

§ 120-1205 **Open space impact fee.**  
**[Added 1-28-2020 by Order 20-028]**

- A. Description of improvements. The Town is planning to expand the publicly owned open space in the community to serve the needs of a growing population. The Town will use the revenue generated from the open space impact fee to acquire land or easements, including conservation easements, and improve conservation land to expand the supply of open space available for community use as set forth in the Comprehensive Plan and other studies of priorities for open space preservation.
- B. Need for improvements.
- (1) The need for publicly owned open space is a function of the size of the community's population and the supply of private open space. As the community grows and develops, it needs more preserved open space that is available to the public. The Town's adopted Comprehensive Plan identifies the need to invest in rural Windham to keep it rural. The plan proposes creating a Land for Windham's Future program that would acquire and preserve open space and that would be funded in part with an impact fee.
- (2) The supply of approximately 48 acres of Town-owned open space per thousand residents in 2019 is adequate for current needs. As the Town grows, this ratio of open space per capita will need to be maintained and serves as the basis for the open space impact fee.
- C. Applicability. All new residential development activities commenced on or after February 28, 2020, shall be subject to the open space impact fee. Any residential construction that creates one or more new dwelling units shall pay this impact fee based upon the expected population of the project, considering typical occupancy rates. This includes single-family homes that are not part of a subdivision, conversions of nonresidential buildings to residential use, and modifications to existing buildings that increase the number of dwelling units. In the case of an activity that increases the number of dwelling units in a building, the impact fee shall apply only to the new dwelling units.
- D. Amount of the fee. The open space impact fee shall be the adjusted per capita cost of providing additional open space as determined in the Open Space Impact Fee Methodology, dated October 3, 2019 [and revised March 17, 2023](#), multiplied by the anticipated number of residents in the unit. Based upon national studies of occupancy levels of various types of housing in the northeast and the Maine State Planning Office's Impact Fee Handbook (2003), the following occupancy factors are applied to determine the impact fee per unit. The type of units and the typical occupancy of that type of unit includes:

Type of Housing	Occupancy (per DU)
Single-family home	
2 or fewer bedrooms	1.58
3 bedrooms	2.57
4 or more bedrooms	3.02

Type of Housing	Occupancy (per DU)
-----------------	--------------------

Attached or multifamily housing or accessory apartment

1 bedroom 1.17

2 bedrooms 1.85

3 or more bedrooms 2.14

Mobile homes in MH park

1 bedroom 1.39

2 bedrooms 1.93

3 or more bedrooms 3.29

- E. Expenditure of funds. Fees will be collected on a Town-wide basis for the acquisition of publicly accessible open space anywhere in Town.
- F. Sunset provision. The fee shall remain in effect until July 1, 2035, unless such time is extended by vote of the Town Council.