



TOWN OF DURHAM

8 Newmarket Road

Durham, NH 03824

Tel: 603-868-5571

Fax: 603-868-1858

www.ci.durham.nh.us

NOTICE: Although members of the Town Council will be meeting in the Council chambers, the Council meetings are still available for members of the public to participate via Zoom or in-person.

AGENDA

DURHAM TOWN COUNCIL

MONDAY, MAY 20, 2024

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. Town Council grants permission for fewer than a majority of Councilors to participate remotely
- III. Roll Call of Members. Those members participating remotely state why it is not reasonably practical for them to attend the meeting in-person
- IV. Approval of Agenda
- V. Special Announcements
- VI. Public Comments (*) - **Please state your name and address before speaking**
- 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 Durham Town Council authorize the Administrator to sign the Town of Durham's first half 2024 Property Tax Warrant and direct the Tax Collector to collect partial payment of property taxes assessed on April 1, 2024 in the amount of \$18,996,709?
 - B. Shall the Town Council, Upon Recommendation of the Administrator, Authorize the Transfer of American Rescue Plan Act (ARPA) Funding Totaling \$143,863.86, Previously Budgeted in the Water Capital Fund, to the General Capital Fund for the Madbury Roadway, Drainage and Sidewalk Capital Project?
 - C. Shall the Town Council, Upon Recommendation of the Administrator, Award the Construction Contract for the Madbury Road Complete Streets Phase I Roadway, Drainage, Streetscape Project to G.W. Brooks and Sons, Inc. of Freedom, NH for a Total Bid Price Not to Exceed \$2,602,681.80, Subject to Available Funding?

- D. Shall the Town Council, Upon Recommendation of the Administrator, Approve the Construction Inspection, Design and Administration Contract for the Madbury Road Complete Streets Phase I Roadway, Drainage, Streetscape Project with VHB Engineers of Bedford, NH in the amount of \$296,080, Subject to Available Funding?
- E. Shall the Town Council, Upon Recommendation of the Administrator, Award the Paving Contract for the Madbury Road Complete Streets Phase I Roadway, Drainage, Streetscape Project to Continental Paving, Inc. of Londonderry, NH for a Total Bid Price Not to Exceed \$256,499.80, Subject to Available Funding?
- F. Shall the Town Council, upon recommendation of the Administrator, authorize the transfer of \$2,828 from revenues and expenditures of the Capital Equipment Accounts #07-2306-801 and #07-2406-801 to the 2023 Aerial Bucket Truck Replacement Purchase Account #07-2322-801?
- G. Shall the Town Council, upon recommendation of the Administrator, authorize the purchase of a new 2024 Ford F-550 Cab + Chassis, Brand FX Service Body, and Versalift Aerial Lift from CUES, Inc. of Amherst, NH in the amount of \$137,828 from the 2023 Aerial Bucket Truck Replacement Purchase Account #07-2322-801?
- H. Shall the Town Council unseal the Nonpublic Session minutes from the year 2003 dated April 7 and December 1, and from the year 2004 dated April 19, October 4, December 6 and December 20?

IX. Committee Appointments

Shall the Town Council, upon recommendation of the Library Board of Trustees Chair, Appoint Katharine Gatcomb, 22A Simons Lane, to fill an Alternate Membership on the Library Board of Trustees with a term expiration of April 2025?

X. Presentation Items

Presentation by Ice Rink Manager, Bill Page on the 2023-2024 skating season.

XI. Unfinished Business

Public Hearing and Action on Ordinance #2024-03 Amending Chapter 68 “Fire Prevention” of the Durham Town Code To Repeal Article III “Sprinkler Code.”

XII. Approval of Minutes – April 15, 2024

XIII. Councilor and Administrator Roundtable

XIV. New Business

XV. Continue discussion and possible adoption of the draft FY 2024-25 Town Council goals.

XVI. Nonpublic Session (if required)

XVII. Extended Councilor and Administrator Roundtable (if required)

XVIII. 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.*



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AGENDA ITEM: **#8A** *TS*

DATE: May 20, 2024

COUNCIL COMMUNICATION

INITIATED BY: Rachel Deane, Town Clerk-Tax Collector
Jim Rice, Assessor

AGENDA ITEM: SHALL THE TOWN COUNCIL AUTHORIZE THE ADMINISTRATOR TO SIGN THE TOWN OF DURHAM'S 1ST HALF 2024 PROPERTY TAX WARRANT AND DIRECT THE TOWN CLERK-TAX COLLECTOR TO COLLECT PARTIAL PAYMENT OF PROPERTY TAXES ASSESSED ON APRIL 1, 2024 IN THE AMOUNT OF \$18,996,709?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's review is a draft tax warrant authorizing the Town Clerk-Tax Collector to collect partial payment of property taxes assessed on April 1, 2024 in the amount of \$18,996,709. The tax warrant and a complete list of assessed properties and amounts due for the first half of 2024 property tax billing are available in the Town Clerk-Tax Collector's office.

LEGAL AUTHORITY:

RSA 76:15-b allows the Town Council, by majority vote, the ability to adopt the provisions of RSA 76:15-a Semi-Annual Collection of Taxes.

RSA 41:35 outlines the duties for the collector of taxes.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby authorize the Administrator to sign the Town of Durham's first half 2024 Tax Warrant and directs the Town Clerk-Tax Collector to collect partial payment of property taxes assessed on April 1, 2024 in the amount of \$18,996,709.

**TAX COLLECTOR'S WARRANT
STATE OF NEW HAMPSHIRE**

Strafford ss

TO Rachel Deane, Collector of Taxes, for the Town of Durham in said
County

In the name of said State, you are directed to collect the taxes in the list herewith
committed to you, amount in all the sum of

**Eighteen Million, Nine Hundred Ninety-Six Thousand,
Seven Hundred Nine Dollars and Zero Cents**

(\$18,996,709)

with interest at eight percent (8%) beginning thirty (30) days from the mailing of
the tax bills.

And we further order you to pay all monies collected, to the Treasurer of said
Town at least on a weekly basis when receipts exceed \$1,500.00, or more often
when directed by the Commissioner of Revenue Administration.

As attested by the Town Clerk/Tax Collector, the list on the following pages is a
correct list of the assessment of the County, Town, Precinct, Highway and School
Taxes for the year 2024 upon the ratable estates in said Durham and all taxes
assessed on the real estate in said Town of persons and corporations not
residents therein as made by us, the Council of said Durham.

ATTEST: _____
Rachel Deane, Town Clerk-Tax Collector

Given under our hands and seal at Durham this 21st day of May, 2024.

Todd I. Selig, Administrator
Per vote of the Durham Town Council on 5/20/2023



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AGENDA ITEM: **#8B, C, D & E TS**

DATE: May 20, 2024

COUNCIL COMMUNICATION

INITIATED BY: Richard Reine, Director of Public Works

AGENDA ITEM:

1. SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AUTHORIZE THE TRANSFER OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDING TOTALING \$143,863.86, PREVIOUSLY BUDGETED IN THE WATER CAPITAL FUND, TO THE GENERAL CAPITAL FUND FOR THE MADBURY ROADWAY, DRAINAGE AND SIDEWALK CAPITAL PROJECT?

AND

2. SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AWARD THE CONSTRUCTION CONTRACT FOR THE MADBURY ROAD COMPLETE STREETS PHASE I ROADWAY, DRAINAGE, STREETScape PROJECT TO G.W. BROOKS AND SONS, INC. OF FREEDOM, NH FOR A TOTAL BID PRICE NOT TO EXCEED \$2,602,681.80, SUBJECT TO AVAILABLE FUNDING?

AND

3. SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, APPROVE THE CONSTRUCTION INSPECTION, DESIGN AND ADMINISTRATION CONTRACT FOR THE MADBURY ROAD COMPLETE STREETS PHASE I ROADWAY, DRAINAGE, STREETScape PROJECT WITH VHB ENGINEERS OF BEDFORD, NH IN THE AMOUNT OF \$296,080, SUBJECT TO AVAILABLE FUNDING?

AND

4. SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AWARD THE PAVING CONTRACT FOR THE MADBURY ROAD COMPLETE STREETS PHASE I ROADWAY, DRAINAGE, STREETScape PROJECT TO CONTINENTAL PAVING , INC. OF LONDONDERRY, NH FOR A TOTAL BID PRICE NOT TO EXCEED \$256,499.80, SUBJECT TO AVAILABLE FUNDING?

PREPARED BY: Richard Reine, Director of Public Works

PRESENTED BY: Richard Reine, Director of Public Works

AGENDA DESCRIPTION:

The purpose of this Council Communication is to request the Town Council's approval to award the Construction, Roadway Paving and Engineering Services Contracts for the Phase I Roadway, Drainage and Streetscape Complete Streets Project located on Madbury Road. The Phase I project limits extend from the intersection of Main Street at Madbury Road to the intersection of Madbury Road and Garrison Ave.

PROJECT BACKGROUND AND ROADWAY CONDITION:

Madbury Road was transferred to Town ownership from the State of New Hampshire when US Route 4 was upgraded many years ago. The roadway was last paved in 2009 at which time it received an overlay treatment. The entire project limits of all phases include the main corridor, which is approximately 8,200 feet in length, connecting Main Street in downtown Durham with US Route 4 and Pendexter Road. The roadway is considered rural in character, with abutting homes and residential neighborhoods. The roadway serves as a major corridor in Durham with traffic counts exceeding 5,600 vehicles per day (VPD). Madbury Road provides pedestrian, cyclist, multi-modal and transit access to the public and UNH students, along with middle school and high school aged walkers, bicyclists, and users of micromobility devices attending the Oyster River Middle and High Schools, located just a few blocks away on Coe Drive.



Photo showing intersection of Main Street and Madbury Road in foreground with Madbury Road extending North.

Currently the roadway is in very poor condition with significant pavement raveling, delamination, longitudinal and alligator cracking, rutting, settlement, and road base failure. The stormwater system is undersized with drainage structures and piping in an excessively deteriorated condition. Over the past year Durham Public Works has replaced nearly 80 feet of drainage pipe due to failures resulting in open sink holes within the roadway.

The sidewalks and curb ramps are non-compliant relative to ADA requirements and sidewalk connectivity in certain sections is inadequate. Curb reveal is minimal or non-existent, which creates an unpleasant and precarious experience for pedestrians and cyclists. Traffic calming and pedestrian safety enhancements have been installed over time at various locations throughout the corridor but require additional measures and improvements for effectiveness and to address growth in multi-modal transportation usage.

The Madbury Road Complete Streets Project has been designed to address these deficiencies. The preliminary design phase of the project included multiple project updates using a web-based project specific story map, Friday Update notices, public meetings, and open houses to gather input from residents, project abutters and interested parties. The Complete Streets design approach required the project team to design the improvements in a manner that prioritized the goal of enabling safe use and supporting mobility for people of all ages and abilities, regardless of whether they are travelling as drivers, pedestrians, bicyclists, utilizing micromobility devices, or as public transportation riders.

