



# TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://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, NOVEMBER 4, 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 Town Council authorize the Administrator to sign the Town of Durham’s second half 2024 Property Tax Warrant and direct the Tax Collector to collect payment of property taxes assessed on April 1, 2024 in the amount of \$18,804,458?
  - B. Shall the Town Council Adopt Resolution #2024-25 Proclaiming Saturday, November 30, 2024, as “Small Business Saturday” in Durham, NH and urge Durham residents to support small businesses and merchants in Durham on this day and throughout the year?
- IX. **Committee Appointments - None**
- X. **Presentation Items**
  - A. Presentation of the 2023 Audit Report – Plodzik & Sanderson, Concord, NH
  - B. Report from the Trustees of the Trust Fund – Ted Howard, Chair
  - C. Report from the Energy Committee – Matthias Dean Carpentier, Chair

- D. Presentation on the progress for the update to the Town’s Climate Action Plan and the integration of conclusions into the Town’s long-term planning efforts – Sophie Goodwin, UNH Sustainability Fellow

**XI. Unfinished Business**

- A. **Public Hearing and possible Adoption of Ordinance #2024-08** Amending Chapter 118 “Solid Waste” of the Durham Town Code, reflecting current operating plans to accommodate Planned Solid Waste Program Changes.
- B. **Discussion and possible Adoption of Resolution #2024-24** Amending Resolution #2013-14 to Change the Membership Composition on the Human Rights Commission to be as follows – Five (5) citizens who are residents of Durham, One (1) Council Representative with a one-year term as an Advisory, Non-Voting Member, and the Administrator as an Advisory, Non-Voting Member.
- C. **Continued Discussion & First Reading on Ordinance #2024-09** Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XIX, “Conservation Subdivisions,” and the Zoning Map; and adding a new Article XVIII.1, “Workforce Housing Overlay District.” A public hearing can be set for Monday, November 18, 2024.
- D. **Presentation & First Reading on Ordinance #2024-10** Amending Chapter 175 “Zoning,” Article III, “Administration and Enforcement,” Article VI, “Zoning Board of Adjustment,” Article XII.1, “Use and Dimensional Standards,” Article XX, “Standards for Principal Uses,” and Article XX.1, “Standards for Agricultural Uses.” A public hearing can be set for Monday, November 18, 2024.

**XII. Approval of Minutes – October 7, 2024 & October 21, 2024**

**XIII. Councilor and Town Administrator Roundtable**

**XIV. New Business**

Initial presentation of the Administrator’s proposed FY 2024 Operating, Capital, and Special Fund Budgets and the 2024-2033 Capital Improvement Plan.

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

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

**XVII. 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.*



## TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#8A**

DATE: November 4, 2024

### COUNCIL COMMUNICATION

**INITIATED BY:** Rachel Deane, Town Clerk-Tax Collector

**AGENDA ITEM:** SHALL THE TOWN COUNCIL AUTHORIZE THE ADMINISTRATOR TO SIGN THE TOWN OF DURHAM'S SECOND HALF 2024 TAX WARRANT AND DIRECT THE TOWN CLERK-TAX COLLECTOR TO COLLECT PAYMENT OF PROPERTY TAXES ASSESSED ON APRIL 1, 2024 IN THE AMOUNT OF \$18,804,458?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Rachel Deane, Town Clerk-Tax Collector  
Todd Selig, Administrator

**AGENDA DESCRIPTION:**

Attached for the Council's review is a draft tax warrant authorizing the Town Clerk-Tax Collector to collect payment of property taxes assessed on April 1, 2024 in the amount of 18,804,458.

**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 second half 2024 Tax Warrant and directs the Tax Collector to collect payment of property taxes assessed on April 1, 2024 in the amount of \$18,804,458.*

**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, Eight Hundred Four Thousand,  
Four Hundred Fifty-Eight Dollars and Zero Cents**

**(\$18,804,458)**

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 5th day of November, 2024.

\_\_\_\_\_  
Todd I. Selig, Administrator  
Per vote of the Durham Town Council on 11/4/2024



# TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#8B TS**

DATE: November 4, 2024

## COUNCIL COMMUNICATION

**INITIATED BY:** Durham Town Council

**AGENDA ITEM:** SHALL THE TOWN COUNCIL ADOPT RESOLUTION #2024-25 PROCLAIMING SATURDAY, NOVEMBER 30, 2024, AS "SMALL BUSINESS SATURDAY" IN DURHAM, NH AND URGE DURHAM RESIDENTS TO SUPPORT SMALL BUSINESSES AND MERCHANTS IN DURHAM ON THIS DAY AND THROUGHOUT THE YEAR?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Durham Town Council

**AGENDA DESCRIPTION:**

Small Business Saturday is an American shopping holiday held on the Saturday after US Thanksgiving during one of the busiest shopping periods of the year and is a national effort to drive consumers to shop at local independently owned businesses. This Saturday is always the last one in November, so it falls between November 24 and November 30. First observed in the United States on November 27, 2010, it is a counterpart to Black Friday and Cyber Monday, which feature big box retail and e-commerce stores respectively. By contrast, Small Business Saturday encourages holiday shoppers to patronize brick and mortar businesses that are small and local. Small Business Saturday is a registered trademark of American Express.

**LEGAL AUTHORITY:**

N/A

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby adopt Resolution #2024-25 proclaiming Saturday, November 30, 2024, as "Small Business Saturday" in Durham, NH and urges Durham residents to support small businesses and merchants in Durham on this day and throughout the year.*

## **RESOLUTION #2024-25 OF DURHAM, NEW HAMPSHIRE**

### **PROCLAIMING SATURDAY, NOVEMBER 30, 2024, AS "SMALL BUSINESS SATURDAY" IN DURHAM, NH**

**WHEREAS**, the Town of Durham celebrates its local, small businesses and the contributions they make to the local economy and community; and

**WHEREAS**, according to the United States Small Business Administration, there were 136,506 (down from 138,199 in 2022) small businesses in New Hampshire in 2023, which represents 98.9% of all New Hampshire businesses; and

**WHEREAS**, according to the United States Small Business Administration, small businesses in New Hampshire contributed to a net increase of 22,919 jobs in 2023; and

**WHEREAS**, according to the United States Small Business Administration, small businesses accounted for 49.2% of New Hampshire Employment in 2023; and

**WHEREAS**, an American Express survey reported that in 2023, 59% of U.S. consumers aware of Small Business Saturday shopped or ate at a small, independently owned retailer or restaurant on Small Business Saturday; and

**WHEREAS**, the Town of Durham supports its local businesses that create jobs, boost local economy, and preserve communities; and

**WHEREAS**, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday,

**NOW, THEREFORE BE IT RESOLVED** by the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire, does hereby approve **Resolution #2024-25** proclaiming **Saturday, November 30, 2024, as "Small Business Saturday"** and urges the residents of the community to support small businesses and merchants in Durham on Small Business Saturday and throughout the year.

**PASSED AND ADOPTED** this 4<sup>th</sup> day of November, 2024 by a majority vote of the Durham Town Council with \_\_\_\_\_ voting in favor, \_\_\_\_\_ voting against, 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](http://www.ci.durham.nh.us)

AGENDA ITEM: **#10A**

DATE: November 4, 2024

### COUNCIL COMMUNICATION

**INITIATED BY:** Plodzik & Sanderson  
Gail Jablonski, Business Manager

**AGENDA ITEM:** PRESENTATION OF THE 2023 AUDIT REPORT – PLODZIK & SANDERSON, CONCORD, NH

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Plodzik & Sanderson  
Gail Jablonski, Business Manager

**AGENDA DESCRIPTION:**

Council members have been provided with copies of the Independent Auditor's Report for the Fiscal Year ending December 31, 2023, prepared by Plodzik & Sanderson from Concord, NH. A representative from this company will attend Monday evening's meeting to provide a brief presentation and to answer any questions Councilors may have relative to the audit report.

**LEGAL AUTHORITY:**

Section 4.10(D) of the Town Charter states: *"The Town Council, after inviting requests for proposals and appropriate verification of qualifications, experience and integrity, shall select a certified public accountant or firm of the same who shall perform an annual audit of all town financial transactions after the close of each fiscal year. Said audit shall include all revenues, expenditures and accounts maintained by any officer, elected or appointed, agency, board, commission or recipient of town funds; may include a compliance audit to ensure conformity with any state or federal laws and regulations and town work programs and policies; and shall include a management letter setting forth recommendations for changes and improvements in finance management systems as are deemed necessary."*

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

Please refer to the 2023 Audit Report.

**SUGGESTED ACTION OR RECOMMENDATIONS:**

No formal action is required. Receive audit report presentation from Plodzik & Sanderson, Concord, NH and hold a question-and-answer session if desired.





# TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#10B**

DATE: November 4, 2024

## COUNCIL COMMUNICATION

**INITIATED BY:** Todd Selig, Administrator

**AGENDA ITEM:** RECEIVE ANNUAL REPORT FROM THE TRUSTEES OF THE TRUST FUNDS – TED HOWARD, CHAIR

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Ted Howard, Chair, Trustees of the Trust Funds

**AGENDA DESCRIPTION:**

Section 11.1 (I) of the Durham Town Charter used to require that the Town Council meet annually with all Chairpersons of standing Town committees to review significant actions taken by the committees, projects currently under discussion, and anticipated activities for the coming year. At the March 10, 2020 Town Election, Charter amendment (Article 16 on the ballot) was adopted which amended the language within this section to now read:

- I. *On an annual basis, Chairs of the Town of Durham committees will be provided the opportunity to present to the Town Council any significant actions or projects taken by their respective committee. This report can be in the form of a written summary or a formal presentation. No action is required if there is nothing of significance to report, although the Town Council can ask for a presentation if there is interest.*

Ted Howard has been invited to attend Monday night's Town Council meeting to provide a brief update to Council members regarding the Trustees of the Trust Fund's current activities.

Normally, the Chair of the Cemetery Committee would also present to the Council at this meeting. However, the Cemetery Committee has not met this year, and there is nothing to report per the Chair, Tom Bebbington.

**LEGAL AUTHORITY:**

Section 11.1 (I) of the Durham Town Charter.

**LEGAL OPINION:** N/A

**FINANCIAL DETAILS:** N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

No formal action required. Receive report from Trustees of the Trust Funds Chair, Ted Howard, and hold question and answer session if desired.



# TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#10C**

DATE: **November 4, 2024**

## COUNCIL COMMUNICATION

**INITIATED BY:** Todd Selig, Administrator

**AGENDA ITEM:** RECEIVE ANNUAL REPORT FROM THE ENERGY COMMITTEE –  
MATTHIAS DEAN CARPENTIER, CHAIR

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Matthias Dean Carpentier, Chair, Energy Committee

### **AGENDA DESCRIPTION:**

Section 11.1 (I) of the Durham Town Charter used to require that the Town Council meet annually with all Chairpersons of standing Town committees to review significant actions taken by the committees, projects currently under discussion, and anticipated activities for the coming year. At the March 10, 2020 Town Election, Charter amendment (Article 16 on the ballot) was adopted which amended the language within this section to now read:

- I. *On an annual basis, Chairs of the Town of Durham committees will be provided the opportunity to present to the Town Council any significant actions or projects taken by their respective committee. This report can be in the form of a written summary or a formal presentation. No action is required if there is nothing of significance to report, although the Town Council can ask for a presentation if there is interest.*

Matthias Dean Carpentier has been invited to attend Monday night's Town Council meeting to provide a brief update to Council members regarding the Energy Committee's current activities.

### **LEGAL AUTHORITY:**

Section 11.1 (I) of the Durham Town Charter.

**LEGAL OPINION:** N/A

**FINANCIAL DETAILS:** N/A

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

No formal action required. Receive report from the Energy Committee Chair, Matthias Dean Carpentier, and hold question and answer session if desired.



## TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#10D** TS

DATE: **November 4, 2024**

### COUNCIL COMMUNICATION

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

**AGENDA ITEM:** PRESENTATION ON THE PROGRESS TO THE UPDATE TO THE TOWN'S CLIMATE ACTION PLAN AND THE INTEGRATION OF CONCLUSIONS INTO THE TOWN'S LONG-TERM PLANNING EFFORTS– SOPHIE GOODWIN, UNH SUSTAINABILITY FELLOW

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Sophie Goodwin, UNH Sustainability Fellow

**AGENDA DESCRIPTION:**

In January 2021, Durham joined the Global Covenant of Mayors for Climate and Energy (GCoM), in which local governments commit to the GCoM pledge to:

- Undertake measures to reduce/limit greenhouse gas emissions.
- Prepare for the impacts of climate change.
- Increase access to sustainable energy.
- Track progress toward these objectives.

In the summer of 2021, UNH Sustainability Fellow Cathy Fletcher was selected to begin work on the Climate Action Plan for Durham. In July 2022, Durham welcomed new UNH Sustainability Fellow Rafidah Rahman to continue working on finalizing the Climate Action Plan, as well as other projects and outreach in conjunction with the Durham Energy Committee and Administrator's Office.

At the October 17, 2022, Town Council meeting, the 2021-2023 Climate Action Plan was adopted. This plan outlined mitigation and adaptation actions, measured how

much each activity will contribute to Durham meeting its mitigation and adaptation goals, and included a plan for implementing the actions. Mitigation actions focused on reducing Durham's greenhouse gas emissions, while adaptation actions focused on adapting Durham to climate change impacts.

Durham's current UNH Sustainability Fellow, Sophie Goodwin, is assisting the town in drafting and submitting the next CAP for 2025-2030. Sophie will update the Council on where we are in the process.

**LEGAL AUTHORITY:**

N/A

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

Receive a presentation from UNH Sustainability Fellow Sophie Goodwin on progress to the updated Climate Action Plan, and hold question and answer period if desired.



## TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#11A**  
DATE: **November 4, 2024**

### COUNCIL COMMUNICATION

**INITIATED BY:** Durham Public Works and the Integrated Waste Management Advisory Committee (IWMAC)

**AGENDA ITEM:** PUBLIC HEARING AND POSSIBLE ADOPTION OF ORDINANCE #2024-08 AMENDING CHAPTER 118 “SOLID WASTE” OF THE DURHAM TOWN CODE, REFLECTING CURRENT OPERATING PLANS TO ACCOMMODATE PLANNED SOLID WASTE PROGRAM CHANGES.

**CC PREPARED BY:** Richard Reine, Public Works Director  
Samuel Hewitt, Assistant Public Works Director  
John Baker, Administrative Assistant

**PRESENTED BY:** Richard Reine, Public Works Director

#### **AGENDA DESCRIPTION:**

The general purpose of the Town of Durham Municipal Code: Chapter 118 “Solid Waste” is to describe the procedures and requirements for the management, handling, and disposal of solid waste generated in the Town of Durham. These provisions apply, but are not limited, to all activities at the Transfer Station, recycling, curbside collection, the prohibition, and enforcement of requirements relative to solid waste management. State and Federal statutes additionally apply to activities in the geographical bounds of the State of New Hampshire and the United States.

The proper management of solid waste is necessary to protect the health, safety, and welfare of the citizens, property owners, and visitors to the Town of Durham.

The Town Council delegates to the Administrator the authority and responsibility to develop and implement such rules, regulations and procedures as are necessary for the implementation and execution of Chapter 118 “Solid Waste” and the effective and efficient operation of the solid waste management program.

Chapter 118 “Solid Waste” was first implemented in March of 1999 when the Town of Durham created the Code of the Town of Durham, NH. Since implementation, the Chapter has been amended with Articles and Sections.

Since April 2023, Durham Public Works has conducted a thorough reading of Chapter 118 and identified outdated and redundant information. In considering amendments, a complete revision was deemed prudent to reflect operational changes accommodating planned solid waste management program changes as approved by the Town Council in Resolution #2023-30 and restructure previously amended Sections into existing Articles.

Resolution #2023-30 approved the Administrator’s proposed FY 2024 Operating, Capital, and Special Fund Budgets, and the 2024-2033 Capital Improvement Plan as amended on December 4, 2024. Two of the Capital Improvement Plan (CIP) requests approved within the Fiscal Year 2024 budget included a transition to an Automated Curbside Collection Program and Transfer Station Facility Improvements.

### **Automated Curbside Collection Program Background**

The Durham Public Works Curbside Municipal Solid Waste Collection Program consists of two diesel-powered collection vehicles that operate four days per week. Each vehicle is operated by a single collection equipment operator and services approximately 1,900 collection points, collecting an average of twenty tons of household trash and twelve tons of recycling per week. Continuous wear and tear on these vehicles since their 2014 and 2015 in-service dates has resulted in unplanned downtime and significant investments in the electrical, mechanical, hydraulic, and diesel exhaust fluid treatment systems in recent years. Photos of the two front line collection vehicles Durham Public Works operates today are shown below for your reference.



