

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

Voice 207.894.5960 ext. 2

Fax 207.892.1916

**Long Range Planning Committee  
Conference Room 1, Town Office  
7:30 – 9:00 AM, October 17, 2018**

## AGENDA

1. News/updates
  - a. [Cluster Subdivision Amendments](#) – Planning Board public hearing October 22, 2018
2. LRPC Appointment to Retail Adult-Use and Medical Marijuana Establishments Task Force
  - a. Review the Committee charge at <http://www.windhammaine.us/612/Retail-Adult-Use-and-Medical-Marijuana-T>
3. Impact Fees:
  - a. Open Space
    - i. [Land Use Ordinance Section 1200](#)
    - ii. Section 1202 Recreation Impact Fee & [Appendix F](#), Parks & Recreation Facilities Capital Investment Plan, adopted by the Town Council on October 8, 2013 (includes land purchases)
    - iii. [Beginning with Habitat Open Space Planning Toolbox Impact Fees](#)
      1. Website included example open space impact fees in Brunswick and Saco
  - b. Schools
    - i. [2003 State Planning Office Impact Fee Manual](#) – Model Template for School Improvement Impact Fees (Page 22)
    - ii. Example – Proposed Westbrook School Expansion Impact Fee (not adopted)
4. Zoning Ordinance and Map amendments for the Farm and Farm Residential Zoning Districts
  - a. See attached Scope of Work & Public Participation Plan
5. Open Space Plan
  - a. Examples
    - i. [2006 Greening of Falmouth](#)
    - ii. [Beginning with Habitat Open Space Planning Toolbox](#) - Includes example plans from Casco, Brunswick, Readfield Topsham and Sanford
  - b. Review RFP
6. Other Business



# City of Westbrook

## DEPARTMENT OF PLANNING

2 York Street

Westbrook, Maine 04092

(207) 854-0638

Fax: 1-866-559-0642

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### MEMO

DATE: May 5, 2017

TO: Mayor, City Council

FROM: Jennie P. Franceschi, City Planner & Alex Kee, Asst. Planner

Cc: City Administrator, City Clerk

RE: Amendment to the Land Use Ordinance

Chapter IX Impact Fees – Request for referrals to Planning Board

901 General Provisions

910 School Expansion Impact Fee

920 Sewer Impact Fee

Attached: – Proposed language for consideration Sections 901, 910 & 920

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The intent of this ordinance is to establish a General Impact Fee Ordinance which we currently do not have within our Land Use Ordinance. At the same time, we have provided two additional sections on impact fees for School Expansions and Sanitary Sewer Treatment Plant upgrades.

The process for this ordinance has taken time to determine the appropriate data with which to base the fees upon. Staff has done this work without having to incur any additional costs to the City.

For the School Impact fee, Staff thoroughly research student generation rates for the region, state and national surveys. The final methodology provided to you is a cumulation of those efforts in pulling together the most detailed data we felt was legally defensible. As part of these efforts, we requested an outside review by a professor at the USM Muskie School to review our methodology for appropriate practices, which we received his positive feedback on. This review was provided gratis.

For the Sewer Impact fee, the Wastewater Department determined the calculation of the fee, which is based upon the 2011 Woodard and Curran Treatment Plant study that developed a monetary cost to upgrade the current Wastewater Treatment Facility by 700,000 gallons per day (gpd). The cost was adjusted to present value using construction cost indices from the Engineering News-Record, which is industry standard.

As each section is separate piece of legislation, we would like to have 3 separate referrals to the Planning Board on each item. Therefore, Staff would suggest:

- a. City Council refer the proposed Section 901 General Provisions to the Planning Board for recommendation.
- b. City Council refer the proposed Section 910 School Expansion Impact Fee to the Planning Board for recommendation.
- c. City Council refer the proposed Section 920 Sewer Impact Fee to the Planning Board for recommendation.

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## **Chapter IX Impact Fees**

### **901- General Provisions**

#### **901.1 Authority.**

This ordinance is enacted pursuant to the authority of 30-A M.R.S.A. § 4354 and 30-A M.R.S.A. § 3001.