In addition, the project team continues to work closely with the New Hampshire Department of Transportation (NHDOT) to ensure coordination between the Madbury Road Complete Streets Project and the NHDOT's U.S. Route 4 at Madbury Road Intersection Improvement Project pictured below and scheduled for construction currently in 2026. For more information about the NHDOT U.S. Route 4 Intersection Improvements, please visit the NHDOT website and project presentation [Here](#).



The Phase 1 Madbury Road Complete Streets Roadway, Drainage, Streetscape Project includes reconstruction of the roadway and stormwater collection system using both conventional and low impact development (LID) stormwater treatment methods and can be viewed at the Project's Informational Story Map located [HERE](#).

As depicted in the renderings below, the Phase I segment includes construction of stone masonry retaining walls to support the installation of a varying width 8' - 10' wide Multi-Use pathway on the eastern side of Madbury Road, reconstruction of other sidewalks, installation of decorative lighting for the corridor, installation of traffic calming measures, inclusive of bump outs at three pedestrian crossings, and landscaping and hardscape improvements. Upon Town Council award and execution of contracts by the Administrator, project contractor G.W. Brooks is prepared to commence construction of the 1st segment of this Phase 1 project, which extends from the Pettee Brook island to Garrison Avenue . Substantial completion for this segment will take place during the 2024 construction season with segment 2 between Main Street and the Pettee Brook traffic island being completed early in the 2025 construction season. During this construction period roadway detours and alternate lane traffic patterns will be in place.



Installation of Traffic Calming Pedestrian Bump outs at Woodman Road and 21 Madbury Road



BID SUMMARY:

The project design and construction improvements have been separated into four independent and distinct project phases with capital funding programmed for each, beginning in 2023 and occurring in each subsequent year through 2026/2027. Each phase includes the following components:

- water and sewer distribution and collection system rehabilitation and reconstruction
- roadway, sidewalk, and multi-use path reconstruction
- streetscape, lighting, traffic calming and Complete Streets improvements
- stormwater and drainage system reconstruction

As of this time, two construction contracts have been awarded, which include the reconstruction of two large culverts at Littlehale Creek, where it passes beneath Madbury and Edgewood Roads. This project was awarded to Severino Construction, with work currently underway.

The second contract was recently awarded by the Council to Cardillo and Sons Construction and involves the reconstruction of water and sewer infrastructure, with total project limits between Davis Court and Main Street, inclusive of Madbury Court. This work is scheduled to proceed beginning May 27th, 2024.

On April 1, 2024, Durham Public Works received one bid for Phase 1 Roadway, Drainage, Streetscape Project which spans approximately 1,540 feet between Main Street and Garrison Ave. A total of five potential bidders attended an earlier pre-bid meeting held on March 19, 2024, and expressed an interest in submitting bids. However, due to prior project commitments from the other general contractors, G.W. Brooks was ultimately the only firm which submitted a competitive bid. Given only one competitive bid was received, the Town's consultant VHB conducted a thorough bid analysis for the project closely examining unit costs and quantities to ensure public funds will be spent responsibly. VHB has determined that G.W. Brooks has the requisite project experience and has successfully completed projects of similar or greater complexity. Furthermore G.W. Brooks has submitted a responsible bid and unit prices were consistent with current market prices and recommends award to G.W. Brooks.

Receiving one bid also provided a significant benefit to the Town, in creating an opportunity to work collaboratively with G.W. Brooks to further value engineer the project and realize substantial cost savings. This includes deletion of all the paving-related work from the G.W. Brooks contract, allowing the Town to contract separately with its established paving contractor, Continental Paving, through an existing contract. This results in substantial savings and ensures consistent high-quality paving and workmanship on this critical corridor. Please note, Continental Paving has provided roadway and sidewalk paving services to the Town of Durham for the past 13 years and has consistently performed in an outstanding manner while providing extremely competitive pricing and the highest level of workmanship, project coordination and materials. Unlike many paving contractors in the region, Continental owns and operates their own asphalt plants, equipment, and personnel to perform the majority of the project scope. This eliminates the reliance on subcontractors, which would have the potential to cause delays and introduce lesser quality paving materials. Continental has agreed to offer an extraordinarily competitive 2024 base price of \$86.43 per ton for hot mix asphalt in place for this contract with a liquid asphalt base price currently at \$665 per ton. This price per ton is comparable to Continental's 2023 pricing the Town received. Notwithstanding this very competitive price, Durham Public Works verified the

current pricing being awarded on recent projects and contracts in the region and once again found this offer to be extremely favorable.

The latest contract awards indicate pricing has escalated dramatically as compared to the price being offered to Durham Public Works. The Town of Dover received a low bid at their March 21, 2024, bid opening of \$105 per ton for binder coarse pavement and \$115 per ton for wearing coarse pavement. In fact, it's been reported that the Towns of Durham, Atkinson, and Merrimack are the only Town's with pavement costs under \$90 per ton so far during this cycle.

Durham Public Works plans to bring forward a recommendation to award Continental Paving the balance of the 2024 Road Program contract to leverage these cost savings at an upcoming Town Council meeting.

Based on the bids received and the Department's and VHB's review of the materials submitted, with respect to the contract requirements, the Department recommends the Council award construction contracts to G.W. Brooks and Sons, Inc in an amount not to exceed \$2,602,681.80 and Continental Paving, Inc. in an amount not to exceed \$256,499.80.

Regarding Engineering Services during construction, VHB Engineers and their subconsultants were selected to provide engineering design, permitting and construction inspection/contract administration services following a qualifications-based selection process which began when Durham Public Works advertised a Request for Qualifications (RFQ) in 2021. Several firms were interviewed in March of 2021 by a panel comprised of Town Council Chair at the time, Katherine Marple, Public Works Director, Rich Reine and Town Engineer April Talon. Following these interviews, the panel reached consensus that VHB was the most advantageous firm to enter into scope and fee negotiations with. VHB was awarded a contract and continues to provide professional engineering services for the Madbury Road Complete Streets Project. Following receipt of construction bids and finalization of project scope and timeline, Durham Public Works requested VHB provide a fee and scope proposal for continued construction inspection, design, and contract administration. Durham Public Works recommends the Town Council award the Construction Inspection, Design and Administration Contract for the Madbury Road Complete Streets Phase I Roadway, Drainage and Streetscape Project to VHB Engineers of Bedford, NH in the Amount of \$296,080.

LEGAL AUTHORITY:

Section 4-20 of the Administrative Code of the Town of Durham requires every purchase or contract in excess of thirty thousand (\$30,000) dollars shall be made only after receipt of publicly invited sealed competitive bids on uniform specifications and that all purchases in excess of sixty-five thousand (\$65,000) dollars requires approval by the Administrator and Town Council by affirmative vote.

Section 4-21 of the Administrative Code of the Town of Durham requires that professional services contracts (architecture, engineering, construction management,

risk management, financial and auditing and other professional services or consulting work) of thirty-five thousand (\$35,000) dollars or more may be entered into after receiving proposals from various interested firms, evaluating those proposals and anticipated quality of service to be rendered, and Town Administrator recommendation to and approval by the Town Council.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

Construction Contract Amount - G. W. Brooks & Son Inc.	\$2,602,681.80
Construction Contract Amount - Continental Paving Inc.	\$ 256,499.80
Const. Inspection, Design and Admin Contract Amount - VHB Inc.	<u>\$ 296,080.00</u>
Total Award	\$3,155,261.60

***Funding Note:** The Department proposes to utilize the remaining balance of \$143,863.72 of American Rescue Plan Act (ARPA) funding received in 2021/2022 from the Federal Treasury for the limited purposed of stormwater, water and wastewater infrastructure projects. This funding is currently allocated to the water fund and was budgeted for the Emerson Road water main project. With the completion of the project under budget, this funding is available and will require a transfer of funds by the Town Council to the General Capital Fund for stormwater infrastructure use within the Madbury Road project. This transfer is accomplished through the Town Council approval of Motion 1.*

First Funding Matrix Below Indicating Transfer of Funds from ARPA Capital Water Fund to Capital General Fund for Madbury Roadway, Drainage and Sidewalk Project

ACCOUNT	TITLE	BUDGETED	EXPENSED/ ENCUMBERED TO DATE	BALANCE REQUESTED TO BE TRANSFERRED	REMAINING
07-2123-221	Emerson Road Water Main Design	\$70,000	\$64,584.28	\$5,415.72	\$0
07-2329-221	Town Water System Improvements	\$503,660	\$290,212	\$138,448.14	\$74,999.86
TOTAL				\$143,863.72	

Second Funding Matrix providing Financial Details including funding amounts for both the Construction Contracts (Construction) and Engineering Services Contract (Engineering)

ACCOUNT	TITLE	BUDGETED	EXPENSED/ ENCUMBERED TO DATE	REQUESTED	REMAINING
07-2266-801	Drainage System Rehab	\$400,000	\$147,114.80	\$252,885.20 (Construction)	\$0
07-2366-801	Drainage System Rehab	\$2,247,000	\$248	\$207,049 (Construction)	\$2,039,703
07-2391-801	Madbury Roadway Sidewalk Drainage 2023	\$600,000	\$18,880.93	\$500,000 (Construction)	\$81,119.07
07-2491-801	Madbury Roadway Sidewalk Drainage 2024	\$2,286,000	\$0	\$1,498,883.74 (Construction) \$296,080 (Engineering) \$256,499.80 (Construction-Continental Paving)	\$234,536.46
07-2491-801 (transferred from 07-2123 Water)	Madbury Roadway Sidewalk Drainage 2024	\$5,415.72	0	\$5,415.72 (Construction)	0
07-2491-801 (transferred from 07-2329 Water)	Madbury Roadway Sidewalk Drainage 2024	\$138,448.14	0	\$138,448.14 (Construction)	0
TOTAL				\$3,155,261.60	

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1:

The Durham Town Council Does Hereby, Upon Recommendation of the Administrator, Authorize the Transfer of American Rescue Plan Act (ARPA) Funding Totaling \$143,863.86, Previously Budgeted in the Water Capital Fund, To the General Capital Fund for the Madbury Roadway, Drainage and Sidewalk Capital Project.

MOTION #2 :

The Durham Town Council Does Hereby, Upon Recommendation of the Administrator, Award the Construction Contract for the Madbury Road Complete Streets Phase I Roadway, Drainage and Streetscape Project to G.W. Brooks and Sons, Inc. for a Total Bid Price Not to Exceed \$2,602,681.80, Subject to Available Funding.

MOTION #3

The Durham Town Council Does Hereby, Upon Recommendation of the Administrator, Approve the Construction Inspection, Design and Administration Contract for the Madbury Road Complete Streets Roadway, Drainage and Streetscape Project To VHB Engineers of Bedford, NH in the amount of \$296,080, Subject to Available Funding.

MOTION #4:

The Durham Town Council Does Hereby, Upon Recommendation of the Administrator, Award the Paving Contract for the Madbury Road Complete Streets Phase I Roadway, Drainage and Streetscape Project to Continental Paving Inc. Inc for a Total Bid Price Not to Exceed \$256,499.80, Subject to Available Funding.



