

**DRAFT**  
**DURHAM TOWN COUNCIL**  
**MONDAY, JULY 7, 2025**  
**DURHAM TOWN HALL - COUNCIL CHAMBERS**  
**7:00 PM**

**MEMBERS PRESENT:** Chair Joseph Friedman, Councilor Wayne Burton, Councilor Sally Needell, Councilor Curtis Register, Councilor Heather Grant, Councilor Darrell Ford, Councilor Robin Vogt, Councilor Eric Lund, Councilor Em Friedrichs (who uses the pronouns ze/zir/zirs/zirself and the title Mx. Friedrichs)

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Business Manager Gail Jablonski, Attorney Joe McKittrick, Durham Police Chief Rene Kelley, Planning Board Chairman Paul Rasmussen, Town Planner Michael Behrendt, State Rep. Allan Howland, Strafford District 20

**I. Call to Order**

Chair Friedman called the meeting to order at 7:00 P.M.

**II. Roll Call of Members**

Councilor Heather Grant, Councilor Robin Vogt, Chair Joe Friedman, Councilor Sally Needell, Councilor Wayne Burton, Councilor Darrell Ford.

**III. Town Council grants permission for fewer than a majority of Councilors to participate remotely - No other councilors were on Zoom at 7 p.m.**

**IV. Approval of Agenda**

*Councilor Grant MOVED to approve the agenda for the meeting. Councilor Needell SECONDED the motion. The motion PASSED on a unanimous show of hands vote of 6-0.*

**V. Special Announcements**

Chair Friedman announced that the Town Council has approved its goals for the 2025-2026 year and they are now available on the town website.

Councilor Curtis Register joined the meeting at 7:02 p.m.

Chair Friedman announced the agenda for this meeting is fuller than expected, but that the Town Council intends to allow everyone to have a chance to speak. According to Town Council rules, each person can speak for five minutes. If they request additional time, the request will be granted and they will be allowed to continue after everyone else who wishes to have spoken. He said the Town Council will not debate the ordinance amendments until everyone has been heard. He said this may require an extension of one or two of the Public Hearings. He asked the Councilors to be brief if they speak and wait until after the public has spoken. He said there are speakers with presentations who may

1 want to speak longer. Other speakers can concede their time to them, and they can  
2 proceed after all the other members of the public have had a chance to comment. He said  
3 the Public Comments section of the meeting is for public comment in general. If  
4 attendees want to comment about the zoning changes scheduled for Public Hearings at  
5 this meeting, he asked that they save those comments until the Public Hearing on that  
6 matter. He asked, as usual, if an attendee is going to say the same thing as someone who  
7 has spoken before them, that they say they agree with that person, but if they have new  
8 perspective to add, the Council welcomes hearing the new perspective.  
9

10 Chair Friedman noted for the record that Councilor Register had joined the meeting in  
11 person and that Councilors Eric Lund and Em Friedrichs had joined the meeting on  
12 Zoom.  
13

## 14 VI. Public Comments

15

16 **Jay Gooze, 9 Meadow Road**, spoke on the proposed zoning ordinance change to the  
17 meaning of the use “lodging house” and the proposed HB 457, which is close to being  
18 signed into law, which says no town can restrict a dwelling to two people per bedroom.  
19 He said the town can’t control the number of renters, but can decide where lodging  
20 houses would be allowed, and should get that on the books quickly. He asked the Council  
21 to schedule the Public Hearing on the definition of lodging houses at this meeting. He  
22 said he would stay for the Council discussion later in the meeting.  
23

24 **Julie Kelly, 5 Garden Lane**, a member of the Integrated Waste Management Advisory  
25 Committee for several years, proposed a Committee Summit, a Town Council-sponsored  
26 meeting of one or two representatives from each town committee and board to increase  
27 communication and collaboration. She volunteered to organize the summit and invited  
28 others to reach out to her.  
29

30 **David Richman, 16 Cowell Drive**, spoke about the state law that requires towns in New  
31 Hampshire to cooperate with immigration enforcement and his opposition to it.  
32

33 **Susan Richman, 16 Cowell Drive**, noted other communities in the state are not  
34 complying with this law, citing Hanover and Lebanon and more locally Somersworth  
35 where the city is working to defend its large Indonesian population.  
36

37 **Timothy Horrigan, 7 Faculty Road**, praised the Town Council for its courage to  
38 propose the resolution about immigration enforcement in town and asked the Council to  
39 pass the resolution.  
40

41 **Carol Birch, 17 Garden Lane**, spoke against ICE working in the town, and asked the  
42 town to reconsider whatever agreement it has with ICE.  
43

44 **Joanna Wicklein, 240 Packers Falls Road**, said she agreed with other speakers who  
45 support the resolution about immigration enforcement in town as proposed or even  
46 something more forceful, given the recent passage of the federal bill that allocates \$70

1 billion to immigration enforcement nationally. She said it's not unrealistic to think the  
2 town will see more activity and possibly unlawful detainment. She supports standing up  
3 to actions that erode democracy.  
4

5 **Carden Welsh, 3 Fairchild Drive**, appeared on Zoom and said he would save his  
6 comment for later.  
7

8 **Dawn Meredith, 69 Mill Road**, spoke in support of the resolution on immigration  
9 enforcement and how it details many residents' concerns about how the current  
10 administration is ignoring the rights of immigrants. She said it is important to publicly  
11 voice the town's beliefs.  
12

