

## **AGENDA & PROPOSED ORDERS GORHAM TOWN COUNCIL REGULAR MEETING**

September 1, 2009 – 7:00 p.m.  
Gorham Municipal Center – Council Chambers

**PLEASE NOTE: The proposed orders on this agenda are suggested orders only and may change without notice prior to the meeting.**

Pledge of Allegiance to the Flag

Prior to the beginning of the regular Town Council Meeting, the Town Council will meet as Trustees of the Huston-Waterman Trust Fund.

- 1) Roll Call of the Huston-Waterman Board of Trustees.
- 2) Action regarding authorizing an appropriation of \$500.00 from the Huston-Waterman Trust Fund to assist with replacement of a hot water heater.
- 3) Adjourn the meeting of the Huston-Waterman Trust Fund Board of Trustees.

Roll Call of the Town Council

Acceptance of the minutes of the August 4, 2009 Regular Town Council meeting

Open Public Communications

Councilor Communications

Chairman's Report

Town Manager's Report

School Committee Report

Department Report – Assessing Department

**OLD BUSINESS NOTE:** This will be discussed at the end of the Town Council Meeting because discussion is done in executive session and is not open to public comment.

**Item #7743** Action to go into executive session, pursuant to Title 36 M.R.S.A., Section 841 (2) for the purpose of considering an application to abate taxes based on poverty. (Adm. Spon.)

**Proposed Order #7743** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled go into executive session, pursuant to Title 36 M.R.S.A., Section 841 (2) for the purpose of considering an application to abate taxes based on poverty.

### **NEW BUSINESS**

**Public Hearing #1** Public Hearing to consider approval of a Special Amusement Permit for YourSpace.

**Item #7744** Action to consider approval of a Special Amusement Permit for YourSpace. (Adm. Spon.)

**Proposed Order #7744** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the issuance of a Special Amusement Permit for YourSpace.

- Public Hearing #2** Public Hearing to consider approval to renew the liquor license for Gorham House of Pizza.
- Item #7745** Action to consider approval to renew the liquor license for Gorham House of Pizza. (Adm. Spon.)
- Proposed Order #7745** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of the liquor license for Gorham House of Pizza.
- Public Hearing #3** Public Hearing on a request from Grondin Properties, LLC, to amend the Olde Canal Business Park Municipal Development and Tax Increment Financing (TIF) District by changing the expiration of the district from June 30, 2028 to June 30, 2033.
- Item #7746** Action on a request from Grondin Properties, LLC, to amend the Olde Canal Business Park Municipal Development and Tax Increment Financing (TIF) District by changing the expiration of the district from June 30, 2028 to June 30, 2033. (Adm. Spon.)
- Proposed Order #7746** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve an amendment to the Olde Canal Business Park Municipal Development and Tax Increment Financing (TIF) District by changing the expiration of the district from June 30, 2028 to June 30, 2033
- Public Hearing #4** Public Hearing on a proposal to amend the Land Use and Development Code Chapter II, Section V-Minimum Standards for the Design and Construction of Streets and Ways, paragraph C Access to Adjoining Land.
- Item #7747** Action to consider a proposal to amend the Land Use and Development Code Chapter II, Section V-Minimum Standards for the Design and Construction of Streets and Ways, paragraph C Access to Adjoining Land. (Adm. Spon.)
- Proposed Order #7747** **WHEREAS**, the Land Use and Development Code contains a provision that allows for the continuation of roads to provide access to adjoining property and limit unnecessary curb cuts; and,
- WHEREAS**, requiring land to set aside for the continuation of roads to connect to previously dedicated right-of-ways on adjoining property furthers the intent to connect roads, when reasonable, in order to minimize future winter maintenance costs and limit curb cuts that erode roadway capacity,
- NOW THEREFORE BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Land Use and Development Code Chapter II, Section V-Minimum Standards for the Design and Construction of Streets and Ways, paragraph C Access to Adjoining Land as proposed.

Proposed amendment to Gorham Land Use and Development Code chapter II, Sec. V(C)  
(Note: Additions are underlined and deletions are ~~struck out.~~)

C. ACCESS TO ADJOINING LAND

The Planning Board shall provide for road continuation to limit unnecessary curb cuts and/or to provide for street access to ~~undeveloped~~ adjoining ~~property~~ properties by dedication on a subdivision plan, of a fifty-foot wide right-of-way to the boundary of adjacent ~~property~~

properties, unless the Planning Board determines it is not in the public interest to require access to adjoining land ~~and~~ or (1) the topography is not suitable for access to adjoining land, or (2) the project is surrounded by wetlands and no suitable land is available for continuation.

