

1 **DRAFT**  
2 **DURHAM TOWN COUNCIL**  
3 **MONDAY, FEBRUARY 17, 2025**  
4 **DURHAM TOWN HALL - COUNCIL CHAMBERS**  
5 **7:00 PM**  
6

7 **MEMBERS PRESENT:** Chair Sally Needell, Chair Pro Tem Joseph Friedman, Councilor  
8 Wayne Burton, Councilor Eric Lund, Councilor Curtis Register, Councilor Heather Grant and  
9 Councilor Emily Friedrichs (who uses the pronouns ze/zir/zirs/zirself and the title Mx.  
10 Friedrichs).

11  
12 **MEMBERS ABSENT:** Councilor Darrell Ford, Councilor James Bubar  
13

14 **OTHERS PRESENT:** Administrator Todd Selig, Planning Board Chairman Paul Rasmussen,  
15 Town Planner Michael Behrendt, Code Enforcement Officer Audrey Cline, Fire Chief Dave  
16 Emanuel  
17

18 **I. Call to Order**

19 Chair Needell called the meeting to order at 7:00 P.M.  
20

21 **II. Town Council grants permission for fewer than a majority of Councilors to**  
22 **participate remotely - Not needed.**  
23

24 **III. Roll Call of Members**

25 Councilor Heather Grant, Chair Sally Needell, Chair Pro Tem Joseph Friedman,  
26 Councilor Wayne Burton, Councilor Eric Lund and Councilor Curtis Register.  
27 Chair Needell said there are six councilors present so there is a quorum. She announced  
28 Councilor Bubar will not be in attendance at this meeting.  
29

30 **IV. Approval of Agenda**

31 In response to Chair Needell's request for any changes to the meeting's agenda,  
32 Councilor Grant asked that Resolution #2025-02 be removed from the Unanimous  
33 Consent Agenda. Chair Needell and Councilor Lund confirm that can be done when the  
34 Council gets to that agenda item.  
35

36 *Chair Needell MOVED to adopt the agenda as written. Councilor Lund SECONDED*  
37 *the motion. The motion PASSED by a unanimous hand vote of 6-0.*  
38

39 **V. Special Announcements - None**  
40

41 **VI. Public Comments**

42 **Joshua Meyerowitz, 7 Chesley Drive,** spoke about the findings in the report on the May  
43 1, 2024 UNH student protest by the President's Working Group on Free Speech,

1 Expression Policies and Communications. He said an investigation by an independent  
2 law firm or any independent entity would be preferable to an investigation by the Durham  
3 Police Department, but he thinks there should be a further investigation into the actions  
4 of the UNH Police Department and the student arrests. He said he was uncertain about  
5 the report's recommendation of separating the UNH Police Department from the Durham  
6 Police Department, but he understands the reasoning behind the recommendation is to  
7 clarify who does have authority over the UNH Police Department. He said he was  
8 relieved that the group, which he felt was weighted toward those invested in preserving  
9 UNH's reputation, did conclude that the protesters' rights were likely violated and  
10 acknowledged all the harm experienced by those involved and the need for repairing  
11 relationships. He wondered if the Faculty Senate, the Student Senate, student body or the  
12 state Office of Public Integrity will call for further investigation into the protest and the  
13 court affidavits, which he alleges included false information provided by officials, and if  
14 the Town Council will hold the Durham Police Department members, who he alleges also  
15 provided false information, accountable.

16  
17 Councilor Friedrichs joined the meeting in person during Public Comments and  
18 introduced zirsself at 7:07 PM.

19  
20 **VII. Report from the UNH Student Senate External Affairs Chair or Designee**

21 **UNH student Abigail Bagley**, the External Affairs Chair for the student body president  
22 at UNH, said she and the Judicial Affairs Cabinet met with the new police captain at  
23 UNH Police Department as well as the captain of the Durham Police Department to  
24 discuss body cameras. She believes body cameras are very important for accountability  
25 and hopes they're included in the town's next budget.

26  
27 She said members of the Student Senate met with Dr. Nadine Petty, UNH Chief Diversity  
28 Officer, and Alexis Pinero Benson, UNH Director of Community Standards, both of  
29 whom were on the President's Working Group on the May 1 Protest as was one of the  
30 Judicial Affairs Cabinet members to answer questions about the May 1 Protest report and  
31 about concerns about DEI at the university as well as community standards in general.  
32 She said Community Standards is a one-person department that ensures students are  
33 being held accountable and their needs are met. She said the department is an asset to the  
34 university.

35  
36 She said the recent series of snowstorms have raised concerns about snow removal and  
37 ADA accessibility. Both Campus Structures and DEI are working on an accessibility map  
38 and about ADA in regard to snow removal. She said it's an ongoing conversation and  
39 students know this winter is unusual.