13 **Emma Hollander, 7 Fairchild Drive**, said she is compelled to add her thoughts on the  
14 record because she is genuinely frightened ICE is breaking the law and violating the  
15 Constitution. She said laws only hold power if they are enforced, and encouraged the  
16 Council to stand up for the law and disavow ICE and its actions.  
17

18 **Eileen Murphy, 9 Bayview Road**, executive director of the Waysmeet Center where she  
19 works with many international students attending UNH, spoke in opposition to the state  
20 law that requires the town to cooperate with ICE and in support of the Town Council  
21 resolution, and asked the Council to adopt it.  
22

23 **VII. Report from the UNH Student Senate External Affairs Chair or Designee**

24 The UNH student representative was not present.  
25

26 **VIII. Unanimous Consent Agenda**

- 27 A. Shall the Town Council approve the 3<sup>rd</sup> 2025 Warrant Billing computed from the 2<sup>nd</sup>  
28 Quarter water and sewer readings of 2025 totaling \$703,566.74, commit the bills for  
29 charges to the Tax Collector for collection, and authorize the Administrator to sign said  
30 warrant?  
31 B. Shall the Town Council, upon recommendation of the Acting Administrator, authorize  
32 waiving the requirement to follow a formal bidding process for purchases over \$30,000  
33 per Section 5 of the Town of Durham Purchasing Policy, dated October 7, 2024, and  
34 approve the purchase of electric rescue tools with state contract pricing from Industrial  
35 Protection Services LLC, 33 Northwestern Drive, Salem, NH 03079?  
36

37 ***Chair Friedman MOVED to accept the Unanimous Consent Agenda.***  
38

39 Councilor Friedrichs requested to remove the water and sewer bill warrant and the  
40 purchase of electric rescue tools with no bid from the Unanimous Consent Agenda. Ze  
41 asked why the town didn't go through a bidding process for the electric rescue tools  
42 purchase. Town Business Manager Gail Jablonski said the state conducts a bidding  
43 process on products like these and determines a price for all towns, and staff chose to go  
44 with the state's choice.

1 Councilor Friedrichs said water and sewer consumption is down 90 percent in the last  
2 quarter and wondered if the town could make a more conservative estimate of future use  
3 and how that would affect rates. Ms. Jablonski said the town looks at usage yearly based  
4 on the prior year's rates. She said if consumption goes down, the rates go up because  
5 there's less water running through the system.

6  
7 Councilor Friedrichs said it wasn't clear in the minutes of the last meeting, when ze  
8 wasn't present, if the Council had decided to discuss the water report compiled by former  
9 Councilor James Bubar. Chair Friedman said nothing had formally been decided.

10  
11 ***Councilor Needell SECONDED the motion to accept the Unanimous Consent Agenda.***  
12 ***The motion passed on a unanimous roll call vote of 9-0.***  
13

14 **IX. Unfinished Business**

- 15  
16 **A. Discussion and Possible Adoption of Resolution #2025-15** reaffirming the Town's  
17 obligation and commitment of police and legal protections for all Durham residents and  
18 visitors.  
19

20 Councilor Register thanked those who were present to speak in favor of the resolution, and  
21 said he was hopeful Durham could be proud in taking a stand and protecting all its  
22 residents no matter how long they have lived here.

23  
24 ***Councilor Register MOVED that the Town Council adopt Resolution #2025-15.***  
25 ***Councilor Vogt SECONDED the motion.***  
26

27 Chair Friedman said the town's attorney, Joe McKittrick, has reviewed the ordinance and  
28 asked for his opinion. He also said Durham Police Chief Rene Kelley is present to answer  
29 any questions.  
30

31 Attorney McKittrick explained the Durham Police Department gets its policing power  
32 directly from the state, not the Town Council, and addressed what he believes may be a  
33 misunderstanding. A Town Council can appoint or withdraw a police chief, but it can't  
34 direct a police chief as to what it would like to see done. He said a Town Council cannot  
35 direct a police chief to cooperate or not cooperate with a federal law enforcement agency,  
36 and a Town Council cannot overturn a state law with a resolution. He said he is not  
37 weighing in on the legitimacy of the issue of concern, but just explaining the authority of  
38 the Town Council.  
39

40 Councilor Burton quoted the state bill, which says a town or county can't "prohibit or  
41 impede" an immigration enforcement action and asked if not cooperating is prohibiting or  
42 impeding an ICE action. Attorney McKittrick said he focused on the words "shall not  
43 cooperate." He gave the example of ICE asking for assistance during an action to keep the  
44 peace and if Durham didn't give assistance, it would be a violation of the state law.

1 Attorney McKittrick suggested deleting the sentence in the third to the last paragraph of  
2 the resolution beginning “Additionally, the town of Durham ...” If deleted, he believes  
3 the resolution would not violate the department’s obligation or the state law.  
4

5 Councilor Burton and Attorney McKittrick agreed the town has an absolute right to  
6 express its strong opinion. Councilor Burton said after hearing the public comments, the  
7 Council should amend the resolution to express its strong concern without violating the  
8 state law.  
9

10 Councilor Register asked and Attorney McKittrick confirmed that the police department  
11 derives its authority and power from the state, but if it is involved in an action with a  
12 Durham resident or other person, the town is the liable party. Attorney McKittrick  
13 explained the police get their power from the state, but they are employees of the town,  
14 which is responsible for their actions.  
15

16 Councilor Friedrichs asked for clarification that the town is responsible for the police  
17 department, and Attorney McKittrick said the town is the employer of the police  
18 department subject to regulations set by the state such as age or certification requirements.  
19

