



# 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 requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

## MEETING INFORMATION

Date Submitted: May 1, 2020

Date of Meeting: May 14, 2020

Submitted by: Town Council Chair Tom Koenig and  
Vice Chair Bill Boyd

Department:

Time Required: 20 minutes

Speakers:

Background Info. Supplied: Yes:  No:

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

Appointment:

Recognition/Resignation/  
Retirement:

**Public Hearing:**

Old Business:

New Business:

Consent Agenda:

Nonpublic:

Other:

## TITLE OF ITEM

Extension of Emergency Ordinance

## DESCRIPTION OF ITEM

The Town Council to revisit, discuss and consider extending the Emergency Ordinance currently in place for designated Town facilities and operations during the COVID-19 pandemic situation, pursuant to Charter Article V.

## REFERENCE (IF KNOWN)

RSA:

Warrant Article:

Charter Article: V

Town Meeting:

Other:

N/A

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

Projector:

Grant Requirements:

Easel:

Joint Meeting:

Special Seating:

Other:

Laptop:

None:

## CONTACT INFORMATION

Name:

**Tom Koenig**

Address

Phone Number

Email Address

tkoenig@merrimacknh.gov

## APPROVAL

**Emergency Ordinance #1 ("EO1") Pursuant to Section 5-5 of the Merrimack Charter**

**§ EO1-01. Enacting Clause**

- A. The Town of Merrimack ordains that effectively immediately upon adoption of this Ordinance, the designated Town facilities and operations will be closed to the public in order to prevent/reduce the spread of COVID-19 and to comply with the CDC guidelines that gatherings be limited to 10 people or less.
- B. Feasible and practical accommodations will be made to allow the public online access to Town resources and to transact Town business, as may be determined by the Town Council and the Town Manager.

**§ EO1-02. Declaration/Purpose**

- A. The Merrimack Town Council finds that an emergency exists as a result of the COVID-19 pandemic and that this pandemic affects the life, health and safety of the public necessitating this Emergency Ordinance.

**§ EO1-03. Authority**

- A. Section 5-5 of the Merrimack Charter and RSA 41:11-a concerning management of Town property.

**§ EO1-04. Administration**

- A. This Ordinance shall be administered by the Town Council and by the Town Manager and/or her designee(s).

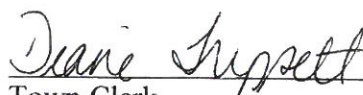
**§ EO1-05. Effective date**

- A. This Ordinance shall become effective upon passage.
- B. Pursuant to Section 5-5 of the Merrimack Charter, this Emergency Ordinance shall automatically stand repealed on the 61<sup>st</sup> day following the date of adoption. This Emergency Ordinance may be reenacted at that time if deemed necessary by the Town Council.

Date adopted: 3/18/2020

[Town Seal]

  
Chair, Town Council

  
Town Clerk

*Town of Merrimack, NH  
Thursday, November 21, 2019*

## Chapter C. Charter

### Article V. Ordinances

#### § 5-5. Emergency ordinances.

- A. Legal subject matter. Notwithstanding other provisions of this Charter, to meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by a public utility for its services, or authorize the borrowing of money, except as provided in § 8-4P of this Charter.
- B. Introduction. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- C. Adoption. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced but an affirmative vote of five Councilors shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.
- D. Enactment. An emergency ordinance shall become effective upon adoption. Every emergency ordinance, except one made pursuant to § 8-4P of this Charter, shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists.
- E. Repeal of emergency ordinances. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Approved: April 23, 2020

Posted: April 28, 2020



## Special Town Council Meeting Minutes

Wednesday, March 18, 2020 at 6:00 PM, in the Matthew Thornton Room

Chairman Koenig called the meeting of the Town Council to order at 6:00 p.m. Present at the meeting were Vice Chairman Boyd, Councilor Albert, Councilor Harrington, Councilor Healey, Councilor Rothhaus, Councilor Woods, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali.

### Pledge of Allegiance

Chairman Koenig led in the Pledge of Allegiance.

Announcements - None

Comments from the Press and Public - None

### New Business

#### 1. **COVID-19 Town of Merrimack Response**

Submitted by Town Manager Eileen Cabanel

Town Council to discuss the Town of Merrimack's response to COVID-19.