1 She said she is focusing on creating a better connection with commuter students working  
2 with the head of the Off-Campus Engagement Office and FSL. They're planning to put  
3 on an event that would provide the opportunity to hear their concerns. She said commuter  
4 students can run for a seat in the Student Senate. She said they met with Dean Michael  
5 Blackman, Dean of Students, about the town ordinance on student rentals and House Bill  
6 457, and that they are hearing concerns from more students. She said at the end of the day  
7 students want rent to go down and more off-campus accessibility to housing, and they're  
8 working to see what they can do to benefit students the most.

9  
10 Councilor Burton expressed concern that Gov. Kelly Ayotte has not mentioned UNH in  
11 her recent speeches, especially not in her budget speech even though she has proposed  
12 cutting the UNH budget by \$5 million. He's concerned about the proposed bill that would  
13 allow the Legislature to write the due process procedures for the University System. He's  
14 worried about presenting UNH to its fullest to the Legislature and suggested having  
15 students at the state capitol to elevate UNH's importance to the state.

16  
17 Chair Needell reminded Ms. Bagley the HB 457 hearing is the next day, Feb. 18, at 1  
18 p.m.

19  
20 Councilor Friedrichs said it was reported the UNH Police were wearing body cameras at  
21 the May 1 protest, but the footage has not been released even to the Working Group  
22 studying the protest, and wondered what's the value of body cameras if not used in a  
23 situation like that one.

24  
25 Councilor Lund said snow removal at UNH is not just an ADA issue. There have been  
26 many falls he's aware of on ice on campus and that it is a danger to everyone. Ms. Bagley  
27 said the Facilities Department is working on improving its snow removal and timing of  
28 storm curtailments.

29  
30 **VIII. Unanimous Consent Agenda**

31 *Councilor Grant MOVED to remove Item B Resolution #2025-02 from the*  
32 *Unanimous Consent Agenda and move it to Unfinished Business Items. Councilor*  
33 *Friedrichs SECONDED the motion to remove Item B and move it to after the*  
34 *discussion in the Public Hearing on Student Rentals, which is Item A under*  
35 *Unfinished Business.*

36  
37 Discussion continued about the order of the Public Hearings and the Resolution  
38 under Unfinished Business. It was decided to move the Public Hearing on the  
39 student rentals ordinance last followed by the discussion of the Resolution #2025-02.  
40

1 A. Shall the Town Council accept in fee simple ownership a parcel of land that is a  
2 portion of 65 Durham Point Road, Map 115, Lot 6, owned by Sarah P. Ford 1999 Trust?  
3 As stated in the deed to the Town, executed December 13, 2024, this parcel includes all  
4 of the land situated southerly and westerly of the boundary line shown on the Roadway  
5 Right-of-Way Adjustment/Two-Lot Subdivision plat dated November 18, 2024, prepared  
6 by Doucet Survey.

7  
8 *Chair Needell MOVES that the Durham Town Council hereby accept in fee simple*  
9 *ownership a parcel of land that is a portion of 65 Durham Point Road, Map 115, Lot 6,*  
10 *owned by Sarah P. Ford 1999 Trust. Councilor Grant SECONDS the motion. The*  
11 *motion PASSES on a unanimous roll call vote of 7-0.*

12  
13 **IX. Committee Appointments**

14 Shall the Town Council, Upon Recommendation of the Parks & Recreation Committee  
15 Chair, Appoint Lynda Kuhne, 119 Dame Road, to fill an Alternate Membership on the  
16 Parks & Recreation Committee with a term expiration of April 2027?

17  
18 Resident Lynda Kuhne introduced herself saying she retired two years ago after 32 years  
19 in health care. Before that, she spent years in recreation as a coach, referee, teaching  
20 physical education and working at day and summer camps. She said she's been a resident  
21 of Durham for 30 years, before that lived in Newmarket, and is a longtime Land Steward  
22 volunteer so she knows the town's trails well. She said she is looking forward to getting  
23 involved in the town.

24  
25 *Chair Needell MOVED that the Durham Town Council hereby appoint Lynda Kuhne*  
26 *to fill an Alternate Membership on the Parks & Recreation Committee with a term*  
27 *expiration of April 2027. Council Pro Tem Friedman SECONDED the motion. The*  
28 *motion passed on a unanimous roll call vote of 7-0.*

29  
30 **X. Presentation Items - None**

31  
32 **XI. Unfinished Business**

33  
34 A. (Originally Item XI-B on the agenda) Public Hearing and Possible Adoption of  
35 Ordinance #2025-01 Amending Chapter 175 "Zoning," Article II, "Definitions,"  
36 Article XII.1, "Use and Dimensional Standards," Article XV, "Flood Hazard  
37 Overlay District," Article XVI, "Aquifer Protection Overlay District," Article  
38 XVII, "Durham Historic Overlay District," Article XVIII, "Personal Wireless  
39 Service Facilities Overlay District," Article XX.1, "Standards for Agricultural  
40 Uses," and Article XXIII, "Signs and Communications Devices."  
41

1                   ***Chair Needell MOVED to open the Public Hearing on Ordinance #2025-01.***  
2                   ***Councilor Lund SECONDED the motion.***

3  
4                   Chair Needell invited anyone from the public present in person or on Zoom to  
5                   speak. There was no one present to speak on the ordinance.

