



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: July 24, 2020
Submitted by: Town Manager Eileen Cabanel
Department:
Speakers:

Date of Meeting: August 6, 2020
Time Required: 15 minutes
Background Info. Supplied: Yes: No:

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

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

TITLE OF ITEM

Public Hearing - Discussion of Adoption of Parking Fine Schedule for Chapter 183, Vehicles and Traffic, of the Merrimack Town Code

DESCRIPTION OF ITEM

The Town Council will hold a public hearing to consider the adoption of a Parking Fine Schedule for Chapter 183, Vehicles and Traffic, of the Merrimack 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 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:	<u>Eileen Cabanel</u>	Address:	<u>6 Baboosic Lake Road</u>
Phone Number:	<u>424-2331</u>	Email Address:	<u>ecabanel@merrimacknh.gov</u>

APPROVAL

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



LEGAL NOTICE
Town of Merrimack
Public Hearing



Residents of Merrimack are hereby advised that the Town Council will hold a public hearing to consider the adoption of a Parking Fine Schedule for Chapter 183, Vehicles and Traffic, of the Merrimack Town Code. Copies of the proposed Parking Fine Schedule are available at the Town Manager's office, Town Clerk's office, the Merrimack Public Library and also on the Town's website. All interested parties are invited to attend. The public hearing will be held on **Thursday, August 6, 2020, at 7:00 PM** in the Matthew Thornton Room located at 8 Baboosic Lake Road in Merrimack.

For Town of Merrimack Use:

Posted: July 28, 2020

To Be Published: July 28, 2020 (*Union Leader*)

To Be Published: July 31, 2020 (*Sunday Select – Merrimack Edition*)

Effective: _____

Town of Merrimack
Parking Fine Schedule
Town Code Chapter 183

<u>Violation</u>	<u>Fine Amount</u>
183-16 All-night parking in winter	\$25
183-18 Impeding snow removal	\$50
183-19 Parking prohibited at all times	\$25
183-20 Overnight parking	\$25
183-24 Resident Only Parking - 1 st Offense	\$50
- 2 nd Offense	\$100
- Subsequent offenses	\$150

Adopted by the Town Council on _____ following a public hearing held on _____.

TO: Town Council; Eileen Cabanel
FROM: Keriann Roman
DATE: July 21, 2020
RE: Parking Ordinance Adoption and Fines

The following outlines the parking restrictions for the Town Council to consider, the mechanism to adopt these restrictions, the fines that may be imposed, the legal authority to do so, and a copy of the current violation ticket and how it would be changed to reflect the new parking restrictions.

I. Parking Changes Proposed & Process

1. Add a New Section: §183-24 Residents Only Parking Areas.

Proposes to designate 7 streets as year-round resident-only parking.

- a. First reading was held on July 9th.
- b. See attached “Time Table”

2. Amend §183-36 Parking Prohibited at All Times

Proposes to add 7 streets as year-round no parking.

- a. First reading was held on July 9th.
- b. See attached “Time Table”

3. Increase the Penalty for Parking Violations

Proposes to increase the fine for parking violations for Planned Special Events from \$25 to \$75. This would not apply to the above two parking changes; this is limited to your Special Events ordinance.

- a. First reading to be held on August 6th.
- b. Schedule public hearing, with 7-day public notice, 14+ days later (8/20/2020 or later)
- c. Final action 7+ day slater (8/27/2020 or later)

When updating the code with these changes, once adopted, be sure that the new section §183-24 is placed under Article III (not under Article IV), to ensure we can apply the penalty section of §183-21.

The parking restriction (“No Parking” or “Resident Parking Only” “Fines up to \$ ____”) must be posted on the affected road, or it is not enforceable. RSA 236:3.

II. Fines & Legal Authority

There are 2 types of parking regulations – state-mandated restrictions and local ordinances. Each carries their own fines. State ones are set by the state; local parking ordinance violation fines are set by the Council. This is explained below.

1. State Parking Laws - Existing Authority Without Any Ordinance Required

The Town/Police already have existing authority to ticket under state law – without having to post signs for the following violations, RSA 265:69 and :71:

- Car blocking entrance to a business or blocking a driveway – can also tow the vehicle, RSA 31:102;
- On a sidewalk, in an intersection, on a crosswalk
- Parking on a traveled way such that other vehicles cannot get through;
- Parking on the road alongside a parked vehicle (double parking);
- Parking within 15 feet of a fire hydrant or within 20 feet of a crosswalk;
- Parking more than 12 inches from the curb or in any manner other than parallel to the curb;
- Parking within 30 feet of a traffic signal or stop sign.