Town Manager Eileen Cabanel spoke of efforts undertaken by the various Town departments. The third meeting of the Merrimack Coronavirus Preparedness Task Force was held this past Monday. Participants included representation from the Police, Fire, and Public Works departments, the Merrimack Village District, and Councilors Koenig, Harrington, and Healey. The School District has been invited, and has participated in one of the meetings. Before the Council was work product resulting from the efforts of the task force.

Councilor Harrington drafted the following public message:

*"In light of our national and state emergencies, elected officials and all levels of employees for the Town of Merrimack wish to communicate our continued commitment to the health and safety of our citizens. Each town department has reviewed their mission and have determined and defined how any altered procedures may be needed as a result of these continuing challenges. We believe it is imperative to continue to communicate the status of our town services so each citizen will be knowledgeable and comfortable that all critical services will be maintained. We ask that our citizens understand that decisions made regarding services will be made based upon health and safety priorities. Town Hall will be closed to the public, ~~and~~ staff will be working remotely as necessary. Most of the services are available on-line and town business will continue to be conducted as much as possible.*

*During these unprecedented times we must all work together with patience, kindness and tolerance to meet the needs of our community."*

Chairman Koenig remarked one of the things he noted, when reading through this originally, was the comment regarding working remotely. He does not believe, at least immediately, that staff is planning to

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work remotely. Town Manager Cabanel stated agreement noting, as it stands now, the intention, if approved, would be to close some of the facilities, including Town Hall, to the public while the employees are onsite. Motor vehicle permit staff can get their work done online. There are various aspects that can continue. It is her intent to keep staff, that are well, here and working.

The statement will be placed on the website as an introduction to the information provided the community. ***The consensus of the Council was to remove the language relative to staff working remotely, at this time.***

Chairman Koenig stated the President of the United States and the Governor of the State of New Hampshire have declared emergencies, and the Council is discussing declaring an emergency to be able to do whatever is necessary to be able to react to the current situation.

Asked how the Ordinance would apply to the corporations located in Town, Town Manager Cabanel stated it would not as the Town has no jurisdiction over them.

Before the Council for consideration was an Emergency Ordinance pursuant to Section 5-5 of the Merrimack Charter:

*A. Legal subject matter. Notwithstanding other provisions of this Charter, to meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by a public utility for its services, or authorize the borrowing of money, except as provided in § 8-4P of this Charter.*

The emergency Ordinance needs to be introduced in a form of manner as prescribed by ordinances generally, and needs to state the reason for the emergency and what it encompasses.

Chairman Koenig stated his understanding to be that the Town will work on a case-by-case basis with any individual that feels they need to come to Town Hall, and that they need to contact the Town in advance by phone or email before doing so.

Legal Counsel has provided the following ***draft*** language:

***“§ EO1-01. Enacting Clause***

*The Town of Merrimack ordains that effective immediately upon adoption of this Ordinance, the Town facilities will be closed to the public in order to prevent/reduce the spread of COVID-19 and to comply with the CDC guidelines that gatherings be limited to 10 people or less.*

*Feasible and practical accommodations will be made to allow the public online access to Town resources and to transact Town business, as may be determined by the Town Council and the Town Manager.”*

Vice Chairman Boyd noted concern with the use of the wording “Town facilities” understanding the transfer station will remain open. Chairman Koenig suggested the Ordinance be adopted, and, as necessary, particular pieces be amended to clarify whether certain facilities will remain open. He

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commented, although the Parks and Recreation Department needs to cancel events, and places that would gather 10 or more people need to be closed, he is not certain the parks need to close.

The suggestion was made that the language read “the designated Town facilities” and that a list be created of designated facilities. Councilor Healey suggested the language read “designated Town facilities and operations”.

*The consensus of the Council was to amend the language to read “designated Town facilities and operations”.*

#### **§ EO1-02. Declaration/Purpose**

The Merrimack Town Council finds that an emergency exists as a result of the COVID-19 pandemic and that this pandemic affects the life, health and safety of the public necessitating this Emergency Ordinance.

#### **§ EO1-03. Authority**

Section 5-5 of the Merrimack Charter and RSA 41:11-a concerning management of Town property.

#### **§ EO1-04. Administration**

This Ordinance shall be administered by the Town Council and by the Town Manager and/or her designee(s).

