



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5571  
Fax: 603/868-1858

## **AGENDA**

**DURHAM TOWN COUNCIL**  
**MONDAY, FEBRUARY 3, 2020**  
**DURHAM TOWN HALL – COUNCIL CHAMBERS**  
**7:00 PM**

**NOTE:**     *The Town of Durham requires 48 hours notice if special communication aids are needed.*

- I.     Call to Order**
- II.    Approval of Agenda**
- III.   Special Announcements**
- IV.   Public Comments (\*)**
- V.    Approval of Minutes – January 13 and January 27, 2020**
- VI.   Councilor and Town Administrator Roundtable**
- VII.  Report from the UNH Student Senate External Affairs Chair or Designee**
- VIII. Unanimous Consent Agenda** *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*
  - Shall the Town Council, upon recommendation of the Administrator, approve a Special Event Permit/Road Closure application submitted by Maura M. Slavin to close certain sections of town roads for the annual Marina's Miles 5k race to be held on Saturday, April 18, 2020?
- IX.   Committee Appointments**
- X.    Presentation Items**
  - Lessons learned from the Littlehale culvert replacement project – April Talon, Town Engineer
- XI.   Unfinished Business**
  - A.** Shall the Town Council, upon recommendation of the Administrator, approve Change Order #2 for the Dover Road Force Main Project in accordance with Section 11 of the Town Purchasing Policy, to Sargent Corporation of Stillwater, Maine in the amount of \$344,100 and authorize the Administrator to sign associated documents?



- B. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-01** amending Chapter 153 "Vehicles and Traffic", Section 153-34 "Schedule II: Speed Limits" of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 mph to 25 mph
- C. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-02** amending Chapter 153 "Vehicles & Traffic of the Durham Town Code by creating a new section, Section 153-20.1, "Patron Parking" governing patron parking at the Durham Public Library parking lot
- D. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-03**, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code to address concerns related to short-term rental establishments
- E. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-04** creating a new chapter in the Durham Town Code, Chapter 55, "Electronic Motorized Devices/ Electric Scooters" governing the use of such motorized devices within the Town of Durham
- F. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-05** amending Chapter 153 "Vehicles and Traffic", Section 153-34 "Schedule II: Speed Limits" of the Durham Town Code by reducing the speed limit on the section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35 mph to 30 mph
- G. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-06** creating a new chapter in the Durham Town Code, Chapter 88, "Off Highway Recreational Vehicles (OHRV)", prohibiting the use of these types of vehicles from traversing trails on town property designed for pedestrian activity
- H. Discussion regarding solid waste and recycling trends and possible implications for Durham

**XII. New Business**

Other Business

**XIII. Nonpublic Session (if required)**

**XIV. Extended Councilor and Town Administrator Roundtable (if required)**

**XV. Adjourn (NLT 10:30 PM)**

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**(\*)** *The public comment portion of the Council meeting is to allow members of the public to address matters of public concern regarding town government for up to 5 minutes. Obscene, violent, disruptive, disorderly comments, or those likely to induce violence, disruption or disorder, are not permitted and will not be tolerated. Complaints regarding Town staff should be directed to the Administrator.*



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AGENDA ITEM: **# 5**

DATE: **February 3, 2020**

## COUNCIL COMMUNICATION

**INITIATED BY:** Durham Town Council

**AGENDA ITEM:** APPROVE THE TOWN COUNCIL MEETING MINUTES FOR JANUARY 13 AND JANUARY 27, 2020

**CC PREPARED BY:** Jennie Berry, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator

### **AGENDA DESCRIPTION:**

Attached for the Council's review and approval are the minutes for the Town Council meeting held on Monday, January 13, 2020 and the special Council meeting held on Monday, January 27, 2020. Please call or email Jennie Berry with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

### **LEGAL AUTHORITY:**

RSA 91-A:2 (II) specifies what must be contained in minutes of public meetings:

*"Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any body or agency, or any subordinate body thereof, without exception."*

### **LEGAL OPINION:**

N/A

### **FINANCIAL DETAILS:**

N/A

### **SUGGESTED ACTION OR RECOMMENDATIONS:**

#### **MOTION:**

*The Durham Town Council does hereby approve the Town Council meeting minutes for Monday, January 13, 2020 (as presented) (as amended).*

#### **MOTION:**

*The Durham Town Council does hereby approve the Town Council special meeting minutes for Monday, January 27, 2020 (as presented) (as amended).*



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AGENDA ITEM: **# 8**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** Maura M. Slavin

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, APPROVE A SPECIAL EVENT PERMIT APPLICATION SUBMITTED BY MAURA M. SLAVIN TO CLOSE CERTAIN SECTIONS OF TOWN ROADS FOR THE ANNUAL "MARINA'S MILES" 5K ROAD RACE TO BE HELD ON SATURDAY, APRIL 18, 2020?

**CC PREPARED BY:** Jennie Berry, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Town Administrator

**AGENDA DESCRIPTION:**

Attached is a special event /road closure permit application submitted by Maura Slavin requesting that certain portions of town roads be closed beginning at 7 AM on Saturday, April 18, 2020 to conduct the annual 5k "Marina's Miles" road race.

The application has been reviewed by the appropriate town departments and has been a successful event in past years. The Administrator therefore recommends approval of this special event and road closure permit.

**LEGAL AUTHORITY:**

RSA 41:11 and RSA 47:17 authorize the Town Council to regulate the use of public highways.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby, upon recommendation of the Administrator, approve the road closure application submitted by Maura M. Slavin requesting that certain portions of town roads be closed beginning at 7:00 AM on Saturday, April 18, 2020, to hold the annual “Marina’s Mile” 5k road race.*



## TOWN OF DURHAM

100 Stone Quarry Drive, Durham, NH 03824

TEL: (603) 868-5578

FAX: (603) 868-8063

Email: [publicworks@ci.durham.nh.us](mailto:publicworks@ci.durham.nh.us)

### PERMIT APPLICATION

Revised: 2/18/19

#### TYPE OF PERMIT (Please check one):

Special Event

Road Closure Request

Use of Town Property

X

LOCATION WHERE EVENT WILL OCCUR: ORHS / Camry Farm Neighborhood

DAY & DATE OF EVENT: Sat, Apr 18, 2020 TIME(S) OF EVENT: 10<sup>am</sup>

DURATION OF EVENT (Including set up and breakdown time): 7am - 1pm (Race 10<sup>am</sup> - 11am)

NAME OF APPLICANT/ORGANIZATION: Maura Slavin  
Marina's Miles

NAME OF EVENT: Marina's Miles 5K

PERSONAL CONTACT FOR THIS EVENT: Maura Slavin

ADDRESS: 10 Bornham Ave, Durham NH 03824

TELEPHONE NO.: DAY: 868-7295 EVENING: same

EMAIL: Marina's Miles 5K@gmail.com

DETAILED DESCRIPTION OF REQUEST (Pertaining to amplified music, location, route of travel. Please attach maps denoting routes and road closures):

Road race / walks beginning + ending at ORHS  
Map attached (same as previous years) - Amplified  
announcer at start - end of race at HS, + music at  
HS. Possible non-amplified music along the  
course. Safety plan + insurance attached

ANTICIPATED NUMBER OF PARTICIPANTS: 300-400

ANTICIPATED NUMBER OF VEHICLES: 200

Revised: 2/18/19

Town of Durham Special Event/Road Closure/Use of Town Property Permit  
Page 2

**CERTIFICATE OF INSURANCE INFORMATION**

As evidence of its financial ability to indemnify the Town of Durham, during the term of this agreement, the applicant shall obtain and pay premiums for Commercial General Liability insurance protecting the parties hereto, their agents, officers, elected officials, representatives, or employees because of bodily injury, property damage, personal injury or products liability incurred by the parties in the performance of the terms of this lease, such policy to provide limits no less than \$1 million per occurrence. A Certificate of Insurance naming the Town of Durham as an Additional Insured shall be provided.

Insurance Carrier: USATF

Policy Number and Expiration Date: PHPK2050515 + PHUB697455 11/1/2020

The undersigned hereby agrees, at its sole cost and expense, to defend, indemnify and hold harmless the Town of Durham and all associated, affiliated, allied and subsidiary entities of the Town, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, and contractors (hereinafter referred to as "indemnities") from and against any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses which may be imposed upon, incurred by or asserted against the indemnities by reason of any act or omission of the undersigned, its personnel, employees, agents, contractors or subcontractors which results in damage or injury of any kind to any person or any property and which arises out of or is any way connected with the activities permitted by this permit.

Maura M Slavin Maura M Slavin  
Printed Name and Signature of Event Coordinator/applicant

11-12-19  
Date

\_\_\_\_\_  
Printed Name and Signature of Principal/Owner/Authorizing Authority

\_\_\_\_\_  
Date

\*\*\*\*\*

**FOR OFFICIAL USE ONLY**

Reviewed by DPW  
Comments:

☒ OK K. E.

Reviewed by PD  
Comments:

☒ OK - must hire 6 Police officers for traffic control and place signage in neighborhoods

Reviewed by FD  
Comments:

☒ See attached Fire Department conditions of permit approval

Reviewed by P&R  
Comments:

☒ OK -

Approved:

☐

Todd I. Selig, Administrator

\_\_\_\_\_  
Date

## MARINA'S MILES 5K ROAD RUN/WALK USATF SAFETY PLAN

April 18, 2020 Durham, NH

Our event begins in front of Oyster River High School in Durham, New Hampshire. We use traffic cones to ensure there are no automobiles parked along the start line. A police car is at the start line and precedes the lead runners throughout the race. All runners with strollers are told to begin behind all other participants.

We have a total of six paid police officers with cruisers on the racecourse. They ensure traffic is stopped at any and all major intersections. Our course mostly loops through family neighborhoods and the traffic is never heavy on a Saturday morning.

In addition to police officers, we have twelve volunteers who act as course marshals. We allocate pairs of volunteers to serve as directors, cheerleaders, and provide added safety.

At every mile marker we have timers who provide split times for the runners. At about 1.5 miles we have a water station set up and manned by a dozen volunteers.

At the finish line we also have a water station that is manned by two volunteers who ensure the finishing runners are hydrated. Our racecourse is basically a figure 8 with the high school in the center. A vehicle from McGregor Memorial EMS is located here and they can reach any spot on the course in about 2-3 minutes in the event of an emergency. We will have AEDs in the ambulance.

A police cruiser follows the last runners/walkers to the finish line. Cell phones will be used by race managers for communications during the event.

