

## **Chapter 45**

### **Transportation Impact Fees**

This chapter establishes a transportation impact fee that must be paid by most development projects.

#### **45.1. Purpose – Authority - Repeal**

**45.1.1 Why does Williston charge a transportation impact fee?** The 2016-2024 *Williston Comprehensive Plan* (see Chapter 6) and other plans and studies prepared for the town make it clear that numerous transportation improvements are needed to serve Williston’s anticipated growth. This chapter establishes a transportation impact fee to help pay for those improvements and, specifically, to ensure that new residents and businesses bear a fair portion of the costs of those improvements.

**45.1.2 Does the town have the authority to impose impact fees?** Yes. 24 V.S.A. § 5200, et seq., gives Vermont municipalities the authority to charge transportation (and other) impact fees.

#### **45.2 Payment - Calculation**

**45.2.1 Who must pay the transportation impact fee?** Any development for which a discretionary permit is required that results in an increase in the number of dwelling units or, in the case of nonresidential development, in an increase in PM peak hour trip ends (trips occurring between the hours of 4:00 PM and 6:00 PM on weekdays, regardless of mode of travel) must pay a transportation impact fee. The DRB may specify that an alternative measure of peak trip demand be used for determining the transportation impact fee on recommendation from the town’s transportation engineer. Examples of such development include churches, schools, and other uses generating significant amounts of traffic with peak periods outside of the P.M. peak hour of demand.

**45.2.2 Does “development” include additions or expansions of existing uses?** Yes. Additions to nonresidential uses that require the approval of a discretionary permit by the DRB are subject to the transportation impact fee adopted here.

**45.2.3 When must the transportation impact fee be paid?** Payment of the transportation impact fee required by WDB 45.2.1 must accompany the application for the administrative permit that will allow work to begin on the proposed addition, building or dwellings that generate the trips for which the fee is owed. Impact fee payments, like all other permit fees, will be made to the Town Clerk, based on a calculation provided by Williston Planning.

**45.2.4 Can one prepay transportation impact fees in order to avoid possible increases in these fees?** No. As provided in WDB 45.2.3, transportation impact fees may be paid only at the time an application for an administrative permit is filed.

**45.2.5 How was the transportation impact fee calculated?** The net transportation impact fee adopted here is calculated based on the *Town of Williston, Vermont and Chittenden County regional planning Commission (CCRPC) Transportation Impact Fee Study* performed by Resource Systems Group in 2019. This study, using a 2040 horizon, compares projected growth and its impact on Williston’s transportation system to a set of transportation projects intended to mitigate that congestion. The result is a fee that is intended to ensure that new development pays its share of the cost of maintaining the level of service of Williston’s transportation system at current levels.

**45.2.6 So, how much do I owe?** The transportation impact fees are:

45.2.6.1 Single Family Dwellings. The net transportation impact fee for each single-family dwelling is \$1943.00 per PM peak hour trip end X 1.01 PM peak hour trip ends per dwelling, totaling \$1962.43

45.2.6.2 Multiple Family Dwellings/Condominiums. The net transportation impact fee for each unit in a multiple-family or condominium dwelling is \$1943.00.00 per PM peak hour trip end X 0.78 PM peak hour trip ends per dwelling, totaling \$1,515.54.

45.2.6.3 Nonresidential Developments. The net transportation impact fee for all other development is \$1943.00 multiplied by the number of PM peak hour trip ends that development is expected to generate.

**45.2.7 How do I know how many PM peak hour trip ends a proposed development will generate?**

The number of PM peak hour trips generated by a proposed nonresidential development will be estimated using the most current edition of the Institute of Transportation Engineers *Trip Generation*. The Administrator's determination of PM peak hour trip ends made using that reference is subject to appeal using the procedures of WDB 5.4.