#### **§ EO1-05. Effective date**

This Ordinance shall become effective upon passage. Pursuant to Section 5-5 of the Merrimack Charter, this Emergency Ordinance shall automatically stand repealed on the 61<sup>st</sup> day following the date of adoption. This Emergency Ordinance may be reenacted at that time if deemed necessary by the Town Council.

Noted was that Charter language identifies the 61<sup>st</sup> day. If needed, it could be repealed in advanced.

**MOTION made by Vice Chairman Boyd and seconded by Councilor Healey that the Town Council enact Emergency Ordinance #1 (EO1), as amended. MOTION CARRIED 7-0-0**

Operational protocols were created for each of the Town departments. Department specific information, including contact information for various aspects of each department, will be posted to the Town’s website (copy attached). Town Manager Cabanel provided a presentation that summarized the operational protocols. A copy of the presentation (updated to include amendments by the Council) can be found [here](#).

It was suggested the language around non-emergency complaints to the police department being handled over the phone be made clearer so that it is understood should there be an instance such as an individual’s home being burglarized, there would be a response.

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Councilor Albert questioned how work associated with plans before the Planning Board would continue in light of meetings being cancelled. Chairman Koenig stated applicants will have to work with Tim Thompson, Director, Community Development Division, to see what can be done. Assistant Town Manager/Finance Director Micali noted, at this time, the requirement for the Planning Board to meet once a month has not been eased. Director Thompson is looking towards late April, and consolidating meetings as well as the possibility of virtual meetings.

Councilor Harrington noted the State has allowed for electronic participation under RSA [91-A:2, II](#). The requirement would be for a single member to be present to declare the need for an emergency meeting and be present to allow any member of the public wishing to pose a question(s) the opportunity to do so.

The presentation included information relative to outreach to the elderly and at-risk residents. Some examples include COVID-19 information found on the State hotline; 211 and the Servicelink; 866-634-9412. Meals on Wheels; program active and taking new clients or referrals. In need of volunteers; call 603-424-9967. Harbor Homes - Mobile Crisis Response for Behavioral Health Crisis (603-816-0101). Food pantries at St. James and St. John Neumann Churches are staying open. Town Manager Cabanel spoke of the Merrimack Police Department's Good Morning Call Program to the elderly and homebound. Individuals wishing to be added to that list should contact the department.

Xfinity is pausing internet data plans for 60 days giving all customers unlimited data for no additional charge. Internet Essentials Service is free to new customers for 60 days <https://www.internetessentials.com> People who don't have internet can sign up for internet for free.

The Governor's Executive Orders (most recent) call for temporary prohibition of disconnection / discontinuance of utility services (electric, gas, water, telephone, cable, internet, heating fuels), temporary prohibition of evictions and foreclosures, access to State unemployment benefits for those individuals whose jobs are impacted by COVID-19.

Facebook Live - the Merrimack Police and Fire Departments, in conjunction with the Merrimack Media Department will present a live presentation (Thursday at 4:00 p.m.) "Merrimack in Motion" for education on the Town of Merrimack's response to the COVID-19 crisis. The intent is to have a discussion and provide information. A moderator will receive questions.

Asked if first responders are provided with the face masks, Matthew Duke, Assistant Fire Chief, stated they are provided with the appropriate protective equipment. The 911 call takers have an enhanced set of questions they are asking that will determine what the potential risk level is. Depending on the answers to those questions, the department will be provided an update/alert that the patient profile may be a person who is at high risk for having COVID-19. The State Bureau of EMS has recently released an emergency protocol directed specifically at first responders regarding how to respond, e.g., what personal protective equipment is recommended for certain procedures. One of the things the department is doing to minimize exposure is sending a minimum number of providers to the location to begin the assessment of the patient. If additional providers are needed, they will arrive with the appropriate level of precautions. This minimizes the number of providers exposed and reduces the rate at which we go through that personal protective equipment as it is all disposable at this point.

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Asked, based on the State protocol, what Merrimack's position is from an equipment standpoint, and whether there is the need for additional funding to purchase equipment, Town Manager Cabanel responded the question is more one of availability. Assistant Chief Duke stated the department received a survey from Homeland Security, through the State, requesting information on the levels of various types of equipment communities have. The department has been in contact with its standard retail suppliers and have orders pending for items it believes may be needed, and are cautiously optimistic as to the status of their equipment at this point. They have inventoried everything and have deployed it to the vehicles as believed best. There is one centralized cache of backup equipment. A running inventory is being kept.

