

PLANNING BOARD MEMO

DATE: September 8, 2025

TO: Windham Planning Board
FROM: Steve Puleo, Director of Planning
CC: Amanda Lessard, Senior Planner/Project Manager

RE: #25-15 Land Use Ordinance Amendments to Article 12 North Windham Sidewalk Impact Fee and Master Fee Schedule

Planning Board Meeting of September 22, 2025

Overview

The Staff has proposed amendments to Chapter 120, Article 12, of the Land Use Ordinance, specifically [§120-1202](#) related to the North Windham Sidewalk Impact Fee and Master Fee Schedule, to the Council Ordinance Committee on [July 2, 2025](#). The Ordinance Committee reported to the Town Council to refer to the proposed ordinance amendment to the Planning Board to conduct a Land Use Recommendation public hearing schedule for September 22, 2025. These changes aim to address the Town's ongoing concern with funding the construction of public sidewalks to support safe and accessible pedestrian movement throughout Windham.

Currently, the ordinance limits the sidewalk impact fee requirement to a single geographic area in North Windham. The fee is applied only when a developer is unable to construct the required sidewalk in conjunction with new building development. The proposed amendments would broaden the applicability of the impact fee and provide a more consistent funding mechanism for future sidewalk infrastructure town wide.

By using the existing ordinance and modifying the name of the impact fee, the proposed amendments will allow Windham to create additional impact fee areas based on studies, or Capital Improvement Plans (CIP) to establish a fair and reasonable impact fee structure. Other amendments will increase the linear foot cost, expanding the applicability of impacts to both non-residential and residential developments, including adding [§120-410.1 Commercial I- North \(C-1N\)](#) and [Commercial II \(C-2\)](#) zoning district in North Windham Sidewalk Impact Fee area, and any clarifications to the methodology used in Appendix E[1]. Finally, the amendments will use the existing 2013 sidewalk linear foot construction cost to determine the cost per linear foot, adjusted using an inflation methodology which is supported by the statutory authority under Maine law. The LUO amendments will require public hearings before the Planning Board and then back to the Town Council for adoption.

As part of its review of the proposed Land Use Ordinance (LUO) amendments, the Council Ordinance Committee directed staff to have the draft language reviewed by the Town Attorney to ensure legal consistency and enforceability.

Background

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

$$5 \text{ feet of sidewalk} \times (\text{GFA} \div 100) \times \$35 \text{ (plus Engineering News-Record (ENR))}$$

This fee currently applies only within the North Windham C-1, C-1N, and C-2 zoning districts. 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. The revised cost of \$114 per linear foot plus an inflation adjustment via the Engineering News-Record (ENR) Construction Cost Index 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.

Summary of the Proposed Chapter 120 Land Use Ordinance Amendment (per Town Attorney's review and comments)

[Article 12](#) Impact Fees

- [§120-1202](#): Strike "North" from the ordinance title.
- [§120-1202A](#): Amend, create a new subsection, and add reserved section.
 - [§120-1202A\(1\)](#): Amending this section to align with the Town's 21st Century Downtown Plan (but not include the study in the description) and are based on the methodology dated May 14, 2013 (Appendix E2). Targeted sidewalk construction areas include Roosevelt Trail (Route 302) to the Raymond Municipal , Tandberg Trail (Routes 35 and 115), River Road, and Manchester Drive.
 - [§120-1202A\(2\): Reserved](#) for future impact fee areas.
- [§120-1202B](#): Amend, create a new subsection, and add reserved section.
 - [§120-1202B\(1\)](#): As development increases, so does pedestrian activity, creating more potential conflicts with vehicles and bicyclists. To improve safety and walkability, the Town's 21st Century Downtown Plan recommends expanding the sidewalk network along major roads.
 - [§120-1202B\(2\): Reserved](#) for future impact fee areas.
- [§120-1202C](#): Town Attorney removed references to the district standards and eliminated commercial, nonresidential, and residential developments in the applicability section. He removed these references, as they would not apply to areas outside of North Windham. This makes the section easily amendable to include additional areas in the future. Just to keep things consistent with other edits throughout and enhance the three subsections.
- [§120-1202D\(1\)](#): The sidewalk impact fee in North Windham is calculated using a base formula that charges five linear feet of sidewalk per 100 square feet of gross floor area (or a property's total road frontage, whichever is greater), multiplied by the per-linear-foot rate set by the Town Council in the Master Fee Schedule. This fee is based on the 2013 North