20 Councilor Friedrichs asked if Durham were to pass a resolution in conflict with a state  
21 law, who does the potential legal consequences fall on - individual police officers or the  
22 town?  
23

24 Attorney McKittrick said police officers have qualified immunity if they are acting in  
25 good faith, which exempts them from legal prosecution, and the responsibility would fall  
26 on the town ultimately and the state argument would be that any resolution passed in  
27 violation of a state statute would be void.  
28

29 Councilor Friedrichs asked Attorney McKittrick’s opinion if the Council passed a  
30 resolution that required a judicial warrant not an administrative warrant to assist another  
31 agency working with people based on their immigration status, and setting special detail  
32 rate, would it be considered failing to cooperate, or would it just be setting steps for that  
33 cooperation. He said he is unaware of any detail rates being charged in these situations  
34 and Chief Kelley agreed with him.  
35

36 Chair Friedman asked if Police Chief Kelley agreed that this administration is trying to  
37 nationalize authorities, and Chief Kelley said he strongly supports all of the resolution  
38 except the part Attorney McKittrick pointed out.  
39

40 Chief Kelley said the department does not enforce federal law, but if ICE asked for  
41 assistance with executing an active warrant, it will assist by accompanying them to the  
42 location, by monitoring the arrest, by making sure their officers are safe and by de-  
43 escalating if the situation requires it. But first they have to submit the warrant and the  
44 Durham Police would not be involved in any inhumane treatment of individuals. He gave  
45 a couple examples of recent interactions between Durham Police and people of varying  
46 immigration status, who are terrified of the police and being detained, which he called

1 “tragic.” He said he has a good relationship with representatives of federal agencies in the  
2 region and they meet regularly, but they are not mandated to notify Durham if they are  
3 going to take an action in town.  
4

5 Councilor Ford asked if a warrant had to be signed by a judge and Chief Kelley said a  
6 federal warrant would have to be signed by a federal magistrate. Councilor Ford then  
7 asked Councilor Register if he as the originator of the resolution had an issue with taking  
8 out the paragraph that Attorney McKittrick had suggested should be removed.  
9

10 Councilor Register said he has concerns, but has complete confidence in the Durham  
11 Police Department, which he said is beyond reproach, and is very proud to have it  
12 protecting the town. He said he does not support breaking the law. He doesn’t want to  
13 make the Durham Police choose between loyalties, but it does seem that another  
14 organization is trying to make them choose by mandating that they join forces with an  
15 organization that has publicly acted incorrectly repeatedly over the last six months. He  
16 gave the example of a couple of his neighbors who are green card holders who are fearful  
17 and discussed with Chief Kelley how to handle situations that may arise with immigration  
18 enforcement. Councilors discussed some recommended actions citizens can take, and what  
19 the police department’s policy is, and possible rewording of some of the resolution.  
20

21 ***Councilor Ford MOVED to amend Resolution #2025-15 by removing the third to the***  
22 ***last paragraph, everything from the word “additionally” to the end of that paragraph***  
23 ***from the resolution. Chair Friedman SECONDED the motion.***  
24

25 Councilor Friedrichs suggested a different amendment with different wording of that  
26 paragraph to avoid removing it. Ze suggested “Additionally the Town of Durham and all  
27 those who derive their authority from the town, to include law enforcement officers, shall  
28 request a judicial warrant before cooperating with and shall charge special detail to any  
29 government organization that attempts to stop, question or apprehend any person solely  
30 based on immigration status.” Ze added ze wanted to keep the line that clarifies that  
31 bounty hunters cannot operate within the town of Durham.  
32

33 Attorney McKittrick said the second amendment proposed by Councilor Friedrichs could  
34 be construed as interference with a federal agent in the performance of his duties and that  
35 the state statute specifically prohibits that.  
36

37 Councilor Burton said the first amendment proposed by Councilor Ford would not put the  
38 councilors in the position of breaking their oath to the Constitution and state law, but said  
39 he thinks the second amendment might.  
40

41 Councilor Friedrichs asked Chief Kelley’s opinion of zir amendment, and he said he had  
42 nothing to add except that the police department doesn’t charge anyone for assistance  
43 when it is called in to help - whether it’s mutual aid or otherwise. Charging special detail  
44 as it says in zir amendment is something they have never done. Chief Kelley said the  
45 department would not call in people who are off duty in this situation. Those on duty at  
46 the time would handle it and they would already be being paid by the town for the shift.

***The amendment proposed by Councilor Ford to remove the sentence PASSED on a roll call vote of 5-4.***

***Councilor Register, nay; Councilor Ford, aye; Councilor Burton, aye; Councilor Needell, aye; Chair Friedman, aye; Robin Vogt, nay; Councilor Grant, nay; Councilor Friedrichs, nay; Councilor Lund, aye.***

Chair Friedman asked if there were other amendments to be made.

***Councilor Friedrichs MOVED to further amend the language to what ze had proposed. Councilor Register SECONDED zir motion.***

Councilor Grant said she agrees with checking to make sure the paperwork is in place before cooperating, but doesn't believe in charging a special detail fee to a law enforcement agency so that part should be removed.

Chair Friedman reminded Councilors that Chief Kelley and Attorney McKittrick have advised them not to accept this amendment. He said he does not want to break the law or do things that are in violation of the law or the oath to the state Constitution all Councilors have taken. He said he would not vote for this amendment.