Violations of the above are deemed “violations” and carry their own maximum fines, under the NH DOS Uniform Fine Schedule. RSA 265:2; RSA 625:9, V-a, and RSA 651:2.

Under the Merrimack Town Code § 183-19, you currently have parking regulations that mirror the above state parking laws and you say they are subject to a fine of “not more than \$500.” The fines for these violations, must not exceed the State Uniform Fine Schedule – which is currently \$62.00 for the first violation of these and \$124.00 for the second offense.

2. Authority to Enact Town Ordinances with Fines

RSA 41:11 states that the Council (Selectmen) may regulate the use of all public highways and exercise the same power conferred on city councils under RSA 47. These powers are:

- To adopt ordinances as are necessary to control the parking, standing and stopping of cars within the Town limits, including ordinances creating parking fines recoverable by means of civil process;
- May enact parking penalties of up to \$500. RSA 265:2; RSA 47:17, Merrimack Code §183-21. However, must tie the penalty to the violation and must be reasonable and applied uniformly and equally or the Court will overturn it if challenged. \$500 for parking in a no parking zone will likely be deemed unreasonable. Can look to current penalty amounts and increase incrementally or can look to neighboring towns and mirror their penalties.

With the above reasonableness caveats, the Council can adopt whatever fine amount it wants up to \$500. The Council could follow the State fine schedule (currently at \$62.00 for the 1st offense and \$124.00 for the second offense), or the Council can reduce or exceed these amounts.

Local Fines: The current fines for the additional “no parking” streets under §183-36 and the “resident only” under §183-24 would be pursuant to your current fine which currently says \$10.00 pursuant to your parking ticket (see last page). Section 183-21 (“Any person . . . violating the provision of this article shall, for each violation and upon conviction thereof, pay a fine of not more than \$500.”)

To amend the fines, and to avoid further Ordinance amendments and 1st and 2nd readings, let’s not tie it to your ordinance but instead separately adopt a fine schedule. This will also make it easier to update your fine schedule annually without having to amend the actual Vehicles and Traffic Ordinance.

To adopt a Fine Schedule/Schedule of Penalties for local parking regulations:

1. Have one drafted and proposed to you in writing by Police Chief Roy and/or Eileen.
2. Discuss it in public meeting, with the changes you want.
3. Notice and schedule a public hearing (post in 2 public places and in newspaper one week prior). Post copy of proposed fee schedule at Town offices and state so in the public notice.
4. Conduct public hearing with public comment; close public hearing and vote to adopt fee schedule.
5. Place copy of the minutes and the fee schedule with the Town Clerk. Copy of the fee schedule with PD.

III. Parking Ticket

Below is a copy of your current parking ticket.

When the Council adopts new parking restrictions and fine schedule, it could either do a blanket fine of \$ x.00 for any violation, which would fall under “A - Prohibited” and would result in the ticket changing the amount from \$10.00 to whatever fine amount the Council adopts.

Or, the Council can create subcategories of “Prohibited” as follows:

- A 1 – Prohibited, Parking in No Parking 183-19 \$ x.00
- A 2 – Prohibited, Parking in Resident Only 183-19 \$ x.00

These amounts can be different. [In Rye, we do \$50.00 for parking in a no parking zone and \$100.00 for parking in a Rye resident only (permit parking) zone.]

Merrimack Police Department
603-424-3774

Ticket # B00999

PARKING TICKET

Registered car owner liable

MAKE _____	MODEL _____	LICENSE NO. _____	ST. _____
LOCATION _____		CASE # _____	
DATE _____	TIME _____	<input type="checkbox"/> AM	<input type="checkbox"/> PM

This vehicle has been parked or left standing in violation of Ordinances of the Town of Merrimack. You must within five (5) days from the date hereon, take or mail this envelope to:

The Town of Merrimack, Attn: Town Clerk, 6 Baboosic Lake Road, Merrimack, NH 03054 together with the fee of:

- A Prohibited 183-19 \$10.00
- B Winter Parking Violation 183-17 \$15.00
- C Impeding Snow Removal 183-18 \$25.00
- D Overnight 183-20 \$10.00

Make check payable to: Town of Merrimack N.H.

OFFICER _____ BADGE NO. _____

* FAILURE TO ADDRESS WILL RESULT IN FURTHER ACTION THROUGH DISTRICT COURT.

White: Town Clerk Yellow: Police Pink: Owner