



TOWN OF DURHAM

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www.ci.durham.nh.us

NOTICE: This meeting of the Town Council is being held **completely on-line using Zoom teleconferencing**. Please refer to the “Zoom Call-in and Public Input Instructions” for this meeting located at the end of the agenda.

AGENDA

DURHAM TOWN COUNCIL
MONDAY, OCTOBER 5, 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 – September 14 and September 21, 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*)
 - A. Shall the Town Council ratify the Collective Bargaining Unit Agreement between the Town of Durham and the Durham Professional Mid Managers Association (DPMMA) for the period Jan 1, 2020 – Dec 31, 2022 and authorize the Administrator to sign said contract?
 - B. Shall the Town Council Sign the Warrant for the General Election to be held on Tuesday, November 3, 2020?
- IX. **Committee Appointments**
 - A. Shall the Town Council move alternate member Mary Ann Krebs to fill the unexpired regular member term of Bart McDonough on the Conservation Commission with said term to expire on April 30, 2023?
 - B. Shall the Town Council appoint Cathy Leach, 14 Fairchild Drive, as a regular member to the Parks & Recreation Committee?

- C. Shall the Town Council appoint Guy Johnson, 1 Surrey Lane, to fill an unexpired alternate member term to the Planning Board?

X. Presentation Items

- A. Contemporary issues surrounding indigenous peoples – Garrett Chapman, NH Commission for Native American Affairs
- B. 2019 Audit Presentation – Patrick Mohan, Melanson Heath & Company, Nashua, NH
- C. Discussion regarding possible buyout of Power Purchase Agreement with ReVision Energy, LLC

XI. Unfinished Business

- A. **PUBLIC HEARING AND ACTION ON RESOLUTION #2020-19** naming the Oyster River foot bridge after Kenny Rotner in accordance with Resolution #2002-13 for naming public facilities, trails, forests or trees, etc. after citizens who have a long-standing involvement or lasting contributions they have made to the community or for other notable reasons
- B. **PUBLIC HEARING AND ACTION ON RESOLUTION #2020-20** to accept and expend unanticipated grant funds totaling \$80,000 to be used toward the Orchard Drive/Thompson Lane Pedestrian Bridge Over the Oyster River

XII. New Business

- A. **FIRST READING ON ORDINANCE #2020-13** amending various sections of Chapter 175 “Zoning” of the Durham Town Code pertaining to Agriculture affecting Article II – Definitions, the Table of Uses, Article XX – Standards for Specific Uses, and several other articles and creating a new Article XX.1 – Standards for Agricultural Uses
- B. Other Business

XIII. Nonpublic Session (if required)

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

XV. Adjourn (NLT 10:30 PM)

() 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.*

ZOOM VIDEO CALL-IN & PUBLIC INPUT INSTRUCTIONS

To Participate by Audio

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IMPORTANT!

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2. **You will be muted until the Public portion of the meeting opens.**
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If you should have difficulty, please send DCAT an email: dcat@ci.durham.nh.us or by calling **603-590-1383**.

PUBLIC INPUT INSTRUCTIONS: Due to the ongoing situation with COVID-19, the Town of Durham will be taking extra steps to allow for public input during public meetings while still ensuring participant safety and social distancing. Per Executive Order by Governor Sununu, scheduled gatherings of 10 or more people will be prohibited. Therefore, those wishing to share comments are required to do so via email to council@ci.durham.nh.us by 5:00 PM on the day of the meeting.

For Zoom Meeting Preregistration click [HERE](#).



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

AGENDA ITEM: **# 8A**

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Todd I. Selig, Administrator

AGENDA ITEM: SHALL THE TOWN COUNCIL RATIFY THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN OF DURHAM AND THE DURHAM PROFESSIONAL MID MANAGERS ASSOCIATION (DPMMA) FOR THE PERIOD JANUARY 1, 2020 THROUGH DECEMBER 31, 2022?

CC PREPARED BY: Todd I. Selig, Administrator

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

The Town officially began contract negotiations with the Durham Professional Mid Managers Association (DPMMA) in the fall of 2019. The existing contract (*attached*) between the Town and the DPMMA expired on 12/31/19. The Town's bargaining team was comprised of the Town's Labor Attorney, the Business Manager, the Fire Chief, and the Administrator. The DPMMA bargaining team was comprised of the team's Labor Attorney, the Police Captain, the Town Engineer, one Fire Department Captain, and the Fire Department Administrative Assistant. Topics discussed as part of the negotiations included salaries and language changes.

Attached for the Town Council's review is list of changes that the new contract provides to the prior Collective Bargaining Agreement which expired on December 31, 2019 for which the Town's bargaining team and the DPMMA negotiation team has reached a Tentative Agreement. Subsequently, the DPMMA voted to ratify the Agreement.

The Town's bargaining team and the Administrator recommend passage of the DPMMA Collective Bargaining Agreement as presented.

LEGAL AUTHORITY:

RSA 273-A "Public Employee Labor Relations"

LEGAL OPINION:

The Town’s Labor Attorney, Joseph McKittrick, has briefed the Town Council relative to the Tentative Agreement.

FINANCIAL DETAILS:

COST IMPACT FOR DPMMA CONTRACT

FUND	2020	2021	2022
GENERAL	\$ 29,020	\$ 13,624	\$ 13,897
WATER	\$ 4,652	\$ 941	\$ 960
WASTEWATER	\$ 6,412	\$ 2,845	\$ 2,902
TOTAL IMPACT	\$ 40,084	\$ 17,411	\$ 17,759

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby ratify the Collective Bargaining Agreement between the Town of Durham and the Durham Professional Mid Managers Association for the period January 1, 2020 through December 31, 2022. (ROLL CALL VOTED REQUIRED).

Sally Tobias ___
 Dinny Waters ___
 Al Howland ___
 Katherine Marple ___
 Carden Welsh ___

Wayne Burton ___
 James Lawson ___
 Sally Needell ___
 Andrew Corrow ___

TENTATIVE COLLECTIVE BARGAINING AGREEMENT

between the TOWN

and the

DURHAM Professional Municipal Managers Association

SALARIES:

ATB Increases

2020 2%
2021 2%
2022 2%

Adjustments

Engineer	\$95,000
Fire Adm. Asst. and Asst. to DPW	increase to \$30.38 for parity with similar positions Eliminated possible merit increases

LANGUAGE CHANGES:

Creates new position of Fire Lt.

Salary - \$31.85 an hour – midpoint between Fire Capt. and Inspector

Can fill in Captains' shifts

Purpose – cuts overtime cost and trains new officers

Residency Requirement: Deleted

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

***THE DURHAM PROFESSIONAL MUNICIPAL
MANAGERS ASSOCIATION***

AND

TOWN OF DURHAM

January 1, 2019 to December 31, 2019

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ARTICLE 1
RECOGNITION

Section 1:

Wherever used in this Agreement, the word "EMPLOYEE" shall refer to all individuals included in the Bargaining Unit as described in Section 2.

Section 2:

The Town hereby recognizes the Association as the exclusive representative of all regular full-time employees and bargaining agent for the purpose of collective bargaining for the employees of job classifications of:

Assistant to the Public Works Director, Superintendent of Highways, Superintendent of Water and Solid Waste, Superintendent of Buildings and Grounds, Superintendent of Wastewater, Administrative Assistant of the Fire Department, Fire Marshal, Police Captain, Captains in the Fire Department, and Town Engineer.

Section 3:

The following employees are considered "salaried:"

Superintendent of Highways, Superintendent of Water and Solid Waste, Superintendent of Buildings and Grounds, Superintendent of Wastewater, Police Captain, and Town Engineer.

Section 4:

All other employees are considered "hourly."

ARTICLE 2
NON-DISCRIMINATION

Section 1:

The Town shall not discriminate in the terms and conditions of employment against any employee covered by this Agreement because of membership in, or legitimate activity as required by this Agreement on behalf of the employees of this Association, for the purposes of encouraging or discouraging, membership in any employee organization.

Section 2:

The Association recognizes its responsibilities as the exclusive bargaining agent and agrees to represent all employees in the Bargaining Unit without discrimination, interference, restraint or coercion.

Section 3:

The provisions of this Agreement shall be applied equally to all employees in the Bargaining Unit without discrimination as to age, sex, marital status, race, color, creed, religion, national origin, or political affiliation.

ARTICLE 3
MANAGEMENT RIGHTS

Section 1:

Except as otherwise limited by an express provision of this Agreement, the Town shall continue to have the right to exercise complete control and discretion over its organization and technology, including, but not limited to, the determination of the standards of service to be provided and standards of productivity and performance of its employees; establish and/or revise personnel evaluation programs; the determination of the methods, means and personnel by which its operations are to be conducted; the creation and abolition of jobs; the determination of the content of job classifications and ratings; the appointment, promotion, assignments, direction and transfer of personnel; the suspension, demotion, discharge, or any other appropriate action against its employees; the relief from duty or its employees because of lack of work or for any other legitimate reasons; the establishment and altering of reasonable work rules; and the taking of all necessary actions to carry out its missions. All of the rights, responsibilities and prerogatives that are inherent in the Town by virtue of statutory provisions unless specifically waived by the Town in this Agreement shall remain in full force and effect.

Delivery of services to the public in the most efficient, effective and productive manner is of paramount importance to the Town and the Association. Such achievement is recognized to be a goal of both parties as they perform their respective roles and meet their respective responsibilities.

Section 2:

It is acknowledged that during the negotiations which resulted in this Agreement, the Association had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining. Therefore, for the life of this Agreement, this Agreement shall constitute the total Agreement between the Parties, and the Association agrees that the Town shall not be obligated to any additional collective bargaining.

ARTICLE 4
ASSOCIATION RIGHTS

Section 1:

The Association, or a committee of the Association, shall be allowed to use meeting facilities of the Town for meetings when such facilities are available.

Section 2:

The Town shall provide space for a bulletin board which shall be purchased and placed for the exclusive use of the Association in communicating with the employees of the Bargaining Unit.

Section 3:

The employees of the Town within the Unit of the Association's bargaining committee who are scheduled to work during negotiations shall be granted time off without loss of pay or benefits for all negotiations with the Town.

Section 4:

The Town agrees to deduct dues certified by the Treasurer of the Association from the wages or salaries due to employees covered by this Agreement. Such deduction shall be made once per month. Individuals shall request in writing that such deductions be made. Once such a request has been made it shall continue in effect for thirty (30) days after a written notice to rescind is submitted by the employee. The total amount of deductions shall be remitted by the Town to the Treasurer of the Association once per month on or about the fifteenth (15th) day of the month immediately following the month for which the authorized deductions were collected.

Section 5:

The Association agrees to defend, indemnify and hold the Town harmless from any and all liability, loss or damage the Town may suffer as a result of any and all claims, demands, costs or judgments against it arising out of any dispute concerning deductions carried out pursuant to the provisions of Section 4 above.

ARTICLE 5
RESIDENCY REQUIREMENTS

Section 1:

The Captains of the Fire Department are all required to live within a radius from the Durham Fire Station of either twenty (20) miles or twenty-five (25) minutes whichever is later.

Section 2:

All other individuals covered by this Collective Bargaining Agreement who are "on call" or subject to callback for emergencies shall live within a reasonable distance and response time from the Town of Durham.

ARTICLE 6
GRIEVANCE PROCEDURE

Section 1:

The purpose of this procedure is to produce proper and equitable solutions of Grievances. All Grievances shall be handled as provided in this Section.

The parties agree that such procedures shall be kept as informal and confidential as may be appropriate for the procedural level involved. Nothing in this Agreement shall prevent any employee from individually presenting any Grievance to his/her employer, without representation of the Association, providing that a resolution is not inconsistent with the terms of the Agreement. Those Grievances reduced to writing and resolved without the Association representation shall be documented and forwarded to the Association within ten (10) working days.

Section 2:

The following, definitions shall apply for the purposes of this Agreement

- A. GRIEVANCE shall mean a complaint by an employee that, as to such employee, or by the Association that the Town has interpreted and applied the Agreement in violation of a specific provision thereof.
- B. AN AGGRIEVED EMPLOYEE shall mean the employee making the complaint.
- C. For the purposes of this Article, "WORKING DAYS" shall mean Monday through Friday, exclusive of legal holidays.

Section 3:

A matter which is not specifically covered by the Agreement of which is reserved either by this Agreement or by common or statutory law to the employer is not subject to the arbitration procedure set forth in Article 7. Only Grievances, as defined above and/or not prohibited by this Agreement, may be arbitrated under the provisions of Article 7.

Section 4:

Since it is important that Grievances be processed as rapidly as possible, the number of days indicated at each level shall be considered as maximum. The time limits specified may be extended only by prior written mutual agreement.

Section 5:

The processing of Grievances shall be undertaken in accordance with the following, procedures:

- A. A written Grievance must be made to the Department Head within five (5) working days of the action giving rise to the Grievance. The appeal must include the issue giving rise to the Grievance, the facts as the employee views them and the requested relief. The Department Head shall respond to this appeal within five (5) working, days. If the employee is not satisfied with the action to be taken by the Department Head, the employee may appeal the matter to the Town Administrator within five (5) working days of the Department Head's decision.
- B. The Town Administrator shall, within seven (7) working days of the request, meet with the aggrieved employee and all involved parties, hear testimony and render a decision within seven (7) working days of the hearing. The employee shall be given a written confirmation of the Town Administrator's decision within five (5) working days of the time a decision is rendered.
- C. If the Grievance has not been resolved to the satisfaction of the aggrieved employee, the Association may, by giving written notice to the Town Administrator within ten (10) working days after the conclusion of the meeting referred to in Section 5-B of this Article, submit the Grievance to Arbitration if permitted by the Agreement and/or statutory or common law. Such notice shall be addressed in writing to the Town Administrator. The Arbitration shall be governed by the provisions of Article 7.

Section 6:

No Grievance shall be considered which is not presented within the time limits specified in Section 5-A of this Article. If a Grievance is not, or if the action required to present the Grievance to the next higher level shall not have been taken within the specified time limits, the Grievance shall be deemed to have been waived and shall not, thereafter, be subject to the Grievance Procedure or the Arbitration procedure set forth in Article 7 unless such individual settlement is not enforced.

Section 7:

All documents, communications and records dealing with the processing of a grievance shall be filed separately from the personnel file of the participant.

Section 8:

No Grievance in process during the term of this Agreement shall lapse because of the termination of this Agreement. Any such Grievance shall be disposed of under the procedures by this Agreement.

ARTICLE 7
ARBITRATION

Section 1:

In the event that the Association elects to proceed to arbitration, the Town Administrator or his/her designee and the Association shall endeavor to agree upon a mutual acceptable arbitrator and obtain a commitment from said Arbitrator to serve. If the Parties are unable to agree upon an Arbitrator or to obtain a commitment to serve, the Grievance shall be referred to the American Arbitration Association by the Association within twenty (20) days after the receipt of the notice of submission to Arbitration (Article 6, Section 5-C). In such event, the Arbitrator shall be selected in accordance with the rules of the American Arbitration Association, then applicable to voluntary labor Arbitrations.

Section 2:

The Town and the Association agree that they shall individually be responsible for their own costs, preparation and presentation. The Town and the Association further agree that they shall equally share in the compensation and the expense of the Arbitrator.

Section 3:

The function of this Arbitrator is to determine the interpretation of specific provisions of this Agreement. There shall be no right in Arbitration to obtain and no Arbitrator shall have any power or authority to award or determine any change in, modification or alteration of, addition to, or detraction from any other provision of this Agreement.

The Arbitrator may or may not make his/her award retroactive to the initial filing date of the Grievance as the equities of the case may require.

Section 4:

Each Grievance shall be separately processed at any Arbitration proceeding hereunder, unless the Parties otherwise agree.

Section 5:

The Arbitrator shall furnish a written opinion specifying the reasons for his/her decision. The decision of the Arbitrator, if within the scope of his/her authority and power within this Agreement, shall be final and binding, upon the Association and the Town and the aggrieved employee who initiated the Grievance.

ARTICLE 8
HOURS OF WORK

Section 1:

The regular work week and work shift for all employees shall be the normal annual schedule in effect as of December 31, 1991.

Section 2:

The work week shall commence at 0001 hours Monday and end at midnight (2400 hours) on Sunday.

Section 3:

Notwithstanding anything to the contrary, the work week of the Superintendent of Water and Solid Waste shall be Monday through Thursday commencing at 0630 hours and ending at 1700 hours daily.

Section 4:

The above sections to the contrary notwithstanding, the regular work week and work shift for the Fire Department Captain position which is designated as the Department's Training/Safety Officer shall consist of four (4) consecutive ten and one-half hour days, Monday through Thursday. The regular work week for this position shall equal forty-two (42) hours. The work day shall commence at 0745 hours and end at 1815 hours.

Section 5¹:

Fire Captains:

The regular work week and work shift for the Fire Department Captain positions shall consist of one (1) twenty-four (24) hour work day followed by two (2) consecutive twenty-four (24) hour days off, followed by one (1) twenty-four (24) hour work day, followed by four (4) consecutive twenty-four hour days off, averaged over an eight (8) week cycle to be an average of forty-two (42) hours per week.

Shift shall commence at 0800 hours and end at 0800 hours the following day.

¹ Language taken verbatim from CBA Between Town and DPMMA January 1, 2004 through December 31, 2006 as Attachment D, dated April 8, 2004 by Town Administrator Todd Selig for the Town; and, Deborah E. Quisumbing, President, for the DPMMA.

ARTICLE 9
OVERTIME

Section 1:

The Town shall compensate hourly (as defined in Article 1, Section 4) employees at the rate of time and one-half their regular rate of pay for all hours worked in excess of a normal work week.

Section 2:

Compensatory time will no longer be accrued by any member of the bargaining unit as of the date of the signing of this collective bargaining agreement. Existing accrued compensatory time will be reconciled for each employee and may be used at the employee's discretion or paid upon separation of service. The parties agree and recognize that salaried employees do not have a fixed schedule and have greater flexibility than an hourly employee.

Section 3:

No hourly employee shall be relieved of duty during his/her regular work hours in the basic work week in order to avoid the provisions of Section I above. No hourly employee covered by this Agreement shall have his/her regular work schedule changed to avoid compensating the employee for hours worked in excess of the regular work week.

Section 4:

Any hourly employee covered by this Agreement who is called back to work shall be guaranteed minimum of three (3) hours pay.

Section 5:

- A. Fire Captain vacancies will be filled with Fire Captains.
- B. Fire Captains may be required to fill Fire Captain positions.

ARTICLE 10
TEMPORARY SERVICE OUT OF RANK (TSOR)

The Town agrees to compensate an employee who is assigned the duties and responsibilities of a higher rank for one full shift or more at the starting salary of the classification in which the employee has been temporarily assigned, or five (5) percent of his/her present rate, whichever is greater.

ARTICLE 11
PRIVATE DETAILS

Section 1:

Private details shall be defined as that duty performed by an employee covered by this Agreement during his/her off-duty hours for an employer other than the Town. Such duty shall include that required by statute or ordinance, and/or for which a private employer has requested coverage.

Section 2:

Compensation for such duty shall be at the rate of one and one half (1-1/2) times the employee's base hourly rate for a minimum of four (4) hours.

Section 3:

To the extent that such work has not been previously or customarily assigned to the employees of another bargaining unit, such work shall be assigned to those persons who indicate that they wish to work that particular detail. If more than one employee indicates the desire to work a particular detail than the assignment shall be made according to: events worked, then to rank, and then seniority within ranks on a rotating basis in accordance with the plan in effect as of October 1, 1992.

Section 4²:

Notwithstanding the above, the selection of Fire Captains for private details shall adhere to the guidelines outlined below.

- A) In the event that an employee who has been mandatorily assigned an event finds another employee to work the event in his/her place, then the employee who actually works the event shall be charged with both a mandatory and voluntary assignment.
- B) For purposes of determining eligibility to work an event, both parties agree to utilize hours rather than events worked when tracking events on either the voluntary or mandatory special events sheets.

² Language taken verbatim from CBA Between Town and DPMMA January 1, 2004 through December 31, 2006 as Attachment B, dated February 2, 1997 by Robert P. Wood, Fire Chief; Hubert Matheny for Fire Captains, and; Jeffrey C. Furlong, President, for the DPFFA. Originally accepted as CBA language for agreement dated January 1, 1998 to December 31, 2000.