Councilor Register said the oath they took is to the state Constitution and that there are multiple rights in that Constitution that are being violated by the federal and state forces aligned with ICE, such as search and seizure, due process, habeas corpus, cruel and unusual punishment, and birthright citizenship, which is why he doesn't see the resolution in violation of his oath to the federal and state Constitution.

Councilor Needell recalled for councilors that at the last meeting Town Administrator Selig had expressed concern that his job may be jeopardized if the town violates state law.

Chair Friedman called for a vote on the amendment to add the language back into the resolution.

***The amendment FAILED on a roll call vote of 6-3.***

***Councilor Grant, nay; Councilor Vogt, aye; Chair Friedman, nay; Councilor Needell, nay; Councilor Burton, nay; Councilor Ford, nay; Councilor Register, aye; Councilor Lund, nay; Councilor Friedrichs, aye.***

***Councilor Friedrichs MOVED to amend the resolution to add the new language without the part about charging a special detail fee, and keeping the part banning bounty hunters. Councilor Register SECONDED the motion.***

Several expressed the need to see the proposal in writing. While Councilor Friedrichs shared zir screen and enlarged the section so Councilors could see it, Attorney McKittrick

1 said he had some concerns. Chief Kelley replied to a question from Councilor Needell that  
2 requesting a judicial warrant before cooperating is already in the police department's  
3 policy of how to proceed in this situation. Councilors discussed the importance of  
4 reiterating this in the resolution.

5  
6 Attorney McKittrick said he hesitated to disagree with the chief, but he said ICE believes  
7 it has an absolute right to proceed without a warrant and it doesn't even need to tell the  
8 police it is in town. He said ICE would see Durham's requesting a judicial warrant as  
9 challenging its authority and that could be construed as an interference in the most  
10 conservative interpretation of that section of the resolution.

11  
12 Chief Kelley said the police department can request to see a warrant, but can't demand  
13 one, and admitted it doesn't have a lot of teeth, but that it is the Durham department's  
14 policy to ask.

15  
16 On the issue of bounty hunters, McKittrick said if they are not authorized or deputized by  
17 the federal, state or local government, the town has a right to limit private people who are  
18 hindering residents without legal authority. He said he hasn't heard the term in years.

19  
20 Councilor Friedrichs clarified the language in zir proposed amendment specifically  
21 focuses on the request before cooperating, not charging officers to impede the actions of  
22 an agency. Ze agreed this is already in the police department's policy, but believes having  
23 it in writing as a resolution reassures residents and visitors, and provides example  
24 language to other police departments around the state and county that may not have a  
25 policy in place. Ze said the Durham Police Department is a model police force in many  
26 ways and continues that exemplary reputation.

27  
28 Chief Kelley said he wanted to make it clear that if there is a request from any law  
29 enforcement agency be it state, local or federal, the police department will assist them to  
30 ensure officer safety only. He said the department is not going to turn down a request for  
31 assistance if there is a valid reason for it. He said he believes everyone would want a  
32 police officer present if for nothing else than to be a good witness and de-escalate if  
33 needed.

34  
35 Councilor Register thanked Councilor Friedrichs for putting together the amendment and  
36 Attorney McKittrick and Chief Kelley for their review. He said he wanted to make clear  
37 this is intended not to protect criminals, but to protect citizens of this country and state,  
38 and he doesn't want Durham Police to turn their backs on fellow police.

39  
40 Councilor Friedrichs said the amendment doesn't state the police must receive a warrant  
41 before cooperating, but that they will request one and doesn't prohibit Durham Police  
42 from standing by, witnessing and possibly de-escalating in a situation where they have not  
43 seen a warrant.

44  
45 ***The amendment PASSED on a unanimous roll call vote of 9-0.***  
46



1 Chair Friedman called for a vote on the overall resolution.

2 ***The resolution PASSED on a unanimous roll call vote of 9-0.***

3  
4 Chair Friedman thanked everyone for their hard work. Members of the public in  
5 attendance applauded.

- 6  
7 B. **Public Hearing and Possible Adoption of Ordinance #2025-07** amending Chapter 175,  
8 “Zoning,” Article XII.1, “Use and Dimensional Standards,” Section 175-53, “Table of  
9 Uses,” and Section 175-54, “Table of Dimensions,” of the Town Code to separate CB-1  
10 and CB-2 in the tables and to permit by right multi-unit residential in the PO, CH and C  
11 Zoning Districts.

12  
13 ***Councilor Needell moved that the Town Council open the Public Hearing on***  
14 ***Ordinance #2025-07. Councilor Ford SECONDED the motion.***

15  
16 Councilor Friedrichs questioned if the ordinances went to the Planning Board as three  
17 separate ordinances, shouldn’t they be considered as three separate matters to facilitate  
18 the conversation.

19  
20 Planning Board Chairman Paul Rasmussen said, for clarity, the Council has already split  
21 CB1 and CB2 at its last meeting, but when that was done, the Table of Uses had them  
22 under the same column. All that’s being done tonight is splitting them into two columns  
23 in the Table of Uses.

24  
25 Chair Friedman called a vote to open the Public Hearing. ***The Public Hearing was***  
26 ***OPENED on a roll call vote of 9-0.***

27  
28 Mr. Rasmussen said he distributed to the Councilors a copy of state bill HB 631, which  
29 effectively makes this amendment moot. He said it’s waiting for a rubber stamp signature  
30 from the governor. He said Councilors can take action, and amend later, or could send it  
31 back to the Planning Board to rework. The bill defines commercially zoned land as zoned  
32 for retail and office space, and says municipalities will allow multi-family development  
33 on commercial land if it can support it, meaning multi-family residential development is  
34 permitted in any non-residential zones if the site can provide proper sewage and water.  
35 Chair Friedman clarified that the Council would have to take this matter back up after the  
36 bill is signed.

