

Town of Windham

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MEMO

DATE: April 1, 2014

TO: Windham Town Council
THROUGH: Tony Plante, Town Manager
FROM: Ben Smith, Planning Director
Cc:

RE: North Route 302 Road Improvements Impact Fee, Public Hearing follow-up

A public hearing was held on the proposed North Route 302 Road Improvement Impact Fee at the Town Council meeting on March 11, 2014. As drafted, this impact fee would fund 100% of the Town's share of the improvements required to align the Whites Bridge Road/Anglers Road intersection with Route 302.

As detailed in the letter dated August 13, 2013, from MaineDOT Deputy Commissioner Bruce Van Note, the total cost of the intersection improvement project is estimated at just over \$1.25 million, with MaineDOT contributing up to \$500,000 through the Municipal Partnership Initiative (MPI), and the WEDC's contribution of the land needed for the right-of-way for this project valued at the purchase price of the property \$455,500. The impact fee would reimburse the Town as new development occurs for the upfront commitment to the intersection project, estimated to be \$300,000. The Town has the option of borrowing these funds from the State Infrastructure Bond Bank (SIB). Please note that as drafted, the impact fee will go into effect at the earliest of either the Town committing the funding to the project, or January 1, 2015.

After hearing public comments on the draft ordinance, the Town Council had several specific comments, which are addressed below. The changes to the draft ordinance text presented at the public hearing appear as blue edits, and the changes made to that draft based on comments at the March 11 meeting appear as red edits. The fee schedule for Chapter 140 has also been updated, and included for review.

Town Council comments, following public hearing March 11, 2014:

- Applicants should only pay for “net new” trips generated directly by development. They should be charged for “duplicate trips,” meaning trips that are passing by anyway or diverted trips.
 - *This is the clear intent of the ordinance, as the ordinance references “additional trips” in several places in the B.-Applicability and D.-Impact Fee Calculation section of the ordinance. Also, please note that the fee is calculated on the primary trips generated by the new or expanded use. Traffic engineers use primary trips to describe trips that go directly to or from a specific use and are considered new traffic on the road, as opposed to diverted or pass-by trips, which are types of trips that represent traffic that is already going to be on the road anyway.*
- It was noted by the Town Council previously, and again at the public hearing that Day Care uses have a relatively high number of estimated trips in the peak hour (12.46) and a very high percentage (100%) are considered primary trips. Both of these numbers were cited as unrealistic, as there are capacity constraints on how many children can be cared for in a building less than 2,000 square feet, and more importantly, people choose day cares at least in part based on their location, so they can make drop-offs or pick-ups going to or from work, meaning a significant number of day care trips pass-by or diverted trips.
 - *The Day Care line has been removed from Section L., Table 1, for uses less than 2,000 square feet. This specific line only caused confusion among Councilors and the public, rather than serve as the quick reference it was meant to be. The impact fee will still apply to these uses, but this means that each Child Care Facility in the impact fee area, regardless of size, would need to provide information on the number of primary trips in the peak hour that go through the improved intersection in order to calculate the impact fee, as any new Child Care Facility in the impact fee area would likely have done anyway to lower the fee from 100% of all estimated trips.*
- There is a concern that the \$300,000 estimate for the Town’s share of the work may be too high.
 - *The \$300,000 share of the project is the current best estimate of 100% of the Town’s share of the intersection project. This value represents the estimated costs of work, plus contingency. The actual amount of the Town’s share of this project may be higher or lower than this estimate. The Town Council may choose to use impact fees to reimburse less than 100% of the Town’s estimated share of this project.*
- Not all vehicle trips are equal, meaning the revenue from a primary trip to one type of business does not equal the revenue from a primary trip to another type of business, and this has implications on the relative affordability of the impact fee from business to business.
 - *Staff recognizes that not all trips are of equal value to businesses in North Windham. There are also many new trips generated by development that have no associated revenue, such as those by employees, to and from private residences and non-profits, and these trips would all be subject to this impact fee. The impact fee is based on the share of the additional intersection capacity each new*

use will consume, as measured by the number of primary peak hour trips through the intersection, not the value of each trip or the affordability of the fee for individual property or business owners.

- *Note there is a provision in Section 1201.C.-Payment of Impact Fees that permits the Town Council to allow the “payment of impact fees over time in accordance with a payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees,” and the draft ordinance requires the Town Planner or Planning Board to “establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part.”*
- The sunset provisions of the ordinance should be updated to make it clear that this fee will not continue to be assessed up to the referenced \$300,000 if the Town’s share of the intersection improvement is ultimately less than \$300,000.
 - *Section 1201.F.-Refund of Impact Fees has been updated to make this clear for not only the proposed North Route 302 Road Improvements Impact Fee, but the existing North Windham Sidewalk Impact Fee, and any future impact fees.*
- In section D.2.e, there should be a reference to a recommendation from the Town Planner in regard to the Planning Board establishing a “payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part.”
 - *This has been updated.*
- Clean up references to sections of the ordinance that say the same thing.
 - *Staff took this comment to mean that there are sections of the draft ordinance, specifically Sections E.-Impact Fee Payment, H.-Use of Impact Fee Funds, and I.-Refund of Impact Fees, which are already addressed in Section 1201. Changes to these sections have been made to reference the applicable parts of Section 1201.*



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

August 13, 2013

Paul R. LePage
GOVERNOR

David Barnhardt
COMMISSIONER

Anthony T. Plante
Town Manager
Town of Windham
8 School Road
Windham, ME 04062

Dear Mr. Plante:

Thank you for your letter of July 1, 2013 regarding financing options for construction of two separate, but related, Municipal Partnership Initiative (MPI) projects identified in the "North Route 302 Corridor Plan". We are sorry for the delay in this response, but we were hoping that ongoing transportation bonding debates may have helped clarify MPI funding availability, but it appears clarity on this issue will need to wait.

As you know, the first project (Phase I) would be the alignment of the Whites Bridge Road and Anglers Road intersection. The second project (Phase II) would involve the installation of a two-way center left-turn lane north of the merge lane completed in Phase I to Mineral Spring Road.

We are pleased to inform you that we believe these are two worthy projects, and that we want to partner with the Town on these MPI projects under the terms set forth below. As you will see, these terms are slightly different from those contained in your letter and the attached memo from John Melrose dated June 6th to make them consistent with how we treat other municipalities in the MPI program.

Subject to available funding, MaineDOT will provide the MPI program maximum of \$500,000 State contribution to each of the two MPI projects (Phase I and Phase II-A below) as proposed in your letter (or up to up to 50% of eligible project costs, if less than \$500,000). In addition, in coordination with Phase II-A project, MaineDOT would assume the cost of the Route 302 paving overlay (Phase II-B below), now estimated at \$650,000, which MaineDOT expects to occur within the next five to six years as a separate MaineDOT project. Like other MPI projects, the Town would be responsible for developing all necessary plans, securing all Federal, State and Local permit necessary to complete the work, providing construction oversight, and contracting for construction of the Phase I and Phase II-A projects. Windham would also agree to secure any needed property rights in accordance with all applicable local, State, and Federal Law.



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Further, you indicated that the Council was considering a \$300,000 State Infrastructure Bank (SIB) loan from MaineDOT to provide the upfront financing of the Town's non-property share for the Phase I project, to be repaid from a new impact fee ordinance. The terms of the SIB loan would require the loan to be repaid at the prime interest rate over ten (10) years. If this is your intent, please note this request in your MPI application for the Phase I project.

In summary, the following chart outlines the municipal and MaineDOT cost sharing contain in this letter for the two projects.

