



# 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 27, 2022  
Submitted by: Town Council Chair Finlay Rothhaus and Vice Chair Nancy Harrington  
Department:  
Speakers: Tim Tenhave

Date of Meeting: June 9, 2022  
Time Required: 20 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"/>
<b>Public Hearing:</b>	<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 - Consideration of Changes to Chapter 111, Conservation Areas, of the Merrimack Town Code

## DESCRIPTION OF ITEM

The Town Council will hold a public hearing 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: Finlay Rothhaus Address \_\_\_\_\_  
Phone Number \_\_\_\_\_ Email Address frothhaus@merrimacknh.gov

## APPROVAL



**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 recommended changes to Chapter 111, Conservation Areas, of the Merrimack Town Code, pursuant to Charter Article V. Copies of the proposed changes 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, June 9, 2022, at 7:00 PM** in the Matthew Thornton Room located at 8 Baboosic Lake Road in Merrimack.

---

For Town of Merrimack Use:

Posted: May 31, 2022

To Be Published: May 31, 2022 (*Union Leader*)

To Be Published: June 3, 2022 (*Sunday Select – Merrimack Edition*)

## **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.

## **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, [(III)]; 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:

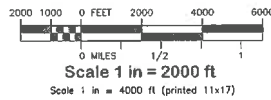
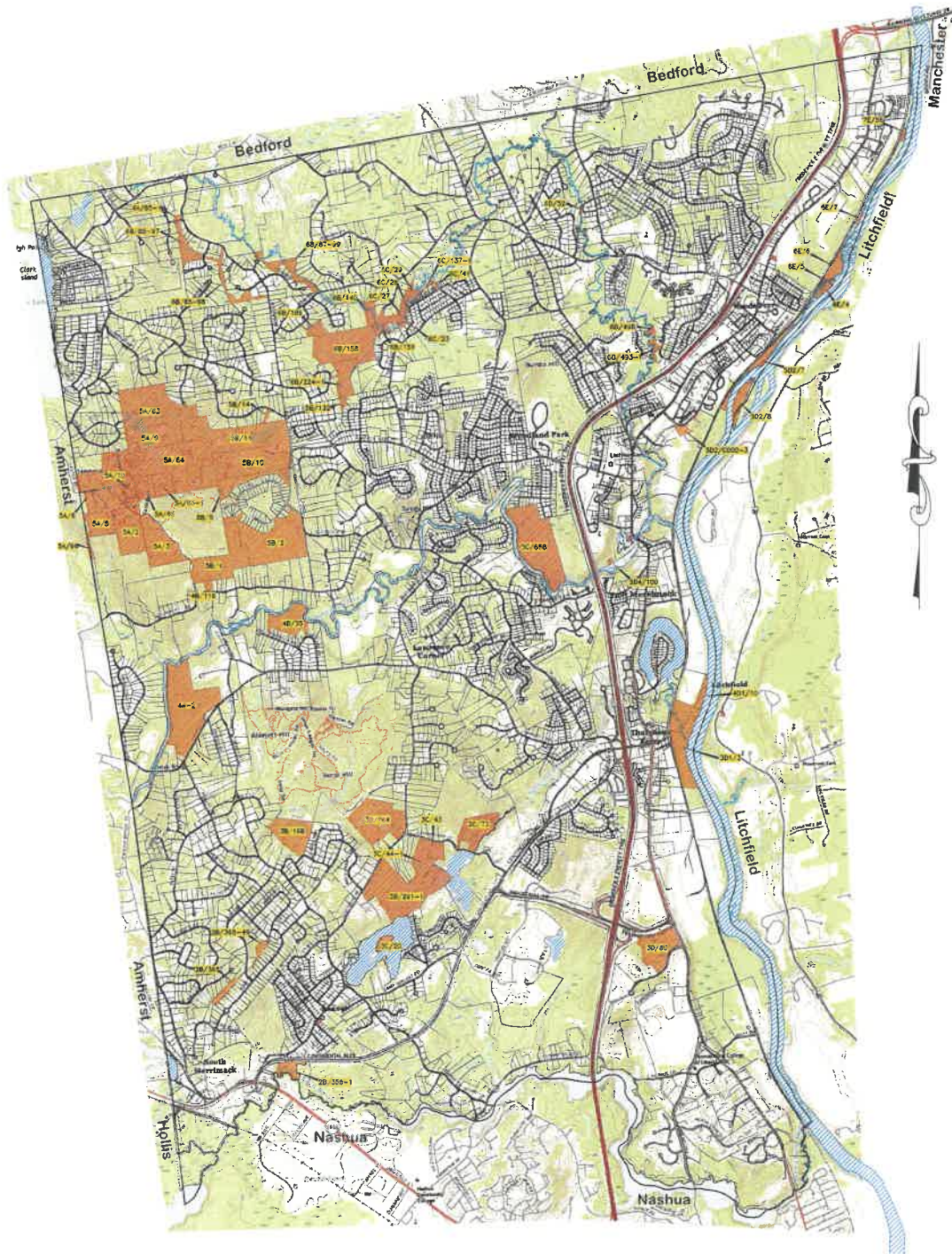
\_\_\_\_\_  
Nancy M. Harrington, Town Council Chair