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AGENDA ITEM: **#8F & G TS**

DATE: May 20, 2024

COUNCIL COMMUNICATION

INITIATED BY: Richard Reine, Public Works Director

AGENDA ITEM:

1. SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AUTHORIZE THE TRANSFER OF \$2,828 FROM REVENUES AND EXPENDITURES OF THE CAPITAL EQUIPMENT ACCOUNTS #07-2306-801 AND #07-2406-801 TO THE 2023 AERIAL BUCKET TRUCK REPLACEMENT PURCHASE ACCOUNT #07-2322-801?
2. SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE OF THE ADMINISTRATOR, AUTHORIZE THE PURCHASE OF A NEW 2024 FORD F-550 CAB + CHASSIS, BRAND FX SERVICE BODY, AND VERSALIFT AERIAL LIFT FROM CUES, INC. OF AMHERST, NH IN THE AMOUNT OF \$137,828 FROM THE 2023 AERIAL BUCKET TRUCK REPLACEMENT PURCHASE ACCOUNT #07-2322-801?

CC PREPARED BY: Richard Reine, Public Works Director
Samuel Hewitt, Assistant Public Works Director

PRESENTED BY: Richard Reine, Public Works Director

AGENDA DESCRIPTION:

The 2023 Fiscal Year Capital Improvements Budget includes the purchase of a new Aerial Bucket Truck for use as a front-line piece of equipment in the Durham Public Works Operations Division. This new model year 2024 Aerial Bucket Truck will replace the existing 2011 Aerial Bucket Truck for a total cost of \$137,828.

This vehicle is operated extensively by the Operations Division to perform a range of critical functions efficiently and safely. It is primarily utilized by the Traffic Control Specialist for the systematic and emergency maintenance of the Town's traffic control devices across its multi-modal transportation network, including traffic signals, street signs, and pavement markings. The truck also provides aerial access to accomplish limited tree work when hazardous conditions arise that require immediate attention. The versatility of this vehicle allows the Division to complete essential tasks beyond traffic management including projects at higher elevations for tree work and vegetation control, facility maintenance, and overhead street light maintenance. In addition to the aerial lift, the vehicle is equipped with a utility body that contains storage compartments to house the tools, equipment, and supplies necessary to complete these tasks effectively and efficiently.

The existing 2011 Ford F-450 Bucket Truck has reached the end of its useful life after over 13 years of service. The vehicle is experiencing significant rusting and structural metal loss on the frame of the service body, which will require a substantial investment in the near term. Further, the selective catalytic reduction system, diesel particulate filter, and exhaust gas recirculation systems are no longer operating at optimal efficiency. Although minor repairs on these components have been completed recently, their condition is approaching a critical point where they will require more significant maintenance soon.



The 2011 Ford F-450 Bucket Truck is experiencing significant structural deficiencies on the service body as indicated in the photo above with rust and fully penetrating perforations in the floor of the service body.

BID SPECIFICATIONS:

The specifications for this new bucket truck were developed based on discussions with fleet management and operations staff. These discussions highlighted areas where functional and mechanical improvements could be made to address the limitations of the existing truck. Specifically, the Department staff identified that operational efficiencies could be gained by increasing the working height of the truck. The current vehicle's working height is insufficient to reach all of the approximately 350 LED cobra head utility pole streetlights, which the Town accepted maintenance of in 2016. Additionally, the lack of four-wheel drive with the current truck limits its ability to safely maneuver in off-road situations.

BID SUMMARY:

In accordance with the Town's procurement policy, the Department followed the formal bidding requirements as outlined in section 6 and advertised for public bids on April 21st, 2023, with bids due on May 23rd, 2023, at 11:00 am. The request for proposal (RFP) outlined the specific requirements and specifications for the new bucket truck. In addition to the requirements in section 6, the Department mailed RFPs to four (4) different qualified vendors to encourage fair and competitive bidding. This advertisement resulted in a single bid from Cues, Inc. of Amherst, NH of \$131,417. An exception to the bid specified that the listed price was based on a 2023 model-year cab and chassis, which were no longer in production. It clarified that the bid price would not be honored for the 2024 model year when it became available. Durham Public Works was surprised to learn that the vendor had submitted a bid for a product that could not be furnished at the time at the stated price. As a result, the Department waited to re-bid until the 2024 model-year pricing was established.

The Department readvertised for public bids on February 28th, 2024, with bids due on March 28th at 11:00 am.

The bid was structured with a base bid and a bid alternative. The base bid included a cab and chassis, fiberglass service body, and aerial lift. The bid alternative included the base bid upfitted with an aerial lift which has battery-electric functionality to enable aerial operations without the truck's engine running. The bid was also structured to include a trade allowance for the current 2011 bucket truck.

Three (3) bids were received and are detailed below:

	Bidder	Base Bid	Bid Alternative	Trade-In
1	Cues, Inc.	\$152,528	\$178,044	\$14,700
2	RBG, Inc.	\$181,470	\$170,738	\$10,000
3	All Around MFG, Inc.	\$181,455	\$207,960	\$12,500

An assessment of Cues, Inc.'s proposal included an assurance of compliance with the specifications outlined in the RFP and an evaluation of the manufacturer's track record and experience in producing similar equipment. Considerations were also given for the quality and durability of their product and an assessment of their ability to provide the necessary after-sales support, such as maintenance and spare parts availability. A thorough evaluation of the benefits of the battery-electric aerial lift found that the Department's use of the equipment would not warrant the purchase of this added feature as its sole benefit is the maneuverability of the lift when the truck is stationary. The base-bid with a gasoline engine powering the hydraulic pump and lift is capable of allowing the operator to stop/start the truck while working in the bucket as required. The Department concluded that the bid is satisfactory and recommends the Council award the base bid to Cues, Inc. in the amount of \$137,828.



2024 Ford F-550 Bucket Truck with 45' Working Height

As stated earlier and indicated below under the "Financial Details" section the 2023 Capital Fund Budget appropriated \$135,000 for this purchase. As the bid price came in higher, an additional \$2,828 is required. The Department proposes to utilize a surplus balance within its existing capital plan from previously purchased equipment that was procured slightly under budget. This plan will address this funding gap resulting from continued price escalation and will supplement the funding authorized in the 2023 capital plan for the Bucket Truck.

Durham Public Works respectfully requests the Town Council’s approval of this recommendation.

LEGAL AUTHORITY:

The Town of Durham Purchasing Policy requires every purchase or contract in excess of thirty thousand (\$30,000) dollars shall be made only after receipt of publicly invited sealed competitive bids on uniform specifications and that all purchases in excess of sixty-five thousand (\$65,000) dollars require approval by the Administrator and Town Council by affirmative vote.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

First Motion Transferring Funds to bring budgeted amount to \$137,828.00

PROJECT	ACCOUNT	BUDGETED	EXPENDED TO DATE	BALANCE REQUESTED TO BE TRANSFERRED
Dump Truck Replacement - 1 Ton	07-2306-801	\$58,500 (to be bonded)	\$57,527	\$973
Dump Truck Replacement - 1 Ton	07-2406-801	\$30,000 (to be bonded)	\$19,500	\$1,855
TOTAL TO BE TRANSFERRED TO 07-2322-801				\$2,828

Second Motion authorizing purchase of Aerial Bucket Truck

PROJECT	ACCOUNT	BUDGETED	EXPENDED/ ENCUMBERED TO DATE	REQUESTED	BALANCE
Ford F-550 Cab + Chassis, Brand FX Service Body, and Versalift Aerial Lift					
Aerial Bucket Truck Replacement	07-2322-801	\$135,000 (to be bonded)	\$0	\$135,000	\$0
Dump Truck Replacement - 1 Ton	07-2306-801	\$973	\$0	\$973	\$0
Dump Truck Replacement - 1 Ton	07-2406-801	\$1,855	\$0	\$1,855	\$0
			Total:	\$137,828	

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1

The Durham Town Council does hereby, upon recommendation of the Administrator, Authorize the Transfer of \$2,828 from Revenues and Expenditures of the Capital Equipment Accounts #07-2306-801 and #07-2406-801 to the 2023 Aerial Bucket Truck Replacement Purchase Account #07-2322-801.

MOTION #2

The Durham Town Council does hereby, upon recommendation of the Administrator, Authorize the Purchase of a New 2024 Ford F-550 Cab + Chassis, Brand FX Service Body, and Versalift Aerial Lift from CUES, Inc. of Amherst, NH in the amount of \$137,828 from the 2023 Aerial Bucket Truck Replacement Purchase account #07-2322-801.



TOWN OF DURHAM

8 Newmarket Road
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AGENDA ITEM: **#8H** *TS*

DATE: May 20, 2024

COUNCIL COMMUNICATION

INITIATED BY: Administrator Todd Selig

AGENDA ITEM: SHALL THE TOWN COUNCIL UNSEAL THE NONPUBLIC SESSION MINUTES FROM THE YEAR 2003 DATED APRIL 7 AND DECEMBER 1, AND FROM THE YEAR 2004 DATED APRIL 19, OCTOBER 4, DECEMBER 6 AND DECEMBER 20?

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

The process for Nonpublic Session minutes is stated in RSA 91 A:3 as follows:

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in such a manner that the vote of each member is ascertained and recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply. For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the

date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure. Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.

IV. (a) A public body or agency may adopt procedures to review minutes of meetings held in nonpublic session and to determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. If the public body determines that those circumstances no longer apply, the minutes shall be available for release to the public pursuant to this chapter.

*(b) In the absence of an adopted procedure to review and determine whether the circumstances no longer apply for meeting minutes kept from the public, the public body or agency shall review and determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91 A:3, III no longer apply. This review shall occur no more than 10 years from the last time the public body voted to prevent the minutes from being subject to public disclosure. **Meeting minutes that were kept from the public prior to the effective date of this paragraph that are not reviewed by the public body or agency within 10 years of the effective date of this paragraph shall be subject to public disclosure without further action of the public body.***

This statute was revised in 2023 to contain the last highlighted section. The Town of Durham has sealed nonpublic minutes dating back to 2000. Throughout this year, these minutes will be brought to the Council to determine if they should remain sealed or be unsealed for public viewing. At this meeting the nonpublic minutes from the years 2003 & 2004 will be reviewed. The Administrator has reviewed the minutes from the meetings listed and has determined there is no longer a valid reason to keep the minutes sealed.

LEGAL AUTHORITY:

RSA 91 A:3

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

The Town Council does hereby unseal the Nonpublic Session minutes from the year 2003 dated April 7 and December 1, and from the year 2004 dated April 19, October 4, December 6 and December 20.



TOWN OF DURHAM

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AGENDA ITEM: **#9** *TS*

DATE: May 20, 2024

COUNCIL COMMUNICATION

INITIATED BY: Katharine Gatcomb

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE LIBRARY BOARD OF TRUSTEES CHAIR, APPOINT KATHARINE GATCOMB, 22A SIMONS LANE, TO FILL AN ALTERNATE MEMBERSHIP ON THE LIBRARY BOARD OF TRUSTEES WITH A TERM EXPIRATION OF APRIL 2025?

CC PREPARED BY: Karen Edwards, 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 Katharine Gatcomb, requesting appointment as an alternate member to the Library Board of Trustees. Katharine's appointment will complete the number of alternate members needed for the Library Board.