Scope	Municipal Share			MaineDOT Share	Total Cost
	Property Acquired	SIB Loan	Cash		
Phase I Scope: Alignment of the Whites Bridge Road and Anglers Road intersection	\$455,500	\$300,000	\$0	\$500,000	\$1,255,500
Phase II A Scope: installation of a two-way center left-turn lane north of the merge lane	\$0	\$0	\$500,000	\$500,000	\$1,000,000
Phase II B Scope: MaineDOT paving project, may be wrapped into Phase II	\$0	\$0	\$0	\$650,000	\$650,000

Total Municipal Share: \$1,255,500

Total MaineDOT Share: \$1,650,000

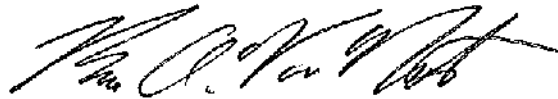
We understand that your letter and the Melrose memo had asked for the projects to be considered together, for varying matching amounts, and for match forgiveness if other projects do not proceed. Although we understand the rationale for these requests, we simply do not feel we can grant them without unduly complicating the MPI process. It is the straightforward fairness and simplicity of the MPI process is most highly valued by municipalities. We simply believe that granting these exceptions would jeopardize those qualities.

If the Town is interested in moving forward on these projects in accordance with these terms, the next step would be to work with Kyle Hall, Region 1 Region Engineer to develop Phase I and II-A project applications. Your applications would then be evaluated with other

municipal applications on a first-come, first-serve basis, and based upon available MPI funding. Currently, there are projects underway or in line to consume all available funding through at least calendar year 2014. However, MaineDOT is always trying to identify funding to augment this and other similar programs. For more information on the MPI program please see MaineDOT's website at <http://www.maine.gov/mdot/csd/mlrc/documents/pdf/MPIMunicipalGuide.pdf>.

Thank you once again for your interest in a partnership to promote safety, mobility and economic development along Route 302 in North Windham. We hope these improvements will become reality in the coming years. Should you have any technical questions regarding the MPI program, please contact Kyle Hall, MaineDOT's Region 1 Engineer at 885-7000. Should you have any additional questions, please feel free to contact me or Darryl Belz within MaineDOT's Bureau of Planning at 624-3300.

Sincerely,



Bruce A. Van Note,
Deputy Commissioner

CC: John Cannell, Region 1
Kyle Hall, Region 1
Dale Doughty, Maintenance & Operations
Darryl Belz, Planning
John Melrose, Eaton Peabody Consulting Group

SECTION 1200 – IMPACT FEES

Sections

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1201 General

- A. **Purpose.** The purpose of these impact fee provisions is to ensure that new development in Windham will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the development through: 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.
- B. **Authority.** These impact fee provisions are adopted by the Town under the authority of 30A M.R.S.A §4354 and its statutory and constitutional home rule provisions.
- C. **Payment of Impact Fees.** The impact fees provided for under this chapter shall be determined in accordance with the provisions for calculation of each impact fee as established by the Town Council and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid by any development, that amount of the fee shall be determined by the Planning Board based upon the fee calculation methodology for that fee and the recommendation of the Planner. The impact fee shall be paid to the Town of Windham in care of the Planning Department. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the development subject to the fee. The Town Council may approve the payment of impact fees over time in accordance with an approved payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees.
- D. **Impact Fee Accounts.** All impact fees collected under the provisions of this chapter shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:
1. North Windham Sidewalk Impact Fee
 2. Recreation Impact Fee
 3. [North Route 302 Road Improvements Impact Fee](#)
 4. [Name of Impact Fee]

- E. Use of Impact Fees. Impact fees collected under the provisions of this chapter shall be used only to pay for the capital cost of the infrastructure improvements specifically associated with each impact fee as described below. No portion of the fee shall be used for routine maintenance or operation activities.

The following costs may be included in the capital cost of the infrastructure improvement:

1. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the improvement,
2. The actual construction of the improvement including, without limitation, property acquisition costs, demolition costs, clearing and grading of the land, and necessary capital equipment,
3. Mitigation costs,
4. Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
5. Debt service costs including interest if the Town borrows for the construction of the improvement,
6. Relocation costs, and
7. Similar costs that are directly related to the project.

- F. Refund of Impact Fees

1. If a building permit is surrendered or lapses without commencement of construction, the developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. In the case of a refund, the Town shall retain four (4) percent of the impact fee paid to offset a portion of the administrative cost of collection. A request for a refund shall be made in writing to the Town Planner and shall occur within ninety (90) days of the lapse or expiration of the permit.
2. Any fees that are not spent or obligated by contract for the specified improvement by the end of the calendar quarter immediately following ten (10) years for the date the fee as paid shall be returned to the developer or its designee without interest.

3. The Town shall refund impact fees, or portions of those impact fees, that exceed the Town's actual costs of providing the capital improvement or facility for which the fees were paid.

- G. Waiver of Impact Fees. The Town Council may, by formal vote following a public hearing, waive the payment of a required impact fee, in whole or in part, if it finds that:

1. The developer voluntarily agrees to construct the improvement for which the impact fee would be collected, or
2. The developer is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee, or
3. The infrastructure that the impact fee relates to has been created to attract industry and the fee would be charged to an industrial use.

- H. Review and Revision. The Town Council shall periodically review each impact fee established under this chapter at least once every five years. If the Council finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the Council may propose changes in the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not be applied retroactively to projects that have already paid an impact fee.

1202 North Windham Sidewalk Impact Fee

- A. Description of the improvements. The North Windham Sidewalk Impact Fee will be used to partially fund the construction of public sidewalks to accommodate pedestrian movement in the Commercial 1 zoning district as set forth in the Town's 21st Century Downtown Plan (see North Windham Sidewalk Impact Fee Methodology dated June 14, 2013 in Appendix E). This includes improvements in the following areas: Roosevelt Trail (Route 302), Tandberg Trail (Route 35 and 115), River Road, and Manchester Drive.
- B. Need for the improvements. The road network in the North Windham commercial district serves a large volume of vehicular traffic. The roads serve to provide mobility throughout the region, and local access to commercial establishments. In addition, the public road network provides pedestrian movement between local commercial businesses. Many sections of the public road system in North Windham either lack sidewalks entirely, or provide them only on one side of the road. Commercial growth creates more pedestrian movements that increase conflicts between bicyclists and motor vehicles on the primary road network. This results in increased safety concerns. To address this concern, the Town's 21st Century Downtown Plan recommends that the Town expand the network of sidewalks along major roads.
- C. Applicability. In accordance with Section 406(E)(6)(j), the following commercial development activities commenced on or after June 14, 2013 on properties that do not have an existing sidewalk along all or a portion of their property's frontage shall be subject to the impact fee:
- The construction or placement of new buildings with a cumulative area that is greater than, or equal to, five hundred (500) s.f.
 - The enlargement of existing buildings by five hundred (500) s.f. or more
 - As required by the Planning Board as part of a Site Plan approved in accordance with Section 800 of this Ordinance.
- D. Amount of the Fee. The base impact fee for the sidewalk improvements shall be five (5) linear feet of sidewalk per 100 square feet or fraction thereof of the gross floor area to be constructed, erected, enlarged, extended, or relocated on the site multiplied by the per linear foot of sidewalk fee as set by the Town Council in the fee schedule (*see*

Appendix A Fee Schedule). The formula described above shall be calculated as follows:

$$\text{Base Impact Fee} = [\text{Total gross square footage of building}] / [100 \text{ square feet}] \times [\text{linear foot sidewalk fee } \$]$$

The amount of the base fee is based upon the North Windham Sidewalk Impact Fee Methodology dated May 14, 2014 (*See Appendix E*). The fee is based on the average estimated construction costs of sidewalks in North Windham based on the following conditions:

- Installation of granite curbing if no curbing exists
- Installation of closed drainage infrastructure if no curbing exists as determined by the Director of Public Works
- Replacement of existing bituminous curbing with granite curbing
- Resetting of existing granite curbing as determined by the Director of Public Works due to the condition of existing granite curbing.

The base impact fee shall be adjusted to account for changes in the cost of construction. The impact fee shall be adjusted based upon the change in the ENR Construction Cost Index between June 2013 and the month in which the impact fee is paid. The amount of the fee shall be calculated as follows:

$$\text{Impact fee to be paid} = \text{Base impact fee} \times (\text{ENRCCI for the month in which fee is paid} / \text{ENRCCI for June 2013}) \text{ where ENRCCI is the national construction cost index published by ENR (Engineering News Record).}$$

E. Expenditure of Funds. Impact fees shall be collected and expended in two (2) subareas within the Commercial 1 zoning district. Fees shall be expended on sidewalk construction within the subarea from which they are collected. The subareas are as follows:

- Roadways within the C1 District that are south of White's Bridge Road
- Roadways within the C1 District that are north of White's Bridge Road.