While these semi-automated collection vehicles are capable of mechanically hoisting certain containers, most of the containers setout curbside by our customers require manual loading by the single collection equipment operator. Collection efficiencies are further reduced by uncontained household trash and recycling which is frequently windblown, lending itself to unsightly areas and animal scavenging. These factors significantly reduce the Department's ability to maintain right-of-way cleanliness and community satisfaction. Over the past two years, Durham Public Works, and the Integrated Waste Management Advisory Committee (IWMAC) focused on this issue and explored potential program improvements with the implementation of state-of-the-art solid waste collection technologies. The focal point surrounded the potential advantages that would result from the transition to what has become an industry standard of a fully automated curbside collection program, complete with standardized collection carts servicing both solid waste and single stream recycling, often utilizing a split body collection vehicle. Automated Collection Equipment Operators of automated curbside collection vehicles utilize a remotely operated arm from the driver's seat to unload material carts, eliminating the need to exit the vehicle at each collection point. Additionally, the use of these vehicles would result in a safer working environment by minimizing physical strain and reducing the risk of operator injuries while increasing their longevity in the position. This is a critical objective of Durham Public Works' current employee retention and hiring strategies.

A Mack Automated Collection Vehicle with Labrie Body and 96-gallon Toter<sup>®</sup> Cart NTS







To further understand the details of the current program, Durham Public Works undertook a series of comprehensive curbside audits targeting the network of approximately 1,900 collection points. These audits were designed to gather information on metrics such as program participation, quantity of disposed materials, recycling participation and contamination levels. This exercise allowed the Department to determine the optimum container size for both solid waste and recycling collection. The Department found that there was a large disparity between the lowest and greatest volumes of usage between households for our curbside collection program. Furthermore, the analysis confirmed that a 64-gallon solid waste container will satisfy 93% of the collection points and 96-gallon single stream recycling container would satisfy 100% of the collection points. The Automated Curbside Collection Program with standardized carts will further incentivize recycling and allow for a prediction of maximum capacity for each collection day allowing for the proper vehicle selection and size to service each route. Additionally, the Department arranged consultations with surrounding municipalities who have established similar programs and solicited input from automated collection vehicle manufacturers.

On November 14<sup>th</sup>, 2023, the Integrated Waste Management Advisory Committee (IWMAC) formally endorsed the modernization of the solid waste operation and the transition to the Automated Curbside Collection Program with single stream recycling. These program improvements were presented to the Town Council during the 2024 budget process and included within the approved 2024 Capital Improvement Plan.

Throughout 2023, Durham Public Works also explored the potential integration of alternative fuel refuse collection vehicles into its solid waste and recycling collection fleet. This evaluation included compressed natural gas and battery electric vehicles (BEV) with DCFC stations. It was determined that the utilization of battery electric collection vehicles would offer a range of benefits to the community and advance Durham's commitment to environmental sustainability and resiliency. Reduced environmental impacts would be realized through zero tail pipe emissions and noise



reduction. Improvements in public health through emission reduction and decreases in particulate generation would result in improved air quality, a reduction in respiratory complications and improved overall health. Furthermore, an increase in energy efficiency through regenerative braking would lead to a reduction in energy waste and make the collection process more efficient.

Recognizing these benefits and in need of additional information, Durham Public Works communicated with truck dealerships, body manufacturers, private refuse collection companies utilizing battery electric Refuse Collection Vehicles, charging station providers, electrical utility providers, electrical contractors, the US Department of Energy, and the NH Department of Environmental Services (NHDES).

Durham Public Works analyzed the electrical distribution infrastructure at its current facilities, and the requirements of BEV solid waste collection vehicles. An analysis was completed to further understand the run-time capacity of selected BEV's, including the simulation of current routes using proprietary software provided by Mack Trucks.

With these findings, Durham Public Works submitted an application through the NHDES for a NH Clean Diesel Program Grant funded through the EPA's DERA. The DERA program funds projects that protect human health and improve air quality by reducing harmful emissions from diesel engines. The specific grant applied for by Durham Public Works provides up to 45% in funding for replacement of existing class 8 diesel vehicles with a Zero-Tailpipe Emission Power Source (such as BEV's) and the infrastructure to charge these vehicles.

On September 26<sup>th</sup>, 2023 Durham Public Works was notified that the Town of Durham's project proposal to replace two (2) 2015 Diesel Refuse Trucks with two (2) 2024 BEV equivalents was selected for funding for the requested amount totaling \$723,681. Discussions with the NHDES DERA Program Manager continued while the Durham Public Works undertook continued due diligence steps to further evaluate BEV technology and the feasibility of integrating this equipment into the Solid Waste and Recycling Collection Program. The largest concerns centered around vehicle range per charge, impacts due to number of cart lifts per stop, the influence of extreme high and low temperatures on battery performance, life cycle cost of equipment, expected longevity and disposal costs of batteries, complexity and cost of maintenance, and the Department's operational flexibility to implement a transition to BEV solid waste collection vehicles.

The vehicles involved in this project will service the 61 miles of public roadways within the Town on a weekly basis. Refuse collection points are distributed throughout, and are concentrated more heavily near the more developed urban central/north section of Durham. With a reported standard operating range of 100+ miles, Durham Public Works has determined that a Mack LR64 BE or a vehicle with similar capabilities could potentially handle the Town's collection routes under favorable conditions i.e. absent of

extreme high and low temperatures where battery performance can be impacted. The longest collection route is 82.1 miles, which is inclusive of transportation to the Turnkey Landfill in Rochester, NH. The current routes would be optimized for new capacities and ranges, as some routes have more collection points but fewer miles.

The Mack LR 64R BE specification sheet claims 375 kWh of energy is available at a full charge, however simulated data is run against 80% state of charge due to the limitations of batteries. This allows for about 300 kWh of usable consumption.

In simulations using Mack Trucks proprietary modeling software, the data shown below indicates our collection routes appear to be viable during normal operating conditions (50-90° F).

Town of Durham, NH Summary						kWh				
Date	Miles	Total Consumption kWh	kWh/Mile	Stops	Stops/Mile	Propulsion	Body	Aux	Regen	
10/23/2023	82.1	228.3	2.78	266	3.24	224.2	45.0	37.0	77.9	
10/24/2023	52.7	208.8	3.96	369	7.00	165.6	63.0	35.0	54.8	
10/25/2023	75.9	238.3	3.14	327	4.31	227.7	56.0	36.0	81.4	
10/26/2023	68.1	238.3	3.50	385	5.66	216.9	65.0	34.0	77.7	
11/2/2023	68.5	256.0	3.74	444	6.49	219.5	72.0	29.0	64.5	
<b>Totals</b>	347.2	1169.7		1791		1053.9	301.0	171.0	356.2	
<b>Averages</b>	69.4	233.9	3.37	358	5.16	<b>kWh/mile</b>				
						3.04	0.87	0.49	1.03	

However, when looking at the simulation in temperatures of 0° F, the data below suggests operational challenges related to available battery capacity could be encountered.

The simulation below uses a Thursday collection route under three (3) temperatures. This route has 444 stops which represents a heavier Thursday, but not a maximum of 100% participation. At 0° F, the kWh consumption for the route is 303.87 kWh, exceeding the available capacity of 300 kWh. Available energy is further depleted with two container tips per residential stop. As the batteries age, the maximum available energy will gradually decrease with each charge, further constraining the vehicles range over time.



procuring one of the two vehicles approved in the NH Clean Diesel DERA grant. The Department would move forward with procurement of the 2<sup>nd</sup> vehicle, as approved in the 2024 Capital Plan. This second collection vehicle would be specified with an EPA Certified Diesel Engine which ensures compliance with EPA’s emissions standards, while providing consistent performance, unimpacted by temperatures or weather events.

The Durham Town Council held a Public Hearing on April 15, 2024 on Resolution #2024-13 Authorizing the Acceptance and Expenditure of Funding from the NH Department of Environmental Services (NHDES) NH Clean Diesel Grant Program, Funded Through the U.S. Environmental Protection Agency’s (EPA) Diesel Emission’s Reduction Act (DERA), for Up to Two (2) Battery Electric Refuse Collection Trucks and Up to Two (2) Direct Current Fast Charging Stations (DCFC) That will Operate in Durham, New Hampshire to Reduce Diesel Emissions. Funding shall Equal an amount not to exceed 45% of the Cost of Each Eligible Vehicle and Charger Or a Total Not to Exceed \$723,681, Whichever is Less, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham.

No members of the public came forward to speak about the resolution, and upon closing the public hearing the Town Council adopted, as presented, Resolution #2024-13.

On June 26, 2024 the New Hampshire Governor and Executive Council convened to discuss Governor and Council item #137 authorizing the NH Department of Environmental Services (NHDES) to enter into a grant agreement with the Town of Durham, NH (VC# 177383-B001) totaling \$723,681 for partial funding of two (2) Electric Refuse Truck replacements and the installation of two (2) Direct Current Fast Charging (DCFC) stations to serve them, effective upon Governor and Council approval through September 30, 2025. Subsequently, New Hampshire Governor Chris Sununu signed said item #137.

On July 3, 2024 Durham Public Works received a “Notice to Proceed” from the NHDES. This is an official notification that all requirements, regulations, provisions, terms, and conditions of the Federal Grant Agreement are in full force. This allows the Town of Durham to expend funds and be reimbursed, with the project being completed by September 30, 2025.

### **Summary of Changes to Chapter 118 “Solid Waste”**

Services described in the revised Chapter 118 remain dedicated to continued Solid Waste Management for residential properties and recycling services for eligible commercial entities. To accommodate Automated Collection of Solid Waste, certain guidelines must be outlined for users and operators. Similarly, the improvements at the

Transfer Station also need to be reflected in Chapter 118. These changes are reflected in Article 03 and Article 04 of the proposed language.

**Article 01: “General”** remains structurally similar to the current language. A Statement of purpose has been added in 118-1, and 118-3 has been added to delegate responsibilities regarding the Chapter.

- 118-4: “Definitions” has been addressed to include language regarding appropriate containers and automated refuse collection. A Formal Notice of Non-compliance has also been defined to allow for methods of working with Code Enforcement when issues arise.

**Article 02** only contains one paragraph in the current language discussing Recycling Policy. This has remained unchanged in the proposed language. However, 118-6 through 118-12 have been proposed to be added here to clarify the implementation of Policy.

- 118-6 discusses how to educate residents on policy before the use of Notices of Non-compliance. 118-7 aims to describe the limits of geographic acceptance of Solid Waste: both from an operational and permitted aspect.
- 118-8 and 118-9 aim to describe what responsibilities and permissions are allocated for the Town and Users of the Solid Waste program.
- 118-10 expands on current language in Article 03: 118.12.
- 118-12 describes the methods in which the violations will be handled.

**Article 03** has received the greatest number of revisions, reflecting the changes from non-standardized container semi-automated refuse collection to standardized container automated refuse collection.

- 118-13 describes the “Base Level Service” available and the criteria for eligibility to participate in the curbside collection program.
- 118-14 outlines the transition between the current and the automated collection systems.
- 118-15 describes the approved containers for automated collection, and how material should be stored in said containers for efficient collection. Utilizing automated curbside collection, operators will not be able to handle overflow material outside of the collection container.
- 118-15 also describes special circumstances that may require a modification in size or number of eligible containers. Durham Public Works realizes that although historical and audit data guide policy, extenuating circumstances may exist.
  - 118-15: 4) allows the Director of Public Works to evaluate a request for modification to container allotment. This is intended to be on a case-by-case basis, and only with sufficient evidence of hardship.

- As described in 118-15: 1), “Property owners who meet the criteria in (4) below may purchase an additional standardized container from the Town to be utilized with a 6-month subscription sticker purchased at a cost based on the current disposal rate stipulated in the town’s municipal solid waste contract and other related costs as approved within the annual budget. This Town issued sticker is valid for the half year, prorated monthly, based on purchase date, and must be prominently displayed on the cover of the container.”

The cost of this subscription sticker aims to counteract the extra disposal, labor, and transport associated with greater production of refuse above the base level of service.

Durham Public Works considered the length of subscription and aims to allow flexibility for property owners that spend large portions of the year away from Durham. Six (6) month subscriptions, prorated monthly, allow for property owners to buy a subscription during the periods that they produce refuse above the base level service.

This subscription cost will be evaluated annually, and included in the Operating Budget for the Sanitation Division.

- 118-16 continues to describe the preparation of materials for collection.
- 118-17 describes the placement of containers such that the automated collection vehicles can access the containers.

**Article 04** remains effectively similar to current language, while streamlining current Section 1 into the Article. The biggest change here is to tie the fee structure to the approved annual budget, rather than a specific cost in the Code. This allows for the fee structure to be modified on an annual basis, or more frequently if required, due to the Town’s municipal solid waste contract, and other related costs encountered.

- 118-27 describes the Site Utilization and Hours of Operation of the Transfer Station. Subsection H describes the proposed changes to the Fee Structure. Durham Public Works proposes allowing for annual review of the fees in the Operating Budget.

Additionally, Durham Public Works recognizes regional complications with the disposal of mattresses in particular. Neighboring states have banned the landfilling of mattresses entirely. While New Hampshire continues to allow the practice of landfilling mattresses, it is not known how long this will continue and the current disposal fee for mattresses is \$302.91/Ton. This compares with the price of \$104.31/Ton of disposal for all other Bulky Waste and Demolition debris.

Durham Public Works aims to specify fees related to mattresses as to separate them from loads of other bulky items. In the past, mattresses could be brought up as a load with a bulky item coupon.

- “H”. Bulky Waste Coupon – A bulky waste coupon will be required to dispose of non-metallic bulky waste and construction/demolition debris. These coupons will be sold at Durham Public Works using the following fee schedule:

1. Single Item cost - as stipulated in approved annual budget
2. Regular Sized Pick-up Truck Load cost - as stipulated in approved annual budget
3. 1-Ton Sized Pick-up Truck Load cost - as stipulated in approved annual budget
4. Dump Trailer Sized Load cost - as stipulated in approved annual budget

Coupons or stickers in sections G and H above will be priced based on the current disposal rate stipulated in the Town’s municipal solid waste contract, and other related costs as approved within the annual budget. A list of these prices will be available on the Town Website, at the Transfer Station, and at the Durham Public Works office.

Mattresses and box springs require special handling. A bulky waste coupon described in (H) above will allow for disposal of one set, which includes either a mattress with its box spring or just a mattress or box spring alone. Each additional set will require its own “single item” coupon.”

**Article 05** remains unchanged describing the penalties for violation of the Ordinance **except** language in Article 05: 118-33 (d) has been rewritten to remove extraneous wording.

**Article 06** replaces the current Section 01, regarding Taxpayer/Resident stickers. Section 01 was outdated to state that a sticker costs \$10.00, while in practice it is currently without cost.

Some language in Section 01 has been discussed in proposed Article 04, and removed from proposed Article 06.

**Article 07** discusses the Commercial Curbside Recycling Program. The service provided for commercial curbside recycling will change in the proposed language to require

recyclables to be placed in containers on a “Public Way” that can be received by the Automated Refuse Collection Vehicle.

**Endorsement of Language by IWMAC**

Throughout the second quarter of 2024, draft versions of Chapter 118 “Solid Waste” have been provided by Durham Public Works to the Integrated Waste Management Advisory Committee (IWMAC). Through discussions with committee members, suggestions have been considered and drafts updated to reflect changes.

The IWMAC officially endorses the current updated draft presented today.

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

At its meeting on October 7, 2024, the Town Council scheduled a Public Hearing on this item for their meeting on Monday, November 4, 2024. A Public Hearing notice was published in *Foster’s/Seacoast Online* on Friday, October 18, 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:**

NH RSA 149-M:17, and Chapter 004 of the Town of Durham Municipal Code.