#### **901.2 Purpose.**

The Westbrook City Council has determined that new development creates demands on municipal government to provide new public facilities and to expand, improve or replace existing public facilities. The City Council concludes that to provide an equitable source of funding for such new, expanded, improved or replacement facilities, it is appropriate to establish a program of development impact fees and to charge a proportionate share of the costs of new, expanded, improved or replacement facilities to the developers and/or occupants of the developments which make the new, expanded, improved or replacement infrastructure necessary.

#### **901.3 Definitions.**

Words and phrases shall be considered to have the same meaning as defined in the Westbrook Code of Ordinances.

#### **901.4 Use of Impact Fees.**

Impact fees collected by the City pursuant to this ordinance may be used only for financing facility improvements which the City Council has determined are made necessary by new development. The City Council has determined that fees imposed by schedules in subsequent chapters of this ordinance are reasonably related to the demands created by new development and are reasonably related to the portion or percentage of existing infrastructure used by new development. Impact fees collected pursuant to this ordinance shall be used exclusively for capital improvements, and shall not be used for operational expenses. The City of Westbrook shall expend funds collected from impact fees solely for the purposes for which they were collected.

#### **901.5 Segregation of Impact Fees from General Revenues.**

Impact fees collected pursuant to this ordinance shall be maintained by the City Finance Director in a separate impact fee account and shall be segregated from the City's general revenues. The City Finance Director shall deposit impact fees in special non-lapsing accounts dedicated for funding of the improvements for which the fee is collected.

#### **901.6 Collection of Impact Fees.**

The Code Enforcement Officer of the City of Westbrook shall not issue any building permit required under the Code of Ordinances until the applicant has paid any impact fees required by this ordinance. Upon collecting such impact fee, the Code Enforcement Office shall remit the funds to the City Finance Director who shall deposit the funds as required in Section 5 above. The Code Enforcement Office shall make a record of the name and mailing address of the applicant paying the impact fee, the tax map and lot numbers of the property for which the impact fee is collected, the amount

collected, and the date the impact fee is received, and shall maintain such record in the files relating to the property for which the impact fee was paid.

#### **901.7 Exemption/Reduction from Fee for Off-site Improvements.**

If a development undertakes improvements off-site from the project site which improve the system that an impact fee is contributing towards, the amount of the off-site improvements may be deducted from the calculated impact fee or may be determined to be equivalent to the impact fee, as determined by the City Planner.

#### **901.8 Refund of Unused Impact Fees.**

Impact fees collected pursuant to this ordinance shall be utilized by the City per the schedules specified in subsequent chapters of this ordinance for the completion of specific capital improvements, but in no event, later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so utilized and any impact fees collected which exceed the City's actual costs of implementing the infrastructure improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.

#### **901.9 Amendment of Fees.**

The impact fees established in this ordinance are based upon the City Council's best estimates of the costs of the construction of the facilities for which the fees are collected and, where appropriate, upon estimates of state and/or federal funding contributions. The Council may, by amendments to this ordinance, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

##### **A. Inflation Adjustment.**

The impact fees established by the City Council in this ordinance shall be adjusted annually by the City Finance Director to account for inflation. Commencing on February 1, 2018 and on each February 1st, thereafter, the Finance Director shall increase each impact fee by the dollar amount (rounded to the nearest whole-dollar increment) obtained by multiplying the amount of the fee then-in-effect by the inflation rate. As used in this paragraph, the term "inflation rate" means the percentage increase, if any, during the previous calendar year in the Consumer Price Index – All Urban Consumers, Northeast Urban Area, All Items, (1982-84 = 100 base) (not seasonally adjusted) published by the United States Department of Labor Bureau of Labor Statistics. If there has been no such increase, there shall be no adjustment under this paragraph.

Each year on February 1st, the City Clerk shall publish a schedule of impact fees adjusted pursuant to this paragraph (the "adjusted impact fees") and provide a copy of such schedule to the Code Enforcement Officer. The adjusted impact fees shall apply to all building permits issued on or after February 1st of each calendar year, whether or not the applications for building permits were filed prior to such dates.