F. Impact Fee

1. The North Windham Sidewalk Impact Fee shall be paid for any project that meets the applicability standards in Section C3, above.
2. A property shall be required to pay the fee in the event of future development on said property until the amount of fees paid is equal to the length of property frontage multiplied by the fee per linear foot of sidewalk in Section 4, above, is reached.. Properties with an existing sidewalk on a portion of their frontage shall pay a maximum fee equal to the length of lot frontage on which sidewalk does not exist at the time of development.

- G. Sunset Provision. The fee shall remain in effect until the Town has collected \$2.1 million in fees in subarea 1 and \$900,000 in subarea 2 (as adjusted for construction cost inflation) or until July 1, 2026 whichever comes first unless such time is extended by vote of the Town Council.

1203 Recreation Impact Fee

- A. Description of Improvements. The Recreation Impact Fee will be used to partially fund the acquisition and development of land for recreation fields and facilities throughout the Town as set forth in the Town's Parks and Recreation Facilities Capital Investment Plan, adopted by the Town Council on October 8, 2013, and attached in Appendix F.
- B. Need for Improvements. Existing municipal and school district recreational facilities, including rectangular playing fields, diamond-shaped fields, and hard-court facilities are in high demand, and conflicts regarding scheduling and access to facilities among user groups occur throughout the sports seasons. New residential growth creates additional demand for recreation facilities, which can result in a loss of access to recreational activities and facilities. The Parks and Recreation Facilities Capital Investment Plan outlines the how the Town maintain the existing levels of service for recreational facilities faced with demand driven by a growing population.
- C. Applicability. All new residential development activities commenced on or after April 10, 2014, shall be subject to the Recreational Impact Fee. This includes:
1. Dwelling, Single Family Detached
 2. Dwelling, Two-Family
 3. Dwelling, Multifamily
 4. Accessory Apartment
 5. Manufactured Housing
- D. Amount of the Fee. The amount of the impact fee will be based on the cost land acquisition and development costs, calculated on a per capita basis, multiplied by the average household sized for the type of dwelling unit being constructed. The formula for this shall be calculated as follows:
- $$\text{Recreation Impact Fee} = \{[(\text{Land Acquisition Costs})+(\text{Facility Development Costs})]/[(2030 \text{ Projected Population})-(2010 \text{ Baseline Population})]\} \times (\text{Average Household Size for Dwelling Unit category})$$
- The amount of the fee is based on "Recreation Impact Fee: Basis of Assessment, Windham, Maine," dated September 27, 2013.
- E. Expenditure of Funds. Fees will be collected on a Town-wide basis for the acquisition and development of recreation facilities anywhere in Town.
- F. Sunset Provision. The fee shall remain in effect until July 1, 2030, unless such time is extended by vote of the Town Council.

1203 North Route 302 Road Improvements Impact Fee

- A. Purpose. Roosevelt Trail/Route 302 is part of the National Highway System. It is the most significant highway corridor in the Town of Windham and is critical to the current and future mobility of local and regional motorists. This corridor provides important connections to Route 202 and State Routes 115, 35, and 4, as well as River Road, a major State Collector Highway. In addition, Route 302 is vital to the accommodation of future growth and development on land served by this corridor.

In order for Route 302 to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and accompanying traffic generation and demands, roadway infrastructure improvements are warranted. These improvements are highlighted in the Town of Windham “North Route 302 Corridor Plan, Windham, Maine” adopted by the Town Council in March 2011.

The Town has identified in the Corridor Plan roadway infrastructure improvements that will accommodate traffic growth projected for the next 10 years, and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. The purpose of the [North](#) Route 302 Capital Improvement District is to reimburse the portion of the Town’s cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

B. -Applicability

1. This impact fee shall ~~commence apply to any~~ upon the earliest of either [January 1st, 2015], or upon the Town of Windham’s commitment of funds to complete the infrastructure projects stated in Section H, below. The impact fee shall apply to any of the activities listed in this section that are located within the fee collection areas identified in Section J. North Route 302 Road Improvements Impact Fee Collection Areas Map that generate additional traffic within the North Route 302 Capital Improvement District (Note: For existing uses, the impact fee shall only apply to activities or uses that generate new trips above their existing levels):
 - (a) ~~n~~ New development, ~~or~~
 - (b) ~~e~~ Change in or expansion of an existing development,
 - (c) ~~including a~~ All new development seeking subdivision -or site plan approval,
 - (d) ~~t~~ The expansion of previously approved subdivisions or site plans,
 - (e) ~~n~~ New development enabled by land divisions exempted from subdivision review as per Title 30-A M.R.S.A. §4401 (4),
 - (f) ~~a~~ All new extractive industry operations, and
 - (g) ~~to a~~ Any change in use, when the proposed development whether located within or outside the Route 302 Capital Improvement District generates additional traffic within the Route 302 Capital Improvement District, when such change results in a re-classification from one land use to another in accordance with the uses listed in Section 300 Definitions and/or Section 400 Zoning Districts, and

- (h) The location, or relocation, of any land use that requires a certificate of occupancy from the Code Enforcement department.
- 2. The following development and construction shall be exempt from this ordinance:
 - (a) Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips
 - (b) Construction of accessory buildings or structures which do not generate additional vehicle trips.
 - (c) The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.
 - (d) The location, or relocation, of a land use which does not generate additional vehicle trips.

C. Impact Fee Procedures

- 1. Any person who seeks a permit or approval for any development, activity or use described in Section B(1), above, is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
- 2. Preliminary determinations regarding whether a proposed development will generate traffic within the North Route 302 Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined ~~through the table contained in [X], a traffic analysis~~ (in accordance with the procedures in Section D, below), ~~which may accompany a more comprehensive traffic impact study depending on the scope of the development, prepared by a Registered Professional Engineer with significant experience in traffic engineering and to be paid for by the developer. This traffic analysis shall be reviewed and approved by the Town's consulting engineer and shall be incorporated into the review and approval of a development project by the Planning Board or the Planning and Code Enforcement Department when applicable.~~

D. Impact Fee Calculations. An impact fee shall be applied to development projects in the Town of Windham that generate additional traffic within the North Route 302 Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A. §4354. The process for this impact calculation is as follows:

- 1. For projects that do not require subdivision approval, site plan approval, or as determined by the Town Planner as not requiring a traffic analysis:
 - (a) The Town Planner shall determine the fee in accordance with the amounts stated in Section L, Table 1. North Route 302 Road Improvement Impact Fee, Windham, Maine and Section M. Map 1. North Route 302 Road Improvement Impact Fee Collection Areas.
 - (b) The applicant may request that the fee be calculated by either the Town's consulting engineer, or by hiring a Registered Professional Engineer with significant experience in traffic engineering. The analysis shall be conducted in accordance with Section 1203(D)(2), below. All costs incurred as a result of said analysis shall

be the responsibility of the applicant. A building permit or certificate of occupancy, whichever applies, shall not be issued by the Code Enforcement Officer prior to the payment of any costs incurred by the Town's consulting engineer.

