

DATE: May 22, 2025

TO: Windham Town Council  
THROUGH: Barry Tibbetts, Town Manager  
FROM: Steve Puleo, Planning Director  
Cc: Bob Burns, Assistant Town Manager  
Amanda Lessard, Senior Planner/Project Manager

RE: Recommendation to Amend § 120-1202 North Windham sidewalk impact fee –  
Sidewalk Impact Fee Update, Town-Wide Applicability, and Methodology  
Clarification

Town Council Meeting of May 27, 2025

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### **Overview**

This memorandum recommends reviews amending [§ 120-1202](#) the North Windham sidewalk impact fee of the Land Use Ordinance to address several key updates. These include increasing the sidewalk impact fee from \$35 to \$114 per linear foot, expanding the applicability of the fee to all subdivision and site plan approvals town-wide, and explicitly including the C-1N zoning district in the ordinance. Additionally, this memo clarifies the methodology used in [Appendix E\[1\]](#), outlines the process for expanding the fee's applicability, and calls for a public hearing before the Planning Board. These changes are based on updated construction cost data, equity considerations, and statutory authority under Maine law.

### **Background**

The current sidewalk impact fee was established in 2013 using the North Windham Sidewalk Impact Fee Methodology ([Appendix E\[1\]](#)). The fee is calculated as:

$$5 \text{ feet of sidewalk} \times (\text{GFA} \div 100) \times \$35$$

This fee currently applies only within the North Windham C-1 zoning district. Since its adoption, construction costs have increased significantly, and development outside North Windham continues to generate pedestrian infrastructure needs. The existing fee no longer reflects the true cost of sidewalk construction or the broader geographic impact of development. [Appendix E\[1\]](#) assumes that every 100 square feet of new development generates the need for 5 linear feet of sidewalk. The original \$35 per foot estimate was based on 2013 costs. The updated methodology uses current regional bid data, MaineDOT estimates, and inflation adjustments via the [ENR Construction Cost Index](#). The revised cost of \$114 per linear foot includes excavation, base preparation, a 5-foot-wide sidewalk, ADA-compliant ramps, slip-form concrete curbing, and limited drainage improvements. This figure represents a conservative midpoint within the \$95 to \$145 per foot range and ensures the fee remains technically and legally defensible.

### **Recommendation**

The proposed ordinance amendment should include the following recommendations:

1. Direct staff to prepare amendments to the Land Use Ordinance for the Council Ordinance Committee, including updates to the North Windham Sidewalk Impact Fee methodology and associated performance standards.

2. Update the sidewalk impact fee to \$114 per linear foot to reflect current construction costs, including slip-form concrete curbing.
3. Apply the fee town-wide to all new developments, ensuring equitable cost-sharing and alignment with the Complete Streets policy in the Comprehensive Plan.
4. Amend the ordinance to include the C-1N zoning district, which shares similar development characteristics and infrastructure needs with the C-1 district.
5. Revise the ordinance text and Appendix E[1] to reflect the updated fee, expanded applicability, continued use of GFA as the proportional metric, and annual indexing to inflation.

### **Legal Authority**

Under 30-A M.R.S. § 4354, municipalities are authorized to assess impact fees for off-site improvements such as sidewalks, provided the fees are reasonably related to the developer's share of the capital cost. The proposed changes meet this legal standard and are consistent with Maine law.

### **Process**

To implement these changes, the following administrative process is recommended:

- The Planning Board should hold a workshop and public hearing to review and solicit feedback on the updated methodology and ordinance language.
- A legal review should be conducted to ensure compliance with state law.
- The Town Council should hold a public hearing and consider formal adoption of the revised ordinance and fee structure.
- If adopted by resolution, the official fee schedule should be updated accordingly.
- Planning and Finance staff will manage ongoing administration of the fee, including indexing and capital tracking.

### **Conclusion**

In conclusion, these proposed amendments will ensure that the sidewalk impact fee remains reflective of actual construction costs and is applied equitably across all new developments in Windham. I respectfully request that the Council refer this matter to the Planning Board for review, public hearing, and recommendation prior to formal ordinance consideration. Please let me know if additional data or a draft ordinance amendment is desired.

**Table: Summary of Potential Sidewalk Performance Standards Amendments – Chapter 120 Land Use Ordinance**

Section	District / Topic	Requirement / Standard	Notes
§120-301	General	Defines “sidewalk”	Paved pedestrian way parallel to a road
§120-410F(13)	C-1 (North & South of White’s Bridge Rd)	Sidewalk construction or impact fee required	Impact fee applies to new or expanded buildings ≥500 sq. ft.; applies to Route 302, Routes 35 & 115, River Rd, Manchester Dr

Section	District / Topic	Requirement / Standard	Notes
§120-410.1F(7)	C-1N (North of White's Bridge Rd)	Same as above	Mirror of C-1 language with specific reference to C-1N
§120-415.1F(1)(g)	WC	Sidewalks required along public roads if connecting to existing sidewalk	Must meet ADA and Appendix B design standards (Tables 3 & 4)
§120-522H	All	Technical standards for location & construction	Performance Standards apply
§120-812D	All; esp. C-1, C-1N	Pedestrian connectivity required	Impact fee in C-1 & C-1N; may fund broader projects (crossings, transit links, etc.)
§120-813D(4)	C-1, C-1N, WC (Required); C-2, C-3, C-4, VC (Optional)	Sidewalks & esplanades required/provided, or fee paid	New streets: sidewalks on both sides encouraged; encourage connectivity between commercial/residential
§120-911M(5)(b)[6]	Subdivisions (Commercial/Industrial Streets)	Mandatory sidewalks on new streets	Planning Board may require connections on existing roads
§120-911M(5)(b)	Major/Minor Local Streets in Subdivisions	Sidewalks or paved shoulders required	Within 1,000 ft of a public building/store (except Farm District); Planning Board discretion elsewhere
§120-911M(5)(b)	Location / Design	Sidewalks ≥ 7 ft setback (or as approved); one or both sides	Design exceptions allowed for site constraints or slopes
§120-911C	Maintenance	Developer responsible until accepted by Town or HOA	Includes sidewalks and snow removal
§120-1202	North Windham Impact Fee	Fee in C-1 & C-1N districts for sidewalks	\$35/linear foot × (GFA/100) × 5 ft; capped by road frontage
Master Fee Schedule (2025)	Impact Fee Rate	\$35 per linear foot	Based on ENR Construction Cost Index; expires July 1, 2026 unless extended
§120-1202	Fund Use & Allocation	Spent within subarea (1: South / 2: North of White's Bridge Rd)	Sunset when \$2.1M (Subarea 1) and \$900K (Subarea 2) collected