Ms. Gatcomb has attended one meeting of the Board and has spoken with Chair, Robin Glasser. Attached for the Council's information is Chair Glasser's endorsement of Ms. Gatcomb's appointment.

Ms. Gatcomb will attend Monday night's Council meeting relative to her request for appointment.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Library Board of Trustees Chair, appoint Katharine Gatcomb, 22A Simons Lane, to fill an Alternate Membership on the Library Board of Trustees with a term expiration of April 2025.



Town of Durham

8 Newmarket Road
Durham, NH 03824-2898
Tel: 603/868-5571 Fax
603/868-1858

kedwards@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

Name: Katharine Gatcomb

Date: 5/9/24

Address: 22A Simons Lane, Durham, NH 03824

E-Mail Address: katharinegatcomb@gmail.com

Telephone: 603-512-3020

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. Durham Public Library Board of Trustees
- 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

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

I am very passionate about public libraries and the vital role they play in the community. I visit the Durham Public Library weekly with my daughter, and am very thankful for the space it provides us to play, read together, and connect with other members in our community. I believe I bring a unique perspective and expertise to the board as a former public librarian and new parent.

Please provide brief background information about yourself:

I graduated from the University of New Hampshire in 2015 with a Bachelor's degree in Theater, and received a Master's degree in Library Science in 2019 from Simmons University. I worked in public libraries from 2017 - 2023, most recently as the Head of Youth Services at the Nashua Public Library where I was awarded the NH Children's Librarian of the Year Award in 2021. My daughter was born in April 2023, and in January 2024 I transitioned to a role at a library software company to find more time to spend with my family. I moved back to Durham in September 2023 and am excited to be back in the community.

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

Name: Julia Lanter, Assistant Director, Exeter Public Library Telephone: 603-812-3592 (cell)

Name: Justine Fafara, Director, Richards Free Library Telephone: 973-767-7306 (cell)

Name: Azra Palo, Head of Youth Services, Nesmith Library Telephone: 603-520-9304 (cell)



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 Karen Edwards at kedwards@ci.durham.nh.us.

From: [Robin Glasser](#)
To: [Karen Edwards](#)
Subject: Endorsement for Library Trustee Alternate
Date: Thursday, May 9, 2024 10:46:04 AM

To the Members of the Council:

At our May 8, 2024 board meeting, the Library Trustees enthusiastically endorsed Katharine Gatcomb to join the Board as an alternate trustee. She is a highly qualified candidate and will be a welcome addition to the Board.

Best regards,
Robin Glasser, Chair
Library Board of Trustees



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AGENDA ITEM: **#10** TS

DATE: **May 20, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Todd Selig, Administrator

AGENDA ITEM: PRESENTATION ON 2023-2024 SKATING SEASON AT DURHAM'S ICE RINK

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Bill Page, Ice Rink Manger

AGENDA DESCRIPTION:

Administrator Selig requested that Bill Page, Ice Rink Manager, present an overview of the 2023-2024 skating season to the Town Council. Ice skating at the Town Landing ice rink began in 1973 and has been a staple of Durham the community for 50 years now. The 2023 Town Report celebrated this important milestone.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

No action required at this time. Receive presentation from Bill Page, Ice Rink Manager.



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AGENDA ITEM: **#11** *TS*

DATE: **May 20, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Brendan J. O'Sullivan, Fire Marshal

AGENDA ITEM: PUBLIC HEARING AND ACTION ON ORDINANCE #2024-03 AMENDING CHAPTER 68 "FIRE PREVENTION" OF THE DURHAM TOWN CODE TO REPEAL ARTICLE III "SPRINKLER CODE."

CC PREPARED BY: Kelley Fowler, Fire Department Administrative Assistant

PRESENTED BY: Brendan J. O'Sullivan, Fire Marshal

AGENDA DESCRIPTION:

On or about June 5, 2017, the Durham Town Council passed and adopted Ordinance #2016-05 which amended certain sections of Chapter 68 "Fire Prevention" of the Durham Town Code.

In part, Ordinance #2016-05, amended Chapter 68, Article III "Sprinkler Code" to expand the sprinkler requirement to additional existing occupancies and defined the locations to include those occupancies in the central business district, Church Hill, Courthouse, Coe's Corner District west of the Young Drive and Dover Road intersection, including those properties on Young Drive.

Since the adoption of Ordinance #2016-05, Article III "Sprinkler Code" has been determined to be problematic for a number of reasons:

1. Article III "Sprinkler Code" conflicts with NH State Fire Code (National Fire Protection Association: Life Safety Code, NFPA 101, 2018) in that the NH State Fire Code does not require installation of sprinkler systems in existing residential buildings.

2. Article III “Sprinkler Code” is confusing as only buildings in certain districts and sections of Town were included in the Article. Further, certain high-risk buildings are not covered by Article III.
3. The Town of Durham Zoning Definitions are not consistent with, and in some cases, contradictory to, the State of NH Life Safety Code definitions.
4. Article III “Sprinkler Code” places a significant financial burden on property owners attempting to comply with the ordinance.
5. Rental housing properties within the Town of Durham (in all districts) are subject to rental housing inspections pursuant to Chapter 72 “Housing Standards” of the Durham Town Code to ensure that all rental properties are in compliance with current State Fire Codes.

Since the State Fire Code already requires the installation of sprinkler systems in new construction, by repealing Article III “Sprinkler Code” from Chapter 68 of the Durham Town Code, it would eliminate more stringent language between the Town of Durham Code and the State Fire Code and therefore, reduce frustration and confusion on the part of property owners as to when sprinkler systems are required by code.

At its meeting on May 6, 2024, the Town Council scheduled a Public Hearing on this item for their meeting on Monday, May 20, 2024. A Public Hearing notice was published in *Foster’s/Seacoast Online* on Thursday, May 9, 2024. The notice was also posted at the Town Hall and on the Town Website, as well as at the Durham Public Library and Department of Public Works.

LEGAL AUTHORITY:

Durham Town Charter, Section 3.8, “Ordinances”.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1:

The Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2024-03, Amending Chapter 68 “Fire Prevention” of the Durham Town Code to repeal Article III “Sprinkler Code.”

MOTION #2:

The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2024-03, Amending Chapter 68 “Fire Prevention” of the Durham Town Code to repeal Article III “Sprinkler Code.”

MOTION #3:

The Durham Town Council does hereby ADOPT Ordinance #2024-03, Amending Chapter 68 “Fire Prevention” of the Durham Town Code to repeal Article III “Sprinkler Code.”

ORDINANCE #2024-03 OF DURHAM, NEW HAMPSHIRE

AMENDING CHAPTER 68 “FIRE PREVENTION” OF THE DURHAM TOWN CODE TO REPEAL ARTICLE III “SPRINKLER CODE”

WHEREAS, the Town of Durham enacted Ordinance #2016-05 on June 5, 2017 which, in part, amended Chapter 68, Article III “Sprinkler Code” of the Durham Town Code to expand the sprinkler requirement to additional existing occupancies and defined the locations to include those occupancies in the central business district, Church Hill, Courthouse, Coe’s Corner District west of the Young Drive and Dover Road intersection, including those properties on Young Drive.

WHEREAS, since the initial adoption of Ordinance #2016-05, Article III “Sprinkler Code” has been determined to be problematic in that the language conflicts with NH State Fire Code (National Fire Protection Association: Life Safety Code, NFPA 101, 2018); and

WHEREAS, Article III “Sprinkler Code” is confusing as only buildings in certain districts and sections of Town were included in the Article and does not include high-risk building outside of those districts; and

WHEREAS, the Town of Durham Zoning definitions are not consistent with, and in some cases, contradictory to, the State of NH Life Safety Code definitions; and

WHEREAS, Article III “Sprinkler Code” places a significant financial burden on property owners attempting to comply with the ordinance; and

WHEREAS, rental housing properties within the Town of Durham (in all districts) are subject to rental housing inspections pursuant to Chapter 72 “Housing Standards” of the Durham Town Code to ensure that all rental properties are in compliance with current State Fire Codes; and

WHEREAS, since the State Fire Code already requires the installation of sprinkler systems in new construction, by repealing Article III “Sprinkler Code” from Chapter 68 of the Durham Town Code, it would eliminate more stringent

language between the Town of Durham Code and the State Fire Code and therefore, reduce frustration and confusion on the part of property owners as to when sprinkler systems are required by code; and

WHEREAS, the Durham Town Council held a first reading on Ordinance #2024-03 on Monday, May 6, 2024 and a duly noticed public hearing on May 20, 2024.

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby adopt **Ordinance #2024-03** amending Chapter 68 “Fire Prevention” of the Durham Town Code to repeal Article III “Sprinkler Code”.

Wording to be deleted is annotated with ~~strikeout~~ type. New wording is annotated with underscoring.

**CHAPTER 68
FIRE PREVENTION**

**Article I
FIRE PREVENTION CODE**

- 68-1. Scope
- 68-2. Definitions
- 68-3. Adoption of Standards
- 68-4. Additions and Amendments
- 68-5. Conflicts with Other Provisions
- 68-6. Permits and Approval
- 68-7. Enforcement
- 68-8. Violations and Penalties
- 68-9. Appeals
- 68-10. Updates

**Article II
LIFE SAFETY CODE**

- 68-11. Scope
- 68-12. Definitions
- 68-13. Adoption of Standards
- 68-14. Additions and Amendments
- 68-15. Conflicts with Other Provisions
- 68-16. Permits and Approvals
- 68-17. Enforcement
- 68-18. Violations and Penalties
- 68-19. Appeals

68-20. Updates

**Article III
SPRINKLER CODE**

[Repealed by Ordinance #2024-03, dated May 20, 2024.](#)

~~68-21.— Scope~~

~~68-22.— Definitions~~

~~68-23.— Adoption of Standards~~

~~68-24.— Additions and Amendments~~

~~68-25.— Conflicts with Other Provision~~

~~68-26.— Permit and Applications~~

~~68-27.— Enforcement~~

~~68-28.— Violations and Penalties~~

~~68-29.— Appeals~~

~~68-30.— Updates~~

**Article-IV
FIRE ALARM CODE**

68-31. Scope

68-32. Definitions

68-33. Adoption of Standards

68-34. Additions and Amendments

68-35. Conflicts with Other Provisions

68-36. Permits and Approvals

68-37. Enforcement

68-38. Violations and Penalties

68-39. Appeals

68-40. Updates

**Article V
APPARATUS FEES**

68-41. Scope

68-42. Fees

68-43. Updates

CHAPTER 68
FIRE PREVENTION

[HISTORY: Adopted by the Town Council of the Town of Durham: Art. I, 10-8-1990 as Ord. No. 90-03; Art. II, 10-8-1990 as Ord. No. 90-04; Art. III, 5-20-1991 as Ord. No. 91-05. Ord. No. 90-03 was repealed and replaced with Ord. No. 97-11(A) dated July 7, 1997. [All amendments included at time of adoption of Code]. **Amended by Ord. #2016-05 dated June 5, 2017 (which includes all amendments made up to that date).** **Amended by Ord. No. #2024-03, dated May 20, 2024 (which includes all amendments made up to that date).**

Article I
FIRE PREVENTION CODE

68-1. Scope

- 1.1 This article provides code requirements for fire prevention as well as emergency response to fires and other emergencies.