- C) When there is a tie in respect to hours of events worked when determining a voluntary assignment, both parties agree to use seniority in determining who is eligible to work.
1. Seniority shall be defined as the period of continuous full-time employment with the Town of Durham Fire Department.
 2. It is expressly understood that seniority changes as discussed within this Agreement apply onto to Special Events assignments. Both bargaining units reserve the right to grieve seniority status in all other situations as their respective labor agreements allow.
- D) When an employee has been assigned to voluntarily work an event and he/she has a conflict and is unable to work the event, the following procedure will be utilized:
1. If the employee is sick or on bereavement leave he/she shall call the on-duty shift commander and notify him/her of the same. The Shift Commander shall check the assignment list for said event and shall notify any employees who may have signed up for the event but weren't assigned the work. Any such employees who signed up originally for the event shall have the first option to work the vacancy.
 - o If none of the above mentioned employees are available to work the event then the Shift Commander shall offer the event to all full-time Fire Department personnel via a tone-out. If there is no response the event shall be offered to all other eligible employees. (Other eligible employees refers to Durham Fire Department Call Company members and/or full-time firefighters from outside departments who qualify as determined by the chief.) If no employee is found for voluntary assignment then the administration shall be notified to enable them to mandatorily assign a firefighter to work the event.
 2. If the employee is unable to work the event for any other reason other than being sick or bereavement leave, then it shall be his/her responsibility to utilize the procedure described in Section 4A above in an attempt to find an employee willing to work the event in his/her place voluntarily. **If the employee is unable to find another full-time Fire Department employee or another eligible employee, in that order, willing to work the event voluntarily then he/she is responsible for working the event.**
- E) Both parties recognize the right of the administration to assign a ranking or non-ranking employee to an event as they see fit. It is understood that in these cases, the determination to assign an employee by rank or expertise shall be noted on the Special Events sign-up sheet when posting it on the Fire Department bulletin board.

- F) The DPFFA agrees that the Fire Inspector shall be compared to the members of the DPMMA in respect to hours worked as with the rest of the employees in all cases, regardless of how many employees are required for the event. The Fire Inspector shall continue to retain the right to bump the DPFFA member with the highest amount of hours who is signed up to work said event.
- G) Employees shall be responsible for entering their times on the respective lists. All employees are expected to check the lists for accuracy from time to time and bring forth complaints/discrepancies.
- H) Both parties agree that the “Special Events Season” shall be defined as July 1 to June 30 of each year at which time the Special Events Roster shall be renewed and all employees hours shall be returned to zero.
- I) New employees being added to the list mid-season, shall have their hours started at the highest employees hours excluding the Fire Inspector.

ARTICLE 12
HOLIDAYS

Section 1:

The following shall be paid holidays for all Association employees.

New Year's Day
Civil Rights Day
Memorial Day
Independence Day
Labor Day
Indigenous Peoples' Day
Thanksgiving and the day after
Veteran's day
Christmas Day and the day before or after

Section 2:

Any hourly employee required to work on a holiday shall be compensated at one and one-half (1-1/2) times his/her regular rate of pay.

Section 3:

Compensation for all holidays worked and holiday pay shall be paid in the next regular pay check. All nonscheduled hours worked shall be subject to the call back provisions of Article 9, Section 4.

Section 4:

The above sections to the contrary notwithstanding, for the Fire Department Captain position which is designated as the Department's Training/Safety Officer, if a holiday falls on a non-scheduled workday, the employee will receive 8.4 hours of straight pay for the holiday.

ARTICLE 13
VACATION LEAVE

Section 1:

Vacation leave shall be granted to all permanent full-time employees on a monthly accrual basis. Accrual shall be based on a completed monthly service. Vacation leave accrual for the initial month will be awarded only if the employee is hired no later than the 10th of that month. Thereafter, Vacation leave shall accrue on a pro-rata basis and shall be credited for usage on the first of each month.

Section 2:

Vacation leave shall accrue for but may not be used by new probationary employees. New probationary employees not attaining permanent status shall forfeit any accrued vacation time.

Section 3:

Eligible employees (probationary excluded) may request vacation leave at any time of the year. Requests for vacation leave shall be submitted for approval in writing (on prescribed form) to the employee's Department Head at least fourteen (14) days in advance of the requested leave. Vacation leave shall be granted in all cases except those in which the employee's absence will affect essential services of the department. If vacation requests are made less than fourteen (14) days in advance, permission shall be granted at the discretion of the Department Head. In cases of conflicting vacation requests, seniority shall prevail.

Section 4:

Eligible employees shall accrue vacation leave at the following rates for continuous completed months of service.

COMPLETED SERVICE	ACCRUAL RATE PER 40 HR WK	ACCRUAL RATE PER 42 HR WK	MAXIMUM LEAVE ACCRUAL
0-60 Months	8.0 hrs/mth	8.4 hrs/mth	Max. 240 hours
61-120 Months	12.0 hrs/mth	12.6 hrs/mth	Max. 240 hours
121 or more months	14.0 hrs/mth	14.6 hrs/mth	Max. 240 hours

Section 5:

Upon termination, an employee shall be compensated for unused vacation leave not to exceed two hundred forty (240) hours at that employee's regular and current rate of pay. The excess hours shall be forfeited.

ARTICLE 14
VACATION & SICK LEAVE COVERAGE

Section 1:

In the event that the Fire Department elects, at its sole and exclusive discretion to provide coverage for short-time sick leave or vacation leave for a position included in this bargaining unit, then such position shall be filled first by individuals of the rank of Captain or above. In the event that no such superior officer volunteers to fill said position then the Chief may fill it with any other person at his sole and exclusive discretion.

Section 2³:

Notwithstanding anything to the contrary above, no person covered by this Agreement shall work more than two (2) consecutive shifts except in cases of emergencies. No Fire Department member covered by this agreement shall work more than 48 consecutive hours except in cases of emergencies, as determined by the Fire Chief.

Section 3:

Fire Captain Vacancy Staffing

- a. Extended Fire Captain Vacancy Staffing:
In the event that a Fire Captain is injured or ineligible to work for a period of time of 14 calendar-days or greater the following options may be exercised to reduce the financial impact of an extended Fire Captain vacancy to the Fire Department and Town.
 - i. A Fire Captain vacancy may be filled by a fire department senior staff officer during normal business hours, up to twice a month, or as mutually agreed upon by the Fire Captains and the Fire Department Administration.
 - ii. The Training Captain may fill a Fire Captain vacancy or other Fire Officer during his or her own regularly scheduled work hours.
 - iii. After 30 calendar-days, a Fire Captain vacancy may be filled by a temporary reassignment or exchange of duties during business hours of 8:00 AM to 5:00 PM Monday through Friday, excluding holidays, between a Fire Captain on extended leave and another ranking Fire Officer within the Durham Fire Department.
 - iv. After 45 calendar-days, a Fire Captain vacancy may be filled by a temporary reassignment or exchange of duties between a Fire Captain on

³ Language taken verbatim from CBA Between Town and DPMMA January 1, 2004 through December 31, 2006 as Attachment A, a memo dated June 1, 1995 by Fire Chief Robert Wood to Town Administrator Larry Wood and accepted as CBA language in the CBA between the Town and the DPMMA January 1, 1998 to December 31, 2000.

extended leave and another Fire Officer within the Durham Fire Department.

- v. In the event that any of the above staffing solutions are in effect, the option of a mutually agreeable light duty assignment for the individual may be provided, at the request of the individual.

b. Scheduled Fire Captain Vacancy Staffing:

In the event that a Fire Captain vacancy is scheduled the following options may be exercised to reduce the financial impact to the Fire Department and Town.

- i. A scheduled Fire Captain vacancy may be filled by a fire department senior staff officer during normal business hours, up to twice a month, or as mutually agreed upon by the Fire Captains and the Fire Department Administration.
- ii. A scheduled Fire Captain vacancy may be filled by the Training Captain or other Fire Officer during his or her own regularly scheduled work hours.
- iii. A scheduled Fire Captain vacancy may be filled by the Training Captain for a 24-hour work shift at their overtime rate, per the Fire Captain Overtime Rules.

ARTICLE 15
SICK LEAVE

Section 1:

Employees shall earn sick leave at the rate of one day per month. New employees hired no later than the 10th of the month shall receive credit for that initial month. Sick leave shall be made available and credited for use on the first of each month. Permanent part-time employees shall earn sick leave on a pro-rated basis.

Section 2:

Unused sick leave may be accumulated over the term of employment as follows:

Completed Service	Maximum Leave Accrual Rate Per 40 hr Week	Maximum Leave Accrual Rate Per 42 hr Week	Accrual
0-60 months	8 hrs/month	8.4 hrs/month	720 hours
61-121 months	8 hrs/month	8.4 hrs/month	820 hours
122 or more	8 hrs/month	8.4 hrs/month	920 hours

* All employees hired after February 13, 2002 shall have a maximum accrual of 820 hours.

Section 3:

Employees who voluntarily terminate their employment with at least thirty (30) days notice shall receive payment at the rate of twenty-five (25%) of their accrued sick leave. In the event that an employee provides a six (6) month written notice of his/her voluntary termination of employment, he/she shall receive thirty-five (35%) of their accrued sick leave. Employees who are terminated for cause other than layoff or leave without the required thirty (30) day notice shall forfeit all sick leave payments.

Section 4:

New probationary employees shall accrue sick leave but may not draw any leave or sick pay for time off taken due to illness during their probationary period. New probationary employees who do not achieve permanent status forfeit any accrued sick leave that exists at the time of their termination of employment with the Town. These provisions affecting probationary employees shall not apply to employees serving probationary periods due to reassignment, promotion or any other type of probation other than that of a newly hired employee.

Section 5:

Sick leave may be legitimately drawn in the event of the following: Absences due to illness, injury or exposure to contagious diseases endangering the health of other employees

when requested by the attending physician, medical and dental appointments, and care of immediate family member whose illness or condition requires the employee to remain at home (care beyond three [3] days requires approval by the Town Administrator). Employees absent for such reasons must report their absence to the Department Head within one (1) hour of their regularly scheduled starting time. Verification of illness/disability from a medical doctor may be required by Department Heads at any time. In the event that the cost of obtaining such verification is not reimbursed by the Insurance Carrier then such cost shall be borne by the Town.

ARTICLE 16
SICK LEAVE BANK

Section 1:

The Town agrees to the establishment of a Sick Leave Bank. The Bank shall be set up and administered by a Sick Leave Review Panel consisting of four (4) members, three (3) appointed by the Association and one (1) appointed by the Town, who shall establish procedural rules for its operation.

Section 2:

The initial funding of the Bank shall be an assessment of two (2) months accrual of sick time per employees of the Town within the unit.

Section 3:

Each employee of Town within the unit shall be assessed one (1) month's accrual per year.

Section 4:

Eligibility is contingent upon a prognosis from the disabled employee's attending physician that said employee shall be able to return to work within one (1) calendar year from the date of the disability.

Section 5:

In no event shall any one (1) employee receive more than 125 days from the sick leave bank in one (1) calendar year or a total of 250 days during that employee's career with the Town.

Section 6:

The funding mechanism outlined in Sections 2 and 3 above shall continue until that employee has funded his/her share of the Bank for a period of ten (10) years. Thereafter that employee shall not be required to, nor shall that employee contribute to, the Sick Leave Bank until it is depleted. Thereafter the funding mechanisms outlined above shall recommence.

ARTICLE 17
SICK LEAVE INCENTIVE

For each employee working six (6) consecutive months with one (1) shift or less of sick leave taken during those months, that employee shall receive a bonus in the amount equivalent to the employee's rate of pay for eight (8) hours (or 8.4 hours for Fire Department Captains) payable on January 15th and July 15th.

ARTICLE 18
PERSONAL DAYS

Section 1:

Personal days shall be granted with pay similar to vacation leave and are intended to afford the employee with the opportunity to address unanticipated events or emergencies of short duration.

Section 2:

Full-time employees are awarded personal days after completion of twelve (12) months of service and thereafter on the employee's anniversary date. Personal days off may be earned at a rate of one (1) day per twelve (12) months for those employees with less than sixty (60) months of service. Those employees having, sixty-one (61) or more months of service shall be entitled to two (2) days per twelve (12) month period. Those employees having one hundred and eighty (180) or more months of service shall be entitled to three (3) days per twelve month period. Any employee who does not utilize a sick leave day for a period of 1 year shall be entitled to an additional personal day.

Section 3:

Personal days may not be accumulated beyond three (3) shifts and must be used within twelve (12) months of the time they are earned.

Section 4:

Notice equivalent to that expected for sick leave is required for the use of these days. There shall be no payment of these benefits upon termination.

ARTICLE 19
BEREAVEMENT LEAVE

Section 1:

For non uniformed Fire personnel and all other employees covered by this Agreement, bereavement Leave of three (3) working days with pay shall be granted an employee in the event of the death of his/her spouse, father, mother, step-parents, father-in-law, mother-in-law, daughter-in-law, son-in-law, child, stepchildren, brother, sister, step-sibling, Grandparent, Grandchildren, legal guardian, significant other or a relative domiciled in the employee's household. This leave may be extended to five (5) working days upon petition to the Town Administrator, solely at his/her discretion. Under extenuating circumstances, special leave of two (2) working days with pay may be granted by the Town in order that the employee may arrange or attend a funeral of a relative other than those mentioned in the preceding paragraph.

Section 2:

For all uniformed Fire personnel covered by this Agreement, bereavement leave of two (2) twenty four hour shifts with pay shall be granted an employee in the event of the death of his/her spouse, father, mother, step-parents, father-in-law, mother-in-law, daughter-in-law, son-in-law, child, stepchildren, brother, sister, step-sibling, Grandparent, Grandchildren, legal guardian, significant other or a relative domiciled in the employee's household. This leave may be extended upon petition to the Town Administrator, solely at his/her discretion.

Under extenuating circumstances, special leave of one (1) twenty four hour shift with pay may be granted by the Town in order that the employee may arrange or attend a funeral of a relative other than those mentioned in the preceding paragraph.

ARTICLE 20
PARENTAL LEAVE

Section 1:

It is the policy of the Town to grant permanent full-time female employees a leave of absence without pay for the purposes of child bearing during which time the Town shall provide health/life insurance benefits to the employee. It is also the policy of the Town to grant permanent full-time employees a leave of absence without pay for the purposes of child rearing. Such leaves shall be contiguous to the birth of the employee's child.

Section 2:

A reasonable leave of absence is defined as one hundred eighty (180) consecutive calendar days. At the election of the employee, any such leave may encompass less than the full one hundred eighty (180) day period. A leave shall, in no event, exceed one hundred eighty (180) days except for valid medical reasons. Any employee seeking an extension of child bearing leave beyond the one hundred eighty (180) day limit must consent to an independent medical evaluation by the Town if the Town determines such evaluation to be advisable.

Section 3:

Each employee seeking such leave of absence may be required to present to the Town a written statement from her attending physician indicating, the date upon which she should begin her absence from her job.

Section 4:

To obtain such leave of absence, the employee must, in good faith, signify her intent to return to her employment at some date on or before the end of the one hundred eighty (180) day period unless mutually agreeable arrangements extending such period are made between the employee and the Town.

Section 5:

It shall be the employee's responsibility to notify the Town Administrator at least thirty (30) days in advance of her return to work. Upon return to employment, such employee shall be reinstated to his/her original job or to an equivalent position with equivalent pay unless circumstances within the Town make such reinstatement impossible or unreasonable. Employees on maternity leave may use their accrued sick or vacation leave for these periods of time for which they are actually disabled. Employees on child bearing leave may use their accrued vacation leave during such leave.

Section 6:

A male employee may use his accrued sick leave, vacation or comp leave if his wife/significant other is ill during her pregnancy or recovering from the delivery of such child.

ARTICLE 21
LONGEVITY

Section 1:

Longevity pay will be granted to all permanent full-time employees as a means of compensating such employees for long-term service to the Town. Such pay shall be paid by check by the end of the second week in December. The employee shall receive longevity according to their length of service at time of payment.

Section 2:

The rate of compensation shall be as follows:

<u>Length of Service</u>	<u>Annual Longevity Payment</u>
61 - 108 months	\$ 250.00
109 - 168 months	500.00
169 - 228 months	750.00
229 and above	1,000.00

ARTICLE 22
INSURANCE

Section 1:

The Town agrees to continue health, hospitalization and major medical insurance for each employee under the Matthew Thornton Blue \$5 co-pay RX 10/20/45 or an equivalent plan effective March 1, 2015.

The plan includes a Managed Care Program, a mail-in prescription program and Delta Dental Option III with the employee's choice to buy up to Delta Dental Option I.

Section 2:

- A. All employees shall pay ten percent (10%) of the monthly health premiums for the Matthew Thornton Blue HMO Program and Delta Dental Option III premiums or equivalent plans through June 30, 2016.
- B. Effective July 1, 2016 all employees shall pay fifteen percent (15%) of the monthly health premiums for the Matthew Thornton Blue Program and Delta Dental Option 3 Flex Premiums. Either side may have a limited CBA reopener to address the Cadillac Tax, if applicable.
- C. Effective July 1, 2017, all employees shall pay seventeen percent (17%) of the monthly health premiums for the Matthew Thornton Blue Program and Delta Dental Option 3 Flex Premiums.
- D. Effective July 1, 2018, all employees shall pay twenty percent (20%) of the monthly health premiums for the Matthew Thornton Blue Program and Delta Dental Option 3 Flex Premiums.
- E. Each employee may choose to participate in any other health insurance program offered by the Town provided that they pay twenty percent (20%) of the monthly premium of said health plan.
- F. Each employee may choose to participate in Delta Dental Option I provided that they pay the difference between the Option III and Option I plan, as well 10% of the monthly Delta Dental Option III Plan.

Section 3:

An insurance “buy-out” option shall be included for employees that are covered by insurance from any other source other than the Town. If the employee elects not to be covered by the Town’s health insurance, then the Town shall reimburse that employee 45% of the Town’s share of the premium upon proof of other insurance.

For all employees hired by the Town after January 1, 2016, with the exclusion of Kelley Fowler (who is grandfathered), and who elect not to be covered by the Town’s health insurance policy will receive 15% of the Town’s share of the premium. Said buyout shall be included as a taxable “insurance benefit” in the employee’s paycheck. The employee shall furnish the Town with proof of alternative health insurance coverage on a yearly basis.

Section 4:

The Town shall continue to purchase Life Insurance for the Association employees of Town within the unit in the amount of coverage currently in effect (\$50,000 death benefit).

Section 5:

The Town agrees to provide an Employee Assistance Program to all employees wishing, to participate in said program.

ARTICLE 23
SHORT TERM/LONG TERM DISABILITY

Section 1:

In matters involving short term, non-work related sick leave, the Town shall continue to provide to the affected employee his/her full base salary until his/her return to service or until such time as the employee has exhausted available leave, or is deemed to be ineligible for disability benefits or discharged, whichever occurs first.

Section 2:

The benefit of full pay to an employee who is on short term disability leave is conditional upon the employee's agreement to "buy back" used leave time equivalent to the disability benefits remitted to the Town.

Section 3:

While an employee remains on leave, accounting for used leave time shall take place weekly and leave shall be charged at 100% of that actually used. Only after the Town receives reimbursement from its disability policy (if not self funded) shall the leave account be credited with time equivalent to the reimbursement of sixty (60%) percent of the employee's base weekly wage up to a maximum of One Thousand and Two Hundred (\$1,200.00) Dollars per week for up to twenty-six weeks. In the event that an employee's leave extends beyond his/her accrued leave time, the employee may apply to the Sick Leave Bank. However, the Town shall have no further reimbursement responsibilities.

Section 4:

The employee shall reimburse the Sick Leave Bank for hours utilized with funds received from the disability carrier before making any other transfer, expenditure or utilization of such funds other than those reimbursed under Section 2 above which shall have priority over all other claims.

Section 5:

The Town shall provide Long Term Disability Insurance to all DPMMA members.

ARTICLE 24
UNIFORM ALLOWANCE

The Town agrees to provide uniforms and protective gear as follows:

Section 1:

For Police Personnel covered by this Agreement:

A Five Hundred Dollar (\$500.00) per year clothing allowance (to include detective clothing) in accordance with the current voucher practice as well as to replacement of all equipment damaged or destroyed in the line of duty.