37  
38 State Rep. Allan Howland said towns will have to allow multi-family residential  
39 development anywhere commercial use is allowed. This is non-negotiable, he said, so  
40 Planning Board basically has to review where commercial use is allowed.

41  
42 Councilors discussed how to proceed. Chair Rasmussen said he wanted to take it back to  
43 the Planning Board so it can review it and submit a new version that would be in  
44 compliance when the state law takes effect on July 1, 2026. Councilor Grant said the CB  
45 district split in the Table of Uses is also in the ordinance and needs action soon.

46

1 Councilor Friedrichs asked if the area where multi-residential is a conditional use in one  
2 of the Central Business districts would comply with this law. Mr. Rasmussen said multi-  
3 family development will be allowed by the new law so that is by right, not by conditional  
4 use. Councilor Burton pointed out that New Hampshire is not a local control state, and  
5 has to comply with state law. Councilor Friedrichs had a second question, but Chair  
6 Friedman said the Council should proceed with the Public Hearing and leave Council  
7 debate until later.  
8

9 State Rep. Howland said it was a fear of student housing that led the town to not have  
10 multi-family housing in three zones downtown, but said it now makes sense to allow it in  
11 Church Hill, Courthouse and Professional Office. He said restrictive zoning has had some  
12 poor consequences for the town.  
13

14 **Josh Meyerowitz, 7 Chesley Drive**, said he agrees with Mr. Rasmussen, in that HB 631  
15 changes the discussion. He said if the governor signs the bill, then the town can rush to  
16 deal with it, but should wait to see if it actually becomes law. If the law does make the  
17 zoning change moot, the town needs to look more closely at protecting the buffer areas  
18 around single family homes.  
19

20 **Eileen Murphy, 9 Bayview Road**, speaking as a resident, not as executive director of  
21 Waysmeet, said she agreed with what Mr. Howland said.  
22

23 **Timothy Horrigan, 7 Faculty Road**, said HB 631 is not signed yet so the town should  
24 not rush to deal with the amendment and wait to see if it becomes law.  
25

26 **Gwendolyn Howard, 5 Bayview Road**, said she submitted a letter to the Council packet,  
27 and asked for clarification of multi-family residential, which sounds more amenable than  
28 multi-unit. She said as the town moves forward it needs to do everything to protect  
29 neighboring homes near commercial zones.  
30

31 **Maura Slavin, 10 Burnham Ave.**, cautioned the town to be aware of unintended  
32 consequences that would affect neighborhoods near the commercial use zones downtown.  
33 She said she had worked for a local landlord who got calls from out-of-town landlords  
34 asking what Durham did differently to keep the neighborhoods around student housing so  
35 nice and safe because that doesn't happen everywhere.  
36

37 **Jay Gooze, 9 Meadow Road**, urged the Council to let the Planning Board study this  
38 ordinance again in light of the new state law.  
39

40 **Bob Russell, 8 Croghan Lane**, cited an article about Portsmouth in the latest issue of  
41 NH Magazine, which says residents love living there, but their biggest complaint is the  
42 height of all the new buildings, saying it has destroyed a lot of the city's character. Chair  
43 Friedman let him know the Public Hearing on the height limit is the next one.  
44

45 **Caroline Singer, 5 Woodridge Road**, a member of the Historic District Commission,  
46 read a letter from the Durham Historic District and Heritage Commission opposing the

1 zoning ordinance amendments. Especially in the Church Hill district, which is part of the  
2 Historic District, the commission prefers smaller buildings with two to four units, not  
3 large-scale multi-unit buildings; and believes the zoning should remain the same. It also  
4 opposes allowing five-story buildings in the Central Business District and the elimination  
5 of the three-story limit along Main Street and Madbury Road. It believes the current  
6 limits of four- and three-stories respectively should remain. The letter said the  
7 commission did not have the opportunity to review these proposed changes as they were  
8 being developed and it welcomes the opportunity to work with others to fill the  
9 affordable housing gap while maintaining the town's character.

10  
11 **Nancy Sandberg 15 Langley Road**, read a statement from Durham Historic Association.  
12 It said adopting these zoning changes in CB1, CB2, Church Hill and Courthouse districts  
13 will negatively impact the Durham Historic Overlay District. It believes allowing five-  
14 story structures is out of human scale, and incompatible with the scale of historic  
15 structures. Creating multi-unit housing by right takes away many of the controls that  
16 protect the Historic District, the statement said. It believes the Town Council should table  
17 these changes until Durham citizens have a much better understanding of the zoning  
18 impacts on the Historic District.

19  
20 **Matt Komonchak, 1 Thompson Lane**, asked if the splitting of CB1 and CB2 had  
21 formally taken place. Chair Friedman confirmed it had passed at the last Town Council  
22 meeting and this meeting is considering this changing of the Table of Uses to be  
23 consistent with that vote. Mr. Komonchak asked that this zoning change be sent back to  
24 the Planning Board to determine with more precision what would be included in CB2. He  
25 also agreed with the Durham Historical Association about the importance of conditional  
26 use in protecting the town against a bad-actor developer. He said the town should not  
27 throw away a tool that protects the town, especially as the state is taking away more and  
28 more of the town's tools.