68-2. Definitions

- 2.1 Whenever the term “Authority Having Jurisdiction” or the abbreviation “AHJ” is used in the Fire Prevention Code, it will mean the Chief of the Durham Fire Department or his designated agent.
- 2.2 The term “Confined Space” means a space which a person may fully enter to perform work but is not designed for continuous occupancy and/or has a limited or restricted means of entry or exit such as, but not limited to, underground vaults, tanks, storage bins, pits and diked areas, vessels, silos and similar areas. All spaces that contain or have the potential to contain a hazardous atmosphere, material with the potential to engulf someone or has a configuration that might cause someone to be trapped or asphyxiated is considered a Confined Space.

68-3. Adoption of Standards

- 3.1 This Fire Prevention Code incorporates the New Hampshire Fire Code as adopted by the State of New Hampshire pursuant to RSA 153:4-a and 153:-5, and are hereby adopted and incorporated as fully as if set out at length herein. Whenever the New Hampshire Fire Code as referenced herein and this Fire Prevention Code address an identical issue, the more stringent fire protection provision will apply.

68-4. Additions and amendments

The current NFPA National Fire Prevention Code is amended as follows:

- 4.1 The grade, surface and location of fire lanes shall be approved by the Authority Having Jurisdiction.
- 4-2 For a fire lane more than 500 feet in length the fire lane shall be at least 26 feet in width, unless there is access from both ends of the fire lane as approved by the authority having jurisdiction. Fire lanes shall give access to buildings at each grade level where egress occurs subject to the approval of the authority having jurisdiction.

Exception No. 1: T or Y turnaround arrangements shall be permitted.

Exception No. 2: When acceptable to the authority having jurisdiction, turnaround arrangements other than cul-de-sac shall be permitted to be used.

- 4.3 Adjacent to fire hydrants, fire lanes shall be a minimum of 26 feet in width, and that width shall be maintained 20 feet in either direction from the fire hydrant.
- 4.4 The minimum inside turning roadway radius shall be 30 feet. The minimum outside radius shall be 56 feet. These requirements mandate a 26-foot-wide fire lane if the sharpest turning radii are used.
- 4.5 Maximum grades for access roadway shall be as follows:
 - Concrete surfaces: 15%
 - Asphalt surfaces: 12%
 - Other: 8%
- 4.6 Where a bridge is required to be used as access, it shall be constructed and maintained using live design loading sufficient to carry the imposed loads of the fire apparatus. Where an elevated surface is used as access, that portion utilized by fire apparatus shall be constructed and maintained to accommodate fire apparatus.
- 4.7 Fire lanes shall be marked with freestanding signs and marked curbs, sidewalks, or other traffic surfaces that have the words FIRE LANE – NO PARKING painted in contrasting colors at a size and spacing approved by the authority having jurisdiction. Exception: Surface marking is not required on certain surfaces such as gravel and dirt surfaces, pavers, or decorative surfaces as determined by the Authority Having Jurisdiction. Freestanding signs are still required under this exception.
 - 4.7.1 The entrance to all required Fire Lanes shall be posted with an approved sign. Signs shall be posted along the entire access road with not more than 100 feet between signs. The placing of signs shall be subject to the approval of the authority having jurisdiction.
 - 4.7.2 When applicable, all curbing which outlines the fire lane shall be painted yellow. Contrasting color lettering reading, “No Parking-Fire Lane” shall be placed every 30 feet on said curbing. Such lettering shall be a minimum of 4 inches tall. Additional yellow striping of fire lanes may be required. The minimum width of this yellow striping shall be 8 inches wide with white lettering reading, “No Parking-Fire Lane”, with characters being at least 12 inches tall and 1 1/2 inches in stroke.
 - 4.7.3 Fire Department access areas for appliances, such as hydrants, standpipe inlets, sprinkler valves, etc., shall be marked in an approved manner subject to the approval of the authority having jurisdiction.
 - 4.7.4 It is the responsibility of the local law enforcement agency and/or the property owner to enforce state and local regulations regarding obstruction of fire lanes.
 - 4.7.5 The following locations are designated fire lanes:

Town Fire Lanes

- a. Mill Road Plaza - entire front side of buildings, lane leading to rear of Phase I loading dock and lane behind Phase II.
- b. Alley (entire width) between 38 and 44 Main Street.
- c. Jenkins Court (entire width) at 14 Jenkins Court where the sidewalk extension narrows the roadway.
- d. Oyster River High School driveway along the entire front of the building, the entire rear access driveway and the northeast driveway.
- e. Oyster River Middle School driveway along Dennison Road to the main entrance and out to Garrison Avenue Extension, along rear of building, around gymnasium.
- f. Smith Park Lane adjacent to Community Church from Main Street to Mill Pond Road.
- g. St. Thomas Moore Church, between Church and Youth Center.
- h. Church Hill Road from Mill Pond Road to Smith Park Lane.
- i. 4-6 Main Street in front of apartment building.
- j. Bagdad Woods Apartments, circular drive at front entrance.
- k. Reserved.
- l. Access to dry fire hydrant on Newmarket Road on the property, now or formerly of Ernest Cutter.
- m. Church Hill Apartments driveway including cul-de-sac, designated parking places exempted.
- n. Adjacent to the southeast side of the Community Church brick annex.
- o. Davis Court, both sides.
- p. Madbury Court, both sides.
- q. 3 Madbury Road along the building from Madbury Road to five (5) feet beyond the fire department sprinkler connection.
- r. Ross Road twenty (20) feet either side of the dry fire hydrant.
- s. Old Piscataqua Road (entire width of road and southerly shoulder) along the entire length of the outdoor ice rink.
- t. Access driveway and cul-de-sac (entire width) to Wagon Hill Farm.
- u. Driveway, entire width) to Henry Davis Grange Building, 37 Main Street.
- v. Fox Hill Road twenty (20) feet either side of the dry fire hydrant.

University of New Hampshire Fire lanes:

The Durham Fire Chief shall, by State statute, designate fire lanes on University of New Hampshire property located within the boundaries of the Town of Durham.

- 4.7.6 Fire lanes shall be maintained free of all obstructions at all times. *Exception: Approved security gates and other movable barriers.*

- 4.7.7 Fire lanes are designated by the Town Council or by Planning Board site plan review in consultation with the Authority Having Jurisdiction.
- 4.8 Fire Protection Markings. Designation of Building Numbers, Property Numbers and Street Names.
 - 4.8.1 Premises Identification. New and existing buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numeric digits and alphabet letters as appropriate.
 - 4.8.1.1 Building and Property Numbers. Building and property numbers shall be designated by the Fire Department “Property Index Maps”. The Planning Board will submit numbering assignments to the Authority Having Jurisdiction for approval. Once approved, such assignment shall become incorporated in the Fire Department Property Index Maps.
 - 4.8.2 Scope. Every dwelling, building or structure existing on the date of adoption has been or shall be assigned a street number by the Fire Department, shall be required to have such number upon such dwelling, building or structure or upon the property where such improvements exist, so as to be plainly visible and legible from the street or way which accesses the main entrance to such property.
 - 4.8.3 Number Size to be Affixed. For any building or structure to which a number has been or shall be assigned, the number shall be of a size which is legible by normal standards from the street or way which accesses the main entrance to such property, but in no case shall it be less than three (3) inches in height, two (2) inches in width [(except the numeral one (1)], and three eighths (3/8) inch in principle stroke.
 - 4.8.4 Location of Building or Property Numbers. Numbers shall be plainly visible from the street or way which accesses the property at the main entrance to such property in one of the following locations:
 - a. On or in the vicinity of the front door or main entrance.
 - b. On the corner of the structure closest to the street, or
 - c. At the base of the driveway. Note: Numbers are acceptable on mailboxes only if the mailbox clearly identifies the property to which it belongs, and numbers are visible from both directions of approach.
 - 4.8.5 New Buildings and Additions. The owner of any property seeking a building permit shall apply for, prior to his/her receiving occupancy, a building number and have said number affixed to or posted upon such property.
 - 4.8.6 Unauthorized Building Numbers Prohibited. No person shall affix, post, allow, or permit to be affixed or posted a number upon a building other than the street address as designated by the Fire Department. Exceptions:
 - a. Dates affixed for historical purposes in such a manner so as not to be confused as a street address.
 - b. Other numbers less than one-half (1/2) inch in height in such a manner so as not to be confused as a street address.

4.9 Street Names. All new street and road names shall be approved by the Authority Having Jurisdiction prior to placement of signage.

4.9.1 Other signs shall not be displayed that may result in street name confusion as determined by the Authority Having Jurisdiction.

68-5. Conflicts with other provisions

5.1 When regulations herein conflict with other adopted codes or regulations, the more stringent provision or requirement will apply as Determined by the Authority Having Jurisdiction.

68-6. Permits and Approvals

6.1 The authority having jurisdiction shall be authorized to establish and issue permits, certificates, notices, and approvals, or orders pertaining to fire control and fire hazards pursuant to this section.

6.2 Applications for permits shall be made to the authority having jurisdiction on forms provided by the jurisdiction and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the authority having jurisdiction and fees as required by the jurisdiction.

6.3 Fees for permits, inspections and reports pertaining to fire control, fire hazards, incident response fire investigation and life safety are established in the Town's Master Fee Schedule, as amended on occasion.

6.4 Review by the authority having jurisdiction shall not relieve the applicant of the responsibility of compliance with this code.

6.4.1 When required by the authority having jurisdiction revised construction documents or shop drawings shall be prepared and submitted for review to illustrate corrections or modifications necessitated by field conditions or other revisions to previously reviewed plans.

6.4.2 Independent Review. The authority having jurisdiction shall be permitted to require a review by a mutually acceptable independent third party with expertise in the matter to be reviewed at the submitter's expense. The independent reviewer shall provide an evaluation and recommend necessary changes of the proposed design, operation, process or new technology to the authority having jurisdiction.

6.4.3 Fire Protection Systems Progress and assemblies/Acceptance Inspections. During the course of new construction or renovation it may be necessary to conduct a progress/acceptance inspection to continue with construction. Any failure of a fire protection system component or assembly during a scheduled inspection will result in the failure of the inspection and allow for one re-inspection. The cost associated with any subsequent re-inspection will be billed to the responsible party established in the Master Fee Schedule.

6.4.4 All work conducted under this Chapter must meet the minimum requirements set forth under all applicable federal, state, and local requirements. Failure to

meet any of these requirements may subject to fees and fines as established in the Town's Master Fee Schedule as amended on occasion.