Section 2:

For Fire Department Personnel covered by this Agreement:

A Five Hundred Dollar (\$500.00) per year clothing allowance in accordance with the current voucher practice as well as to replacement of equipment damaged or destroyed in the line of duty.

Section 3:

For Public Works Personnel covered by this Agreement:

The current practice as of October 01, 1992 of uniform issuance and replacement shall continue.

ARTICLE 25
EDUCATION REIMBURSEMENT

Section 1:

The Town agrees to pay for all training, publications, association meetings, seminars, conferences and conventions for employees covered by this Agreement who are required/requested to attend such meetings or who receive approval to attend such training, subscribe to various publications, etc.

Section 2:

The Town agrees to reimburse all employees for any work related certification exams or license fees which it requires as a condition of employment at a rate of 100%, including renewal fees.

ARTICLE 26
PERSONNEL REDUCTIONS

Section 1:

Sixty (60) days notice shall be given to all employees of Town within the unit covered by this Agreement before personnel reductions affecting employees of Town within the unit covered by this Agreement take effect.

Section 2:

In the event of a reduction in the number of employees of Town within the unit covered by this Agreement, the "reduced" employee who is not otherwise eligible for continued employment within the Town shall be entitled to three (3) calendar months pay, all unused and accrued vacation leave as well as reimbursement of unused sick leave in accordance with Article 15, Section 3 at termination.

Section 3:

The Town agrees to make every reasonable effort to obtain the concurrence of the other Unions in the Town to modify their Collective Bargaining Agreement to allow "reduced" employees of this Unit to accrue seniority rights within that Unit equal to the number of years the "reduced" employee has been an employee of the Town.

ARTICLE 27
FIRE CAPTAIN TRANSFER

Section 1:

Fire Department Captains may transfer laterally between line and staff positions when vacancies occur. The employee wishing to transfer must meet the current position description for the vacant position.

Section 2:

When more than one equally qualified employee requests a lateral transfer, and each employee meets the current position description, then seniority in rank will prevail.

Section 3:

Fire Department Captains may transfer laterally when there is no vacancy with the consent of both employees, and with the approval of the Fire Chief. In such case all of the conditions of this Article continue to apply.

ARTICLE 28
SALARY

Section 1:

The salary for the Police Captain for 2019 shall be \$92,800.00.

New Fire Captains shall be placed on Step 1 of the pay scale. Annually on January 1st Fire Captains will advance to the next step on the pay scale.

Any new Police Captain shall be placed on Step 1 of the pay scale. Annually on January 1st the Police Captain will advance to the next step on the pay scale.

2019 Wages for Salaried Employees

Wastewater Superintendent	\$78,409
Town Engineer	\$86,369
Police Captain	
Step 1	\$85,733
Step 2	\$87,448
Step 3	\$89,197
Step 4	\$90,981
Step 5	\$92,800

2019 Wages for Hourly Employees

Fire Administrative Assistant	\$26.17
Assistant to the Director of DPW	\$26.56
Fire Marshal	\$32.99
Fire Captain	
Step 1	\$32.35
Step 2	\$32.67
Step 3	\$32.99

Section 2:

The parties have agreed to a Performance Plan to provide qualified employees with an additional payment of from one (1) to three (3) percent of their base salary which shall not be added to the base pay and which shall be paid in the year awarded in December. The intent of this program is to not guarantee these increases to each employee of the town within the unit, but to reward eligible employees based on outstanding performance. Further the parties acknowledge and agree that it is the intent of the Town to rigorously administer the evaluation process to obtain any additional payment under this Section.

The criteria for performance based awards for 1% to 3% will be as follows:

- A) 1% awarded for a documented and substantive outstanding achievement(s) during the calendar year.
- B) 1% for an overall evaluation of good to very good, using the criteria defined in each of the departmental formats.
- C) 1% awarded for an overall evaluation of outstanding or excellent.

ARTICLE 29
SCOPE OF AGREEMENT

Section 1:

The parties acknowledge that during negotiations which resulted in this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter, not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by both the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Town and the Association, for the life of this Agreement, each, voluntarily and unqualifiedly, waive the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered in the Agreement even though such subject or matter may not have been within the knowledge of contemplation of either or both parties at the time that they negotiated or signed this Agreement.

Section 2:

The waiver of breach of a condition of the Agreement by either party shall not constitute a precedent with respect to future enforcement of any, or all of the terms of this Agreement.

Section 3:

The Town and the Association herein agree that this document represents the entire Agreement between the parties and no other Agreement, understanding, or past practice exists, except as is specifically enunciated in this Agreement.

Section 4:

Notwithstanding anything to the contrary, all benefits and past practices not expressly addressed in this Agreement in effect as of January 1, 1998 shall continue in full force and effect for the life of this Agreement but shall expire, unless specifically renewed, as of December 31, 2000.

ARTICLE 30
SAVINGS CLAUSE

In the event that any Article, Section or portion of this Agreement is found to be in violation of State law or Town ordinance or is found to be unlawful and unenforceable by any court of competent jurisdiction or have the effect of loss to the Town of funds made available through Federal law, rule or regulation, then such specific Article, Section or portion shall be amended to that extent necessary to conform with such law, rule or regulation, but the remainder of this Agreement shall continue in full force and effect.

ARTICLE 31
DURATION

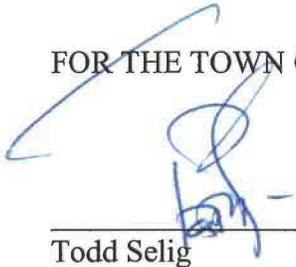
This Agreement shall be effective from January 1, 2019 through December 31, 2019. Either party may notify the other of its intent to terminate this Agreement and negotiate a successor Agreement by providing written notice to the other in accordance with the provisions of New Hampshire RSA 273-A.

ARTICLE 32
DISMISSAL

Unit members may not be dismissed except for cause.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be signed by their fully authorized officers and/or representatives this 27th day of MARCH, 2019.

FOR THE TOWN OF DURHAM, NH



Todd Selig
Town Administrator

FOR THE DURHAM PROFESSIONAL MUNICIPAL MANAGER'S ASSOCIATION



Nathan Katz, Fire Captain
Association President



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

AGENDA ITEM: **#8B**

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: SHALL THE TOWN COUNCIL SIGN THE WARRANT FOR THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator 

AGENDA DESCRIPTION:

In accordance with RSA 658:1 the Durham Town Council is required to post an Election Warrant at least fourteen (14) days prior to the November 3, 2020 General Election. The Town Council must sign the original Warrant; after which one copy of the Warrant will be posted at the election site, one at the Town Hall, and one at the Durham Public Library. Attached for the Council's review is a copy of the General Election Warrant to be signed by Council members.

Since the Council meeting is being held virtually via Zoom teleconferencing due to COVID-19, Councilors are asked to stop by the Administrator's Office to sign the Warrant.

LEGAL AUTHORITY:

658:1 General Election. - At least 14 days before any state general election, the selectmen shall post a warrant at all the polling places and at the office of the town or city clerk or at the town hall. Said warrant shall prescribe the hour the polls are to open and the hour before which they may not close as provided in RSA 659:4 and RSA 659:4-a. It shall also state all offices and questions which are to be voted on and the location of the central polling place and of any additional polling places. If the selectmen neglect to issue a warrant for the state general election, or if they neglect to cause copies of such warrant to be posted agreeably to any vote of the town, they shall for each offense be guilty of a violation and any fines collected shall be remitted to the town.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

In accordance with RSA 658:1, it is requested that on Monday evening Councilors sign the Town of Durham Warrant for the November 3, 2020 General Election; copies of which will be posted at the polling place, the Town Hall, and the Durham Public Library.

WARRANT

GENERAL ELECTION, TUESDAY, NOVEMBER 3, 2020

To the inhabitants of the Town of Durham, the County of Strafford, New Hampshire.

You are hereby notified to meet at the Oyster River High School Gymnasium, 55 Coe Drive, in said Durham, New Hampshire, on Tuesday, the third day of November, 2020. The polls will be open between the hours of 7:00 A.M. and 7:00 P.M. to act upon the following subjects:

To bring in your votes for President and Vice President of the United States, Governor, United States Representative, Executive Councilor, State Senator, State Representatives, and County Officers.

NOTE: Absentee ballots will be processed beginning at 8:00 AM.

Given under our hands and seal this fifth (5th) day of October, in the year of Our Lord two thousand and twenty.

Katherine Marple, Chair

James Lawson

Andrew Corrow, Chair Pro Tem

Sally Needell

Wayne Burton

Sally Tobias

Allan Howland

Charles Waters

Carden Welsh

COUNCILORS OF DURHAM



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

AGENDA ITEM: # **9A**

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Mary Ann Krebs & Conservation Commission

AGENDA ITEM: SHALL THE TOWN COUNCIL MOVE ALTERNATE MEMBER MARY ANN KREBS TO FILL THE UNEXPIRED REGULAR MEMBER TERM OF BART McDONOUGH ON THE CONSERVATION COMMISSION, WITH SAID TERM TO EXPIRE ON APRIL 30, 2023?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

On September 23, 2020, Bart McDonough gave notification of his resignation as a regular member on the Conservation Commission, effective immediately (*see attached*).

Attached for the Council's information is a completed application for board appointment submitted by Mary Ann Krebs requesting that she be moved from her current alternate member position on the commission to fill the regular member vacancy of Mr. McDonough.

The Conservation Commission concurs with Ms. Krebs' request and recommends that the Council move her to fill the unexpired regular member vacancy of Mr. McDonough with said term to expire April 30, 2023.

LEGAL AUTHORITY:

Section 11.5 "Vacancies in Elected or Appointed Office" states that, "*Unless otherwise specified in this Charter, in the event of a vacancy in an elected or appointed office, board, commission or committee of the town, the Town Council shall fill that vacancy by appointment, such appointment to continue until the next town election for elected positions or the remainder of a person's term if an appointed position.*"

LEGAL OPINION:

N/A

Re: Move Alternate DCC Member Mary Ann Krebs to Fill Regular Member Term of
Bart McDonough

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby move alternate member Mary Ann Krebs to fill the unexpired regular member term of Bart McDonough on the Conservation Commission with said term to expire on April 30, 2023. (ROLL CALL VOTE REQUIRED)

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___

From: [bart.mcdonough](#)
To: [Michael Behrendt](#); [Todd Selig](#); [Jen Berry](#)
Subject: Resignation Letter
Date: Wednesday, September 23, 2020 3:24:04 PM

Good afternoon Michael and Todd,

It is with a heavy heart that I must resign my position as a member of the Conservation Commission as I am no longer a resident of the town.

I want to thank you both, town staff and the Town Council for the opportunity to participate on the Commission. I've learned a lot about conservation matters, met wonderful people, and, I least I like to think, did some good for the town.

The Commission is a wonderful and hard working group. The town is blessed to have such passionate, dedicated volunteers who are helping make the town such a beautiful place to be.

Again, thank you for this opportunity and look forward to seeing the future work the Commission will do.

Respectfully,
Bart McDonough



Town of Durham

8 Newmarket Road
Durham, NH 03824-2898
Tel: 603/868-5571
Fax 603/868-1858
jberry@ci.durham.nh.us

RECEIVED
Town of Durham
SEP 14 2020
Planning, Assessing
and Zoning

Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member New appointment/alternate member
Reappointment/regular member Reappointment/alternate member

Name: MARY ANN KREBS Date: 9/10/2020

Address: 10 ROSS RD. DURHAM, NH 03824

E-Mail Address: krebsma@gmail.com

Telephone: 617 293 2734

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. CONSERVATION COMMISSION
- 2.
- 3.

NOTE: New applicants are asked to attend **AT LEAST ONE** meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, prior to submitting an application for appointment.

Circle one: I have have not attended a meeting(s) of the committee(s) listed above.

Circle one: I have / have not met with the chairperson of the committee(s) listed above.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee?

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee:

I have been serving as an alternate member of the Conservation Commission since last summer (2019) and would like to fill in the opening that will come up when Bart McDonough (sadly) leaves.

Please provide brief background information about yourself: US.

Alternate member of ConsComm since June 2019.
TREASURER, LAMPREY RIVER ADVISORY COMMITTEE.
NH COVERTS VOLUNTEER

Mary Ann Krebs
10 Ross Rd.
Durham, NH 03824
617 293 2734
Email: krebsma@gmail.com

September 11, 2020

Current Volunteer Experience

Durham Conservation Commission –Alternate Member 6/19 – present

**Lamprey River Advisory Committee, Durham Member
5/17 - present**

Assist with decisions regarding community grants related to outreach, conservation, recreation, wildlife and history. Serving as Treasurer since July 2018.

UNH Cooperative Extension Coverts Coordinator

Support efforts to research and provide outreach for Wildlife protection. Established wildlife habitat on owned land. Plant natives and eliminate invasive plants on owned property

Past Work Experience (Retired 2/16)

Educational Technology Analyst

Harvard Kennedy School/Harvard University, Cambridge, MA 9/14 – 2/16
Trained and supported faculty in use of technology for teaching.

Manager of Support

Harvard Kennedy School/Harvard University, Cambridge, MA 7/01 –9/14
Managed a group of technicians that provided computer support to the HKS community.

Field Systems Analyst/Computer Lab Manager

Harvard Kennedy School/Harvard University, Cambridge, MA 12/96 –7/01
Filled various positions providing computer support for the HKS community.

Technical Sales/Webmaster

Cruising Design, Inc., Beverly, MA 9/94-7/96

Provided customers with technical support about furling systems.

Technical sales associate/Fill-in store manager

West Marine Products, Peabody, MA 3/92-9/95

Ferry Operator

Winnisimmett Ferry, Chelsea, MA 6/89-9/89

Sailing Instructor

Boston Harbor Sailing Club, Boston, MA 5/89-10/89

Field Service Engineer

Digital Equipment Corporation, Waltham, MA 8/77-5/89

Maintained hardware and Ultrix, Unix, and VMS operating systems. Installed and configured computer networks..

Education

M.Ed. Technology in Education, Harvard University Graduate School of Education.

B.A., Humanities, Harvard University, Extension Studies. Deans Award.

References

Available upon request.

From: [Michael Behrendt](#)
To: [Jen Berry](#)
Cc: [Mary Ann Krebs](#)
Subject: Recommendation for Mary Ann
Date: Wednesday, September 23, 2020 3:22:55 PM

Jen,

Here's Bart's email about Mary Ann Krebs's request for appointment as a regular member of the Conservation Commission. Could this be placed on the Council's agenda for October 5? Thanks.

Michael Behrendt

Durham Town Planner
Town of Durham
8 Newmarket Road
Durham, NH 03824
(603) 868-8064
www.ci.durham.nh.us

From: bart mcdonough [mailto:b.mcdonough08@gmail.com]
Sent: Wednesday, September 23, 2020 3:13 PM
To: Michael Behrendt
Subject: Recommendation Letter

Good afternoon Michael,

I would like to recommend Mary-Ann Krebs to be appointed as a full-member of the Conservation Commission. Mary-Ann has been a great contributor to the Commission and she has been very active in furthering her training in the conservation field by attending conferences and workshops.

In short, I recommend to the Town Council the promotion of Mary-Ann Krebs to full-membership status of the Conservation Commission.

Respectfully,
Bart McDonough,
DCC, Chair



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

9B

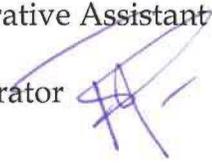
AGENDA ITEM: **DATE: October 5, 2020**

COUNCIL COMMUNICATION

INITIATED BY: Catherine Leach, 14 Fairchild Drive

AGENDA ITEM: SHALL THE TOWN COUNCIL APPOINT CATHERINE LEACH, 14 FAIRCHILD DRIVE, TO A REGULAR MEMBER VACANCY ON THE PARKS & RECREATION COMMITTEE WITH A TERM VACANCY OF APRIL 30, 2023?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator 

AGENDA DESCRIPTION:

Attached for the Council's information and consideration is an application for board appointment submitted by Catherine Leach, 14 Fairchild Drive, requesting appointment to a regular member vacancy on the Parks & Recreation Committee. There is currently one regular member vacancy and three alternate member vacancies on the committee.

Ms. Leach served on the Town Council for three years from 2006-2009 and served as Council representative to the Parks & Recreation Committee from 2006-2007. Ms. Leach has spoken with Parks & Recreation Director Rachel Gasowski. Attached for the Council's information is Ms. Gasowski's endorsement of Ms. Leach's appointment.

Ms. Leach has been invited to Monday night's Zoom Council meeting if she so desires to participate.

LEGAL AUTHORITY:

Section 11.5 "Vacancies in Elected or Appointed Office" states that, "Unless otherwise specified in this Charter, in the event of a vacancy in an elected or appointed office, board, commission or committee of the town, the Town Council shall fill that vacancy by appointment, such appointment to continue until the next town election for elected positions or the remainder of a person's term if an appointed position."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby appoint Catherine Leach, 14 Fairchild Drive, to fill a regular member term on the Parks & Recreation Committee with a term expiration of April 30, 2023. (ROLL CALL VOTE REQUIRED).

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___



Town of Durham

8 Newmarket Road
Durham, NH 03824-2898
Tel: 603/868-5571
Fax 603/868-1858
jberry@ci.durham.nh.us

Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member New appointment/alternate member
Reappointment/regular member Reappointment/alternate member

NOTE: New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, **prior to submitting an application for appointment.**

Applicant has:

___ ATTENDED A MEETING
___ SPOKEN WITH CHAIR/V CHAIR -
___ BEEN RECOMMENDED FOR MEMBERSHIP

I am happy to talk w/ Rachel at her convenience.

Name: Cathy Leach

Date: 9/24/20

Address: Fairchild Dr.

E-Mail Address: reachfam@comcast.net

Telephone: 603-969-0785

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. Parks & Recreation
- 2.
- 3.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee? YES NO

(Over)

From: [Rachel Gasowski](#)
To: [Jen Berry](#)
Subject: Cathy Leach Recommendation
Date: Monday, September 28, 2020 9:47:28 AM

Dear Town Councilors,

I have communicated with Cathy Leach through email, and by phone today (9/28) about serving as member on the Parks & Recreation Committee. With Cathy's experience in the field of recreation along with her prior involvement with the P&R Committee, I feel Cathy will be a great addition to the group. I would like to recommend her for appointment at this time.

Thank you,
Rachel

Rachel Gasowski
Park & Recreation Director
Town of Durham
(603) 817-4074
durhamrec.recdesk.com
follow us on Facebook "Durham Rec"



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

9C

AGENDA ITEM:
DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Guy Johnson, 1 Surrey Lane

AGENDA ITEM: SHALL THE TOWN COUNCIL APPOINT GUY JOHNSON, 1 SURREY LANE, TO FILL AN UNEXPIRED ALTERNATE MEMBER VACANCY ON THE PLANNING BOARD WITH A TERM EXPIRATION OF APRIL 30, 2022?

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's information and consideration is an application for board appointment submitted by Guy Johnson, 1 Surrey Lane, requesting appointment to an unexpired alternate member vacancy on the Planning Board. He would be filling the unexpired term of Sarah Wrightsman with a term expiration of April 30, 2022.

Mr. Johnson has observed at least one Planning Board meeting via Zoom and has spoken and/or met with board chair Paul Rasmussen. Attached for the Council's information is Chair Rasmussen's endorsement of Mr. Johnson's appointment.

Mr. Johnson has been invited to Monday night's Zoom Council meeting to answer any questions that may be posed by Councilors.

LEGAL AUTHORITY:

Section 11.5 "Vacancies in Elected or Appointed Office" states that, "Unless otherwise specified in this Charter, in the event of a vacancy in an elected or appointed office, board, commission or committee of the town, the Town Council shall fill that vacancy by appointment, such appointment to continue until the next town election for elected positions or the remainder of a person's term if an appointed position."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby appoint Guy Johnson, 1 Surrey Lane, to fill the unexpired alternate member term of Sarah Wrightsman on the Planning Board with a term expiration of April 30, 2022. (ROLL CALL VOTE REQUIRED).