6  
7                   ***Councilor Lund MOVED to close the Public Hearing. Councilor Grant***  
8                   ***SECONDED the motion.***

9  
10                  ***Chair Pro Tem Friedman MOVED that the Council accept the changes as***  
11                  ***shown in the meeting packet and approve the changes to the definitions as***  
12                  ***presented. Chair Needell SECONDED the motion.***

13  
14                  Chair Needell asked if the definition of grade is in another section of zoning  
15                  regulations. Planning Board Chairman Paul Rasmussen said the grade definition is  
16                  in the site plan regulations. She also asked if the definition of student rental would  
17                  be added later to the category of uses after the Council approves it and Mr.  
18                  Rasmussen responded yes. Chair Pro Tem Friedman praised the good job the  
19                  Planning Board has done, modernizing these definitions from the last time they  
20                  were changed in 1999.

21  
22                  ***Chair Needell MOVED that the Town Council adopt Ordinance #2025-01.***  
23                  ***Councilor Grant SECONDED the motion.***

24  
25                  Administrator Selig asked if the motion included the recommendation from the  
26                  Town Planner about boarding houses as outlined in the communication, leaving  
27                  the existing definition of rooming house/boarding house as is instead of changing  
28                  it as outlined in the description. The Council discussed the matter. Town Planner  
29                  Michael Behrendt said staff realized after the definitions were put together when  
30                  they were looking at the definition of student rentals that there could be some  
31                  confusion or conflict when you have a single-family residence with multiple  
32                  people renting rooms, the town considers that a single dwelling, which is allowed,  
33                  but that there might be confusion with the definition of boarding house where it  
34                  says renting individual rooms that are not dwelling units, which is not allowed. He  
35                  said the current definition says the boarding house is owner-occupied, so if the  
36                  town leaves the existing definition, which is an insignificant change since it is  
37                  existing, there would be very few instances where people are renting rooms in an  
38                  owner-occupied dwelling. The town would see it as a single-family dwelling, not a  
39                  boarding house.

40  
41                  Chair Pro Tem Friedman said since there is a conflict between what's in the  
42                  packet, it would have to be corrected. The Council discussed how to proceed.

43  
44                  ***Chair Needell REMOVED her initial motion and Councilor Grant REMOVED***  
45                  ***her second of the motion.***

46

1                    **Councilor Lund MOVED to amend Chair Pro Tem Friedman’s motion by**  
2                    **retaining the previous definition of boarding house in the proposed ordinance.**  
3                    **Councilor Friedrichs SECONDED the motion. The motion PASSED on a roll**  
4                    **call vote of 6-1.**

5  
6                    **Councilor Grant - aye; Councilor Friedrichs - aye; Chair Needell - aye; Chair**  
7                    **Pro Tem Friedman - aye; Councilor Burton - aye; Councilor Lund - aye;**  
8                    **Councilor Register - nay.**

9  
10                   **Chair Needell MOVED that the Town Council amend Ordinance #2025-01.**  
11                   **Councilor Register SECONDED the motion. The motion PASSED with a**  
12                   **unanimous roll call vote of 7-0.**

- 13  
14                   B. (Originally Item X1.-C on the agenda) Public Hearing and Possible Adoption of  
15                   Ordinance #2025-02 Amending Chapter 175, “Zoning,” Article XVII, “Durham  
16                   Historic Overlay District,” Section 175-94, “Purview of the Board.”

17  
18                   **Chair Needell MOVED to open the Public Hearing on Ordinance #2025-02.**  
19                   **Councilor Lund SECONDED the motion. The motion PASSED with a hand**  
20                   **vote of 7-0.**

21  
22                   Chair Needell invited members of the public to speak and clarified the subject of  
23                   this public hearing for a member of the audience. Councilor Lund clarified that  
24                   Item XI-A was moved to after this public hearing on the agenda.

25  
26                   No one from the public was present or on Zoom to speak on the ordinance.

27  
28                   **Councilor Lund MOVED to close the Public Hearing. Councilor Register**  
29                   **SECONDED the motion. The motion PASSED on a unanimous hand vote of 7-**  
30                   **0.**

31  
32                   **Chair Needell MOVED the Town Council adopt Ordinance #2025-02.**  
33                   **Councilor Lund SECONDED the motion. The motion PASSED on a**  
34                   **unanimous roll call vote of 7-0.**

- 35  
36                   C. (Originally Item XI-A on the agenda) **Public Hearing and Possible Adoption of**  
37                   **Ordinance #2025-03** Amending Chapter 175, “Zoning,” Article II, “Definitions,”  
38                   Article XII.1, “Use and Dimensional Standards,” and Article XX, “Standards for  
39                   Specific Uses,” Regarding Student Rentals.