<b>CERTIFICATE OF INSURANCE</b>				PRINT DATE: 11/10/2019	
				CERTIFICATE NUMBER: 20191016746913	
<b>AGENCY:</b>					
Edgewood Partners Insurance Center 2727 Paces Ferry Road, Building Two, Suite 1500 Atlanta, GA 30339 678-324-3300 (Phone), 678-324-3303 (Fax)				THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>NAMED INSURED:</b>				<b>INSURERS AFFORDING COVERAGE:</b>	
USA Track & Field, Inc. Marina's Miles 130 East Washington Street, Suite 800 Indianapolis IN 46204				INSURER A: Philadelphia Indemnity Ins. Co. NAIC #: 18058 INSURER B: Philadelphia Indemnity Ins. Co. NAIC #: 18058	
<b>EVENT INFORMATION:</b>					
Marina's Miles 5K (4/18/2020 - 4/19/2020)					
<b>POLICY/COVERAGE INFORMATION:</b>					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INS	TYPE OF INSURANCE:	POLICY NUMBER(S):	EFFECTIVE:	EXPIRES:	LIMITS:
A	GENERAL LIABILITY				
	<input checked="" type="checkbox"/> Occurrence	PHPK2050515	11/1/2019 12:01 AM	11/1/2020 12:01 AM	GENERAL AGGREGATE (Applies Per Event) \$3,000,000
	<input checked="" type="checkbox"/> Participant Legal Liability				EACH OCCURRENCE \$1,000,000
					DAMAGE TO RENTED PREMISES (Each Occ.) \$1,000,000
					MEDICAL EXPENSE (Any one person) EXCLUDED
					PERSONAL & ADV INJURY \$1,000,000
					PRODUCTS-COMP/OP AGG \$3,000,000
B	UMBRELLA/EXCESS LIABILITY				
	<input checked="" type="checkbox"/> Occurrence	PHUB697455	11/1/2019 12:01 AM	11/1/2020 12:01 AM	EACH OCCURRENCE \$10,000,000
					AGGREGATE \$10,000,000
<b>DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS:</b>					
Coverage applies to USA Track & Field sanctioned events and registered practices, including any directly related activities, such as event set-up and tear-down, participant check-in and award ceremonies.					
The certificate holder is an additional insured per the following endorsement: Additional Insured - Certificate Holders (Form PI-AM-002)					
The General Liability policy is primary and non-contributory with respect to the negligence of the Named Insureds (Form CG 00 01)					
The General Liability policy contains a blanket Waiver of Subrogation as required by contract per Waiver of Transfer of Rights of Recovery Against Others (Form CG 24 04).					
Excess policy follows form of underlying General Liability.					
<b>CERTIFICATE HOLDER:</b>				<b>NOTICE OF CANCELLATION:</b>	
Town of Durham NH 8 Newmarket Rd Durham NH 03824				Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.	
				<b>AUTHORIZED REPRESENTATIVE:</b>	
					

# Marina's Miles 5K

## Durham, New Hampshire



USATF Certificate NH15007BK  
Effective November 29, 2015 - December 31, 2025

Start, Finish and all miles are marked with White Paint and P-K Nails (UP = Utility Pole).

**Start:** On the southwest side of Coe Dr in front of Oyster River High School 40 ft SE from edge of walkway which connects sidewalk to school parking lot in front of main entrance, & 42 ft NW of street light between High School & Coe Rd.

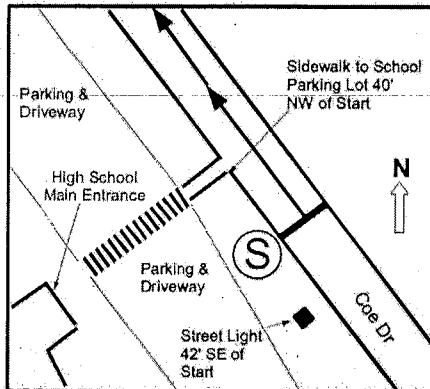
**Mile 1:** On south side of Sumac Ln just west of the Sumac Ln Canney Rd intersection, 18 ft 4 inches W of fire hydrant, & 12 ft E of storm drain both on same side.

**Mile 2:** On the southeast side of Bagdad Rd 23 ft 10 inches SW of "Stop" sign with "Bagdad Rd" street sign at corner of Bagdad and Emerson Rd.

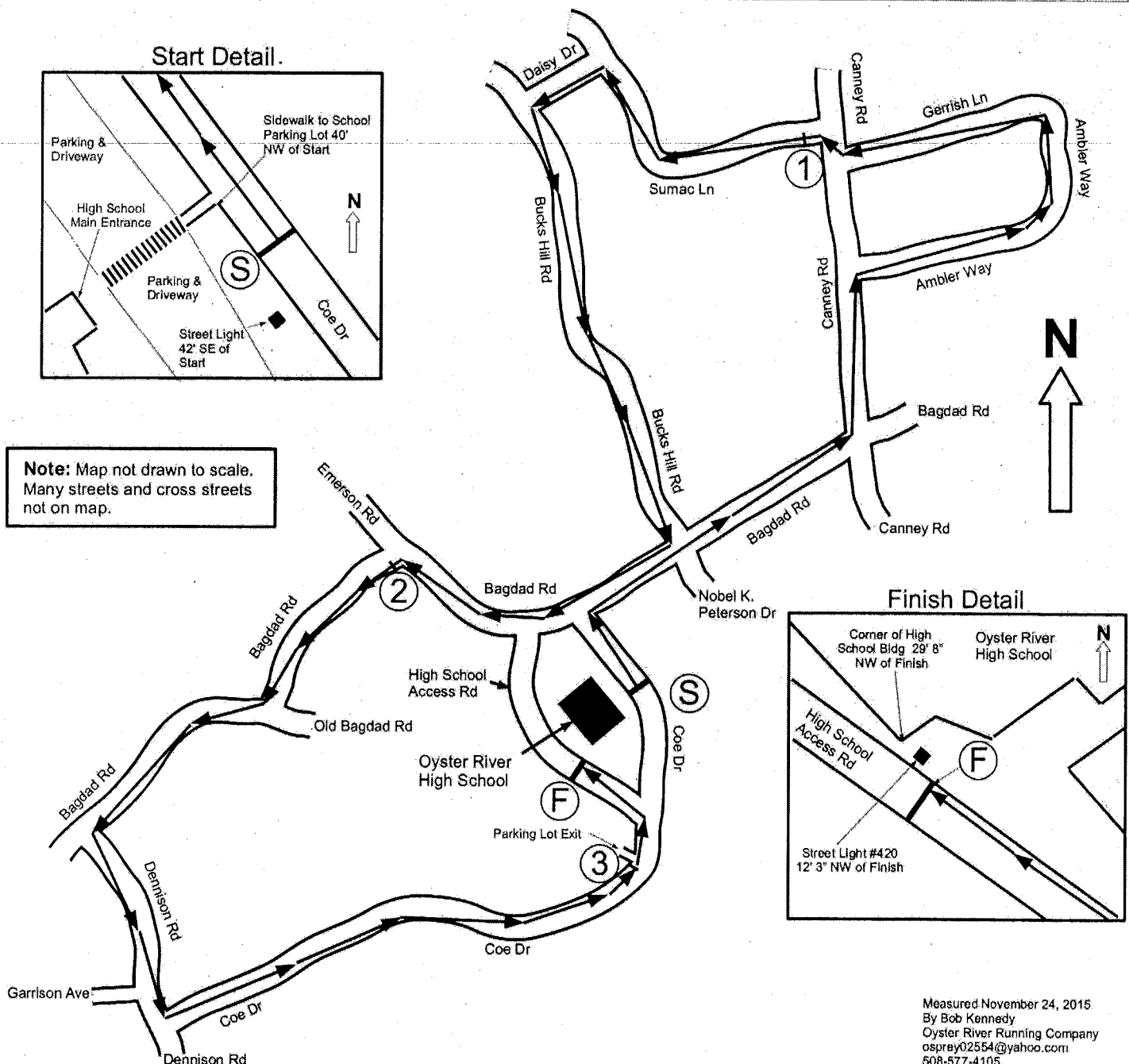
**Mile 3:** On west side of Coe Dr 15 ft 2 inches S of storm drain that is S of the school parking lot exit.

**Finish:** On the northeast side of the access road behind Oyster River High School, 12 ft 3 inches SE of street light 420 with "Please Turn Off Engine After Stopping" sign, & 29 ft 8 inches SE of the south corner of the school building.

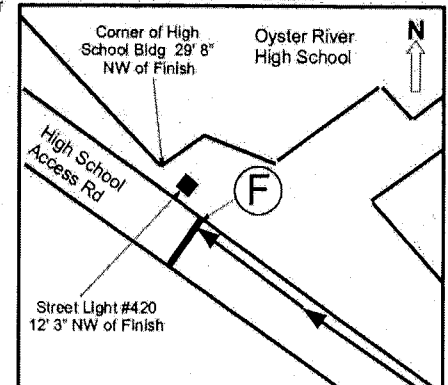
### Start Detail.



**Note:** Map not drawn to scale. Many streets and cross streets not on map.



### Finish Detail



Measured November 24, 2015  
By Bob Kennedy  
Oyster River Running Company  
ospray02554@yahoo.com  
608-577-4105

## Janice Richard

---

**From:** Rene Kelley  
**Sent:** Tuesday, November 12, 2019 8:58 AM  
**To:** Rachel Gasowski; Janice Richard; David Emanuel; Kelley Fowler  
**Subject:** RE: Marina's Miles 5K Run/Walk permit application

Must hire six police officers for traffic control and place appropriate signage in the neighborhoods alerting residents of the road race.

Rene

Rene Kelley  
Deputy Chief of Police  
Durham, NH Police Department  
Durham, New Hampshire  
603-868-2324  
FBINA 189th

---

**From:** Rachel Gasowski  
**Sent:** Tuesday, November 12, 2019 8:29 AM  
**To:** Janice Richard; Rene Kelley; David Emanuel; Kelley Fowler  
**Subject:** Re: Marina's Miles 5K Run/Walk permit application

Ok with P&R.

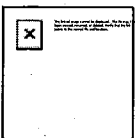
Rachel

Rachel Gasowski  
Parks & Recreation Director  
Town of Durham, NH  
Durhamrec.recdesk.com  
(603) 817-4074  
Follow us on Facebook "Durham Rec"

---

**From:** Janice Richard <[jrichard@ci.durham.nh.us](mailto:jrichard@ci.durham.nh.us)>  
**Date:** Tuesday, November 12, 2019 at 9:11 AM  
**To:** Rene Kelley <[rkelley@ci.durham.nh.us](mailto:rkelley@ci.durham.nh.us)>, David Emanuel <[demanuel@ci.durham.nh.us](mailto:demanuel@ci.durham.nh.us)>, Microsoft Office User <[rgasowski@ci.durham.nh.us](mailto:rgasowski@ci.durham.nh.us)>, Kelley Fowler <[kfowler@ci.durham.nh.us](mailto:kfowler@ci.durham.nh.us)>  
**Subject:** FW: Marina's Miles 5K Run/Walk permit application

Hello- this is for April 2020- please review and comment- thanks!



*Janice Richard*  
*Assistant to DPW Director*  
*Town of Durham*

## Janice Richard

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**From:** David Emanuel  
**Sent:** Tuesday, November 12, 2019 10:11 PM  
**To:** Janice Richard; Rene Kelley; Rachel Gasowski; Kelley Fowler  
**Cc:** John Powers; Randall Trull  
**Subject:** Re: Marina's Miles 5K Run/Walk permit application

Janice,  
The fire department supports the event permit application as submitted.  
DE

Dave Emanuel, MPA, EFO, CFO  
Fire Chief - Durham Fire Department  
51 College Road, Durham, NH 03824  
[demanuel@ci.durham.nh.us](mailto:demanuel@ci.durham.nh.us)  
(603) 862-1426 (Office) - (603) 397-7447 (Mobile)

"Our Family Protecting Your Family"



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**From:** Janice Richard <[jrichard@ci.durham.nh.us](mailto:jrichard@ci.durham.nh.us)>  
**Date:** Tuesday, November 12, 2019 at 8:11 AM  
**To:** Rene Kelley <[rkelly@ci.durham.nh.us](mailto:rkelly@ci.durham.nh.us)>, Dave Emanuel <[demanuel@ci.durham.nh.us](mailto:demanuel@ci.durham.nh.us)>, Rachel Gasowski <[rgasowski@ci.durham.nh.us](mailto:rgasowski@ci.durham.nh.us)>, Kelley Fowler <[kfowler@ci.durham.nh.us](mailto:kfowler@ci.durham.nh.us)>  
**Subject:** FW: Marina's Miles 5K Run/Walk permit application

Hello- this is for April 2020- please review and comment- thanks!