**45.2.8 Are there other ways of calculating the number of trips for the purpose of determining the transportation impact fee?**

There may be circumstances when other traffic generation sources may be required. Other sources may include professionally conducted traffic generation studies not included in the ITE TRIP GENERATION manual or local trip generation studies conducted for the particular use. Local trip generation studies are required when: a) the particular land use is not covered by ITE; b) there are fewer than 4 data points (studies) in the ITE TRIP GENERATION manual; c) the size or intensity of the use falls outside the range of the TRIP GENERATION data points. When using local trip generation studies, the town shall have its own traffic consultant verify the proposed trip generation calculation at the expense of the developer prior to acceptance by the Administrator.

**45.2.8 Are there lower transportation impact fees for affordable housing?** Yes. As permitted by 24 V.S.A. § 5205, the net transportation impact fees for perpetually affordable housing units will be waived at the following rate:

Perpetually affordable at 100% of the Area Median Income or below:  
Transportation Fees discounted 50%

Perpetually affordable at 80% of the Area Median Income or below:  
Transportation Fees discounted 100%

A perpetually affordable housing unit is one that meets the definition of 'affordable housing' established in this bylaw.

**45.2.9 Do all public facilities have to pay transportation impact fees?** No. Transportation impact fees will not be collected for the construction of new Town facilities or facilities built by the Chittenden Solid Waste District.

45.2.10 Are there any other uses that are not subject to transportation impact fees? Yes. Child Day Care Services (NAICS 6244) will not be assessed transportation impact fees under this chapter.

**45.3 Use of the Fees.** Transportation impact fees may be used to build all or any part of the transportation improvements listed in Table 45.A. Transportation impact fees may not be used for other purposes, except that they may be used to support the update and revision of this chapter.

#### **45.4 Management of the Fees**

##### ***45.4.1 How will I know that the transportation impact fees I paid were used for the projects listed in WDB 45.3?***

45.4.1.1 Separate Account. Transportation impact fees will be placed in a separate interest bearing account: the "Williston Transportation Impact Fee Account." The Town Manager will maintain a ledger for this account which indicates the date of payment of each fee, the amount paid, the name of the payer, and the date that the fee collected was spent on one or more of the transportation improvement projects listed in Table 45.A.

45.4.1.2 Annual Report. Once each year, the Town Manager shall prepare and submit to the Selectboard and Planning Commission an annual accounting of all fees paid into and withdrawn from the Williston Transportation Impact Fee Account. This report shall show the amounts collected and their source, the amounts expended, and the projects for which expenditures were made.

***45.4.2 What happens if the town does not use the impact fee I paid in a timely fashion?*** If the town does not expend an impact fee within six years of the date it is collected, the owner of the property at the end of the six-year time period may apply for and receive a refund of that fee. The request for a refund must be filed in writing within one year after the expiration of the six-year time period.

***45.4.3 What happens if the costs of the improvements supported by impact fees turn out to be less than estimated?*** As provided by 24 V.S.A. § 5203(d), if the actual expense of the projects funded by the impact fees established in this chapter is less than anticipated in the *Study*, the town will, upon request by the current owner of the property for which a fee was paid, refund that portion of the fee paid, with accrued interest, that was in excess of the amount that should have been charged. A request for this type of refund must be filed within one year of the completion of the last of the projects listed in Table 45.A.

***45.4.4 Suppose I paid an impact fee, and then decided not to build. Can I get a refund?*** Anyone who pays a transportation impact fee may request and receive a refund of that fee if the proposed development was never begun. Where such a refund is requested, the approved administrative permit will be voided and accrued interest will be retained to offset the town's administrative expenses. A new administrative permit, and if necessary, a new discretionary permit, and payment of all required fees, including the transportation impact fee, will be required before any development activity is permitted on the site.

#### **45.5 In-Kind Contributions.**

***45.5.1 Can the construction of transportation improvements by an applicant be credited against impact fees owed on the project?*** Yes. There may be times when a developer whose project will

have to pay transportation impact fees will find it convenient to build or install one, or some part of one, of the improvements listed in Table 45.A.