Windham Sidewalk Impact Fee Methodology and reflects average construction costs, including curbing and drainage improvements as determined by the Director of Public Works or designee. The fee is adjusted over time based on changes in the Engineering News-Record (ENR) Construction Cost Index (from June 2013 to June 2025 would be [base fee x 1.45]). The Town Attorney does not think property frontage should be added to the formula.

- [§120-1202D\(1\)\(b\): Reserved](#) for future impact fee areas.
- [§120-1202D\(2\)](#): Attorney renumbered this section from (3) to (2).
- [§120-1202D\(3\)](#): Attorney renumber subsection from (4) to (3) to the Impact fee maximum section.
- [§120-1202D\(4\)](#): Attorney added new subsection Impact fee reduction. This section is designed to recognize properties with existing sidewalk on portion of the frontage at the time of application.
- [§120-1202D\(5\)](#): Attorney added a new subsection Impact fee refund that was collected and not expended.
- [§120-1202E](#): Strike the two subareas in the North Windham area Impact fees collected within the North Windham Commercial I (C-1), Commercial I North (C-1N), and Commercial II (C-2) Zoning Districts. All qualifying development projects must pay the sidewalk impact fee, with payment obligations continuing for future development until the total fee equals the property's frontage length multiplied by the per-linear-foot sidewalk rate. If a sidewalk already exists along part of a property's frontage, the fee applies only to the remaining frontage.
- [§120-1202E\(1\)](#): The Attorney is amending subsections that within one area including Roosevelt Trail (from Page Road to the Raymond line, Tandberg Trail, River Road, and Manchester Drive Fees must be used for sidewalk construction in the area where they are collected.
- [§120-1202E\(2\)](#): The Attorney added a provision to "Reserved" for future Impact Fee Areas.
- [§120-1202F](#): Strike entire subsection.
- [§120-1202G](#): Attorney renumber subsection from "G" to "F." The sunset provision only pertains to North Windham Sidewalk Impact Fee until the Town collects \$3.0 million (adjusted for construction cost inflation) within the designated fee area or until July 1, 2036, whichever occurs first, the change from 2026 to 2036. The extension of the sunset date is to allow the Town time to meet the collection amount plan.
- [Appendix E Methodology](#): No changes proposed in fees from \$35 to \$114 plus Engineering News-Record (ENR) Construction cost index. Combine the subareas in one area.

[Master Fee Schedule](#):

1200 - Impact Fees*Sidewalk Impact Fee

- [5 feet of sidewalk x (GFA/100)] [x (\$114 per foot [change the average cost per foot)(Engineering News-Record (ENR) Construction Cost Index])]

[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.

Zoning Amendment Process

As required by [§ 120-107](#) of the Land Use Ordinance, the proposed amendment could be referred to the Planning Board for review and land use recommendation.

There are no specific standards in the Town ordinance by which to judge the proposed LUO amendments. However, State statute requires all proposed zoning to be consistent with the goals and objectives of the Comprehensive Plan.

The Planning Board must hold a public hearing prior to making a recommendation on this item to the Town Council. The Town Council will need to vote on the proposed changes to the Land Use Ordinance for them to be officially approved. A public hearing is scheduled for September 22, 2025, Planning Board meeting. After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council, similar to the following:

MOTION: To (recommend / recommend with comments / not recommend) approval of the proposed amendments to Chapter 120, Article 12, of the Land Use Ordinance, specifically §120-1201 and 1202 related to the North Windham Sidewalk Impact Fee and Master Fee Schedule.