

**IMPACT FEE
REGULATIONS**



TOWN OF NEW DURHAM

ADOPTED DECEMBER 1, 2009

EFFECTIVE JANUARY 1, 2010

AMENDED FEBRUARY 16, 2011

IMPACT FEE REGULATIONS

1. Purpose: The Purpose of these regulations is to direct the Building Inspector and the Finance Director of the Town of New Durham in the administration of the Impact Fee ordinance adopted as part of the New Durham Land Use and Zoning Ordinance on March 8, 2008.
2. Authority and Responsibility
 - a. These regulations are adopted under the authority granted to the Planning Board in Article XIII, Section B of the New Durham Land Use and Zoning Regulations.
 - b. The Planning Board will include a condition of approval for all new subdivisions specifying that an impact fee is assessed on all building lots in the subdivision, and identifying the per square foot fee with which the amount of the impact fee will be calculated at the time a building permit is issued. This square foot fee will remain in effect for 4 years from the date of conditional approval of the subdivision by the Planning Board, or until such time as the Planning Board revises the amount of the fee, whichever date is later.
 - c. The Building Inspector will calculate the amount of the impact fee that must be paid by all applicants for a building permit for all new development construction permitted in New Durham after March 11, 2009. This calculation will be completed before issuing a building permit. The Building Inspector will collect the fee before issuing a Certificate of Occupancy
 - d. The Finance Director shall be responsible for the stewardship of all funds collected for impact fees, and the payment of those fees to the Governor Wentworth School District as directed in Article XIII.E.
3. New development construction means any of the following:
 - a. The construction of any new dwelling unit;

- b. The expansion of any existing year round dwelling that results in a cumulative increase¹ in living area greater than 150 square feet;
- c. Changes to an existing structure that would result in a net increase in the number of dwelling units or in the number of bedrooms within existing dwelling units;
- d. The conversion of an existing seasonal dwelling unit to a year round home through winterization or other improvements that enable the structure to be occupied on a year-round basis; or
- e. The conversion of an existing use to another use that is determined by the Planning Board to result in a measurable net increase in the demand on the public capital facilities that are the subject of impact fee assessment.
- f. New development shall not include the replacement or reconstruction of an existing structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use; and
- g. Porches, garages, sheds, decks and other non-habitable space will not be charged an impact fee.

4. Amount and Collection of Fees

- a. The amount of the Impact Fee for school construction shall be \$2.49 per square foot of liveable space. This amount is based on the analysis and report prepared by BCM Planning and accepted by the Planning Board on November 17, 2009. There will be no impact fee assessed or charged for the first 150 sq feet of new living space.² The maximum sq. footage subject to the impact fee will be 3000 sq. feet of living space
- b. The Impact Fees shall be assessed at one of two times:
 - i. At the time the Planning Board approves a subdivision plat or site plan; or
 - ii. If no Planning Board action is required, at the time a building permit is issued.

¹ An addition of 150 square feet followed by a second addition of 150 square feet two years later is a cumulative increase in living area of 300 square feet.

² Thus an addition of 160 square feet will be charged the impact fee for $160 - 150 = 10$ square feet. $\$2.49 \times 10 = \24.90 .

- c. The impact fee must be paid in full before the Building Inspector can issue a certificate of occupancy.

5. Appeals.

A person who believes an administrative error has been made in the assessment, calculation, or collection of an Impact Fee may appeal to the Zoning Board of Adjustment as provided in RSA 677:15.

6. Managing Collected Fees

- a. The New Durham Finance Director shall
 - i. Establish an individual public capital facilities impact fee account for public school facilities and for any other capital categories for which the Planning Board shall assess an impact fee;
 - ii. deposit all impact fee payments into the impact fee accounts only;
 - iii. record all fee payments by date of payment, name of the person making payment, capital purpose of the payment, and the parcel, lot or building for which the payment is made;
 - iv. Maintain an updated record of the current ownership, tax map and lot reference number of each property for which an impact fee has been paid; and the amount of all fees paid, and all interest accrued, for a period of at least six (6) years.
 - v. Impact fees shall be paid out or applied to the provision of public capital facilities only upon specific authorization by the Board of Selectmen.

7. Refunds

- a. If 1) the impact fee has not been encumbered or legally bound to be spent within a period of six (6) years from the date of the final payment of the fee; or 2) the Town or the School District has failed to appropriate the non-impact fee share of related capital improvement costs within that period, the owner of record of an assessed property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest.
- b. The Board of Selectmen shall be responsible for determining whether the criteria in Section 7.a. have been met and the owner of record is due a refund. The Board shall then issue a written notice of the refund

amount due, including accrued interest, and make payment of same to the owner.

8. Amendment

These regulations may be amended by majority vote of the Planning Board following a public hearing according to the provisions of R.S.A.675:6.

Public Hearing held on February 1 and 15, 2011

Approved by the Planning Board on February 15, 2011

Certified on February 15, 2011 by the Planning Board

Certified on February 16 by the Town Clerk.

Effective February 16, 2011

_____ Paul Raslavicus, Chair

_____ Robert Craycraft, Vice-Chair

_____ David Bickford, Selectmen's Representative

_____ Dorothy Veisel, Member

_____ Carole Ingham, Town Clerk