**901.10 Impact Fee Not Required for Replacement Dwelling Units.**

An impact fee shall not be required for the following units provided that the number of bedrooms constructed in the new structure are equal to or less than number of bedrooms in the structure being replaced:

- A. the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which was located on the same lot at any time before October 3, 2016;
- B. the placement on a mobile home park site of a mobile home which replaces a mobile home which was located on the same site at any time before October 3, 2016;
- C. the placement or construction on a lot of a dwelling unit which replaces a dwelling unit which is or was located on the same lot and for which an impact fee has already been paid under this ordinance; or
- D. the placement on a mobile home park site of a mobile home which replaces an existing mobile home which is or was located on the same site and for which an impact fee has already been paid under this ordinance.

**901.11. Severability.**

Should any section or provision of this ordinance be determined in a court to be unconstitutional, invalid or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or of the remainder of the ordinance as a whole.

910 – School Expansion Impact Fee**910.1 Purpose.**

The fees collected under implementation of these Regulations shall be used to contribute to the City of Westbrook’s debt burden for the construction or renovation of the Middle School and Saccarappa School improvements as authorized by the voters on November 8, 2016. A portion of the cost of these projects is necessary due to the projected increase in enrollment due to anticipated new housing construction in the City of Westbrook.

**910.2 Calculation of Fee.**

- A. The amount of the impact fee is derived from student generation rates that typically live in a particular type of housing (single-family home, apartment, and mobile home). Methodology and data to determine the Student Generation Rates was derived from the 2003 State Planning Office Impact Fee Manual, “Financing Infrastructure Improvements through Impact Fees” and supplemented with data derived from July 2016 Westbrook School Enrollment Projections Study by Planning Decisions. Refer to Westbrook School Expansion Impact Fee Methodology, dated XXXXXX for calculations. In determining the impact fee payable for each unit, the fee shall be based upon the number of bedrooms in the unit.

	<b>SINGLE FAMILY</b>	<b>DUPLEX/MULTI</b>	<b>MOBILE HOME</b>
<b>2 BEDROOM</b>	<b>\$735</b>	<b>\$662</b>	<b>\$549</b>
<b>3 BEDROOM</b>	<b>\$3,245</b>	<b>\$1,506</b>	<b>\$2,964</b>
<b>4 BEDROOM</b>	<b>\$3,483</b>	-	-
<b>5+ BEDROOM</b>	<b>\$4,084</b>	-	-

- B. The fee for an addition to an existing dwelling unit which expands the number of bedrooms shall be the difference in the fees for the type of unit after the addition and the type of unit prior to the addition. (For example, the impact fee for adding one bedroom to a three-bedroom single family home is  $\$3,483 - \$3,245 = \$238$ ).

**910.3 Payment of Fee.**

- A. The application for a permit to construct a new dwelling unit or expand an existing dwelling unit shall indicate the number of bedrooms. The Code Enforcement Officer shall review the plans accompanying the application and determine the number of bedrooms in the unit.
- B. The Code Enforcement Officer shall inform the applicant of the number of bedrooms assigned to the permit and the impact fee will be assessed and paid prior to a Building Permit. If the plans should change during the course of construction and an additional bedroom is created, the Code Enforcement Officer will not issue a Certificate of Occupancy until the appropriate impact fee is paid in full.

**910.4 Exemptions.** The following are exemptions to this impact fee:

- A. Housing for Older Persons, which may also include assisted-living or congregate care facilities. Housing for Older Persons is defined, intended for, and solely occupied by persons 62 years of age or older.

**910.5 Effective Date.**

The provisions of these Regulations shall apply to all new dwelling units and all bedroom additions to existing dwelling units for which a building permit is issued on or after October 3, 2016.

**910.6 Appeals.**

The appeals of the decision of the Code Enforcement Officer in determining the number of bedrooms in a new dwelling unit or the number of bedrooms in an addition to an existing dwelling unit shall be taken to the Westbrook Board of Appeals in accordance with Section 703 of the City of Westbrook Code of Ordinances.

**910.7 Termination of Fees.**

When the school projects identified above have been completed and all debt incurred in connection therewith has been repaid, the City Council shall amend this ordinance either by repeal of this chapter, or by amendment of this chapter if circumstances at the time warrant the continuation of school impact fees.