2. For projects that require subdivision approval, site plan approval, or as determined by the Town Planner as being required to conduct a traffic analysis:

- (a) ~~As per Section C(2) above,~~ a traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour (whether A.M. or P.M., whichever is greater).
- (b) ~~2.~~ The impact fee calculation for individual development projects shall use generally accepted standards, such as the Maine Department of Transportation's currently adopted edition of the Institute of Transportation Engineers "Trip Generation" Handbook or traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the peak commuter hour of traffic in the A.M. or P.M., whichever is greater.
- (c) ~~3.~~ The costs assigned to trips shall be based upon a fee per new trip (primary trip) to be generated by a development project that passes through the North Route 302 Capital Improvement District within the peak commuter hour. All new trips that pass through the District shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (pass-by trips) or trips in the area that are rerouted (diverted trips) shall not be utilized in the assessment.
- (d) ~~4.~~ The fee determination shall be based on the following formula with the fee amounts stated in the Fee schedule, as set by the Town Council (*see Appendix A Fee Schedule*):
- 1(a) The ~~Town's~~ cost of realigning Anglers Road with Whites Bridge Road ~~and implementing Option 2 as stated~~ in the "North 302 Corridor Plan" for roadway infrastructure improvements in the North Route 302 Capital Improvement District amounts to \$ ~~_____~~ \$300,000, less any state and federal funding contributions. The Town cost is to be funded in whole or in part from this impact fee ordinance.
- 2(b) The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately ~~_____~~ 392 trip ends in the peak commuter hour of traffic.
- 3(c) Each additional trip generated by the new development will benefit from the ~~_____~~ 392 trip ends of capacity and will utilize one trip end of that additional capacity
- 4(d) The fee per trip, therefore, shall be \$ ~~_____~~ \$765.31. This fee per trip equals \$ ~~_____~~ \$300,000 / ~~_____~~ 392 trip ends.
- (e) ~~5. For any development requiring subdivision review, site plan review or other Planning Board review, †The Planning Board or Town Planner shall determine the total impact fee for the development calculated pursuant to Section D., subsections 1. through 4. above, and then~~ shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip

generation for each component part. Depending on the nature of the development, a component part may be a lot, building, dwelling unit (as defined in the Windham Zoning Ordinance), unit of occupancy (as defined in the Windham Zoning Ordinance) or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development

~~6. For any development not requiring Planning Board review, but requiring the payment of an impact fee under this Section 1203, the fee shall be determined as follows:~~

~~37.~~ If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development then, on the initiative of the Town or the developer, the impact fee and payment schedule may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.

~~4. The Town Planner or Planning Board, as appropriate, may reduce the amount of the impact fee for projects that are required as part of their approval to construct all or a portion of the infrastructure improvements stated in Section 1203(H)(1), below. The amount of the fee reduction shall be the difference between the cost of the impact fee and the applicant's cost to construct the improvements.~~

- E. Impact Fee Payment. See Section 1201.C. for general payment information. The impact fee amount, as determined in accordance with ~~Sections B. and C. of~~ this Ordinance, shall be paid to the Town according to the payment schedule established under Section D., except as follows:
1. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.
 2. For a new residential dwelling(s) proposed on a lot(s) created by a land division(s) exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), the impact fee amount shall be paid prior to the issuance of a building permit for construction.

~~Payments shall be tendered to the Town. Upon determining that the payment is in the correct amount, the Town shall issue a receipt for the payment and deliver the payment to the Town Treasurer.~~

- F. North Route 302 Capital Improvement District. The North Route 302 Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A and generally conforms with the "North 302 Corridor Plan" study area.

- G. Impact Fee -Trust Fund

1. There is hereby established a North Route 302 Capital Improvement District Fund to segregate the impact fee revenues generated by this Ordinance from the Town's general revenues.

2. Funds withdrawn from this trust fund account shall be used in accordance with Section H. of this ordinance.

H. Use of Impact Fee Funds

1. Funds generated by this Ordinance shall be used for the purpose of financing the capital improvements to realign Anglers Road with Whites Bridge Road ~~and implement Option 2 as stated in~~ the “North 302 Corridor Plan” for roadway infrastructure improvements within the North Route 302 Capital Improvement District. See Section 1201.E. for a list of items which may be included in the capital costs of the project.
2. No funds shall be used for periodic or routine maintenance.
3. Given that bonds or loans may be issued to finance the implementation of the capital improvements identified in the plan for roadway infrastructure improvements within the North Route 302 Capital Improvement District, impact fee funds may be used to pay debt service on such bonds or loans to the extent that the improvements provided are a component of the plan for roadway infrastructure improvements, as per Section H. 1. of this ordinance.
4. Funds may be used to provide refunds in accordance with Section I.
5. Funds shall not be used to pay for any site specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project that is proposed and constructed on any lot abutting a roadway section within the North Route 302 Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer. Nothing in this section shall limit the Town from providing economic development incentives for site specific improvements at the Town’s sole discretion.

I. Refund of Impact Fees

1. If a development permit expires such that there is no activity that will generate additional traffic covered by this ordinance, the developer may apply for a refund. ~~The developer must submit an application for such refund to the Town Manager not later than fifteen (15) days after the expiration of the building permit, site plan, subdivision plan, extractive industries approval, or other governmental approval contemplated in this ordinance. The refund request must be consistent with Section 1201.F.1.~~
2. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall, ~~upon application for a refund by the developer,~~ be returned ~~to the developer without interest, provided that the developer submits an application for a refund to the Town Manager within 180 days after expiration of the ten (10) year period~~ consistent with Section 1201.F.2.

J. Roadway Infrastructure Improvements

1. As per Section H. 1. of this section, the funds generated by this impact fee will be used to accomplish improvements to realign Anglers Road with Whites Bridge Road ~~and implement Option 2 of~~ as stated in the “North 302 Corridor Plan Windham,

- Maine” prepared by Gorrill-Palmer Consulting Engineers, Inc. and adopted by the Windham Town Council in March 2011.
2. The above cited plan may be amended by the Town Council, in accordance with the Windham Town Charter, if the amendments to the plan are consistent with and further the purpose of this ordinance.

K Sunset Provision. The fee shall remain in effect until the Town has collected \$300,000 in fees (as adjusted for construction cost inflation) or until July 1, 2026 whichever comes first unless such dollar amount is increased or time limit is extended by vote of the Town Council.

Section 1200 Amendments

Order 13-071; Date 05-14-2013 – add Section 1202, North Windham Sidewalk Impact Fee
Order 14-033; Date 03-11-2014 – add Section 1203, Recreation Impact Fee
Order [XX-XXX]; Date [date of vote]

DRAFT

L. Table 1. North Route 302 Road Improvement Impact Fee, Windham, Maine

Use	Trip Rate*	% primary	Cost Per Primary Trip	Fee Area 1**	Fee Area 2**	Fee Area 3**
Quality Restaurant	7.49	40	\$765.31	\$2,292.87	\$573.22	\$229.29
High Turnover Restaurant	11.15	37	\$765.31	\$3,157.29	\$789.32	\$315.73
Fast Food Restaurant	33.84	30	\$765.31	\$7,769.43	\$1,942.36	\$776.94
24 Hour Conv Market***	52.41	25	\$765.31	\$10,027.47	\$2,506.87	\$1,002.75
Quick Lube****	5.19	50	\$765.31	\$1,985.98	\$496.49	\$198.60
Auto Care	3.38	50	\$765.31	\$1,293.37	\$323.34	\$129.34
Self Serve Car Wash*****	5.54	50	\$765.31	\$2,119.91	\$529.98	\$211.99
General office	1.73	100	\$765.31	\$1,323.99	\$331.00	\$132.40
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Veterinary Clinic	4.72	100	\$765.31	\$3,612.26	\$903.07	\$361.23
Retail	2.71	35	\$765.31	\$725.90	\$181.47	\$72.59
Bank	25.82	27	\$765.31	\$5,335.28	\$1,333.82	\$533.53
Day Care	12.46	100	\$765.31	\$9,535.76	\$2,383.94	\$953.58
Light industry	0.97	100	\$765.31	\$742.35	\$185.59	\$74.24
Dwelling Unit*****	1.01	100	\$765.31	\$772.96	\$193.24	\$77.30

* PM peak hour Trips Per 1,000 sf for uses not exceeding 2,000 sf unless otherwise noted under use