*Janice Richard*  
*Assistant to DPW Director*  
*Town of Durham*  
(603) 868-5578

**From:** Maura Slavin <[mauramslavin@gmail.com](mailto:mauramslavin@gmail.com)>  
**Sent:** Monday, November 11, 2019 10:26 PM  
**To:** public works common <[publicworks@ci.durham.nh.us](mailto:publicworks@ci.durham.nh.us)>  
**Cc:** Lelio, Andy GOSS <[andy.lelio@manrolandgoss.com](mailto:andy.lelio@manrolandgoss.com)>; David Hadley <[dnhadley@gmail.com](mailto:dnhadley@gmail.com)>; Rob Drugan <[rob.drugan@gmail.com](mailto:rob.drugan@gmail.com)>; Marina's Miles <[MarinasMiles5K@gmail.com](mailto:MarinasMiles5K@gmail.com)>  
**Subject:** Marina's Miles 5K Run/Walk permit application

## Janice Richard

---

**From:** Rachel Gasowski  
**Sent:** Tuesday, November 12, 2019 8:29 AM  
**To:** Janice Richard; Rene Kelley; David Emanuel; Kelley Fowler  
**Subject:** Re: Marina's Miles 5K Run/Walk permit application

Ok with P&R.

Rachel

Rachel Gasowski  
Parks & Recreation Director  
Town of Durham, NH  
Durhamrec.recdesk.com  
(603) 817-4074  
Follow us on Facebook "Durham Rec"

---

**From:** Janice Richard <[jrichard@ci.durham.nh.us](mailto:jrichard@ci.durham.nh.us)>  
**Date:** Tuesday, November 12, 2019 at 9:11 AM  
**To:** Rene Kelley <[rkelley@ci.durham.nh.us](mailto:rkelley@ci.durham.nh.us)>, David Emanuel <[demanuel@ci.durham.nh.us](mailto:demanuel@ci.durham.nh.us)>, Microsoft Office User <[rgasowski@ci.durham.nh.us](mailto:rgasowski@ci.durham.nh.us)>, Kelley Fowler <[kfowler@ci.durham.nh.us](mailto:kfowler@ci.durham.nh.us)>  
**Subject:** FW: Marina's Miles 5K Run/Walk permit application

Hello- this is for April 2020- please review and comment- thanks!



*Janice Richard*  
*Assistant to DPW Director*  
*Town of Durham*  
*(603) 868-5578*

**From:** Maura Slavin <[mauramslavin@gmail.com](mailto:mauramslavin@gmail.com)>  
**Sent:** Monday, November 11, 2019 10:26 PM  
**To:** public works common <[publicworks@ci.durham.nh.us](mailto:publicworks@ci.durham.nh.us)>  
**Cc:** Lelio, Andy GOSS <[andy.lelio@manrolandgoss.com](mailto:andy.lelio@manrolandgoss.com)>; David Hadley <[dnhadley@gmail.com](mailto:dnhadley@gmail.com)>; Rob Drugan <[rob.drugan@gmail.com](mailto:rob.drugan@gmail.com)>; Marina's Miles <[MarinasMiles5K@gmail.com](mailto:MarinasMiles5K@gmail.com)>  
**Subject:** Marina's Miles 5K Run/Walk permit application

Hello!

Attached is the Town Permit application for Marina's Miles 5K Run/Walk on (hopefully!) April 18, 2020.

I know this is really early. I'm enrolled in an intensive UNH Coding Bootcamp, and will not have the time available early next year that I have in the past. In order to have the same quality event, I need to start early and get done what I can ahead of time! I hope you will be able to take this into consideration.



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5577  
Fax: 603/868-1858

AGENDA ITEM:

# **11A**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** Public Works Department

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, APPROVE CHANGE ORDER #2 FOR THE DOVER ROAD FORCE MAIN PROJECT IN ACCORDANCE WITH SECTION 11 OF THE TOWN PURCHASING POLICY, TO SARGENT CORPORATION OF STILLWATER, MAINE IN THE AMOUNT OF \$344,100 AND AUTHORIZE THE TOWN ADMINISTRATOR TO SIGN ASSOCIATED DOCUMENTS?

**CC PREPARED BY:** April Talon, P.E., Town Engineer  
Michael Lynch, Director of Public Works

**PRESENTED BY:** Todd Selig, Administrator  
April Talon, P.E., Town Engineer

### **AGENDA DESCRIPTION:**

The purpose of this Council Communication is to request the Town Council's approval for Construction Change Order #2 for the Dover Road Force Main Project in accordance with Section 11 of the Town Purchasing Policy, in the amount of \$344,100. The construction contract was awarded to Sargent Corporation of Stillwater, Maine on September 9, 2019 in the amount of \$2,497,475.

Section 11 of the Town Purchasing Policy reads as follows, "Contract change orders are authorized to be made where necessary by the Town Administrator but shall not exceed ten (10%) percent of the amount of the original contract unless specific Town Council approval is obtained. Subsequent payment requests shall show the change order and the amount thereof as an increase or decrease to the basic contract."

The 2020 Capital Improvements Program (CIP) includes Dover Road 8 inch Water Main in the amount of \$400,000 and was approved in the 2020 budget for the purpose of being included in this project so that the construction of the new 8" water line could be completed in its entirety from Old Piscataqua Road to the Wastewater

Treatment Plant. This means that at the completion of this project, both the Town's 20 inch sewer force main and 8 inch water main will be located in an accessible utility corridor away from the Oyster River.

DPW recommends that this change order be approved and added to the construction contract. The favorable bid price received from Sargent Corporation allows the town to complete these needed upgrades with the existing construction contract, utilizing available CIP funds. The Town has been very satisfied with Sargent Corporation and their ability and willingness to meet required construction milestones.

**LEGAL AUTHORITY:**

Section 11 of the Town's Purchasing Policy requires that contract change orders are authorized to be made where necessary by the Town Administrator but shall not exceed ten (10%) percent of the amount of the original contract unless specific Town Council approval is obtained. Subsequent payment requests shall show the change order and the amount thereof as an increase or decrease to the basic contract.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

<u>ACCOUNT</u>	<u>TITLE</u>	<u>BUDGETED</u>	<u>EXPENSED/ ENCUMBERED TO DATE</u>	<u>REQUESTED</u>	<u>BALANCE</u>
07-2021-221-36-000	Dover Road 8" Water Main 2020	\$400,000	\$0	\$344,100	\$55,900

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby, upon recommendation of the Administrator, approve Change Order #2 for the Dover Road Force Main Project in accordance with Section 11 of the Town Purchasing Policy, to Sargent Corporation of Stillwater, Maine in the amount of \$344,100 and authorizes the Administrator to sign said change order with the monies to come from Account #07-2021-221-36-000.*



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5577  
Fax: 603/868-1858

AGENDA ITEM:

# **11B**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** David L. Kurz, Police Chief

**AGENDA ITEM:** PUBLIC HEARING AND ACTION ON ORDINANCE #2020-01  
AMENDING CHAPTER 153 "VEHICLES & TRAFFIC", SECTION 153-34 OF THE DURHAM TOWN CODE BY REDUCING THE SPEED LIMITS ON A NUMBER OF ROADS IN THE WOODRIDGE NEIGHBORHOOD FROM 30MPH TO 25MPH

**CC PREPARED BY:** David L. Kurz, Police Chief

**PRESENTED BY:** David L. Kurz, Police Chief

**AGENDA DESCRIPTION:**

This ordinance will amend speed limits on Bartlett Road, Woodridge Road, Fogg Lane, Fogg Drive, Meserve Road and Moharinet Way which comprises the Woodridge neighborhood. A neighborhood petition was received by the Traffic Safety Committee asking for a reduction of 30 MPH to 25 MPH for the roadways within the neighborhood. At the 2019 October Traffic Safety Committee meeting there was general consensus that the speed limits of all the roadways within the Wedgewood neighborhood should be designated 25MPH for consistency of the roadway system within the neighborhood. As you are aware, the Durham Town Code assigns all roadways to be 30MPH unless otherwise specified. In other words if the Code is silent regarding a speed limit on a roadway, by default it is 30MPH.

The desire of the Traffic Safety Committee was to propose all of the amendments at once rather than consume valuable Council agenda time.

At the Traffic Safety Committee meeting on October 15, 2019, the committee was unanimous in its recommendation. Due to a full calendar schedule involving budget deliberations this item was delayed until January for Council consideration. A letter has been sent to all residents on the affected roadways notifying them of the proposed Council action and the relevant dates for Council consideration so there would be an awareness to participate in Council discussion if they so desire.

# **ORDINANCE #2020-01 OF DURHAM, NEW HAMPSHIRE**

## **AMENDING CHAPTER 153 "VEHICLES AND TRAFFIC", SECTION 153-34 "SCHEDULE II: SPEED LIMITS" OF THE DURHAM TOWN CODE BY REDUCING THE SPEED LIMITS ON A NUMBER OF ROADS IN THE WOODRIDGE NEIGHBORHOOD FROM 30 MPH TO 25 MPH**

**WHEREAS**, there is significant vehicular traffic throughout the Woodridge neighborhood; and

**WHEREAS**, these same areas have significant pedestrian, bicycle, children playing as well as a Town playground; and

**WHEREAS**, there is significant concern for the safety of all persons residing in the Woodridge neighborhood; and

**WHEREAS**, the Durham Town Code establishes the speed for every street within Durham at 30 mph unless specifically noted in this ordinance; and

**WHEREAS**, these adjustments are being requested by petition of the residents of the neighborhood; and

**WHEREAS**, the Traffic Safety Committee is unanimous in their recommendations that the posted speed limits of 30 mph be reduced to 25 mph upon all the below listed roadways,

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-01 and does hereby amend Chapter 153 "Vehicles & Traffic", Section 153-34 "Schedule II: Speed Limits" of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 mph to 25 mph respectively. Wording to be omitted is annotated with ~~striketrough~~ type. New wording is annotated with underscoring.

