

**SECTION XXXV COMMERCIAL ARCHITECTURE** (Added March 2007)

**I. STATUTORY AUTHORIZATION**

- A. RSA Title LXIV, Chapters 674:16, Grant of Power
- B. 674:21, Innovative Land Use Controls

**II. PURPOSES AND APPLICABILITY**

A. General Purposes

1. To preserve and enhance the rural, small town character of Newton through architectural design that replicates in scale and character the best examples of traditional neighborhood design from the historic towns and villages of New England and to create and clearly delineate public and private spaces to enhance the quality of life and aesthetic quality of both the residents of the development and the town as a whole;
2. To promote traditional village building and site development patterns with an interconnected pattern of streets, alleys, and lanes, which provides for safe and efficient vehicular travel at a scale consistent with the small, rural village setting, and which provides for the connection of those streets to existing and future developments;
3. To protect environmental resources and to preserve scenic vistas, agricultural areas, and unique natural features of the landscape;
4. To provide for pedestrian and bicycle travel throughout the development through the creation of sidewalks, paths, and bicycle paths;
5. To promote the use of neighborhood greens, pocket parks, landscaped streets, and access to greenspace to provide space for recreation and social activity, and to provide visual enjoyment;
6. To provide a mix of housing styles, types, and sizes, to accommodate households of all ages, sizes, and incomes;
7. To provide buildings for civic assembly and neighborhood activities that promote the development of social networks and community and provide a visual focal point for the village subdivision; and
8. To promote the management of growth and the implementation of innovative land use controls consistent with RSA 674 in order to protect environmental resources, control sprawl, reduce traffic congestion, and enhance the sense of community of new developments and redeveloped areas.

B. Applicability

1. The standards in this section are applicable within the Commercial District(s), whose location and boundaries have been selected to be consistent with policies in the Master Plan.
2. The standards in this section are also applicable to any proposed change of use or expansion of use for commercial properties outside of the Commercial District(s).

**III. COMMERCIAL DESIGN STANDARDS**

A. Architectural Design Standards

1. General. The following architectural design standards shall apply to all structures.
2. Buildings.
  - a) Scale and Style. Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local context, except however, where existing development does not represent a consistent architectural style or does not

incorporate a building design that reflects the rural character and architecture of New England towns, buildings should instead be designed to improve the overall streetscape, relying on the design standards set forth in this ordinance.



**Figure 1. Scale and Style**

- b) As a general rule, buildings shall reflect a continuity of treatment obtained by maintaining the building scale or by subtly graduation changes, by maintaining small front setbacks, by continuous use of front porches on residential buildings, by maintaining cornice lines in buildings of the same height, by extending horizontal lines of fenestration, and by echoing architectural styles, details, design themes, building materials, and colors used in surrounding buildings where such buildings represent the rural character and architecture of New England towns.
- c) Corner Lots. Buildings on corner lots shall be considered significant structures, given that they have at least two front facades visibly exposed to the street. If deemed appropriate by the planning board in its design review, such buildings may be designed with additional height and architectural embellishments, such as corner towers, steeples, or other features to emphasize their location and serve as a visual focal point for the area.



**Figure 2. Corner Lots**

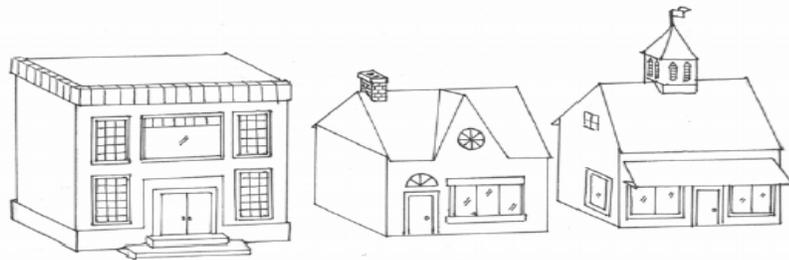
- d) Walls and Planes. Buildings shall avoid long, monotonous uninterrupted walls or roof planes. Offsets including projections, recesses, and changes in floor level shall be used in order to add architectural interest and variety, and to relieve the visual effect of a simple, long wall. Similarly, roof-line offsets shall be provided, in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof. Flat roofs should be avoided in favor of pitched roofs.
- e) Buildings with more than one façade facing a public street or internal open space shall be required to provide multiple front façade treatments.