- 6.4.5 It is the responsibility of the company or entity conducting such work to obtain all necessary permits and approvals, and to schedule all required inspections prior to concealment of equipment and devices, and obtain approval upon completion of work prior to placing the system or portion of the system into service or proceeding with the proposed function or activity.
- 6.5 Acceptance of Plans and Installations
 - 6.5.1 Automatic Sprinkler Systems
 - 6.5.1.1 Maintenance, Installation and modification of automatic fire suppression systems will be conducted only after a permit has been obtained from the fire department.
 - 6.5.1.2 Any failure of the final acceptance test for new sprinkler systems indicates the system has failed and one re-test shall be scheduled. The cost associated with the any additional re-test(s) will be billed to the installing contractor as established in the Master Fee Schedule.
 - 6.5.2 Fire Alarm and Detection Systems and Related Equipment
 - 6.5.2.1 Installation and modification to fire alarm and detection systems and related equipment must be conducted only after a permit has been obtained from the fire department.
 - 6.5.2.2 Any failure of the final acceptance test for new fire alarm and detection systems indicates the system has failed and one re-test shall be scheduled. The cost associated with any additional re-test(s) will be billed to the installing contractor as established in the Master Fee Schedule.
 - 6.5.3 Fireworks
 - 6.5.3.1 Novelties. Novelties such as Sparklers, Party Poppers, Snappers, and Snakes are considered “Unregulated Novelty Devices” and are allowed.
 - 6.5.3.2 Consumer (Permissible) Fireworks. In accordance with NH RSA 160-C Local Option, the Town of Durham prohibits the issuance of permits, licenses, and the display or possession of consumer (permissible) fireworks unless granted a special exception by the Town Administrator. The Town Administrator, after a review has been conducted by the Fire Chief and Police Chief, may issue a special exception to display consumer fireworks.
 - 6.5.3.3 Display Fireworks, as defined in NH RSA 160-B:1, Definitions. The construction, handling, and use of fireworks intended solely for outdoor display, as well as the general conduct and operation of display, shall comply with the requirements of NFPA 1123, Code of Fireworks Displays and shall be in accordance with SAF-C 5000, Display Fireworks. Display Fireworks shall also comply with NH RSA 160-B:7, Requirements for Display Fireworks. The Town

Administrator, after a review has been conducted by the Fire Chief and Police Chief relative to the competence of the operator, protection factors in place, the availability of staffing, the site selected, and proof of liability insurance, may issue a permit to display fireworks between the hours of 6:00 pm and 11:00 pm for special events in which a fireworks display is deemed in the overall best interests of the general public.

6.5.3.4 Pyrotechnics and Flame Effects Before a Proximate Audience.

Permitting and approval for pyrotechnics and flame effects must be obtained prior to the display and use of pyrotechnic materials pursuant to SAF-C 6900 Proximate Audience Pyrotechnics and Flame Effect Rules. Those wishing to provide pyrotechnics and similar displays before a proximate audience must submit a set of plans to the Authority Having Jurisdiction (AHJ) for review. All such activities shall meet the state's requirements including but not limited to, NFPA 1126. A permit will be issued upon satisfactory review of said plans. *(Section 6.5.3 amended by Ord. #2021-01 dated 5/3/2021)*

6.5.4 (Reserved for Future Use) *(Section 6.5.4 amended by Ord. #2021-01 dated 5/3/2021)*

6.5.5 Buildings & Systems

6.5.5.1 Upon completion of a site or building construction project, and/or upon the completion, renovation, modification or addition of a fire alarm, sprinkler, or suppression system, an electronic copy of the As-Built plans shall be submitted to the Fire Department in a format acceptable to the AHJ.

6.5.6 Blasting & Explosives

6.5.6.1 All blasting operations and detonation of explosives will conform to the State of New Hampshire's requirements. Plans must be submitted to the Fire Department prior to any work or issuance of a permit to conduct such work. Inspections and stand-by personnel may also be required as deemed necessary by the AHJ.

6.5.7 Confined Space Entry

6.5.7.1 Confined Space Entry requires certain emergency procedures and equipment to be available should something go wrong. Notification must also be made to the local emergency response crews, which in Durham is the Fire Department. A permit will be issued once proper notification and documentation has been received by the Fire Department and determined by the Authority Having Jurisdiction.

6.5.8 Fire Protection & Alarm System Maintenance

6.5.8.1 For the purposes of identifying those conducting routine and emergency maintenance on fire protections systems in town, verifying competency of such agents, and to confirm knowledge and

understanding of the Town’s requirements and expectations, a permit must be obtained.

6.5.9 Fuel-Fired Appliances & Installations

6.5.9.1 Permits to install fuel-fired appliances and their appurtenances are required from the AHJ prior to the commencement of any work. This includes storage and delivery systems such as tanks and piping.

6.5.10 Candles, Open Flames, & Portable Cooking Equipment

6.5.10.1 Permits are required from the AHJ for the use of candles, open flames, and portable cooking equipment in conjunction with a place of assembly.

6.5.11 Commercial Cooking and Ventilation Systems & Equipment

6.5.11.1 Permits are required from the AHJ for the installation, renovation, or modification of commercial cooking ventilation systems and equipment. Such work must conform to the requirements set forth under NFPA 96 as adopted under the State Fire Code.

6.5.12 Public Safety Amplification System Required in Facilities

The purpose of this system is to provide minimum standards to insure a reasonable degree of reliability for emergency services communications from within certain buildings and structures within the Town to and from emergency communications centers. It is the responsibility of the emergency service provider to get the signal to and from the building site.

6.5.12.1 Applicability: The provisions of this article shall apply to:

- a. New buildings greater than thirty thousand (30,000) square feet;
- b. Existing buildings over thirty thousand (30,000) square feet when modifications, alterations or repairs exceed fifty percent (50%) of the equalized assessed value of the existing building(s) and are made within any twelve (12) month period or the usable floor area is expanded or enlarged by more than fifty percent (50%); and
- c. All sublevels, regardless of the occupancy, over ten thousand (10,000) square feet.

6.5.12.2 Radio coverage

- a. Except as otherwise provided in this article, no person shall erect, construct or modify any building or structure or any part thereof, or cause the same to be done, which fails to support adequate radio coverage for firefighters, ambulance personnel and police officers.
- b. The Town’s fire department with consideration of the appropriate police, fire and emergency medical department services shall determine the frequency range or ranges that must be supported.
- c. For the purposes of this section, adequate radio coverage shall constitute a successful communications test as described in Section 6 below

between the equipment in the building and the communications center for all appropriate emergency service providers for the building.

6.5.12.3 Inbound into the Building

- a. A minimum average in-building field strength of 2.25 micro-volts (-100 dbm) for analog and five (5) micro-volts (-93 dbm) for digital systems throughout eighty-five percent (85%) of the area of each floor of the building when transmitted from the appropriate emergency service dispatch centers which are providing fire, police and emergency medical protection services to the building.
- b. If the field strength outside the building where the receive antenna system for the in-building system is located is less than (-100 dbm) for analog, or (-93 dbm) for digital systems, then the minimum required in-building field strength shall equal the field strength being delivered to the receive antenna of the building.
- c. As used in this article, eighty-five percent (85%) coverage or reliability means the radio will transmit eighty-five percent (85%) of the time at the field strength and levels as defined in this article.

6.5.12.4 Outbound from the Building

- a. A minimum average signal strength of 112 micro-volts (-6 dbm) for analog and five (5) microvolts (+1 dbm) for digital systems as received by the appropriate emergency service dispatch centers that are providing fire, police and emergency medical protection services to the building.
- b. FCC authorization. If amplification is used in the system, all FCC authorizations must be obtained prior to use of the system. A copy of these authorizations shall be provided to the Town's Fire Department.

6.5.12.5 Enhanced amplifications systems

- a. Where buildings and structures are required to provide amenities to achieve adequate signal strength, they shall be equipped with any of the following to achieve the required adequate radio coverage: radiating cable system(s), internal multiple antenna system(s) with an acceptable frequency range and an amplification system(s) as needed, voting receiver system(s) as needed, or any other Town approved system(s).
- b. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operation on an independent battery or generator system for a period of at least eight (8) hours without external power input or maintenance. The battery system shall automatically charge in the presence of external power.
- c. Amplification equipment must have adequate environmental controls to meet the heating, ventilation, cooling and humidity requirements of the equipment that will be utilized to meet the requirements of this code. The area where the amplification equipment is located must be free of hazardous materials such as fuels, asbestos, etc. All communications equipment, including amplification systems, cable and antenna systems

shall be grounded with a single point ground system of five (5) ohms or less. The ground system must include an internal tie point within three (3) feet of the amplification equipment. System transient suppression for the telephone circuits, ac power, radio frequency (RF) cabling and grounding protection are required as needed.

- d. As part of any building permit application, the following information shall be provided to the Fire Department by builder:
 - i. A blueprint showing the location of the amplification equipment and associated antenna systems which includes a view showing building access to the equipment; and
 - ii. Schematic drawings of the electrical, backup power, antenna system and any other equipment associated with the amplification equipment including panel locations and labeling.
- e. The Fire Department shall review all information submitted pursuant to Section 5(d) and provide its comments to the building inspector within 15 days. The building inspector shall not issue any approval prior to receiving the Fire Departments comments.

6.5.12.6 Testing procedures – Method to Conducts Tests

- a. Tests shall be made using frequencies close to the frequencies used by the appropriate emergency services. If testing is done on the actual frequencies, then this testing must be coordinated within the Town's Fire Department. All testing must be done on frequencies authorized by the FCC. A valid FCC license will be required if testing is done on frequencies different from the Police, Fire or emergency medical frequencies.
- b. Measurements shall be made using the following guidelines
 - i. Measurements shall be made with a service monitor using a unity gain antenna on a small ground plane;
 - ii. Measurements shall be made with the antenna held in a vertical position at three (3) to four (4) feet above the floor;
 - iii. A calibrated service monitor (with a factory calibration dated within twenty-four (24) months may be used to do the test);
 - iv. The telecommunications unit representative for the Town may also make simultaneous measurements to verify that the equipment is making accurate measurements. A variance of 3 db between the instruments will be allowed; and
 - v. If measurements in one location are varying, then average measurements must be used.

6.5.12.7 Initial Testing

- a. All testing shall be done in the presence of a Fire Department representative at no expense to the Town or appropriate emergency services department.

- b. Signal strength, both inbound and outbound as defined above, shall be measured on each and every floor above and below ground including stairwells, basements, penthouse facilities and parking areas of the structure. The structure shall be divided into fifty (50) foot grids and the measurements shall be taken at the center of each grid.

6.5.12.8 Annual Tests

Annual tests will be conducted by the Town’s telecommunications unit or appropriate emergency services department. If communications appear to have degraded or if the tests fail to demonstrate adequate system performance, the owner of the building or structure is required to remedy the problem and restore the system in a manner consistent with the original approval criteria. The re-testing will be done at no expense to the Town or the appropriate emergency services departments as required in the original testing procedures.

6.5.12.9 Field Testing

Police and Fire personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to be certain the required level of radio coverage is present. Certificates of Occupancy may be denied for new and existing buildings for failure to comply with these requirements.

6.5.12.10 Violation and Penalties

Any person, persons, firm, corporation or partnership who shall violate any provisions of Chapter 68 Article F shall be guilty of a violation punishable by a fine of not less than one-hundred dollars (\$100) or not more than five hundred (\$500). Each day that the violation continues to exist shall constitute a separate offense.

