



# 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 19, 2022 Date of Meeting: May 26, 2022  
 Submitted by: Town Council Chair Finlay Rothhaus  
 and Vice Chair Nancy Harrington  
 Department: Time Required: 20 minutes  
 Speakers: Tim Tenhave Background Info. Yes:  No:   
Supplied:

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

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
<b>Public Hearing:</b>	<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

Consideration of Changes to Chapter 111, Conservation Areas, of the Merrimack Town Code [First Reading]

## DESCRIPTION OF ITEM

The Town Council to consider the acceptance of recommended changes to Chapter 111, Conservation Areas, of the Merrimack Town Code, 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:	<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>Finlay Rothhaus</u>	Address:	<u>6 Baboosic Lake Road</u>
Phone Number:		Email Address:	<u>frothhaus@merrimacknh.gov</u>

## APPROVAL

## **Chapter 111**

### **CONSERVATION AREAS**

#### **111-1 Rules of conduct for all conservation areas**

- A. There shall be no fires on conservation areas.
- B. No person shall throw, leave, or discard any trash, rubbish, glass, or garbage within any conservation area. All trash, rubbish, glass, or garbage shall be carried out.
- C. No person shall use, consume, bring, or carry any alcoholic beverages or unlawful drugs within any conservation area.
- D. Use of vehicles within conservation areas:
  - (1) No person shall park or drive any vehicle within conservation areas except in specifically designated areas.
  - (2) No person shall drive, operate, or maintain any motor vehicle, or off highway recreational vehicle (as defined in RSA 215-A:1, VI), or Class 2 electric bicycle (as defined in RSA 259:27-a, II), or Class 3 electric bicycle (as defined in RSA 259:27-a, III) in any conservation area excluding Town personnel or contractors for official purposes.
- E. No person shall discharge any air-powered or spring-powered gun, any type of bow, or any firearm within any conservation area for the purpose of target shooting. As used in this section, "target shooting" shall mean the use of the previously listed items to shoot at inanimate objects.
- F. No person shall remove or deface any building, equipment, gate, barricade, rock, wildlife, tree, shrub, flower, or fauna within any conservation area.
- G. No person shall sleep or camp overnight in any conservation area.
- H. The Town Council or its designated agent may suspend any of these rules of conduct for any person or group of people for any conservation area or portion of a conservation area after seeking and reviewing a recommendation of the Conservation Commission.

#### **111-2 Hours restrictions for certain conservation areas**

- A. No person shall remain, stay, or loiter in or on these designated conservation areas during the period from 1/2 hour after sunset to 1/2 hour before sunrise excluding Town personnel or contractors for official purposes. This provision is not intended to preclude Conservation Commission authorized activities from occurring outside of the prescribed times.

B. Conservation areas designated for hours restrictions in this section include parcels 5C/658 and 4B/35. Except as otherwise stated in section 111-2:A, the rules of conduct described by section 111-1 remain applicable and in full force and effect.

C. The Town Council or its designated agent may suspend these hours restrictions for any person or group of people for any designated conservation area in this section after seeking and reviewing a recommendation of the Conservation Commission.

### **111-3 Additional use and discharge restrictions for certain conservation areas**

A. In addition to the vehicle restrictions of 111-1, D:2; no person shall drive, operate, or maintain any snowmobile (as defined in RSA 215-C:1, XV), or Class 1 electric bicycle (as defined in RSA 259:27-a, I) in these conservation areas excluding Town personnel or contractors for official purposes.

B. No person shall discharge any air-powered or spring-powered gun, any type of bow, or any firearm within these conservation areas for any purpose excluding police personnel for official purposes.