** Fee cost per 1,000sf.

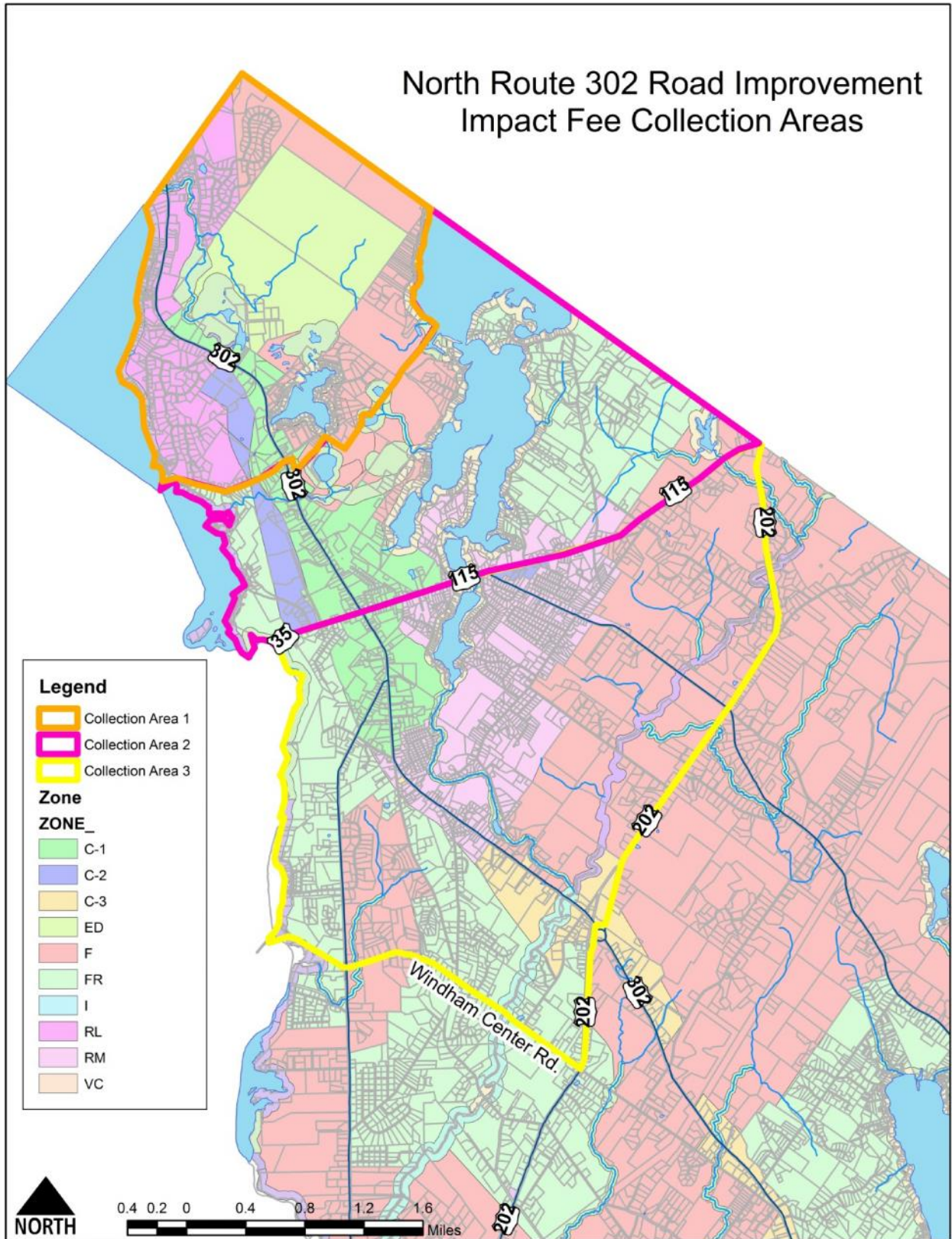
***Convenience Market without gas pumps

**** Trip Rate per service positions

***** Trip Rate per wash stall

***** Trip Rate per dwelling unit

[M. Map 1. North Route 302 Road Improvement Impact Fee Collection Areas](#)



SECTION 1200 – IMPACT FEES

Sections

1201	General	1
1202	North Windham Sidewalk Impact Fee	3
1203	Recreation Impact Fee	5
1204	North Route 302 Road Improvements Impact Fee	6

1201 General

- A. **Purpose.** The purpose of these impact fee provisions is to ensure that new development in Windham will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the development through: 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.
- B. **Authority.** These impact fee provisions are adopted by the Town under the authority of 30A M.R.S.A §4354 and its statutory and constitutional home rule provisions.
- C. **Payment of Impact Fees.** The impact fees provided for under this chapter shall be determined in accordance with the provisions for calculation of each impact fee as established by the Town Council and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid by any development, that amount of the fee shall be determined by the Planning Board based upon the fee calculation methodology for that fee and the recommendation of the Planner. The impact fee shall be paid to the Town of Windham in care of the Planning Department. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the development subject to the fee. The Town Council may approve the payment of impact fees over time in accordance with an approved payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees.
- D. **Impact Fee Accounts.** All impact fees collected under the provisions of this chapter shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:
1. North Windham Sidewalk Impact Fee
 2. Recreation Impact Fee
 3. North Route 302 Road Improvements Impact Fee
 4. [Name of Impact Fee]

- E. Use of Impact Fees. Impact fees collected under the provisions of this chapter shall be used only to pay for the capital cost of the infrastructure improvements specifically associated with each impact fee as described below. No portion of the fee shall be used for routine maintenance or operation activities.
- The following costs may be included in the capital cost of the infrastructure improvement:
1. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the improvement,
 2. The actual construction of the improvement including, without limitation, property acquisition costs, demolition costs, clearing and grading of the land, and necessary capital equipment,
 3. Mitigation costs,
 4. Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
 5. Debt service costs including interest if the Town borrows for the construction of the improvement,
 6. Relocation costs, and
 7. Similar costs that are directly related to the project.
- F. Refund of Impact Fees
1. If a building permit is surrendered or lapses without commencement of construction, the developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. In the case of a refund, the Town shall retain four (4) percent of the impact fee paid to offset a portion of the administrative cost of collection. A request for a refund shall be made in writing to the Town Planner and shall occur within ninety (90) days of the lapse or expiration of the permit.
 2. Any fees that are not spent or obligated by contract for the specified improvement by the end of the calendar quarter immediately following ten (10) years for the date the fee as paid shall be returned to the developer or its designee without interest.
 3. The Town shall refund impact fees, or portions of those impact fees, that exceed the Town's actual costs of providing the capital improvement or facility for which the fees were paid.
- G. Waiver of Impact Fees. The Town Council may, by formal vote following a public hearing, waive the payment of a required impact fee, in whole or in part, if it finds that:
1. The developer voluntarily agrees to construct the improvement for which the impact fee would be collected, or
 2. The developer is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee, or
 3. The infrastructure that the impact fee relates to has been created to attract industry and the fee would be charged to an industrial use.

- H. Review and Revision. The Town Council shall periodically review each impact fee established under this chapter at least once every five years. If the Council finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the Council may propose changes in the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not be applied retroactively to projects that have already paid an impact fee.

1202 North Windham Sidewalk Impact Fee

- A. Description of the improvements. The North Windham Sidewalk Impact Fee will be used to partially fund the construction of public sidewalks to accommodate pedestrian movement in the Commercial 1 zoning district as set forth in the Town's 21st Century Downtown Plan (see North Windham Sidewalk Impact Fee Methodology dated June 14, 2013 in Appendix E). This includes improvements in the following areas: Roosevelt Trail (Route 302), Tandberg Trail (Route 35 and 115), River Road, and Manchester Drive.
- B. Need for the improvements. The road network in the North Windham commercial district serves a large volume of vehicular traffic. The roads serve to provide mobility throughout the region, and local access to commercial establishments. In addition, the public road network provides pedestrian movement between local commercial businesses. Many sections of the public road system in North Windham either lack sidewalks entirely, or provide them only on one side of the road. Commercial growth creates more pedestrian movements that increase conflicts between bicyclists and motor vehicles on the primary road network. This results in increased safety concerns. To address this concern, the Town's 21st Century Downtown Plan recommends that the Town expand the network of sidewalks along major roads.
- C. Applicability. In accordance with Section 406(E)(6)(j), the following commercial development activities commenced on or after June 14, 2013 on properties that do not have an existing sidewalk along all or a portion of their property's frontage shall be subject to the impact fee:
- The construction or placement of new buildings with a cumulative area that is greater than, or equal to, five hundred (500) s.f.
 - The enlargement of existing buildings by five hundred (500) s.f. or more
 - As required by the Planning Board as part of a Site Plan approved in accordance with Section 800 of this Ordinance.
- D. Amount of the Fee. The base impact fee for the sidewalk improvements shall be five (5) linear feet of sidewalk per 100 square feet or fraction thereof of the gross floor area to be constructed, erected, enlarged, extended, or relocated on the site multiplied by the per linear foot of sidewalk fee as set by the Town Council in the fee schedule (*see*