Access to adjacent developed land shall be provided by the dedication of a 50-foot right-of-way on a subdivision plan connecting to previously dedicated rights-of-way. Road connections are to be fully constructed at the time of development, unless the Planning Board determines for reasons of 1) public safety or 2) potential cut-through traffic that fully constructing the road connection is not in the public interest.

**Public  
Hearing #5**

Public Hearing on a proposed ordinance to manage stormwater after construction of a project.

**Item #7748**

Action to consider a proposed ordinance to manage stormwater after construction of a project. (Adm. Spon.)

**Proposed  
Order #7748**

**WHEREAS**, the Federal and State governments have established regulations to manage stormwater run off from construction projects that municipalities are obligated to comply with; and,

**WHEREAS**, the Town Council approved a 5 year Stormwater Management Plan on May 5, 2009; and,

**WHEREAS**, an ordinance appropriately regulating stormwater management facilities after projects are constructed is part of the approved 5 year plan,

**NOW THEREFORE BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt the Post Construction Stormwater Management Ordinance as proposed.

**Proposed Post-Construction Stormwater Management Ordinance**

**Section 1. Purpose**

The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Gorham through monitoring and enforcement of compliance with post-construction stormwater management plans in order to comply with minimum control measures requirements of regulations found in the federal Clean Water Act, and of Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

**Section 2. Objectives**

This Ordinance seeks to ensure that post-construction stormwater management plans are followed and stormwater management facilities are properly maintained and pose no threat to public health or public safety.

**Section 3. Definitions.**

For the purposes of this Ordinance, the terms listed below are defined as follows:

**3.1 Applicant.** "Applicant" means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

**3.2 Best Management Practices (“BMP”).** “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**3.3 Clean Water Act.** “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

**3.4 Construction Activity.** “Construction Activity” means Construction Activity including one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

**3.5 Discharge.** “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

**3.6 Disturbed Area.** “Disturbed Area” is clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

**3.7 Enforcement Authority.** “Enforcement Authority” means the person(s) or department authorized by the Town of Gorham to administer and enforce this Ordinance.

**3.8 Municipality.** “Municipality” means the Town of Gorham.

**3.9 Municipal Permitting Authority.** “Municipal Permitting Authority” means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

**3.10 Municipal Separate Storm Sewer System, or MS4.** “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

**3.11 National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.** “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**3.12 New Development.** “New Development” means any Construction Activity on unimproved Premises.

**3.13 Person.** “Person” means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity.

**3.14 Pollutant.** “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**3.15 Post-Construction Stormwater Management Plan.** “Post-Construction Stormwater Management Plan” means BMPs and Stormwater Management Facilities employed by a New Development or Redevelopment to meet the stormwater standards of the Municipality’s subdivision, site plan, or other zoning, planning or other land use ordinances and approved by the Municipal Permitting Authority.

**3.16 Premises.** “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained. [Note: If municipality wishes to expand its jurisdiction, can specify “located within the Urbanized Area.” or “within the Municipality.”]

**3.17 Qualified Post Construction Stormwater Inspector.** “Qualified Post Construction

Stormwater Inspector” means a person who conducts post-construction inspections of Stormwater Management Facilities and meets the following qualifications:

The Inspector shall not have any ownership or financial interest in the property being inspected nor be an employee or partner of any entity having an ownership or financial interest in the property, and

The Inspector shall also meet the following or similar criteria as approved by the Public Works Director, who shall maintain a list of approved Qualified Post-Construction Stormwater inspectors:

Have a working knowledge of Chapter 500, Stormwater management Rules and Maine’s Stormwater BMP Manual,

Have a college degree in environmental science, civil engineering, or comparable expertise,

Have a demonstrated practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for Stormwater Management Facilities,

Have the ability to determine if stormwater facilities are performing as intended, and

Have received appropriate training from the Department of Environmental Protection.

**3.18 Redevelopment.** “Redevelopment” means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling of structures.

**3.19 Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

**3.20 Small Municipal Separate Storm Sewer System, or Small MS4.** “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

**3.21 Storm Drainage System.** “Storm Drainage System” means the Municipality’s Regulated Small MS4.

**3.22 Stormwater.** “Stormwater” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage: “Stormwater” has the same meaning as “Storm Water”.