**Westbrook School Expansion Impact Fee Methodology**

Methodology and Data derived from the 2003 State Planning Office Impact Fee Manual Financing Infrastructure Improvements through Impact Fees  
 Supplemented with Data derived from July 2016 Westbrook School Enrollment Projections K-12 Student Generation<sup>a</sup>

	Single Family				Apartments		Mobile Homes	
	2	3 <sup>a</sup>	4	5	2	3+	2	3+
K-4	0.087	0.25	0.426	0.401	0.079	0.139	0.056	0.376
Gr. 5-8	0.058	0.279	0.269	0.248	0.04	0.114	0.043	0.231
Gr. 9-12	0.025	0.221	0.11	0.295	0.034	0.095	0.028	0.078
	0.17	0.75	0.805	0.944	0.153	0.348	0.127	0.685

Cost per unit \$ 735.47 \$ 3,244.73 \$ 3,482.67 \$ 4,084.03 \$ 661.92 \$ 1,505.55 \$ 549.44 \$ 2,963.52  
 8652.60\*rate/2

**Rounded \$ 735 \$ 3,245 \$ 3,483 \$ 4,084 \$ 662 \$ 1,506 \$ 549 \$ 2,964**

To nearest whole dollar increment

**Cost Provided from Harriman Associates for Westbrook School Dept Cost Analysis**

Cost of 2 classrooms with a hallway connection \$ 415,325.00  
 Cost per classroom (Divided number by 2) \$ 207,662.50

**Cost Per Child (24 Students per classroom) \$ 8,652.60**

**Justification on Cost per housing unit**

Used Cost generated by new construction for classrooms for future growth  
 Divided by 24 students per classroom  
 Multiplied by the Student Generation Rate for each housing category  
 Divided the Cost by 2 to account for Tax credit for taxes to be paid by Property owner on School Bond  
 Legal defensibility with credit provided in formula

**Total cost of new construction - growth**

6 classrooms at Middle School  
2 Classrooms at Saccarappa  
 8 Classrooms Total Growth costs = \$ **1,661,300.00**



**920 Sewer Impact Fee**

**920.1 Purpose.**

The fees collected under the implementation of these regulations shall be used to increase capacity in Westbrook’s sanitary sewer treatment plant in conjunction with the growing population of the City to maintain current standards and incorporate new developments in the sanitary sewer system.

**920.2 Applicability.**

This impact fee is applicable to all permits issued where new sanitary sewer flow is generated by the use. This includes:

- A. New construction;
- B. Expansion of existing units (either dwelling units or commercial units); or,
- C. Change of use.

**920.3 Definition.**

Words and phrases shall be considered to have the same meaning as defined in the Code of Ordinances under Chapter 26 – Sanitary Facilities, Sewers and Wastewater Treatment and Chapter 27 – Sewer Use Fees, Industrial Pretreatment Program Requirements and Industrial Cost Recovery.

**920.4 Calculation of Fee.**

The calculation of the fee is based on the 2011 Woodard and Curran study that developed a monetary cost to upgrade the current Wastewater Treatment Facility by 700,000 gallons per day (gpd). The cost was adjusted to present value in 2017 using construction cost indices from the Engineering News-Record, which is industry standard. This cost will be a one-time fee. Refer to Westbrook Sewer Impact Fee Methodology dated XX/XX/17 for calculations.

<b>Upgrade Capacity to be constructed</b>	700,000 gpd
<b>Sewer Impact Fee</b>	\$4.72 gpd

**920.5 Payment of Fee.**

The application for a permit shall indicate projected sanitary sewer flows along with calculations. The City Engineer shall review and approve the projected flows accompanying the application. Flows are based on the State of Maine Subsurface Wastewater Disposal rules (last amended version).

The City Engineer shall inform the applicant of the projected flow that is assigned to the permit and the impact fee will be assessed and paid prior to a Building Permit. If the plans should change during construction and additional flow is expected, the Code Enforcement Officer will not issue a Certificate of Occupancy until the appropriate impact fee is paid in full.

**920.6 Exemptions.** The following exemptions to this impact fee:

- A. If the development is constructing an upgrade to the sanitary sewer as a part of the project, the impact fee will be reduced by the cost of the improvements as reviewed and approved by the City Engineer.



**920.7 Effective Date.**

The provisions of these regulations shall apply to all projects where a building permit or change of use has been issued on or after October 3, 2016 and where new sanitary sewer flow is generated by the use.