**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 #2024-08 Amending Chapter 118 “Solid Waste” of the Durham Town Code, reflecting current operating plans to accommodate Planned Solid Waste Program Changes.*

**MOTION #2:**

*The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2024-08 Amending Chapter 118 “Solid Waste” of the Durham Town Code, reflecting current operating plans to accommodate Planned Solid Waste Program Changes.*

**MOTION #3:**

*The Durham Town Council does hereby ADOPT Ordinance #2024-08 Amending Chapter 118 “Solid Waste” of the Durham Town Code, reflecting current operating plans to accommodate Planned Solid Waste Program Changes.*



## **ORDINANCE #2024-08 OF DURHAM, NEW HAMPSHIRE**

### **AMENDING CHAPTER 118 “SOLID WASTE” OF THE DURHAM TOWN CODE, REFLECTING CURRENT OPERATING PLANS TO ACCOMMODATE PLANNED SOLID WASTE PROGRAM CHANGES**

**WHEREAS**, the Town of Durham created the Code of the Town of Durham, NH in March of 1999; and

**WHEREAS**, there have been amendments made to said Code over the years; and

**WHEREAS**, Durham Public Works has conducted a thorough reading of Chapter 118 and identified outdated and redundant information; and

**WHEREAS**, revision of Chapter 118 may increase clarity and understanding by all parties; and

**WHEREAS**, Resolution #2023-30 Approving the Administrator’s proposed FY 2024 Operating, Capital, and Special Fund Budgets, and the 2024-2033 Capital Improvement Plan as amended was passed on December 4, 2023, including upgrades to Solid Waste Collection Vehicles and Transfer Station Facility Improvements requiring operational changes; and

**WHEREAS**, Resolution #2024-13 Authorizing the Acceptance and Expenditure of Funding from the NH Department of Environmental Services (NHDES) NH Clean Diesel Grant Program, Funded Through the U.S. Environmental Protection Agency’s (EPA) Diesel Emission’s Reduction Act (DERA), for Up to Two (2) Battery Electric Refuse Collection Trucks and Up to Two (2) Direct Current Fast Charging Stations (DCFC) That will Operate in Durham, New Hampshire to Reduce Diesel Emissions. Funding shall Equal an amount not to exceed 45% of the Cost of Each Eligible Vehicle and Charger Or a Total Not to Exceed \$723,681, Whichever is Less, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham was adopted on April 15, 2024; and

**WHEREAS**, the Durham Town Council held a duly noticed public hearing on November 4, 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 #2024-08** and does hereby amend the following sections of the Code. Wording to be deleted is annotated with ~~striketthrough~~ type. New wording is annotated with underlining. Unaltered text that was moved is noted in previous location with ~~green double striketthrough~~ and in new location with green double underlining.

---

## CHAPTER 118

### SOLID WASTE

[HISTORY: Adopted by the Town Council of the Town of Durham as Ordinance #93-24 on January 10, 1993. Regulates the Solid Waste Management Facility and the Disposal of Solid Waste, Bulky Waste and Recyclable Materials. Revised through Ordinance #24-08 on November 4, 2024.]

#### Article I

#### GENERAL

##### 118-1 Statement of Purpose

The general purpose of this Chapter is to describe the procedures and requirements for the management, handling, and disposal of solid waste generated in the Town of Durham. These provisions shall apply, but not be limited, to all activities at the Transfer Station, recycling, curbside collection, prohibition, and enforcement relative to solid waste management. State and Federal statutes additionally apply to activities in the geographical bounds of the State of New Hampshire and the United States.

The proper management of solid waste is necessary to protect the health, safety, and welfare of the citizens, property owners, and visitors to the Town of Durham.

This revised solid waste ordinance is intended to address operational changes to the Transfer Station and Curbside Collection Program.

##### ~~118-1~~ 118-2 **Authority to Establish Rules and Regulations**

The Town Council, pursuant to NH RSA 149-M:17, hereby delegates to the Town Administrator [hereinafter the “Administrator”] the authority and responsibility to develop and implement, ~~with the advice and consent of the Town Council~~, such rules, regulations and procedures as are necessary for the implementation and execution of this Ordinance and the effective and efficient operation of the solid waste management program.

##### 118-3 Administration of Chapter 118

The Director of Public Works [hereinafter the “Director”] shall have responsibility for the administration of this Chapter subject to the direction and control of the Administrator. As deemed appropriate by the Director, certain responsibilities may be delegated to the Assistant Director or other appropriate staff. As outlined in Article 02, the Director shall have the full authority to make and enforce certain policies and procedures to effectuate the purpose of this Chapter.

### **~~118-2~~ 118-4 Definitions**

The following definitions shall apply in the interpretation and enforcement of this chapter. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. Where terms are not defined in this article, they shall have their ordinary accepted meanings or such as the context may imply. The words “shall” and “must” are mandatory, the word “may” is permissive, and the word “should” indicates a preferred or encouraged, but not a required course of action.

**Accepted Public Way** – A street or road which has been accepted and approved by the Town Council for public use, and which is maintained by the Town.

**Administrator** – The Administrator for the Town of Durham.

**Appropriate Containers** – Curbside collection containers that conform to the specifications in Article 2 of this ordinance.

**Ash** – The residue of any household fuel after such fuel has been consumed by fire.

**Automated Collection Program** – The curbside solid waste collection program implemented by the Town of Durham which utilizes automated, or semi-automated, collection trucks to hoist specialized containers and collect their contents with mechanical arms.

**Base Level of Service** – The collection service being provided to eligible properties, as defined in the Ordinance, for the collection and disposal of trash and recyclable materials.

**Bulky Waste** – Items that cannot be handled by normal solid waste collection, as determined by the Director, that require special handling and a bulky waste coupon from Durham Public Works. Some examples include, but are not limited to rugs, furniture, large rigid plastic items, and mattresses.

**Bulky Waste Coupon** – A coupon required at the ~~SWMF~~ Transfer Station for disposal of items as specified in ~~the Implementing Rules, Regulations and Procedures~~ Article 04 of this ordinance.

**Commercial** – Business enterprises or activities in business with a profit motive, including apartment buildings and condominiums, containing three or more dwelling units.

**~~Commercial Use~~** – ~~A use operated for profit or compensation.~~

**Courtesy Notice** – A notice, issued by the Director or Code Enforcement Officer under the Enforcement provision of Article 02, to inform a resident or property owner that they are not in compliance with one or more provisions of this Ordinance. This notice **may be** used as the first step in the overall enforcement process and is intended to be an education and informational reminder for the proper handling and management of solid waste by the property owner.

**Demolition / Construction [Construction/Demolition] Waste**— Solid waste resulting from new building construction, additions to existing buildings, renovations, repairs, modifications ~~and/or maintenance of existing buildings and/or appurtenances~~, demolitions, and/or maintenance of existing building and/or appurtenances. These items cannot be handled by normal solid waste collection, as determined by the Director, require special handling and a bulky waste coupon from Durham Public Works. The term does not include asbestos waste, trash, asphaltic pavement, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, scrap metal, and fuel tanks. This is not intended to be a complete list of excluded items, and further clarification can be obtained from Durham Public Works.

**Disposal** – The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or onto any land or water with the possible result that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater.

**Durham Resident Sticker** – A dated decal issued annually by the Town to a resident, as defined in this ordinance.

**Electronics/Appliance Sticker** – A sticker required at the ~~SWMF~~ Transfer Station for disposal of items as specified in ~~the Implementing Rules, Regulations~~ Article 04 of this ordinance.

**Formal Notice of Non-Compliance** – A notice, issued by the Town’s Code Enforcement Division under the Enforcement provision outlined in Article 02, to inform a resident or property owner that they are not in compliance with one or more provisions of this Ordinance. This notice may be used as the first or second step in the overall enforcement process, and the issuance of multiple formal notices can result in loss of service, penalties, or enforcement actions as outlined in this Ordinance.

**Hazardous Waste**— Waste materials that have been identified by the State of New Hampshire in RSA 147-A:2, VII.

~~**Landscapers Temporary Permit**— A dated and numbered paper permit that allows a landscaping contractor working for a Durham taxpayer to enter the SWMF.~~

**Integrated Waste Management Advisory Committee (IWMAC)** – The committee established by the Town Council to advise the Administrator and Director of policy related issues.

**Multi-Unit** – A building and accessories thereto principally used, designed, or adapted with three (3) or more dwelling units, each of which has separate living quarters.

**Neglect** – The misuse of a Town-issued container that results in breakage or other damage to the container so it cannot be properly used to store materials. For instance, the lid of the container is removed, the lid or container body is significantly cracked, the wheels do not function, it cannot be picked-up by the collection vehicle, the container is defaced, or it is otherwise rendered inoperable.

~~**Non-Recyclable Bulky Waste:** Any item or material the size, weight or construction of which precludes or complicates handling by adopted curbside collection methods and is not specifically designated as recyclable in our program.~~

~~**Non-Recyclable Waste:** Those types of waste products entering the waste stream not specifically designated as “recyclable.”~~

**Permit** – A document issued by the New Hampshire Department of Environmental Services’ Solid Waste Division that regulates the operation of the Transfer Station.

~~**Recyclable Bulky Waste:** Any item or material the size, weight or construction of which precludes or complicates handling by adopted curbside collection methods and is specifically designated as recyclable in our program.~~

~~**Recyclables Container:** A container clearly labeled “recyclables” for the collection and storage of recyclable materials as specified in the implementing regulations for this ordinance.~~

**Recyclable Materials** – For the purposes of this Ordinance, this is collectively all the materials accepted by the Town for recycling and which will be transported to firms contracted by the Town for recycling purposes. Acceptable items may change due to market and economic conditions as specified by the Director.

~~**Recyclable Waste:** Those types of waste products specifically identified herein as suitable and acceptable for recycling.~~

~~**Resident:** – A Durham resident is someone who owns property in Durham, has legal identification showing Durham as their place of residency, or registers their motor vehicle in Durham, or registers to vote in Durham and/or meets the requirements of resident as generally defined in NH RSA 654:1 21:6.~~

**Residential Unit** – An individual residential unit used for habitation. A single-family home is one unit; a two-family structure is a two-unit building; and a multi-unit building, or complex, is designated by the number of individual units.

**Scavenging** – The removal of, or the rummaging through, any form of solid waste (any recyclable or non-recyclable material) from any container that has been placed at the curbside for collection by the Town or deposited at the Transfer Station.

**Solid Waste** – Any abandoned or discarded material, excluding hazardous waste, nuclear waste, sludge and septage, certain types of point source discharges, and yard waste. For further exclusions to solid waste regulations, see NH RSA 149-M, and EPA 40 CFR section 261.4(a). These excluded forms of waste have other regulations beyond solid waste.

~~**Solid Waste Management Facility (SWMF):** That location specified by the Department of Publics Works for the acceptance, processing and transferring of solid waste within the Town.~~

**Street** – Any public highway, road, street, lane, alley, square, place, thoroughfare, or way within the Town of Durham.

~~**SWMF Entrance Sticker:** A dated and numbered decal issued annually by the Town to a taxpayer of Durham in accordance with regulations adopted by the Town Council.~~

~~**Temporary Construction Permit:** a dated and numbered paper permit that allows a contractor working for a Durham taxpayer to enter the SWMF.~~

**Temporary Entrance Letter** – A dated paper letter from Durham Public Works that allows an alternate vehicle, and/or person, to utilize the Transfer Station on behalf of a resident. This permit will state the reason for an alternate vehicle to be utilized and may require a verification of material origin if required by the director.

**Town** – The Town of Durham, New Hampshire.

**Town Council** – The legislative body for the Town.

**Transfer Station** – A Town owned parcel of land located at 100 Durham Point Road, known as the Raymond A. LaRoche Sr. Transfer Station and Recycling Center. This is a solid waste collection, storage, and transfer facility, which collects, stores, and transfers solid waste, including non-recyclable waste.

**Trash** – The general non-recyclable household solid waste that is generated by a residential dwelling unit or a commercial property, excluding commercial and industrial waste, bulky items, construction and demolition debris, food waste, electronic waste, non-hazardous contaminated soils, asbestos waste, end-of-life motor vehicles, infectious waste, or animal carcasses.

**Yard Waste** – ~~Organic material from yards or gardens~~ Leaves, grass clippings, garden debris, and small or chipped branches.

**Unacceptable and Unapproved Waste** – Waste designated by an applicable Town Ordinance, any State or Federal statute, law, permit, or by firms contracted with the Town to handle and dispose of the collected solid waste.

## **Article II**

### **IMPLEMENTATION OF POLICY**

#### **118-3, 118-5 Recycling Policy**

It shall be the policy of the Town to collect or receive only recyclable and non-recyclable waste that is fully segregated. The ~~town administrator~~ Administrator or their designee shall provide guidance to users in understanding and implementing this policy. The Town reserves the right to refuse to accept waste that is not segregated into recyclable and non-recyclable categories.

#### **118-6 Education**

The Town, along with interested individuals, IWMAC, and civic organizations, will work to educate, inform, and encourage the residents and business owners on all recycling efforts. Educational outreach programs and information will be made available on the Town website, in local schools, at community events, in cooperative efforts with local businesses, and in the local media. The Town hopes for the cooperation and assistance of all residents in continuing to be a leader in recycling programs.

### **118-7 Unlawful Disposal; Out of Town Refuse; Unacceptable/Prohibited Materials**

It shall be a violation of this Chapter for any individual, business, property owner, or other person or entity to unlawfully dispose of any solid waste in a manner not in accordance with the provisions of this Chapter, any policy or regulation established hereunder, or any applicable state statute or regulation. The dumping or disposal of any solid waste generated from any location outside of the boundaries of the Town shall also be considered a violation. The previous sentence notwithstanding, actions approved by the Director, Administrator, and approved State Permit or Operating Plan shall be exempt from the restrictions of this Section. The penalties for any violation of this Chapter will be outlined below and in Article 05.

### **118-8 Obligation of Parties**

The Town assumes no obligation under this Chapter to remove trash, recyclables, or other solid waste that is not managed and containerized properly by the property owner in conformance with this Chapter. It shall be the duty of any person owning, or having under their control, any property in the Town to keep the same free from solid waste that it may be a fire hazard, obnoxious or dangerous to the general health, safety, or welfare of the public in accordance with, among others, Chapter 72 of the Town Code.

### **118-9 Use of Containers by Others**

The use of containers intended for the management of solid waste which are issued, or designated for use, by the Town, whether for residential or commercial purposes and found on the subject property, is limited to the property owner, tenants, lessees, or individuals with direct permission from the property owner, tenant, or lessees. No unauthorized person shall place or dispose of any solid waste in said containers and any such placement or disposal shall be considered a violation of this Chapter and subject to the enforcement provisions of Article 05. The containers issued by the Town for the automated curbside collection program shall not be defaced, altered, exchanged, or used by any individual for any other purpose other than the collection of recyclables or trash generated from within the Town at their designated residence.

### **118-10 Anti-Scavenging**

Unless otherwise approved by the Administrator or Director, all acceptable solid waste and recyclable materials that have been placed on the curbside for collection or brought to the Transfer Station are considered to be the property of the Town and no scavenging of the materials is permitted. This section notwithstanding, the proper management of the materials placed on the curbside for collection is the responsibility of the property owner, directly or through any tenant or lessee, as outlined in 118-8 above, and Article 03 of this Ordinance.

### **118-11 Policies and Procedures**

The Director shall have the authority to create, and modify as needed, policies and procedures necessary and appropriate for the effective implementation of the provisions of this Chapter. These policies or procedures are intended to address specific sections of this Chapter outlined below, or the general management and disposal of the overall solid waste stream, and shall apply to the curbside collection program or the operation of the Transfer Station. This authority is deemed necessary due to the variety of factors including, but not limited to: economic conditions, any changes to applicable state or federal law or regulation



that affects the disposal of solid waste and recyclables, or the availability of end markets and/or disposal sites for either solid waste or recyclable materials.

### **118-12 Enforcement**

The violation of any provision of this Chapter shall be considered a violation of the Codes of the Town of Durham and may result in the issues of notices, fines, penalties, or prosecution through the appropriate court of jurisdiction. Each violation shall be considered a separate offense and each day a violation exists shall be a separate violation. The Town shall seek compensation from the violator for the costs of any prosecution associated with the enforcement of this Chapter. Per Town Code Chapter 001, Article 02: General Penalties, the fines shall not exceed those outlined in Article 05: Penalty and Prohibition. The Director reserves the right to issue Courtesy Notices intended to inform the property owner that certain materials are not authorized for pick-up or disposal. If two (2) Courtesy Notices are issued to an individual property within the previous six (6) months, then the next violation shall result in the issuance of a Formal Notice of Non-compliance from the Town's Code Enforcement Division. This foregoing sentence notwithstanding, the Town's Code Enforcement Division is authorized to issue formal notices at any point in time if deemed as an appropriate enforcement action. Following the issuance of any formal Notice of Non-compliance, the Director is authorized to order a discontinuance of the curbside pick-up for the subject property or to prohibit the offending individual from utilizing the Transfer Station. If such an order is issued no curbside collection service or privileges for the Transfer Station shall be restored until the offender meets with the Director or his/her designee to discuss the violations and establish a mechanism to restore necessary compliance, and the Director is satisfied that a workable solution is achieved.