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___



Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

- New appointment/regular member ✓
New appointment/alternate member
Reappointment/regular member
Reappointment/alternate member

Applicant has:

- ATTENDED A MEETING (Virtually)
 SPOKEN WITH CHAIR/V CHAIR (Pending)
 BEEN RECOMMENDED FOR MEMBERSHIP

Town of Durham

8 Newmarket
Durham, NH 03824
Tel: 603/862-1234
Fax 603/862-1234
jberry@ci.durham.nh.us

Name: Guy Johnson

Date: 18 Sep 2020

Address: 1 Surrey Ln, Durham

E-Mail Address: Guy@GuyJohnson.org

Telephone: 408-605-5106

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. **Economic Development**
2. **Waste management**
3. **Planning board**

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee? (YES) ~~NO~~

(Over)

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee:

My ever-learning approach to life has brought considerable depth in a wide variety of topics. My experience living in many places in the U.S. and exploring locations around the world has provided a lot of perspective and understanding of different ways of thinking. Decades of experience in large companies has honed my communication and organizational skills, including a listen-first approach to engaging with different perspectives, and a widely recognized knack for getting to the essence of issues and expressing topics so people can understand. I would like to apply these skills to local engagement as a way to become better connected to my community.

Please provide brief background information about yourself:

I grew up in the northeast, except for a couple of years living on a ranch in west Texas as a middle-schooler. My career began in western New York state, and then took me to Austin, Texas, and then the bay area of California. I met my wife there and all three of our kids were born there. We then moved back to Austin for a few years, then toured the country for 2 years in an RV, spending much of our time in the mountains and on the west coast. The end of that journey brought us here to Durham, which we consider to be our long-term home. The kids are still in middle and elementary school.

Politically I've always been an independent. I tend to see the benefits of all approaches to a topic and know how to mitigate problems with solutions. I believe in seeking consensus whenever possible, but also have the courage to act when necessary. I'm remarkably well read and my engineering background gives me a systemic view and a strong sense of how to balance theory and practice.

Please provide below the names and telephone numbers of up to three personal references:

Name: **Tom Gialousis** Telephone: 603-205-5920

Name: **Brian Bonafato** Telephone: 603-380-0765

Name: **Neil Niman** Telephone: 603-617-6062



Thank you for your interest in serving the Town. Please return this application, along with a resume, if available, to: Town Administrator, 8 Newmarket Road, Durham, NH 03824, or email Jennie Berry at jberry@ci.durham.nh.us.

From: [Paul](#)
To: [Jen Berry](#)
Subject: Guy Johnson appointment
Date: Tuesday, September 29, 2020 10:01:34 AM
Attachments: [pnrasmus.vcf](#)

To: Durham Town Council

I have had an extended exchange with Mr Guy Johnson pertaining to the duties and responsibilities of the Planning Board. I believe he understands the role of the Planning Board and will fulfill it to the best of his ability.

I endorse his appointment to the Planning Board to fill current vacancies.

Respectfully,
Paul Rasmussen, Planning Board Chair



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

10A

AGENDA ITEM:

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Todd I. Selig, Administrator

AGENDA ITEM: PRESENTATION ON CONTEMPORARY ISSUES SURROUNDING
INDIGENOUS PEOPLES IN RECOGNITION OF INDIGENOUS
PEOPLES' DAY – GARRETT CHAPMAN, NEW HAMPSHIRE
COMMISSION FOR NATIVE AMERICAN AFFAIRS

CC PREPARED BY: Jennie Berry, Administrative Assistant

PRESENTED BY: Garrett Chapman

AGENDA DESCRIPTION:

On September 18, 2017, the Town Council adopted Resolution #2017-28 designating the second Monday in October as "*Indigenous Peoples' Day*" in Durham, NH and reaffirming the Town's commitment to promote understanding, friendship, and the well-being and growth of its indigenous community.

At the Council meeting on October 7, 2019, Mr. John Moody, a Vermont resident and the Ethnohistorian and Project Coordinator for the Winter Center for Indigenous Traditions, gave a presentation regarding the history of the Abenaki/ Penacook Indigenous people of the Durham/Oyster River area in recognition of Indigenous Peoples' Day in Durham.

In recognition of this year's Indigenous Peoples' Day in Durham, Garrett Chapman has been invited to Monday's night's Council meeting to speak about contemporary issues surrounding indigenous peoples. Mr. Chapman is on the New Hampshire Commission for Native American Affairs.

LEGAL AUTHORITY:

N/A

Council Communication, 10/5/2020 - Page 2
Re: Presentation by Mr. Garrett Chapman in recognition of
Indigenous Peoples' Day in Durham

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

No formal motion is required. Receive presentation from Mr. Garrett Chapman regarding contemporary issues surrounding indigenous peoples and hold a question and answer session if desired.



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

AGENDA ITEM: # 10C

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Todd I. Selig, Administrator

AGENDA ITEM: **DISCUSSION REGARDING POSSIBLE BUYOUT OF POWER PURCHASE AGREEMENT WITH REVISION ENERGY, LLC**

CC PREPARED BY: Todd I. Selig, Administrator

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

In April 2012, the Town sent out Request for Qualifications for Energy Efficiency Systems to include assessment and consulting, system design and development, financing and procurement, installation, and maintenance of potential energy efficiency systems, as well energy procurement, for the Town of Durham's Police Department, Library, and Jackson's Landing Rink buildings. After careful review of the proposals received, the company ReVision Energy, LLC was selected for the project and on June 18, 2013, the Town entered into a Power Purchase Agreement with Durham Solar, LLC, a wholly owned subsidiary of ReVision Energy, LLC.

The agreement allowed for a buyout option after six years. Because it has been over six years, Administrator Selig contacted ReVision representative, Dan Clapp, and invited him to attend the Durham Energy Committee meeting on August 4, 2020, to give a presentation and talk about the potential buyout of the arrays. The Energy Committee was provided with a summary of the buyout opportunity for review and discussion.

The recommendation discussed and voted on by the Durham Energy Committee was the following:

"We recommend that the Town include in the upcoming fiscal year Town budget sufficient funds to buy out from ReVision Energy the remaining term of the power purchase agreement on the solar arrays on the Town Library, Ice Rink, and Police Station. The buyout would include establishing maintenance contracts for each array and anticipated decommissioning costs."

The vote was unanimously in favor to approve the above recommendation and to present it to the Town Council for its consideration.

Attached for the Council's information is the following:

1. Durham PPA v. Buyout Comparison
2. Durham Buyout Summary
3. Durham Buyout Cash Flow Projected Production Model
4. Durham Buyout Cash Flow Low Production Model

At this time, it is recommended that the Town Council review the information provided relative to the buyout of the three arrays, hold discussion, and determine if there is sufficient information available to consider a buyout from ReVision Energy of the remaining term of the power purchase agreement on the solar arrays on the Town Library, Ice Rink, and Police Station and provide direction accordingly.

LEGAL AUTHORITY:

Item #9 (b) "End of Term Purchase Option" of the Power Purchase Agreement.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

See attached information.

SUGGESTED ACTION OR RECOMMENDATIONS:

No formal action is required at this time. Receive presentation, ask questions, and take next steps as necessary. Administrator Selig hopes to provide a formal recommendation as part of the proposed FY 2021 Budget and CIP.

Town of Durham

Power Purchase Agreement #1 (PPA1) From ReVision Energy

The Town of Durham and ReVision Energy entered into Power Purchase Agreement #1 (PPA1) in 2013 for photovoltaic arrays at the Durham Public Library, the Durham Ice Rink at Jackson Landing and the Durham Police Station. During the past year ReVision Energy and the Town have discussed purchasing the three arrays from ReVision Energy.

At the August DEC meeting, Dan Clapp of ReVision Energy provided a presentation on the Town regarding buying out PPA1 and provided four spreadsheets pertaining to the PPA1 buyout, which should be included in your packets. Committee members reviewed the documentation provided by ReVision Energy, and voted unanimously on the following motion to recommend to the town to purchase the three arrays.

“We recommend that the Town include include in the upcoming fiscal year Town budget sufficient funds to buy out from ReVision Energy the remaining term of the power purchase agreement on the solar arrays on the Town Library, Ice Rink, and Police Station, the buyout would include establishing operation and maintenance and decommissioning costs.”

It is important to consider as well the following costs as part of the buyout package:

- A roughly \$1,200.00 annual operations and maintenance cost;
- An estimated \$23,860 cost to replace the inverter after twenty years;
- An \$8,641 decommissioning cost.

		Revenue to Town					
Year		Revenue to Town w/ PPA	Cash Buyout (High Production)	Cash Buyout (Low Production)	20 Year Bond Buyout (High Production)	20 Year Bond Buyout (Low Production)	
Calendar	PPA Term						
2021	9	\$ -	\$ (71,633)	\$ (73,713.82)	\$ 8,850	\$ 6,770	
2022	10	\$ -	\$ 14,538	\$ 12,433.92	\$ 9,021	\$ 6,917	
2023	11	\$ -	\$ 11,653	\$ 9,932.68	\$ 6,137	\$ 4,416	
2024	12	\$ -	\$ 11,821	\$ 10,074.57	\$ 6,304	\$ 4,558	
2025	13	\$ -	\$ 11,991	\$ 10,218.44	\$ 6,474	\$ 4,702	
2026	14	\$ -	\$ 12,163	\$ 10,364.34	\$ 6,646	\$ 4,848	
2027	15	\$ -	\$ 12,338	\$ 10,512.28	\$ 6,821	\$ 4,996	
2028	16	\$ -	\$ 12,515	\$ 10,662.30	\$ 6,998	\$ 5,146	
2029	17	\$ -	\$ 12,695	\$ 10,814.42	\$ 7,178	\$ 5,298	
2030	18	\$ -	\$ 12,877	\$ 10,968.67	\$ 7,360	\$ 5,452	
2031	19	\$ -	\$ 13,062	\$ 11,125.08	\$ 7,545	\$ 5,608	
2032	20	\$ -	\$ (7,746)	\$ (9,711.68)	\$ (13,263)	\$ (15,228)	
Total		\$ -	\$ 46,274	\$ 23,681	\$ 66,074	\$ 43,481	

		Estimated Production		Low Production
Fair Market Value	\$	90,000	\$	90,000
Expected generation (kWh)		3,633,556		3,147,060
Electricity value at \$.11 per kWh	\$	399,691	\$	346,177
System purchase price to the Town	\$	86,000	\$	86,000
Levelized cost of energy (\$/kWh)	\$	0.0237	\$	0.0273
Bond at 2.5%				
Present Value of Cash Flow	\$	175,723	\$	133,272
Cost-benefit ratio		2.04		1.55
Simple payback (years)		15		19
Cash NPV				
Present Value of Cash Flow	\$	186,151	\$	143,700
Cost-benefit ratio		2.16		1.67
Simple payback (years)		7		8

Combined Project Design	
Project State	NH
System Size DC (kW)	119.30
System Size AC (kW)	85.40
Generator (kWh/year)	127,607
Annual Derate	0.50%
Comm. Op. Date	7/5/2013
Today's Date	9/23/2020
System Type	Pitched Roof
Discount Rate	3.00%

Combined Project Income	
Current Utility Rate	\$ 0.10178
PPA Rate (Y1-6)	\$ 0.10178
PPA Rate (Y7+)	\$ 0.10178
PPA Rate Escalator	2%
REC Price	\$ 25
REC Price Escalator	5%
REC Term	10

Combined Project Expense	
Replacement Value	\$210,639
Insurance (per \$1,000)	\$3.00
Insurance De-Escalator	5%
Insurance Cost	
Property Tax	\$0
Property Tax De-Escalator	5%
O&M	\$1,175
O&M Escalator	0%
Asset Management	\$0
Inverter Replacement(s)	\$23,860
Bond Amount	\$86,000
Decommissioning Cost in Year 40	\$8,948

NPV @ 3%	
Cash NPV	\$186,150.74
20 Year Bond N	\$175,722.74

Year	kWh - Projected	kWh - Actual	Rate \$/kWh	Energy Sales/Avoided Utility Cost	RECs	Total Income	Insurance	O&M	Prop Taxes	20 Year Bond at 2.5%	Cash Purchase	PPA Buyout
Actual - 2013	1	127,607										
Actual - 2014	2	126,969										
Actual - 2015	3	126,334										
Actual - 2016	4	125,702										
Actual - 2017	5	125,074										
Estimate - 2018	6	124,449										
Estimate - 2019	7	123,826										
Estimate - 2020	8	123,207										
Estimate - 2021	9	122,591	\$ 0.1018	\$ 12,477	\$ 3,065	\$ 15,542	\$ -	\$ (1,175)	exempt	\$ 8,850	\$ (71,633)	FMV
Estimate - 2022	10	121,978	\$ 0.1038	\$ 12,663	\$ 3,049	\$ 15,713	\$ -	\$ (1,175)	exempt	\$ 9,021	\$ 14,538	FMV
Estimate - 2023	11	121,368	\$ 0.1059	\$ 12,852	\$ -	\$ 12,852	\$ -	\$ (1,199)	exempt	\$ 6,137	\$ 11,653	FMV
Estimate - 2024	12	120,761	\$ 0.1080	\$ 13,043	\$ -	\$ 13,043	\$ -	\$ (1,222)	exempt	\$ 6,304	\$ 11,821	FMV
Estimate - 2025	13	120,158	\$ 0.1102	\$ 13,238	\$ -	\$ 13,238	\$ -	\$ (1,247)	exempt	\$ 6,474	\$ 11,991	FMV
Estimate - 2026	14	119,557	\$ 0.1124	\$ 13,435	\$ -	\$ 13,435	\$ -	\$ (1,272)	exempt	\$ 6,646	\$ 12,163	FMV
Estimate - 2027	15	118,959	\$ 0.1146	\$ 13,635	\$ -	\$ 13,635	\$ -	\$ (1,297)	exempt	\$ 6,821	\$ 12,338	FMV
Estimate - 2028	16	118,364	\$ 0.1169	\$ 13,838	\$ -	\$ 13,838	\$ -	\$ (1,323)	exempt	\$ 6,998	\$ 12,515	FMV
Estimate - 2029	17	117,772	\$ 0.1193	\$ 14,045	\$ -	\$ 14,045	\$ -	\$ (1,350)	exempt	\$ 7,178	\$ 12,695	FMV
Estimate - 2030	18	117,184	\$ 0.1216	\$ 14,254	\$ -	\$ 14,254	\$ -	\$ (1,377)	exempt	\$ 7,360	\$ 12,877	FMV
Estimate - 2031	19	116,598	\$ 0.1241	\$ 14,466	\$ -	\$ 14,466	\$ -	\$ (1,404)	exempt	\$ 7,545	\$ 13,062	FMV
Estimate - 2032	20	116,015	\$ 0.1266	\$ 14,682	\$ -	\$ 14,682	\$ -	\$ (2,428)	exempt	\$ (13,263)	\$ (7,746)	FMV
Estimate - 2033	21	115,435	\$ 0.1291	\$ 14,900	\$ -	\$ 14,900	\$ -	\$ (1,461)	exempt	\$ 7,923	\$ 13,440	
Estimate - 2034	22	114,857	\$ 0.1317	\$ 15,123	\$ -	\$ 15,123	\$ -	\$ (1,490)	exempt	\$ 8,116	\$ 13,632	
Estimate - 2035	23	114,283	\$ 0.1343	\$ 15,348	\$ -	\$ 15,348	\$ -	\$ (1,490)	exempt	\$ 8,341	\$ 13,858	
Estimate - 2036	24	113,712	\$ 0.1370	\$ 15,577	\$ -	\$ 15,577	\$ -	\$ (1,520)	exempt	\$ 8,540	\$ 14,057	
Estimate - 2037	25	113,143	\$ 0.1397	\$ 15,809	\$ -	\$ 15,809	\$ -	\$ (1,520)	exempt	\$ 8,772	\$ 14,289	
Estimate - 2038	26	112,577	\$ 0.1425	\$ 16,044	\$ -	\$ 16,044	\$ -	\$ (1,550)	exempt	\$ 8,977	\$ 14,494	
Estimate - 2039	27	112,015	\$ 0.1454	\$ 16,283	\$ -	\$ 16,283	\$ -	\$ (1,550)	exempt	\$ 9,216	\$ 14,733	
Estimate - 2040	28	111,455	\$ 0.1483	\$ 16,526	\$ -	\$ 16,526	\$ -	\$ (1,581)	exempt	\$ 9,428	\$ 14,944	
Estimate - 2041	29	110,897	\$ 0.1512	\$ 16,772	\$ -	\$ 16,772	\$ -	\$ (1,581)	exempt	\$ 13,041	\$ 15,191	
Estimate - 2042	30	110,343	\$ 0.1543	\$ 17,022	\$ -	\$ 17,022	\$ -	\$ (1,613)	exempt	\$ 13,259	\$ 15,409	
Estimate - 2043	31	109,791	\$ 0.1573	\$ 17,276	\$ -	\$ 17,276	\$ -	\$ (1,613)	exempt	\$ 13,513	\$ 15,663	
Estimate - 2044	32	109,242	\$ 0.1605	\$ 17,533	\$ -	\$ 17,533	\$ -	\$ (1,645)	exempt	\$ 13,738	\$ 15,888	
Estimate - 2045	33	108,696	\$ 0.1637	\$ 17,794	\$ -	\$ 17,794	\$ -	\$ (1,645)	exempt	\$ 13,999	\$ 16,149	
Estimate - 2046	34	108,152	\$ 0.1670	\$ 18,059	\$ -	\$ 18,059	\$ -	\$ (1,678)	exempt	\$ 14,231	\$ 16,381	
Estimate - 2047	35	107,612	\$ 0.1703	\$ 18,328	\$ -	\$ 18,328	\$ -	\$ (1,678)	exempt	\$ 14,500	\$ 16,650	
Estimate - 2048	36	107,074	\$ 0.1737	\$ 18,602	\$ -	\$ 18,602	\$ -	\$ (1,712)	exempt	\$ 14,740	\$ 16,890	
Estimate - 2049	37	106,538	\$ 0.1772	\$ 18,879	\$ -	\$ 18,879	\$ -	\$ (1,712)	exempt	\$ 15,017	\$ 17,167	
Estimate - 2050	38	106,006	\$ 0.1807	\$ 19,160	\$ -	\$ 19,160	\$ -	\$ (1,746)	exempt	\$ 15,264	\$ 17,414	
Estimate - 2051	39	105,475	\$ 0.1844	\$ 19,446	\$ -	\$ 19,446	\$ -	\$ (1,746)	exempt	\$ 15,550	\$ 17,700	
Estimate - 2052	40	104,948	\$ 0.1880	\$ 19,735	\$ -	\$ 19,735	\$ -	\$ (10,123)	exempt	\$ 7,463	\$ 9,613	
Total		4,636,725			6,114	512,958	-	(77,124)	-	299,700	349,833	

Combined Project Design	
Project State	NH
System Size DC (kW)	119.30
System Size AC (kW)	85.40
Generator (kWh/year)	106,711
Annual Derate	0.50%
Comm. Op. Date	7/5/2013
Today's Date	9/23/2020
System Type	Pitched Roof
Discount Rate	3.00%

Combined Project Income	
Current Utility Rate	\$ 0.10178
PPA Rate (Y1-6)	\$ 0.10178
PPA Rate (Y7+)	\$ 0.10178
PPA Rate Escalator	2%
REC Price	\$ 25
REC Price Escalator	5%
REC Term	10

Combined Project Expense	
Replacement Value	\$210,639
Insurance (per \$1,000)	\$3.00
Insurance De-Escalator	5%
Insurance Cost	
Property Tax	\$0
Property Tax De-Escalator	5%
O&M	\$1,175
O&M Escalator	0%
Asset Management	\$0
Inverter Replacement(s)	\$23,860
Bond Amount	\$86,000
Decommissioning Cost in Year 40	\$8,948