**3.23 Stormwater Management Facilities.** “Stormwater Management Facilities” means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

**3.24 Urbanized Area (“UA”).** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

#### **Section 4. Applicability.**

**4.1** This Ordinance applies to all New Development and Redevelopment within the Urbanized Area and to associated Stormwater Management Facilities.

**4.2 Exception.** This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that has received approval of its Post-Construction Stormwater Management Plan and Stormwater Management Facilities under the Municipality’s subdivision or other zoning, planning or other land use ordinances; said lot, tract or parcel shall not require additional review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

#### **Section 5. Post-Construction Stormwater Management Plan Approval**

**5.1 General Requirement.** Notwithstanding any ordinance provision to the contrary, and except as provided in Section 4.2, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit or approval for that New Development or Redevelopment unless the Applicant also receives approval under the Municipality's subdivision, site plan or other zoning, planning or other land use ordinances for its Post-Construction Stormwater Management Plan and Stormwater Management Facilities for that New Development or Redevelopment, even if the Municipality's subdivision, site plan or other zoning, planning or other land use ordinances would not otherwise apply to that New Development or Redevelopment.

**5.2 Notice of BMP Discharge to Municipality's MS4.** At the time of application for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Municipality's MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

**Section 6. Post-Construction Stormwater Management Plan Compliance**

**6.1 General Requirements.** Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under the Municipality's subdivision, site plan or other zoning, planning or other land use ordinances shall demonstrate compliance with that Plan as follows.

A. That Person or a Qualified Post Construction Stormwater Inspector hired by that Person, shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.

B. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take corrective action(s) to address the deficiency or deficiencies.

C. That Person or a Qualified Post-Construction Stormwater Inspector hired by that Person, shall, on or by May 1 of each year, provide a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 1 to this Ordinance, certifying that the Person has inspected the Stormwater Management Facilities and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

**6.2. Right of Entry.** In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

**6.3. Annual Report.** Beginning July 1, 2009 and each year thereafter, the Municipality shall include the following in its Annual Report to the Maine Department of Environmental Protection:

A. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;

B. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Municipality;

C. The number of sites with documented functioning Stormwater Management Facilities; and  
The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

In addition, any persons required to file an annual certification under Section 6.1 of this Ordinance shall include with the annual certification payment in the amount of Twenty Dollars (\$20) to pay the administrative and technical costs of review of the annual certification.

**Section 7. Enforcement.**

**7.1** It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

**7.2 Notice of Violation.** Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

A. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;

B. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or

C. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

**7.3 Penalties/Fines/Injunctive Relief.** Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

**7.4 Consent Agreement.** The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

**7.5 Appeal of Notice of Violation.** Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals in accordance with Chapter 1 Section IV of the Land Use and Development Code. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the Board of

Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

**7.6 Enforcement Measures.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

**Section 8. Severability.**

**8.1** The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

**Section 9. Basis.**

The Town of Gorham enacts this "Post-Construction Stormwater Management Control Ordinance" (the "Ordinance") pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 *et seq.* (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems," has listed the Town of Gorham as having a Regulated Small Municipal Separate Storm Sewer System ("Small MS4"); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program in order to satisfy the minimum control measures required by Part IV D 5 ("Post-construction stormwater management in new development and redevelopment").

APPENDIX 1

Town of Gorham

Annual Stormwater Management Facilities Certification

(to be sent to Code Enforcement Office

75 South Street, Suite 1

Gorham, ME 04038)

I, \_\_\_\_\_ (print or type name), certify the following:

1. I am making this Annual Stormwater Management Facilities Certification for the following property:

\_\_\_\_\_ (print or type name of subdivision, condominium or other development)

located at \_\_\_\_\_ (print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: \_\_\_\_\_ (name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. (Circle One) I am the:

a. Owner

b. Operator

c. Tenant

d. Lessee

e. President of the Homeowners' Association

f. A qualified Post Construction Stormwater Inspector

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On \_\_\_\_\_, 20\_\_, I inspected or had inspected by \_\_\_\_\_, a Qualified Post Construction Stormwater Inspector, the Stormwater Management Facilities, including but not



limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I or the Qualified Post Construction Stormwater Inspector identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities: \_\_\_\_\_

7. On \_\_\_\_\_, 20\_\_, I took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6. above: \_\_\_\_\_

8. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: \_\_\_\_\_, 20\_\_\_. By: \_\_\_\_\_

Signature

\_\_\_\_\_  
Print Name

STATE OF MAINE

\_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing

Annual Certification to be said person's free act and deed in said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

\_\_\_\_\_  
Print Name

Mail this certification to the Municipal Enforcement Authority at the following address

Code Enforcement Office  
75 South Street, Suite 1  
Gorham, ME 04038

**Public  
Hearing #6**

Public Hearing on a proposal to adjust the user fee for subdivision applications and projects.