Appendix A Fee Schedule). The formula described above shall be calculated as follows:

$$\text{Base Impact Fee} = [\text{Total gross square footage of building}] / [100 \text{ square feet}] \times [\text{linear foot sidewalk fee } \$]$$

The amount of the base fee is based upon the North Windham Sidewalk Impact Fee Methodology dated May 14, 2014 (*See Appendix E*). The fee is based on the average estimated construction costs of sidewalks in North Windham based on the following conditions:

- Installation of granite curbing if no curbing exists
- Installation of closed drainage infrastructure if no curbing exists as determined by the Director of Public Works
- Replacement of existing bituminous curbing with granite curbing
- Resetting of existing granite curbing as determined by the Director of Public Works due to the condition of existing granite curbing.

The base impact fee shall be adjusted to account for changes in the cost of construction. The impact fee shall be adjusted based upon the change in the ENR Construction Cost Index between June 2013 and the month in which the impact fee is paid. The amount of the fee shall be calculated as follows:

$$\text{Impact fee to be paid} = \text{Base impact fee} \times (\text{ENRCCI for the month in which fee is paid} / \text{ENRCCI for June 2013}) \text{ where ENRCCI is the national construction cost index published by ENR (Engineering News Record).}$$

E. Expenditure of Funds. Impact fees shall be collected and expended in two (2) subareas within the Commercial 1 zoning district. Fees shall be expended on sidewalk construction within the subarea from which they are collected. The subareas are as follows:

- Roadways within the C1 District that are south of White's Bridge Road
- Roadways within the C1 District that are north of White's Bridge Road.

F. Impact Fee

1. The North Windham Sidewalk Impact Fee shall be paid for any project that meets the applicability standards in Section 3, above.
2. A property shall be required to pay the fee in the event of future development on said property until the amount of fees paid is equal to the length of property frontage multiplied by the fee per linear foot of sidewalk in Section 4, above, is reached.. Properties with an existing sidewalk on a portion of their frontage shall pay a maximum fee equal to the length of lot frontage on which sidewalk does not exist at the time of development.

- G. Sunset Provision. The fee shall remain in effect until the Town has collected \$2.1 million in fees in subarea 1 and \$900,000 in subarea 2 (as adjusted for construction cost inflation) or until July 1, 2026 whichever comes first unless such time is extended by vote of the Town Council.

1203 Recreation Impact Fee

- A. Description of Improvements. The Recreation Impact Fee will be used to partially fund the acquisition and development of land for recreation fields and facilities throughout the Town as set forth in the Town's Parks and Recreation Facilities Capital Investment Plan, adopted by the Town Council on October 8, 2013, and attached in Appendix F.
- B. Need for Improvements. Existing municipal and school district recreational facilities, including rectangular playing fields, diamond-shaped fields, and hard-court facilities are in high demand, and conflicts regarding scheduling and access to facilities among user groups occur throughout the sports seasons. New residential growth creates additional demand for recreation facilities, which can result in a loss of access to recreational activities and facilities. The Parks and Recreation Facilities Capital Investment Plan outlines the how the Town maintain the existing levels of service for recreational facilities faced with demand driven by a growing population.
- C. Applicability. All new residential development activities commenced on or after April 10, 2014, shall be subject to the Recreational Impact Fee. This includes:
1. Dwelling, Single Family Detached
 2. Dwelling, Two-Family
 3. Dwelling, Multifamily
 4. Accessory Apartment
 5. Manufactured Housing
- D. Amount of the Fee. The amount of the impact fee will be based on the cost land acquisition and development costs, calculated on a per capita basis, multiplied by the average household sized for the type of dwelling unit being constructed. The formula for this shall be calculated as follows:
Recreation Impact Fee = $\{[(\text{Land Acquisition Costs})+(\text{Facility Development Costs})]/[(2030 \text{ Projected Population})-(2010 \text{ Baseline Population})]\} \times (\text{Average Household Size for Dwelling Unit category})$
- The amount of the fee is based on "Recreation Impact Fee: Basis of Assessment, Windham, Maine," dated September 27, 2013.
- E. Expenditure of Funds. Fees will be collected on a Town-wide basis for the acquisition and development of recreation facilities anywhere in Town.
- F. Sunset Provision. The fee shall remain in effect until July 1, 2030, unless such time is extended by vote of the Town Council.

1203 North Route 302 Road Improvements Impact Fee

- A. Purpose. Roosevelt Trail/Route 302 is part of the National Highway System. It is the most significant highway corridor in the Town of Windham and is critical to the current and future mobility of local and regional motorists. This corridor provides important connections to Route 202 and State Routes 115, 35, and 4, as well as River Road, a major State Collector Highway. In addition, Route 302 is vital to the accommodation of future growth and development on land served by this corridor.

In order for Route 302 to continue to adequately serve local and regional transportation needs, while also providing additional capacity to support future development and accompanying traffic generation and demands, roadway infrastructure improvements are warranted. These improvements are highlighted in the Town of Windham “North Route 302 Corridor Plan, Windham, Maine” adopted by the Town Council in March 2011.

The Town has identified in the Corridor Plan roadway infrastructure improvements that will accommodate traffic growth projected for the next 10 years, and will establish the additional vehicular capacity and adequate levels of service necessary to serve, accommodate, and benefit new development. The purpose of the North Route 302 Capital Improvement District is to reimburse the portion of the Town’s cost of constructing these roadway infrastructure improvements that benefit new development by providing additional vehicular capacity.

B. Applicability

1. This impact fee shall commence upon the earliest of either [January 1st, 2015], or upon the Town of Windham’s commitment of funds to complete the infrastructure projects stated in Section H, below. The impact fee shall apply to any of the activities listed in this section that are located within the fee collection areas identified in Section J. North Route 302 Road Improvements Impact Fee Collection Areas Map that generate additional traffic within the North Route 302 Capital Improvement District (*Note: For existing uses, the impact fee shall only apply to activities or uses that generate new trips above their existing levels*):
 - (a) New development,
 - (b) Change in or expansion of an existing development,
 - (c) All new development seeking subdivision or site plan approval,
 - (d) The expansion of previously approved subdivisions or site plans,
 - (e) New development enabled by land divisions exempted from subdivision review as per Title 30-A M.R.S.A. §4401 (4),
 - (f) All new extractive industry operations,
 - (g) Any change in use, when such change results in a re-classification from one land use to another in accordance with the uses listed in Section 300 Definitions and/or Section 400 Zoning Districts, and
 - (h) The location, or relocation, of any land use that requires a certificate of occupancy from the Code Enforcement department.

2. The following development and construction shall be exempt from this ordinance:
 - (a) Alterations or expansions of an existing building which do not result in the generation of additional vehicle trips
 - (b) Construction of accessory buildings or structures which do not generate additional vehicle trips.
 - (c) The replacement of a building or structure destroyed or damaged by fire, flood or natural disaster with a new building or structure of the same size or use which does not generate additional vehicle trips.
 - (d) The location, or relocation, of a land use which does not generate additional vehicle trips.

C. Impact Fee Procedures

1. Any person who seeks a permit or approval for any development, activity or use described in Section B(1), above, is hereby required to pay a road impact fee in the manner and amount set forth in this ordinance.
2. Preliminary determinations regarding whether a proposed development will generate traffic within the North Route 302 Capital Improvement District shall be made by the Town Planner and the Town's consulting traffic engineer. Actual traffic generation, impacts, and the corresponding fee, shall be determined in accordance with the procedures in Section D, below.