40  
41                   **Chair Needell MOVED to open the Public Hearing on Ordinance #2025-03.**  
42                   **Councilor Grant SECONDED the motion. The motion PASSED on a**  
43                   **unanimous hand vote of 7-0.**

44  
45                   Chair Needell invited members of the public to speak.

1           **Matt Komonchak, 1 Thompson Lane**, spoke in opposition to the zoning changes  
2 in the ordinance, saying he felt it would essentially gut the town’s zoning. He said  
3 he feels the town’s leadership should be defending Durham’s current zoning rather  
4 than caving into a proactive landlord who has been very effective in Concord. He  
5 said he feels the town’s current zoning can be defended on health and safety  
6 grounds. He said while it’s good to support an inclusive definition of family, the  
7 proposed changes don’t attempt to do that, and rather obliterate any distinction  
8 between family and unrelated people. He said the federal and state government  
9 doesn’t do that and he is not sure why Durham is abandoning those basic  
10 distinctions. He said obliterating those distinctions takes away a commitment to  
11 the welfare of children. Allowing significant increases in density means more cars,  
12 more delivery vehicles. He feels the proposal is irresponsible. Student or  
13 workforce housing will have absentee owners, less well-maintained properties and  
14 a transient population not vested in the welfare of the neighborhood and in  
15 children. He said using a fire code designed for safety to achieve a policy goal is  
16 wrong-headed. He said there have been a lot of zoning changes recently and with  
17 the UNH West Edge development project beginning, it seems like the town is not  
18 taking a coordinated approach. He said the town has worked on creating workforce  
19 housing more possible to bring housing costs down, but this proposal will drive  
20 them up.

21  
22           **Deborah Hirsch Mayer, 19 Garden Lane**, on Zoom, agreed with Matt  
23 Komonchak’s remarks and with Councilor Friedrichs’ remarks, which were posted  
24 on Facebook. She said she agreed with zir remarks that student housing is  
25 commercial development and it could be dealt with more sanely by looking at what  
26 areas are zoned for commercial purposes and that would safeguard the residential  
27 neighborhoods where we don’t want large numbers of students living in houses  
28 and causing the problems they often have over the years. She gave the example of  
29 her Faculty neighborhood where in the past many houses were occupied by  
30 students and the problems that created. She encouraged the Council to pay heed to  
31 Councilor Friedrichs and Mr. Komonchak.

32  
33           **Beth Olshansky, 122 Packers Falls Road**, remembered when the zoning was 200  
34 square foot per occupant downtown and the town decided it didn’t want that  
35 density, and since then has gone through several different parameters to try to fix  
36 the problem. She said if this proposal is moving back toward that original  
37 parameter, the town is looking at a lot of redevelopment downtown. She suggested  
38 joining forces with other college towns because it seemed like the town is being  
39 forced into a situation that is not a good solution for Durham. She thanked the  
40 Councilors, hoped they could come up with a better solution, and said she looked  
41 forward to their discussion.

42  
43           ***Councilor Lund MOVED to close the Public Hearing. Councilor Register***  
44 ***SECONDED the motion. The motion PASSED on a unanimous roll call vote of***  
45 ***7-0.***

1 Councilor Friedrichs introduced a set of frequently asked questions ze had  
2 distributed to Councilors, which ze wrote because ze heard from so many of zir  
3 neighbors that they were confused by the ordinance's changes. Ze said there is  
4 remaining confusion because the ordinance is addressing student rentals from two  
5 different perspectives: as a type of land use such as commercial use, and to adjust  
6 the maximum occupancy cutoffs to define different types of dwellings in  
7 conjunction with the fire code. These are two separate initiatives that don't rely on  
8 each other. Confusion comes in trying to know the upper level of occupancy  
9 because that is spelled out in the fire code, but not the zoning ordinance. Ze said  
10 the Town Council needs to encourage the Planning Board to revisit these  
11 confusing elements even if the ordinance passes at this meeting, and to look at this  
12 as a two-part process: defining student rentals as a commercial use, and changing  
13 the occupancy levels to be in line with fire code.

14  
15 Chair Pro Tem Friedman asked Mr. Rasmussen and Mr. Behrendt to clarify the  
16 example many have given that the ordinance change would allow nine people to  
17 live in an 1,800-square-foot house and if it is a return to the town's former rule  
18 decades ago that required 200-square-feet per occupant. Mr. Rasmussen said he  
19 believed so, but that Fire Chief Dave Emanuel would be better to answer since it is  
20 in the fire code.