**Item #7749**

Action to consider a proposal to adjust the user fee schedule for subdivision applications and other projects. (Adm. Spon.)

**Proposed  
Order #7749**

**ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Fee Schedule by adjusting the fees, as presented, effective September 1, 2009.

**Public  
Hearing #7**

Public Hearing on a proposal to amend the Sex Offender Ordinance.

**Item #7750**

Action to consider amending the Town's Sex Offender Ordinance. (Adm. Spon.)

**Proposed  
Order #7750**

**WHEREAS**, the Town of Gorham approved a local ordinance to regulate locations where convicted sex offenders may reside, visit or loiter; and,

**WHEREAS**, the State Legislation passed a new law regulating sex offenders that preempts local ordinances in certain areas: and,

**WHEREAS**, the Town's Sex Offender Ordinance is, in part, not consistent with the new State law and must be made consistent,

**NOW THEREFORE BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Sex Offender Ordinance as presented.

Proposed amendments to Sex Offender Ordinance. (Note: Additions are underlined and deletions are ~~struck out.~~)

**Section 1. Authority.**

This ordinance is enacted pursuant to Title 30-A M.R.S.A., Section 3001, **and amended pursuant to Title 30-M.R.S.A., Section 3013.**

**Section 2. Purpose.**

In acknowledgement that sex offenders who prey upon children are at a higher risk of re-offending, the Town of Gorham has a compelling interest to protect the health, safety, and welfare of its children by restricting access to areas where concentrations of children exist.

**Section 3. Definitions.**

A. **Registered Sex Offender** – An individual convicted of a sex offense, as defined by 34 A M.R.S.A. §§11203 (6) (7) against a person under the age of 18 and as a result, required to register for life pursuant to Title 34 A M.R.S.A., Chapter 15. **a crime listed in former title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; for an attempt or solicitation of those listed crimes; or for any former or current crime in any other jurisdiction which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes, in this State or in another jurisdiction against persons who had not attained 14 years of age at the time of the offense.**

B. **School /Daycare** – **Any public or private elementary, middle or secondary school** educational facility that provides services to those 18 years or younger or a licensed daycare facility that is clearly marked.

C. ~~**Premises**~~ – The building structure or surrounding the building, playground area, playing fields, or courts.

D. ~~**Radius**~~ – Distance shall be measured from the outer property lines.

**C. E. Residence** – That place or those places, other than a domicile in which a person may spend time living, residing, or dwelling.

**Section 4. Restrictions.**

A. Any person who is a convicted sex offender involving a ~~minor~~ person under 14 years of age and is required to register for life shall not reside within a **maximum distance of 750 feet** 2500-foot radius of the property line of a school or within a ~~1000-foot radius of the~~ property line of a daycare center. **maximum distance of 750 feet surrounding the real property comprising a municipality owned property where children are the primary users.**

B. ~~Any person who is a convicted sex offender involving a minor, and is required to register for life, is prohibited from entering upon the premises of a school or daycare center unless specifically authorized by the school administration or daycare center owner.~~

C. ~~No person who is a convicted sex offender and is required to register for life shall loiter or remain within a 2500-foot radius of a school or within a 1000-foot radius of a licensed daycare center.~~

**Section 5. Exceptions.**

A registered **convicted** sex offender residing within ~~2500-~~ **750** feet of a school or within ~~1000-~~ feet of a licensed daycare center **a maximum distance of 750 feet surrounding the real property comprising a municipality owned property where children are the primary users.** is not in violation if the residency was established prior to the date of passage of this ordinance and residency has been consistently maintained. A sex offender is not in violation of this ordinance if a school or daycare facility is built or moved into the 2500/1000-foot restricted area as long as the offender resided at this location prior to the new establishment and residency has been consistently maintained.

**Section 6. Violation; Injunctive Relief and Penalties.**

Any person who, after written notice from the Town about the requirements of this ordinance, ~~is~~ **remains** in violation of the provisions of this ordinance and shall be subject to an action brought by the Town in the District Court or Superior Court to enforce the requirements of this ordinance. The Town may seek injunctive relief to require compliance with the provisions of the ordinance. The Town may also seek a penalty in the minimum amount of \$500, which may be imposed on a daily basis for each day that a violation continues after notice from the Town. In the event that the Town is the prevailing party in an action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, expert witness fees, or any other associated costs.