D. Impact Fee Calculations. An impact fee shall be applied to development projects in the Town of Windham that generate additional traffic within the North Route 302 Capital Improvement District. This impact fee is structured to be in proportion to the development project's share of infrastructure costs necessitated by the development and as enabled by Title 30-A M.R.S.A. §4354. The process for this impact calculation is as follows:

1. For projects that do not require subdivision approval, site plan approval, or as determined by the Town Planner as not requiring a traffic analysis:
 - (a) The Town Planner shall determine the fee in accordance with the amounts stated in Section L, Table 1. North Route 302 Road Improvement Impact Fee, Windham, Maine and Section M. Map 1. North Route 302 Road Improvement Impact Fee Collection Areas.
 - (b) The applicant may request that the fee be calculated by either the Town's consulting engineer, or by hiring a Registered Professional Engineer with significant experience in traffic engineering. The analysis shall be conducted in accordance with Section 1203(D)(2), below. All costs incurred as a result of said analysis shall be the responsibility of the applicant. A building permit or certificate of occupancy, whichever applies, shall not be issued by the Code Enforcement Officer prior to the payment of any costs incurred by the Town's consulting engineer.
2. For projects that require subdivision approval, site plan approval, or as determined by the Town Planner as being required to conduct a traffic analysis:
 - (a) A traffic analysis shall be conducted by a Registered Professional Engineer with significant experience in traffic engineering in order to determine the traffic impact, and requisite impact fee total, as measured by additional vehicle trips to be

- generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour (whether A.M. or P.M., whichever is greater).
- (b) The impact fee calculation for individual development projects shall use generally accepted standards, such as the Maine Department of Transportation's currently adopted edition of the Institute of Transportation Engineers "Trip Generation" Handbook or traffic generation data or estimates from field measurements or data collected at similar development types, and shall be based on the peak commuter hour of traffic in the A.M. or P.M., whichever is greater.
 - (c) The costs assigned to trips shall be based upon a fee per new trip (primary trip) to be generated by a development project that passes through the North Route 302 Capital Improvement District within the peak commuter hour. All new trips that pass through the District shall be counted as new trips. Other types of traffic associated with a development project, such as the capture of trips passing a site (pass-by trips) or trips in the area that are rerouted (diverted trips) shall not be utilized in the assessment.
 - (d) The fee determination shall be based on the following formula with the fee amounts stated in the Fee schedule, as set by the Town Council (*see Appendix A Fee Schedule*):
 - 1) The Town's cost of realigning Anglers Road with Whites Bridge Road as stated in the "North 302 Corridor Plan" for roadway infrastructure improvements in the North Route 302 Capital Improvement District amounts to \$300,000 , less any state and federal funding contributions. The Town cost is to be funded in whole or in part from this impact fee ordinance.
 - 2) The total additional (bi-directional) vehicular capacity to be fostered by the roadway infrastructure improvements will equal approximately 392 trip ends in the peak commuter hour of traffic.
 - 3) Each additional trip generated by the new development will benefit from the 392 trip ends of capacity and will utilize one trip end of that additional capacity
 - 4) The fee per trip, therefore, shall be \$765.31. This fee per trip equals \$300,000 / 392 trip ends.
 - (e) The Planning Board or Town Planner shall establish a payment schedule which apportions the impact fee to component parts of the development based on the estimated trip generation for each component part. Depending on the nature of the development, a component part may be a lot, building, dwelling unit (as defined in the Windham Zoning Ordinance), unit of occupancy (as defined in the Windham Zoning Ordinance) or some combination thereof. The payment schedule shall specify the portion of the impact fee attributable to each component part and the point during the construction of the development at which the impact fee for each component part must be paid. The payment schedule shall be incorporated into the Planning Board's written approval document and endorsed on any final plan for the development
3. If, after a development has been approved, changes are proposed which would change the trip generation for the development or a component part of the development then, on the initiative of the Town or the developer, the impact fee and payment schedule

- may be recalculated, and such recalculated impact fee and payment schedule shall apply to all subsequent permits issued within the development.
4. The Town Planner or Planning Board, as appropriate, may reduce the amount of the impact fee for projects that are required as part of their approval to construct all or a portion of the infrastructure improvements stated in Section 1203(H)(1), below. The amount of the fee reduction shall be the difference between the cost of the impact fee and the applicant's cost to construct the improvements.
- E. Impact Fee Payment. See Section 1201.C. for general payment information. The impact fee amount, as determined in accordance with this Ordinance, shall be paid to the Town according to the payment schedule established under Section D., except as follows:
1. For an extractive industry project, the impact fee amount shall be paid prior to the release of the attested final plan to the developer for recording at the Cumberland County Registry of Deeds.
 2. For a new residential dwelling(s) proposed on a lot(s) created by a land division(s) exempted from subdivision review as per Title 30-A M.R.S.A. §4401(4), the impact fee amount shall be paid prior to the issuance of a building permit for construction.
- F. North Route 302 Capital Improvement District. The North Route 302 Capital Improvement District is depicted on the map attached to this Ordinance as Appendix A and generally conforms with the "North 302 Corridor Plan" study area.
- G. Impact Fee -Trust Fund
1. There is hereby established a North Route 302 Capital Improvement District Fund to segregate the impact fee revenues generated by this Ordinance from the Town's general revenues.
 2. Funds withdrawn from this trust fund account shall be used in accordance with Section H. of this ordinance.
- H. Use of Impact Fee Funds
1. Funds generated by this Ordinance shall be used for the purpose of financing the capital improvements to realign Anglers Road with Whites Bridge Road as stated in the "North 302 Corridor Plan" for roadway infrastructure improvements within the North Route 302 Capital Improvement District. See Section 1201.E. for a list of items which may be included in the capital costs of the project.
 2. No funds shall be used for periodic or routine maintenance.
 3. Given that bonds or loans may be issued to finance the implementation of the capital improvements identified in the plan for roadway infrastructure improvements within the North Route 302 Capital Improvement District, impact fee funds may be used to pay debt service on such bonds or loans to the extent that the improvements provided are a component of the plan for roadway infrastructure improvements, as per Section H. 1. of this ordinance.
 4. Funds may be used to provide refunds in accordance with Section I.
 5. Funds shall not be used to pay for any site specific road improvements, such as right-turn entry lanes, site driveway islands, etc., that are required of a development project

that is proposed and constructed on any lot abutting a roadway section within the North Route 302 Capital Improvement District. Such project and site specific improvements shall be the responsibility of the developer. Nothing in this section shall limit the Town from providing economic development incentives for site specific improvements at the Town's sole discretion.

I. Refund of Impact Fees

1. If a development permit expires such that there is no activity that will generate additional traffic covered by this ordinance, the developer may apply for a refund. The refund request must be consistent with Section 1201.F.1.
2. Any funds not expended or obligated by contract by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall be returned consistent with Section 1201.F.2.

J. Roadway Infrastructure Improvements

1. As per Section H. 1. of this section, the funds generated by this impact fee will be used to accomplish improvements to realign Anglers Road with Whites Bridge Road as stated in the "North 302 Corridor Plan Windham, Maine" prepared by Gorrill-Palmer Consulting Engineers, Inc. and adopted by the Windham Town Council in March 2011.
2. The above cited plan may be amended by the Town Council, in accordance with the Windham Town Charter, if the amendments to the plan are consistent with and further the purpose of this ordinance.

- K. Sunset Provision. The fee shall remain in effect until the Town has collected \$300,000 in fees (as adjusted for construction cost inflation) or until July 1, 2026 whichever comes first unless such dollar amount is increased or time limit is extended by vote of the Town Council.