The Town reserves the right to conduct visual and physical audits of curbside containers, any solid waste entering/leaving the Transfer Station, and any other waste before collection for the purpose of reviewing rates of recycling and whether individual properties are in compliance with this Chapter.

## **Article III** **CURBSIDE COLLECTION PROGRAM**

### ~~118.4 Curbside Collection~~

~~Curbside collection of recyclable and non-recyclable waste shall be provided to each non-commercial and non-multiunit residence within the Town. Curbside collection of recyclable waste shall be provided to each commercial / multiunit enterprise within the Town. The collection schedule shall be determined by the Town's Public Works Director.~~

### ~~118.5 Commercial / Multiunit Disposal Fee Subsidy Prohibited~~

~~The Town shall not pay commercial / multiunit disposal/tipping fees unless the Town contracts such haulers.~~

### ~~118.6 Private Ways Excluded~~

~~Unless a written agreement exists to the contrary, approved by the Public Works Director, Town waste collection vehicles shall not travel on private ways.~~

### ~~118.7 Use of Approved Refuse and Recyclables Containers Required~~



~~All solid waste to be collected at curbside as part of the regular municipal collection schedule shall be in approved Refuse and Recyclables Containers. The Town shall supply recyclables containers as specified in the implementing regulations of this ordinance.~~

~~118.8 Community Cleanup~~

~~The Town's Public Works Director shall have the authority, on a case-by-case basis, to provide non-profit, volunteer community cleanup organizations with free disposal of solid waste.~~

~~118.9 Subsidized SWMF Entrance Permit and Disposal Fees~~

~~The Town Business Manager shall have the authority to provide SWMF Entrance Permit and Disposal Fees at reduced rates to residents who are otherwise eligible for assistance under RSA Chapter 165.~~

**118-13 Base Level Service**

The implementation of the automated curbside collection program is carried out through the creation of a base level of service that is available to properties identified below. Properties not covered under the base level of service will rely upon individually contracted commercial services for material storage and disposal. The base level service will be carried out utilizing specific containers to be provided by the Town. See 118-15 below for a description of the types and sizing of the containers to be used.

- A. The following collection points, all of which must be located on accepted public ways, are eligible for base level curbside collection services provided by the Town:
  - 1. Single and two-family homes.
  - 2. Commercial properties for the collection of recycling only as detailed in Article 07.
  
- B. The following types of properties are not eligible for the base level automated curbside collection service:
  - 1. Condominium/apartment buildings or complexes, or multi-family buildings with three (3) or more individual residential units.
  - 2. Properties that do not/cannot conform to the container requirement discussed in 118-15 below.

**118-14 Transition Between Current and Automated Collection Systems**

Until such time that the standardized carts for the automated collection system program are distributed, the current curbside collection practices and procedures will remain in effect. The Town reserves the right to phase in the implementation of the automated curbside collection program in order to more efficiently deal with and address operational issues.

**118-15 Approved Containers for Base Level Service; Sizing; Maximum Weekly Pick-up; Maintenance**

- A. The base level automated curbside collection program will be accomplished utilizing specialized containers designed for automated collection. The Town will distribute

- and maintain one trash and one recycling container for each property eligible for the base level of service at no charge. Property owners who meet the criteria in (4) below may purchase an additional standardized container from the Town to be utilized with a 6-month subscription sticker purchased at a cost based on the current disposal rate stipulated in the town's municipal solid waste contract and other related costs as approved within the annual budget. This Town issued sticker is valid for the half year, prorated monthly, based on purchase date, and must be prominently displayed on the cover of the container.
- B. Only Town distributed containers shall be used by properties eligible for the base level of service.
  - C. Containers not conforming to (B) above will not be eligible for the base level of service. Non-conforming materials or ones which do not fit within the volume of the container must be disposed of at the Transfer Station during normal operating hours or held for collection the following week.
  - D. Special circumstances as determined by the Director may warrant a specific evaluation resulting in a modification in size or number of eligible containers.
  - E. Eligible containers are the property of the Town and are assigned to a street address. They are not to be removed from the property even in the event of a change in ownership or resident status.
  - F. Any repairs to the containers will be performed by the Town. The property owner shall contact Durham Public Works to report damage and request a repair. Containers damaged beyond repair shall be replaced by the Town.
  - G. The terms of paragraph (F) above aside, if the containers are subject to neglect by the property owner or other damage as determined by the Director, the Director may issue a Notice of Non-Compliance letter to the owner and/or resident indicating that the next repair necessary due to neglect or abuse will result in a charge for the repair or replacement. Similarly, if the containers are improperly removed from the property, the owner may be charged for the next replacement container. The property owners are the ultimate party responsible for all damages or removed containers and the owner should work to educate household members and/or tenants on the proper use and maintenance of the containers.
  - H. If a container is missing from a specific property, the owner or resident shall contact Durham Public Works and request a new container. Review of container history will indicate replacement eligibility.

#### **118-16 Preparation of Materials for Collection.**

- A. All trash and recyclables shall be placed in the appropriate containers so that the lid can be securely shut.
- B. Materials that are placed beside appropriate containers, or are not in appropriate containers, are not eligible for the base level of service. The containers shall not be

overfilled or arranged in any manner that will prevent the lid from remaining closed at all times.

- C. Any materials spilled from the appropriate containers shall be the responsibility of the property owner.
- D. Trash contained within the appropriate containers shall be bagged to receive the base level of service.
- E. Recyclables contained within the appropriate containers shall not be bagged to receive the base level of service. The Town encourages property owners to flatten or cut their cardboard boxes into pieces in order to maximize the volume of the containers. All recyclable items shall be emptied and cleaned prior to placing them into the container.

### **118-17 Placement of Containers**

- A. Containers set out for collection shall be placed as close to the street curb as possible without obstructing the roadway or sidewalk, and, in any case, the Director shall have the power to designate the precise point at which containers shall be placed for collection.
- B. Unless approved by the Director in accordance with Departmental established requirements, no trash or recycling collection vehicle, under contract to or owned by the Town, shall enter a privately owned driveway, roadway, or lane for the purpose of collection of residential solid waste from a privately owned property.
- C. Containers shall be set out for collection by the time designated by the Director.
- D. No containers shall be set out for collection prior to the day before collection and no later than 7AM, Eastern local time, on the day of collection. All containers shall be removed from the street by the end of the day established for collection.
- E. To reduce litter in periods of emergency or bad weather, the Director is authorized to make changes to collection hours, collection routes and the setting out of trash and recyclable materials.
- F. No containers shall be placed within the travelled way. Town staff will not cross over private property to pick-up containers, unless approved by the Director.
- G. The container handle must be facing inward towards the residence to allow for the collection vehicle to properly handle the container.

### **~~118-10~~ ~~118-18~~ Placement ~~or~~ Storage of Recyclable and Non-Recyclable Waste Containers**

Except on the day of or the night before scheduled curbside collection, no person shall place any containers of recyclable or non-recyclable waste in any street, alley, or other public place within the Town. At all other times, containers of recyclable or non-recyclable waste shall be stored on private property in such a manner as to be screened (i.e. obscured from obvious view) from any public way. Applications for relief from the provisions of this section may be

made to the ~~Town~~ Administrator, with a recommendation from the Public Works Director, which may be granted for good cause shown.

#### 118-19 Collection Schedule

The collection schedule for routine pick-up shall be prepared by the Director and the schedule will be available digitally on the Town website or in paper form at Durham Public Works. The holiday collection schedule for the current year shall be determined by the Director and posted by the end of December of the previous year. It shall be available digitally on the Town website or in paper form at Durham Public Works.

#### 118-20 Commercial / Multiunit Disposal Fee Subsidy Prohibited

The Town shall not pay commercial / multiunit disposal/tipping fees unless the Town contracts such haulers.

#### 118-21 Community Cleanup

The Director shall have the authority, on a case-by-case basis, to provide non-profit, volunteer community cleanup organizations with free disposal of solid waste.

#### ~~118-11~~ 118.22 **Offensive Matter**

No owner or person having control of a property shall place, leave, or cause to be placed or left, in or near a highway, street, alley, public place, or wharf or on private property any substance liable to become putrid or offensive, or injurious to the public health, or deposit ~~garbage, refuse or solid~~ waste ~~(including but not limited to recyclable waste, recyclable bulky waste, non-recyclable waste and non-recyclable bulky waste)~~ in containers or on premises not designated for ~~recyclable or non-recyclable~~ solid waste disposal.

#### ~~118.12~~ **Unauthorized Removal of Recyclable Waste Curbside**

~~Unauthorized removal of recyclable waste curbside is prohibited.~~

#### 118-23 Collectors Not to Enter Premises

No collector shall be required to enter any house, apartment house or other building or ascend or descend any stairway or enter any elevator, hoist or loading platform for the purpose of collecting or removing trash or recyclable materials.

#### 118-24 Waste Not Collected by the Town

Materials eligible for the base level of service in excess of those set out in 118-15 and 118-16 hereof shall be prepared for collection and shall be disposed of by and at the expense of the owner by causing the same to be delivered to the Transfer Station, or a private alternative, as directed by the Director.

#### ~~118-13~~ 118-25 **Items ~~NOT~~ Not Acceptable for Curbside Collection During Weekly Operations Include but Are Not Limited to:**

- Waste materials not properly segregated for recycling
- Hazardous Waste
- Fireplace ash
- Waste Oil / Oil Filters

- Antifreeze
- Bulky Waste
- Yard Waste
- Rocks, dirt, gravel, asphalt, bricks, concrete, sand and other such solid fill
- [Construction and Demolition Debris](#)
- [Appliances](#)
- [Electronics](#)
- [Tires](#)
- [Unacceptable and Unapproved Waste \(as defined in Article 01\)](#)

#### Article IV

#### ~~SOLID WASTE MANAGEMENT FACILITY~~ [TRANSFER STATION](#)

##### ~~118-14~~ [118-26](#) Authority to Operate

Pursuant to the authority granted to municipalities in RSA 31:39 and RSA 149-M:17, the Town ~~of Durham~~ operates the ~~SWMF~~ [Transfer Station](#). This ~~SWMF~~ [Transfer Station](#) is operated under a ~~license~~ [permit](#) issued by the New Hampshire Department of Environmental Services, Solid Waste Management Division. The ~~SWMF~~ [Transfer Station supervisor, or on-site attendant](#), shall act as the agent for the ~~Town's Public Works~~ Director.

##### ~~118-15~~ [118-27](#) Site Utilization and Hours of Operation

- A. Access Regulated – Access to the ~~SWMF~~ [Transfer Station](#) shall require the display of a ~~SWMF Durham Resident Sticker or Temporary Entrance Permit. Permits shall be purchased at a location to be specified by the Town's~~ [Letter from Durham](#) Public Works ~~Director~~, [either of which can be obtained at Durham Public Works.](#)
- B. Trespassing Prohibited – Public use of the ~~SWMF~~ [Transfer Station](#) during hours other than the posted hours of operation is prohibited.
- C. Acceptance of Waste Limited by Geographic Boundaries – Only materials generated within the geographic boundaries of the Town shall be deposited in the Town's ~~SWMF~~ [Transfer Station](#). [The materials may require a verification of material origin if requested by the director.](#)
- D. Hours of Operation Regulated – The days and hours of operation shall be set by the ~~Town's Public Works~~ Director.
- E. On-Site Management of Waste Material – All material brought to the ~~SWMF~~ [Transfer Station](#) for disposal shall be deposited in the location and manner directed by the ~~SWMF~~ [Transfer Station](#) attendant. ~~SWMF~~ [Transfer Station](#) employees are not required to offload private vehicles.

- F. Unauthorized Removal of Materials – Unauthorized removal of material from the ~~SWMF~~ [Transfer Station](#) is prohibited.
- G. Electronics/Appliance Sticker – An electronics/appliance sticker will be required to dispose of [items that require special handling and processing](#). [Refrigerators, air conditioners and dehumidifiers contain toxins such as chlorinated fluorocarbons \(freon\) and shall be identified for proper disposal. Computer monitors and televisions require additional processing by an outside agency.](#) ~~These items in accordance with the Rules, Regulations and Procedures for Implementing the Provisions of this Ordinance.~~ [This process, called “de-manufacturing,” is necessary because of the presence of lead and other metals that would otherwise contaminate landfills. One sticker per item is required. These stickers will be sold at Durham Public Works.](#)
- [1. Electronics/Appliance sticker cost as stipulated in annual budget.](#)
  - [2. A Durham Resident Sticker is required to drop off items.](#)
  - [3. Disposal of computer systems will also include the monitor, CPU, keyboard, mouse, speakers, and printer as one item.](#)

[A current list of items that require an Electronics/Appliance Sticker can be obtained on the Town Website, and at Durham Public Works.](#)

- H. [Bulky Waste Coupon – A bulky waste coupon will be required to dispose of non-metallic bulky waste and construction/demolition debris. These coupons will be sold at Durham Public Works using the following fee schedule:](#)
- [1. Single Item cost - as stipulated in approved annual budget](#)
  - [2. Regular Sized Pick-up Truck Load cost - as stipulated in approved annual budget](#)
  - [3. 1-Ton Sized Pick-up Truck Load cost - as stipulated in approved annual budget](#)
  - [4. Dump Trailer Sized Load cost - as stipulated in approved annual budget](#)

[Coupons or stickers in sections G and H above will be priced based on the current disposal rate stipulated in the Town’s municipal solid waste contract, and other related costs as approved within the annual budget. A list of these prices will be available in on the Town Website, at the Transfer Station, and at the Durham Public Works office.](#)

[Mattresses and box springs require special handling. A bulky waste coupon described in \(H\) above will allow for disposal of one set, which includes either a mattress with its box spring or just a mattress or box spring alone. Each additional set will require its own “single item” coupon.](#)

- ~~H. I.~~ [Unacceptable Materials - The ~~Town’s Public Works~~ Director shall provide information describing methods for disposing of unacceptable material. \[Unacceptable materials include but are not limited to:\]\(#\) Asbestos containing materials, Infectious Waste, Hazardous Waste, sludge or septic waste, ash residue, and solid fill ~~shall not be accepted at the SWMF~~ unless specifically provided for by State Permit.](#)

~~F. J.~~ Other Material - Any material ~~which~~ that constitutes a hazard to users of the ~~SWMF~~ Transfer Station, to the property of the Town, to adjacent property, to water sources, to the operation of the ~~SWMF~~ Transfer Station or is prohibited by Federal or State statute shall not be accepted at the ~~SWMF~~ Transfer Station unless provided for by the Town's facility State Permit.

**~~118-16~~ ~~118-28~~ Burning at ~~SWMF~~ Transfer Station**

The ~~B~~urning of brush ~~and other combustible material~~ shall be allowed at the ~~SWMF~~ Transfer Station by authorized personnel at the discretion of the Town's Fire Department and regulated through a special permit issued by the State of New Hampshire's Forest Protection Bureau.

**~~118-17~~ ~~118-29~~ Firearms**

The discharge of firearms is prohibited at the ~~SWMF~~ Transfer Station.

**118-30 Subsidized Transfer Station Disposal Fees**

The Town Business Manager shall have the authority to provide disposal fees at reduced rates to residents who are otherwise eligible for assistance under RSA Chapter 165.

**118-31 "Swap Shop"**

The Town maintains a swap shop at the ~~SWMF~~ Transfer Station. Certain items may be left in the swap shop area for possible reuse. Holders of a valid Durham Resident Sticker as defined in Article 6 are welcome to use this area to leave off or collect items, after checking in with the attendant and Swap Shop volunteers. Rules for the orderly operation of the swap shop are in place and implemented as needed with approval by the Director.

**118-32 Bulky Waste Disposal for Certain Commercial Residential Properties**

For a period of no more than four (4) days per calendar year as scheduled by the Director, the Transfer Station will accept bulky waste at no charge from apartment buildings and condominium style properties which contain three (3) or more individual dwelling units. The Director, or their designee, maintains discretion to limit quantity and type of material disposed at no charge by any one property per calendar year, including limitations on disposal of mattresses and boxsprings.

**Article V**  
**Penalty and Prohibition**

**~~118-18~~ ~~118-33~~ *Penalty***

~~(a)~~ A. Pursuant to RSA 31:39, III, any person guilty of violating this ordinance shall be fined as follows:

- 1st offense - \$ 150.00
- 2nd offense - \$ 300.00
- 3rd and subsequent offenses - \$ 1,000.00

~~(b)~~ B. For the purpose of this ordinance, each day that a violation continues following notice of the violation shall constitute a separate and new offense subject to an increased fine.

~~(c)~~ C. The ~~Town~~ Administrator may waive imposition of any fine for good cause shown.