- f) The architectural treatment of the front façade shall be continued, in its major features, around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors, and details. Bland wall or service area treatment of side and or rear elevations visible from the public viewshed is discouraged.
- g) Base Course and Cornice. All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall align with either the kickplate or sill level of the first story. The cornice shall terminate or cap the top of a building wall, may project horizontally from the vertical building wall plane, and may be ornamented with moldings, brackets, and other details. The middle section of a building may be horizontally divided at the floor, lintel, or sill levels with belt or string course.



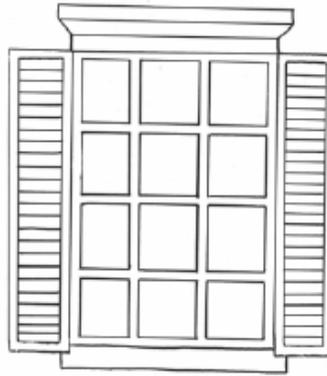
**Figure 4. Cornice and Base**

- h) Roofs. Gable roofs with a minimum pitch of 9/12 should be used to the greatest extent possible. Where hipped roofs are used, it is recommended that the minimum pitch be 6/12. Both gable and hipped roofs should provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall. Flat roofs should be avoided on one-story buildings, but may be used on buildings with a minimum of two stories, provided that all visibly exposed walls shall have an articulated cornice which projects horizontally from the vertical building wall plane. Other roof types should be appropriate to the building's architecture. Mansard roofs are generally discouraged, particularly on buildings less than three stories in height. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers, and other similar elements are encouraged.



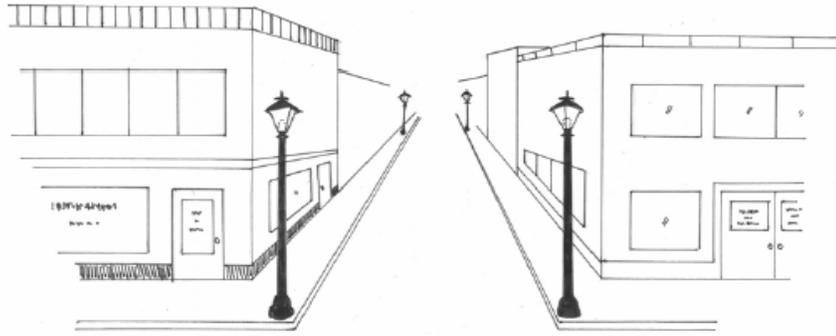
**Figure 5. Roofs**

- i) Windows/fenestration. Fenestration shall be architecturally compatible with the style, materials, colors, and details of the building, and appropriate to a rural New England setting. Windows shall be vertically proportioned wherever possible. To the extent possible, upper story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows. Blank, windowless walls are discouraged. Storefronts are an integral part of building and shall be integrally designed with the upper floors to be compatible with the overall façade character. Ground floor retail, service, and restaurant uses should have large pane display windows, framed by the surrounding wall, and shall not exceed 75 percent of the total ground level façade area.