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### **153-34. Schedule II: Speed limits.**

In accordance with the provisions of 153-4, speed limits other than thirty (30) miles per hour are established as indicated upon the following streets or parts of streets:

<b>Name of street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Bagdad Road	25	Entire length
<a href="#"><u>Bartlett Road</u></a>	<a href="#"><u>25</u></a>	<a href="#"><u>Entire length</u></a>
Bay Road	35	Entire length
Bayview Road	25	Entire length
Beech Hill Road	35	Entire length
Bennett Road	35	Entire length
Burnham Ave	25	Entire length
Canney Road	25	Route 108 to Madbury Town line
Cedar Point Road	25	Entire length
Chesley Drive	25	Entire length
Coe Drive	25	Entire length
Colony Cove Road	35	Entire length
Cowell Drive	25	Entire length
Croghan Lane	25	Entire length
Cutts Road	25	Entire length
Dame Road	25	From Durham Point Road to the Newmarket Town line
Davis Avenue	25	From Edgewood Rd to Fairchild Dr.
Denbow Road	25	Entire length
Dennison Road	25	Entire length
Durham Point Road	35	Entire length
Edgewood Road	25	Entire length
Emerson Road	25	From Madbury Rd. to the intersection of Bagdad Rd.
Faculty Road	25	Entire length
Fairchild Drive	25	All from Davis Ave. to the cul-de-sac
Frost Drive	25	Entire length
<a href="#"><u>Fogg Drive</u></a>	<a href="#"><u>25</u></a>	<a href="#"><u>Entire length</u></a>
<a href="#"><u>Fogg Lane</u></a>	<a href="#"><u>25</u></a>	<a href="#"><u>Entire length</u></a>
Garden Lane	25	Entire length
Garrison Avenue	25	Entire length
Glassford Lane	25	Entire length
Hamel Drive	25	Entire length
Hampshire Avenue	25	Entire length
Hoitt Drive	25	Entire length
Jenkins Court	25	Entire length
Langley Road	35	Entire length
Littlehale Road	25	Entire length
Longmarsh Road	35	Entire length

<b>Name of street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Lundy Lane	25	Entire length
McGrath Road	25	Entire length
Madbury Road	25	Main Street to Edgewood Road
Main Street	25	Between Route 108 and Mast Road
Main Street	25	Between College Brook Road and Gables Residence Access Rd.
Maple Street	25	Entire length
Mast Road Extension	25	Entire length
Meadow Road	25	Entire length
<u>Meserve Road</u>	<u>25</u>	<u>Entire length</u>
Mill Pond Road	25	Entire length
Mill Road	35	From Woodridge Rd. to Packers Falls Rd.
Mill Road	25	From Main Street to Woodridge Rd.
<u>Moharimet Way</u>	<u>25</u>	<u>Entire length</u>
Old Landing Road	25	Entire length
Old Piscataqua Road	25	Entire length
Oyster River Road	25	Entire length
Packers Falls Road	35	Entire length
Palmer Drive	25	Entire length
Park Court	25	Entire length
Pettee Brook Lane	25	Main St. from College Rd. to Newmarket Rd. and from Main St. to Garrison Ave.
Pinecrest Lane	25	Entire length
Rocky Lane	25	From Fairchild Dr. to cul-de-sac
Rosemary Lane	25	Entire length
Sauer Terrace	25	Entire length
Schoolhouse Lane	25	Entire length
Scotland Road	25	Entire length
Stagecoach Road	25	Entire length
Strafford Avenue	25	Entire length
Sunnyside Drive	25	Entire length
Thompson Lane	25	Entire length
Tom Hall Road	25	Entire length
Valentine Hill Road	25	Entire length
Wednesday Hill Road	35	Entire length
Wiley Road	25	Entire length
Wine Cellar Road	35	Entire length
Wiswall Road	35	Entire length
Wood Road	25	Entire length

<b>Name of street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Woodman Drive	25	Entire length
Woodman Road	25	Entire length
<u>Woodridge Road</u>	<u>25</u>	<u>Entire length</u>
Young Drive	25	Entire length

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_, **2020** by a majority vote of the Durham Town Council with \_\_\_\_\_ affirmative votes, \_\_\_\_\_ negative votes, and \_\_\_\_\_ abstentions.

\_\_\_\_\_  
Katherine Marple, Chair  
Durham Town Council

***ATTEST:***

\_\_\_\_\_  
Lorrie Pitt, Town Clerk-Tax Collector

On January 13, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading, and scheduled a second Public Hearing on the ordinance for February 3, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* on Thursday, January 16, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

**LEGAL AUTHORITY:**

The Town Council may enact Ordinances pursuant to Section 3.8 of the Durham Town Charter.

**LEGAL OPINION:**

No legal opinion was sought, as this is the standard format for ordinances of this type to be issued.

**FINANCIAL DETAILS:**

Ten (10) 25MPH signs will be ordered @ \$78.40 each for a total of \$784.00. Additionally, ten (10) galvanized posts may be necessary at a cost of \$ 40.56 each for a total of \$405.60 equaling a grand total of \$1,189.60

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION 1:**

*The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-01 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 MPH TO 25 MPH.*

**MOTION 2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-01 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 MPH TO 25 MPH.*

**MOTION 3:**

*The Durham Town Council does hereby ADOPT (as presented) (as amended) Ordinance #2020-01 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 MPH TO 25 MPH.*



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5594  
Fax: 603/868-1858

AGENDA ITEM:

# **11C**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** David L. Kurz, Police Chief

**AGENDA ITEM:** PUBLIC HEARING AND ACTION ON ORDINANCE #2020-02  
AMENDING CHAPTER 153 "VEHICLES & TRAFFIC" OF THE  
DURHAM TOWN CODE BY CREATING A NEW SECTION 153-20.1  
"PATRON PARKING" AT THE DURHAM TOWN LIBRARY PARKING  
LOT

**CC PREPARED BY:** David L. Kurz, Chief of Police

**PRESENTED BY:** David L. Kurz, Chief of Police

### **AGENDA DESCRIPTION:**

This ordinance will ensure that parking at the Durham Library is limited and available to patrons and employees of the library. Recently there has been experience with persons parking at the Library while attending classes at the University of New Hampshire. While attempting to curtail this issue, it was found that there was no controlling legislation that prevented this type of parking to the potential exclusion of patrons and employees.

On January 13, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading with suggested amendments, and scheduled a second Public Hearing on the ordinance for February 3, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, January 16, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

### **LEGAL AUTHORITY:**

The Town Council may enact Ordinances pursuant to Section 3.8 of the Durham Town Charter.

### **LEGAL OPINION:**

No legal opinion was sought, as this is the standard format for ordinances of this type to be issued.

**FINANCIAL DETAILS:**

Several signs advising of the time limitations will need to be purchased and installed by Durham Public Works.

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION 1:**

*The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-02 amending Chapter 153 "Vehicles & Traffic" of the Durham Town Code by creating a new Section 153-20.1 "Patron Parking" at the Durham Town Library parking lot.*

**MOTION 2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-02 amending Chapter 153 "Vehicles & Traffic" of the Durham Town Code by creating a new Section 153-20.1 "Patron Parking" at the Durham Town Library parking lot.*

**MOTION 3:**

*The Durham Town Council does hereby ADOPT (with suggested amendments)(as further amended) Ordinance #2020-02 amending Chapter 153 "Vehicles & Traffic" of the Durham Town Code by creating a new Section 153-20.1 "Patron Parking" at the Durham Town Library parking lot.*

# ORDINANCE #2020-02 OF DURHAM, NEW HAMPSHIRE

## AMENDING CHAPTER 153 "VEHICLES & TRAFFIC OF THE DURHAM TOWN CODE BY CREATING A NEW SECTION 153-20.1 "PATRON PARKING" GOVERNING PATRON PARKING AT THE DURHAM PUBLIC LIBRARY PARKING LOT

WHEREAS, the Durham Library parking lot is the property of the Town of Durham; and

WHEREAS, the Town of Durham desires to have readily available parking for patrons of the Durham Library; and

WHEREAS, there is no controlling legislation that prevents persons from occupying limited parking spaces for any purpose to the exclusion of patrons of the library,

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-02 and does hereby create a new subsection, 153-20.1, "Patron Parking", of the Durham Town Code governing patron parking at the Durham Public Library parking lot. Wording to be omitted is annotated with ~~strikeout~~ type. New wording is annotated with underscoring. New additional language is annotated with double underscoring.

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### 153-20.1 Patron Parking

Any person who owns or is in control of any vehicle that parks within a designated parking space for the use of the Durham Town Library shall be engaged as a patron of the library or be employed by the library, except when actively utilizing the electronic charging station. Any vehicle found in violation of this provision may be issued a parking violation and subject to being towed at the owner's expense

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_, 2020 by a majority vote of the Durham Town Council with \_\_\_\_ affirmative votes, \_\_\_\_ negative votes, and \_\_\_\_ abstentions.

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Katherine Marple, Chair  
Durham Town Council

ATTEST:

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Lorrie Pitt, Town Clerk-Tax Collector



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5557  
Fax: 603/868-1858

AGENDA ITEM:

# **11D**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:**

Carden Welsh, Councilor  
Audrey Cline, Code Administrator  
Michael Behrendt, Town Planner

**AGENDA ITEM:**

**PUBLIC HEARING AND ACTION ON ORDINANCE #2020-03, A  
COUNCIL-INITIATED ORDINANCE AMENDING CERTAIN SECTIONS OF  
CHAPTER 175 "ZONING" OF THE DURHAM TOWN CODE FOR THE  
REGULATION OF SHORT-TERM RENTAL ESTABLISHMENTS**

**CC PREPARED BY:**

Carden Welsh, Councilor  
Audrey Cline, Code Administrator  
Michael Behrendt, Town Planner

**PRESENTED BY:**

Carden Welsh, Councilor

**AGENDA DESCRIPTION:**

*\*This Council Communication is updated from one prepared for the July 15, 2019 Town Council packet. Minor changes were also made in the preamble (Whereas section) of the ordinance from the original.*

On July 15, 2019, the Town Council initiated a set of amendments to the Zoning Ordinance for the regulation of bed and breakfast/ Air bed and breakfast-type establishments. (You can see information from that packet if desired starting on page 228 of this link:

[https://www.ci.durham.nh.us/sites/default/files/fileattachments/town\\_council/meeting/packets/55040/july\\_15\\_2019\\_council\\_packet.pdf](https://www.ci.durham.nh.us/sites/default/files/fileattachments/town_council/meeting/packets/55040/july_15_2019_council_packet.pdf).)

The Town Council sent the proposal to the Planning Board which made extensive recommended changes. The board held public hearings on several iterations before finalizing the enclosed document. Of course, the Town Council may make changes to this document but if the changes are significant the Town Council would need to send them back to the Planning Board for additional review.

\*A document is enclosed which shows the changes that the Planning Board made from the original Town Council version (shown in purple).

You can see documents related to this amendment including comments from the public at this link: [https://www.ci.durham.nh.us/boc\\_planning/zoning-amendments-short-term-rental-ordinance](https://www.ci.durham.nh.us/boc_planning/zoning-amendments-short-term-rental-ordinance).

## **BACKGROUND:**

### **Description in July 15 communication**

The information in this section is virtually the same as was included in the July 15 packet. The current zoning ordinance includes provisions for the traditional bed and breakfast establishment. However, with the advent of Air Bed and Breakfast and similar operations (now typically referred to as “short-term rentals”) the ordinance needs to be updated.

A number of Durham property owners have sought to rent their houses to short-term visitors largely via the internet, but to provide fewer services and operate with less formality and oversight than the traditional bed and breakfast. A short-term rental operation can help home-owners raise income through home rental, but can also have significant adverse impacts upon a neighborhood, in terms of traffic, parking, trash, noise, unruly guests, and partying, if not carefully managed.

In early 2016 an amendment to the ordinance to address these same issues was presented to the Town Council. That draft was prepared by then Council Chair Jay Gooze, Town Administrator Todd Selig, Building Official Audrey Cline, Corey Landry, fire chief at the time, Town Attorney Laura Spector, and Town Planner Michael Behrendt. Council members had some concerns with the proposal so it did not move forward.

Given ongoing concerns about proposed short-term rental operations in Durham, and problems experienced in other towns and cities nationwide, Councilor Welsh spoke with the staff about developing a new proposal. He conducted research into the current marketplace for short-term rental establishments and reviewed ordinances and issues in several other communities. He worked with Audrey Cline and Michael Behrendt to develop a new proposal to accommodate the use while incorporating appropriate safeguards.

A bed and breakfast is currently permitted by right (P) in the four residential zones and as a conditional use - adaptive reuse of an existing building (CUA) in every other commercial/industry zone except for ORLI and the Durham Business Park. This use would be changed to a special exception (SE) in the residential zones to provide more protection for those sensitive districts. The CUA is a restrictive and cumbersome designation so the use would be changed to a permitted use in the five retail/commercial zones and a special exception in the OR, MUDOR, and ORLI zones. Site plan review would not be required but the Zoning Administrator would review the

application carefully for compliance with building and fire codes and the ordinance requirements.