(d) D. Any owner of a property ~~not having control of the property (i.e., a landlord)~~ who is notified of a violation on the property and who does not take reasonable steps to immediately correct the violation shall be guilty of violating this ordinance and shall be subject to fines as set forth above.

**~~118-19~~ 118-34 Roadside Dumping Prohibited**

Roadside dumping is prohibited in the Town of Durham as per State RSA 163- B.

**~~118-20~~ 118-35 Burning and Incineration of Waste on Private Property Prohibited**

Except as may be authorized pursuant to any applicable Federal or State law or Town ordinance, no person or entity shall dispose of any waste material on private property by any process involving burning or incineration.



**REGULATIONS FOR IMPLEMENTING  
THE PROVISIONS OF ORDINANCE # 2002-09 “SOLID WASTE”  
OF DURHAM, NEW HAMPSHIRE  
(Last Amended: 9/10/07)**

The following Regulations have been established by the Town Administrator, under authority and powers granted by Ordinance # 2002-09 of the Town of Durham, to implement and carry out policies prescribed by the Durham Town Council in that ordinance.

**SECTION 1—SOLID WASTE MANAGEMENT FACILITY (SWMF) ENTRANCE  
STICKER**

**Article VI  
Durham Resident Sticker**

**118-36 Transfer Station Entrance: Durham Resident Sticker or Temporary Entrance  
Letter**

This ~~dated and numbered~~ Town issued sticker or temporary entrance letter, allows a Durham resident or taxpayer to enter the ~~SWMF~~ Transfer Station and drop off ~~the following~~ items for disposal/swap shop: household refuse, cans, bottles, paper, newspaper, cardboard, textiles, tires, brush, leaves, lawn clippings, motor oil, and decontaminated metals. ~~Also included~~ originating from the residential property in Durham from where they reside, in accordance with Article 04. ~~with this entrance sticker a Durham resident or taxpayer will receive one (1) bulky waste coupon which allows the resident or taxpayer to drop off one item or up to a pickup truck load of non-recyclable bulky waste items such as stuffed furniture, insulation, and mattresses. Following the above criteria, a bulky waste coupon will also allow the drop off of recyclable items such as clean construction lumber, sheet rock and roof shingles. The cost of the SWMF Entrance Sticker shall be \$10.00. The proposed implementation date is January 1, 2007. This list is not intended to be a complete list of every item accepted at the SWMF.~~

- A. ~~Upon receipt of a completed permit application, which requires proof that the applicant is a resident or taxpayer of the Town of Durham, a one-year numbered permit shall be issued by the Town of Durham Department of Public Works. This permit may be rescinded for failure to adhere to the rules and regulations posted at the SWMF. (The last sentence in this subsection was added on 9/10/07 through advice and consent of DTC).~~ Proof of residency is required to receive a one-year resident sticker issued by the Town of Durham. This sticker may be rescinded for failure to adhere to the rules and regulations outlined in the Town’s facility operating permit, and this Ordinance.
- B. ~~One (1) bulky waste coupon shall be given for each SWMF entrance sticker sold.~~ If desired, residential property owners can receive one (1) no charge Transfer Station annual bulky waste coupon. This coupon will allow each residential property to dispose of up to a dual axle dump trailer size load, or its equivalent, of bulky waste items, on a single day. This coupon will be valid within the calendar year of issuance. The Director or their designee has discretion to inspect and refuse any load, or portion of load, determined to be inconsistent with the intent of this program.
- C. ~~The cost of the permits shall be ten dollars. (\$10.00)~~ The sticker is valid from January 1<sup>st</sup> – December 31<sup>st</sup> of the year issued.

- D. ~~Permits, other than paper permits,~~ The resident sticker shall be affixed to the lower left (driver's) side of the vehicle windshield.
- E. There shall be no charge for a replacement ~~permit sticker~~ if a vehicle is replaced, provided the old ~~permit sticker~~ is returned to ~~the Durham Public Works Department.~~ In the case that the old sticker is not provided, circumstances will be evaluated to determine eligibility for a replacement sticker.
- F. Additional ~~permits stickers~~ for vehicles from the same residential ~~household unit~~ are available at no ~~additional~~ cost.
- G. ~~Hours of operation of the SWMF shall be set by the Public Works Director.~~ Temporary Entrance Letters may be obtained at the Durham Public Works by a resident who wishes to utilize an alternate vehicle and/or person to deliver acceptable solid waste, generated within the geographical boundaries of the Town of Durham, to the Transfer Station.
- H. ~~A second bulky waste coupon can be purchased for \$15.00 per coupon. Additional bulky waste coupons in excess of two can be purchased for \$65.00 per coupon.~~
- I. ~~A bulky waste coupon will be collected for all waste disposed of in the bulky waste containers. A bulky waste coupon shall be presented at each visit to the SWMF whether it is for a pick-up truckload or a single item.~~
- J. ~~Commercial, Multiunit and Apartment buildings will follow the same criteria as above for bulky waste items.~~
- K. ~~A resident is someone who owns property in Durham, has legal identification showing Durham as their place of residency, registers their motor vehicle in Durham, or registers to vote in Durham as generally defined in RSA 654:1.~~

## **SECTION 2—ELECTRONICS /APPLIANCE STICKER**

~~A numbered sticker is required for the disposal of items that require special handling and processing. Refrigerators, air conditioners and dehumidifiers contain toxins such as chlorinated fluorocarbons (freon) and shall be identified for proper disposal. Computer monitors and televisions require additional processing by an outside agency. This process, called "demanufacturing," is necessary because of the presence of lead and other metals that would otherwise contaminate landfills. One sticker per item is required. These stickers will be sold at the Department of Public Works. The cost is \$10.00 per sticker. The proposed implementation date is January 1, 2003.~~

- ~~A. Electronics/Appliance sticker will cost \$10.00 per item.~~
- ~~B. Prior purchase of a SWMF entrance sticker is required to drop off items.~~
- ~~C. A sticker is required on all items regardless of the drop off point (curb side during spring clean-up or at the SWMF).~~
- ~~D. Proposed implementation date is January 1, 2003.~~
- ~~E. Disposal of computer systems will also include the monitor, CPU, keyboard, mouse, speakers, and printer as one item.~~

## **SECTION 3—TEMPORARY CONSTRUCTION PERMIT**

~~This dated and numbered paper permit allows a contractor working for a Durham taxpayer or resident to enter the SWMF. Demolition waste that results from new building construction, additions to existing buildings, renovations, repairs, modifications, and/or maintenance of existing buildings and/or appurtenances may be dropped off. Prior purchase of a SWMF entrance permit by the taxpayer or resident is required. All materials shall be separated and unloaded in the proper areas as directed by the SWMF attendant. This permit allows for a~~

~~maximum of a 1-ton truck full of demolition waste to be dumped one time. The permit will be valid for 6 days from the date of issuance. **The taxpayer or resident, at a cost of \$65.00, shall purchase this permit.** These permits will be sold at the Department of Public Works and surrendered upon use or expiration date. Proposed implementation date is January 1, 2003.~~

- ~~A. A temporary construction permit can be purchased for \$65.00 at DPW.~~
- ~~B. Valid for 6 days from issuance.~~
- ~~C. The **taxpayer or resident** shall purchase the permit.~~
- ~~D. Proposed implementation date January 1, 2003.~~
- ~~E. Prior purchase of a SWMF entrance sticker by the taxpayer or resident is required.~~
- ~~F. Materials dropped off shall be separated at the SWMF.~~
- ~~**G. Permits will be surrendered upon use.**~~

#### ~~SECTION 4 – LANDSCAPERS TEMPORARY PERMIT~~

~~This dated and numbered paper permit allows a landscaping contractor working for a Durham taxpayer or resident to enter the SWMF to drop off common yard waste generated from this taxpayer or resident's property. Only lawn clippings, leaves, pine needles, and brush will be accepted. This permit will be valid for one day and is free provided the **taxpayer or resident has purchased** a SWMF entrance permit. These permits are available at the Department of Public Works.~~

- ~~A. One day permit will be good for yard waste only.~~
- ~~B. Permit is free with a SWMF entrance sticker and available at the DPW.~~

#### ~~SECTION 5 – MATERIALS RECYCLED AT THE SWMF~~

~~Certain items are recycled through the SWMF. For example:~~

- ~~\_\_\_\_\_ Co-mingled recyclable containers as outlined in Attachment A~~
- ~~\_\_\_\_\_ Fiber Recyclables as outlined in Attachment A~~
- ~~\_\_\_\_\_ Textiles as outlined in Attachment A~~
- ~~\_\_\_\_\_ Metal items free of rubber, wood, plastic or other contaminant.~~
- ~~\_\_\_\_\_ Car / Truck Battery~~
- ~~\_\_\_\_\_ Passenger car and small truck tires (without rim)~~
- ~~\_\_\_\_\_ Waste Oil / Oil Filters~~
- ~~\_\_\_\_\_ Oil Based Paint and Stains (in original container with label)~~
- ~~\_\_\_\_\_ Water Heaters / Dryers / Dishwashers~~
- ~~\_\_\_\_\_ Clothes Washers / Ranges~~
- ~~\_\_\_\_\_ Lawn Mowers / Bicycles (without tires or seats)~~
- ~~\_\_\_\_\_ Leaves & Grass Clippings (not in bags)~~
- ~~\_\_\_\_\_ Brush (under 5" diameter)~~
- ~~\_\_\_\_\_ Computer Systems (monitor, cpu, keyboard, mouse, speakers, printers)~~
- ~~\_\_\_\_\_ Copiers & Fax Machines~~
- ~~\_\_\_\_\_ VCR~~
- ~~\_\_\_\_\_ Construction and Demolition waste~~

~~\_\_\_\_\_ This list is not intended to be a complete list of every item accepted at the SWMF~~

#### ~~SECTION 6 – “TYPICAL” BULKY WASTE ITEMS ACCEPTED AT THE SWMF~~

- ~~\_\_\_\_\_ Rugs— rug pads~~
- ~~\_\_\_\_\_ Stuffed Furniture— chairs, couches, futons, etc.~~
- ~~\_\_\_\_\_ Mattresses— box springs~~
- ~~\_\_\_\_\_ Insulation~~
- ~~\_\_\_\_\_ Ceiling tiles~~
- ~~\_\_\_\_\_ Rubber and plastic items— unusable toys, tarps, planters, kiddie pools, barrels, etc.~~
- ~~\_\_\_\_\_ Unusable clothing and cloth items— drapes, comforters, blankets, etc.~~
- ~~\_\_\_\_\_ Vinyl siding~~
- ~~\_\_\_\_\_ Wiring— coils of wire, demolition wire rip-outs, etc.~~
- ~~\_\_\_\_\_ Non-decontaminated metals— items still having non-metal material attached— bicycles, lawn chairs, etc.~~
- ~~\_\_\_\_\_ Unusable Electronic Items that are not part of our electronics Recycling program— stereos, speakers, record players, “boom” boxes, etc.~~
- ~~\_\_\_\_\_ Any other item that is acceptable at the SWMF but doesn’t fit into any other category.~~

~~This list is not intended to be a complete list of every item accepted at the SWMF~~

## ~~SECTION 7— MATERIALS NOT ACCEPTED FOR CURBSIDE COLLECTION OR AT THE SWMF~~

### ~~\_\_\_\_\_ A. Asbestos Materials~~

~~\_\_\_\_\_ Examples: asbestos siding, floor tile, pipe insulation, fire resistant board.~~

### ~~\_\_\_\_\_ B. Infectious Waste~~

~~Examples: Wound and skin isolation wastes, pathology wastes, laboratory wastes and animal carcasses.~~

### ~~\_\_\_\_\_ C. Hazardous Wastes~~

~~\_\_\_\_\_ Generally, those common products which:~~

- ~~\_\_\_\_\_ (a) — burn easily (examples: kerosene, gasoline, turpentine and other solvents)~~
- ~~\_\_\_\_\_ (b) — can explode (examples: gun powder)~~
- ~~\_\_\_\_\_ (c) — are corrosive (examples: drain and oven cleaners, battery acid, metal polish)~~
- ~~\_\_\_\_\_ (d) — are toxic or can be harmful or fatal to organisms and plants (examples: anti-freeze, pool chemicals, paints, insect sprays, weed killers)~~

### ~~\_\_\_\_\_ D. Sludge or Septic Waste~~

~~Examples: sludge from septic tanks, wastewater or water treatment, earth materials from spent leach fields.~~

### ~~\_\_\_\_\_ E. Ash Residue~~

~~Examples: from wood stoves, incinerators or waste to energy facilities.~~

~~**F. Solid Fill**~~

~~Examples: rock, gravel, brick, concrete, dirt.~~

~~**SECTION 8 – CURBSIDE COLLECTION**~~

~~A. Curbside Collection of Non-recyclable Waste—collection shall consist of a single weekly curbside collection of household waste in approved refuse containers. Containers must be waterproof and sturdy and they shall not exceed 50 pounds when filled. Barrels or plastic bags that are of 32-gallon capacity or less are approved containers and are recommended. The Town will refuse to collect curbside waste in any container that is in excess of the 50-pound weight limit. This regulation is in effect to help prevent injuries to the collection workers. Residents using toter containers having a capacity larger than 32 gallons SHALL BAG their trash before placing it in the toter and each bag shall have no more than 50 pounds of weight. Plastic bags shall be tied shut securely. All barrels and toters shall have secured lids.~~

~~The Town reserves the right to refuse to collect curbside waste that is in excess of a reasonable volume per household. A reasonable household volume is no more than four 32-gallon barrels or eight 32-gallon bags per household per week. The Town reserves the right to refuse to collect waste that is not separated into recyclable and non-recyclable categories.~~

~~B. Curbside Collection of Recyclables—the Town shall supply each residential unit served by the municipal collection program with one “blue box” specifically for recyclable materials as outlined in Attachment A. Residents may purchase additional “blue boxes” at the Public Works Department or may use other similar containers with bottom drainage holes provided the containers are clearly marked “RECYCLABLES”. Recycling containers placed at the curb shall not exceed a loaded weight of 50 pounds. The two types of recyclables shall be collected on alternate weeks as outlined in Attachment B.~~

~~C. Placing Out and Bringing In Containers—ALL CONTAINERS AND PLASTIC BAGS SHALL BE CURBSIDE BY 7:00 AM on scheduled collection days. (see Attachment C to determine which areas of town are serviced on particular days). Collection vehicles may take different routes on collection days depending on varying conditions. Therefore, residents should not try to gauge the time of day that the collection vehicle will arrive at their property. Return trips for material put out late shall not be made. Waste and recycling containers shall be removed from the curb within 24 hours of any collection.~~

~~D. Disposal of Needles, Syringes and Other Sharp Objects—For the safety of the collection personnel, it is required that the following guidelines be observed:~~

- ~~1. Place sharp objects in a puncture proof container.~~

~~2. Tightly secure the top of the container with a lid and reinforce the closure with heavy-duty tape.~~

~~3. Place the container in the center of your normal trash so as to enclose the container.~~

~~E. Ownership of Recyclables—Recyclable materials shall become the property of the Town of Durham at such time that the materials are properly placed at the curbside for collection.~~

~~F. Winter Operations—collection operations normally occur even during inclement weather. Material for collection shall be visible and accessible from the road. If collection is cancelled it will be announced on local radio stations, public access channel 22 and the Town’s web site.~~

## ~~SECTION 9—COMMERCIAL / MULTI UNIT RECYCLING PROGRAM~~

### Article VII

#### Commercial Curbside Recycling Program

##### 118-37 Commercial Recycling Program

- A. Commercial ~~and multi-unit buildings~~ Properties shall have a recycling program provided and paid for by the Town in accordance with article 3 as applicable.
- B. Each ~~building program participant~~ shall be provided with ~~2-30-gallon~~ up to two (2) eligible containers, ~~one each for each category of recyclables as outlined in Attachment A. Additional containers shall be available from the Town at a separate fee to be charged directly to the building owner.~~
- C. Additional approved containers, specified by the Town, may be purchased, maintained, and used by the property owner. The Town assumes no liability for damage caused to privately used containers.
- ~~C. D.~~ Containers shall be dumped once a week on a schedule provided by the Town, defined in 118-19. Exclusions during weeks of Town Holiday’s may apply as defined by the Director.
- ~~D. E.~~ Each building property is responsible for placement of the eligible containers on their property as directed collection day in a location defined by the Town Director and in accordance with the rule 118-17 of this ordinance.
- F. Properties that do not/cannot comply with the container requirements as detailed above shall not be eligible for collection or Town funded program.