**Figure 6. Windows**

- j) Entrances. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades, and others, where appropriate. Any such element utilized shall be consistent with the style, materials, colors, and details of the building as a whole, as shall the doors. Awnings are permitted where they compliment the building's architectural style.
- k) Light fixtures. Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building and shall comply with local building codes. The type of light source used on the exterior of buildings, signs, parking areas, pedestrian walkways, and other areas of a site, and the light quality produced, shall be the same or compatible. Facades shall be lit from the exterior, and, as a general rule, lights should be concealed through shielding or recessed behind architectural features. The use of low-pressure sodium, fluorescent, or mercury vapor lighting either attached to buildings or to light the exterior of buildings shall be prohibited. Mounting brackets and associated hardware should be inconspicuous.
- l) Lighting. Street lights shall be decorative and shall blend with the architectural style of the community. Along all commercial or mixed-use streets, parking areas, sidewalks, walkways, courtyards, community greens, and interior open spaces, decorative light posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial or main street. Light posts should be at least ten feet high. In parking areas, post heights may extend to a maximum of sixteen feet. Wall-mounted light design shall be incorporated into the street lighting design.



**Figure 7. Street lights**

- m) Air conditioners and other fixtures. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, dumpsters, propane/fuel tanks, transformers, satellite dishes, and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping. In no case will chain-link fencing be permitted for screening.
- n) Fire escapes. Fire escapes shall not be permitted on a building's front façade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.
- o) Security. Solid metal security gates or solid roll-down metal windows shall not be permitted. Link or grill type security devices shall be permitted only if installed from the inside, within the window or door frames. Security grilles shall be recessed and concealed during normal business hours.

**B. Signs**

1. General. All signs within a new development must conform to the following requirements. All signs within a development must be consistent with the overall design of the development, and should be constructed of wood, granite, painted cast metal, bronze, brass, or other material consistent with the materials used in the building's façade or fixtures. Plastic panel rear-lighted signs are not permitted. Billboards are not permitted. Signs employing mercury vapor, low pressure and high-pressure sodium, and metal halide lighting are not permitted.
2. Design. Unique and interesting designs are encouraged in the lettering and graphics of each sign. Signs may be attached to the building and project outward from the wall so long as the sign does not project outward from the wall to which it is attached more than eighteen inches. Projecting signs must be no larger than four square feet. Projecting signs must be at least ten feet above the ground. Signs attached to the front façade shall not exceed the dimensions of the façade.
3. Height. The maximum permitted height of signs is fifteen feet above the front sidewalk elevation, and shall not extend above the base of the second floor windowsill, parapet, eave, or building façade.
4. Freestanding signs shall only be permitted where the business is not attached to any other buildings. All freestanding signs must be no larger than four feet in height and no greater than six feet in width. Freestanding signs constructed of natural materials such as granite or wood are encouraged.
5. Signs that list more than one business shall not be permitted except in instances where a building contains multiple businesses or offices that are not distinguishable from the street.

6. Street address numbers shall be clearly marked in any new development and included in the design of the front façade or signage of individual buildings.
7. Company logos that contain bright or garish colors or designs shall be muted to harmonize with the overall color scheme and design of the development.

C. Landscaping

1. All developments must contain a landscaping plan that lists the location, species, and suitability of plant species to the site.
2. Existing trees and other features of the land shall be protected in the development of the site to the greatest extent feasible.
3. Where merited, trees shall be planted to enhance public spaces, open spaces, and streetscapes. The Planning Board will meet with the developer's landscape architect to review the landscape plan and suggest any appropriate landscaping improvements to the site to enhance the development consistent with the landscape requirements mentioned elsewhere in this ordinance.

D. Parking

1. All parking for commercial areas must be on-street or in the rear of buildings.
2. Rear parking areas shall be landscaped with a line of low shrubs or suitable foliage every two rows of spaces.

