

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

December 7, 2010 – 7:00 p.m.

Gorham Municipal Center – Burleigh H. Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call of the Town Council

Acceptance of the minutes of the November 9, 2010 Regular Town Council Meeting

Open Public Communications

Councilor Communications

Chairman's Report

Town Manager's Report

School Committee Report

New Business

Public Hearing #1 Public Hearing to authorize renewal of a full liquor license for Thatcher's Restaurant & Sports Pub.

Item #7931 Action to consider approval to renew a full liquor license for Thatcher's Restaurant & Sports Pub. (Adm. Spon.)

Proposed Order #7931 **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of a full liquor license for Thatcher's Restaurant & Sports Pub.

Public Hearing #2 Public Hearing on a proposal to amend the Land Use and Development Code to establish standards for small wind energy systems.

Item #7932 Action to consider a proposal to amend the Land Use and Development Code, Chapter II and Chapter IV to establish standards for small wind energy systems. (Adm. Spon.)

Proposed Order #7932 **Whereas**, small wind energy systems have become an acceptable energy source for residential and commercial property; and,
Whereas, the Town has never developed any standards for small wind energy systems; and,
Whereas, the Town wishes to encourage the use of these energy systems when and where it is reasonable, but also provide a reasonable measure of safety to the public,

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 and Chapter IV as proposed.

Proposed new section for CHAPTER II – GENERAL STANDARDS OF PERFORMANCE, Section XII – Small Wind Energy Systems

Section 1. Authority.

1.1 This Ordinance is adopted pursuant to Title 30-A, M.R.S.A., Section 3001.

Section 2. Purpose.

2.1 The purpose of this Ordinance is to provide for the construction and operation of Small Wind Energy Systems, subject to reasonable conditions that will protect the public health, safety and welfare.

Section 3. Conflict with Other Ordinances or Laws.

3.1 If there is a conflict between the provisions of this ordinance and another ordinance or law, the more stringent provisions shall apply.

Section 4. Severability.

4.1 The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

Section 5. Definitions.

5.1 Meteorological Tower (MET Tower). Meteorological Tower (MET Tower) means a tower used for the collection and measurement of wind data that supports various types of equipment, including, but not limited to, anemometers, data recorder, solar power panels, and temporary electrical power and battery storage power. MET Towers are erected on a temporary basis primarily to collect data relevant to the siting of a Small Wind Energy System.

5.2 Nacelle. The frame and housing at the top of the Tower that encloses the gearbox and generator.

5.3 Owner. The individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.

5.4 Rated Nameplate Capacity. The maximum rated output of electric power production equipment. The manufacturer typically specifies this output with a "nameplate" on the equipment.

5.5 Rotor Diameter.

a. Horizontal Axis Small Wind Energy Systems: The cross sectional dimension of the circle swept by the rotating blades.

b. Vertical Axis Small Wind Energy Systems: The cross sectional dimension of the circle swept by the furthest outreaching part of the blade.

5.6 Small Wind Energy System (SWES). A wind energy facility having a maximum generating capacity of 100 kW, a maximum of one (1) wind turbine and a maximum turbine height of 100 feet.

5.7 Wind Turbine. A system for the conversion of wind energy into electricity, which is comprised of a tower, generator, nacelle, rotor, and transformer.

5.8 Turbine Height. The distance measured from the surface of the Tower foundation to the highest point of any turbine rotor blade measured at the highest area of the blade.

5.9 Tower. The monopole (freestanding or guyed) structure that supports a wind generator.

Section 6. Permitted Uses.

6.1 Small Wind Energy Systems are considered Accessory Uses and Structures and are permitted uses on any lot that is a minimum of two (2) acres in size and in all zones in the Town of Gorham requiring a building permit. The 2 acre requirement may be satisfied through a combination of lot size and a permanent easement from an abutting land owner.

6.2 This Section is not intended to apply to roof-mounted, building integrated, building-mounted or architectural wind systems; this Section only covers stand-alone tower mounted systems. Roof-mounted, building integrated, building-mounted or architectural wind systems shall be permitted subject to all applicable Federal, State, and Local laws and regulations, and shall be permitted to have a maximum height of (fifteen) 15 feet above the maximum allowed building height in the zones, as defined in the Town of Gorham's Land Use and Development Code.

Section 7. Non-Conformance Exception.

7.1 Small Wind Energy Systems that are constructed and installed in accordance with

the provisions of this Section shall not be deemed to constitute an expansion of a nonconforming use or structure.

Section 8. Performance Standards.

New Small Wind Energy Systems shall be a permitted use in all zoning districts subject to the following requirements:

8.1 Number Per Lot. On lots of two (2) acres or larger, one (1) SWES are permitted for every 2 acres of land. This requirement may be satisfied by a combination of lot size and easement from an abutting property owner.

8.2 Height

- a. The maximum turbine height shall be one hundred (100) feet.
- b. The applicant shall provide evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the Small Wind Energy System.