NPV @ 3%	
Cash NPV	\$143,700.16
20 Year Bond N	\$133,272.17

Year	kWh - Projected	kWh - Actual	Rate \$/kWh	Energy Sales/Avoided Utility Cost	RECs	Total Income	Insurance	O&M	Prop Taxes	20 Year Bond at 2.5%	Cash Purchase	PPA Buyout
Actual - 2013	1	106,711										
Actual - 2014	2	106,711										
Actual - 2015	3	106,711										
Actual - 2016	4	106,711										
Actual - 2017	5	106,711										
Estimate - 2018	6	106,711										
Estimate - 2019	7	106,711										
Estimate - 2020	8	106,711										
Estimate - 2021	9	106,177	\$ 0.1018	\$ 10,807	\$ 2,654	\$ 13,461	\$ -	\$ (1,175)	exempt	\$ 6,770	\$ (73,714)	FMV
Estimate - 2022	10	105,647	\$ 0.1038	\$ 10,968	\$ 2,641	\$ 13,609	\$ -	\$ (1,175)	exempt	\$ 6,917	\$12,434	FMV
Estimate - 2023	11	105,118	\$ 0.1059	\$ 11,131	\$ -	\$ 11,131	\$ -	\$ (1,199)	exempt	\$ 4,416	\$9,933	FMV
Estimate - 2024	12	104,593	\$ 0.1080	\$ 11,297	\$ -	\$ 11,297	\$ -	\$ (1,222)	exempt	\$ 4,558	\$10,075	FMV
Estimate - 2025	13	104,070	\$ 0.1102	\$ 11,465	\$ -	\$ 11,465	\$ -	\$ (1,247)	exempt	\$ 4,702	\$10,218	FMV
Estimate - 2026	14	103,549	\$ 0.1124	\$ 11,636	\$ -	\$ 11,636	\$ -	\$ (1,272)	exempt	\$ 4,848	\$10,364	FMV
Estimate - 2027	15	103,032	\$ 0.1146	\$ 11,810	\$ -	\$ 11,810	\$ -	\$ (1,297)	exempt	\$ 4,996	\$10,512	FMV
Estimate - 2028	16	102,517	\$ 0.1169	\$ 11,986	\$ -	\$ 11,986	\$ -	\$ (1,323)	exempt	\$ 5,146	\$10,662	FMV
Estimate - 2029	17	102,004	\$ 0.1193	\$ 12,164	\$ -	\$ 12,164	\$ -	\$ (1,350)	exempt	\$ 5,298	\$10,814	FMV
Estimate - 2030	18	101,494	\$ 0.1216	\$ 12,345	\$ -	\$ 12,345	\$ -	\$ (1,377)	exempt	\$ 5,452	\$10,969	FMV
Estimate - 2031	19	100,986	\$ 0.1241	\$ 12,529	\$ -	\$ 12,529	\$ -	\$ (1,404)	exempt	\$ 5,608	\$11,125	FMV
Estimate - 2032	20	100,482	\$ 0.1266	\$ 12,716	\$ -	\$ 12,716	\$ -	\$ (22,428)	exempt	\$ (15,228)	\$ (9,712)	FMV
Estimate - 2033	21	99,979	\$ 0.1291	\$ 12,905	\$ -	\$ 12,905	\$ -	\$ (1,461)	exempt	\$ 5,928	\$11,445	
Estimate - 2034	22	99,479	\$ 0.1317	\$ 13,098	\$ -	\$ 13,098	\$ -	\$ (1,490)	exempt	\$ 6,091	\$11,608	
Estimate - 2035	23	98,982	\$ 0.1343	\$ 13,293	\$ -	\$ 13,293	\$ -	\$ (1,490)	exempt	\$ 6,286	\$11,803	
Estimate - 2036	24	98,487	\$ 0.1370	\$ 13,491	\$ -	\$ 13,491	\$ -	\$ (1,520)	exempt	\$ 6,454	\$11,971	
Estimate - 2037	25	97,994	\$ 0.1397	\$ 13,692	\$ -	\$ 13,692	\$ -	\$ (1,520)	exempt	\$ 6,655	\$12,172	
Estimate - 2038	26	97,504	\$ 0.1425	\$ 13,896	\$ -	\$ 13,896	\$ -	\$ (1,550)	exempt	\$ 6,829	\$12,346	
Estimate - 2039	27	97,017	\$ 0.1454	\$ 14,103	\$ -	\$ 14,103	\$ -	\$ (1,550)	exempt	\$ 7,036	\$12,553	
Estimate - 2040	28	96,532	\$ 0.1483	\$ 14,313	\$ -	\$ 14,313	\$ -	\$ (1,581)	exempt	\$ 7,215	\$12,732	
Estimate - 2041	29	96,049	\$ 0.1512	\$ 14,526	\$ -	\$ 14,526	\$ -	\$ (1,581)	exempt	\$ 10,795	\$12,945	
Estimate - 2042	30	95,569	\$ 0.1543	\$ 14,743	\$ -	\$ 14,743	\$ -	\$ (1,613)	exempt	\$ 10,980	\$13,130	
Estimate - 2043	31	95,091	\$ 0.1573	\$ 14,963	\$ -	\$ 14,963	\$ -	\$ (1,613)	exempt	\$ 11,200	\$13,350	
Estimate - 2044	32	94,616	\$ 0.1605	\$ 15,186	\$ -	\$ 15,186	\$ -	\$ (1,645)	exempt	\$ 11,390	\$13,540	
Estimate - 2045	33	94,143	\$ 0.1637	\$ 15,412	\$ -	\$ 15,412	\$ -	\$ (1,645)	exempt	\$ 11,616	\$13,766	
Estimate - 2046	34	93,672	\$ 0.1670	\$ 15,641	\$ -	\$ 15,641	\$ -	\$ (1,678)	exempt	\$ 11,813	\$13,963	
Estimate - 2047	35	93,204	\$ 0.1703	\$ 15,874	\$ -	\$ 15,874	\$ -	\$ (1,678)	exempt	\$ 12,046	\$14,196	
Estimate - 2048	36	92,738	\$ 0.1737	\$ 16,111	\$ -	\$ 16,111	\$ -	\$ (1,712)	exempt	\$ 12,249	\$14,399	
Estimate - 2049	37	92,274	\$ 0.1772	\$ 16,351	\$ -	\$ 16,351	\$ -	\$ (1,712)	exempt	\$ 12,489	\$14,639	
Estimate - 2050	38	91,812	\$ 0.1807	\$ 16,595	\$ -	\$ 16,595	\$ -	\$ (1,746)	exempt	\$ 12,699	\$14,849	
Estimate - 2051	39	91,353	\$ 0.1844	\$ 16,842	\$ -	\$ 16,842	\$ -	\$ (1,746)	exempt	\$ 12,946	\$15,096	
Estimate - 2052	40	90,897	\$ 0.1880	\$ 17,093	\$ -	\$ 17,093	\$ -	\$ (10,123)	exempt	\$ 4,820	\$6,970	
Total		4,000,748			5,296	444,278	-	(77,124)	-	231,020	281,153	



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

11A

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Public Works Department

AGENDA ITEM: PUBLIC HEARING AND ACTION ON RESOLUTION #2020-19 NAMING THE THOMPSON LANE BRIDGE AFTER THE LATE DOCTOR KENNY ROTNER IN ACCORDANCE WITH RESOLUTION #2020-13 FOR NAMING PUBLIC FACILITIES AFTER CITIZENS WHO HAVE MADE LASTING CONTRIBUTIONS TO THE COMMUNITY

CC PREPARED BY: Richard Reine, Public Works Director

CC PRESENTED BY: Richard Rein, Public Works, Director

AGENDA DESCRIPTION:

In 2002 the Town received several requests to name Town facilities in honor of Town residents. In response the Town Council passed Resolution #2002-13, which establishes a policy for the naming of public facilities as noted below.

Process

The name of the individual and designated facility must be submitted by a citizen, local organization, or Town Department to the Department of Public Works for review. The Department of Public Works will review the request, make comments, and then forward the proposal to the Town Council for consideration. A 2/3 vote of the Council shall be required for approval, following the close of a duly noticed public hearing.

Criteria

Qualifying facilities must be under the ownership of, and be funded through, the Town of Durham. The criteria for naming items after an individual will require that at least one of the following requirements is fulfilled as determined solely by the Town Council.

1. A well-known community leader, either elected, appointed, or a volunteer;
2. A person who has positively influenced a large population within the Town through significant contribution of money, time, material or land;

Re: Public Hearing and Action on Resolution 2020-19 Naming the Thompson Lane Bridge After Kenny Rotner

3. A person who has received national recognition for personal service and accomplishment above and beyond the call of duty with respect to the public good;
4. An individual who had a major involvement in the acquisition or development of the facility;
5. An individual whose civic leadership or volunteerism clearly contributed to the betterment of the Town;
6. An individual who is deceased and whose personal attributes symbolized the principles and standards of a community organization.

The Public Works Department received a letter from Dennis Meadows requesting formal approval of the proposal to use the Thompson Lane bridge for acknowledging Kenny Rotner's many contributions to the town. The Department has reviewed the criteria within Resolution #2002-13 and finds that five of the six criteria (excluding only #3) apply to Mr. Rotner as justifications for him to receive this honor. This proposal has the support of Kenny's family.

- **About Kenny Rotner**

Kenny lived in Durham for 30 years and worked here as a beloved and esteemed family doctor. In addition he devoted enormous amounts of time to service in many public capacities - Town Councilor, member of the board of the Oyster River Cooperative School District, Chair of the Land Stewardship Committee, and Chair of the Parks & Recreation Committee. He was involved in most aspects of the two-year effort by Durham to construct a pedestrian bridge from Thompson Lane to Stevens Woods. The Department of Public Works is pleased and honored to recommend to the Durham Town Council that they consider naming the Thompson Lane Bridge in honor of Doctor Kenny Rotner.

On August 3, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading, and scheduled a Public Hearing on the ordinance for October 5, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, September 24, 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:

Resolution #2002-13 dated October 28, 2002.

LEGAL OPINION:

N/A

Re: Public Hearing and Action on Resolution 2020-19 Naming the Thompson Lane Bridge After Kenny Rotner

FINANCIAL DETAILS:

Manufacture and installation of appropriate signs on or near the north end of the bridge, \$200.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION 1:

The Durham Town Council does hereby OPEN the Public Hearing on Resolution 2020-19 regarding a resolution naming the Thompson Lane bridge after the late Dr. Kenny Rotner. (ROLL CALL VOTE REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

MOTION 2:

The Durham Town Council does hereby CLOSE the Public Hearing on Resolution 2020-19 regarding a resolution naming the Thompson Lane bridge after the late Dr. Kenny Rotner. (ROLL CALL VOTE REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

MOTION 3:

The Durham Town Council does hereby ADOPT (as presented) (as amended) Resolution 2020-19 regarding a resolution naming the Thompson Lane bridge after the late Dr. Kenny Rotner. (ROLL CALL VOTE REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

RESOLUTION #2020-19 OF DURHAM, NEW HAMPSHIRE

NAMING THE THOMPSON LANE BRIDGE AFTER THE LATE DR. KENNETH (KENNY) ROTNER IN ACCORDANCE WITH THE PROVISIONS OF RESOLUTION #2002-13 DATED OCTOBER 28, 2002 FOR NAMING PUBLIC FACILITIES, TRAILS, FORESTS, OR TREES

WHEREAS, on October 28, 2002, the Durham Town Council adopted Resolution #2002-13 establishing a policy for the naming of public facilities, trails, forests or trees; and

WHEREAS, the Department of Public Works received a request to name the Thompson Lane Bridge after the late Dr. Kenny Rotner which reads, in part: *"Kenny Rotner was involved in and supported virtually every step in the two-year long effort to build a bridge over the Oyster River from Thompson Lane to Stevens Woods. We expect the bridge will be completed within the next few months. After Kenny's death several weeks ago, many Durham residents suggested that it would be appropriate to name the bridge after him in recognition of his many contributions to the town."*

WHEREAS, after careful review and consideration of the criteria within Resolution #2002-13, the Department of Public Works finds that five of the six criteria (excluding only #3) apply to Dr. Rotner as justifications for him to receive this honor and that it is therefore reasonable and appropriate to name the Thompson Lane Bridge after Dr. Rotner for the following reason(s):

"Kenny lived in Durham for 30 years and worked here as a beloved and esteemed family doctor. In addition he devoted enormous amounts of time to service in many public capacities - Town Councilor, member of the board of the Oyster River Cooperative School District, Chair of the Land Stewardship Subcommittee, and Chair of the Parks & Recreation Committee. He was involved in most aspects of the two-year effort by Durham to construct a pedestrian bridge from Thompson Lane to Stevens Woods. The Department of Public Works is pleased and honored to recommend to the Durham Town Council that they consider naming the Thompson Lane Bridge in honor of Dr. Kenny Rotner."

WHEREAS, on Monday, October 5, 2020, a duly posted and published Public Hearing was held by the Durham Town Council on this resolution in accordance with the provisions outlined in Resolution #2002-13,

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire, is privileged to hereby adopt **Resolution #2020-19** accepting the recommendation forwarded by the Department of Public Works to name the Thompson Lane Bridge after the late Dr. Kenny Rotner.

PASSED AND ADOPTED this 5th day of October, 2020 by an ____ roll call vote of the Durham Town Council as follows:

Sally Tobias	—	Wayne Burton	—
Dinny Waters	—	James Lawson	—
Al Howland	—	Sally Needell	—
Katherine Marple	—	Andrew Corrow	—
Carden Welsh	—		

Katherine Marple, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk



TOWN OF DURHAM
8 NEWMARKET ROAD
DURHAM, NH 03824
Tel: 603/868-5111
Fax: 603/868-1858

11B

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Todd I. Selig, Administrator

AGENDA ITEM: PUBLIC HEARING AND ACTION ON RESOLUTION #2020-20 TO ACCEPT AND EXPEND UNANTICIPATED GRANT FUNDS TOTALING \$80,000 TO BE USED TOWARD THE ORCHARD DRIVE / THOMPSON LANE PEDESTRIAN BRIDGE PROJECT

CC PREPARED BY: Deborah Ahlstrom, Staff Accountant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

The 2020 Capital Improvement Program includes a Pedestrian Bridge over Oyster River Project to be partially funded with private donations and grants. The proposed Pedestrian Bridge will connect the Faculty Road neighborhood with the Orchard Drive neighborhood and will also span the Oyster River and open several miles of woodland trails.

Durham resident Dennis Meadows has been actively pursuing grants and fund-raising for the bridge and trail project. He prepared and Town officials signed an application for a Recreational Trails Program Grant from the NH Department of Natural and Cultural Resources which has been approved for \$80,000 to be matched with \$20,000 of local funding. Fundraising efforts organized by Dennis Meadows have exceeded the amount needed for this grant and are ongoing for the project goal.

At this time, it is recommended that the Town Council schedule a Public Hearing for October 5, 2020 to accept and authorize the expenditure of the RTP grant of \$80,000.

On August 3, 2020, the Town Council reviewed and discussed the attached proposed ordinance, moved it on First Reading, and scheduled a Public Hearing on the ordinance for October 5, 2020. A Public Hearing notice was published in the *Foster's/Seacoast Online* for Thursday, September 24, 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:

New Hampshire Revised Statutes Annotated (RSA) 31:95-b authorizes the Town Council to apply for, accept and expend, without further action by the town or village district meeting, unanticipated money from the state, federal or other governmental unit or a private source which becomes available during the fiscal year if they first adopt an article authorizing this authority indefinitely until specific rescission of such authority. On July 12, 1999, the Town Council adopted Resolution #99-19 granting this authority to the Town Council.

RSA 31:95 III. (a) states that: "For unanticipated moneys in the amount of \$10,000 or more, the selectmen or board of commissioners shall hold a public hearing on the action to be taken. Notice of the time, place and subject of such hearing shall be published in a newspaper of general circulation in the relevant municipality at least 7 days before the hearing is held."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

The Town of Durham has been awarded a grant of \$80,000 by the NH-RTP to be used to toward the Orchard Drive/Thompson Lane Pedestrian Bridge Over the Oyster River.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1

The Durham Town Council does hereby OPEN the Public Hearing on Resolution #2020-20 authorizing the acceptance and expenditure of unanticipated grant funding totaling \$80,000 to be used toward the Orchard Drive/Thompson Lane Pedestrian Bridge Project. (ROLL CALL VOTED REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

MOTION #2

The Durham Town Council does hereby OPEN the Public Hearing on Resolution #2020-20 authorizing the acceptance and expenditure of unanticipated grant funding totaling \$80,000 to be used toward the Orchard Drive/Thompson Lane Pedestrian Bridge Project. (ROLL CALL VOTED REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

MOTION #3

The Durham Town Council does hereby ADOPT (as presented) (as amended) Resolution #2020-20 authorizing the acceptance and expenditure of unanticipated grant funding totaling \$80,000 to be used toward the Orchard Drive / Thompson Lane Pedestrian Bridge Project. (ROLL CALL VOTED REQUIRED)

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

RESOLUTION #2020-20 OF DURHAM, NEW HAMPSHIRE

AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF A \$80,000 RECREATIONAL TRAILS PROGRAM GRANT FROM THE NEW HAMPSHIRE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES BUREAU OF TRAILS FOR CONSTRUCTION OF A PEDESTRIAN BRIDGE OVER THE OYSTER RIVER AT THOMPSON LANE AS A GREENBELT CONNECTION WHICH IS PART OF THE ORCHARD DRIVE/STEVENS WOODS TRAIL PLAN

WHEREAS, in November 2019 the Town acquired a 25 acre parcel of undeveloped property on Orchard Drive from the Oyster River Cooperative School District with funds raised in donations and grants; and

WHEREAS, in 2020 the town's approved Capital Improvement Plan included the project to place a Pedestrian Bridge over the Oyster River on this newly acquired property with \$30,000 from the Operating Budget to be funded by the purchase of a right of way from the Town by UNH, with additional funds for the bridge to be raised in grants and donations; and

WHEREAS, in July 2020 the Town was notified that the Recreational Trails Program funding of \$80,000 to be matched with \$20,000 of local funding to construct abutments and place a bridge over the Oyster River was approved for funding by the Governor and Council; and

WHEREAS, fundraising is ongoing but has to date surpassed the \$20,000 needed to match the grant; and

WHEREAS, on July 12, 1999, the Durham Town Council approved Resolution #99-19 adopting the provisions of RSA 31:95-b authorizing the Town Council to apply for, accept, and expend unanticipated funds from a Federal, state, or other governmental unit or a private source which becomes available during the Fiscal Year; and

WHEREAS, Council approval is required for the acceptance and expenditure of these funds; and

WHEREAS, RSA 31:95-b III(a) requires that a Public Hearing be held on unanticipated funds in excess of \$10,000; and

WHEREAS, on Monday, October 5, 2020, a duly posted and published Public Hearing was held by the Durham Town Council on the \$80,000 grant monies in accordance with RSA 31:95-b;

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 **Resolution #2020-20** authorizing the acceptance and expenditure of a \$80,000 Recreational Trail Program (RTO) Grant from the New Hampshire Department of Natural and Cultural Resources Bureau of Trails for construction of a Pedestrian Bridge over the Oyster River at Thompson Lane as a Greenbelt Connection component of the Orchard Drive / Stevens Woods Trail Plan.

PASSED AND ADOPTED this ____ day of October, 2020 by a ____ roll call vote of the Durham Town Council as follows:

Sally Tobias	___	Wayne Burton	___
Dinny Waters	___	James Lawson	___
Al Howland	___	Sally Needell	___
Katherine Marple	___	Andrew Corrow	___
Carden Welsh	___		

Katherine A. Marple, Chairman
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk-Tax Collector



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

AGENDA ITEM: # **12A**

DATE: October 5, 2020

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: FIRST READING ON ORDINANCE #2020-13 AMENDING VARIOUS SECTIONS OF CHAPTER 175 "ZONING" OF THE DURHAM TOWN CODE PERTAINING TO AGRICULTURE AFFECTING ARTICLE II – DEFINITIONS, THE TABLE OF USES, ARTICLE XX – STANDARDS FOR SPECIFIC USES, AND SEVERAL OTHER ARTICLES AND CREATING A NEW ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

CC PREPARED BY: Michael Behrendt

PRESENTED BY: Sally Tobias, Jim Lawson, and Michael Behrendt

AGENDA DESCRIPTION:

The Planning Board voted to formally initiate an extensive set of amendments to the Durham Zoning Ordinance pertaining to Agriculture on September 9, 2020. This proposal is presented to the Town Council on October 5. Sally Tobias and Jim Lawson, the Council's representatives on the Planning Board, and I can explain the changes. Theresa Walker, chair of the Agricultural Commission, and other members of the commission, should be available as well to explain the changes or to speak at a public hearing. The Council can set a public hearing on the amendments if it deems appropriate.

The Durham Agricultural Commission completed an extensive overhaul of the provisions in the Zoning Ordinance dealing with agriculture over many months. I worked closely with the commission in crafting the amendments. The amendments are significantly different from the current provisions in the ordinance.