21  
22 Chair Needell asked Mr. Rasmussen why the ordinance uses student rentals  
23 instead of commercial rentals. She suggested simplifying it to be if a dwelling has  
24 four renters, it can be anywhere in Durham; if it's five or more, you have to meet  
25 fire code, having sprinklers installed, and you are a commercial entity so you can  
26 only be in certain zones outlined in the ordinance. He said, as Councilor Friedrichs  
27 pointed out earlier, this is where the ordinance is using two different approaches.  
28 The Council discussed some of the situations that make this simplification  
29 difficult. Chair Needell asked why the ordinance distinguishes students when the  
30 same rules apply to any kind of renter. Mr. Rasmussen said the Planning Board  
31 wasn't focusing so much on someone renting out a house to one person where  
32 individuals divide the rent, as it was focused on the business model of renting by  
33 the bed that targets undergraduate students. Chair Needell asked if the town should  
34 define it as renting by the home vs. renting by the bed. Councilor Friedrichs added  
35 the issue is not just a lifestyle, noise and hours tension with rentals by the bed, but  
36 that market studies have shown that financial models of renting by the bed drives  
37 up housing prices for not just Durham, but also other towns in New Hampshire. Ze  
38 pointed out the complexities of the town enforcing Chair Needell's suggestion and  
39 the challenge of working it into zoning language. Ze said ze feels the ordinance  
40 needs more work and some of that would have to be at the Planning Board, so that  
41 plays into what the Council is trying to achieve at this meeting.

42  
43 Chair Pro Tem Friedman asked Chief Emanuel on Zoom to address the question of  
44 if nine people can reside in an 1,800-square-foot home according to the proposed  
45 ordinance. Ms. Cline is also on Zoom and said the people per square feet doesn't  
46 apply to single family homes. She said it applies in buildings like fraternities and

1 apartment buildings. She said there is really no restriction in the fire code as to  
2 how many people can be in one dwelling unit like a single family home. That's  
3 because you don't want to restrict the number of family members that can live  
4 there.

5  
6 Councilor Friedrichs clarified asking Ms. Cline if there were anything in the  
7 proposed ordinance that would prevent the scenario where you have an 1,800-  
8 square-foot home rented to nine people, noting it can't be 10 because then it  
9 becomes defined as a boarding house, with sprinklers and with a car for each  
10 renter. Ms. Cline said that is allowable, but they would have to create enough  
11 parking spaces for the cars and that they wouldn't be allowed to park just  
12 anywhere. Ms. Cline added the requirement for sprinklers for five or more renters  
13 is in the fire code and stands no matter what as that's not a part of the proposed  
14 ordinance.

15  
16 Councilor Lund said his understanding is the definition of boarding house or  
17 dormitory in the fire code and the definition of boarding house in the zoning  
18 ordinance differ and that the proposed ordinance doesn't include these definitions  
19 nor adopts them by reference. Ms. Cline confirmed that is correct, and the  
20 definitions of rooming and lodging, and boarding house are different.

21  
22 Mr. Rasmussen said the intent of the Planning Board is to come back to the  
23 proposed ordinance and clarify the definitions that were overlooked in the first  
24 draft in the next couple of months, but they were not aware of the problem when  
25 drafting it quickly in the interest of having something in place before the Housing  
26 Committee considers proposed Bill 457 and State Rep. Al Howland, Strafford  
27 District 20, introduces his amendment to it.

28  
29 Councilor Burton said he is going to testify at the Housing Committee hearing on  
30 Bill 457 against the bill unless it is amended with State Rep. Howland's  
31 amendment. He pointed out the bill requires a town not restrict occupancy to fewer  
32 than two people per bedroom, not defining what a bedroom is. He said the town is  
33 restricting beyond the bill's requirement. Councilors discuss how the language of  
34 the bill is unclear and raises questions. Mr. Rasmussen confirmed that if the bill  
35 passes, the town's ordinance would not be allowed.

36  
37 Discussion ensued about the wording of the state bill and the amendment.  
38 Councilor Burton pointed out RSA 674:16 gives the right to zone to the towns. He  
39 said the new bill may well be challenged in court if it passes because of the zoning  
40 power and the right to control density that is given to towns in this state statute. He  
41 said N.H. is not a local control state and the town can only do what the Legislature  
42 decides it can.

43  
44 Administrator Selig said the town's current zoning was developed because of the  
45 zoning power given to towns and he feels it has worked extremely well. He said

1 housing is the issue du jour is a priority for both the right and the left. He said the  
2 right wants to remove restrictions and the left wants to create more housing. He  
3 said everybody agrees the lack of housing is holding back the state's economy. He  
4 said few understand college towns and Durham has the biggest burden of any  
5 college town in the state because of the number of students who live here. He said  
6 Durham welcomes college students, but they live very different life cycles than  
7 non-undergraduates. The town's current regulation has helped manage the impact  
8 of college housing. It also has a financial impact because it's very profitable to be  
9 a landlord of college students. In the early 2000s, as residences became student  
10 housing, not necessarily safely maintained, many neighborhoods were  
11 experiencing an influx of students and residents packed Town Council meetings  
12 asking for help. The demand for housing had students moving to Newmarket and  
13 Dover, and beyond. Many of the town's ordinances were updated and enforced to  
14 reduce the impact of student housing. From 2007 to 2012, the town saw safe, new  
15 housing of about 2,000 beds created in Durham, and the students moved back. The  
16 town was able to broaden the tax base. Single-family homes were sold back to  
17 families, and students moved to professionally managed housing downtown. The  
18 town now receives very few complaints about student housing. The town hears  
19 from Concord that it's discriminating against students, which it is not. He said the  
20 town is uniformly enforcing an ordinance, which has gone to the N.H. Supreme  
21 Court twice, which decided there is a bonafide goal in the state to protect families,  
22 which the town's ordinance does. It doesn't prevent students from living off-  
23 campus, they just can't do it in a group of more than three. In this environment of  
24 promoting housing, it is felt the town is discriminating against students and against  
25 a modern version of family. Administrator Selig said it is advisable to update the  
26 definition of family and the town has a committee studying redefining it, which is  
27 complicated. This proposed bill seeks to strike down any definition of family.  
28 From a town staff perspective, it makes sense to align the ordinance with the fire  
29 code. The working group thought that by adding one more occupant - a fourth -  
30 wouldn't dramatically change the way the current zoning is working.