29  
30 **Malcolm Sandberg, 15 Langley Road**, said the town has a year to learn what the new  
31 state law means and it should send the package back to the Planning Board to consult  
32 with legal counsel. He said the town needs guidance.

33  
34 **Sally Tobias, 107 Madbury Road**, chair of the Housing Task Force, reminded the  
35 reason for proposing these zoning changes is to increase non-student-focused residential  
36 development in the downtown area. In the Task Force's outreach, it heard over and over  
37 the town should increase density and housing opportunity in the town's business districts  
38 to bring more people downtown. The reason to make it legal as student rentals decline is  
39 to turn the properties over to non-student apartments. She said by not allowing multi-unit  
40 residential in areas where it already exists, the town is locking in the student housing. She  
41 said the oversight of the Historic District is not being changed at all.

42  
43 **Councilor Ford MOVED to close the Public Hearing. Councilor Needell SECONDED**  
44 **that motion. The motion PASSED by a unanimous roll call vote of 9-0.**  
45

1 Councilor Grant said this change to correct multi-unit housing is not being driven by the  
2 state legislation, but by enhancing and re-energizing downtown so sending it back to the  
3 Planning Board is not a good idea. The impact from the state law is mostly in the town's  
4 outer areas, so these downtown changes shouldn't be delayed.

5  
6 Councilor Needell expressed concern about not hearing a lot about affordable housing in  
7 this discussion, and gave several examples of how to do that. She said if the town doesn't  
8 intentionally make ways for that to happen, there won't be any affordable housing.

9  
10 Councilor Friedrichs said ze is in favor of revitalizing downtown and increased density,  
11 but this language doesn't achieve those things necessarily and there is a way to write the  
12 ordinance so it takes into consideration historic properties. Ze said the point about  
13 affordability is crucial and that the way to get the sort of housing the town wants to see is  
14 to allow density bonuses for projects.

15  
16 Chair Friedman noted that both the Historic District Commission and the Durham  
17 Historic Association opposed the zoning changes.

18  
19 In answer to a question by Councilor Needell, Mr. Behrendt said a town has to have the  
20 same standards throughout a zoning district. He said you can have some distinctions as  
21 long as they are very precise and you have a good reason. He gave the example of CB1  
22 where one section is limited to three-story buildings and another section is limited to five-  
23 story buildings.

24  
25 Councilor Burton said he won't vote on the amendment until the Historic District and  
26 Heritage Commission and the Durham Historic Association have been consulted about  
27 the proposed changes.

28  
29 Councilor Register asked about transferable development rights and if they would make  
30 sense for Durham. Mr. Behrendt said it wouldn't. Chair Friedman said Dover has a  
31 controversial program. Mr. Behrendt said there is not nearly enough development in  
32 Durham for them to make sense here.

33  
34 ***Councilor Register MOVED to approve the ordinance as written. Councilor Vogt***  
35 ***SECONDED the motion.***

36  
37 Councilor Burton said he opposes approving the ordinance because it needs more input  
38 from the historic community. Councilor Lund said the Council should not approve it  
39 because the state law is a sufficient uncertainty so the town needs to understand that first.

40  
41 Councilor Friedrichs proposed an amendment to vote only on separating CB1 and CB2 in  
42 the Table of Uses at this meeting and not the other matters. ***Ze MOVED the Town***  
43 ***Council adopt this amendment.***

44  
45 Councilor Grant explained how multi-unit housing is already allowed in Professional  
46 Office, Church Hill and Courthouse zones, but it's 55-over, she said all this change does

1 is allow people under 55 to live there. Chair Friedman said there is a state law now that  
2 mandates wherever you allow 55-over housing, you have to allow workforce housing.  
3 Council Grant said she doesn't see it as a cause to not move forward. Councilor Needell  
4 agreed with Councilor Friedrichs on CB1 and CB2 being changed in the Table of Uses,  
5 but said the Council should not move forward on allowing multi-family housing by right.  
6

7 ***Councilor Needell SECONDED Councilor Friedrichs' proposed amendment.***  
8

9 Chair Friedman asked if Councilors would be comfortable sending the entire proposal  
10 back to the Planning Board to sort out the issues. He said it's not clear what the Council  
11 would be voting on at this point.  
12

13 Councilor Burton said Durham is the only town with this form of government that vests  
14 legislative function in a Town Council, which was done in the name of efficiency at the  
15 cost of participation. He believes the entire town should be involved by letting citizens  
16 vote on significant changes.  
17

18 Chair Friedman asked if the language the Town Council would be voting on is clear. Mr.  
19 Behrendt said adopting the one change about CB1 and CB2 in the Table of Uses and  
20 adding one whereas for formatting purposes, and then sending the multi-unit residential  
21 proposal back to the Planning Board is doable.  
22

23 Chair Friedman called a vote on the amendment which would end Ordinance #2025-07 at  
24 the word "tables."  
25

26 ***The motion FAILED on a roll call vote of 6-3.***  
27

28 ***Councilor Grant - nay; Councilor Vogt - nay; Councilor Register - nay; Councilor***  
29 ***Ford - nay; Councilor Burton - nay; Councilor Needell - aye; Councilor Lund - aye;***  
30 ***Councilor Friedrichs - aye; Chair Friedman - nay.***  
31

32 Chair Friedman called for a roll call vote on Councilor Grant's original motion to pass  
33 the proposed ordinance.  
34