45.5.2 Credit for construction of improvements prior to development. Where an applicant constructs or contributes to the construction of a transportation improvement that is or will be necessary to directly serve trips created by their future development, that development shall receive “credit” against its transportation impact fee liability up to 100% of the cost of the construction of the improvement or the amount of the contribution toward the improvement made by the applicant.

**How would “credit” for an impact fee work and how is it different from “prepaying” an impact fee, which is not allowed?** The actual construction (or contribution to the actual construction) or a listed transportation improvement necessary to serve future development by the applicant is different from “prepaying” an impact fee because the improvement is actually built. A good example is the “grid street” Zephyr Road, whose construction was necessary to serve the Finney Crossing Development. Projects within the Finney Crossing development are considered to have “paid” their impact fees by constructing a listed improvement, up to the total cost of constructing Zephyr Road that was incurred by the applicant when it was constructed.

**45.5.3 How will credits for construction be determined?** Where an applicant proposes to build or to contribute funds to build all or part of a listed improvement, the development agreement required by Chapter 7 of this bylaw for any development the applicant proposes that is directly served by the improvement may include language, approved by the DRB with the advice of the DPW, that describes how the contribution or actual costs of building or installing the improvement will be credited against the transportation impact fees. Where the credit will be less than the sum of the transportation impact fees that would be paid, any development agreement shall establish a lesser fee, to be paid when administrative permits are approved. Construction or installation of the listed improvement will become a “required improvement” subject to all security, inspection, warranty, and other standards established in Chapter 7 of this bylaw.

## 45.6 Appeals

**45.6.1 Is it possible to appeal an impact fee?** Yes. As required by 24 V.S.A. § 5203(f), anyone who must pay a transportation impact fee may challenge the imposition of that fee or the amount of the fee by filing a written notice of appeal with the Town Clerk. The notice of appeal must be filed within thirty days after payment of the impact fee (the fee must be paid before an appeal can be filed) and must state the basis of the appeal as required by WDB 45.6.3,

**45.6.2 Will there be a hearing on an appeal?** Yes. Within sixty (60) days after the filing of a notice of appeal, the Selectboard shall hold a public hearing to receive oral and written evidence and argument from the appellant, staff, and other interested parties.

**45.6.3 On what basis could the Selectboard overturn the imposition of an impact fee and provide a refund?** The Selectboard’s first concern in hearing a request to avoid the payment of impact fees must be equal treatment of all applicants. The appellant must, therefore, clearly demonstrate that it should not pay the fee, or pay a reduced fee, because its circumstances are unique, not shared by other applicants, and not adequately foreseen in the town’s determination of the transportation impact fees adopted in this chapter.

**45.6.4 How will notice of the Selectboard’s decision be reported?** The Selectboard will provide the appellant with a written notice of its decision within forty-five (45) days after the end of the hearing.

If that decision is to overturn the imposition of the fee, the notice of decision will be accompanied by a refund check.

**Table 45.A  
Improvements Eligible for Transportation Impact Fee Funding**

**How will the Town update and use this table?** This table contains the list of projects that the fee is based upon. This table may be updated each fiscal year to reflect changes in estimated project cost, and the fee adjusted accordingly.

<b>SYSTEM</b>	<b>PROJECT</b>	<b>COST (\$)</b>	<b>TOWN SHARE</b>
Town	Marshall Avenue Shared Use Path	200,000.00	100%
Town	East-West Grid Street. (VT2A to Maple Tree Place)	1,500,000.00	100%
Town	Shared-Use Path along US2 Taft Corners to Village (design)	100,000.00	100%
Town	Mountain View Road Bike Lanes (design)	100,000.00	100%
Town	Upgrade Maple Tree Place Roundabout	1,000,000.00	100%
Town	Industrial Avenue Sidewalk and Bike Lane	846,100.00	100%
Town	Extension of Trader Lane to US2	1,750,000.00	100%
	<b>Total eligible town projects &gt;&gt;&gt;</b>	<b>\$ 5,496,000.00</b>	