C. In accordance with RSA 207:59, the taking of wildlife (as defined in RSA 207:1, XXVII) is prohibited.

D. Conservation areas designated for these additional use restrictions in this section include parcels: 2B/365, 2B/365-49, 3B/261-1, 3C/20, 3C/43, 3C/43-1, 3C/43-2, 3C/44-1, 3C/73, 4B/35, 5B/10, 5C/658, and 3D-1/3. Except as otherwise stated in section 111-3, the rules of conduct described by section 111-1 remain applicable and in full force and effect.

### **111-4 Violations and penalties**

Any person found violating the provisions of this chapter may be assessed a penalty as follows: 1<sup>st</sup> offence a penalty of \$100; 2<sup>nd</sup> offense in a calendar year, \$250; 3<sup>rd</sup> or more offenses in a calendar year, \$500 or the maximum allowed per RSA 31:39, III; said penalty to be placed in the Town of Merrimack's General Fund.

### **111-5 Designation of conservation areas**

Areas designed as conservation areas shall consist of the following parcels:  
2B/358-1, 2B/365, 2B/365-49, 3B/164, 3B/168, 3B/261-1, 3C/20, 3C/43, 3C/43-1, 3C/43-2, 3C/44-1, 3C/73, 3D/80, 4A/2, 4B/35, 4B/116-0, 5A/2, 5A/3, 5A/5, 5A/6, 5A/9, 5A/10, 5A/63, 5A/64, 5A/65, 5A/65-1, 5A/66, 5B/1, 5B/2, 5B/5, 5B/10, 5B/11, 5B/14, 5B/132, 5C/658, 6A/85-1, 6B/85-97, 6B/85-98, 6B/87-99, 6B/140, 6B/158, 6B/159, 6B/186, 6B/224-1, 6C/23, 6C/27, 6C/28, 6C/29, 6C/41, 6C/137-1, 6D/52, 6D/493-1, 6D/498, 6E/4, 6E/5, 6E/6, 6E/7, 7E/56, 3D-1/3, 4D-1/10, 5D-2/7, 5D-2/8, 5D-2/C002-3, and 5D-4/100.

The Town of Merrimack ordains...

## **Chapter 111, CONSERVATION AREAS**

[HISTORY: Adopted 5-12-1994 by the Annual Town Meeting, Art. 18; Amended by the Merrimack Town Council 12-17-2009; 11-16-2017]

### **§ 111-1. Rules of conduct.**

- A. No person shall remain, stay or loiter in or on any conservation area during the period from 1/2 hour after sunset to 1/2 hour before sunrise, except under the authorization of the Conservation Commission or its designated agents. This provision is not intended to preclude authorized activities from occurring outside of the prescribed times.
- B. There shall be no fires on conservation areas except as approved by the Merrimack Conservation Commission in conjunction with New Hampshire Statutes and with a permit issued by the Forest Fire Warden.
- C. No person shall bring or carry any glass containers within any conservation area.
- D. No person shall throw, leave or discard any trash, rubbish or garbage within any conservation area. All trash or refuse will be carried out by individuals.
- E. No person shall use, consume, bring or carry any alcoholic beverages or unlawful drugs within any conservation area.
- F. Use of vehicles within conservation areas.
  - (1) No person shall park or drive any vehicle within Conservation areas except in specifically designated areas.
  - (2) No person shall drive, operate or maintain any motor vehicle or off-highway recreational vehicle (as defined in RSA 215-A:1, VI) in any conservation area without prior authorization from the Conservation Commission or its designated agents, excluding fire, police or ambulance personnel for emergency purposes.
- G. No person shall bring any domesticated animal upon any conservation area, unless such animal is controlled by the use of a leash, reign or is within a cage.
- H. No person shall discharge any air-powered or spring-powered gun, any type of bow or any firearm within any conservation area.
- I. No person shall remove or deface any building, equipment, tree, shrub or flower within any conservation area.

**§ 111-2. Violations and penalties.**

Any person found violating the provisions of this chapter may be assessed a penalty up to the amount set forth in NH RSA 31:39, [(QIII)]; said penalty to be placed in the Town of Merrimack's General Fund.

