

**TOWN COUNCIL MEMO**

DATE: October 6, 2025

TO: Windham Town Council

THROUGH: Bob Burns, Town Manager

FROM: Steve Puleo, Director of Planning\*

CC: Barry Tibbetts, Project Manager  
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

Council Meeting of October 14, 2025

**Overview**

The Planning Board held a public hearing at the September 22, 2025 meeting ([PB 25-059](#)) has proposed amendments to Chapter 120, Article 12, of the Land Use Ordinance (LUO), specifically [§120-1201](#) and [§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 and referred the proposed LUO amendments to the Planning Board to conduct a Land Use Recommendation public hearing.

**Background**

The current ordinance limits the sidewalk impact fee to a small area in North Windham and applies it only when a required sidewalk cannot be built with new development. The proposed amendments would expand the fee's applicability town-wide, creating a consistent funding source for future sidewalk infrastructure.

Using the existing ordinance framework, the amendments would rename the fee and allow new impact fee areas to be established through studies, i.e. Windham Active Transportation study, or Capital Improvement Plans (CIPs), ensuring a fair and equitable structure. Additional changes include updating the linear-foot cost, extending applicability to both residential and nonresidential projects, adding the [Commercial I- North \(C-1N\)](#) and [Commercial II \(C-2\)](#) zoning districts to the North Windham fee area, and clarifying the methodology in Appendix E[1]. The updated fee would be based on 2013 construction costs, adjusted for inflation under Maine law. The LUO amendments will undergo Town Council public hearing before adoption. The Town Attorney has reviewed the draft for legal consistency and enforceability, and supports the amendments as presented.

**Methodology**

The North Windham Sidewalk Impact Fee Methodology ([Appendix E\[1\]](#)), established in 2013, calculates the fee currently as follows:

$$5 \text{ ft of sidewalk} \times (\text{GFA} \div 100) \times \$35(\text{ENR adjustment})$$

This applies only to the North Windham C-1, C-1N, and C-2 districts. Since 2013, construction costs have risen sharply, and development beyond North Windham now creates similar pedestrian infrastructure demands. The current fee no longer reflects true costs or impacts. Appendix E[1] assumes every 100 sq. ft. of new development generates 5 linear feet of sidewalk need. The updated methodology updates the 2013 rate with a the top end or the proposed average cost of **\$114 per linear foot plus ENR inflation**, based on regional bid data and MaineDOT estimates at the time. This includes excavation, base preparation, ADA-compliant ramps, curbing, and limited drainage, representing a conservative midpoint within the \$95–\$145 per foot range and ensuring the fee remains equitable and defensible.

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

**Article 12** Impact Fees

- [§120-1201D\(1\)](#): Strike “North Windham sidewalk” from the section.
- [§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 E1). Targeted sidewalk construction areas include Roosevelt Trail (Route 302) to the Raymond Municipal Town boundary, 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 their 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 sidewalks 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](#).

**Planning Board Review**

No public comments were received at the Planning Board's September 22, 2025, land use recommendation public hearing. The Board unanimously supported the amendments, noted pedestrian safety concerns, and suggested revising the Master Fee Schedule's Impact Fee section for clarity. The Board recommends approval of the amendments as presented.

**Recommendation**

The motion, made by Evert Krikken and seconded by Shonn Moulton, the Board voted unanimously (7-0) to recommend, with comments, approval of the proposed amendments to Chapter 120, Article 12, of the Land Use Ordinance, specifically [§120-1201](#) and [§120-1202](#) related to the North Windham Sidewalk Impact Fee and [Master Fee Schedule](#).