**Changes from Town Council proposal recommended by the Planning Board**

The key changes from the Town Council proposal (as marked in purple on the enclosed document) include the following.

- Change in name of use from “bed and breakfast” to “short-term rental.”
- Changes to definitions for *hotel*, *inn*, and *motel* to enhance consistency with definition of *short-term rental*.
- Changes in provisions for hotels and motels under Article XX.
- Changes to special exception provisions for short-term rentals under Article XX.
- Change to language regarding property owner being on the premises when the property is rented.
- Change to language regarding rental housing program and inspections.
- Removing reference to New Hampshire Meals and Room Tax.
- Removing provision regarding parking.
- Clarification regarding prohibition of use of recreational vehicle or temporary shelter in conjunction with the short-term rental.
- Eliminating reference to lighting.

On January 13, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading, and scheduled a second Public Hearing on the ordinance for February 3, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, January 13, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

**LEGAL AUTHORITY:**

RSA 674:16, RSA 675:2, and Section 175-14 of the Durham Zoning Ordinance

**LEGAL OPINION:**

The Town Attorney has reviewed the proposed changes and has no concerns.

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION 1:**

*The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-03, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code for regulation of short-term rental establishments and, in accordance with Section 175-14. A of the Durham Zoning Ordinance.*

**MOTION 2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-03, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code for regulation of short-term rental establishments and, in accordance with Section 175-14. A of the Durham Zoning Ordinance.*

**MOTION 3:**

*The Durham Town Council does hereby ADOPT (as presented) (as amended) Ordinance #2020-03, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code for regulation of short-term rental establishments and, in accordance with Section 175-14. A of the Durham Zoning Ordinance.*

## **ORDINANCE #2020-03 OF DURHAM, NEW HAMPSHIRE**

### **A TOWN COUNCIL-INITIATED AMENDMENT TO CHAPTER 175 “ZONING” OF THE DURHAM TOWN CODE TO ADDRESS CONCERNS RELATED TO SHORT-TERM RENTAL ESTABLISHMENTS**

**WHEREAS**, there is a current nationwide phenomenon of the establishment of less-formal bed and breakfast-type establishments now often referred to as short-term rentals, promoted by [airbnb.com](https://www.airbnb.com) and other organizations operating on the internet and in other media; and

**WHEREAS**, this type of establishment may be an appropriate and beneficial use in the community, but can also be disruptive and inappropriate in certain situations, so various safeguards should be created; and

**WHEREAS**, the current provisions in the Durham Zoning Ordinance address only traditional bed and breakfasts establishments, without regard for the newer form of short term rentals, potentially preventing appropriate and beneficial business activity, supplemental income to homeowners, and opportunities for visitors to Durham; and

**WHEREAS**, without adopting an appropriate ordinance, interested parties would need to seek variances to allow for this use, but such activity should be clearly regulated by a carefully-crafted ordinance rather than by individual requests for variances, and without an ordinance other parties might be more likely to attempt to establish this use illegally without pursuing a permit from the Town; and

**WHEREAS**, the proposed amendment has been carefully considered to provide for necessary safeguards for the protection of the social capital of neighborhoods and the community and should make enforcement upon illegal establishments easier; and

**WHEREAS**, the version revised by the Planning Board was carefully considered after receiving much input from concerned residents and operators of short-term rental establishments, and the Planning Board determined that the revised version achieved a balance between allowing for reasonable use of single-family houses for this use while protecting the neighborhoods; and

**WHEREAS**, the Durham Town Council formally initiated this amendment, the Durham Planning Board held public hearings on several revised versions of the amendment and recommended a number of changes to the draft initiated by the Town Council, and the Durham Town Council duly held first reading, second reading, and a

public hearing prior to adoption on the revised set of amendments proposed by the Planning Board.

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby in accordance with Section 175-14(A) of the Durham Zoning Ordinance adopt Ordinance #2020-03, a Town Council-Initiated amendment to Chapter 175 “Zoning” of the Durham Town Code to address concerns related to Short-Term Rental Establishments. Wording to be deleted is annotated with ~~strikeout~~ type. New wording is annotated with underscoring. **The document in its revised form is attached to this Ordinance as a matter of final record.**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_, **2020** by a majority vote of the Durham Town Council with \_\_\_\_ affirmative votes, \_\_\_\_ negative votes, and abstentions.

\_\_\_\_\_  
Katherine Marple, Chair  
Durham Town Council

**ATTEST:**

\_\_\_\_\_  
Lorrie Pitt, Town Clerk-Tax Collector

**Amendments to the Durham Zoning Ordinance**  
**SHORT-TERM RENTAL ESTABLISHMENTS**

Presented to Durham Town Council on January 13, 2020.

This document incorporates changes recommended by the Planning Board to the original amendments initiated by the Town Council (on July 15, 2019)

*Proposed additions to the present ordinance are shown like this.*

~~*Proposed deletions from the present ordinance are shown like this.*~~

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## ARTICLE II - DEFINITIONS

### 175-7. Definitions.

- *Make the following changes.*

~~**BED-AND-BREAKFAST**~~ **SHORT TERM RENTAL** – An accessory use to an ~~An~~ owner-occupied single-family residence containing, in addition to living accommodations for the owner and the owner's family, not more than ~~three~~ four (4) ~~individual~~ sleeping rooms, ~~without cooking facilities,~~ for the purpose of providing to the general public, for compensation, lodging, with or without breakfast, for less than thirty consecutive days. ~~lodging, bathroom facilities and breakfasts to overnight patrons only and for no longer than two (2) consecutive weeks.~~ A short-term rental is not considered a home occupation.

**HOTEL** – A building containing seven (7) or more ~~individual~~ sleeping rooms or suites, each with a private bathroom ~~having a private bathroom attached thereto~~, for the purpose of providing overnight lodging facilities to the general public for stays of less than thirty consecutive days ~~two (2) consecutive weeks~~ for compensation, ~~with or without meals,~~ and usually providing on-site dining facilities, recreational services, function rooms, housekeeping, laundry and related services. Access to ~~individual~~ guest rooms is provided through interior corridors. (See Article XX)

**INN** – An owner-occupied, single-family residence containing, in addition to living accommodations for the owner and his or her family, four (4) to ~~not more than~~ six (6) ~~individual~~ sleeping rooms, without cooking facilities, for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only and for less than thirty consecutive days ~~no longer than two (2) consecutive weeks.~~

**MOTEL** – A building containing seven (7) or more ~~individual~~ sleeping rooms or suites, each with a private bathroom ~~having a private bathroom attached thereto~~, for the purpose of providing overnight lodging facilities to the general public for compensation for stays of less than thirty consecutive days ~~two (2) consecutive weeks~~ with or without meals, and usually providing on-site function rooms, housekeeping, laundry and related services. Access to ~~individual~~ guest rooms is provided directly from the outside or from exterior corridors or walkways. ~~, walkways, or balconies.~~ (See Article XX)

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## ARTICLE VIII – VARIANCES AND SPECIAL EXCEPTIONS

### 175-26. Special Exceptions.

➤ *Make the following changes.*

A. ***Criteria for the Granting of Special Exceptions.*** The Zoning Board of Adjustment is authorized to grant a special exception in accordance with RSA 674:33 IV, as amended. The board shall grant a special exception if and only if it finds that all of the following general criteria, along with additional specific criteria for particular uses and activities given elsewhere, are met. ~~For the purposes of this chapter, the~~ The following are ~~established as~~ conditions ~~upon the granting~~ of all "special exceptions," ~~subject to such further conditions as may be defined elsewhere herein as to the uses concerned.~~

1. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the kind and nature of other uses in the vicinity or by reason of obvious and adverse violation of the character or appearance of the neighborhood.
2. That the use will not be injurious or noxious and thus detrimental to the neighborhood by reason of any of the causes stated in Part B. Zoning Districts (See Table of Contents) of this chapter.
3. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, excessive noise, or ~~similar~~ comparable adverse causes, impacts, or conditions.

## ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS

### 175-53. Table of Uses.

➤ *Change name in the table from “Bed & Breakfast” to “Short-term rental.” Relocate this use from Section VII in the table to Section III. Residential Uses under “Uses Accessory to a Single Family Residential Use.” Change the allowance for a Short-term rental (formerly Bed and Breakfast) under each zone as follows:*

#### Residential Zones:

Rural	<del>P</del> <u>SE</u>
Residence A (RA)	<del>P</del> <u>SE</u>
Residence B (RB)	<del>P</del> <u>SE</u>
Residence C (RC)	<del>P</del> <u>SE</u>

#### Retail/Commercial Zones:

Central Business (CB)	<del>CUA</del> <u>P</u>
Professional Office (PO)	<del>CUA</del> <u>P</u>
Church Hill (CH)	<del>CUA</del> <u>P</u>
Courthouse (C)	<del>CUA</del> <u>P</u>
Coe's Corner (CC)	<del>CUA</del> <u>P</u>

Research/Industrial Zones:

Office Research - Route 108 (OR)	<del>CUA</del> <u>SE</u>
Mixed Use and Office Research (MUDOR)	<del>CUA</del> <u>SE</u>
Office Research Light Industry (ORLI)	<del>X</del> <u>SE</u>

ARTICLE XX – STANDARDS FOR SPECIFIC USES

175-109. Compliance Required.

➤ Make the following change:

L. Hotels and Motels. A stay in a hotel or motel is restricted to less than thirty days (as defined in Article II – Definitions). However, a guest or guests may stay in a hotel or motel for thirty days or longer if allowed by special exception. The maximum that may be allowed by a special exception is a stay of 60 consecutive days and 90 days in any 6 month period. ~~No person may stay in a hotel or motel as a guest for more than 60 days in a row, nor more than 90 days in any 6 month period.~~

➤ Add new subsection R. below and change letter of existing subsection from R. to S.

R. Short-term rental. The following terms and conditions apply to a short-term rental.

1. A short-term rental may not be established until a permit to operate a short-term rental has been issued by the Zoning Administrator. The property owner shall submit an application to operate a short-term rental to the Zoning Administrator. The proposal shall be reviewed for compliance with all Building, Fire, and Life Safety Codes. Site plan review is not required for a short-term rental.

2. Special Exceptions. In those districts where a short-term rental is allowed by special exception, the property owner shall obtain a special exception prior to issuance of a permit to operate a short-term rental. The following specific requirements apply to special exceptions for short-term rentals:

a. ZBA Hearing. For notification purposes, abutting properties shall include those lots within 300 feet of the subject property.

- b. Other Conditions. The Zoning Board of Adjustment may set additional conditions on the special exception based upon potential impact of the proposal to the neighborhood.*
- 3. The site where the short-term rental is located must be the property owner's primary residence.*
- 4. The property owner or a member of the property owner's family must be on the premises overnight each night while the property is rented.*
- 5. Those areas of the premises open to use by lodgers remain subject to periodic safety inspections per state law.*
- 6. No recreational vehicle, travel trailer, tent, or other temporary shelter may be used by the renter(s) on the premises in conjunction with the short-term rental.*
- 7. Signage is restricted to the following:*
- a. One non-illuminated sign not exceeding two square feet. If ground mounted the sign must be set back at least 10 feet from all lot lines and be no taller than three feet. If mounted on the house no part of the sign may be higher than the top of the first floor windows.*
- b. Non-advertising auxiliary signs (such as "No Parking Here" and "Entrance to the Right") that are non-illuminated and do not exceed one square foot for each sign.*

**Proposed Amendments**  
**Durham Zoning Ordinance**  
**Short-term Rental Establishments**  
*\*Changes from Town Council document proposed by Planning Board\**  
November 13, 2019

*Proposed additions by the Planning Board are shown like this*

*Proposed deletions by the Planning Board are shown like this*

Note that the provisions shown in Article II (Short-term rental/bed and breakfast definition) and Article VIII below are existing provisions incorporating changes proposed by the Town Council. The section in Article XX below, proposed by the Town Council, is all new. In all sections, only changes from the Town Council amendment proposed now by the Planning Board are marked. The Town Council proposed no changes to hotels, inns, and motels.