**Section 7. Severability.**

In the event that any section or any portion of this ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be ~~effected~~ **deemed** to affect the validity of any other section or portion of this ordinance. The provisions of this ordinance are hereby declared to be severable.

**Section 8. Effective Date.**

Notwithstanding any law to the contrary, this ordinance shall take effect as of ~~August 1, 2007.~~ **October 1, 2009.**

**Item #7751**

Action to consider a resolution opposing the initiated bill, LD 974, an Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency. (Adm. Spon.)

**Proposed  
Order #7751**

**WHEREAS**, the initiated bill, LD 974, an Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency, would cut approximately \$886,463 in revenue from the Town of Gorham; and,

**WHEREAS**, LD 974 would provide no reduction of excise taxes to anyone who owned a car that was 6 years old or older; and,

**WHEREAS**, the State Bureau of Motor Vehicles indicated that nearly 68% of all vehicles registered in Maine are 6 years old or older and 68.1% of all vehicles registered in Gorham are 6 years old or older; and,

**WHEREAS**, the new law would go into effect in the middle of a fiscal year and result in immediate and substantial reductions in service and, in the long run, likely cause property taxes to increase to make up for lost excise tax revenue; and,

**WHEREAS**, LD 974 would cause a loss of over \$82 million in revenue to municipalities statewide,

**NOW THEREFORE BE IT RESOLVED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled encourage voters to vote "NO" on this referendum because of the negative consequences to Gorham and further agree to provide information to the voters regarding the harm to the community.

- Item #7752** Action to consider adopting a Cable Television Policy. (Adm. Spon.)
- Proposed Order #7752** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt a new Cable Television Policy, as presented; and, **BE IT FURTHER ORDERED** that the Cable Television Policy approved by the Town Council on August 6, 1991 and By-Laws of the Gorham Cable Television System approved by the Town Council on June 2, 1981 shall be voided effective September 1, 2009.
- Item #7753** Action to consider an appointment to the Recycling Committee.
- Proposed Order #7753** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve an appointment to the Recycling Committee as presented.
- Item #7754** Action to consider a proposal to amend the Land Use and Development Code, Chapter II, Section V-Minimum Standards for the Design of Streets and Ways (F)(4)(b) to increase the length of dead-end roads provided that all homes on the road are serviced by residential sprinkler systems. (Adm. Spon.)
- Proposed Order #7754** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to amend the Land Use and Development Code, Chapter II, Section V-Minimum Standards for the Design of Streets and Ways (F)(4)(b) to increase the length of dead-end roads provided that all homes on the road are serviced by residential sprinkler systems to the Planning Board for public hearing and their recommendation.
- Proposed Amendment to Chapter II, Section V (F)(4)(b) (Note: Additions are underlined and deletions are ~~struck out~~.)
- b) Dead end streets, paved private ways and streets except industrial, commercial, or service streets that serve as the sole vehicular access shall not exceed in length a distance of fifteen hundred (1500) feet, as measured along the proposed street centerline, from the ROW line of the intersecting town way to the furthest centerline point of a turning circle or loop road or the terminus of the hammerhead, except that a road constructed after September 1, 2009 may be constructed for a length not to exceed three thousand (3000) feet if all of the homes on said street are to be serviced by a residential sprinkler system that meets the specifications of the Town of Gorham's Sprinkler Ordinance for residential property.
- (1) For purposes of determining road length, public road length and private road length will be added together to determine compliance with the maximum road length, even if they are separate and distinct roads.
- Item #7755** Action to consider amending the Land Use and Development Code Chapter II, Section VIII-Independent Consulting and Peer Review Fees (D)(2) by eliminating the paragraph. (Adm. Spon.)
- Proposed Order #7755** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to amend the Land Use and Development Code Chapter II, Section VIII (D)(2) by eliminating the paragraph to the Planning Board for public hearing and their recommendation.
- Item #7756** Action to consider the purchase of a dump truck. (Adm. Spon.)

**Proposed Order #7756** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the purchase of a 6 wheel dump truck from \_\_\_\_\_ in the amount of \$\_\_\_\_\_.

**Item #7757** Action to consider making repairs to the roof of Robie Gym. (Adm. Spon.)

**Proposed Order #7757** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept a proposal from Great Falls Construction to make repairs to the roof of Robie Gym; and,

**BE IT FURTHER ORDERED** that the Town Council appropriate an amount not to exceed \$32,850 from the Capital Reserve Fund for this project.

**ADJOURN**