## ~~SECTION 10—“SWAP SHOP”~~

~~The Town maintains a swap shop at the SWMF. -. Holders of a valid SWMF Entrance Permit are welcome to use this area to leave off or collect items. Rules for the orderly operation of the swap shop may be developed and implemented as needed with approval by the Town Administrator.~~

**PASSED AND ADOPTED** this 4<sup>th</sup> day of November, 2024 by a majority vote of the Durham Town Council with \_\_\_\_\_ 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](http://www.ci.durham.nh.us)

AGENDA ITEM: **#11B**

DATE: November 4, 2024

### COUNCIL COMMUNICATION

**INITIATED BY:** Human Rights Commission

**AGENDA ITEM:** **DISCUSSION AND POSSIBLE ADOPTION OF RESOLUTION #2024-24 AMENDING RESOLUTION #2013-14 TO CHANGE THE MEMBERSHIP COMPOSITION ON THE HUMAN RIGHTS COMMISSION TO BE AS FOLLOWS – FIVE (5) CITIZENS WHO ARE RESIDENTS OF DURHAM, ONE (1) COUNCIL REPRESENTATIVE WITH A ONE-YEAR TERM AS AN ADVISORY, NON-VOTING MEMBER, AND THE ADMINISTRATOR AS AN ADVISORY, NON-VOTING MEMBER.**

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Sally Needell, Councilor

**AGENDA DESCRIPTION:**

The Human Rights Commission's role has grown, and it often has an advisory role for the Town Council. Decisions by the HRC can involve actions that require the Town Council Chair, the Administrator, and the Business Manager to be part of advising the Town Council. These decisions may create a situation that requires the chair and administrator to take a position that may later be in conflict with their advice and decision making at a future Town Council meeting. To eliminate this conflict, the Human Rights Commission would like to change its By-Laws to allow the Council Representative and Town Administrator to be advisory, non-voting members. In order to offset the removal of these voting members, the commission would like to increase its membership to include 5 Durham residents.

The Human Rights Commission discussed these changes at their October 8, 2024 meeting and were unanimously in favor of the change.



This item was on the October 21 Town Council agenda. However, the Council did not have the time to review the Resolution. Therefore, the item was added to the November 4 Town Council agenda.

**LEGAL AUTHORITY:**

N/A

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby ADOPT Resolution #2024-24 Amending Resolution #2013-14 to Change the Membership Composition on the Human Rights Commission to be as follows - Five (5) citizens who are residents of Durham, One (1) Council Representative with a one-year term as an Advisory, Non-Voting Member, and the Administrator as an Advisory, Non-Voting Member.*

## **RESOLUTION #2024-24 OF DURHAM, NEW HAMPSHIRE**

**AMENDING RESOLUTION #2013-14 TO CHANGE THE MEMBERSHIP COMPOSITION ON THE HUMAN RIGHTS COMMISSION TO BE AS FOLLOWS – FIVE (5) CITIZENS WHO ARE RESIDENTS OF DURHAM, ONE (1) COUNCIL REPRESENTATIVE WITH A ONE-YEAR TERM AS AN ADVISORY, NON-VOTING MEMBER, AND THE ADMINISTRATOR AS AN ADVISORY, NON-VOTING MEMBER.**

**WHEREAS**, on June 3, 2013, the Durham Town Council adopted Resolution #2013-14 supporting the equality of all individuals to obtain employment, access to all places of public accommodation, and to obtain housing, without regard to actual or perceived sexual orientation, gender identity, or gender expression; and

**WHEREAS**, Resolution #2013-14 also established a Durham Human Rights Commission consisting of the Council Chair, Administrator, and Business Manager with the Administrator serving as the designated liaison between the Town and the LGBT community; and

**WHEREAS**, on June 17, 2017, the Durham Human Rights Commission adopted bylaws outlining the Commission's purpose (affirmed by the Town Council)

**WHEREAS**, Resolution #2017-26 adopted at the October 2, 2017, Town Council meeting, increased the number of members from three (3) to five (5) by adding two citizens who are residents of Durham;

**WHEREAS**, Resolution #2023-02 adopted at the February 6, 2023 Town Council meeting, increased the number of members from five (5) to seven (7) by adding two additional citizens who are residents of Durham and established 3-year staggering term limits for the citizen members;

**WHEREAS**, the Human Rights Commission's role has grown, and it often has an advisory role for the Town Council; and

**WHEREAS**, at times the Human Rights Commission makes decisions that places the Administrator and Council Representative in conflict with their advice and decision making at a future Town Council meeting; and

**WHEREAS**, the Business Manager is no longer a necessary member of the Commission;

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt **Resolution #2024-24** amending Resolution #2013-14 to change the Membership Composition on the Human Rights Commission to be as follows – Five (5) citizens who are residents of Durham, One (1) Council Representative with a one-year term as an Advisory, Non-Voting Member, and the Administrator as an Advisory, Non-Voting Member. For the purposes of the Right-to-Know law, a quorum of the HRC shall consist of three (3) voting members.

**PASSED AND ADOPTED** this 4<sup>th</sup> day of November, 2024 by a majority vote of the Durham Town Council with \_\_\_ 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](http://www.ci.durham.nh.us)

AGENDA ITEM: **#11C**

DATE: November 4, 2024

### COUNCIL COMMUNICATION

**INITIATED BY:** Planning Board

**AGENDA ITEM:** CONTINUED DISCUSSION & FIRST READING ON ORDINANCE #2024-09 AMENDING CHAPTER 175 "ZONING," ARTICLE II, "DEFINITIONS," ARTICLE XII.1, "USE AND DIMENSIONAL STANDARDS," ARTICLE XVIII, "PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT," ARTICLE XIX, "CONSERVATION SUBDIVISIONS," AND THE ZONING MAP; AND ADDING A NEW ARTICLE XVIII.1, "WORKFORCE HOUSING OVERLAY DISTRICT." A PUBLIC HEARING CAN BE SET FOR MONDAY, NOVEMBER 18, 2024.

**CC PREPARED BY:** Michael Behrendt, Town Planner

**PRESENTED BY:** Michael Behrendt, Town Planner

**AGENDA DESCRIPTION:**

The proposed ordinance was originally developed by the Housing Task Force working with the Town Planner. That earlier version was presented to the Planning Board for which a public hearing was held on November 30, 2022. There was a negative response to various aspects of the proposal including a suggestion that the ordinance be written as an overlay district.

The Planning Board worked on the proposal for many months and presented a new version with an overlay district for public hearing on August 14 and August 28, 2024. Numerous comments were received. The board revised the proposal further after much discussion and placed a revised version for public hearing on October 9. Following the hearing the board made a few minor changes and then voted to formally initiate the

amendment. The vote was 4-2 with Paul Rasmussen, Sally Tobias, Peyton McManus, and Erika Naumann Gaillat voting in favor and Em Friedrichs and Tom DeCapo voting against.

*\*Please see the attached Frequently Asked Questions (FAQs) which addresses numerous issues related to the proposal. Also see the Planning Board website here which contains numerous documents and comments related to the amendment:*  
[https://www.ci.durham.nh.us/boc\\_planning/workforce-housing-overlay-district](https://www.ci.durham.nh.us/boc_planning/workforce-housing-overlay-district).

The Council began reviewing this Ordinance at their meeting of October 21. They continued the discussion and first reading to their meeting of November 4.

**LEGAL AUTHORITY:**

RSA 674:16, RSA 674:21, RSA 674:58-61 and Section 175-14 of the Durham Zoning Ordinance

**LEGAL OPINION:** The Town Attorney reviewed an earlier draft of the proposal. The revised ordinance will be forwarded to her for review.

**FINANCIAL DETAILS:** One or more projects could have a fiscal impact though it is difficult to try to project what the impact might be.

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby approve on First Reading Ordinance #2024-09 Amending Chapter 175 “Zoning,” Article II, “Definitions,” Article XII.1, “Use and Dimensional Standards,” Article XVIII, “Personal Wireless Service Facilities Overlay District,” Article XIX, “Conservation Subdivisions,” and the Zoning Map; and adding a new Article XVIII.1, “Workforce Housing Overlay District.” A public hearing is set for Monday, November 18, 2024.*

## **ORDINANCE #2024-09 OF DURHAM, NEW HAMPSHIRE**

**AMENDING CHAPTER 175 “ZONING,” ARTICLE II, “DEFINITIONS,” ARTICLE XII.1, “USE AND DIMENSIONAL STANDARDS,” ARTICLE XVIII, “PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT,” ARTICLE XIX, “CONSERVATION SUBDIVISIONS,” AND THE ZONING MAP; AND ADDING A NEW ARTICLE XVIII.1, “WORKFORCE HOUSING OVERLAY DISTRICT.”**

**WHEREAS**, RSA 674:17 is the statute establishing the purpose of zoning ordinances and RSA 674:21 allows for the adoption of innovative land uses; and

**WHEREAS**, RSA 58-61 promotes the establishment of Workforce Housing; and

**WHEREAS**, there is a significant shortage of affordable and workforce housing in the United States, New Hampshire, and Strafford County; and

**WHEREAS**, the Durham Housing Task Force and Durham Planning Board spent countless hours developing, modifying, and refining the proposed Workforce Housing Overlay District over the course of two years; and

**WHEREAS**, the proposed ordinance is carefully crafted to generate an optimal number of affordable and workforce housing units, recognizing that it is far easier to achieve density and affordability and to maintain permanent affordability with rental units rather than single-family houses and condominiums offered for sale; and

**WHEREAS**, the proposed ordinance is crafted to appeal to a broad range of moderate-income persons and households along with others who would be interested in living in Durham; and

**WHEREAS**, the community of Durham recognizes the innumerable benefits to the region and to the community of encouraging the creation of affordable and workforce housing; and

**WHEREAS**, the Frequently Asked Questions (FAQ’s) document that is included with this proposed ordinance addresses many questions related to this proposed ordinance; and

**WHEREAS**, the Planning Board held public hearings on prior drafts and one public hearing on this final draft, incorporating comments as appropriate and formally voted to initiate this zoning amendment; and

**WHEREAS**, the Durham Planning Board held a public hearing and duly voted to initiate this amendment.

**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 #2024-09** and does hereby amend the following sections of the Code. Wording to be deleted is annotated with ~~striketrough~~ type. New wording is annotated with underlining. *[Nonsubstantive notes only are shown like this.]*

---

## **ARTICLE II - DEFINITIONS**

❖ Add the following new definitions, in alphabetical order, in Article II. DEFINITIONS.

MISSING MIDDLE HOUSING – Types of housing that are intended to fill the gap in types of residential dwellings between single family houses (on their own lots) on one end and large apartment buildings and complexes on the other end. Missing middle housing includes duplexes, triplexes, triple deckers, quadraplexes, townhouses, rowhouses, single dwelling units not located on their own lot, tiny houses, cottage/bungalow courts, small courtyard apartment buildings, accessory dwelling units, and apartments over stores.

WORKFORCE HOUSING – Housing which is designed to provide a broad range of living options, including a variety of dwelling types at affordable prices, that meet the needs of families and individuals representing New Hampshire’s diverse workforce. Workforce housing is also intended to accommodate those of moderate means who are not currently employed.

## **ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS**

❖ Add the column shown below for Workforce Housing Overlay District (WHOD) as a new column at the far right of Table 175-54 – Table of Dimensions:

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	<a href="#">Workforce Housing Overlay District (WHOD)</a>
<b>Minimum Lot Size in Square Feet</b> - Single-Family Residence (that is not part of a Conservation Subdivision) - Multiunit Housing - Allowed Nonresidential Use - Any Other Allowed Use	20,000 NA 20,000 20,000	40,000 NA 40,000 40,000	150,000 NA 150,000 150,000	150,000 NA 150,000 150,000	NA 5,000 5,000 5,000	10,000 10,000 10,000 10,000	5,000 5,000 5,000 5,000	5,000 5,000 5,000 5,000	30,000 30,000 30,000 30,000	40,000 80,000 80,000 80,000	40,000 40,000 40,000 40,000	150,000 150,000 150,000 150,000	40,000 40,000 40,000 40,000	<a href="#">NA</a> <a href="#">5,000</a> <a href="#">5,000</a> <a href="#">5,000</a>
<b>Minimum Lot Area Per Dwelling Unit<sup>3</sup> in Square Feet</b>	20,000	40,000	150,000 <sup>2</sup>	150,000 <sup>2</sup>	NA	3,000	4,200	4,200	4,200	4,200	40,000	150,000	20,000	<i>4,200 (The density bonus under footnote<sup>3</sup> does not apply in the WHOD)</i>
<b>Minimum Usable Area Per Dwelling Unit in a</b>	20,000	40,000	150,000	150,000	1,200	3,000	4,200	4,200	4,200	4,200	40,000	150,000	NA	<a href="#">NA</a>



STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	<a href="#">Workforce Housing Overlay District (WHOD)</a>
<b>Conservation Subdivision<sup>3</sup> in Square Feet</b>														
<b>Minimum Lot Frontage in Feet</b> - Minor Street - Collector Street - Arterial Street	100	150	300	300	50	100	50	50	100			150	150	<u>50</u>
										50	100			
										100	100			
										200	200			
<b>Minimum Front Setback in Feet</b> - Minor Street <sup>1</sup> - Collector Street - Arterial Street	30	30	30	30	None - except per Note 5	30	15	15	30	50	30	30	30	<u>50</u>
	30	30	30	30		30	15	15	30	50	30	30	30	<u>50</u>
	40	40	40	40		50	15	15	50	See Note 6	100	50	50	<u>50</u>

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI)	Durham Business Park (DBP)	<a href="#">Workforce Housing Overlay District (WHOD)</a>
Maximum Front Setback in Feet	NA	NA	NA	NA	See Note 5	NA	NA	25	NA	NA	NA	NA	NA	<a href="#">NA</a>
Minimum Side Setback <sup>4</sup> in Feet	10	20	50	50	NA	15	5	10	15	25	20	20	20	<a href="#">25</a>
Minimum Rear Setback <sup>4</sup> in Feet	20	30	50	50	NA	20	15	15	20	25	20	20	20	<a href="#">25</a>
Minimum Shoreland Shorefrontage in Feet	200	200	200	200										<a href="#">NA</a>
Maximum Permitted Building Height in Feet	30	30	30	30	30	30	30	30	30	50	40	40	40	<a href="#">NA – See WHOD ordinance</a>
Maximum Permitted Building Height in Feet by Special Exception in the Four Residential Zones	35	35	35	35	60 See Note 7	35	35	35	35	75	50	50	50	<a href="#">NA – See WHOD ordinance</a>

STANDARD	ZONING DISTRICTS													
	Residence A (RA)	Residence B (RB)	Residence C (RC)	Rural (R)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	OR-Route 108 (OR)	Mixed Use and Office Res. (MUDOR)	Office, Research Light Ind. (ORLI.)	Durham Business Park (DBP)	<a href="#">Workforce Housing Overlay District (WHOD)</a>
and by Conditional Use in Other Zones.														
Maximum Impervious Surface Ratio	33%	30%	20%	20%	100%	50%	80%	80%	30%	50 %	50%	50%	50%	<a href="#">50%</a>

- ❖ Add the new text as follows:

### **175-57. Special Situations Affecting Dimensions.**

#### **A. Density.**

1. Density for senior residential uses and workforce housing. In determining the maximum density for Senior Housing, Senior care Facilities, ~~and~~ Nursing Homes, and Workforce Housing (as defined under RSA 674:58 IV.) the following provisions shall apply to the entire development:
  - a dwelling unit containing one bedroom or a studio unit without a separate bedroom shall count as 0.33 dwelling units for the purpose of the density calculation
  - a dwelling unit containing two or more bedrooms shall count as 0.50 dwelling units for the purpose of the density calculation
  - four (4) beds or accommodations for four (4) residents in those facilities that do not provide dwelling units shall count as one (1) dwelling unit for the purpose of the density calculation

## **ARTICLE XVIII – PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT**

*[Note only: These changes to Article XVIII are nonsubstantive formatting changes only to enhance the overall numbering of the ordinance.]*

### **175-99. Purpose and ~~Intent~~ Applicability**

- A. It is the express purpose of this Article to permit carriers to locate personal wireless service facilities within particular areas of the Town of Durham consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Durham is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. This Article enables the review of the locating and siting of personal wireless service facilities by the Town of Durham so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. This Article is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted personal wireless facilities are permitted, but only when the use of existing structures and buildings are found to be infeasible. Co-location is encouraged for all personal wireless service facility applications and the review of a personal wireless facility shall be on the basis of the site being built using all positions on the mount. The Town of Durham encourages the location of personal wireless service facilities (PWSF) in non-residential areas.