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## ARTICLE II - DEFINITIONS

**SHORT-TERM RENTAL BED-AND-BREAKFAST** – An accessory use to an owner-occupied single-family residence containing, in addition to living accommodations for the owner and the owner’s family, not more than three *individual* sleeping rooms, for the purpose of providing to the general public, for compensation, lodging *and bathroom facilities*, with or without breakfast, for less than thirty consecutive days. A *short-term rental bed-and-breakfast* is not considered a home occupation.

HOTEL – A building containing seven (7) or more *individual* sleeping rooms or suites, each *with a private bathroom having a private bathroom attached thereto*, for the purpose of providing overnight lodging facilities to the general public for stays of less than *thirty consecutive days two (2) consecutive weeks* for compensation, ~~*with or without meals*~~, and usually providing on-site *dining facilities*, recreational services, function rooms, housekeeping, laundry and related services. Access to *individual* guest rooms is provided through interior corridors. (See Article XX)

INN – An owner-occupied, single-family residence containing, in addition to living accommodations for the owner and his or her family, *four (4) to not more than* six (6) *individual* sleeping rooms, without cooking facilities, for the purpose of providing to the general public, for compensation, lodging, bathroom facilities and breakfast to overnight patrons only and for *less than thirty consecutive days no longer than two (2) consecutive weeks*.

MOTEL – A building containing seven (7) or more *individual* sleeping rooms or suites, *each with a private bathroom having a private bathroom attached thereto*, for the purpose of providing overnight lodging facilities to the general public for compensation for stays of less than *thirty consecutive days two (2) consecutive weeks* with or without meals, and usually providing on-site function rooms, housekeeping, laundry and related services. Access to

*individual* guest rooms is provided directly from the outside or from exterior corridors or walkways. ~~, walkways, or balconies.~~ (See Article XX)

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## ARTICLE VIII – VARIANCES AND SPECIAL EXCEPTIONS

- A. ***Criteria for the Granting of Special Exceptions.*** The Zoning Board of Adjustment is authorized to grant a special exception in accordance with RSA 674:33 IV, as amended. The board shall grant a special exception if and only if it finds that all of the following general criteria, along with additional specific criteria for particular uses and activities given elsewhere, are met. The following are conditions of all special exceptions.
1. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the kind and nature of other uses in the vicinity or by reason of obvious and adverse violation of the character or appearance of the neighborhood.
  2. That the use will not be injurious or noxious and thus detrimental to the neighborhood by reason of any of the causes stated in Part B. Zoning Districts (See Table of Contents) of this chapter.
  3. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, excessive noise, or comparable adverse causes, impacts, or conditions.
- 

- *Change name in the table from “~~Bed & Breakfast~~” to “Short-term rental.” Relocate this use from Section VII in the table to Section III. Residential Uses under “Uses Accessory to a Single Family Residential Use.” Change the allowance for a Bed and Breakfast under each zone as follows:*

## ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS

### 175-53. Table of Uses.

#### Residential Zones:

Rural	SE
Residence A (RA)	SE
Residence B (RB)	SE
Residence C (RC)	SE

#### Retail/Commercial Zones:

Central Business (CB)	P
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Professional Office (PO)	P
Church Hill (CH)	P
Courthouse (C)	P
Coe's Corner (CC)	P

Research/Industrial Zones:

Office Research - Route 108 (OR)	SE
Mixed Use and Office Research (MUDOR)	SE
Office Research Light Industry (ORLI)	SE

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## ARTICLE XX – STANDARDS FOR SPECIFIC USES

- L. Hotels and Motels. *A stay in a hotel or motel is restricted to less than thirty days (as defined in Article II – Definitions). However, a guest or guests may stay in a hotel or motel for thirty days or longer if allowed by special exception. The maximum that may be allowed by a special exception is a stay of 60 consecutive days and 90 days in any 6 month period. No person may stay in a hotel or motel as a guest for more than 60 days in a row, nor more than 90 days in any 6 month period.*

*R. H. Short-term rental Bed and Breakfast.* The following terms and conditions apply to a *short-term rental Bed and Breakfast.*

1. A *short-term rental bed and breakfast* may not be established until a permit to operate a *short-term rental bed and breakfast* has been issued by the Zoning Administrator. The property owner shall submit an application to operate a *short-term rental bed and breakfast* to the Zoning Administrator who will review the proposal for compliance with all Building, Fire, and Life Safety Codes. Site plan review is not required for a *short-term rental bed and breakfast.*
2. Special Exceptions. In those districts where a *short-term rental bed and breakfast* is allowed by special exception, the property owner shall obtain a special exception prior to issuance of a permit to operate a *short-term rental bed and breakfast.* The following specific requirements apply to special exceptions for *short-term rentals bed and breakfasts:*
  - a. ZBA Hearing. For notification purposes, abutting properties shall include those lots within 300 feet of the subject property.
  - b. Other Conditions. The Zoning Board of Adjustment may set additional conditions on the special exception based upon potential impact of the proposal to the neighborhood.*

~~b. Expiration. Any approved special exception shall expire if the property is not used pursuant to the special exception for 24 consecutive months.~~

~~3. Expiration. If the property is not used as a bed and breakfast for 24 consecutive months the permit to operate the bed and breakfast shall expire (along with the special exception, above).~~

3. 4. The site where the short-term rental bed and breakfast is located must be the property owner's primary residence.

4. 5. The property owner or a member of the property owner's family must be on the premises overnight each night while the property is rented.

~~The property owner must be on the premises while the property is rented.~~

5. 6. Those areas of the premises open to use by lodgers remain subject to periodic safety inspections per state law.

~~The property owner shall register the bed and breakfast with the Durham Rental Housing Program and maintain compliance with the program's requirements.~~

~~7. The property owner shall provide to the Zoning Administrator a copy of their current New Hampshire Meals and Rooms Tax License and proof of payment of the New Hampshire Meals and Rooms Tax on an annual basis.~~

~~8. Vehicular parking and access shall be provided on the site as reasonably determined by the Zoning Administrator.~~

6. 9. No recreational vehicle, travel trailer, tent, or other temporary shelter may be used by the renter(s) on the premises in conjunction with the short-term rental bed and breakfast.

7. 10. Signage is restricted to the following:

- a. One non-illuminated sign not exceeding two square feet. If ground mounted the sign must be set back at least 10 feet from all lot lines and be no taller than three feet. If mounted on the house no part of the sign may be higher than the top of the first floor windows.
- b. Non-advertising auxiliary signs (such as "No Parking Here" and "Entrance to the Right") that are non-illuminated and do not exceed one square foot for each sign.

~~11. Any lighting on site shall be fully shielded to prevent glare onto the road and any neighboring properties.~~



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5577  
Fax: 603/868-1858

AGENDA ITEM:

# **11E**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** David L. Kurz, Police Chief

**AGENDA ITEM:** PUBLIC HEARING AND ACTION ON ORDINANCE #2020-04  
CREATING A NEW CHAPTER, CHAPTER 55 "ELECTRONIC  
MOTORIZED DEVICES/SCOOTERS", IN THE DURHAM TOWN CODE  
GOVERNING THE USE OF SUCH MOTORIZED DEVICES WITHIN THE  
TOWN OF DURHAM

**CC PREPARED BY:** David L. Kurz, Police Chief

**PRESENTED BY:** David L. Kurz, Police Chief

### **AGENDA DESCRIPTION:**

There could be an influx of microtransit and micromobility devices, commonly referred to as motorized scooters, arriving in Durham possibly within months. Currently there are no entities other than the University of New Hampshire who are considering a relationship with Lime, Bird, Skip, Spin, Lyft, and Jump, to name a few of the larger corporations who rent electronic scooters. The impetus is largely due to student interest and pressure to have the devices on campus. As there will be significant spillover into the downtown area specifically, there was substantial concern that Durham was not prepared for the unique issues associated with these devices. The Town has been working collaboratively with UNH administrators, as well as the Student Senate, to develop regulations regarding traffic protocols, parking and other guidelines that would enable oversight of this rented equipment's use within Durham.

The proposed amendment for consideration by the Town Council has been vetted by Town staff, legal counsel, and UNH staff.

On January 13, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading with suggested amendments, and scheduled a second Public Hearing on the ordinance for February 3, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, January 16, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

**LEGAL AUTHORITY:**

The Town Council may enact Ordinances pursuant to Section 3.8 of the Durham Town Charter.

**LEGAL OPINION:**

The sample ordinance presented to the Town Council was fully vetted by Town Attorney Laura Spector-Morgan.

**FINANCIAL DETAILS:**

There are no direct financial implications for this proposed amendment. However, the oversight and management of the registration will have implications for the Durham Police Department.

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION 1:**

*The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-04 creating a new chapter, Chapter 55 "Electronic Motorized Devices/Scooters", in the Durham Town Code governing the use of such motorized devices within the Town of Durham.*

**MOTION 2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-04 creating a new chapter, Chapter 55 "Electronic Motorized Devices/Scooters", in the Durham Town Code governing the use of such motorized devices within the Town of Durham.*

**MOTION 3:**

*The Durham Town Council does hereby ADOPT (with suggested amendments) (as further amended) Ordinance #2020-04 creating a new chapter, Chapter 55 "Electronic Motorized Devices/Scooters", in the Durham Town Code governing the use of such motorized devices within the Town of Durham.*

# ORDINANCE #2020-04 OF DURHAM, NEW HAMPSHIRE

## CREATING A NEW CHAPTER IN THE DURHAM TOWN CODE, CHAPTER 55 “ELECTRONIC MOTORIZED DEVICES/ELECTRIC SCOOTERS”, GOVERNING THE USE OF MOTORIZED DEVICES /ELECTRIC SCOOTERS WITHIN THE TOWN OF DURHAM

**WHEREAS**, there is a significant interest in identifying Durham and the University of New Hampshire as a prime location to establish corporations who will rent micromobility devices to persons; and

**WHEREAS**, the Town of Durham has no regulations that would govern and/or regulate their use and storage on Durham streets, sidewalks and ways; and

**WHEREAS**, in anticipation of an influx of micromobility devices, the ordinance presented will assist staff in regulating these devices throughout the Town of Durham,

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-04 and does hereby amend Chapter 153 “Vehicles & Traffic”, Section 153-34 creating a new chapter in the Durham Town Code, Chapter 55 “Electronic Motorized Devices/Electric Scooters”, governing the use of such motorized devices within the Town of Durham. Wording to be omitted is annotated with ~~striketrough~~ type. New wording is annotated with underscoring. New additional language is annotated with double underscoring.

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### CHAPTER 55

### ELECTRONIC MOTORIZED DEVICES /SCOOTERS

#### 55-1. General Provisions

This ordinance shall govern the use of all motorized devices, such as scooters, within the Town of Durham. Motorized devices are not considered motorized vehicles per NH motor vehicles laws.

#### 55-2. Definition

For the purpose of this ordinance the term ‘motorized devices’ shall mean any device with a gas or electric engine and wheels joined to the bottom of a narrow platform ~~that may or may not have~~ ~~with a~~ vertical handles fixed to the platform, frame or wheels that is powered without the assistance of human peddling, pushing or gliding. It shall not include mobility devices used by the elderly or those with disabilities.

