A. Background; purpose. The purpose of this article is to formally establish and define the charges (fees) designated by the Board of Health for the Town of Harvard, Massachusetts, under the authority granted by MGL c. 41, § 81Q, and MGL c. 40A, § 9. This article also establishes a "593 Account," as described below, for use by the Board of Health. This document, subject to revision from time to time in a manner spelled out within, constitutes the current fee schedule and those rules governing the imposition of fees. On March 18, 2003, the Board of Health held a public hearing, and at the close of that hearing, a vote was taken to adopt the fees discussed and make them effective on April 15, 2003. Subsequently, on February 27, 2007, another hearing was held and the fee structure was amended and adopted. Because of additional requirements placed upon the Board, this new schedule of fees for the review work, conducted by the Board of Health and its consultants, on the various types of applications which come before it, is being proposed.
- (1) Historically, fees imposed for the consideration of various types of applications have been approximations of the costs of processing typical applications, without regard to the resources expended by the Board for those applications that required a more comprehensive and in-depth review. These new regulations and fees are designed to produce, as much as possible, a more equitable schedule of fees that more accurately reflects the costs of review. While it is not possible to guarantee complete accuracy in a fee structure, the Board of Health has attempted to forge a system that is as fair and reasonable as possible.
 - (2) With the addition of this new structure, the Board of Health is able to create a more exact method of assessing fees. In late 1989, the state enacted legislation (Note: This act was approved on 12-8-1989 and became effective on 3-8-1990. The Act, Chapter 593 of the Acts of 1989, inserts a new § 53G in MGL c. 44.) authorizing towns to establish special accounts, hereafter referred to as "593 Accounts," to pay for the employment of outside consultants. For applications that qualify as described below, fees charged to those applicants for the purpose of retaining outside consultants are to be deposited into a 593 Account by the Town Treasurer. The Board of Health may then expend those funds, without Town Meeting appropriation, in connection with the employment of these consultants.
- B. Fee structure and regulations established. The Board of Health shall impose reasonable fees for the review of applications which come before it. The application fee shall be comprised of one or both of the following fees: administrative fees and project review fees.
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D. Administrative fees.

- (1) An administrative fee shall be assessed to offset the expense of review by the Board of Health and its office. This administrative fee applies to all applications except those exempted below.
- (2) Administrative fees are to be submitted as part of the initial application. An application filed without the inclusion of these fees shall be determined to be incomplete, and no processing shall be performed until the proper fee has been submitted.
- (3) Since administrative fees are imposed for the review process, they are not linked to the determinations of the Board of Health. There are no fees charged for approvals or permits resulting from that review process.
- (4) Once the review process has begun, there shall be no refunding of administrative fees. This includes the withdrawal of the application by the applicant. For this reason, it is important that applicants consult with the Board of Health prior to initiating the formal application to insure that the appropriate permits and review are being sought.

E. Schedule of Administrative Fees.

- (1) The following is the schedule of fees for all types of applications which come before the Board of Health. This fee schedule supersedes all previous schedules.

Board of Health Fee Schedule

Type of Application	Fee
Sewage disposal system permits	
Base project review (if required)*	\$500
New permits	\$100
Repair/upgrade permits	\$50
Renewal permits	\$25
Transfer permits	\$25
* See Project Review Fee and Schedule of Project Review Fee "B."	
Well permits	
Construction/destruction (new)	\$20
Hearings per lot	
Local variance	\$20
State variance	\$30
Pool safety inspection	
Initial	\$10
Soil remediation	
Subdivision	\$100
Lot	\$25

Board of Health Fee Schedule

Type of Application	Fee
Stable permits	
Initial permit	\$0
Renewal (annual)	\$0
Title 5 inspection	
Per report	\$25**
** Does not include additional \$25 for NABOH to process and provide electronic PDF copy - See	
Waste hauler permits	
Initial permit	\$250
Renewal (annual)	\$150
Tobacco product sales permit	
Initial	\$75
Renewal (annual)	\$75
Marijuana operating permit	
Initial	\$75
Renewal (annual)	\$75

- (2) Exemptions. Some types of Board of Health activities require no administrative fee.
- (a) Informal discussions shall require no fee.
- (b) The Board of Health may waive any administrative fee for applications brought forward by other Town departments.
- (3) Waivers and modifications. The Board of Health, at its option, may waive or reduce any fee under these provisions if, in the opinion of the Board, unusual circumstances exist resulting in an application fee not envisioned or intended with the adoption of this article. Such judgment by the Board of Health shall require a motion carried by a majority of the Board members.