**920.8 Appeals.**

The appeals of the decision of the City Engineer will follow the same course of action as appeals for the sewer fee, which can be found in Section 27-7 in the City of Westbrook's Code of Ordinances.

### Westbrook Sewer Impact Fee Methodology

Year	2012	2013	2014	2015	2016	2017
<b>Construction Cost Index*</b>	2.9%	4.2%	2.4%	3.2%	1.6%	3.9%
<b>2011 Value**</b>	\$5,520,000.00					
<b>2017 Value</b>	\$6,602,540.61					

\*Taken from Engineering News-Record

\*\*Taken from a 2011 study conducted by Woodard & Curran

The calculation of the fee is based on the 2011 Woodard and Curran study that developed a monetary cost to upgrade the current Wastewater Treatment Facility. The cost was adjusted to present value in 2017 using construction cost indices from the Engineering News-Record, which is industry standard.

The Woodard & Curran study estimated an upgrade of 700,000 gallons per day (gpd) in capacity for the existing Wastewater Treatment Plant. This number was then used to calculate the sewer impact fee per gallon for each new development by dividing the 2017 value by the upgrade capacity of 700,000 gpd. The final number that will be used includes a 50% credit.

<b>Upgrade Capacity to be constructed</b>	700,000 gpd
<b>Unit Cost of Capacity Upgrade</b>	\$9.43 gpd
<b>Sewer Impact Fee (with 50% Credit)</b>	\$4.72 gpd

### Examples of Sewer Impact Fees for Various Types of Developments:

		Average Flows (gpd)	Fee
<b>Single Family Residential</b>		300	\$1,416.00
<b>Multi-Unit Residential</b>	<b>1 bed</b>	120	\$566.40
	<b>2 bed</b>	180	\$849.60
	<b>3 bed</b>	270	\$1,274.40
<b>Office Building</b>		600	\$2,832.00
<b>Restaurant</b>		4,200	\$19,824.00
<b>Industrial Food Processing</b>		17,000	\$80,240.00
<b>Microbrewery</b>		40,000	\$188,800.00

# Rural Windham Zoning Changes – Plan to Plan

## Task 1 – Groundwork and Kickoff Activities

### Task 1.1 – LRPC approval of project plan (10/17)

*Products = Project Work Plan*

### Task 1.2 – ID local Stakeholder Groups

- Who else should be at the table during LRPC meetings as invited guests?
- Who should be consulted during the ordinance drafting process?

### Task 1.3 – Existing Document review - Comprehensive Plan and existing ordinance and map

- How well does the existing ordinance meet the vision of the plan?
- How well does the zoning match the future land use plan?
  - Assumption – there should be no F or FR zoning in Growth Areas and most of the Rural Areas should be F or FR

*Products = Plan and ordinance summaries*

### Task 1.5 – Public Workshops #1 and #2

*Products = Workshop summary documents*

### Task 1.6 – Potential Stakeholder Group meetings for input (depending on attendance at Public Workshops)

## Task 2 – Ordinance Drafting and Review

### Task 2.1 – LRPC Review Map

- Beyond the Growth and Rural areas, discussions about whether and where existing F and FR zones be combined?
- Does Windham need another zone or two in the Rural Areas to meet the goals of the plan and address new public input?

### Task 2.2 – LRPC Review Ordinance – uses, standards, dimensional requirements

- Once the geographies of the Rural zoning are established, more time needs to be spend on the regulations

### Task 2.3 – Draft ordinance and map changes

*Product = Ordinance Draft #1*

### Task 2.3 – Official Family meeting #1 to Review Ordinance Draft with staff, individual Boards, Committees and Commissions

- Review for enforceability, practicality, consistency

### Task 2.4 – Stakeholder Group meetings

- Review for alignment with rural goals and reasonable amounts of development

**Task 2.5 – Public Workshop #3 to review draft changes to Map and Ordinances**

- Review for alignment with rural goals and reasonable amounts of development

**Task 2.6 – Final Draft proposed changes based on feedback in Tasks 2.3-2.5**

*Product = Ordinance Draft #2*

**Task 3 – Formal Adoption Process and Ongoing Support**

**Task 3.1 – Planning Board Discussion and Public Hearing**

**Task 3.2 – Town Council Discussion and Public Hearing**