**§ 111-3. Designation of conservation areas.**

Areas designed as conservation areas shall consist of the following parcels:

- A. Parcel 5C/658, commonly known as Wildcat Falls Conservation Area.
- B. Parcel 4B/035, commonly known as Riverside Drive.
- C. Parcel 6B/087-099, commonly known as French Court.
- D. Parcel 6B/085-097, commonly known as Hitchinpost Lane.
- E. Parcel 6B/085-98, commonly known as 18 Woodward Road.
- F. Parcel 6B/2241, commonly known as Mitchell Street.


Authenticated:

\_\_\_\_\_  
Nancy M. Harrington, Town Council Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Diane Trippett, Town Clerk / Tax Collector

\_\_\_\_\_  
Date



# Chapter 111 – Update – 1<sup>st</sup> Reading

May 26, 2022

# Current Chapter 111

- Covers 6 Parcels:
  - 5C-658 Wildcat Falls Conservation Area, 4B-035 Riverside Drive, 6B-087-099 French Court, 6B-085-097 Hitchinpost Lane, 6B085-098 Woodward Road, 6B-224-1 Mitchell St.
- Same Restrictions on all 6 parcels
- Penalty is a violation in accordance with RSA31:39, III
- Restrictions include:
  - Cannot remain or stay from ½ after sunset to ½ before sunrise unless MCC authorized
  - No fires unless approved by MCC and Fire Warden
  - No glass
  - No throwing or leaving trash, carry out all trash
  - No alcohol or unlawful drugs
  - No parking or driving except in designated areas
  - No OHRV as defined in RSA 215-A:1 except for fire, police, ambulance or emergency
  - No domesticated animals unless on a leash, rein, or in a cage
  - No discharge of air-powered or spring-powered gun, any type of bow, or firearm
  - No defacing of any building, equipment, tree, shrub, or flower

# Proposed Update

- ▶ 64 Parcels in total versus 6 parcels in the current Chapter
- ▶ Same base set of penalties on all 64 parcels
- ▶ 3 Categories of Parcels
  - ▶ All – Base set of restrictions for all 64 parcels. Allows Town Council or designee to waive after receiving a recommendation of the MCC
  - ▶ Hours Restricted – Adds a dawn to dusk restriction where you cannot stay or linger for 2 of the 64 parcels. Allows Town Council or designee to waive after receiving a recommendation of the MCC
  - ▶ Completely Passive – Extends no motorized to also include all E-bikes and Snowmobiles, does not permit any discharge of a firearm or the “taking” (hunting) of wildlife. Applies to 13 of the 64 parcels
- ▶ Violation uses a tiered fine structure based on number of offenses



# Comparison

Current Chapter 111	Proposed Chapter 111
Cannot remain or stay from ½ after sunset to ½ before sunrise unless MCC authorized	Same but only for 2 of the 64 parcels, can be waived
No fires unless approved by MCC and Fire Warden	Same, but can be waived
No glass	Not included, considered trash if left behind
No throwing or leaving trash, carry out all trash	Same, can be waived
No alcohol or unlawful drugs	Same, can be waived
No parking or driving except in designated areas	Same, can be waived
No OHRV as defined in RSA 215-A:1 except for fire, police, ambulance or emergency	Same, also allows Class I E-bikes, but excludes Class II and Class III E-bikes. Can be waived
No domesticated animals unless on a leash, rein, or in a cage	Not included, assumes Dog Chapter covers dogs
No discharge of air-powered or spring-powered gun, any type of bow, or firearm	Same, but only when done for Target Shooting, can be waived
No defacing of any building, equipment, tree, shrub, or flower	Same, also includes gate, barricade, rock, wildlife, and fauna. Can be waived
Not in current Chapter	No camping or sleeping overnight, can be waived
Not in current Chapter	No Snowmobiles, Class I E-bikes, no target shooting, and no "taking" of wildlife on 13 parcels