The commission's draft was presented to the Planning Board on January 8, 2020. The board then held a public hearing on the draft. After the hearing the Planning Board made a number of changes to the document. That revised draft was presented at a new public hearing on September 9 and the board then voted to formally initiate those amendments with a few minor adjustments. Much of the

board's discussion focused on the table of uses. There were some concerns about expanding agricultural uses, especially for keeping animals in the residential zones. However, ultimately the board thought the proposed table was reasonable and approved it with only minor changes. Note that for several types of animals/livestock a minimum of three acres of land is required.

The purpose of the changes is to: a) encourage and facilitate agriculture pursuant to the Agricultural Resources Master Plan; b) enhance the ordinance, much of which is out of date and burdensome; c) align with the state's definition of agriculture. The state added a *definition* of agriculture a number of years ago (enclosed). Municipalities must allow agricultural uses in conformance with this definition, though there is allowance for reasonable judgment in implementing the statute. I believe that the proposed amendments address the expectations of the statute.

The following documents are included:

- 1) *Proposed amendments to the ordinance*, showing additions and deletions from the current ordinance in color.
- 2) *Proposed amendments to the Table of Uses* showing additions and deletions from the current table in color.
- 3) Proposed new language only for the ordinance in black and white. This is not the complete set of amendments but is presented for ease of reading only.
- 4) Proposed new text only for the Table of Uses in black and white. This is not the complete set of amendments but is presented for ease of reading only.
- 5) State statute giving the "definition" of agriculture.

The amendments are incorporated mainly into three parts of the zoning ordinance: a) Article II - Definitions, b) Article XII.1 - the Table of Uses, and c) Article XX - Standards for Specific Uses along with a new proposed Article XX.1 - Standards for Agricultural Uses. There are also minor changes proposed in Article XIII - Wetland Conservation Overlay District, Article XIV - Shoreland Preservation Overlay District, and Article XXII - Landscaping.

LEGAL AUTHORITY:

RSA (Revised Statutes Annotated) 21:34-a, RSA 425:2-a, RSA 425 through 439, RSA 672:1, RSA 674:32-a through d, and RSA 674:44-e. Durham Zoning Ordinance Section 175-14.

LEGAL OPINION:

The proposed amendments were developed pursuant to the key statutes supporting agriculture, above.

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, in accordance with Section 175-14 F. of the Durham Zoning Ordinance, move on First Reading (as presented) (as amended) Ordinance #2020-13, an amendment formally initiated by the Durham Planning Board pertaining to Agriculture affecting numerous articles in Chapter 175 "Zoning" of the Durham Town Code and schedules a public hearing for October 19, 2020. (ROLL CALL VOTE REQUIRED)

Sally Tobias ___
Dinny Waters ___
Al Howland ___
Katherine Marple ___
Carden Welsh ___

Wayne Burton ___
James Lawson ___
Sally Needell ___
Andrew Corrow ___

ORDINANCE #2020-13 OF DURHAM, NEW HAMPSHIRE

AMENDING VARIOUS SECTIONS OF CHAPTER 175 “ZONING” OF THE DURHAM TOWN CODE PERTAINING TO AGRICULTURE AFFECTING ARTICLE II – DEFINITIONS, THE TABLE OF USES, ARTICLE XX – STANDARDS FOR SPECIFIC USES, AND SEVERAL OTHER ARTICLES AND CREATING A NEW ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

WHEREAS, numerous state statutes promote and protect agriculture, in particular RSA 21:34-a, RSA’s 425 through 439, RSA 672:1, RSA 674:32-a through d, and RSA 672:1; and

WHEREAS, RSA 21:34-a, the state’s definition of Agriculture, requires that the uses included in the definition be permitted in a community, subject to reasonable restrictions; and

WHEREAS, The Town Council established a Agricultural Commission on July 11, 2011 whose purpose included, among other things, conducting “activities to recognize, promote, enhance, and encourage agriculture, agricultural resources, and agricultural-based economic opportunities”; and

WHEREAS, the Agricultural Resources Chapter of the Durham Master Plan, adopted in 2015, encourages agriculture throughout the community; and

WHEREAS, The Agricultural Commission worked over many months, in coordination with the Durham Town Planner and other parties, to develop an extensive set of amendments to the Zoning Ordinance pursuant to the various state statutes listed above and the Durham Master Plan, and the Agricultural Commission held several public hearing to solicit input on the proposed amendments; and

WHEREAS, The Agricultural Commission presented its draft to the Planning Board on January 8, 2020, the Planning Board held a public hearing on the draft on February 12, 2020, the Planning Board discussed the draft and comments received from the public over several subsequent meetings, the Planning Board then revised the draft accordingly and held a new public hearing on September 9, and that same evening the Planning Board made several minor adjustments to the draft and voted to formally initiate the amendments,

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt Ordinance #2020-13 pertaining to Agriculture. The amendments are incorporated into seven articles in the zoning ordinance: a) Article II - Definitions; b) Article XII.1 - the Table of Uses; c) Article XX - Standards for Specific Uses; d) a new proposed Article XX.1 - Standards for Agricultural Uses; e) Article XIII - Wetland Conservation Overlay District; f) Article XIV - Shoreland Preservation Overlay District; and g) Article XXII - Landscaping.

Existing wording proposed to be deleted is shown in this manner: ~~to be deleted~~. New wording proposed to be added is shown in this manner: to be added.

The amendments to the ordinance, including the Table of Uses, are attached to this Ordinance as a matter of final record

PASSED AND ADOPTED this ____ day of ___, **2020** by a ___ to ___ roll call vote of the Durham Town Council as follows:

Sally Tobias	_____	Wayne Burton	_____
Dinny Waters	_____	James Lawson	_____
Al Howland	_____	Sally Needell	_____
Katherine Marple	_____	Andrew Corrow	_____
Carden Welsh	_____		

Katherine Marple, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk

Proposed Amendments to the Durham Zoning Ordinance
Agriculture

Initiated by Planning Board on September 9, 2020

Proposed additions to the current ordinance are shown like this

~~*Proposed deletions from the current ordinance are shown like this*~~

ARTICLE II – DEFINITIONS. Section 175-7

- ❖ Delete all of the following existing definitions:

~~*ACCESSORY AGRICULTURAL ACTIVITIES—Noncommercial agricultural activities such as gardening and the raising of flowers and ornamental plants conducted by the occupants of a residence primarily for their own use or consumption. These activities shall not include any use that is defined as animal husbandry, commercial agriculture, or the keepings of pigs, chickens, or fowl. The excess products of this activity may be sold so long as the volume of sales does not result in excessive noise, traffic, or other adverse impacts on the neighborhood or constitute a commercial operation that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return. (See Article XX)*~~

~~*AGRICULTURAL BUILDING, EXISTING—Any building or structure constructed prior to the adoption of this chapter and designed, used or adapted for agricultural purposes. (See Article XX)*~~

~~*ANIMAL HUSBANDRY, COMMERCIAL—The commercial breeding and/or raising of livestock. Animal husbandry does not include any activity that is defined as a kennel, stable, animal feed lot, or the keeping of pigs, chickens, and fowl for commercial purposes. Any activity that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.*~~

~~*ANIMAL HUSBANDRY – GOATS, ACCESSORY—The breeding and/or raising of goats for noncommercial purposes in conjunction with a residence. (See Article XX).*~~

~~*ANIMAL HUSBANDRY – LIVESTOCK, ACCESSORY—The breeding and/or raising of livestock, not including poultry (as defined herein), for noncommercial purposes in conjunction with a residence. (See Article XX)*~~

~~*ANIMAL HUSBANDRY – POULTRY, ACCESSORY—The breeding and/or raising of poultry for noncommercial purposes in conjunction with a residence. (See Article XX)*~~

~~*AQUACULTURE—The commercial growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.*~~

~~**BEST MANAGEMENT PRACTICES FOR AGRICULTURE (BMPs)**—Refers to those practices and procedures described in the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, distributed and periodically updated by the New Hampshire Department of Agriculture, Markets, and Food, as revised.~~

~~[Reference—<http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>]~~

~~**COMMERCIAL AGRICULTURE**—The use of land for commercial agricultural purposes including tilling of the soil, raising of crops, pasturage, and including the necessary accessory structures and uses normally associated with such uses. Commercial agriculture includes the raising of flowers but does not include any activity that is defined as animal husbandry, an animal feedlot, a plant nursery, or the keeping of pigs, chickens, and fowl. Any activity that requires the filing of Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.~~

~~**FORESTRY**—Forestry shall include the growing, stocking, cutting, or sale of forest trees of any size for habitat management, for producing timber, or for other forest products; and pre-commercial silvicultural activities including but not limited to timber stand improvement. (See Article XX)~~

~~**KEEPING OF PIGS, CHICKENS, AND FOWL FOR COMMERCIAL PURPOSES**—The commercial breeding and/or raising of pigs, hogs, chickens, ducks, turkeys, and similar fowl. Any activity that requires the filing of a Schedule F as part of the owner's or operator's federal income tax return shall constitute a commercial operation.~~

~~**LIVESTOCK**—Horses, ponies, mules, donkeys, oxen, cattle, sheep, goats, swine, buffalo, llamas, emus, ostriches, alpacas, and any other large animal raised primary in the outdoors or in unheated structures and that serve as a beast of burden or a source of meat or wool.~~

~~**PLANT NURSERY**—The commercial cultivation and/or raising of flowers, ornamental and greenhouse plants, and other vegetation including the necessary accessory structures and uses normally associated with such uses. A plant nursery may include the retail sale of plant materials raised on the premises together with related accessory items.~~

~~**POULTRY**—For the purpose of this ordinance the term “poultry” refers to chickens and turkeys only.~~

~~**RETAIL SALE OF FARM PRODUCTS**—The sale directly to the consumer of agricultural products grown or raised on the premises or on other land that is part of the same agricultural business including processed products that are made from products grown or raised on the premises or related land.~~

~~**SLUDGE**—Residual materials produced by the sewage treatment process.~~

~~**STABLE**—Any lot or premises on which four (4) or more horses, ponies, or similar equines, or combination thereof, are boarded for compensation or bred for sale.~~

~~*TIMBER HARVESTING—The cutting and removal of trees from their growing site, the production of cord wood in conjunction with such harvesting, and/or the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and haul roads. (See Article XX)*~~

- ❖ Create the following new subsection under Section 175-7 with all definitions under AGRICULTURE. Underline each individual term at the beginning of the definition (Accessory Uses; Agricultural Sales, Commercial; Agritourism; Animal Feedlot, etc.):

AGRICULTURE – Including but not limited to all uses, accessory uses, structures, functions, and events as defined in RSA 21:34-a - Farm, Agriculture, Farming, as amended. (See the Table of Uses and Article XX.1 for specific standards and restrictions.)

Accessory Uses. The following are considered accessory uses to an allowed agricultural use:

- 1) *The storage, use of, and spreading of soil amendments, as defined in this section.*
- 2) *The use and application of agricultural chemicals pursuant to state requirements.*
- 3) *The preparation for market, delivery to storage or to market, and delivery to carriers for transportation to market of any products and materials from the farm.*
- 4) *The transportation of farm workers.*
- 5) *The marketing and selling at wholesale or retail of any products from the farm, on-site and off-site, where not otherwise prohibited or regulated.*
- 6) *Irrigation of growing crops from private water supplies or public water supplies.*
- 7) *The use of dogs or other livestock guard animals for herding, working, and guarding livestock.*
- 8) *The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.*
- 9) *A farmstand situated on farm land owned by the operator of the farmstand provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms owned by the operator of the farmstand. Items not produced on the farm or farms owned by the operator are limited to agriculture-related products, specialty foods, gift items, crafts, and items reflecting agriculture and rural America.*
- 10) *Use of new technologies recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and appropriate agencies of the United States Department of Agriculture.*
- 11) *Agritourism, as defined in this section.*

Agricultural Sales, Commercial. Sale of items specifically including agriculture-related products, trees, specialty foods, gift items, crafts, and items reflecting agriculture and rural America. (This use need not be located on a farm property, in contrast to Farmstand, Accessory, below.)

Agritourism. Attracting visitors to a farm to attend events and activities that are accessory, related and subordinate to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, and active involvement in the activity of the farm.

Animal Feedlot. A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock.

Aquaculture. The commercial raising, harvesting, and sale of fish and other aquaculture products.

Bees, Keeping of. The raising of bees and cultivation and sale of bee products.

Best Management Practices For Agriculture (BMPs) – Those practices and procedures described in the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, distributed and periodically updated by the New Hampshire Department of Agriculture, Markets, and Food, as revised. BMPs also include other practices and procedures recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and the United States Department of Agriculture. Other documents providing guidance for agricultural practices and procedures endorsed by the Durham Agricultural Commission as appropriate references for best management practices are also deemed BMPs.

[Reference - <http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>]

Chickens and Turkeys, Keeping of - Accessory Use. The breeding and raising of chickens and turkeys for noncommercial purposes in conjunction with a residence.

Crop Cultivation. The cultivation, conservation, and tillage of the soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, and horticultural crops and any other plant including greenhouse and high-tunnel crops and tree products and any other plant that can be legally grown and harvested extensively for profit or subsistence.

Farm or Farming. Any land, buildings, or structures on or in which agriculture and farming activities are conducted, including the residence(s) of owners, occupants, and employees located on the subject land. This includes all farm outbuildings and any other structures used in the farm operations. An operation may be deemed a commercial farm where at least \$10,000 of agricultural products is produced and sold in a year.

Farmers' Market. An event or series of events at which two or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale include, but are not limited to, products of agriculture, as defined in RSA 21:34-a. A farmers' market does not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.

Farmstand, Accessory. A farmstand as defined under Accessory Uses, above. (Contrast to Agricultural Sales, Commercial, above.)

Forestry. The production, cultivation, growing, harvesting, and sale of any trees or nursery stock.

Fur-bearing Animals, Keeping of. The raising, breeding, and sale of domesticated strains of fur-bearing animals, such as mink, ermine, and chinchilla.

Goats and Sheep, Keeping of. The raising, breeding, and sale of goats and sheep.

Goats and Sheep, Keeping of – Accessory Use. The raising and breeding of goats and sheep for noncommercial purposes in conjunction with a residence.

Horses, Keeping of. The commercial breeding, boarding, raising, training, riding instruction, and selling of horses, mules, donkeys, and other equidae.

Horses, Keeping of - Accessory Use. The noncommercial breeding, boarding, raising, and riding of horses, mules, donkeys, and other equidae.

Livestock - Large, Keeping of. The raising, breeding, or sale of beef and dairy cattle, steer, oxen, swine, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).

Poultry, Keeping of. The raising, breeding, and sale of poultry, including chickens, turkeys, ducks, geese, and gamebirds.

Rabbits, Keeping of. The raising, breeding and sale of rabbits.

Soil Amendments. Including commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.

❖ Add the following definitions as separate entries:

AND – When used in a series of allowed activities, such as “Dogs may be used for herding, working, and guarding livestock,” means “and/or,” such that any and all of the activities are allowed, individually or in combination.

OPACITY, VERTICAL – The percentage of the area of a fence or wall, covered by boards, slats, metal links, and other materials, through which one cannot see. Vertical opacity is measured from an elevation drawing.

SEPTAGE - Material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, but not including sewage sludge from public treatment works and industrial waste and any other sludge. (As defined in RSA 485-A:2.)

SEWAGE - The water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present. (As defined in RSA 485-A:2.)

SHALL – Where the term “shall” is used, the person or party is required to do what is referred to.

SLUDGE - The solid or semisolid material produced by water and wastewater treatment processes, but not including domestic septage. However, sludge which is disposed of at solid waste facilities as permitted by the New Hampshire Division of Environmental Services is considered solid waste. (As defined in RSA 485-A:2.)

TABLE OF USES

- ❖ See separate document.
-

ARTICLE XX – STANDARDS FOR SPECIFIC USES Section 175-109

- ❖ Delete all of the following subsections under Section 175-109 and reletter remaining subsections accordingly.

~~*A. Accessory Agricultural Activities. Accessory Agricultural Activities shall conform to the following standards:*~~

~~*1. The total area cultivated shall not be more than thirty five (35) percent of the total lot area.*~~

- ~~2. The amount of herbicides, pesticides, and similar chemicals stored on the property shall not be greater than the amount associated with normal residential usage.~~
- ~~3. Any facilities for the sale of excess agricultural products shall be temporary, shall be located so as not to create a traffic hazard or obstruct vehicular or pedestrian traffic, and shall be used only during the period of the actual harvesting of the product.~~
- ~~4. No products that are not grown, raised, or produced on the premises shall be displayed or sold.~~

~~B. Accessory Animal Husbandry—Goats. The following terms and conditions apply to Accessory Animal Husbandry—Goats:~~

- ~~1. Single/Two Family. The keeping of goats is permitted as an accessory use to Single-Family and Duplex Residences only.~~
- ~~2. Number of animals. There shall be a minimum of two goats kept on the property (Goats are herding animals and need companionship). No more than two goats may be kept on the property except: a) On lots at least 40,000 square feet in size, three goats may be kept; and b) For each additional 5,000 square feet of lot area beyond 40,000 square feet, one additional goat may be kept (for example, four goats may be kept on a 45,000 square foot lot). New offspring shall not count toward the maximum allowed number of goats for the first 12 weeks after birth.~~
- ~~3. Permitted goats. On lots under 80,000 square feet only miniature, dwarf, or pygmy goats may be kept. On lots of 80,000 square feet or greater any kind of goat may be kept. In all districts except for Residence C and Rural, all goats must be dehorned and all male goats must be neutered. On lots of 120,000 square feet or greater, goats may be permitted under the provisions of either Accessory Animal Husbandry—Livestock or Accessory Animal Husbandry—Goats.~~
- ~~4. Housing structure. An appropriate enclosed structure for housing goats shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines, below. The minimum size of the structure is 40 square feet, with an additional 20 square feet required for each~~

~~additional goat beyond two that is kept on the property. The structure shall provide direct access to the fenced outdoor area and shall be predator proof, vented, waterproof, and easily accessed for cleaning. Goats shall be sheltered in the structure from sunset to sunrise.~~

~~—[Reference http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]~~

- ~~5. Housing structure setbacks. The structure for housing animals shall meet all minimum setbacks applicable to structures under this zoning ordinance. The structure shall be placed in the rear yard or side yard and may not be placed closer to~~

~~any public street than the primary facade of the house facing that street (including for corner lots). However, in the Rural Zoning District the structure may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front (or side, for corner lots) property line.~~

- ~~6. Fenced Outdoor Area. Goats shall be confined to an outdoor area that is fully enclosed by fencing. This fenced outdoor area must be situated in the rear or side yards on the property and may not be closer to any public street than the primary facade of the house. However, in the Rural Zoning District, the fenced outdoor area may be situated forward of the primary facade of the house provided it is set back at least 50 feet from the front property line. All fencing shall be set back at least 10 feet from all property lines. The minimum size of the fenced outdoor area is 200 square feet, with an additional 50 square feet required for each additional goat beyond two that is kept on the property.~~
- ~~7. Fencing. All fencing enclosing the outdoor area shall be at least five feet in height and designed and sited so that goats may not break through or climb over it. The fencing shall be woven wire fencing or a comparable metal fencing appropriate for containing livestock.~~
- ~~8. Manure. Manure, compost from manure, and odor from the goats shall be handled in accordance with best management practices as specified in Best Management Practices for Agriculture in New Hampshire, as revised. Manure must be removed from the structure and immediate area housing the animals and composted or disposed of in a timely manner.~~
- ~~9. Feed. Feed shall be stored in fully enclosed and secured containers in order to prevent pests and predators.~~
- ~~10. Slaughtering. Slaughtering of goats on the subject property is prohibited.~~
- ~~11. Selling Products. Milk, cheese, and other goat products may be sold on the premises provided the activity is conducted in accordance with New Hampshire RSA 184. Inspection and Sale of Dairy Products, with specific reference to RSA 184:84.V. Any signage shall conform with the standards for residential accessory signs.~~

~~[Reference – <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]~~

- ~~12. Complaints. When a complaint is issued regarding the keeping of goats as an accessory use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law. The Town's enforcement official and the Agricultural Commission may refer to the~~

~~Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, as revised, and pertinent RSA's for guidance in this process, as appropriate.~~