Drawings within this ordinance provided by David West and Jill Robinson, Rockingham Planning Commission

**SECTION XXXVI IMPACT FEE ORDINANCE FOR PUBLIC SCHOOL FACILITIES** (Added March 2000, amended March 2005)

A. APPLICABILITY OF ARTICLE

The Town of Newton has developed a methodology for the assessment of impact fees for a proportionate share of the public school capital facilities of the Sanborn Regional School District. On the basis of this methodology, new development in Newton shall be assessed a public school impact fee that represents its proportional share of demand on the capital facilities of the District. The following regulations shall govern the assessment of impact fees for public school facilities in order to accommodate increased demand on the capacity of these facilities due to new development. These regulations are authorized by RSA 674:21, V, and other pertinent state law, as an innovative land use control. The administration of these regulations shall be the responsibility of the Board of Selectmen.

B. FINDINGS

In review of its school enrollment growth and the public school capacity available to Newton from the Sanborn Regional School District of which it is a member, the Town of Newton hereby finds that:

1. Each type of new residential development in Newton, with the exception of those having lawfully restricted occupancy that will exclude school age children, will create a need for the construction, equipping, or expansion of the public capital facilities of the Sanborn Regional School District to provide adequate public education for Newton pupils.
2. Recent and anticipated growth rates in public enrollment and associated improvement and renovation costs would necessitate an excessive expenditure of public funds in order to maintain adequate school facility standards and to promote and protect the public health, safety, and welfare.
3. The assessment of impact fees is one of the methods available to ensure that public expenditures are not excessive and that new development will bear a proportionate share of the cost of public school capital facility costs necessary to accommodate such development.

4. The Sanborn Regional School District, of which the Town of Newton is a member, provides an efficient and effective means for the towns of the District to provide educational services to the citizens of the District.
5. The impact fee methodology entitled Methodology for the Calculation of School Impact Fees in the Town of Newton, NH (prepared in 1999, and as amended) prepared for the Town of Newton, represents a reasonable, rational and proportional method for the assessment of growth-related school facility costs of the District. Based on this methodology, school impact fees will not exceed the costs of:
  - a. Providing additional public capital facilities necessitated by new residential development in Newton; and/or
  - b. Compensating the Sanborn Regional School District for school facility capacity that it provided in anticipation of new residential growth and development in Newton.
6. An impact fee ordinance for school capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Newton.

C. DEFINITIONS

1. District – The Sanborn Regional School District, of which Newton is a member municipality.
2. Fee-payer – The applicant for the issuance of a building permit which could create new development.
3. New Development – An activity which results in
  - a. The creation of a new dwelling unit or units; or
  - b. The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units.

D. ASSESSMENT OF IMPACT FEES (Amended March 2005)

1. Impact fees shall be assessed to new development to compensate the Town of Newton for the proportional share of the capital facility costs of the District generated by new development in Newton, including public school facilities to be constructed, or which were constructed in anticipation of new development.
2. Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan.
3. When no Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for the issuance of a building permit.
4. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected at the time when the development is ready for its intended use. However, the Board of Selectmen may negotiate an alternative schedule for collection with the fee payer.
5. The Board of Selectmen and the fee payer may establish an alternate, mutually acceptable schedule of payment of impact fees. If an alternate schedule of payment is established, the Board of Selectmen may require the applicant to post security, in the form of a cash bond, letter of credit, or performance bond so as to guarantee future payment of assessed impact fees.

6. No Certificate of Occupancy shall be issued for new development which is subject to impact fee assessment until the fee is paid in full.
7. Any person may request a full or partial waiver of school facility impact fees for the number of residential units that are lawfully restricted to occupancy by senior citizens age 62 or over, or to households with at least one person age 55 and over, as applicable, where such units are maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. School impact fees may, in the discretion of the Board of selectmen, be waived for such units within a complying development where the units are restricted by age for a period of at least 20 years.
8. A person may request a full or partial waiver of school facility impact fees from the Board of Selectmen for any residential units which have been approved for construction prior to the effective date of this article if the same are determined to be entitled to the four year exemption provided by RSA 674:39, to the extent that exemption is available pursuant to that statute. This waiver shall not be applicable to residential units in phases of a phased residential development project where active and substantial development, building and construction has not yet occurred in the phase in which those units are to be constructed.
9. Prior to acting on a request for waiver of impact fees under the provisions of paragraphs 3 or 4 of this section, the Board of Selectmen shall submit a copy of the waiver to the Planning Board for its review and comment, and the Planning Board shall set forth its comments in writing. In the process of its review, the Board of Selectmen shall set forth in writing its findings on the Planning Board's comments to the extent that such comments are not directly incorporated into the decision on the request for a waiver.

