



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, including back up information, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: 1/2/18 Date of Meeting: 3/22/18
Submitted by: Tim Tenhave Time Required: 20 minutes
Department: Conservation Commission Background Info. Supplied: Yes No
Speakers: Tim Tenhave, Gage Perry

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input checked="" type="checkbox"/>	Consent Agenda:	<input type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Town Code Chapter 111 Update Process

DESCRIPTION OF ITEM

Town Council to review and approve a process to include all applicable conservation land in Chapter 111 of the Town Code.

REFERENCE (IF KNOWN)

RSA:	Warrant Article:
Charter Article:	Town Meeting:
Other:	N/A:

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input checked="" type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name: Tim Tenhave	Address:
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APPROVAL

Town Manager: Yes No Chair/Vice Chair: Yes No

Hold for Meeting Date:

Abstract:

Chapter 111 of the Town Code for Conservation properties covers six of the many open space properties either owned directly by the Town or through the Conservation Commission for the Town. This project is to look at all the open space properties including the current six and determine if they need or if the Town wants to include any regulation on them. If there is a need or want, then determine what regulation would that be along with any penalty for violating that regulation.

Current Chapter 111: <https://www.ecode360.com/14805273>

This project will have four phases that may overlap at times. They include:

1. Investigation
2. Classification
3. Proposed Regulation
4. Town Council review and approval

It is assumed the Merrimack Conservation Commission will lead this process and perform most of the work in these phases except where specifically mentioned.

It is assumed the Town budget will cover all expenses related to the update of this Chapter. They may include Staff and Town Consultant time, copying and documentation costs, legal review and/or consultation, costs of documents noted in this document and not in the current inventory of the Town, etc. Before any costs are incurred, the Town Manager (or delegate) will be aware the MCC or Town Staff requires the expense.

This process will take time to complete. It is hoped the Town Council and Town Manager (and interested Staff) will be monitoring our progress as we proceed so they can anticipate our next needs. To facilitate this, the Chair of the MCC will provide periodic updates and the Council's Ex-Officio member to the Commission can also provide updates to the Council based on the activities of our regular meetings.

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Phase 1 – Investigation

The Town has many properties. For this project, Town properties are defined as properties owned by the Town of Merrimack (ToM), Merrimack Conservation Commission (MCC), or similar ownership as listed in the property's deed.

It also includes properties where the Town has an easement of significant open space. An example is the conservation easement on a portion of the Merrimack Middle School property that is owned by the Merrimack School District (MSD). Where an easement is concerned, careful inclusion and cooperation of the primary property owner will be part of this update project when a property is being considered to be included in a Chapter 111 update.

It specifically does not include unrestricted properties owned by the Merrimack Village District (MVD), Merrimack School District, State of New Hampshire (SoNH), private or commercially owned properties, or properties owned by the U.S. Government.

The goals of this phase are to generate a potential list of properties to be included in an update to Chapter 111 and then to gather all pertinent and relevant data on the properties in that list.

This phase includes the following steps:

1. Generate an Excel file of all the properties owned by the Town (as defined above) to include address, parcel id, book and page of deed from the Hillsborough County Registry, ownership as defined by the latest deed, acreage, known improvements if any, name of property if named, notation if part of a tree farm or designated town forest (per RSA), and any other special features as known by the Town.

This Excel file is to be provided by the Town Assessing Department for all items it has in its present database on each property.

It is requested this step be completed within two weeks from when this process is approved by the Town Council.

2. Determine all properties that could be part of this Chapter 111 update.

The determination includes removing all Town properties that:

- Have municipal improvements to include buildings, sheds, athletic facilities, or are covered by Chapter 142 (<https://www.ecode360.com/14805360>) in the Town Code.

Note: If there is an improvement that would have a potential conservation purpose, that property may stay on the initial list. An example of this could be a kiosk, trail system, well, etc.

- Have a defined or specific municipal usage that would not be considered a usage by the general public. Examples include equipment, material, or vehicle storage.
- Have a dedicated reserved future usage in mind. An example is the property being reserved for a potential new library. The Town Manager and/or Departments may have set aside other similar properties as well.

Note: There may be others identified as this project gets underway.

The determination would be first done by the MCC (or a sub-committee thereof) to be followed up by a review of the Town Manager and her staff as needed. Department heads and their staff are encouraged to be involved.

It is requested that this review by the Town Manager be completed in two weeks or less once the MCC completes its initial review and provides that to the Town Manager.

At this point, the potential open space list would be shared with the Town Council to get their feedback as either individuals or from the body. Formal feedback would not be requested but the Town Council is free to give that feedback if it so chooses. While that is happening, the investigation phase will continue.

3. Get an electronic copy of the current deed along with any easements, site plans, or other legal encumbrances mentioned in the current deed.

If any properties were deeded to the Town by way of a Tax deed, all data as requested above should be provided as mentioned in the deed for that property from before it was given to the Town for tax purposes.

Note: Sometimes tax deeds lose or do not show all relevant information.

This step would be completed by the Community Development Department (or as delegated by the Town Manager).

It is requested this step be completed in six weeks or less and provided to the MCC.

4. Get an electronic copy of any known agreements (purchase and sales, donation, etc.), legal proceedings, actions by State or Federal government agencies, or permits. These known documents only include those currently stored in the files of the MCC, Community Development Department, and Building Department.

