

## **ADDENDUM TO ZONING BYLAWS**

### **TOWN OF BECKET**

Pursuant to M.G.L. Ch. 594 as amending Ch. 44, s. 53 G

Adopted By the Following Boards (Municipal permit granting authorities),  
hereafter referred to as the Board:

Zoning Board of Appeals Date: 3/21/01  
(Variance – G.L. C.40A, S.8 & S.9)  
(Special Permit – G.L. C.40A, S.9)(Comprehensive Permit – G.L. C.40B, S.21)

Planning Board Date: 2/14/01  
(Subdivision Control – G.L. C.41, S.81Q)  
(Special Permit – G.L. C.40A, S.9)

Board of Selectmen Date: 2/8/01  
(Special Permit – G.L. C.40A, S.9)

#### **1. INTENT**

##### **A. Authority**

When reviewing an application for permit/approval, the Board may determine that the assistance of outside professional expertise and/or consultants is warranted due to the size, scale, or complexity of a proposed project or because of a project's potential impacts.

#### **2. PROFESSIONAL EXPERTISE/CONSULTANTS**

##### **B. Professional Fields**

In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws and regulations.

##### **C. Minimum Qualifications**

All consultants selected by the Board must meet minimum qualifications consisting of:

- a) an educational degree in, or related to the field at issue, from a recognized public or private college or university,
- or

b) three or more years of practice in the field at issue or a related field.

D. Filing with Town Clerk

The selection made by the Board shall be recorded with the Office of the Town Clerk within five business days of the Board's final selection(s).

**3. ESTABLISHMENT OF SPECIAL ACCOUNT**

E. Deposit of Funds

Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose.

F. Professional Fees

The following fee schedule shall be used in determining the minimum fee required for the establishment of the special account.

<b>Fee Structure</b>	<b>Minimum Fees</b>
Subdivision – preliminary	\$2,500
Subdivision – definitive	7,500
Earth/gravel removal	2,500
Multi-family (under 25 units)	3,500
Multi-family (greater than 25 units)	5,000
Commercial (less than 10 acres)	3,500
Commercial (greater than 10 acres)	7,000
Industrial (less than 10 acres)	5,000
Industrial (greater than 10 acres)	10,000
Aquifer	3,500
Detention/retention basins	3,500
Hazardous Material	5,000
Other Special Use/Specific	2,500

G. Additional Fees

If review funds are insufficient, the Board may require the applicant to pay an additional fee to cover these costs. In case of failure to pay the additional fee, the Board may, by majority vote, allow the application to be withdrawn "without prejudice"; provided however, that any consultant fees expended or accrued during the initial review shall be handled as in Section K (Special Account to Cover Initial Review Costs).

#### H. Expenditures From Funds

Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be, collected from the applicant.

#### I. Failure to Pay

Failure of the applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

### **4. USE OF FUNDS**

#### J. Use of Funds

Review fees may only be spent for services rendered in connection with the specific project for which they were collected. These services shall include, but not necessarily be limited to: project reviews, document reviews, and project-related inspections. Accrued interest may only be spent for this purpose.

#### K. Special Account to Cover Initial Review Costs

If the outside consultant review begins and expenses are generated prior to the filing of a formal administrative appeal, all such expenses, up to the time of appeal, shall be paid out of the special account for that particular project.

#### L. Excess Funds Returned

At the completion of the Board's review of a proposed project, or at a time determined at the submission of the application/permit, 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.

#### M. Report of Account

A final report of the status of said account shall be made available to the applicant or the applicant's successor in interest; the chief elected body and chief administrative official (Town Administrator) and it shall be published in the annual Town Report.

#### N. 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 documentation that legally establishes this succession in interest.

### **5. ADMINISTRATIVE APPEAL FROM SELECTION OF EXPERT**

#### O. Appeal Body

Any applicant may take an administrative appeal from the selection of the outside professional expert and/or consultant to the Board of Selectmen.

P. Grounds for Appeal

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.

Q. Seven Days to File Appeal

Any applicant aggrieved by a selection of an outside consultant may appeal to the Board of Selectmen provided that such appeal is entered within seven days after such selection has been made as recorded in the office of the Town Clerk.

An appeal will not be considered valid unless it is formally filed with the Office of the Town Clerk with a copy given to the Board of Selectmen.

R. Waiver of Appeal

The applicant should notify the Board of its intention to seek a waiver at the earliest possible time in the review and consultant selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will then be viewed as an intention to appeal on the part of the project applicants.

Failure to inform the Board of such intention of appeal may result in the delay of start-up of the town outside services.

S. Action on an Appeal

In acting on an administrative appeal, the Board of Selectmen may determine that:

a) a conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore the Board must select another consultant,

or

b) a conflict of interest does not exist, and/or the consultant does meet the minimum qualifications , therefore the selection made by the Board stands.

T. Review Period

The required time limit for action upon an Extended Application by the Board shall be extended by the duration of the administrative appeal, beginning from the date of filing of such an appeal.

U. No Decision on Appeal

In the event that no decision is made within one month (30 days) following the filing of the appeal, selection made by the Board shall stand.

## **6. EFFECTIVE DATE, REVISION, PUBLICATION**

V. Effective date

Following the close of the public hearing, these rules regarding the hiring and payment of consultants shall become effective from the date of adoption by

majority vote of the Board and shall remain in force until revised and/or revoked.

#### W. Revision and/or Revocation

Pursuant to M.G.L. Ch. 44, Section 53G (or other applicable M.G.L.), these rules may be revised and/or revoked only by majority vote of the Board, made following a public hearing, publicly posted at the Town Hall and also published in a newspaper of general circulation, fourteen (14) and seven (7) calendar days prior to the date and time of the public hearing. The hearing notice shall state clearly the Board's intention to revise and/or revoke the rules regarding the hiring and payment of consultants.

#### X. Publication

A copy of these rules, with timely revisions as applicable, shall be published as an addendum to the Town of Becket By-Laws/Zoning By-Laws.