35 ***The motion PASSED on a 5-4 roll call vote.***  
36

37 ***Councilor Register - aye; Councilor For - aye; Councilor Burton - nay; Councilor***  
38 ***Needell - nay; Chair Friedman - aye; Councilor Vogt - aye; Councilor Grant - aye;***  
39 ***Councilor Lund - nay; Councilor Friedrichs - nay.***  
40

- 41 C. **Public Hearing and Possible Adoption of Ordinance #2025-08** amending Chapter 175,  
42 "Zoning," Article XII, "Base Zoning Districts," Section 175-42, "Central Business  
43 District, and Article XII.1, "Use and Dimensional Standards," Section 175-54, "Table of  
44 Dimensions," of the Town Code to eliminate the three-story height limit for CB-1 Zoning  
45 District and to change the standard for commercial in five story buildings in CB-1 District

1 from requiring two floors to requiring only one floor.

2  
3 ***Councilor Needell MOVED to open the Public Hearing on Ordinance #2025-08.***  
4 ***Councilor Register SECONDED the motion. The motion PASSED on a unanimous roll***  
5 ***call vote of 9-0.***  
6

7 **Beth Olshansky, 122 Packers Falls Road,** asked the Town Council to keep the Public  
8 Hearing open until next time and she will give her planned presentation then so that all  
9 those citizens who have been waiting to speak can have a chance to do so tonight.

10  
11 Chair Friedman reminded the Town Council of the time and the need to possibly keep the  
12 Public Hearing open if it extends past 10:15 p.m. so the Council can complete some of the  
13 rest of the meeting's agenda.

14  
15 Councilor Needell asked and Mr. Behrendt clarified if the Council keeps the Public  
16 Hearing open, an applicant would have to meet the requirements of the current ordinance  
17 and the proposed changes to the ordinance until a final vote is taken, but that there is no  
18 problem with keeping the Public Hearing open if the Council chooses to do so.

19  
20 **Mary Alice Shatz, 5 Bayview Road,** spoke in opposition to allowing four- or five-story  
21 buildings by right in Durham, and gave the example of the changed cityscape in  
22 Portsmouth.

23  
24 **Roger Hayden, property owner of 44 to 46 Main St.,** owner of Hayden Sports and the  
25 Durham Laundercenter, spoke in favor of changing some of the zoning in downtown. He's  
26 been a property owner since 1988 when downtown was thriving, and he said the  
27 downtown is now dead. He cautioned even with the zoning changes, not one family is  
28 going to move into downtown unless their unit comes with a parking space. He said if you  
29 don't have more parking, you're not going to change the mix of residents downtown, and  
30 you're not going to get businesses coming into town. He supports making changes to save  
31 the downtown commercial district. He gave an example of how the expense of  
32 construction doesn't make some downtown development viable. Chair Friedman asked  
33 Mr. Hayden to continue his public comments after others had spoken since his time ran  
34 out.

35  
36 **Judith Spang, 55 Wiswall Road,** a member of the Housing Task Force since 2023 and a  
37 land use and community development professional, expressed concern about the lack of a  
38 serious deliberation by the Housing and Downtown task forces on the proposal to  
39 eliminate the three-story limit, and about the lack of a public vetting process and of a  
40 comprehensive planning process. She said there is a lack of data and public input, and that  
41 it ignores the town's Master Plan.

42  
43 **Gail Kelley, 11 Gerrish Drive,** agreed with the previous two speakers. She said "If you  
44 build it, they will come" has been disproven in this town, referring to resident Doug  
45 Clark's establishing a serious restaurant downtown that wasn't able to attract enough  
46 customers. She gave a history of a revitalization effort in the state and said revitalizing

1 downtown is going to take a long process to do it right. She said if the Council approves  
2 this zoning change, it will regret it.

3  
4 **Dick Gottschnieder, 280 Durham Point Road**, said he is opposed to the height limit, but  
5 does favor proper, well thought-out development. A longtime resident and urban planning  
6 real estate consultant, and a landlord in Durham for 30 years, he agreed with Mr. Hayden  
7 the downtown is dead. He said construction costs are \$600 per square feet at a minimum.  
8 He pointed out Portsmouth was revived by the arts, and Exeter by riverfront development.  
9 He said the town needs to hire expertise to devise a plan for revitalization.

10  
11 **Nell Neal, 11 Riverview Road**, agreed the revitalization of downtown and a broader tax  
12 base is needed, and said she is not against change, but is afraid Main Street will be a big  
13 wall of four- to five-story boxes, and worries the resulting commercial enterprises  
14 wouldn't be geared toward tax-paying property owners. She thinks the Council should  
15 slow down the process so a larger segment of the population could be made more aware.

16  
17 Members of the audience applauded.

18  
19 ***Councilor Register MOVED to continue the Public Hearing to the Aug. 4th Council***  
20 ***meeting. Councilor Grant SECONDED the motion. The motion PASSED on a roll call***  
21 ***vote of 8-1.***

22  
23 ***Councilor Grant - aye; Councilor Vogt - aye; Chair Friedman - aye; Councilor Needell***  
24 ***- aye; Councilor Burton - aye; Councilor Ford - aye; Councilor Register - aye;***  
25 ***Councilor Lund - aye; Councilor Friedrichs - nay.***

26  
27 Chair Friedman said the Public Hearing is continued and welcomed the public's  
28 comments at the Aug. 4 meeting. Councilors thanked all those in attendance.

29  
30 Councilors discussed how to proceed with the rest of the planned agenda for the meeting.