This step would be completed by the MCC, Community Development Department, Building Department, or as delegated by the Town Manager.

It is requested this step be completed in four weeks or less and provided to the MCC. Hopefully this can be done in conjunction with step #3 above.

5. Get an electronic copy of any known Master, Definitive, Stewardship, Forestry, or related plans that may exist for any of the properties.

This would be done by the MCC or by request to the Community Development Department.

Phase 2 – Classification

Now that there is a list of potential properties along with all pertinent data on those properties, this phase will group or categorize the properties into groups that have a similar required need or a desired need to have some form of regulation through Chapter 111.

Determining a required need is straight forward as it will already be in an approved document of some form. Those documents may include deeds, approved plans, permits, easements, site plans, documented agreements, known State or Federal law or regulation, etc.

Determining a desired need is more subjective and will involve many parties.

The goals of this phase are to determine the required and desired needs for regulation and then to group all the properties into as few general groups as possible. There will likely be some unusual circumstances and those will be identified and handled, as they become known.

This phase includes the following steps:

1. From the data collected in the previous phase, identify all required needs for regulation on each property. Document these required needs.
2. Perform an initial grouping of the properties.

Note: There may be many properties that do not have a required (as defined above) need for regulation.

3. Determine a desired set of regulations that may apply to one or more properties on the list. The desired regulations should have a public safety, conservation, ecological, or similar concern.
4. From the list generated in step #3, group the properties that should have one or more of these desired regulations.
5. From the list generated in step 2 above, identify if any properties should no longer have a current regulation. Document reason for proposed change in regulation.
6. From the lists generated in steps 4 and 5, group the properties that should have one or more of these desired regulations.
7. Compile all the groupings and related information into a review package.
8. Formally notice and hold a public hearing on the review package as it exists after completion of step #7 above. Based on the comments received, repeat any or all of the previous steps before proceeding.
9. Provide the package to the Town Manager and request the Town Manager (or delegate) provide written input on the package which should include the groupings, types and need for regulations identified, properties included in the groupings, etc.

It is requested this step be completed in three weeks or less and provided to the MCC.

Note: If the Town Manager feels a legal review is required before completing this step, the process will stop until that review is complete. It is hoped the review can be completed in three weeks or less.

10. Incorporate feedback from the Town Manager and repeat any or all of the steps above before proceeding.
11. Provide the package to the Town Council and request a public meeting with the Town Council to discuss the package and gather their feedback on the package and the direction the process is taking. Formally document all feedback and decisions from the meeting.

Request the Town Council give its concurrence that the process should move forward (potentially with some adjustments and repeating of previous steps) or stop and take some other path as desired by the Town Council.

It is requested this step be completed in four weeks from when the package is provided to the Town Council with a meeting that has been properly notified.

12. Incorporate feedback from the Town Council and repeat any or all of the steps above before proceeding. Or take any other appropriate action identified in step #11.

Phase 3 – Proposed Regulation

The goal of this phase is to draw up a draft update to Chapter 111. It should use all the input from the previous phases.

This phase has the following steps:

1. The MCC will generate and approve an initial draft update. It will try to mimic the current Town Code wherever possible.

Prior to starting the draft, the MCC will solicit the Town Manager, Community Development Director, and Town Legal Counsel on how to format the draft updated Chapter and if there are specific phrases, terms, or other items that should be included in the draft Chapter. Input on the appropriate level of violation for any and all sections/regulations will also be requested as well.

2. The initial draft will be provided to the Town Manager to get feedback on the draft and get legal review.

It is requested this step be completed in three weeks or less and feedback provided to the MCC.

3. The MCC will next incorporate feedback and potentially repeat any or all of the above steps before proceeding.
4. Create a draft package to be presented to the public for a formal public hearing.
5. Formally notice and hold a public hearing on the draft package as it exists after completion of the above step. Based on the comments received, repeat any or all of the previous steps before proceeding.
6. Provide copies of the final draft to the Town Council, Town Manager, and any other interested parties. Have paper copies available to the public through the Community Development Department and post an electronic copy of the draft package on the Commission's page of the Town website.

Phase 4 – Town Council review and approval

The goal of this phase is to enact an update of Chapter 111.

This phase will follow the process as defined in the Town Charter to update a chapter in the Town Code. The MCC with the Town Manager will be an active participant in all steps as defined in the Charter.

The Process...

Updating Chapter 111

[https://www.ecode360.com/
14805273](https://www.ecode360.com/14805273)

4 Phases to Completion

- Phase 1 – Investigation (4+ months)
 - Identify all the potential properties
 - Gather the legal documentation
- Phase 2 – Classification (2 – 4 months)
 - Required and desired regulation (or lack there of)
 - Group the properties
 - Public input, Town staff input, TC input
- Phase 3 – Proposed Regulation (3 months)
 - Draft a new Chapter 111, get legal input
 - Formal input from the Public and Staff
- Phase 4 – Town Council Approval (2 months)
 - Follow Charter process to enact a revised Chapter 111

What do we want today?

- Agreement on the process to be followed
- Commitment for Staff and Legal costs (labor and material)
- Commitment for Town Council involvement
- Place to store all the data