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

# PROPOSED CHAPTER 111 PARCELS



**TOWN OF MERRIMACK**

6 BABOOSIC LAKE ROAD

MERRIMACK, NH 03054

(603) 424-5137 (603) 423-8539 (FAX)

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

*Submitted by Town Council Chair Finlay Rothhaus and Vice Chair Nancy Harrington*

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.

Town Manager Paul Micali began by presenting a map of the town to the Council with all the areas that represent Chapter 111. Tim Tenhave was then present to share a PowerPoint highlighting the recommended changes, stating the following:

- Chapter 111 covers 6 parcels of land since 1995
- All 6 parcels have the same restrictions, and there is a penalty for violation in accordance with RSA 31:39, III
- Restrictions include:
  - Cannot remain or stay from ½ hour after sunset to ½ hour before sunrise
  - No fires unless approved by MCC and fire warden
  - No glass
  - No throwing or leaving trash
  - No alcohol or unlawful drugs
  - No parking except where designated
  - No OHRVs except for as defined by RSA 215-A:1, fire, police, ambulance, emergency
  - No domesticated animals unless on a leash or caged
  - No discharge of an air powered or spring-powered gun, any type of bow, or firearm
  - No defacing of a building, equipment, tree, shrub, or flower
- Proposed Update
  - 64 parcels in total vs 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 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
    - Mr. Tenhave provided a side-by side comparison of the current Chapter 111 with the proposed changes to highlight what was changing and what was remaining the same

After the presentation, the Council debated how “unlawful drugs” and “removal of trash” both have an option to be waived, as they cannot see why these would ever be waived. Mr. Tenhave stated that this is more of a universal language as this was how it was originally written, and Mr.



Micali suggested adding a stipulation or removing “unlawful drugs” altogether, ultimately deciding to talk to the police chief for input on whether it should be removed or remain. Councilor Hunter asked if there would be any conservation area that would allow ATVs, in which Mr. Tenhave stated that there are places in Merrimack that allow ATV use, such as Greater Woods and Horse Hill. The main issue with ATVs is that the areas were not being properly cleaned after, so it was proposed that they would not be allowed unless a group comes together to provide maintenance. After some discussion, Mr. Tenhave shared some similar rules with the Council, such as not allowing motorized e-bikes, and updating the “no discharge” portion to include target shooting. He further stated that this is because target shooting has become a problem and the decision was made to add this to the restrictions. He wanted to state that this does not preclude someone from carrying their firearm or protecting themselves on the property, this strictly applies to target shooting.

**MOTION made by Councilor Murphy and seconded by Councilor Hunter to move this to a Public Hearing.**

***Roll call vote:***

Councilor Murphy: Yes

Councilor Hunter: Yes

Councilor Healey: Yes

Vice Chair Harrington: Yes

**MOTION CARRIES 4-0-0**