31  
32 Councilor Burton said the town wouldn't be having this discussion about changing  
33 if it weren't threatened by the state Legislature with this new bill. Administrator  
34 Selig agreed except for the fact the town was already working on redefining its  
35 definition of family before this came up.

36  
37 He said the working group was trying to deal with the commercial nature of  
38 student housing and not really trying to deal with groups of professionals living  
39 together in a home because there are few problems in those situations. He noted  
40 there is not any other town in N.H. with 11,000 people between the ages of 18 and  
41 22 living in it, and that makes Durham's situation unique. He said the bill, if  
42 passed, would strike down the town's fire code. He said UNH would consider  
43 verifying full-time students if the town provided its rationale for an enforcement  
44 action. He said the town could ask occupants to prove they're not a student, but  
45 that's not a perfect process. He said the town could also do nothing and take a  
46 wait-and-see approach, but that the odds are against the town in that approach.

1  
2 Chair Pro Tem Friedman asked if the bill passes, when the ordinance would be  
3 struck down? Consensus was in August 2025. He said then there would be time to  
4 pass something before the existing zoning becomes ineffective. He said the town  
5 could wait and see if the current ordinance gets struck down. If it doesn't, the town  
6 remains with the three unrelated rule which has been working well. He also said  
7 enforcement is a challenge not being able to determine who is a student or not.  
8

9 Councilor Register referred to his experience as a homeowner in Chapel Hill, N.C.,  
10 which had a four unrelated rule that worked well. He said he views this as an  
11 autonomy issue. He said there is a risk, but wants to support State Rep. Howland's  
12 efforts, and approve the ordinance.  
13

14 Mr. Komonchak spoke in opposition to the ordinance again, and he urged the  
15 Town Council not to act in response to a false sense of urgency that has been  
16 created. He encouraged the town to exercise its zoning powers and define family.  
17 He brought up the appropriateness of making the decision on a federal holiday and  
18 the lack of citizens in attendance at the meeting.  
19

20 Administrator Selig said the town doesn't recognize Presidents' Day as a holiday  
21 so the town has been open all day and traditionally has for about 20 years.  
22 Councilor Lund said it is not a UNH holiday and the public schools were open.  
23

24 Councilor Needell asked if it would be sufficient to say Durham is working on an  
25 ordinance at the hearing, but it needs more time. Councilor Grant said State Rep.  
26 Howland worked very hard last year on behalf of Durham to have this not happen  
27 last year, and he is not sure he will be successful this year and needs the town's  
28 support. Discussion ensued about the strategy for presenting the town's position at  
29 the Legislative hearing.  
30

31 Councilor Friedrichs suggested changing the ordinance wording to be  
32 undergraduate college students "as defined by federal law," because there is no  
33 federal law, to "as identified according to the criteria of the U.S. Department of  
34 Education's Office of Federal Student Aid." Discussion continued about how best  
35 to identify a full-time undergraduate student.  
36

37 ***Chair Needell MOVED that the Town Council adopt Ordinance #2025-03.***  
38 ***Councilor Register SECONDED the motion.***  
39

40 Chair Needell asked if there was additional discussion needed. Administrator Selig  
41 noted that the motion includes the amendment just discussed and Chair Needell  
42 confirmed it was "as amended."  
43

44 ***The motion PASSED on a roll call vote of 6-1.***

1  
2 ***Councilor Register - aye; Councilor Lund - aye; Councilor Burton - aye; Chair***  
3 ***Pro Tem Friedman - aye; Chair Needell - aye; Councilor Friedrichs - nay;***  
4 ***Councilor Grant - aye.***  
5

6 Councilor Friedrichs noted before zir vote that this is a challenging decision for zir  
7 and that ze’s been asked by so many constituents to vote against the ordinance and  
8 so voted “nay.”  
9