Asked about ongoing training, Assistant Chief Duke stated the department is ensuring any guidelines or recommendations from the Bureau of EMS, Public Health, Health & Human Services, etc. is all being passed down as quickly as email allows so that everybody has access to the most up-to-date information. When receiving bulletins such as a Health and Human Services bulletin, they are turning that into an internal bulletin so that they are seeing it twice; in their email and as an official internal communication.

Councilor Albert questioned if protective gear is to the degree of biohazard suits. Assistant Chief Duke stated the current recommendation for a patient of that nature to be eye protection, respiratory protection in the form of either surgical mask or N95, gloves, and what they consider splash protection such as apron or gowns, which they were short on and substituted with Tyvek suits (disposable coverall). Assistant Chief Duke added another measure that may be taken with a patient having a high probability or potential is placing a surgical mask on the patient. That is a recommendation directly from the CDC and Bureau of EMS.

Asked if there has been discussion at the State level of dedicating a hospital to treatment of COVID-19 patients, Assistant Chief Duke replied he has not received any official notification, and would not want to speculate.

Asked, Matthew Tarleton, Captain, Merrimack Police Department, indicated the department has masks and gloves, which have been provided to patrol officers. In the interest of trying to limit contact, in the instance of non-emergency ambulance related calls, they will respond, but may not need to enter the residence. They will stage a distance away on the off chance that a patient becomes uncooperative/combative or they are needed for whatever reason.

Asked if the volume of calls has increased or reduced, Captain Tarleton responded the Police Department is still receiving people in the lobby; most of which are non-emergency, e.g., fraud, harassment complaints. There is a lobby phone that is being used to communicate and they are using one of the interview rooms trying to reduce the amount of paperwork being handed back and forth. Regarding calls for service, in general, dispatchers have been told, if not emergency related and something that an officer can handle over the phone, that is how it is being handled. Serious complaints that result in evidence collection, etc. will be responded to. Officers are still on patrol. He has not seen a reduction in calls for service. The feedback received has been an understanding from the community.

Asked if the department has received complaints about establishments not closing, Captain Tarleton stated they received a call about one establishment open for takeout that was open for takeout and was going to allow patrons to enjoy beverages at the bar while waiting for takeout. He made a call to liquor enforcement. They followed up. It turned out to be a misunderstanding.



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Assistant Chief Duke stated the Fire Department has not seen a significant increase or decrease in the general overall number of calls. The response they have received to the changes that have been made has been very good.

Town Manager Cabanel noted, as requested, the information posted to the Town's website will include notice of the closing of the Library, a link to the School District's website, and information as to whether each department is open or closed to the public.

**MOTION made by Councilor Harrington and seconded by Vice Chairman Boyd to accept the document "[Town Facilities closed to the public beginning Thursday, March 19, 2020 \(until further notice\)](#)", as amended. MOTION CARRIED 7-0-0**

Lynn Christensen, Moderator, stated the election will be postponed until April 28, 2020. Requests for [absentee ballots](#) are available through the Town's website. Moderator Christensen stated anyone who feels they need an absentee ballot will be provided to one. As long as signed, they can be placed in the drop box. If unable to get out, they can be dropped off by another. Absentee ballots are available until the day before the election.

She spoke of being cautious noting it could be that volunteers feel uncomfortable, could feel at risk, and as a result, may not be available to help. She did not make this decision in a vacuum. She has been in discussion with the Secretary of State's Office to ensure her understanding of the Statutes and her ability to make decisions were correct. She has been in discussions with the Town's legal counsel as well.

Asked if the MVD is continuing with their meetings, Moderator Christensen remarked they are scheduled to have their meeting on the 24<sup>th</sup> of this month in the school, and the school has informed them they cannot hold it there. They are trying to identify a venue. She is in contact with the MVD Moderator. She has no knowledge of what they are doing.

Moderator Christensen stated, as we get closer to the April 28<sup>th</sup> date, if it looks like it needs to be postponed further, that will be done. Asked what changes as a result of postponement, she stated the largest to be in getting volunteers to work the polls. Monitoring and managing the absentee ballot process require work as do a lot of little aspects that come into play. Another consideration is, if schools and churches are closed, will those facilities be allowed to be used as polling locations.

Asked for further clarification on absentee ballots should the election be postponed further, Moderator Christened explained absentee ballots are valid for the election regardless of when it is conducted. Should the election be postponed further, and individuals wish to vote in person, there is already a provision in place to allow that to occur.