E. COMPUTATION OF IMPACT FEE

1. The amount of each impact fee shall be assessed in accordance with a report entitled Methodology for the Calculation of School Impact Fees in the Town of Newton, NH (prepared in 1999, and as amended), prepared for the Town of Newton and as adopted for the purposes of impact fee assessment by the Board of Selectmen.
2. In case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee assessment for the new use as compared to the highest impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Ordinance.

F. APPEALS

1. If a fee-payer elects to appeal the amount of the impact fee, the appeal shall be made to the Zoning Board of Adjustment. In support of such appeal, the fee-payer shall prepare and submit to the Zoning Board of Adjustment an independent fee calculation or other relevant study for the new development activity which is proposed. The independent study by the fee-payer shall set forth the specific reasons for departing from the adopted schedules and methodologies of the Town. The Board of Adjustment shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the fee-payer.
2. The decision of the Zoning Board of Adjustment may be appealed to the Superior Court as provided by RSA 677:2-14.

G. ADMINISTRATION OF FUNDS COLLECTED

1. All funds collected shall be properly identified and promptly transferred for deposit into a separate impact fee account for public school facilities. This impact fee account shall be a non-lapsing

special revenue fund account and under no circumstances shall such revenues accrue to the General Fund.

2. The Town Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this Article for each building permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.
3. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Sanborn Regional School District for the cost of public school capital improvements made by the District in anticipation of the needs for which the impact fee was collected.
4. In the event that bonds or similar debt instruments have been or will be issued by the District for the funding of capacity-related improvements to public schools, impact fees may be transferred to the District to pay debt service on such bonds or similar debt instruments.
5. At the end of each fiscal year, the Town Treasurer shall make a report to the Board of Selectmen, giving a particular account of all impact fee transactions during the year.

#### H. REFUND OF FEES PAID

1. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:
  - a. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
  - b. The District has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate any of the non-impact fee share of related capital improvement costs thereby permitting the capital improvement or capital improvement program for which the impact fee was collected to be commenced. If any capital improvement or capital improvement program for which an impact fee has been collected has been commenced either prior to, or within six years from the date of final collection of an impact fee, that impact fee shall be deemed to be encumbered and legally bound to be spent for said capital improvement or capital improvement program and shall not be refunded, even if it is not fully expended within the six year period.
2. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

#### I. ADDITIONAL ASSESSMENTS

Payment of the impact fee under this article does not restrict the Town or the Planning Board from requiring other payments from the fee-payer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

#### J. PREMATURE AND SCATTERED DEVELOPMENT

Nothing in this article shall be construed so as to limit the existing authority of the Newton Planning Board to deny proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Newton Zoning Ordinance, or the Newton Planning Board Site Plan Review

Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

K. REVIEW AND CHANGE IN METHOD OF ASSESSMENT (Amended March 2005)

The Methodology for the Calculation of School Impact Fees in the Town of Newton, NH (prepared in 1999, and as amended) and the associated fee schedule shall be reviewed periodically by the Board of Selectmen. Such review shall take place not more than five years from the initial adoption of this ordinance, nor more frequently than annually. Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be reviewed by the Planning Board prior to its final consideration by the Board of Selectmen. The review by the Board of Selectmen may result in recommended adjustments to the methodology and related fees based on the most recent data as may be available. The replacement or amendment of the impact fee methodology shall not be effective until it shall have been the subject of a public hearing before the Board of selectmen, noticed in accordance with RSA 675:7.

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