10 D. (Originally Item VIII.-B on the agenda) Shall the Town Council adopt **Resolution**  
11 **#2025-02** opposing House Bill 457 which prohibits a Zoning Ordinance from  
12 restricting the number of occupants of a dwelling unit to fewer than 2 occupants  
13 per bedroom? The bill also prohibits the adoption and enforcement of any Zoning  
14 Ordinance that discriminates based on familial, non-familial or marital status.  
15

16 Councilor Grant wanted to modify the resolution’s wording to put the positive  
17 before the negative, and say in the opening, the resolution is supporting an  
18 amendment to HB 457 first and then opposing the bill if it is not amended.  
19 Discussion ensued about the wording of the opening of the resolution.  
20

21 Ms. Bagley of the UNH Student Senate said she and other students support the use  
22 of the fire code to ensure safe conditions for students in rentals of all types.  
23 Administrator Selig explained State Rep. Howland’s amendment says towns can’t  
24 adopt zoning regulations that are more restrictive than the state’s fire code and the  
25 state fire code becomes the threshold for numbers of occupancy. She said the fire  
26 code is more understandable and digestible than other ways of determining  
27 occupancy.  
28

29 Chair Pro Tem Friedman said the town administrator has written other college  
30 towns about this issue. Administrator Selig said the town manager of Hanover is  
31 sending a letter in support of Durham and Councilor Register suggested contacting  
32 other college towns in the state to build support as Ms. Olshansky suggested in her  
33 comments. Discussion continued about other bills proposed in the Legislature that  
34 would regulate zoning and about edits to the resolution’s wording based on the  
35 zoning ordinance the Town Council passed at this meeting.  
36

37 There was a discussion of renting per bed rather than renting a house as a whole  
38 single unit, and it makes rentals less attainable for all renters, which goes against  
39 the spirit of HB 457 to increase the supply of affordable housing in the state by not  
40 allowing towns to restrict housing occupancy.  
41

42 Chair Needell said an important underlying piece of this is residents just trying to  
43 preserve a sense of community in the town’s neighborhoods and the sense of  
44 watching out for each other for all those residing in a neighborhood.

1  
2 Discussion continued on how to succinctly present the resolution and ordinance at  
3 the hearing before the Housing Committee, and what points should be emphasized  
4 in a brief testimony.

5  
6 ***Chair Needell MOVED that the Town Council adopt Resolution #2025-02 as***  
7 ***amended. Councilor Friedrichs SECONDED the motion. The motion passed on***  
8 ***a unanimous roll call vote of 7-0.***  
9

## 10 XII. Councilor and Town Administrator Roundtable

### 11 Chair Needell - Human Rights Commission

12 Chair Needell reported that the commission met on Feb. 5. Town Business Manager Gail  
13 Jablonski presented the town's Municipality Equity Index Score to the commission. Chair  
14 Needell said she believes the town is second to Portsmouth in the state. She said they also  
15 discussed an explanation of the student rental definition.  
16

### 17 Councilor Register - Agricultural Commission

18 He said IWMAC presented about a composting collaboration either on a resident-led  
19 effort or town pickup effort. He said the commission's survey has been published and  
20 encouraged residents to take the survey, which was in the Friday Update. Next meeting is  
21 March 10 at 7 p.m.  
22

### 23 Councilor Register - School Board

24 He said the School Board met Feb. 5. He highlighted two topics - the fact that Robert  
25 Eggers, the director of the recent film "Nosferatu" as well as several others, is an Oyster  
26 River graduate. He also noted that the schools had a Holocaust survivor speak to students.  
27 He said the middle school is working with the N.H. Learning Performance Assessment to  
28 see how it can improve test scores and other metrics. On Feb 19 at 7 p.m. in Morse Hall,  
29 there'll be a capital plan information session. He said there is a cell phone operations  
30 working group who will make a recommendation to the School Board on cell phones.  
31 Council Pro Tem Friedman said he's heard there is a general acceptance among students  
32 about not using phones during class.  
33

### 34 Councilor Lund - Energy Committee

35 He said the Energy Committee met Feb. 4. He said the committee discussed the  
36 Community Power Coalition of NH's new rate being higher than Eversource's rate,  
37 which is a reversal of historic trends. He said the state's Public Utilities Commission has  
38 asked utilities including Eversource and Unitil to come in with a low estimate of their  
39 costs and if they ended up underbidding, push their costs onto their distribution network,  
40 not their customer network. He said there is a bill in the House, HB 760, which would  
41

1 prohibit that practice by the PUC and make the playing field more level. The way it is  
2 now, if their costs are found to be really that low, their company benefits; if they low ball  
3 the costs, they push the cost onto other power suppliers, which is anti-competitive. He  
4 said there was also a brief discussion of the site plan amendments for EV charging  
5 stations. He said there is concern about a proposed bill in the Legislature that would  
6 eliminate parking minimums so towns wouldn't be able to control that and it would  
7 render the proposed site ordinance change moot. Next meeting is March 4 when the  
8 committee hopes to move them forward to the Planning Board.