A NIXLE alert will go out informing the community the election has been postponed.

Town Manager Cabanel noted RSA 72:33-I-a allows the Town Council to extend the April 15<sup>th</sup> deadline for various exemptions and credits. Residents have indicated concerns with the ability to obtain bank statements, etc. needed. She requested the Council consider extending the deadline to May 1, 2020.

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**MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to extend the application period related to exemption and credit applications for solar, elderly, disabled, and veteran from April 15, 2020 to May 1, 2020**

ON THE QUESTION

Town Manager Cabanel commented it may be that the date needs to be modified as things progress. We can't get too far into May because of the tax bills.

Councilor Albert suggested May 15, 2020. Town Manager Cabanel stated a comfort level with May 15<sup>th</sup>. Vice Chairman Boyd commented on the Emergency Ordinance going out to May 18<sup>th</sup>. Assistant Town Manager/Finance Director Micali stated the department would work diligently to get the credits and exemptions in the system so the tax bills can go out. It may not be June 1<sup>st</sup>.

**AMENDED MOTION made by Vice Chairman Boyd and seconded by Councilor Healey to extend the application period related to exemption and credit applications for solar, elderly, disabled, and veteran from April 15, 2020 to May 15, 2020. MOTION CARRIED 7-0-0**

Town Manager Cabanel questioned the will of the Council relative to ball parks/playgrounds/parks. The recommendation of Matthew Casparius, Director, Parks and Recreation Department, was to close the ballfields. If playgrounds are to be closed, his recommendations are that all 3 be closed. If parks are to be considered for closure, the recommendations are that the skate park, ATV park, dog park, and tennis courts be closed.

The Council discussed the level of activity noted at the playgrounds over the last few days, the uncertainty with regard to germs being spread from surfaces of structures, and the desire to allow for individual discretion with regard to outdoor activities, etc.

The suggestion was made that a sign be posted with language such as "due to COVID-19, use at your own risk". Town Manager Cabanel stated her hope a sign could be placed on the structures, e.g., playground equipment and not the entirety of the parks.

Councilor Healey noted the number available for the Joint Information Center, and suggested whether these facilities should be closed is a question that should be posed of them.

Asked about the MYA, Assistant Town Manager/Finance Director Micali stated, technically the ballfields are closed until the middle of April. They are simply trying to be proactive by stating "until further notice" at this time.

Town Manager Cabanel suggested she consult with others, and inform the Council of the action being taken understanding the concerns expressed regarding people's freedoms, etc.

Councilor Woods spoke of the health and safety of Merrimack citizens and the desire to avoid community spread. He does not support any exceptions.

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*The consensus of the Council was to authorize the Town Manager to make the decision relative to closure of ballfields/playgrounds/parks, understanding there is the opportunity to adjust at the next meeting should the Council so desire.*

Comments from the Press - None

Comments from the Public – None

Comments from the Council

Vice Chairman Boyd expressed gratitude to the Town employees for the information provided. He commented on the exceptional job that has been done in putting a plan in place so that residents know exactly where to go and what to do during this period in time.

Councilor Harrington requested members of the public having any questions or ideas make them known by contacting members of the Council or the Town Manager's Office.

Chairman Koenig expressed gratitude to the staff. He remarked these are very extenuating circumstances. It is a big concern, and while if you look around your neighborhood and you don't see this disease, if you look at the news and around the world, you will see it is spreading rather dramatically. A virus like this grows exponentially. We are trying to "flatten the curve" by doing all of this isolation and shutdown so that it doesn't grow exponentially, so we can stop this spread and keep it contained to where it is. That is a big undertaking. Some argue that we should be doing a lot more than we are doing now. We are asking everybody to continue to be diligent and vigilant, carefully watching yourself and your neighbors. Protect yourself, keep the separation/social distancing, and make sure you do your part to avoid spreading this disease. If you get sick, call your health care professionals and get advice. Get yourself tested, if necessary.

We understand it is difficult. We are taking all the precautions we can, and we thank you for your patience as we work this out.

Adjourn

**MOTION made by Councilor Woods and seconded by Vice Chairman Boyd to adjourn the meeting.  
MOTION CARRIED 7-0-0**

*The March 18, 2020 special meeting of the Town Council was adjourned at 7:47 p.m.*

Submitted by Dawn MacMillan