F. Project review fees.

- (1) Purpose; applicability; procedure. This project review fee (Note: The term "fee" has a different connotation when used in the phrase "project review fee" than when used in the phrase "administrative fee." Administrative fees are exact payments assessed to an applicant and are therefore a precise, known project cost. Project review fees, in excess of the base fee, are deposits into a special "escrow" account from which expenses for expert consultant will be paid. Any excess left in the account will be returned to the applicant, plus interest accrued. The actual "fee" is not known at the time the project is presented for review and, therefore, the total fee imposed cannot be determined until the project review is completed.) is to be deposited into a special account as enabled by MGL c. 44, § 53G, referred to herein as the "593 Account." This fee shall be imposed on those applications which, as determined by the Board of Health, require the services of outside consultants due to the size, scale or complexity of the

proposed project. The Board may also impose this project review fee because of a project's potential impacts, or because the Board has determined that the Town would be better served by retaining the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, designers or any 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 is not 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. (An administrative fee of \$500 shall be assessed for applications of this nature and shall be described as "Base Project Review Fee.")

- (a) Monies shall be collected from the applicant and deposited into the 593 Account upon submission of the application. The applicant must also furnish the Town Treasurer with either a federal identification number or a social security number for earned interest reporting to the Internal Revenue Service.
- (b) Outside consultants retained by the Board of Health to assist in the review of an application shall be paid from this account.
- (c) The Board of Health shall determine the amount of initial deposit to be made, as put forth in the accompanying schedule. Should the applicant's 593 Account approach depletion during the process, the Board will require additional funds, in amounts determined by the Board and consistent with the scope of the project.
- (d) Any excess amount attributable to a particular project, including accrued interest, will be repaid to the applicant, or the applicant's successor in interest, at the conclusion of the review process. 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.
- (e) Should it become apparent to the Board of Health that an application requires the services of outside consultants for proper review, the Board may require the imposition of this second type of fee, even if it is not normally part of the review process for that type of application, and providing that said imposition is in compliance with the state enabling legislation.

(2) Administrative appeal.

- (a) The choice of a consultant selected by the Board of Health for the review of an application may be appealed, in writing, to the Board of Health by the applicant, providing such appeal is initiated and postmarked within two weeks of the initial selection.
- (b) The Board shall convene a formal hearing within 20 days of receiving a written appeal filed by an applicant.
- (c) There are two conditions which will disqualify the selected consultant:

[1] Conflict of interest. A consultant may not have a financial interest in a 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 (Chapter 268A).

- [2] Lack of appropriate qualifications. A consultant must 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.
- (d) The two conditions of Subsection F(2)(c) above are the only grounds for an appeal.
- (e) The required time limits for action upon an application by the Board of Health shall be extended by the duration of the administrative appeal.
- (f) If no decision is rendered by the Board of Health within 30 days following the filing of the appeal, the selection initially made by the Board of Health shall stand.
- (g) This administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.
- (3) Administration of funds for project review fees.
 - (a) Funds collected from various applicants for the 593 Account shall be turned over to the Town Treasurer by the Board of Health office for deposit into an account separate from other funds.
 - (b) A copy of the latest statement from the banking institution handling the 593 Account shall be forwarded from the office of the Town Treasurer to the Board of Health office as soon as it is received to allow for timely and accurate accounting.
 - (c) The Town Accountant shall prepare a report on activity in the 593 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 of Harvard.
 - (d) An accounting of an applicant's funds held in the 593 Account may be requested by the applicant at any time.
 - [1] The Board of Health shall respond to the request in a timely fashion.
 - [2] This accounting shall include a report of all deposits made to the account and invoices paid from the account for the project.
 - [3] This accounting shall not include an estimate of accumulated interest since the last banking statement.
 - (e) An applicant may request an estimate of bills pending from consultants for work completed, or in

progress, but not yet invoiced. It should be understood that this information will take a longer time period to gather. Because of the extra work involved, applicants should request this further accounting only if they are contemplating withdrawal or suspension of their application.