#### 55-3. Obedience to traffic control ordinances; effect of conflict

Any person operating a motorized device operated upon any public roadway within the Town shall be operated in accordance with all the provisions contained in the traffic ordinances of the Town and with the provisions of New Hampshire Chapter 265-Rules of the Road, except that when any provision contained in such ordinances conflicts with any provision in this chapter, the provisions of this chapter shall predominate, or when by their nature they can have no application thereto. Operation of these devices upon any Town sidewalk is strictly prohibited. Use of motorized devices on University of New Hampshire multi-use trails, sidewalks or roadways shall be subject to regulations of the University of New Hampshire

#### 55-4. Obedience to traffic control ordinances; exceptions

Drivers of motorized vehicles must obey all official traffic signals, signs, and other control devices within the Town used in regulating and directing traffic, unless otherwise directed by a police officer; and on public roadways where authorized signs are erected, no person or persons operating a motorized device in the Town shall disobey the regulation contained therein, except that when such person dismounts from the motorized device to make any such maneuver, the operator shall obey all the traffic ordinances provisions applicable to pedestrians.

#### 55-5. Age Requirements

The use of a motorized device on public rights of way by individuals under the age of 16 is strictly prohibited.

#### 55-6. Equipment Required

No person shall operate a motorized device unless it is equipped with a brake, lights, and bell or audible alert.

Any motorized devices operated upon any public roadway during the period one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, and whenever rain, snow or fog shall interfere with the proper view of the road shall be equipped with a lamp emitting a white light visible from a distance of 300 feet in front of the motorized device and with a red reflector on the rear that will be visible from a distance of 300 feet to the rear when directly in front of the headlamps of a vehicle.

55-7. Speed; direction

Motorized devices shall not be operated within the Town at a speed greater than is reasonable and prudent under the conditions then existing and in no event shall they exceed 15MPH and shall be operated as near the right-hand side of the roadway as practicable, exercising due care when passing a parked vehicle or a vehicle proceeding in the same direction.

55-8. Yielding Right-of-Way

Motorized devices emerging from a driveway or building shall upon approaching a sidewalk or roadway yield the right-of-way to all pedestrians approaching on the said sidewalk area; and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

55-9. Parking of Unattended Motorized Devices

Unattended motorized devices may only be parked on streets, sidewalks or other Town properties in the following areas:

- Areas specifically designated and marked by the Town for the parking of such devices, including but not limited to corrals, pods, bike racks, or other locations designated by the Town of Durham for the parking of mobile devices; or
- Areas in which a shared mobile device provider has received written approval from the Town for the creation of sidewalk encumbrances for the purpose of parking shared motorized devices

If any motorized device is found unattended in violation of the provisions of this ordinance by any Town official, then;

- The Town registration information will be utilized to contact the owner, who shall be given two (2) hours to properly park the motorized device and a violation notice shall be placed on the device; or
- If the motorized device does not contain the required registration information or if two (2) hours has passed since an attempt has been made to notify the owner that the motorized device is improperly parked, then the Town shall remove the motorized device from the street, sidewalk or, other location of improper parking and secure the motorized device in a location to be determined by the Town.

If a motorized device is left unattended in a manner which blocks pedestrian passage on a sidewalk or street or otherwise presents a public safety hazard, it shall be removed immediately by the Town and secured in a location to be determined by the Town.

Whenever a device has been removed from the street, sidewalk, or other public area by the Town, it shall be removed and impounded at the owner's risk and expense and shall not be released until authorized by the Durham Police Department and after the owner has provided satisfactory proof that the person making the request owns the motorized device and has paid any and all costs incurred by the Town in impounding the motorized device as well as any other penalties due as a result of the illegal parking.

Any motorized device that has been removed from the street, sidewalk, or other public area in the Town and not redeemed as allowed by this ordinance within thirty (30) days shall be disposed of by the Town without compensation to the owner.

#### 55-10. Rental

No person shall rent, or offer for rent, any motorized device within the Town unless it is properly registered and equipped in accordance with the provision of this chapter.

#### 55-11. Registry Required

No person shall ride or propel a motorized device on any public roadway within the Town, or upon any other public path established for the exclusive use of bicycles, unless such motorized device has been properly registered as herein provided.

#### 55-12. Penalties

Any person or persons violating any act or provision of this ordinance shall be fined not more than \$100 for the first offense and \$150 for the second offense. Also any person or persons violating this ordinance a third time faces a summons as well as impoundment of the motorized device and any cost of towing and storage.

#### 55-13. Application

Any person or corporation requiring a motorized devices registration shall submit application in writing to the Chief of Police, or their authorized agents. Each application shall be made on an approved form to be provided by the Police Department as it may deem necessary for the proper enforcement of this chapter.

#### 55-14. Issuance

It shall be the duty of the Chief of Police or their agents to act on all motorized devices registration applications received and to issue the same when the provisions of this chapter have been met by the applicant, including the certification by the applicant that the motorized device is in good state and safe mechanical condition.

**55-15. Fee; Duration**

- A. The fee for each motorized device registration issued shall be ~~\$10~~ established by the Town Administrator and included in the Town-wide Master Fee Schedule. A motorized device shall be considered registered for the entire life of the motorized device, unless the sticker provided by the Chief of Police has been mutilated, destroyed, altered, lost, or removed. If a new sticker is required, there will be a \$5.00 fee**
- B. Upon transfer of ownership of the motorized device the new owner shall re-register the motorized device for a ~~\$10.00~~ fee to be established by the Town Administrator and included in the Town-wide Master Fee Schedule**

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_, 2020 by a majority vote of the Durham Town Council with \_\_\_\_ affirmative votes, \_\_\_\_ negative votes, and \_\_\_\_ abstentions.

\_\_\_\_\_  
Katherine Marple, Chair  
Durham Town Council

**ATTEST:**

\_\_\_\_\_  
Lorrie Pitt, Town Clerk-Tax Collector



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5377  
Fax: 603/868-1858

AGENDA ITEM:

# **11F**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** David L. Kurz, Police Chief

**AGENDA ITEM:** PUBLIC HEARING AND ACTION ON ORDINANCE #2020-05  
AMENDING CHAPTER 153 "VEHICLES & TRAFFIC", SECTION 153-34 OF THE DURHAM TOWN CODE BY REDUCING THE SPEED LIMIT ON A SECTION OF PACKERS FALLS ROAD BETWEEN SULLIVAN FALLS ROAD AND THE NEWMARKET TOWN LINE FROM 35MPH TO 30MPH

**CC PREPARED BY:** David L. Kurz, Police Chief

**PRESENTED BY:** David L. Kurz, Police Chief

### **AGENDA DESCRIPTION:**

This ordinance will amend the speed limit on Packers Falls Road, which is currently 35MPH the entire length from Lee to Newmarket, to 30MPH commencing at the intersection of Sullivan Falls Road southerly to the Newmarket Town line. The remaining section from the Lee town line to Sullivan Falls Road will remain at the current speed of 35MPH. This amendment is motivated by a neighborhood concern regarding sight distance for their private driveway where a fatal motorcycle accident occurred in the immediate vicinity. While the sight distance issue was not a causation factor in the accident, it did propel the neighborhood to highlight their concerns to the Traffic Safety Committee.

At the Traffic Safety Committee meeting on October 15, 2019, the committee was unanimous in its recommendation. Due to a full calendar schedule involving budget deliberations this item was delayed until January for Council consideration. A letter has been sent to all residents on Packers Falls Road notifying them of the proposed Council action and the relevant dates for Council consideration so there would be an awareness to participate in Council discussion if they so desire.

On January 13, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading with suggested amendments, and

scheduled a second Public Hearing on the ordinance for February 3, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, January 16, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

**LEGAL AUTHORITY:**

The Town Council may enact Ordinances pursuant to Section 3.8 of the Durham Town Charter.

**LEGAL OPINION:**

No legal opinion was sought, as this is the standard format for ordinances of this type to be issued.

**FINANCIAL DETAILS:**

Two (2) 30MPH signs will be ordered at \$78.40 each for a total of \$156.80 with the potential need of two (2) galvanized posts at a cost of \$81.12 for a total of \$237.92

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION 1:**

*The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-05 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35MPH TO 30MPH.*

**MOTION 2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-05 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35MPH TO 30MPH.*

**MOTION 3:**

*The Durham Town Council does hereby ADOPT (as presented) (as amended) Ordinance #2020-05 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35MPH TO 30MPH.*

## **ORDINANCE #2020-05 OF DURHAM, NEW HAMPSHIRE**

### **AMENDING CHAPTER 153 “VEHICLES AND TRAFFIC”, SECTION 153-34 “SCHEDULE II: SPEED LIMITS” OF THE DURHAM TOWN CODE BY REDUCING THE SPEED LIMIT ON A PACKERS FALLS ROAD FROM 35 MPH TO 30 MPH**

**WHEREAS**, there is significant vehicular traffic on Packers Falls Road; and

**WHEREAS**, there are a number of private driveways with less than perfect sight distance onto Packers Falls Road; and

**WHEREAS**, there is significant pedestrian, jogging, and bicycle activity on this rural roadway; and

**WHEREAS**, these adjustments are being requested by a number of residents of the neighborhood; and

**WHEREAS**, the Traffic Safety Committee is unanimous in their recommendations that the posted speed limits of 35 mph be reduced to 30 mph upon this section of Packers Falls Road; and

**WHEREAS**, the Durham Town Code establishes the speed for every street within Durham,

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-05 and does hereby amend Chapter 153 “Vehicles & Traffic”, Section 153-34 “Schedule II: Speed Limits” of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35 MPH to 30 MPH. Wording to be omitted is annotated with ~~striketrough~~ type. New wording is annotated with underscoring.

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#### **153-34. Schedule II: Speed limits.**

In accordance with the provisions of 153-4, speed limits other than thirty (30) miles per hour are established as indicated upon the following streets or parts of streets:

<b>Name of street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Bagdad Road	25	Entire length
Bay Road	35	Entire length
Bayview Road	25	Entire length
Beech Hill Road	35	Entire length
Bennett Road	35	Entire length
Burnham Ave	25	Entire length
Canney Road	25	Route 108 to Madbury Town line
Cedar Point Road	25	Entire length
Chesley Drive	25	Entire length
Coe Drive	25	Entire length
Colony Cove Road	35	Entire length
Cowell Drive	25	Entire length
Croghan Lane	25	Entire length
Cutts Road	25	Entire length
Dame Road	25	From Durham Point Road to the Newmarket Town line
Davis Avenue	25	From Edgewood Rd to Fairchild Dr.
Denbow Road	25	Entire length
Dennison Road	25	Entire length
Durham Point Road	35	Entire length
Edgewood Road	25	Entire length
Emerson Road	25	From Madbury Rd. to the intersection of Bagdad Rd.
Faculty Road	25	Entire length
Fairchild Drive	25	All from Davis Ave. to the cul-de-sac
Ffrost Drive	25	Entire length
Garden Lane	25	Entire length
Garrison Avenue	25	Entire length
Glassford Lane	25	Entire length
Hamel Drive	25	Entire length
Hampshire Avenue	25	Entire length
Hoitt Drive	25	Entire length
Jenkins Court	25	Entire length
Langley Road	35	Entire length
Littlehale Road	25	Entire length
Longmarsh Road	35	Entire length
Lundy Lane	25	Entire length
McGrath Road	25	Entire length
Madbury Road	25	Main Street to Edgewood Road