6.5.12.11 Appeal

Any party aggrieved by the decision of the Fire or Police Department relating to administrative decision in the assessment or collection of the fine or fines authorized by this section may appeal such decision to the Town Administrator.

6.5.12.12 Equipment access

Access to all associated equipment required under this provision shall be immediately accessible via an exterior door or common space for repairs and maintenance. Access shall not be via a privately-controlled space such as an apartment, business, or tenant-controlled area.

68-7. Enforcement

- 7.1 The Fire Prevention Code shall be enforced by the Authority Having Jurisdiction as outlined by the State of New Hampshire RSA’s.
- 7.2 The Authority Having Jurisdiction is hereby authorized to request the assistance of the State Fire Marshal in the interpretation and enforcement of the Fire Prevention Code.

68-8. Violations and Penalties

- 8.1 Violations of or failure to meet any provisions under this Article are subject to fines and penalties as set forth under the Town’s Master Fee Schedule as established by the Town Administrator with the advice and consent of the Town Council. This includes failure to schedule and satisfactorily complete a required inspection prior to the expiration of the issued permit, and multiple inspection failures.

68-9. Appeals

- 9.1 Any party aggrieved by a provision of these requirements or wishes to challenge the decision of an inspector enforcing these requirements may appeal to the Fire Chief in writing within thirty days of enforcement action.
- 9.2 The Fire Chief will consider the appeal and respond to the appellant within thirty days of receipt of the written appeal.

68-10. Updates

- 10.1 The Town Council will consider updates and amendments to this Article as necessary.

**Article II
LIFE SAFETY CODE**

68-11. Scope

- 11.1 This article provides code requirements that support the Town’s overall goal of life safety.

68-12. Definitions

- 12.1 Whenever the term “Authority Having Jurisdiction” or the abbreviation “AHJ” is used in the Life Safety Code, it will mean the Chief of the Durham Fire Department or his designated agent.

68-13. Adoption of standards

- 13.1 This Code recognizes the New Hampshire Fire Code as adopted by the State of New Hampshire pursuant to RSA 153:4-a and 153:5. The same are hereby adopted and incorporated as fully as if set out at length herein. Whenever the New Hampshire Fire Code as referenced herein and this Fire Prevention Code address an identical issue, the more stringent fire protection provision shall apply.

68-14. Additions and Amendments

Reserved

68-15. Conflicts with Other Provisions

- 15.1 When regulations herein conflict with other adopted codes or regulations, the more stringent fire protection provision will apply.

68-16. Permits and Approvals

- 16.1 The Authority Having Jurisdiction is authorized to establish and issue permits, certificates, notices, and approvals, or orders pertaining to fire and life safety hazards pursuant to this section.
- 16.2 Applications for permits shall be made to the Authority Having Jurisdiction on forms provided by the fire department and the applicant shall answer questions and information required by the forms in full. Applications for permits shall be accompanied by any data as required by the Authority Having Jurisdiction and fees required by the Town's Master Fee Schedule, as amended on occasion.
- 16.3 Fees for permits, inspections, and reports pertaining to fire control, fire hazards, incident response, and fire investigations, and life safety are established in the Town's Master Fee Schedule as amended on occasion.
- 16.4 When required by the Authority Having Jurisdiction revised construction documents or shop drawings shall be prepared and submitted for review to illustrate corrections or modifications necessitated by field conditions or other revisions to previously reviewed plans. Documents may also be required to demonstrate safety and emergency planning for assemblies or special events.
 - 16.4.1 Review by the Authority Having Jurisdiction shall not relieve the applicant of the responsibility of compliance with this code.
 - 16.4.2 Independent Review. The Authority Having Jurisdiction shall be permitted to require a review by a mutually acceptable independent third party with expertise in the matter to be reviewed at the submitter's expense. The independent reviewer is intended to provide an evaluation and recommend necessary changes of the proposed design, operation, process or new technology to the Authority Having Jurisdiction.
 - 16.4.3 Progress/Acceptance Inspections. During the course of new construction or renovation it may be necessary to conduct a progress/acceptance inspection to continue with construction. Any failure of a fire protection system component or assembly during a scheduled inspection will result in the failure of the inspection and allow for one re-inspection. The cost associated with any subsequent re-inspection will be billed to the responsible party as established in the Master Fee Schedule.
 - 16.4.4 All work conducted under this Chapter must meet the minimum requirements set forth under applicable federal, state, and local requirements. Failure to meet any of these requirements will be subject to fees and fines as established in the Town's Master Fee Schedule.
 - 16.4.5 It is the responsibility of the company conducting such work to obtain all necessary permits and approvals, schedule and ensure completion of all required inspections prior to concealment of equipment and devices, and obtain approval upon completion of work prior to placing the system or portion of the system into service or proceeding with the proposed function or activity
- 16.5 Acceptance of Plans and Installations
 - 16.5.1 Whereas the State of New Hampshire requires a minimum of two Fire & Life Safety inspections at all occupancies meeting the code's definition of a Place of

Assembly, the AHJ will conduct these inspections to verify compliance and issue a permit upon successful completion of the inspection process.

- 16.5.2 A special amusement occupancy or haunted house must obtain a permit and successfully pass a Fire & Life Safety inspection by the AHJ prior to operating.

68-17. Enforcement

- 17.1 The Life Safety Code shall be enforced by the Chief of the Durham Fire Department or his designated agent as outlined by the State of NH RSA's.
- 17.2 The Chief of the Durham Fire Department or his designated agent is hereby authorized to request the assistance of the State Fire Marshal in the interpretation and enforcement of the Life Safety Code.

68-18. Violations and Penalties

- 18.1 Violations of or failure to meet any provisions under this Article are subject to fines and penalties as set forth under the Town's Master Fee Schedule as established by the Town Administrator with the advice and consent of the Town Council. This includes failure to schedule and satisfactorily complete a required inspection prior to the expiration of the issued permit, and multiple inspection failures.

68-19. Appeals

- 19.1 Any party aggrieved by a provision of these requirements or wishes to challenge the decision of an inspector enforcing these requirements may appeal to the Fire Chief in writing within thirty days of enforcement action.

68-20. Updates

- 20.1 The Town Council consider updates and amendments to this Article as necessary.

Article III

SPRINKLER CODE

[Repealed by Ordinance #2024-03, dated May 20, 2024.](#)

~~**68-21. Scope**~~

- ~~21.1—This Article shall cover the requirements related to the installation and modification of automatic fire sprinkler systems.~~

~~**68-22. Definitions**~~

- ~~22.1—This Article shall be known as the "Durham Sprinkler Ordinance" and may be cited as such and may be referred to herein as "this Article" or "the Article."~~
- ~~22.2—Systems defined under NFPA 13, 13R, and 13D and their associated requirements shall be included under this Article.~~
- ~~22.3—The term "Living Area" is the sum of the finished areas of a building as shown on the Durham's property tax assessment.~~

~~22.4—Whenever the term “Authority Having Jurisdiction” or the abbreviation “AHJ” is used in this Article, it shall be held to mean the Chief of the Durham Fire Department or his designated agent.~~

~~68-23. Adoption of Standards~~

~~23.1—This Code recognizes the New Hampshire Fire Code as adopted by the State of New Hampshire pursuant to RSA 153:4-a and 153:5. The same are hereby adopted and incorporated as fully as if set out at length herein. Whenever the New Hampshire Fire Code as referenced herein and this Fire Prevention Code address an identical issue, the more stringent fire protection provision shall apply.~~

~~68-24. Additions and Amendments~~

~~24.1—Sprinkler systems required.~~

~~This Article requires automatic fire sprinkler systems in existing dormitories, rooming houses, Boarding Houses, Hotels, Inns, Residential Multiunit, Mixed Use with Residential and Residence Multi-Unit buildings, as defined in Section 175-7 of the Durham Town Code, owned, occupied or controlled by single or multiple entities, such as recognized student organizations, and in any new business and/or mercantile and/or assembly occupancies in the Central Business, Church Hill, and Courthouse; and the Coe’s Corner District west of the Young Drive and Dover Road intersection including properties on Young Drive.~~

~~24.1.1—Non-residential occupancies of less than 5,000 Square Feet of Living Area are exempted from this requirement provided that the system is not required by the state’s adopted building, fire & life safety codes.~~

~~24.2—Time for compliance~~

~~24.2.1—New construction: Sprinkler systems shall be fully operational prior to issuance of a certificate of occupancy.~~

~~24.2.2—Existing construction: Property owners shall submit for review and approval an action plan that details how and when the sprinkler system will be fully operational.~~

~~24.3—Alarms~~

~~24.3.1—A flow indication alarm bell must be provided on the exterior of the structure above the Fire Department connection.~~

~~24.3.2—Electrical power for alarms shall be from a major appliance or lighting circuit with a breaker lock provided or from an approved fire alarm system.~~

~~24.4—Testing and maintenance is the owner's responsibility and shall be in compliance with the applicable NFPA, Inspection, Testing and Maintenance of Sprinkler Systems standards.~~

~~68-25. Conflict with other provisions~~

~~25.1—Referenced standards. Where differences occur between this Article and referenced standards, the provisions of this Article shall prevail.~~

~~25.2—Other regulations. When regulations herein conflict with other regulations, the requirement yielding a higher level of safety shall apply.~~

~~68-26. Permits and Approvals~~

~~26.1—Requirements for permitting and approval of automatic fire sprinkler systems covered under this Article are located under Chapter 68, Article I.~~

~~68-27. Enforcement~~

~~27.1—The provisions of this Article shall be enforced by the Authority Having Jurisdiction or his designated agent as outlined by the State of NH RSA's and the requirements within this Article.~~

~~27.2—The Chief of the Durham Fire Department or his designated agent is hereby authorized to request the assistance of the State Fire Marshal in the interpretation and enforcement of the State Fire Code.~~

~~68-28. Violations and Penalties~~

~~28.1—Violations of or failure to meet any provisions under this Article are subject to fines and penalties as set forth under the Town's Master Fee Schedule, as amended on occasion. This includes failure to schedule and satisfactorily complete a required inspection prior to the expiration of the issued permit, and multiple inspection failures.~~

~~68-29. Appeals~~

~~29.1—Any party aggrieved by a provision of these requirements or wishes to challenge the decision of an inspector enforcing these requirements may appeal to the Fire Chief in writing within thirty days of enforcement action.~~

~~68-30. Updates~~

~~30.1—The Town Council will consider updates and amendments to this Article as necessary.~~

Article IV

FIRE ALARM SYSTEMS

68-31. Scope

31.1 To tailor the State's fire alarm requirements to the specific needs of the community, and as described in the current adopted edition of NFPA 72.

68-32. Definitions

32.1 This Article shall be known as the "Durham Fire Alarm Ordinance" and may be cited as such and may be referred to herein as "this Article" or "the Article".

32.1 Whenever the term "Authority Having Jurisdiction" or the abbreviation "AHJ" is used in the this Article, it shall be held to mean the Chief of the Durham Fire Department or his designated agent.