### **~~175-100. —Applicability.~~**

- B. The terms of this Article and the Site Plan Review Regulations shall apply to personal wireless service facilities proposed to be located on property owned by the Town of Durham, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier

Renumber the remaining sections as 175-100 to 175-05

.....

**175-106 5. Abandonment or Discontinuation of Use.**

- A. **Notification** - At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- B. **Removal** - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - 1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - 3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. **Failure to Remove** - If the owner of the facility does not remove the facility upon the Zoning Administrator's order, then the Town Council shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Town Council. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

**ARTICLE XVIII.1 - WORKFORCE HOUSING OVERLAY DISTRICT**

- ❖ Add the following new article to the body of the ordinance including a listing in the Table of Contents.

**ARTICLE XVIII.1 WORKFORCE HOUSING OVERLAY DISTRICT**

**175-106 Workforce Housing Overlay District (WHOD)**

The following provisions apply to the Workforce Housing Overlay District.

**A. Purpose of the Workforce Housing Overlay District. This overlay district is intended to:**

- 1. provide reasonable and realistic opportunities for the development of workforce and affordable housing;
- 2. ensure the availability of a diverse supply of rental opportunities;

3. [provide an adequate supply of affordable housing in Durham as set forth in the Town's 2015 and 2018 Master Plan including the Demographics and Housing Chapter \(https://www.ci.durham.nh.us/planning/master-plan-2015\)](https://www.ci.durham.nh.us/planning/master-plan-2015) and the [Town's May 2024 Housing Needs Assessment \(https://www.ci.durham.nh.us/bc-housingtaskforce\)](https://www.ci.durham.nh.us/bc-housingtaskforce); and
4. [address the regional need for workforce housing as documented in the Strafford Regional Planning Commission's Housing Needs Assessment \(https://strafford.org/uploads/documents/plans/rpc/rhna\\_2023.pdf\)](https://strafford.org/uploads/documents/plans/rpc/rhna_2023.pdf) as updated.

**B. Authority.** [The Town of Durham adopts this Workforce Housing Overlay District and related sections in this Zoning Ordinance under the authority of RSA 674:15-18 Purpose of Zoning Ordinance, RSA 674:58-61 Workforce Housing and RSA 674:21, Innovative Land Use Controls.](#)

**C. Applicability.** [The provisions of the Workforce Housing Overlay District apply to the following areas of Durham \[See Workforce Housing Overlay District Zoning Map\]:](#)

1. [The entirety of the land zoned Office and Research District – Route 108 \(OR\) that is situated on the easterly side of Dover Road/Route 108.](#)
2. [All portions of the lot identified as Map 209, Lot 39, currently zoned Residence Coastal, that are situated westerly of the ordinary high-water mark on the westerly side of Johnson Creek.](#)
3. [All of the land zoned Office Research Light Industry \(ORLI\) that is located northerly or westerly of U. S. Route 4.](#)
4. [Tax Map 210, Lots 10, 11, 12, 13, 14, and 15.](#)

**[Note: See the map on the last page.]**

[The references above are made as of the date when this amendment is adopted. Should any of the pertinent land be rezoned in the future or changes to map and lot numbers be made, the specific lands identified as being part of the overlay district included at the time of adoption of this overlay district shall not change unless a specific zoning amendment is made in the future to that effect.](#)

[The Workforce Housing Overlay District is depicted on the map identified as Workforce Housing Overlay District – Supplement to Official Zoning Map. In case of any conflict between the description above and the rendering on the map, the description of the zone, above, will prevail.](#)

Any parcel of land located in the overlay district may be developed as a workforce housing project in accordance with the provisions of the Workforce Housing Overlay District by right at the option of the landowner pursuant to the provisions of this article.

**D. Workforce Housing Option under Conservation Subdivisions.** Special provisions for workforce housing that is part of a conservation subdivision are given in Article XIX - Conservation Subdivisions. Those provisions are entirely independent from this overlay district and neither may be applied to the other nor may the two be combined in any manner.

**E. Dwelling Units.** Within a project developed under this ordinance:

1. No single family house lot may be created.

2. Units shall be offered exclusively for rent, not for sale.

3. Bedrooms. No units may contain more than three bedrooms. The number of three-bedroom units may not exceed 1/3 of the total number of dwelling units in the project. Otherwise, the mixture of units by number of bedrooms is set at the discretion of the applicant. A mix of studios, and one- two- and three- bedroom units is encouraged.

4. Housing Types. Residential units in a workforce housing development are restricted to missing middle housing types only (See Definition). A mix of housing types and unit sizes arranged in different configurations is encouraged but not required. No individual building (including rowhouses and townhouses) may contain more than 12 dwelling units.

**F. HUD Fair Market Rent.** Rent levels are established for all workforce housing units (including any units that are subleased) based upon the U. S. Housing and Urban Development (“HUD”) Fair Market Rent which is set based on the number of bedrooms in a unit. The rent levels are reset by HUD every year. The fair market rent (or some percentage of the fair market rent, below) is the figure for which the unit is offered. It does not consider other costs to tenants.

Rents may be set at the discretion of the property owner provided:

1. Most units will likely be rented at the HUD Fair Market Rent with the exceptions of 2. and 3., below.

2. There is some flexibility in setting rent levels. Each unit shall be rented at some percentage of the HUD Fair Market Rent, e.g., exactly at HUD Fair Market Rent which would be 100%, at 80%, etc. The average of all of the percentages for all of the units in the project (independent of the number of bedrooms in

units) shall not exceed 100%. (For example: 10 units are rented at 100% of the HUD Fair Market Rent level, 5 units are rented at 60% of HUD Fair Market Rent, and 5 units are rented at 120% of HUD Fair Market Rent. The average of those percentages is 95% which would be in compliance since the average is less than 100%.)

3. At least 20% of the overall number of units (independent of the size of the units) shall be rented at 80% of HUD Fair Market Rent level or less.
4. Rental units must be the primary residence for all lessees.

**G. Housing Vouchers.** Property owners must be willing to accept Section 8/Housing Vouchers for payment of rent provided the total amount of rent paid for a unit is consistent with the established rent for the unit. This provision does not require that priority be given to Section 8/Housing Vouchers, but only that the property owner be willing to accept them.

**H. Housing Guarantees.** The primary purpose of this overlay district is to provide affordable housing for members of the workforce and the community. The property owner shall not accept guarantees from third parties who will not reside in the rental unit (This provision does not apply to Section 8/Housing Vouchers).

**I. Allowed Uses.** The uses allowed in any project developed under this overlay district are the residential uses specified in this section, all uses allowed in the underlying base zoning district, day care centers, and common accessory uses to these uses (such as a clubhouse and outdoor recreation serving residents). Institutional Uses, Offices, Restaurants, and small Retail Stores (with less than 5,000 gross square feet), are allowed by conditional use (unless allowed by right in the underlying zoning district).

**J. Density and Dimensional Standards.** The density and dimensional standards for the Workforce Housing Overlay District are specified in the Table 175-54 – Table of Dimensions. These standards apply throughout the Workforce Housing Overlay District superseding the standards otherwise applicable to the underlying base zoning districts.

1. Density. The density standard is given in the Table of Dimensions. The standard is established for the overall site based upon lot area per dwelling unit. All areas of the subject parcel apply to the density calculation except for wetlands and areas of open water.
2. Maximum number of units. The maximum number of dwelling units for any workforce housing development is 200 units. This maximum applies to any individual lot or tract proposed for a project, including any project to be



developed in phases. Appropriate restrictions may be specified for any project to prevent pre-emptory subdivision that might circumvent this provision. The Planning Board may approve more than 200 units in a project by conditional use.

3. Senior units. There is no density bonus for senior residential units. Section 175-57 A. I. Density for senior residential units does not apply to projects developed under this overlay district.
4. Building Height. The maximum height for any building is three stories. There is no maximum height in number of feet. The maximum height for any building is four stories if that building is set back at least 100 feet from any property line.

**K. Other Zoning Parameters.** All other standards in the Zoning Ordinance shall apply to a project unless superseded by a specific provision in this overlay district. The limitation allowing for a maximum of three unrelated occupants in a dwelling unit does not apply to any project developed through this overlay district.

**L. Buffers.** Depending on the location and characteristics of the proposed development, the surrounding properties, and the adjacent roads, the Planning Board may require that the developed area be buffered from surrounding property and the adjacent roads.

**M. Low Income Housing Tax Credit project.** The Planning Board may approve by conditional use any departure from this article and from the Zoning Ordinance to accommodate a project proposed to be funded through the Low Income Housing Tax Credit, where any requirement of the tax credit program is inconsistent with this article or the Zoning Ordinance.

**N. Perpetuity.** All workforce housing units must remain affordable as workforce units in perpetuity in accordance with HUD figures and the conditions of project approval. As part of any project, appropriate provisions, such as deed restrictions or easements, shall be incorporated to carry out this requirement. The Town of Durham or their agents may require periodic reporting and audits at its option.

**O. Site Plan and Subdivision Regulations.** A workforce housing project developed under this overlay district is exempt from Article XIX – Conservation Subdivisions and from all sections under the Subdivision Regulations related to conservation subdivisions. Where there is no subdivision into separate lots of land a project is reviewed under the Site Plan Regulations. Separate components of a project may be subdivided into separate parcels as part of phasing of a project or an overall development plan, in which case creation of new parcels will be reviewed as a subdivision under pertinent elements of the Subdivision Regulations. Lots which are not intended to be part of a workforce housing development may be subdivided from

the parent parcel of land provided that portion of the development complies with other applicable requirements.

**P. Topography and Open Space.** A full topographic survey shall be prepared. A minimum of 60% of the gross acreage of the parcel shall be set aside as permanent open space. The applicant shall prepare an open space plan providing for the appropriate use, maintenance, and protection of the open space to be approved by the Planning Board. On sites where neither Town water nor sewer are available the applicant shall prepare a HISS analysis of the entire site. A HISS analysis is not required when both Town water and sewer are available.

The Planning Board will determine which portions of the parcel will be set aside for open space in order to optimally preserve natural and cultural resources, enhance forest management, and provide opportunities for agriculture and passive recreation in accordance with criteria a. through g. under Article XIX. Conservation Subdivisions, Section 175-107, Subsection H. Common Open Space, Subsection 3.

**Q. Design.** The Planning Board shall use its judgment in reviewing the proposed design, layout, and density of the project to ensure a harmonious living environment for the future residents.

1. All residential buildings must front a pedestrian-oriented designed street or way and not simply a parking lot.

2. All residential buildings must form a pedestrian-oriented ensemble.

3. There must be a network of streets or ways allowing for pedestrian movement through the site.

4. All parking areas must be broken up into smaller areas or with sufficient landscaping to avoid large expanses of parking.

**R. Parking and Transportation.** The applicant shall develop a transportation plan for the project pursuant to Article 11 – Pedestrian, Bicycle, and Transit Facility Standards in the Site Plan Regulations. The minimum number of parking spaces required for any dwelling unit is one.

**S. Infrastructure.** Roads, water and sewer infrastructure, and other infrastructure shall be owned and maintained by the developer or by the Town of Durham as determined by the Planning Board in consultation with the Town Administrator and Durham Public Works Department (and/or the Town Council pursuant to other applicable law).

**T. Incentives.** The Planning Board may negotiate with the applicant to allow for additional density or reduced open space in exchange for inclusion of various

elements that will enhance the quality of the project, including, but not limited to, additional open space, public recreation facilities, agricultural leases, active transportation connections, sustainability measures, and a reduction in the average rent level significantly below 100% of the HUD Fair Market level. This bonus should not be provided for elements that would likely be incorporated in the regular course of site plan review. The maximum increase in density allowed under this provision is 20%. This allowance could also be used to raise the threshold of 200 units beyond which a conditional use would be required.

## **ARTICLE XIX - CONSERVATION SUBDIVISIONS**

- ❖ Add the following new provision under **Section 175-107. Conservation Subdivisions** at the end of **C. Exempt Subdivisions**:

C. ***Exempt Subdivisions.*** A proposed subdivision is exempt from being developed as a Conservation Subdivision only if the proposed subdivision meets one of the following criteria. In determining if the criteria are met, any lot that has been or will be transferred to a qualified conservation organization (as defined in Article II) and will be restricted to conservation use in perpetuity, shall not be counted as a lot for the purpose of this provision.

### 5. Any subdivision created under **Article XVIII.1 Workforce Housing Overlay District.**

- ❖ Under **Section 175-107.1 Workforce Housing Option**, change the title of the section and insert a new paragraph without a letter designation right below the title as follows:

**175-107.1 Workforce Housing ~~Option~~ in a Conservation Subdivision**  
Applicants who seek to incorporate workforce housing into a conservation subdivision shall follow the procedures laid out in this section. Workforce housing developed under this section is entirely separate from workforce housing developed under the Workforce Housing Overlay District.

- ❖ Under **Section 175-107.1 Workforce Housing in a Conservation Subdivision**, replace F. Density Incentive, in entirety with the following:

~~F. ***Density Incentive.***—Any Conservation Subdivision that seeks to include workforce housing shall be permitted to increase the number of market units by 20% above the Maximum Development Density as calculated per Section 175-107 E (2) and that will guarantee an additional 20% of units above the Maximum Development Density to be designated as workforce housing.~~

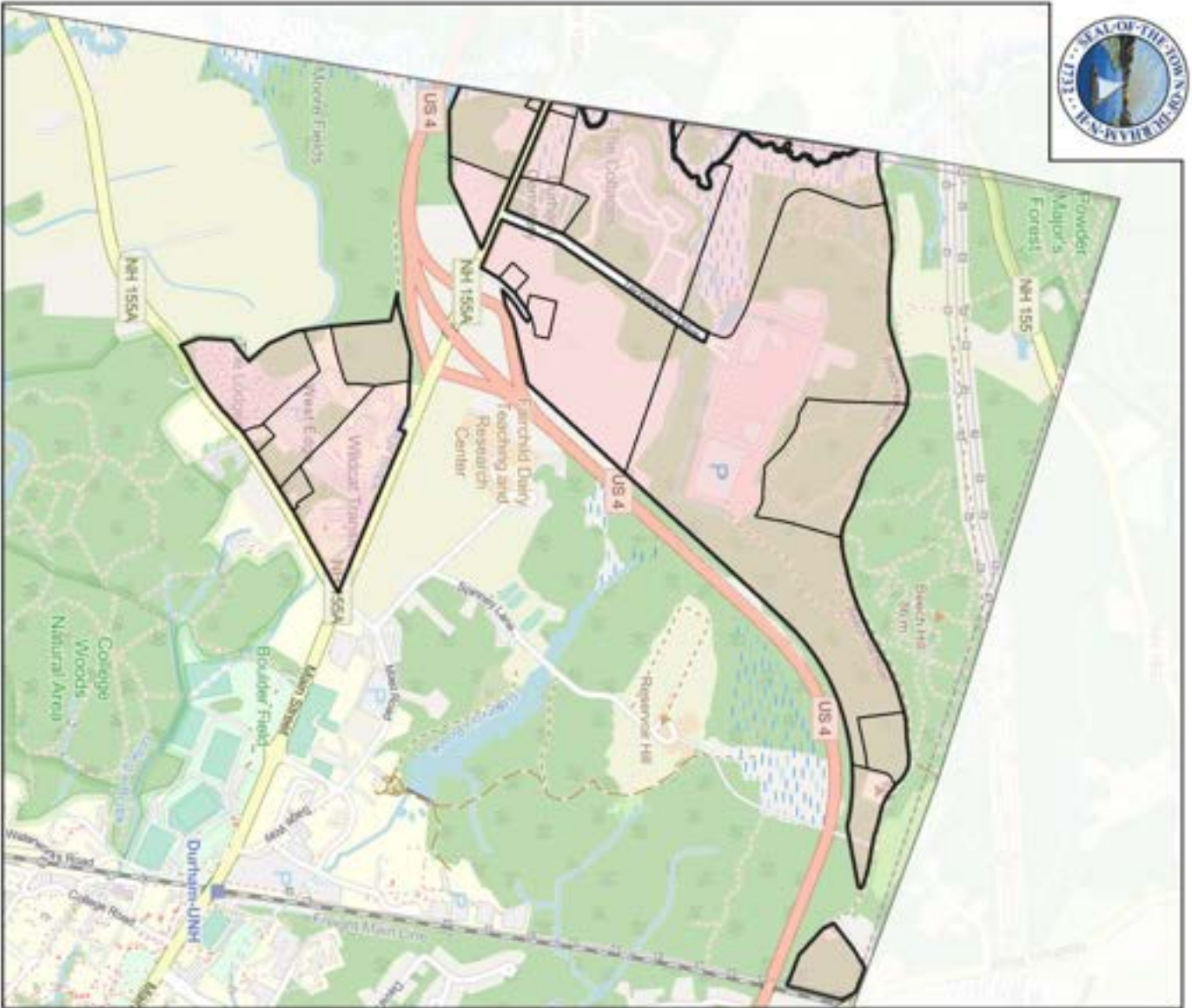
**Density Incentive.** In determining the maximum number of workforce housing dwelling units that are allowed in a conservation subdivision, these standards apply:

1. A workforce housing dwelling unit containing one bedroom or a studio unit without a separate bedroom counts as 0.33 dwelling units for the purpose of the density calculation; and

2. A workforce housing dwelling unit containing two or more bedrooms counts as 0.50 dwelling units for the purpose of the density calculation;

**ZONING MAP**

- ❖ Rezone the lots as shown on the Zoning Map on the next page and as specified under Applicability above.