~~13. Best Management Practices. The Town's enforcement official shall use her/his reasonable judgment in applying the required best management practices (BMPs) that are referred to in this section B. Practices included in the BMP's which clearly are not pertinent to the implementation of this ordinance, based upon her/his reasonable judgment, shall not apply. Where the relevance of a particular practice is debatable, the enforcement official, at his option, may consult with the Agricultural Commission for nonbinding guidance, as appropriate.~~

~~14. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Building Official for clarification.~~

~~C. Accessory Animal Husbandry—Livestock, not including poultry. Accessory Animal Husbandry—Livestock shall conform to the following standards:~~

~~1. The lot on which the use is located shall have a minimum lot size of one hundred twenty thousand (120,000) square feet of area~~

~~2. No area or structure for the housing, stabling, or feeding of animals shall be located within one hundred (100) feet of any property line~~

~~3. No animals shall be pastured within twenty five (25) feet of any property line~~

~~D. Accessory Animal Husbandry—Poultry. The following terms and conditions apply to Accessory Animal Husbandry—Poultry:~~

~~1. Roosters. Roosters are permitted only in the Rural Zoning District. However, they are not permitted on lots in the Rural Zoning District smaller than 20,000 square feet that were/are created as part of a conservation subdivision.~~

~~2. Single/Two Family. The keeping of poultry is permitted as an accessory use only to single family and duplex residences.~~

~~3. Number of animals. A maximum of 12 animals may be maintained per lot. There is no limit on the number of animals in the Rural Zoning District, except on lots smaller than 20,000 square feet that were/are created as part of a conservation subdivision.~~

~~4. Housing structure. An appropriate fully enclosed structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Poultry shall be maintained in the structure from sunset to sunrise.~~

~~[Reference—http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]~~

- ~~5. Housing structure setbacks. The structure for housing animals shall meet all setbacks applicable to structures under this zoning ordinance. The structure shall be placed in the rear yard or side yard and may not be placed closer to any public street than the primary facade of the house facing that street (including for corner lots). However, in the Rural Zoning District the structure may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front (or side, for corner lots) property line.~~
- ~~6. Manure. Manure, compost from manure, and odor from the animals shall be handled in accordance with best management practices as specified in Best Management Practices for Agriculture in New Hampshire, as revised. Manure must be removed from the structure and immediate area housing the animals and composted or disposed of in a timely manner.~~
- ~~7. Feed. Feed shall be stored in fully enclosed and secured containers in order to prevent pests and predators.~~
- ~~8. Yards. Animals shall be confined to the rear yard and side yard, and may not go closer to any public street than the primary facade of any house facing any public street (including for corner lots). However, in the Rural Zoning District animals may inhabit the area forward of the primary facade of the house provided they are kept at least 50 feet from the front (or side, for corner lots) property line. Animals shall be maintained on the subject property and kept under the control of the owner.~~
- ~~9. Fencing. Poultry owners may install a chicken wire fence or other appropriate barrier in the rear and side yards (as delineated above) on their property. In the Rural Zoning District the fencing or barrier may be placed forward of the primary facade of the house provided it is set back at least 50 feet from the front property line. Otherwise, there is no required setback for such fence or barrier. Any such fence or barrier shall not exceed 6 feet in height.~~
- ~~10. Slaughtering. Any slaughtering of poultry on the subject property must be carried out in accordance with best management practices.~~
- ~~11. Selling. Eggs may be sold on the premises provided the activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs. The commercial sale of live poultry and poultry products other than eggs is prohibited.~~

~~[Reference – <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>]~~

~~12. Complaints.—When a complaint is issued regarding the keeping of poultry as an accessory use, at the option of the Town’s enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission’s review, the Town’s enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law. The Town’s enforcement official and the Agricultural Commission may refer to the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, as revised, and pertinent RSA’s for guidance in this process, as appropriate.~~

~~13. Best Management Practices.—The enforcement official shall use his or her reasonable judgment in applying the required best management practices (BMPs) that are referred to in this section C. Practices included in the BMP’s which clearly should not pertain in the implementation of this ordinance, based upon his or her reasonable judgment, shall not apply. Where the relevance of a particular practice is debatable, the enforcement official, at his or her option, may consult with the Agricultural Commission for nonbinding guidance, as appropriate.~~

~~14. Permits.—Please note that a building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Enforcement Officer for clarification, where appropriate.~~

~~J.—Forestry. All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law RSA 227-J:9 in particular, and notice of intent to cut RSA 79:10, and shall use as guidance for best forest management practices the “Best Management Practices for Erosion on Timber Harvesting Operations in New Hampshire” 2004 as amended, Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended, and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area—including removal of logs, wood debris, and stumps, as appropriate—within 60 days.~~

❖ Create a new Article XX.1 – Standards for Agricultural Uses to read as follows.

ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

175-109.1. Purpose.

The purpose of this article and of other provisions in this chapter related to agriculture is to:

- A. Help preserve a working landscape of farms, gardens, and forests;
- B. Support local farms, farmers, and food production;
- C. Foster long-term economic and environmental sustainability and resilience; and
- D. Fulfill the goals included in the Agricultural Resources Master Plan and those pertinent to agriculture established by the Durham Town Council

175.109.2. Compliance Required.

This article establishes performance standards for agricultural uses. These standards must be met for all activities involving the specified uses.

A. General Provisions. The following provisions apply to all agricultural uses and activities:

1. See definitions of various agricultural activities under AGRICULTURE in Article II. See Agricultural Uses in the Table of Uses. There is no set limit on the number of principal and accessory uses related to agriculture that may be established on a lot (though other requirements may effectively serve to limit the number of uses). Some of the agricultural uses included under Principal Uses in the Table of Uses may also be considered accessory uses subject to the same requirements as principal uses, as reasonably determined by the Zoning Administrator.
2. Best management practices. Best management practices shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture (per RSA 21:34-a). Best management practices shall be applied to all pertinent aspects of the farm, including but not limited to the following:
 - a. Manure, compost from manure, and odor from animals. Manure must be removed from the structure and immediate area housing animals and composted or disposed of in a timely manner.
 - b. Feed. Feed should be stored in fully enclosed and secured containers in order to prevent pests and predators.
 - c. Slaughtering of animals.
3. Site plan review.
 - a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below).

Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for non-commercial agriculture.

- b. Site plan review is not required for uses that are accessory to single-family and duplex residences nor for temporary farmstands. The establishment, expansion, or change of the uses specified under Agricultural Uses in the Table of Uses is exempt from site plan review (though physical changes to the site ordinarily reviewed, such as building construction, are subject to review), with the exception of Farmers' Markets; Agricultural Sales, Commercial; and Aquaculture which are subject to site plan review.
- c. Applicants for projects related to agriculture may request waivers from specific provisions of the site plan requirements as allowed. Such projects may also be eligible for review under the Minor Site Plan process.
4. Minimum acreage is established in the Table of Uses for specific agricultural uses (Additional standards are given in Table 109.1E). In cases where minimums are established for more than one use occurring on a property, the minimum acreages are not added together. For example, if 3 acres is required for each of two uses, then 3 acres will be sufficient to accommodate both uses.
5. All animals must be contained on the subject lot. It is the responsibility of the property owner to contain the animals through appropriate means which may or may not include fencing.
6. Fences used for agricultural purposes, such as the containment of livestock and poultry or the protection of crops, may be located at the property line and need not meet setbacks otherwise applicable to fencing. The vertical opacity of any such fences that are higher than six feet shall not exceed 25% (for the purpose of maintaining an open view through the fence).
7. Keeping at least two of any species of animal is strongly encouraged, but not mandatory (except where specifically required). Virtually all animals will be healthier in the presence of companions.
8. Housing structure. An appropriate fully-enclosed structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Chickens and turkeys shall be maintained in the structure from sunset to sunrise.

[\[Reference: http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf\]](http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf)

9. Housing structure setbacks. Structures for housing animals shall meet all setbacks applicable to structures. The structure shall not be placed in the front court (including for corner lots). However, in the Rural Zoning District the structure may be placed in the front court provided it is set back at least 50 feet from the front (or side, for corner lots) property line. In the Residence A and Residence B Districts, the structure shall be reasonably screened from the road. All requirements in this subsection may be changed by special exception.

10. Guidance from Agricultural Commission. Landowners and others with questions or concerns related to this ordinance and to agriculture in general are encouraged to speak with the Durham Agricultural Commission. Interested parties should contact the Town Planning Department.

11. Complaints. When a complaint is issued regarding any agricultural use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law.

12. Housing and Land Area Standards. See Section E below.

13. Irrigation. Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham.

14. Number of Buildings. There is no set limit on the number of allowed agricultural buildings, whether principal or accessory buildings, on lots of three acres or greater (This provision overrides several general limitations included elsewhere in this ordinance).

15. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Administrator for clarification, where appropriate.

B. Chickens and Turkeys, Keeping of – Accessory Use. The following terms and conditions apply to the keeping of chickens and turkeys as an accessory use:

1. Single/Two Family. The keeping of chickens and turkeys is permitted as an accessory use to single-family and duplex residences only.

2. *Roosters. Roosters are permitted only on lots greater than 20,000 square feet located in the Rural Zoning District.*
3. *Number of animals. A maximum of 12 animals may be maintained per lot.*
4. *Selling Products. Eggs, chickens and turkeys may be sold on the premises provided the products are produced on the subject property and activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs.*

Reference - <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>

C. *Goats and Sheep, Keeping of – Accessory Use. The following terms and conditions apply to the keeping of Goats and Sheep – Accessory Use:*

1. *Single/Two Family. The keeping of goats and sheep is permitted as an accessory use to Single-Family and Duplex Residences only.*
2. *Number of animals. There shall be a minimum of two goats or two sheep kept on the property (Goats and sheep are herd animals and need companionship). No more than two goats or two sheep may be kept on the property in the Residence A and Residence B districts. See Table 175-109.1 E – Housing and Land Area Standards for Livestock for requirements in other districts.*
3. *Permitted goats. In all zones, with the exception of the Residence Coastal and Rural Districts, only miniature, dwarf, or pygmy breed of goats may be kept on lots that are smaller than 80,000 square feet. Any kind of goat may be kept in the Residence Coastal and Rural Districts and on lots in other zones that are 80,000 square feet or larger. In all zones, with the exception of the Residence Coastal and Rural Districts, all goats must be dehorned and all male goats must be neutered.*
4. *Selling Products. Milk, cheese, wool, live goats and sheep, and other goat and sheep products may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with New Hampshire RSA 184. Inspection and Sale of Dairy Products (with specific reference to RSA 184:84.V). Any signage shall conform with the standards for residential accessory signs.*

[Reference - <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]

D. *Forestry. All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law and RSA 227-J:9 in particular and RSA 79:10 Notice of intent to cut, and shall use as guidance for best forest management practices the “New Hampshire*

Best Management Practices for Erosion Control on Timber Harvesting Operations” 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended; and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area – including removal of logs, wood debris, and stumps, as appropriate – within 60 days.

E. Housing and Land Area Standards for Livestock. The standards given in Table 175-109.1 E. –Housing and Land Area Standards shall be met for all sites except for the accessory keeping of chickens and turkeys and of goats and sheep.

1. Structures for housing animals must have a roof and be enclosed on at least three sides.
2. All undeveloped land on the subject parcel, including fields and woods and any structures built for the animals, but excluding wetlands, counts toward the minimum area of land per animal.
3. The minimum area of land per animal may be reduced by special exception. When such an application for a special exception is received, the Planning and Zoning Department shall promptly notify the Agricultural Commission which shall have a reasonable opportunity to provide input on the application prior to the Zoning Board of Adjustment making a decision. The Agricultural Commission shall allow for all interested parties to comment on the application.
4. For animals not listed in the table and animals that are not standard-size animals which are permitted in the zoning district, the minimum area of housing per animal and the minimum land area per animal shall be established by the Zoning Administrator after consulting with the Agricultural Commission. The applicant is encouraged to present information on best management practices for the animal to the Agricultural Commission.
5. NH Code of Administrative Rules regulate the possession of wildlife, including the raising of deer, elk, and game birds. Annual permits to raise these animals, and others, are required by NH Fish and Game.
http://www.gencourt.state.nh.us/rules/state_agencies/fis800.html

Table 175-109.1 E. - Housing and Land Area Standards for Livestock

<u>ANIMAL</u>	<u>HOUSING - minimum area per animal (in square feet)</u>	<u>LAND - minimum area per animal (in square feet)</u>
<u>Horse</u>	<u>Box stalls: 45 square feet; 5 x 9 feet recommended</u>	<u>40,000</u>
<u>Cow</u>	<u>No requirement</u>	<u>40,000</u>
<u>Buffalo and Bison</u>	<u>No requirement</u>	<u>40,000</u>
<u>Ox and Steer</u>	<u>No requirement</u>	<u>40,000</u>
<u>Goat</u>	<u>20</u>	<u>8,500</u>
<u>Sheep</u>	<u>20</u>	<u>8,500</u>
<u>Pig</u>	<u>48</u>	<u>3,000</u>
<u>Llama</u>	<u>40</u>	<u>20,000</u>
<u>Alpaca</u>	<u>18</u>	<u>10,000</u>
<u>Chicken</u>	<u>3</u>	<u>No requirement</u>
<u>Turkey</u>	<u>6</u>	<u>100</u>
<u>Duck</u>	<u>3</u>	<u>15</u>
<u>Goose</u>	<u>6</u>	<u>18</u>
<u>Guinea Fowl</u>	<u>3</u>	<u>No requirement</u>
<u>Pheasant</u>	<u>5</u>	<u>25</u>
<u>Pigeon</u>	<u>2</u>	<u>No requirement</u>
<u>Quail</u>	<u>1</u>	<u>4</u>

ARTICLE XIII – WETLAND CONSERVATION OVERLAY DISTRICT

❖ Make the following addition to **Section 175-60. Permitted Uses in the WCOD.**:

175-60. Permitted Uses in the WCOD.

...B. The following uses or activities, including any necessary grading, shall be permitted in the WCOD if they are permitted in the underlying zoning district provided that the Zoning Administrator issues a permit for the activity after the Planning Board, with the advice of the Conservation Commission, determines that: a.) appropriate erosion control measures will be used, b.) any disturbed area will be restored, and c.) the activity will be conducted in a manner that minimizes any impact on the wetland:

...12. Aquaculture.

❖ Make the following changes to **Section 175-65. Performance Standards in the WCOD.**:

...C. *Agricultural Activity*

No soil disturbance, manure spreading, or mowing in conjunction with either commercial agriculture or accessory agricultural activities shall occur within the wetland or within seventy-five (75) feet of the reference line of the wetland. Commercial agriculture within the WCOD (except for aquaculture when approved under 175-60 B and by the appropriate state agency) shall be conducted in accordance with a management plan approved by the Strafford County Resource Conservation District as demonstrating Best Management Practices as set forth in “Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire” 2017, as amended (New Hampshire Department of Agriculture, ~~1993~~) and “Best Management Wetlands Practices for Agriculture,” as amended (New Hampshire Department of Agriculture, ~~1993~~).

D. *Forestry*

Any forestry activity-within the WCOD shall be in accordance with the Basal Area Law RSA 227-J:9 and shall use as guidance for best forest management practices ~~the~~ “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations ~~in New Hampshire~~” Department of Resources and Economic Development (~~DRED~~) 2004 as amended, and University of New Hampshire Cooperative Extension 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as ~~amended~~, amended; and “Good Forestry in the Granite State” (DRED).

ARTICLE XIV – SHORELAND PROTECTION OVERLAY DISTRICT

❖ Make the following addition to **Section 175-60. Permitted Uses in the WCOD.**:

175-71. Permitted Uses in the SPOD.

...B. The following uses or activities, including any necessary grading, shall be permitted in the SPOD provided that the Zoning Administrator issues a permit for the activity after the Planning Board, with the advice of the Conservation Commission, determines that: a) appropriate erosion control measures will be used, b) any disturbed area will be restored, and c) the activity will be conducted in a manner that minimizes any impact on the shoreland:

...11. Aquaculture.

- ❖ Make the following changes to **Section 175-76. Performance Standards in the SPOD.**:

...B. Agriculture

In no case shall any soil disturbance or animal grazing occur within seventy-five (75) feet of the reference line. No fertilizers (including manure), pesticides, or herbicides shall be applied within seventy-five (75) feet of the reference line. Any commercial agricultural activity within the SPO (except for aquaculture when approved under 175-60 B and by the appropriate state agency) shall be conducted in accordance with a management plan approved by the Strafford County Natural Resources Conservation Service as demonstrating Best Management Practices.

C. Forestry

Any forestry activity within the SPO shall be conducted in accordance with a forest management plan prepared by a New Hampshire state licensed professional forester and shall be in accordance with the Basal Area Law RSA 227-J:9 and shall use as guidance for best forest management practices ~~the~~ “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations ~~in New Hampshire~~” Department of Resources and Economic Development and University of New Hampshire Cooperative Extension 2016, DRED-2004 as amended, Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as “Good Forestry in the Granite State” (DRED). In no case shall any harvesting or clearing, except for the removal of dead or diseased trees, occur within fifty (50) feet of the reference line. If there is conflict among the standards, the most restrictive shall apply.

ARTICLE XXII – LANDSCAPING

- ❖ Make the following addition to **Sections 175-114 and 175-115.**

175-114. Purpose and Intent.

The purpose of this Landscaping Article is to establish procedures and practices governing the protection, installation and long-term maintenance of trees, vegetation and other landscape elements ~~within the limits of the Town of Durham.~~ Except where otherwise specifically stated, this article applies only to ~~for~~ subdivisions of land where a new street is involved, ~~until such time as appropriate provisions are added to the Subdivision Regulations.~~

~~175-115. General Requirements.~~

~~This article applies specifically to subdivisions of land and the construction of single-family and duplex dwellings.~~

175-115. Invasive Species.

No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, including all of their cultivars

and varieties, included in Table 3800.1, New Hampshire prohibited invasive species list, as amended, or included in Env-Wq 1303.02 list of Prohibited Exotic Aquatic Weeds as published by the New Hampshire Division of Environmental Services. This restriction does not apply to the removal or eradication of any invasive species in accordance with best management practices. This provision applies to all property in Durham.

[Reference: <https://www.agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>;

<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-wq1300.pdf>

AGRICULTURAL AMENDMENTS
PROPOSED

CATEGORY OF USES

II. RURAL AGRICULTURAL
USES See Article XX.1

Principal Uses

Crop Cultivation

Forestry

Farmers' Market

Livestock – large, keeping of

Horses, keeping of

Poultry, keeping of

Goats and sheep, keeping of

Fur-bearing animals, keeping of

Rabbits, keeping of

Bees, keeping of

Aquaculture

Agricultural Sales, commercial

Commercial agriculture

RESIDENTIAL ZONES

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

COMMERCIAL CORE ZONES

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

RESEARCH-INDUSTRY ZONES

Office Research - Route 108 (OR)
Mixed Use and Office Research (MUDOR)
Office Research Light Industry (ORLI)
Durham Business Park (DBP)

<i>Crop Cultivation</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Forestry</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Farmers' Market</i>	<i>SE</i>	<i>X</i>	<i>X</i>	<i>SE</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Livestock – large, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Horses, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Poultry, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Goats and sheep, keeping of</i>	<i>P²</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Fur-bearing animals, keeping of</i>	<i>P²</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>	<i>P²</i>
<i>Rabbits, keeping of</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Bees, keeping of</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P³</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Aquaculture</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Agricultural Sales, commercial</i>	<i>P</i>	<i>SE</i>	<i>SE</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Commercial agriculture</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>X</i>

AGRICULTURAL AMENDMENTS
PROPOSED

CATEGORY OF USES

RESIDENTIAL ZONES

COMMERCIAL CORE ZONES

RESEARCH-INDUSTRY ZONES

III. RESIDENTIAL USES

Uses Accessory To Any Residential Use

- ~~Accessory agricultural activities See Article XX~~
- ~~Accessory animal husbandry-livestock See Article XX~~
- ~~Accessory animal husbandry-goats See Article XX~~
- ~~Accessory animal husbandry-poultry See Article XX~~

	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
Accessory agricultural activities See Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry-livestock See Article XX	P	P	P	P	X	X	X	X	X	CU	CU	CU	X
Accessory animal husbandry-goats See Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X
Accessory animal husbandry-poultry See Article XX	P	P	P	P	X	X	X	X	X	P	P	P	X

Notes:

2. The use is permitted only on lots of 3 acres or greater. Roosters are permitted only in the Rural District.
3. In the Central Business District the use is permitted only on rooftops.