- (f) If available, a brief account summary of the type described under Subsection **F(3)(d)** above shall be furnished to both the Board of Health and the applicant at each hearing. This will allow the Board to determine if further funds will need to be collected and deposited into the 593 Account should it approach depletion.
- (g) Excess fees in the 593 Account, including accumulated interest, shall be returned to the applicant at the conclusion of the review process as defined herein:
 - [1] With the approval or disapproval (final action) of a preliminary application. The applicant may choose to leave the remaining funds in the 593 Account, and those funds, including accumulated interest, shall be credited toward the definitive plan project review fee.
 - [2] With the approval or disapproval (final action) of a definitive application. The applicant may choose to leave the remaining funds in the 593 Account, and those funds, including accumulated interest, shall be credited toward the inspection phase project review fee.
 - [3] With the final release of the performance bond at the end of construction of an approved definitive application.
 - [4] With the final inspection or the approval or disapproval (final action) on all other types of applications under review by the Town of Harvard for this applicant.
- G. Schedule of Project Review Fees. 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 593 Account, and not the sum of those fees.
 - (1) Initial deposits. The following project review fees for the indicated application types are to be submitted with their initial applications.
 - (a) Community or industrial septic or sewerage systems: \$2,500.
 - (b) Hazardous material/waste cleanup/remediation: \$5,000.
 - (c) Subdivision/project remediation: \$1,000 plus \$250/unit.
 - (2) Exemptions from initial deposits. Applications involving a single lot do not typically require the submission of a project review fee with the initial application. The Board of Health shall consider at the first review session, or at any subsequent review session, whether such a fee is warranted and, if so, the amount of the fee. Such flexibility is necessary because the wide range of scope and scale to such applications makes it difficult to calculate an equitable project review fee without consideration of the

project on a case-by-case basis.

- (3) Subsequent deposits (depletion). When the balance in an applicant's 593 Account falls below 25% of the initial project review fee, the Board will require additional funds, in amounts determined by the Board and consistent with the scope of the project. The Board may also choose to set a different threshold (other than 25% of the initial deposit) to trigger requirements for additional fees.
- (4) Inspection phase of projects. After the granting of any permit or approval which will culminate in construction requiring inspections by Board of Health consultants, the Board may wish to make an adjustment in the funds held in an applicant's 593 Account.
 - (a) The 593 Account may be adjusted by issuing a refund to the applicant or by requiring a supplemental project review fee.
 - (b) Adjustments should be made after all bills for review services have been accounted for.

H. Revision of fee schedules and regulations governing fees.

- (1) Periodic review.
 - (a) From time to time, the Board of Health may review and revise its regulations and fee schedules.
 - (b) The Board will consider any petitions submitted by an applicant or other member of the public to make revisions in the regulations or the fee schedules.
 - (c) After being adopted by a majority vote of the Board of Health, any new regulations or alterations to the fee schedule shall take effect upon filing a copy of the amendments with the Harvard Town Clerk.

§ 145-45 Payments.

- A. Payments shall be made by personal or business checks in the form of US currency or by certified bank funds and made payable to "The Town of Harvard." These checks shall be presented to the Board of Health for deposit into the accounts of the Town of Harvard by the Treasurer in accordance with all Town policies and stipulations as noted above.
- B. In addition to the fees required by these fee regulations, there may be additional fees required by the Nashoba Associated Boards of Health (NABOH). Those fees are separate from the fees described in this regulation and must be presented to NABOH.
- C. Delinquent accounts. The following rules apply to fees owed to the Board of Health by applicants:
 - (1) 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 a one-year treasury bill plus 10% as published by the Federal Reserve Bank.

- (2) All costs of collection associated with past-due accounts shall be borne by the applicant.
- (3) All applicants owing fees to the Board of Health 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 thirty-day grace period before the commencement of any changes in interest rates or charges.
- (4) In the event that an account is delinquent for more than 90 days, the Board of Health may request that the Tax Collector place a municipal lien on the applicant's property.

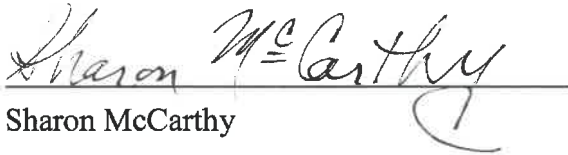
For the Board of Health,



Thomas Philippou, Chair



Libby Levison



Sharon McCarthy