9  
10 Councilor Lund - Historic District/Heritage Commission

11 The commission met Feb. 13 and supported the effort to celebrate the 200th anniversary  
12 of Lafayette's visit to Durham on June 22. There was also discussion on the progress of  
13 the Bickford-Chesley farmhouse construction.

14  
15 Chair Pro Tem Friedman asked if the Energy Committee discussed the bill on net  
16 metering proposed in the Legislature and how it would affect solar in Durham. Councilor  
17 Lund said it was not discussed.

18  
19 Councilor Burton - Conservation Commission

20 He said he was not able to be present at the last meeting.

21  
22 Councilor Burton

23 He said he is keeping tabs on the Durham Point Road property and believes the town is  
24 doing what it needs to do on it. He talked about the bills concerning UNH, to which he is  
25 leading the opposition.

26  
27 Chair Pro Tem Friedman - Parks and Recreation Committee

28 He said the committee hasn't met since last Town Council meeting. Next meeting is Feb.  
29 25. He reported that the rink is doing well as changes at other rinks have created more  
30 competition for ice time.

31  
32 Chair Pro Tem Friedman - Seacoast Economic Development Stakeholders

33 He said the group meets next on Feb. 18.

34  
35 Chair Pro Tem Friedman

36 He said he appreciates the Planning Board's work on the PUD and its willingness to  
37 consider zoning changes.

38  
39 Councilor Friedrichs - Planning Board

1 Ze said there are no new projects before the Planning Board. Ze said the design review  
2 for the Riverwoods expansion and the Dunkin Donuts move are complete.

3  
4 Councilor Friedrichs

5 Ze asked if the Memorandum of Understanding about the Durham and UNH police  
6 departments is being updated. Administrator Selig said the plan is to do so, but the  
7 process hasn't started yet.

8  
9 Ze asked about an email the Town Council received from a resident suggesting a Durham  
10 police officer and a UNH police officer serve together on a shift during slower shifts like  
11 Sunday through Wednesday. Administrator Selig said he appreciated the comment and  
12 the suggestion, but that he doesn't think there's a potential for shared staffing, but he  
13 shared the email with the police department.

14  
15 Councilor Grant - Planning Board

16 She said the Mill Plaza postponed appearing before the Planning Board again. She said  
17 the board discussed the structure of the Planned Unit Development's first draft. She said  
18 she's concerned it lists a lot of steps for the project owner to work through and the last is  
19 to come to the Town Council for approval. She said she thought the Town Council input  
20 should come at the front end of the process so developers don't invest a lot of time and  
21 money just to find out the Council won't approve it.

22  
23 Councilor Grant - Housing Task Force

24 The task force met Feb. 17. Sally Tobias presented recommendations from the task  
25 force's subcommittee on the Central Business District, which she will bring to the Town  
26 Council March 3. State Rep. Howland gave a review of 17 bills before the state Housing  
27 Committee that would affect town zoning. The task force did an initial review of the table  
28 of uses in dimensions. It also reviewed what the Housing Task Force was charged with  
29 when it was created to make sure all is accomplished before it wraps up in the spring. It  
30 will next meet on March 3 and will add additional meetings if needed during the spring  
31 before it dissolves.

32  
33 Administrator Selig

34 The town's staff has been very busy with snow removal operations and is worn out, he  
35 said. They are doing their best to maintain sidewalks, but high winds make it difficult.

36  
37 He reported there was a serious fight between middle school students on Friday night,  
38 Feb. 14, at the Churchill Rink. The police were called and are following up.

39

1 The review of the RFPs for UNH's West Edge project are ready to review. He is a  
2 member of the committee and Chair Pro Tem Friedman is helping him as a backup  
3 during the process. At the next meeting, the committee will begin to review the  
4 proposals. Committee members had to sign an NDA so updates will only be what can be  
5 made public.

6  
7 Administrator Selig said he completed the Kennedy School class he has been taking over  
8 the past two weeks.

9  
10 **XIII. Approval of Minutes - January 6, 2025**

11  
12 *Chair Needell MOVED to approve the minutes of the February 3, 2025 Town Council*  
13 *Non-Public Session as presented. Councilor Lund SECONDED the motion. The*  
14 *motion PASSED on a hand vote of 6-0. Councilor Friedrichs abstained because ze was*  
15 *not present for the Non-Public Session.*

16  
17 *Chair Needell MOVED to accept the minutes of the February 3, 2025 Town Council*  
18 *Meeting as amended. Councilor Friedrichs SECONDED the motion. The motion*  
19 *PASSED on a hand vote of 7-0.*

20  
21 **XIV. New Business - None**

22  
23 **XV. Nonpublic Session - Not Required**

24  
25 **XVI. Adjourn (NLT 10:30 PM)**

26  
27 *Councilor Lund MOVED to adjourn. Councilor Register SECONDED the motion. The*  
28 *motion passed on a unanimous hand vote 7-0.*

29  
30 *The meeting was adjourned at 10:17 p.m.*

31  
32 *- Jane Murphy, Minutes Taker*