68-33. Adoption of Standards

33.1 This Code recognizes the New Hampshire Fire Code as adopted by the State of New Hampshire pursuant to RSA 153:4-a and 153:5. The same are hereby adopted and incorporated as fully as if set out at length herein. Whenever the New

Hampshire Fire Code as referenced herein and this Fire Prevention Code address an identical issue, the more stringent fire protection provision shall apply, when applicable.

68-34. Additions and Amendments

- 34.1 All new and existing NFPA 72-required fire alarm systems must communicate to an approved monitoring agency that will relay alarm information to the Durham Fire Department’s dispatching agency.
- 34.2 Exterior audio/visual devices shall be installed outside all exterior doors and shall be designed and installed so that they continue to sound and flash upon pressing the fire alarm control panel’s ‘silence’ button. This is designed to discourage people from entering the building prior to the fire department verifying that no fire or hazards exist within the building.

68-35. Conflict with other provisions

- 35.1 Referenced standards. Where differences occur between this Article and referenced standards, the provisions of this Article shall prevail.
- 35.2 Other regulations. When regulations herein conflict with other regulations, the requirement yielding a higher level of safety shall apply.

68-36. Permits and Approvals

- 36.1 Requirements for permitting and approval of automatic fire sprinkler systems covered under this Article are located under Chapter 68, Article I.

68-37. Enforcement

- 27.1 The provisions of this Article shall be enforced by Authority Having Jurisdiction as outlined by the State of NH RSA’s and the requirements within this Article.
- 27.2 The Authority Having Jurisdiction is hereby authorized to request the assistance of the State Fire Marshal in the interpretation and enforcement of the State Fire Code.

68-38. Violations and penalties

- 38.1 Violations of or failure to meet any provisions under this Article are subject to fines and penalties as set forth under the Town’s Master Fee Schedule as established by the Town Administrator with the advice and consent of the Town Council. This includes failure to schedule and satisfactorily complete a required inspection prior to the expiration of the issued permit, and multiple inspection failures.

68-39. Appeals

- 39.1 Any party aggrieved by a provision of these requirements or wishes to challenge the decision of an inspector enforcing these requirements may appeal to the Fire Chief in writing within thirty days of enforcement action.

68-40. Updates

- 40.1 The Town Council will consider updates and amendments to this Article as necessary.

Article V
APPARATUS FEES

68-41. Scope

- 41.1 This article outlines the costs of apparatus, personnel and equipment to be used when billing responsible parties during hazardous materials spills or negligent forest or brush fires as specified in New Hampshire RSA 153-A:23-27 and RSA 154:8-aII-a and RSA 277 L:17 V.

68-42. Fees

- 42.1 Fire apparatus and emergency response units (Engine, Tanker, Ladder, Rescue, Car, Medic, Forestry Watercraft and Rescue Trailer) will be billed as established in the Master Fee Schedule, as amended on occasion.)
- 42.2 When first alarms or greater are necessary to deal with the hazardous materials or negligent forest or brush fire incident, overtime costs and mutual aid costs shall be billed to the responsible parties as established in the Master Fee Schedule.
- 42.3 Disposable goods will be billed at the actual cost of replacement plus a 25% administrative fee.

68-43. Updates

The Town will consider updates and amendments to this Article as necessary.

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this 20th day of May, 2024 by _____ affirmative votes _____ negative votes, and _____ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



TOWN OF DURHAM

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

AGENDA ITEM: #12
DATE: May 20, 2024

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council
AGENDA ITEM: APPROVE THE TOWN COUNCIL MEETING MINUTES FOR APRIL 15, 2024.
CC PREPARED BY: Karen Edwards, Administrative Assistant
PRESENTED BY: Todd Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's review and approval are the minutes for the meeting held on April 15, 2024. Please call or email Karen Edwards with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

LEGAL AUTHORITY:

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

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

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby approve the Town Council meeting minutes for April 15, 2024 (as presented/as amended).



TOWN OF DURHAM

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

AGENDA ITEM: **#15** *TS*

DATE: **May 20, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: CONTINUED DISCUSSION REGARDING THE DEVELOPMENT OF TOWN COUNCIL GOALS FOR FY 2024/25

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

At the April 1, 2024 Town Council meeting, Council members began discussing the process for the development of goals for the upcoming year. At the April 15, 2024 Town Council meeting, the Council was presented with a draft document including the Administrator and Council members' suggestions for changes to the goals. The discussion on the draft was continued until the May 6, 2024 Council meeting, at which time councilors began to work their way through a consolidated document. Administrator Selig has updated that document to reflect the May 6 discussion, which the council can review and continue to work through at the May 20, 2024 meeting.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

No formal motion is required. Continue discussion and work toward adopting a final list of Council goals for FY 2024/25.

Amalgamated and Amended 2024 Goal Suggestions from Town Council Members

(with Town Council changes from 5/6/24)

Working Draft - 5/7/24

Mission

To provide ongoing stewardship for the Durham community including effective and efficient municipal services.

Core Values

Excellence, Honesty, Integrity, Justice, Resilience, Respect, Transparency

Goals

- 1. Facilitate continued optimal functioning of Town government through continuous improvement, new efficiencies, waste reduction, and inter-agency collaboration.**
 - a. Move forward with key infrastructure projects.
 - b. Utilizing the UNH Sustainability Fellow program, update the Town's Climate Action Plan in 2024/25 and integrate conclusions into the Town's long-term planning efforts by involving committees and departments and encouraging them to actively suggest ideas and spearhead initiatives.
 - c. Strategize on ways to effectively advertise and fill vacant alternate and regular positions on Town boards/committees and positions at the polls and ensure a sufficient number and diverse mix of volunteers.
 - d. Expand outreach around services, amenities, information, and programs provided by the Town.
 - e. Continually evaluate cybersecurity risks and take steps to address potential vulnerabilities.
 - f. Fill the vacant Assessor position and work to ensure a smooth transition.

- 2. Conduct planning and take steps as necessary to protect public health and safety and provide ongoing service continuity given the anticipated impacts of climate change, the post-pandemic era, and general operational challenges.**
 - a. Align long-range capital improvement planning (CIP) with the recently approved 2024 Durham Multi-hazard Climate Mitigation Plan and the 2023 Climate Adaption Chapter of the Master Plan.
 - b. Work to begin updated long-term feasibility planning with UNH on the future Durham Fire Station capital project to be located on Waterworks Road.
 - c. Maintain Durham Police Department national accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA) with an upcoming cyclical review date of spring 2025.

- 3. Pursue long-term economic strength and resiliency, anticipating the community's, the region's, and the nation's economic characteristics and opportunities.**
 - a. The Council and Administrator, working together, will strive to hold the municipal tax rate at the 2024 level plus inflation (*CPI-U for Boston-Cambridge-Newton, MA-NH*) or

less, and continue to make an effort to control spending, enhance revenues, broaden the tax base, and explore innovative ways to stabilize or reduce the municipal tax rate.

- b. Thoughtfully develop and adopt an ordinance that advances efforts to create increased availability of a full range of housing types by April 2025.
 - c. Encourage downtown business development and growth of the tax base and housing opportunities within the commercial core through the application of smart growth principles focusing on planned economic and community development that attempts to curb urban sprawl in a sustainable manner, to include the future of 66 Main St.
 - d. Collaborate with UNH on The Edge at West End project to include the development and adoption of a Planned Unit Development (PUD) Zoning Overlay District, evaluation of the long-term buildout for necessary infrastructure supporting Town and UNH economic expansion, and myriad other aspects concerning the initiative including research, public-public-private opportunities, mixed-use, and housing.
 - e. Evaluate Eversource Madbury Rd. substation electric capacity constraints and work with Eversource, the State of NH, UNH, and RJ Kelly Co. on Technology Drive to address load requirements necessary to adequately service the Town of Durham's long-term needs.
 - f. Look at Federally-owned properties in Durham (US Post Office and US Fish & Wildlife) and evaluate whether there is opportunity for redevelopment.
- 4. Pursue long-term environmental sustainability and resiliency, taking into account existing and predicted impacts of climate change in multiple areas including drinking water, wastewater, stormwater, agriculture, food, society, transportation, ecology, solid waste, and economy.**
- a. Work toward continued Town-wide reductions in solid waste on a resident generation per pound basis through full implementation of a volume-based collection system.
 - b. Support public and active transportation alternatives to the automobile and continue taking steps to address downtown multi-modal options.
 - c. Increased local food production in the short and long-term with a goal of reaching 30% for the Northeast.

*-The Council's goal review ended here on 5/6/24.
Shaded items denoted for continued discussion.-*

- 5. Pursue long-term social resiliency and quality of life in Durham intended to strengthen the community in a welcoming and inclusive manner by supporting the needs of residents, families, and other identified stakeholders by offering a wide array of active and passive parks & recreation and library opportunities, programming, events, facilities, and publicly facing educational information celebrating the rich tapestry of Durham history.**
- a. Strive to be inclusive of non-binary gender options within overall Town operations.
 - b. Continue to protect and defend the integrity of Durham's neighborhoods surrounding the UNH campus through measures that address over-occupancy, noise, trash, public intoxication, unruly social gatherings, and other behaviors that diminish the quality of life for residents.
- 6. Continue cooperative and collaborative efforts with UNH to enhance mutual intellectual, cultural, environmental, social, and economic benefits associated with hosting New Hampshire's flagship state university.**

- a. Encourage the UNH administration to engage and work with Durham's Administrator in decision making and short & long-term planning that impacts UNH, the Town, local businesses, and local residents.
 - b. Encourage UNH to actively advertise and solicit Durham resident awareness of and participation in athletic, cultural, social, and educational opportunities on campus.
 - c. Work to expand Durham resident awareness of and access to UNH facilities such as the UNH Outdoor Pool, recreation and event spaces, classes, interesting speakers, etc.
 - d. Endeavor to establish Durham as an epicenter of off campus volunteerism and research by UNH students/faculty/staff.
 - e. Strive to keep the Town informed in a timely and meaningful way of decisions that may have positive or negative implications off campus in Durham.
- 7. Leverage town committees and subcommittees to develop tactical plans to align with the broader goals of the Council and encourage them to collaborate with each other and communicate as necessary with the community at large.**
- a. Encourage all Town committees, boards, commissions, and departments to become familiar with and develop programming/action steps, as appropriate, to prompt widespread community involvement in Durham's Climate Action Plan, the development of a full range of housing types (workforce, seniors, missing middle) enabling a larger portion of Durham's workforce to live in town, the expansion of downtown business development, and a complete streets approach to transportation planning.
 - b. Establish a new monthly or weekly effort that highlights the contributions of local elected and appointed officials with local committees to give praise and increase attractiveness of civic participation.
 - c. Encourage cross committee/board/commission communication through increased mutual attendance of sessions and encouraging cross committee collaboration.
 - d. Update definitions section of Zoning Ordinance, the Shoreland Protection Overlay District (SPOD) Ordinance, revisit the Sprinkler Code, revisit the definition of family in the Zoning Ordinance and occupancy limitations, and consider adoption of a new EV Ordinance.

*** Note that the numerical order of the goals does not imply priority.**