31  
32 **X. Committee Appointments**

33 Shall the Town Council nominate resident Dick Lord, 85 Bennett Road, for a three-year  
34 reappointment by the NHDES Commissioner as Durham's representative to the Lamprey  
35 River Advisory Committee?

36  
37 ***Councilor Needell MOVED that the Town Council nominate Dick Lord as Durham's***  
38 ***representative to the Lamprey River Advisory Committee. Chair Friedman***  
39 ***SECONDED the motion. The motion PASSED on a unanimous roll call vote of 9-0.***

40  
41 Chair Friedman thanked Mr. Lord for his service and his willingness to continue to serve.

42  
43 **XI. Presentation Items**

44 None scheduled for this meeting.  
45  
46

**XII. Councilor and Town Administrator Roundtable**

Councilors decided to defer the roundtable to the next Council meeting on Aug. 4.

**XIII. Approval of Minutes – June 16, 2025**

*Councilor Needell MOVED to accept the minutes of the June 16, 2025 meeting as presented. Councilor Grant SECONDED the motion. The minutes were APPROVED on a unanimous roll call vote of 7-0 with Councilor Lund abstaining because he was absent and Councilor Friedrichs abstaining because ze was blocked from participating on Zoom because ze was abroad.*

Discussion occurred about whether to consider Ordinance #2025-09 under New Business at this meeting or defer it to the Council's Aug. 4th meeting.

*Councilor Register MOVED to extend the meeting to 10 45 p.m. Councilor Heather Grant SECONDED the motion. The motion PASSED on a roll call vote of 6-3.*

*Councilor Grant - aye; Councilor Vogt - aye; Chair Friedman - aye; Councilor Needell - aye; Councilor Burton - aye; Councilor Ford - nay; Councilor Register - aye; Councilor Lund - nay; Councilor Friedrichs - nay.*

**XIV. New Business**

**First Reading on Ordinance #2025-09** Amending Chapter 175, "Zoning," Article II, "Definitions," Article XII.1, "Use and Dimensional Standards," Section 175-53, "Table of Land Uses," Article XXI, "Off Street Parking," Section 175-111, "General Requirements," of the Town Code to include Lodging Houses within the Zoning Ordinance. The Public Hearing can be set for August 4, 2025.

*Councilor Register MOVED the Town Council execute the First Reading on Ordinance #2025-09 and set the Public Hearing for Aug. 4, 2025. Councilor Ford SECONDED the motion.*

State Rep. Howland gave the history of the two-year battle, which he said targeted Durham, and said the three-unrelated ordinance is built on the Lodging House standard. He said more than three outsiders changes the use from a Single Family Home to a Lodging House use. He said the ordinance is defining what a lodging house is and where they can occur. He said it is proposed in three zones, and that any single family home could go to the Planning Board and ask to become a lodging house. It would then have to show it can meet the sewer and water requirements. He said a lodging house can technically have up to 16 people and that there is no square footage requirement. More than 16 changes the use to a dormitory. He tried to amend the legislation to include a square footage requirement, but he was not successful. With this ordinance, the town allows lodging houses and where they can be located.

Discussion ensued about limiting lodging houses to less than 16 residents and the fire code requirements involved.



1  
2 Mr. Rasmussen said the ordinance change would allow them only in the Professional  
3 Office, Church Hill and Courthouse zones. He listed the buildings the fire department  
4 considers lodging houses already in town: 15 Main St. (Church Hill); 13 Madbury Road  
5 (Central Business); 46 and 48 Madbury (RA zone); and 6 to 8 Mill Road (RA zone). He  
6 said many are not in the zones that the ordinance says they will be allowed.

7  
8 Mr. Gooze said the basis is HB 457 that says you can't limit units to less than two people  
9 per bedroom. He said every Single Family Home that rents to three can now rent to six.  
10 He said this ordinance is the most logical way to handle this, and will be run by the Town  
11 Attorney before the Public Hearing. Chair Friedman noted the town is waiting to see if  
12 the governor signs the bill, which Mr. Gooze said is "any day."

13  
14 Councilor Friedrichs asked why not prohibit lodging houses in all districts as the town  
15 has or not allow them in areas where economically it would be more viable to have  
16 another type of housing, noting they are not going to help the downtown's viability.

17  
18 Discussion continued about how the town is trying to pass a law that the legislature  
19 cannot oppose and overrule in the future. State Rep. Howland said a theme of the  
20 legislative process around this bill were allegations of discrimination. He said if the town  
21 says lodging houses don't work anywhere in town it will be seen as discrimination.

22  
23 Councilor Burton said he wanted to be clear the initiative in the legislature was paid for  
24 by a developer from Durham who was dissatisfied with a Planning Board decision and  
25 wants to make money out of this. He organized students and got them to Concord.

26  
27 Discussion continued about the Lodging House use and certain requirements that could  
28 be established to regulate them.

29  
30 ***The motion to schedule the Public Hearing on the ordinance for Aug. 4th PASSED on***  
31 ***a unanimous roll call vote of 9-0.***

32  
33 **XV. Nonpublic Session - Not Required**

34  
35 **XVI. Adjourn (NLT 10:30 PM)**

36  
37 ***Councilor Needell MOVED to adjourn the meeting. Councilor Grant SECONDED the***  
38 ***motion. The motion PASSED on a unanimous roll call vote of 9-0.***

39  
40 The meeting was adjourned at 10:42 PM.

41  
42 - Jane Murphy, Minutes Taker