**Town of Durham**  
Workforce Housing Overlay District  
For Proposed Zoning Amendment

**PASSED AND ADOPTED** this \_\_\_\_ day of **November, 2024** by a majority vote of the Durham Town Council with \_\_\_\_ 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](http://www.ci.durham.nh.us)

AGENDA ITEM: **#11D**

DATE: **November 4, 2024**

### COUNCIL COMMUNICATION

**INITIATED BY:** Planning Board

**AGENDA ITEM:** PRESENTATION & FIRST READING ON ORDINANCE #2024-10 AMENDING CHAPTER 175 “ZONING,” ARTICLE III, “ADMINISTRATION AND ENFORCEMENT,” ARTICLE VI, “ZONING BOARD OF ADJUSTMENT,” ARTICLE XII.1, “USE AND DIMENSIONAL STANDARDS,” ARTICLE XX, “STANDARDS FOR PRINCIPAL USES,” AND ARTICLE XX.1, “STANDARDS FOR AGRICULTURAL USES.” A PUBLIC HEARING CAN BE SET FOR MONDAY, NOVEMBER 18, 2024.

**CC PREPARED BY:** Michael Behrendt, Town Planner

**PRESENTED BY:** Michael Behrendt, Town Planner

**AGENDA DESCRIPTION:**

The proposed amendments pertain to freestanding small group net metering uses in the five core commercial districts, childcare as an accessory use to all residential uses, requirements for accessory buildings to single-family houses, zoning enforcement, clarifying text consistent with state law, terminology, and formatting of the ordinance.

These are largely minor items that I have had on a to-do list for many months and here was an opportunity to address them. The items are independent from one another.

The Council did not have time to review this Ordinance at their meeting of October 21. They continued the presentation and first reading to their meeting of November 4.

**LEGAL AUTHORITY:**

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

**LEGAL OPINION:**

*A legal opinion was sought on the addition of Section 175-9C -The Zoning Administrator, or their designee, may request that any landowner or association certify, under oath, compliance with any zoning requirement, including but not limited to age restrictions, rental restrictions, or occupancy restrictions, if, in their discretion, there is a reasonable basis to believe that there is a zoning violation on the property. Should the owner refuse to provide such certification, the Zoning Administrator may seek an administrative search warrant to confirm compliance with the town's zoning ordinance.*

The Town Attorney was consulted on this item a while ago, and she did not see a legal concern with the proposal.

**FINANCIAL DETAILS:**

Not applicable

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby approve on First Reading Ordinance #2024-10 Amending Chapter 175 "Zoning," Article III, "Administration and Enforcement," Article VI, "Zoning Board of Adjustment," Article XII.1, "Use and Dimensional Standards," Article XX, "Standards for Principal Uses," and Article XX.1, "Standards for Agricultural Uses." A public hearing is set for Monday, November 18, 2024.*



## **ORDINANCE #2024-10 OF DURHAM, NEW HAMPSHIRE**

**AMENDING CHAPTER 175 “ZONING,” ARTICLE III, “ADMINISTRATION AND ENFORCEMENT,” ARTICLE VI, “ZONING BOARD OF ADJUSTMENT,” ARTICLE XII.1, “USE AND DIMENSIONAL STANDARDS,” ARTICLE XX, “STANDARDS FOR PRINCIPAL USES,” AND ARTICLE XX.1, “STANDARDS FOR AGRICULTURAL USES.”**

**WHEREAS**, RSA 674:17 is the statute establishing the purpose of zoning ordinances; and

**WHEREAS**, numerous fairly minor items have been brought to the attention of the Town Planner and the Planning Board over the years that should be addressed when time allows; and

**WHEREAS**, it is appropriate in certain circumstances to require landowners to certify compliance with the Zoning Ordinance to support enforcement of the ordinance; and

**WHEREAS**, New Hampshire requirements for childcare were recently changed and the amendment herein brings the Town into compliance;

**WHEREAS**, the Durham Planning Board held a public hearing on October 9, 2024 and duly voted (unanimously) to initiate this amendment; and

**WHEREAS**, the Durham Town Council held a public hearing; and

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire, hereby adopt Ordinance #2024-08 and does hereby amend the following sections of the Code. Wording to be deleted is annotated with ~~strikethrough~~ type. New wording is annotated with underlining.

---

### **AMENDMENTS TO BE MADE THROUGHOUT THE ORDINANCE**

- ❖ Throughout the ordinance change formatting so that all numbers in a specific ordinance provision simply show the numeral. For example, change “within seven (7) years” or “within seven years” to “within 7 years.” However, where

- ❖ “one” is used in a non-numerical manner, such as “given that one must do this” retain “one” rather than changing to “1”.
- ❖ Change “single family home” and “single family residence(tial) to “single-family home” and “single-family residence(tial)” wherever the terms appear.
- ❖ Replace “chairman” wherever it may appear with “chair.”

## **ARTICLE III - ADMINISTRATION AND ENFORCEMENT**

### **175-8. Administrative Officer.**

Authority to administer this Zoning Ordinance is hereby vested in the Town Administrator, who is duly appointed by the Town Council. The Town Administrator shall have the authority to appoint a Zoning Administrator or duly qualified designee, who shall have the authority to administer, interpret, and enforce the provisions of this chapter. In the performance of these duties, the Zoning Administrator may request entry to any building, structure or premises, or any part thereof, at any and all reasonable times for the purpose of performing his or her official duties.

### **175-9. Zoning Administrator.**

A. The Zoning Administrator, his or her assistant or designee shall:

1. Enforce any and all provisions of this chapter.
2. Keep complete, accurate and secure records.
3. Accept applications and ensure their appropriateness and completeness.
4. Accept and remit fees as established in the adopted administrative procedures.
5. Update these regulations and the Official Zoning Map as directed by the own Council.
6. Provide for the accuracy and security of the Official Zoning Map.
7. Undertake any other administrative function appropriate to the office of the Zoning Administrator.
8. Report to the Town Planning Board any recommendations for changes and improvements in these regulations and the procedures therein.
9. Issue any permit granted by the Planning Board or ordered by the Board of Adjustment and make periodic inspections to verify that all conditions of such granted permit are complied with by the applicant or his or her agent.
10. Receive and investigate allegations of noncompliance or violation of these regulations, report findings to the Town Council and file a complaint where such allegations are based in apparent fact.
11. Refer any matters under appeal to the Zoning Board of Adjustment for its action.

12. Make recommendations to the Planning Board in connection with any conditional use permit or to the Board of Adjustment in connection with any application for variance or appeal and recommend such conditions as may be necessary to fully carry out the provisions and intent of this Zoning Ordinance.

B. The Zoning Administrator shall not:

1. Make any changes in the uses categorically permitted in any zoning classification or zoning district, or make any changes in the terms of this Zoning Ordinance, or make any changes in the terms, classifications or their boundaries on the Official Zoning Map.
2. Issue any conditional use permit or variance without the specific direction to do so from the authorizing body.

C. The Zoning Administrator, or their designee, may request that any landowner or association certify, under oath, compliance with any zoning requirement, including but not limited to age restrictions, rental restrictions, or occupancy restrictions, if, in their discretion, there is a reasonable basis to believe that there is a zoning violation on the property. Should the owner refuse to provide such certification, the Zoning Administrator may seek an administrative search warrant to confirm compliance with the town's zoning ordinance.

**175-10. Violations and Penalties, Methods of Corrections.**

- A. Any person, partnership, association, company, corporation or individual who violates, disobeys, omits, neglects, or refuses to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor offense and, upon conviction thereof by a court of competent jurisdiction, shall be punished by a civil fine as set forth in RSA 676:17 for each day such violation continues.
- B. A violation or suspected violation may be brought to the attention of the Zoning Administrator by any individual who suspects that such violation has or may be occurring. The Zoning Administrator shall conduct an investigation into the alleged violation. ~~*If the investigation appears to uphold the allegation, the Zoning Administrator shall first notify the offending party, who shall have a maximum of ten (10) days in which to correct the violation or in which to come to an agreement on a time frame in which the violation will be abated. Such an agreement shall be binding.*~~ In the event that ~~these~~ efforts fail to result in an abatement of the violation, the Zoning Administrator shall notify the Town Administrator and file a complaint with the Town Attorney. The Town Attorney shall take appropriate legal action to address the complaint and the matter shall come before a court of competent jurisdiction for resolution.
- C. Every violation of these regulations shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be deemed a separate and distinct offense.

## ARTICLE VI - ZONING BOARD OF ADJUSTMENT

### 175-19. Powers and Duties.

- A. The Zoning Board of Adjustment is hereby authorized and empowered to adopt such rules of organization and procedure as are necessary for the efficient administration and enforcement of this chapter. In addition, the Zoning Board of Adjustment shall have the following powers pursuant to RSA 673:1 and 674:33:
1. Appeals. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
  2. Variances. To authorize, upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of the chapter shall be observed and substantial justice done.
  3. Special Exceptions. The Board shall hear and decide requests for special exceptions only when the granting of a special exception is specifically provided for in this chapter. No other special exceptions shall be granted. The request for the special exception and the Board's action on the request shall reference the specific section whereby the granting of the special exception is provided for in this chapter. Appropriate conditions may be placed on special exception approvals when necessary to meet the standards of this chapter.
  4. Equitable Waivers. To hear and decide requests for equitable waivers of dimensional requirements as provided for in RSA 674:33-a.
  5. Appeals under the Building Code. The Zoning Board of Adjustment is hereby authorized and empowered to act as the Building Code Board of Appeals pursuant to RSA 673:1. The Building Code Board of Appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code. (RSA 674:34)
- B. In exercising the above-mentioned powers, the Board may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order or decision as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.
- C. The concurring vote of three (3) voting members of the Board shall be necessary to ~~reverse any action of such administrative official or to decide in favor of the applicant~~ take action

on any matter upon which it is required to pass under this chapter or to affect any variation in this chapter.

## **ARTICLE XII.1 – USE AND DIMENSIONAL STANDARDS**

### **Section 175-53 Table of Land Uses.**

- ❖ Change Child Care Home as shown below.
- ❖ Change Small Group Net Metering Host Principal Use – Freestanding in the five Commercial Core Zones as shown below.

**CATEGORY OF USES**

**Uses Accessory To Any Residential Use**

Home occupation-1

Home occupation-2

Accessory structure

Childcare home for not more than six children

Childcare home for more than six children See Article XX

**Uses Accessory To a Single Family Residential Use**

Accessory dwelling unit *See Article XX*

Accessory apartment *See Article XX*

~~Child care home for not more than six children~~

~~Child care home for more than six children See Article XX~~

Short-term rental

**RESIDENTIAL ZONES**

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

**COMMERCIAL CORE ZONES**

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

**RESEARCH-INDUSTRY ZONES**

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

P	P	P	P	X	P	P	P	P	P	P	P	X	X
P	X	X	P	X	CU	CU	X	P	P	P	X	X	X
P	P	P	P	X	P	P	P	P	P	P	P	P	P
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
P	P	P	P	X	P	P	X	X	X	X	P	P	X
P	X	X	P	X	P	P	X	X	X	X	P	P	X
<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>X</del>
<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>X</del>
SE	SE	SE	SE	P	P	P	P	P	P	SE	SE	SE	X

CATEGORY OF USES	Rural (R)	Residence A (RA)	Residence B (RB)	Residence C (RC)	Central Business (CB)	Professional Office (PO)	Church Hill (CH)	Courthouse (C)	Coe' s Corner (CC)	Office Research - Route 108 (OR)	Mixed Use and Office Research (MUDOR)	Office Research Light Industry (ORI)	Durham Business Park (DBP)
	<ul style="list-style-type: none"> <li>• Small Group Net Metering Host-principal use (See Article XX)</li> <li>• Building-mounted</li> <li>• Freestanding</li> </ul>	P X	P X	P X	P X	P <del>X</del> <u>P</u>	P <del>X</del> <u>P</u>	P <del>X</del> <u>P</u>	P <del>X</del> <u>P</u>	P <del>X</del> <u>P</u>	P P	P P	P P

## ARTICLE XX – STANDARDS FOR PRINCIPAL USES

### 175-109. Compliance Required.

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

B. *Accessory Buildings for Single-Family Use.* The following standards apply to buildings that are accessory to single-family use, not including garages and any additional connected space, agricultural buildings, and accessory apartments.

1. There is a limit of two accessory buildings per lot.
2. The maximum floor area of the building shall be 200 square feet.
3. The highest point on the building shall be not more than fourteen (14) feet above grade.
4. The building shall not be supplied with water, sewerage, or heat unless approved by special exception.
5. The building shall be used only for the personal use of the occupants of the premises on which it is located, and not for any commercial use except for an approved home occupation.
6. The building shall not be located forward of the front façade of the house.
7. The building shall be set back at least ten (10) feet from any property line.
8. The building shall be separated from any principal residential building on an abutting lot by not less than twenty (20) feet.

## ARTICLE XX.1 - STANDARDS FOR AGRICULTURAL USES

### 175-109.2. Compliance Required.

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

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

3. Site plan review.
  - a. Site plan review is required as specified in the text of Section 175-53 – Table of Land Uses and in the Site Plan Regulations (except as specified in b., below). Site plan review is required for all buildings, driveways, parking areas, public use areas, and significant structures and for site changes that are part of any commercial agricultural operation. Site plan review is not required for noncommercial ~~non-commercial~~ agriculture.



**PASSED AND ADOPTED** this \_\_\_\_ day of **October, 2024** by a majority vote of the Durham Town Council with \_\_\_\_\_ 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](http://www.ci.durham.nh.us)

AGENDA ITEM: **#12**  
DATE: **November 4, 2024**

### COUNCIL COMMUNICATION

**INITIATED BY:** Durham Town Council

**AGENDA ITEM:** APPROVE THE TOWN COUNCIL MEETING MINUTES FOR OCTOBER 7, & OCTOBER 21, 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 meetings held on October 7, & October 21, 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 #1:**

*The Durham Town Council does hereby approve the Town Council meeting minutes for October 7, 2024 (as presented /as amended).*

**MOTION #2:**

*The Durham Town Council does hereby approve the Town Council meeting minutes for October 21, 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](http://www.ci.durham.nh.us)

AGENDA ITEM: **#14 TS**

DATE: **November 4, 2024**

## COUNCIL COMMUNICATION

**INITIATED BY:** Todd I. Selig, Administrator  
Gail Jablonski, Business Manager

**AGENDA ITEM:** INITIAL PRESENTATION OF THE ADMINISTRATOR'S PROPOSED FY  
2025 OPERATING, CAPITAL, AND SPECIAL FUND BUDGETS, AND THE  
2025-2034 CAPITAL IMPROVEMENT PLAN

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator  
Gail Jablonski, Business Manager

### **AGENDA DESCRIPTION:**

In accordance with Section 5.2 of the Durham Town Charter, the Administrator is required to submit to the Town Council their recommended budget for the upcoming Fiscal Year "...no later than the last workday prior to November 1 of the current year." The proposed 2025 Operating, Capital, and Special Fund Budgets, and the 2025-2034 Capital Improvement Plan were available to Council members on October 31, 2024.

The Administrator and Business Manager will provide a brief presentation of these documents for the Town Council at Monday night's meeting.

**NOTE:** A Public Hearing on the proposed budget is scheduled to be held at the Town Council meeting of November 18, 2024.

### **LEGAL AUTHORITY:**

Durham Town Charter, Article 5 "Finance", Sections 5.1 - 5.12.

### **LEGAL OPINION:**

N/A

### **FINANCIAL DETAILS:**

N/A

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

No formal action required. Receive brief presentation on the proposed FY 2025 Operating, Capital and Special Fund Budgets, and the 2025-2034 Capital Improvement Plan. from the Administrator and Business Manager and hold question and answer session if desired.