<b>Name of street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Main Street	25	Between Route 108 and Mast Road
Main Street	25	Between College Brook Road and Gables Residence Access Rd.
Maple Street	25	Entire length
Mast Road Extension	25	Entire length
Meadow Road	25	Entire length
Mill Pond Road	25	Entire length
Mill Road	35	From Woodridge Rd. to Packers Falls Rd.
Mill Road	25	From Main Street to Woodridge Rd.
Old Landing Road	25	Entire length
Old Piscataqua Road	25	Entire length
Oyster River Road	25	Entire length
Packers Falls Road	35	<b>Entire length</b> <u>Between Lee Town line and Sullivan Falls Rd.</u>
<u><b>Packers Falls Road</b></u>	<u><b>30</b></u>	<u><b>Between Sullivan Falls Rd. and Newmarket Town line</b></u>
Palmer Drive	25	Entire length
Park Court	25	Entire length
Pettee Brook Lane	25	Main St. from College Rd. to Newmarket Rd. and from Main St. to Garrison Ave.
Pinecrest Lane	25	Entire length
Rocky Lane	25	From Fairchild Dr. to cul-de-sac
Rosemary Lane	25	Entire length
Sauer Terrace	25	Entire length
Schoolhouse Lane	25	Entire length
Scotland Road	25	Entire length
Stagecoach Road	25	Entire length
Strafford Avenue	25	Entire length
Sunnyside Drive	25	Entire length
Thompson Lane	25	Entire length
Tom Hall Road	25	Entire length
Valentine Hill Road	25	Entire length
Wednesday Hill Road	35	Entire length
Wiley Road	25	Entire length
Wine Cellar Road	35	Entire length
Wiswall Road	35	Entire length
Wood Road	25	Entire length

<b>Name of street</b>	<b>Speed limit (mph)</b>	<b>Location</b>
Woodman Drive	25	Entire length
Woodman Road	25	Entire length
Young Drive	25	Entire length

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_, **2020** by a majority vote of the Durham Town Council with \_\_\_\_\_ affirmative votes, \_\_\_\_\_ negative votes, and \_\_\_\_\_ abstentions.

\_\_\_\_\_  
Katherine Marple, Chair  
Durham Town Council

***ATTEST:***

\_\_\_\_\_  
Lorrie Pitt, Town Clerk-Tax Collector



TOWN OF DURHAM  
8 NEWMARKET ROAD  
DURHAM, NH 03824  
Tel: 603/868-5371  
Fax: 603/868-1858

# **11G**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** David L. Kurz, Police Chief

**AGENDA ITEM:** PUBLIC HEARING AND ACTION ON ORDINANCE #2020-06  
CREATING A NEW CHAPTER, CHAPTER 88 "OFF HIGHWAY  
RECREATIONAL VEHICLES" IN THE DURHAM TOWN CODE  
PROHIBITING OFF HIGHWAY RECREATIONAL VEHICLES (ORRV)  
FROM TRAVERSING TRAILS ON TOWN PROPERTY DESIGNED FOR  
PEDESTRIAN ACTIVITY

**CC PREPARED BY:** David L. Kurz, Police Chief

**PRESENTED BY:** David L. Kurz, Police Chief

### **AGENDA DESCRIPTION:**

Several concerns by hikers, joggers and mountain bicyclists, who have encountered motorized vehicles on trails traversing Durham property, have been reported to the Durham Police. Many of these encounters were described as harrowing and upsetting as the hikers attempted to walk through pristine woodlands to enjoy the solace and simply "get away". There are currently no prohibitions for any Off-Highway Recreational Vehicles (OHRV) from being on any Durham owned property which this amendment rectifies.

The proposed amendment for consideration by the Town Council has been vetted by Town staff as well as legal counsel.

On January 13, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading, and scheduled a second Public Hearing on the ordinance for February 3, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, January 16, 2020. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

**LEGAL AUTHORITY:**

The Town Council may enact Ordinances pursuant to Section 3.8 of the Durham Town Charter.

**LEGAL OPINION:**

The sample ordinance presented to the Town Council was fully vetted by Town Attorney Laura Spector-Morgan.

**FINANCIAL DETAILS:**

There are no direct financial implications for this proposed amendment. However, the oversight and management of the registration will have implications for the Durham Police Department.

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION 1:**

*The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-06 creating a New Chapter, Chapter 88 "Off Highway Recreational Vehicles" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (ORRV) from traversing trails on Town property designed for pedestrian.*

**MOTION 2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-06 creating a New Chapter, Chapter 88 "Off Highway Recreational Vehicles" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (ORRV) from traversing trails on Town property designed for pedestrian.*

**MOTION 3:**

*The Durham Town Council does hereby ADOPT (as presented) (as amended) Ordinance #2020-06 creating a New Chapter, Chapter 88 "Off Highway Recreational Vehicles" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (ORRV) from traversing trails on Town property designed for pedestrian.*

## **ORDINANCE #2020-06 OF DURHAM, NEW HAMPSHIRE**

**CREATING A NEW CHAPTER IN THE TOWN OF DURHAM CODE, CHAPTER 88 "OFF HIGHWAY RECREATIONAL VEHICLES (OHRV) ON TOWN PROPERTY", PROHIBITING THE USE OF THESE TYPES OF VEHICLES FROM TRAVERSING TRAILS ON TOWN PROPERTY DESIGNED FOR PEDESTRIAN ACTIVITY**

**WHEREAS**, an Off-Highway Recreational Vehicle (OHRV) has the ability to maneuver quickly they pose dangerous encounters on trails shared with hikers, joggers and other pedestrians; and

**WHEREAS**, OHRV operations on trails designed for hiking, jogging and other pedestrian can significantly damage the trail itself; and

**WHEREAS**, the Town of Durham has no regulations that would prohibit an OHRV from operating on town property intended and designed for foot traffic only; and

**WHEREAS**, there has been numerous reported encounters of pedestrians with OHRV on Town of Durham owned hiking trails,

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-06 and does hereby amend Chapter 153 "Vehicles & Traffic", Section 153-34 creating a new chapter, Chapter 88 "Off Highway Recreation Vehicles (OHRV) on Town Property" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (ORRV) from traversing trails on town property designed for pedestrian activity. Wording to be omitted is annotated with ~~striketrough~~ type. New wording is annotated with underscoring.

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### CHAPTER 88

#### OFF HIGHWAY RECREATION VEHICLES (OHRV) ON TOWN PROPERTY:

No person shall operate any Off-Highway Recreational Vehicle (OHRV) on any property owned by the Town of Durham

#### 88-1. Authority

This ordinance has been enacted pursuant to the authority granted the Durham Town Council by NH RSA 41:11-a (Town Property), which allows the Durham Town Council to adopt ordinances to regulate the use of Town owned lands.

**88-2. Purpose and Intent**

- To protect the users of Town property from physical injury that may result from the unrestricted operation of motor vehicles at these locations.
- To prevent damage to Town property including playing fields, trails, parking areas, steep slopes, wetlands, activity areas and other improvements, thereby reducing the cost to the taxpayers of Durham for operating and managing these facilities.
- To prevent soil erosion, damage to vegetation and turf, and other injury to the environment.
- To reduce the risk of fire from motorized vehicles on Town property.
- To reduce the amount of unwanted noise, dust and flying debris.
- To encourage indigenous wildlife to inhabit Durham's conservation areas.
- To protect the use and enjoyment of these areas for the users of these areas.
- To limit the Town's exposure to liability for any injuries that might result from the unrestricted operation of motor vehicles on Town property.

**88-3. Definitions**

"Off Highway Recreational Vehicle (OHRV)" shall mean any and all liquid petroleum, gasoline, propane or electrically powered vehicles which travel on one or more wheels or tracks, including but not limited to All-Terrain Vehicles (ATVs), Off Highway Recreational Vehicles (OHRVs), Utility Terrain Vehicles (UTVs), and trail bikes as defined by RSA 215-A:1, as well as snowmobiles.

Such vehicles shall *not* include:

- Wheeled devices typically designed and intended for use by, and operated by the handicapped which were not originally manufactured as motor vehicles such as trail bikes or ATVs;
- Maintenance and repair equipment operated by or with the authorization of the Town of Durham;

- Any emergency vehicles operated by or under the direction of the Durham Police, Fire, and/or McGregor Ambulance service as well as similar vehicles of local, State or federal government agencies conducting similar activities;

“Town-owned Land” shall mean any and all land acquired by the Town of Durham whether by purchase, gift, tax deeding, or any other means in accordance with the laws of the State of New Hampshire, which may include but not be limited to recreational facilities and sports fields.

#### 88-4. Penalties

The penalty for the violation of this ordinance shall be a fine not to exceed one hundred dollars (\$150.00) for each instance.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_, **2020** by a majority vote of the Durham Town Council with \_\_\_\_\_ affirmative votes, \_\_\_\_\_ negative votes, and \_\_\_\_\_ abstentions.

\_\_\_\_\_  
Katherine Marple, Chair  
Durham Town Council

**ATTEST:**

\_\_\_\_\_  
Lorrie Pitt, Town Clerk-Tax Collector



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AGENDA ITEM:

# **11H**

DATE: February 3, 2020

## COUNCIL COMMUNICATION

**INITIATED BY:** Kenny Rotner & Al Howland, Town Councilors

**AGENDA ITEM:** DISCUSSION REGARDING SOLID WASTE AND RECYCLING TRENDS  
AND POSSIBLE IMPLICATIONS FOR DURHAM

**CC PREPARED BY:** Al Howland, Town Councilor

**PRESENTED BY:** Kenny Rotner & Al Howland, Town Councilors

### **AGENDA DESCRIPTION:**

The Integrated Wastes Advisory Committee spent 2019 working on the goal of reducing the amount of solid waste sent to landfills while also controlling the Town's future solid waste costs. Initially, this led us to investigate Pay-As-You-Throw or unit pricing. The system has been effectively used in over 10,000 communities. As the year progressed, we began to see the dramatic impacts of changes to the recycling market. When the new contract begins in November, we will see significant increases in tipping fees. This puts the goal of decreased landfill tonnage at odds with cost containment. Solving this riddle will require a comprehensive plan for the solid waste program.

- 1) **Recycling** - Convenience comes at a cost. Changes in contamination standards and recycled materials' value have made mixed paper, single, and co-mingles streams expensive. Maximizing revenue from metal and corrugated cardboard with current staffing should be a goal. We will also need to review the operation of the transfer station and work to improve its effectiveness. Finally, we face some very tough decisions on glass and mixed paper.
- 2) **Composting** - While the value of paper, glass, and plastics fluctuates, compostable materials are a constant. Our problem is that a high participation community program does not exist. Mr. Fox offers a great model but it is unclear if it is scalable to all of Durham. Since compostable materials are estimated to comprise nearly 20% of the weight of the entire waste stream, we need to address it.

Re: Discussion regarding solid waste and recycling trends and possible implications for Durham

- 3) **PAYT** - While has been shown to be an effective tool, it requires solving the recycling puzzle. DPW is putting out an RFP, and as we work through developing a plan, we can evaluate if we ultimately think it works for us.
- 4) **Education** - While residents want to do the right thing, the collision of complex packaging and busy lives make that a challenge. A simple guide to our solid waste program needs to be developed and placed on the Town website. It should also be included in a newsletter mailed to residents.
- 5) **Regional Cooperation** - One of the biggest issues we face with recycling is the lack of processing facilities. This is a regional issue and, we need to reach out to other Seacoast communities and Strafford Regional Planning to discuss possible solutions.

While a significant amount of work needs to be done to address the 5 points I have listed, we do have some time. The IWMAC committee will continue working on a comprehensive solid waste plan and will keep the Council informed of its process.

**LEGAL AUTHORITY:**

N/A

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

No formal action required at this time. Hold discussion and provide direction, if appropriate.