Section 1200 Amendments

Order 13-071; Date 05-14-2013 – add Section 1202, North Windham Sidewalk Impact Fee

Order 14-033; Date 03-11-2014 – add Section 1203, Recreation Impact Fee

Order [XX-XXX]; Date [date of vote]

L. Table 1. North Route 302 Road Improvement Impact Fee, Windham, Maine

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Dwelling Unit*****	1.01	100	\$765.31	\$772.96	\$193.24	\$77.30

* PM peak hour Trips Per 1,000 sf for uses not exceeding 2,000 sf unless otherwise noted under use

** Fee cost per 1,000sf.

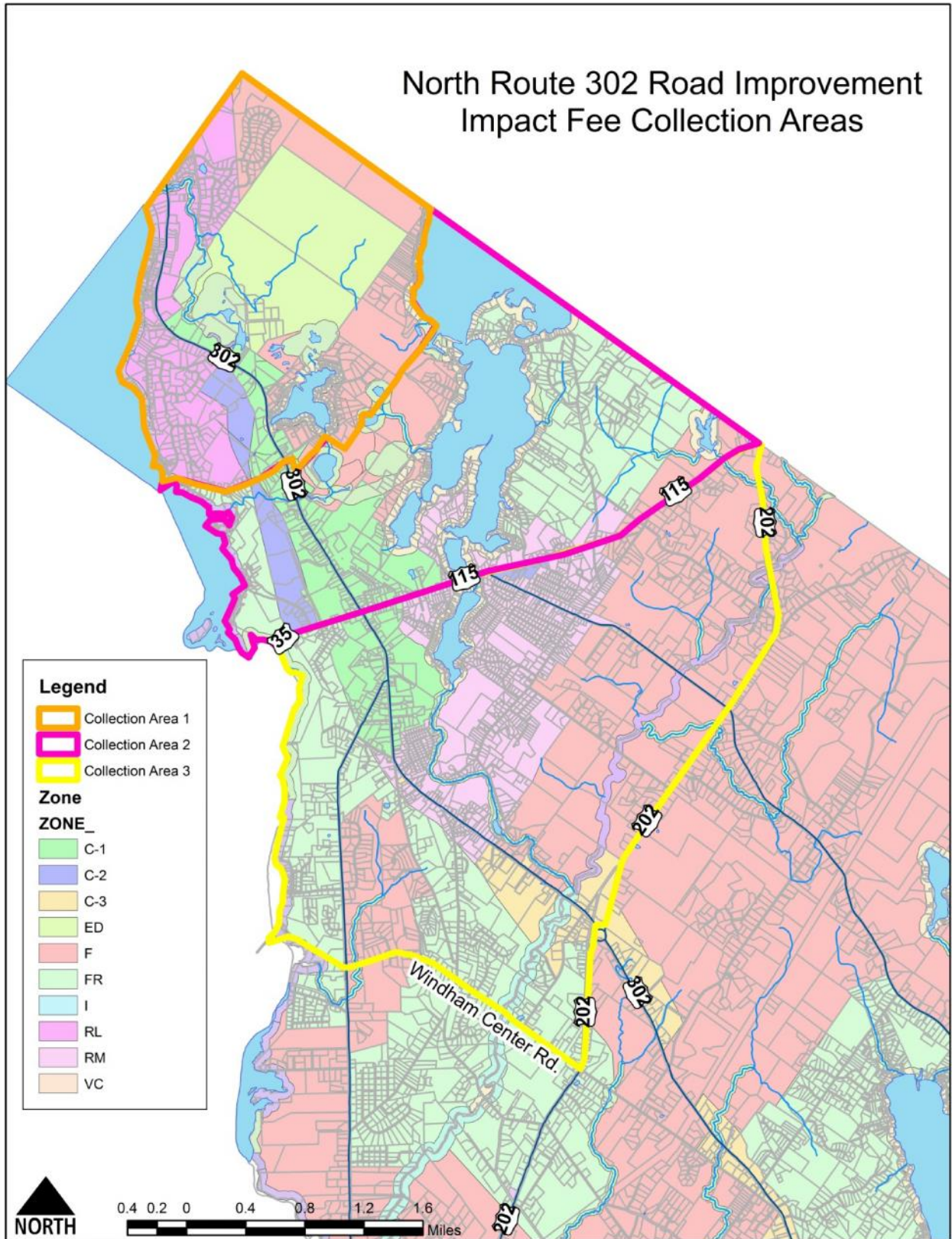
***Convenience Market without gas pumps

**** Trip Rate per service positions

***** Trip Rate per wash stall

***** Trip Rate per dwelling unit

M. Map 1. North Route 302 Road Improvement Impact Fee Collection Areas



Subdivision Review			
Item	Fee	Review Escrow	Effective Date
Development Team		\$100	10/22/09
Minor or Major Subdivision Sketch Plan	\$200	\$300	7/28/11
Minor Subdivision Final Plan	1-4 lots \$900	\$1,500	7/28/11
Major Subdivision Preliminary Plan	1-10 lots \$1,300 PLUS Each lot over 10 \$300	Up to 10 lots = \$2,500 11-15 lots = \$3,000 16-30 lots = \$4,000 30+ lots = \$5,000	7/28/11
Major Subdivision Final Plan	\$350	\$250	
Amended Suidvision Each Lot/Revision	\$350	\$250	7/28/11

Site Plan Review			
Item	Fee	Review Escrow	Effective Date
Development Team		\$100	10/22/09
Minor or Major Site Plan Sketch Plan	\$200	\$300	7/28/11
Minor Site Plan Final Plan	\$850	\$2,000	7/28/11
Major Site Plan Final Plan	\$1,300 PLUS \$25 each 1K s.f. over 5K s.f. GFA	2K to 5K s.f. GFA = \$2,000 5K to 15K s.f. GFA = \$3,000 15K to 35K s.f. GFA = \$4,000 over 35K s.f. GFA = \$5,000	7/28/11
Amended Site Plan Each Revision	\$350	\$250	7/28/11

Zone Change & Other Review Fees			
Item	Fee	Review Escrow	Effective Date
Zone Change Request	\$600	n/a	7/28/11
Contract Zone Request	\$800	\$500	7/28/11
Conditional Use	\$400	\$250	7/28/11
Board of Appeals Incl. Variances and Appeals	\$400	n/a	7/28/11
Mineral Extraction New Operation	\$100 + \$100/acre	\$500	7/28/11
Expansion over 5 acres	\$100 + \$100/acre	\$500	
Renewal	\$50	n/a	
Renewal, Late Fee	\$50	n/a	

Zone Change & Other Review Fees (Cont.)			
Item	Fee	Review Escrow	Effective Date
Shoreland Zoning			
Planning Board Review	\$100	n/a	10/24/02
	PLUS		
	\$50 for Public Hearing		
Code Enforcement Review			11/26/02
Minor	\$50	n/a	
Major	\$100	n/a	
Wireless Telecommunications Facility			7/28/11
Planning Board Review	\$400	n/a	
Co-Location Application	\$250	n/a	
Water Protection Ordinance	\$30	n/a	11/26/02
Postage. Applicants are responsible for postage costs of all notification requirements.			

Impact Fees*			
Item	Fee	Review Escrow	Effective Date
Sidewalk Impact Fee	5 feet of sidewalk x (GFA/100) x \$35 per foot	n/a	6/7/13
Recreation Impact Fee (per dwelling unit)			4/10/14
Single Family Detached	\$1,080	n/a	
Single Family Attached (duplex/condos)	\$800	n/a	
Manufactured Housing	\$800	n/a	
Multifamily (3+ Unit) apartment structure	\$600	n/a	
Accessory Apartment	\$400	n/a	
North Route 302 Road Improvement Impact Fee	\$765.31 per primary peak hour trip through Route 302 intersection with Anglers Rd/Whites Bridge Rd	required if not covered by site plan or subdivision review	[effective date]

Notes:

"K" = 1,000;

"s.f." = Square Feet;

"GFA" = Gross Floor Area (See Section 300 Definitions)

Postage - Notification cost requirement applies to all applications

Performance Bonds & Post Approval Inspection Fee must be established with the Town prior to the commencement of construction.

Building Permits - Contact the Code Enforcement Department or download from www.windhammaine.us

NPDES Post Construction Inspection Fee - See Post Construction Ordinance.

* - See Section 1200 of the Windham Land Use Ordinance for more details and applicability. A project's impact fee shall be paid prior to the issuance of any building permits.