

Chapter 43

Parks and Recreation Impact Fees

This chapter establishes a parks and recreation impact fee that must be paid by most residential development projects.

43.1. Purpose – Authority - Repeal

43.1.1 Why does Williston charge a parks and recreation impact fee? The 2016-2024 *Comprehensive Plan* (see Chapter 9) and other plans and studies prepared for the town make it clear that numerous parks and recreation improvements are needed to serve Williston’s anticipated population growth. This chapter establishes a parks and recreation impact fee to help pay for those improvements and, specifically, to ensure that new residents bear a fair portion of the costs of those improvements.

43.1.2 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 recreation (and other) impact fees.

43.1.3 Does this chapter replace the parks and recreation impact fee Williston has been charging? Yes. Adoption of this chapter repeals Section 3-B and Table R-3 of the *Williston Impact Fee Ordinance*, which was first adopted on November 29, 2001, and last amended on July 17, 2003.

43.1.4 Can the Selectboard waive this impact fee for certain types of development? Yes. Pursuant to 24 V.S.A. Chapter 117, Section 4302 (a)(E) Goal 1 and 24 V.S.A. Chapter 131, Section 5205, the Selectboard may vote to grant a partial or total discount of this impact fee to new development provided the developer:

- Is a community land trust, housing trust, or other nonprofit that provides or will provide affordable housing AND
- Provides evidence and written guarantee that new development shall be perpetually affordable for owners or renters making 80% or less than the Area Median Income (AMI) for the Burlington-South Burlington Metropolitan Statistical Area, as established annually by the US Department of Housing and Urban Development, by household size. AND
- To be “affordable”, the proposed housing must meet the following criteria:
 - Homes for sale must be sold to buyers whose total housing obligation (principal and interest repayments, taxes, hazard insurance, and mortgage insurance) does not exceed 30% of the buyer’s household income. The buyer’s total household income cannot exceed 80% of the area median income for the Burlington-South Burlington Metropolitan Statistical Area, as established annually by the US Department of Housing and Urban Development, by household size.
 - Rental units must be rented to households with incomes not exceeding 80% of the area median income for the Burlington-South Burlington Metropolitan Statistical Area, as established annually by the US Department of Housing and Urban Development, by household size, and rents must not exceed 30% of household income.

43.2 Payment - Calculation

43.2.1 Who must pay the parks and recreation impact fee? Any residential development that results in an increase in the number of dwelling units must pay a parks and recreation impact fee.

43.2.2 When must the parks and recreation impact fee be paid? Payment of the parks and recreation impact fee required by WDB 43.2.1 must accompany the application for the administrative permit that will allow work to begin on the proposed dwelling(s) 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.

43.2.3 How was the parks and recreation impact fee calculated? The parks and recreation impact fee was calculated based on a study entitled *Recreation Impact Fee Analysis, Williston Vermont* prepared by Michael J. Munson, July 30, 2012. See Appendix I for an explanation of how the interim fee was established.

43.2.4 So, how much do I owe? The parks and recreation impact fees are:

43.2.4.1 Single Household Dwellings. The net parks and recreation impact fee for each single-household dwelling for Fiscal Years 2015-2025 is listed in Table 43.A

43.2.4.2 Multiple Household Dwellings/Condominiums. The net parks and recreation impact fee for each unit in a multiple-household or condominium dwelling for Fiscal Years 2015-2025 is listed in Table 43.A

43.2.5 Are there lower parks and recreation impact fees for affordable housing? As provided under WDB 43.1.4.

43.3 Use of the Fees. Parks and Recreation impact fees may be used to build all or any part of the parks and recreation improvements listed in Section III (A-E) of the report entitled *Recreation Impact Fee Analysis, Williston Vermont* prepared by Michael J. Munson, July 30, 2012 or shown on the Official Map. Parks and recreation impact fees may not be used for other purposes, except that they may be used to support the update and revision of this chapter.

43.4 Management of the Fees

43.4.1 How will I know that the parks and recreation impact fees I paid were used for the projects listed in WDB 45.3?

43.4.1.1 Separate Account. Park and recreation impact fees will be placed in a separate interest-bearing account: the "Williston Parks and Recreation 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 parks and recreation improvement projects listed in Table 43.A.

43.4.1.2 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 Parks and Recreation Impact Fee Account. This report shall show the amounts collected and their source, the amounts expended, and the projects for which expenditures were made.

43.4.2 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.

43.4.3 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. § 5302(d), if the actual expense of the projects funded by the impact fees established in this chapter is less than anticipated in the *Parks and Recreation Impact Fee Analysis*, the town will, upon request by the then 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.

43.4.4 Suppose I paid an impact fee, and then decided not to build. Can I get a refund? Anyone who pays a parks and recreation 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 parks and recreation impact fee, will be required before any development activity is permitted on the site.

43.5 Appeals

43.5.1 Is it possible to appeal an impact fee? Yes. As required by 24 V.S.A. § 5203(f), anyone who must pay a parks and recreation 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,

43.5.2 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.

43.5.3 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 parks and recreation impact fees adopted in this chapter.

43.5.4 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.

43.6 In-Kind Contributions within the Taft Corners Form-Based Code Zoning District

43.6.1 Can the construction of parks and recreation 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 parks and recreations impact fees will find it convenient to build or install one, or

some part of one, of the improvements shown on the Taft Corners Regulating Plan or Town Official Map that is on or reasonably adjacent to their property.

43.6.2 Credit for construction of improvements prior to development. Where an applicant dedicates land for and constructs or contributes to the construction of a public park or recreation improvement as identified on the Official Map, that development shall receive “credit” against its 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 dedication and actual construction (or contribution to the actual construction) or a recreation improvement necessary to serve future development by the applicant is different from “prepaying” an impact fee because the improvement is actually built. An example would be the Trader Lane Civic Green shown on the Regulating Plan (west of Hannaford’s and north of Bed, Bath, & Beyond). If an applicant proposed residential units adjacent to the green, they could offset the impact fee by constructing all or a portion of the civic green and dedicating the land to the Town as public park.

43.6.3 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 Administrator 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 impact fees. Where the credit will be less than the sum of the impact fees that would be paid, any development agreement shall establish a lesser fee, to be paid before Certificate of Conformity permits are approved. Construction or installation of the listed improvement will become a “required public improvement” subject to all security, inspection, warranty, and other standards established in Chapter 7 of this bylaw.

**TABLE 43.A
Parks and Recreation Impact Fees Fiscal Years 2015-2025
Per Dwelling Unit**

FY	Single Household	Multi-Household
2015	\$900.00	\$711.00
2015	\$900.00	\$711.00
2016	\$1100.00	\$869.00
2017	\$1300.00	\$1027.00
2018	\$1500.00	\$1185.00
2019	\$1700.00	\$1343.00
2020	\$1900.00	\$1500.00
2021-2025	\$2100.00	\$1659.00