***Please note:**

- Proposed additions to the current table are shown like this.*
- ~~*Proposed deletions from the current table are shown like this.*~~

**Changes initiated by the Planning Board on September 9, 2020*

Proposed Amendments to the Durham Zoning Ordinance
Agriculture

****New language only as initiated by Planning Board on September 9, 2020****

This document includes only the new language proposed by the Planning Board for convenience only. One should review the full set of legal amendments which shows precisely the existing language to be removed and the proposed new language. Also, see the separate Table of Uses for proposed changes. Numbering for the various sections below is corrected on the complete set of amendments.

ARTICLE II – DEFINITIONS. Section 175-7

- ❖ Create the following new subsection under Section 175-7 with all definitions under AGRICULTURE:

AGRICULTURE – Including but not limited to all uses, accessory uses, structures, functions, and events as defined in RSA 21:34-a - Farm, Agriculture, Farming, as amended. (See the Table of Uses and Article XX.1 for specific standards and restrictions.)

Accessory Uses. The following are considered accessory uses to an allowed agricultural use:

- 1) The storage, use of, and spreading of soil amendments, as defined in this section.
- 2) The use and application of agricultural chemicals pursuant to state requirements.
- 3) The preparation for market, delivery to storage or to market, and delivery to carriers for transportation to market of any products and materials from the farm.
- 4) The transportation of farm workers.
- 5) The marketing and selling at wholesale or retail of any products from the farm, on-site and off-site, where not otherwise prohibited or regulated.
- 6) Irrigation of growing crops from private water supplies or public water supplies.
- 7) The use of dogs or other livestock guard animals for herding, working, and guarding livestock.
- 8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.
- 9) A farmstand situated on farm land owned by the operator of the farmstand provided that at least 35 percent of the product sales in dollar volume is attributable to products

produced on the farm or farms owned by the operator of the farmstand. Items not produced on the farm or farms owned by the operator are limited to agriculture-related products, specialty foods, gift items, crafts, and items reflecting agriculture and rural America.

- 10) Use of new technologies recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and appropriate agencies of the United States Department of Agriculture.
- 11) Agritourism, as defined in this section.

Agricultural Sales, Commercial. Sale of items specifically including agriculture-related products, trees, specialty foods, gift items, crafts, and items reflecting agriculture and rural America. (This use need not be located on a farm property, in contrast to Farmstand, Accessory, below.)

Agritourism. Attracting visitors to a farm to attend events and activities that are accessory, related and subordinate to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, and active involvement in the activity of the farm.

Animal Feedlot. A commercial agricultural establishment consisting of confined feeding areas and related structures used for the finishing of livestock.

Aquaculture. The commercial raising, harvesting, and sale of fish and other aquaculture products.

Bees, Keeping of. The raising of bees and cultivation and sale of bee products.

Best Management Practices For Agriculture (BMPs) – Those practices and procedures described in the Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, distributed and periodically updated by the New Hampshire Department of Agriculture, Markets, and Food, as revised. BMPs also include other practices and procedures recommended by the University of New Hampshire Cooperative Extension; the New Hampshire Department of Agriculture, Markets, and Food; and the United States Department of Agriculture. Other documents providing guidance for agricultural practices and procedures endorsed by the Durham Agricultural Commission as appropriate references for best management practices are also deemed BMPs.

[Reference - <http://agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>]

Chickens and Turkeys, Keeping of - Accessory Use. The breeding and raising of chickens and turkeys for noncommercial purposes in conjunction with a residence.

Crop Cultivation. The cultivation, conservation, and tillage of the soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, viticultural, and

horticultural crops and any other plant, including greenhouse and high tunnel crops, and tree products and any other plant that can be legally grown and harvested extensively for profit or subsistence.

Farm or Farming. Any land, buildings, or structures on or in which agriculture and farming activities are conducted, including the residence(s) of owners, occupants, and employees located on the subject land. This includes all farm outbuildings and any other structures used in the farm operations. An operation may be deemed a commercial farm where at least \$10,000 of agricultural products is produced and sold in a year.

Farmers' Market. An event or series of events at which two or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale include, but are not limited to, products of agriculture, as defined in RSA 21:34-a. A farmers' market does not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.

Farmstand, Accessory. A farmstand as defined under Accessory Uses, above. (Contrast to Agricultural Sales, Commercial, above.)

Forestry. The production, cultivation, growing, harvesting, and sale of any trees or nursery stock.

Fur-bearing Animals, Keeping of. The raising, breeding, and sale of domesticated strains of fur-bearing animals, such as mink, ermine, and chinchilla.

Goats and Sheep, Keeping of. The raising, breeding, and sale of goats and sheep.

Goats and Sheep, Keeping of – Accessory Use. The raising and breeding of goats and sheep for noncommercial purposes in conjunction with a residence.

Horses, Keeping of. The commercial breeding, boarding, raising, training, riding instruction, and selling of horses, mules, donkeys, and other equidae.

Horses, Keeping of - Accessory Use. The noncommercial breeding, boarding, raising, and riding of horses, mules, donkeys, and other equidae.

Livestock – Large, Keeping of. The raising, breeding, or sale of beef and dairy cattle, steer, oxen, swine, domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).

Poultry, Keeping of. The raising, breeding, and sale of poultry, including chickens, turkeys, ducks, geese, and gamebirds.

Rabbits, Keeping of. The raising, breeding and sale of rabbits.

Soil Amendments. Including commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.

❖ Add the following definitions as separate entries:

AND – When used in a series of allowed activities, such as “Dogs may be used for herding, working, and guarding livestock,” means “and/or,” such that any and all of the activities are allowed, individually or in combination.

OPACITY, VERTICAL – The percentage of the area of a fence or wall, covered by boards, slats, metal links, and other materials, through which one cannot see. Vertical opacity is measured from an elevation drawing.

SEPTAGE - Material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, but not including sewage sludge from public treatment works and industrial waste and any other sludge. (As defined in RSA 485-A:2.)

SEWAGE - The water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present. (As defined in RSA 485-A:2.)

SHALL – Where the term “shall” is used, the person or party is required to do what is referred to.

SLUDGE - The solid or semisolid material produced by water and wastewater treatment processes, but not including domestic septage. However, sludge which is disposed of at solid waste facilities as permitted by the New Hampshire Division of Environmental Services is considered solid waste. (As defined in RSA 485-A:2.)

TABLE OF USES

❖ See separate document.

❖ Create a new Article XX.1 – Standards for Agricultural Uses to read as follows.

ARTICLE XX.1 – STANDARDS FOR AGRICULTURAL USES

175-109.1. Purpose.

The purpose of this article and of other provisions in this chapter related to agriculture is to:

- A. Help preserve a working landscape of farms, gardens, and forests;
- B. Support local farms, farmers, and food production;
- C. Foster long-term economic and environmental sustainability and resilience; and
- D. Fulfill the goals included in the Agricultural Resources Master Plan and those pertinent to agriculture established by the Durham Town Council

175.109.2. Compliance Required.

This article establishes performance standards for agricultural uses. These standards must be met for all activities involving the specified uses.

- A. **General Provisions.** The following provisions apply to all agricultural uses and activities:
 - 1. See definitions of various agricultural activities under AGRICULTURE in Article II. See Agricultural Uses in the Table of Uses. There is no set limit on the number of principal and accessory uses related to agriculture that may be established on a lot (though other requirements may effectively serve to limit the number of uses). Some of the agricultural uses included under Principal Uses in the Table of Uses may also be considered accessory uses subject to the same requirements as principal uses, as reasonably determined by the Zoning Administrator.
 - 2. **Best management practices.** Best management practices shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture (per RSA 21:34-a). Best management practices shall be applied to all pertinent aspects of the farm, including but not limited to the following:
 - a. Manure, compost from manure, and odor from animals. Manure must be removed from the structure and immediate area housing animals and composted or disposed of in a timely manner.
 - b. Feed. Feed should be stored in fully enclosed and secured containers in order to prevent pests and predators.
 - c. Slaughtering of animals.

2. Site plan review.
 - a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below). Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for non-commercial agriculture.
 - b. Site plan review is not required for uses that are accessory to single-family and duplex residences nor for temporary farmstands. The establishment, expansion, or change of the uses specified under Agricultural Uses in the Table of Uses is exempt from site plan review (though physical changes to the site ordinarily reviewed, such as building construction, are subject to review), with the exception of Farmers' Markets; Agricultural Sales, Commercial; and Aquaculture which are subject to site plan review.
 - c. Applicants for projects related to agriculture may request waivers from specific provisions of the site plan requirements as allowed. Such projects may also be eligible for review under the Minor Site Plan process.
3. Minimum acreage is established in the Table of Uses for specific agricultural uses (Additional standards are given in Table 109.1E). In cases where minimums are established for more than one use occurring on a property, the minimum acreages are not added together. For example, if 3 acres is required for each of two uses, then 3 acres will be sufficient to accommodate both uses.
4. All animals must be contained on the subject lot. It is the responsibility of the property owner to contain the animals through appropriate means which may or may not include fencing.
5. Fences used for agricultural purposes, such as the containment of livestock and poultry or the protection of crops, may be located at the property line and need not meet setbacks otherwise applicable to fencing. The vertical opacity of any such fences that are higher than six feet shall not exceed 25% (for the purpose of maintaining an open view through the fence).
6. Keeping at least two of any species of animal is strongly encouraged, but not mandatory (except where specifically required). Virtually all animals will be healthier in the presence of companions.

7. Housing structure. An appropriate structure for housing animals shall be provided in accordance with University of New Hampshire Cooperative Extension Housing and Space Guidelines. The structure shall be designed to prevent access from predators. Chickens and turkeys shall be maintained in the structure from sunset to sunrise.

[Reference -

http://extension.unh.edu/resources/files/Resource000471_Rep493.pdf]

8. Housing structure setbacks. Structures for housing animals shall meet all setbacks applicable to structures. The structure shall not be placed in the front court (including for corner lots). However, in the Rural Zoning District the structure may be placed in the front court provided it is set back at least 50 feet from the front (or side, for corner lots) property line. In the Residence A and Residence B Districts, the structure shall be reasonably screened from the road. All requirements in this subsection may be changed by special exception.
9. Guidance from Agricultural Commission. Landowners and others with questions or concerns related to this ordinance and to agriculture in general are encouraged to speak with the Durham Agricultural Commission. Interested parties should contact the Town Planning Department.
10. Complaints. When a complaint is issued regarding any agricultural use, at the option of the Town's enforcement official, the complaint may be referred to the Agricultural Commission which may then investigate the complaint and seek to resolve it, as appropriate. When such a complaint is reviewed by the Agricultural Commission, regardless of the outcome of the Agricultural Commission's review, the Town's enforcement official shall nonetheless maintain responsibility for ultimate disposition of the complaint, in accordance with Town law.
11. Housing and Land Area Standards. See section E below.
12. Irrigation. Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham.
13. Number of Buildings. There is no set limit on the number of allowed agricultural buildings, whether principal or accessory buildings, on lots of three acres or greater (This provision overrides several general limitations included elsewhere in this ordinance).

14. Permits. A building, fence, and/or sign permit may be required depending on specific circumstances. See the Code Administrator for clarification, where appropriate.

B. **Chickens and Turkeys, Keeping of – Accessory Use.** The following terms and conditions apply to the keeping of chickens and turkeys as an accessory use:

1. Single/Two Family. The keeping of chickens and turkeys is permitted as an accessory use to single-family and duplex residences only.
2. Roosters. Roosters are permitted only on lots greater than 20,000 square feet located in the Rural Zoning District.
3. Number of animals. A maximum of 12 animals may be maintained per lot.
4. Selling. Eggs, chickens and turkeys may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with the New Hampshire Department of Agriculture, Markets, and Food's Guidelines for Selling Shell Eggs and any signage conforms with the standards for residential accessory signs.

Reference - <https://www.agriculture.nh.gov/publications-forms/documents/shell-egg-guidelines.pdf>]

C. **Goats and Sheep, Keeping of – Accessory Use.** The following terms and conditions apply to the keeping of Goats and Sheep – Accessory Use:

1. Single/Two Family. The keeping of goats and sheep is permitted as an accessory use to Single-Family and Duplex Residences only.
2. Number of animals. There shall be a minimum of two goats or two sheep kept on the property (Goats and sheep are herd animals and need companionship). No more than two goats or two sheep may be kept on the property in the Residence A and Residence B districts. See Table 175-109.1 E – Housing and Land Area Standards for Livestock for requirements in other districts.
3. Permitted goats. In all zones, with the exception of the Residence Coastal and Rural Districts, only miniature, dwarf, or pygmy breed of goats may be kept on lots that are smaller than 80,000 square feet. Any kind of goat may be kept in the Residence Coastal and Rural Districts and on lots in other zones that are 80,000 square feet or larger. In all zones, with the exception of the Residence Coastal and Rural Districts, all goats must be dehorned and all male goats must be neutered.
4. Selling Products. Milk, cheese, wool, live goats and sheep, and other goat and sheep products may be sold on the premises provided the products are produced on the subject property and the activity is conducted in accordance with New Hampshire

RSA 184. Inspection and Sale of Dairy Products, ~~with specific reference to RSA 184:84.V~~ (with specific reference to RSA 184:84.V). Any signage shall conform with the standards for residential accessory signs.

[Reference - <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XIV-184.htm>]

- D. **Forestry**. All forestry activities shall be conducted in accordance with RSA 227-J, the Basal Area Law and RSA 227-J:9 in particular and RSA 79:10 Notice of intent to cut, and shall use as guidance for best forest management practices the “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” 2016, as amended; Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended; and Good Forestry in the Granite State (DRED). Where forestry activity or significant tree removal has occurred within 200 feet of any public street or property boundary, the property owner shall reclaim the area – including removal of logs, wood debris, and stumps, as appropriate – within 60 days.
- E. **Housing and Land Area Standards for Livestock**. The standards given in Table 175-109.1 E. –Housing and Land Area Standards shall be met for all sites except for the accessory keeping of chickens and turkeys and of goats and sheep.
1. Structures for housing animals must have a roof and be enclosed on at least three sides.
 2. All undeveloped land on the subject parcel, including fields and woods and any structures built for the animals, but excluding wetlands, counts toward the minimum area of land per animal.
 3. The minimum area of land per animal may be reduced by special exception. When such an application for a special exception is received, the Planning and Zoning Department shall promptly notify the Agricultural Commission which shall have a reasonable opportunity to provide input on the application prior to the Zoning Board of Adjustment making a decision. The Agricultural Commission shall allow for all interested parties to comment on the application.
 4. For animals not listed in the table and animals that are not standard-size animals which are permitted in the zoning district, the minimum area of housing per animal and the minimum land area per animal shall be established by the Zoning Administrator after consulting with the Agricultural Commission. The applicant is encouraged to present information on best management practices for the animal to the Agricultural Commission.

5. NH Code of Administrative Rules regulate the possession of wildlife, including the raising of deer, elk, and game birds. Annual permits to raise these animals, and others, are required by NH Fish and Game.
http://www.gencourt.state.nh.us/rules/state_agencies/fis800.html

(over)

Table 175-109.1 E. - Housing and Land Area Standards for Livestock

ANIMAL	HOUSING - minimum area per animal (in square feet)	LAND - minimum area per animal (in square feet)
Horse	Box stalls: 45 square feet; 5 x 9 feet recommended	40,000
Cow	No requirement	40,000
Buffalo and Bison	No requirement	40,000
Ox and Steer	No requirement	40,000
Goat	20	8,500
Sheep	20	8,500
Pig	48	3,000
Llama	40	20,000
Alpaca	18	10,000
Chicken	3	No requirement
Turkey	6	100
Duck	3	15
Goose	6	18
Guinea Fowl	3	No requirement
Pheasant	5	25
Pigeon	2	No requirement
Quail	1	4

ARTICLE XIII – WETLAND CONSERVATION OVERLAY DISTRICT

See full set of draft amendments for specific changes.

ARTICLE XIV – SHORELAND PROTECTION OVERLAY DISTRICT

See full set of draft amendments for specific changes.

(over)

ARTICLE XXII – LANDSCAPING

❖ Reword these two sections as follows.

175-114. Purpose and Intent.

The purpose of this Landscaping Article is to establish procedures and practices governing the protection, installation and long-term maintenance of trees, vegetation and other landscape elements. Except where otherwise specifically stated, this article applies only to subdivisions of land where a new street is involved.

175-115. Invasive Species.

No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, including all of their cultivars and varieties, included in Table 3800.1, New Hampshire prohibited invasive species list, as amended, or included in Env-Wq 1303.02 list of Prohibited Exotic Aquatic Weeds as published by the New Hampshire Division of Environmental Services. This restriction does not apply to the removal or eradication of any invasive species in accordance with best management practices. This provision applies to all property in Durham.

[Reference: <https://www.agriculture.nh.gov/publications-forms/documents/prohibited-invasive-species.pdf>;

<https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-wq1300.pdf>]

*****NEW TEXT ONLY FOR
AGRICULTURE AMENDMENTS
INITIATED BY THE PLANNING
BOARD**

CATEGORY OF USES	RESIDENTIAL ZONES				COMMERCIAL CORE ZONES					RESEARCH-INDUSTRY ZONES			
	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe's Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORLI)	Durham Business Park (DBP)
<i>Uses Accessory to Residential Uses</i>													
Chickens and Turkeys, keeping of	P	P	P	P	X	X	X	X	P	P	P	P	X
Goats and Sheep, keeping of	P	P	P	P	X	X	X	X	P	P	P	P	X
Horses, keeping of	P ²	P ²	P ²	P ²	X	X	X	X	P ²	P ²	P ²	P ²	P ²
<i>Uses Accessory to Farms</i>													
Farmstand	P	X	P	P	P	X	X	P	P	P	P	P	X

Notes

- 2. The use is permitted only on lots of 3 acres or greater. Roosters are permitted only in the Rural District.**
- 3. In the Central Business District the use is permitted only on rooftops.**

**The proposed table of uses was initiated by the Planning Board on September 9, 2020*

STATE DEFINITION OF AGRICULTURE

21:34-a Farm, Agriculture, Farming.

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming operations or activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock; in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in the operations or activities named in paragraph II(a) or (b) of this section or any combination of such individual operations or activities.

II. The words "agriculture" and "farming" mean all operations or activities of a farm, including:

(a)(1) The cultivation, conservation, or tillage of the soil.

(2) The storage and use of or spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.

(3) The use of or application of agricultural chemicals.

(4) The husbandry of livestock which shall include but not be limited to all beef or dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), or reindeer (*Rangifer tarandus*).

(5) The husbandry, boarding, training, or riding instruction of equines.

(6) The husbandry and harvesting aquaculture products including fresh or salt water finfish, shellfish, or other aquatic organisms grown for consumption or processing.

(7) The husbandry of poultry or game birds or production of eggs.

(8) The husbandry of bees or production of honey.

(9) The husbandry of domesticated strains of fur-bearing animals.

(10) The production of greenhouse crops.

(11) The production, cultivation, growing, or harvesting of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees or tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any plant that can be legally grown or harvested extensively for profit or subsistence.

(over)

(b) Any practice or activity on the farm incident to, ancillary to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(2) The transportation to the farm of supplies and materials.

(3) The transportation of farm workers.

(4) Forestry or lumbering operations.

(5) Marketing or selling at wholesale or retail, regardless of the manner or form of the transaction, any livestock or products derived principally from the production of the farm, including, but not limited to items listed in subparagraph (a), whether on-site or off-site, provided that marketing such products is not specifically prohibited by local regulations. For the purposes of this section marketing shall include agritourism, which means attracting visitors to a farm to attend events or activities that are accessory uses to the primary farm operation, including, but not limited to, being provided a meal, making overnight stays, enjoyment of the farm environment, education which shall be instruction or learning about the farm's operations, or active involvement in the activities of the farm.

(6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

(7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II(a)(4).

(8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.

III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

IV. Management practices on the farm shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture.

V. The term "farmers' market" means an event or series of events at which 2 or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture, as defined in paragraphs I-IV. "Farmers' market" shall not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.