8.3 Setbacks.

- a. Wind towers for Small Wind Energy Systems shall be set back a distance equal to **1.5** times its total height, measured at the center of the base of the tower, from the following:
 - i. All property lines, unless appropriate easements are secured from adjacent property owners.
 - ii. All inhabited or inhabitable residential structures, other than those owned or inhabited by the owner.
 - iii. All overhead public utility and telephone lines, unless written permission is granted by the affected utility or telephone company.
 - iv. Public and private road right-of-ways, unless written permission is granted by the owner(s) with jurisdiction over said right-of-way(s).
 - v. Other right-of ways, including railroads, utility corridors, etc.
 - vi. Other Small Wind Energy Systems, telecommunications towers, and water towers.
- b. In no case shall Small Wind Energy Systems be permitted within the front, side, or rear setback of any property.
- c. Guy cables for Small Wind Energy Systems shall be setback at least 10 feet to any property line, unless appropriate easements are secured from adjacent property owners.

8.4 Access and Safety.

- a. The minimum distance between the ground and any part of the rotor blade shall be 15 feet.
- b. The tower's climbing apparatus shall be no lower than 15 feet from the ground.
- c. All access doors to SWES towers and electrical equipment shall be clearly labeled as such and shall be locked except during maintenance.

8.5 Lighting. Small Wind Energy Systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority.

8.6 Electrical. Electrical controls and control wiring shall be wireless or underground except where necessary to connect the Small Wind Energy System to the transmission or distribution network, adjacent to that network, and shall comply with the latest adopted versions of the NFPA 70 (NEC).

8.7 Design and Aesthetics.

- a. Small Wind Energy System towers shall be monopole (freestanding, or guyed). Lattice towers are prohibited.
- b. Wind turbines and towers shall have a color or finish that is non-reflective and non-obtrusive (galvanized steel, brushed aluminum, or white) as was originally applied by the manufacturer, unless otherwise required by the Federal Aviation Administration or another governmental agency.
- c. At Small Wind Energy System sites, the design of buildings and related structures shall use materials, colors, screening and landscaping that will blend the Small Wind Energy System to the natural setting and existing environment and structures that are consistent with Section 8.10..
- d. Small Wind Energy Systems shall not be used for displaying any advertising or

signs, except for the reasonable identification of the manufacturer of the Small Wind Energy System that may be placed on the nacelle (cover of the electrical generator) of the Small Wind Energy System or an unobtrusive nameplate.

8.8 Noise. The operation of all Small Energy Wind Systems shall comply with the Town of Gorham's Noise Ordinance of the Land Use and Development Code and include compliance with tonal sounds as described below.

a. **TONAL SOUND:** a tonal sound exists if, at the property boundary of the proposed SWES – including easements as applicable – the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two continuous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8dB for center frequencies at or between 160 and 400 Hz, and by 15dB for center frequencies at or between 25 Hz and 125 Hz.

b. If one or more of the sounds of routine operation of the development are found to be tonal sounds, 5dBA shall be added to the measured hourly L_{Aeq} .

c. The resultant adjusted A-weighted hourly equivalent sound levels shall not exceed the sound level limit (dBA) permitted in the district established by Table 1 in the Town of Gorham's Noise Ordinance of the Land Use and Development Code.

d. The applicant is responsible for providing sufficient evidence that the proposed Small Wind Energy System will comply with the noise standards of this Ordinance.

8.9 A manual and automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

8.10 Code Compliance. A Small Wind Energy System shall comply with all applicable Federal, State, and Local Building and Electrical Codes.

8.11 Utility Notification and Connection. Small Wind Energy Systems that connect to the electric utility shall comply with Title 35-A and 65-407 Public Utility Commission's Rule 313, "Consumer Net Energy Billing."

Section 9. Met Towers.

9.1 Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Small Wind Energy System.

9.2 Met towers are permitted as a temporary use to remain installed for no more than 3 years.

Section 10. Removal of Unsafe/Abandoned Small Wind Energy Systems.

10.1 Unsafe. Small Wind Energy System found to be unsafe by the Code Enforcement Office shall be repaired by the owner to meet current Federal, State, and Local Safety Standards or shall be removed within six (6) months.

10.2 Abandonment. A Small Wind Energy System that is not used for a consecutive twelve (12) month period shall be deemed abandoned. The Code Enforcement Office shall notify the owner by registered mail and shall provide 30 days for a response. In such a response the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action.

10.3 After receiving the response, if the Code Enforcement Office still determines the Small Wind Energy System is abandoned, the owner of a Small Wind Energy System shall remove the wind turbine from the tower at the Owner's sole expense within 120 days from receipt of the original notice from the Code Enforcement Office.

Section 11. Permit Requirements.

11.1 Building Permit. A Building Permit shall be required for the installation of a Small Wind Energy System.

11.2 Documents Required. The building permit application shall be accompanied by the following supporting material:

a. Copies of any recorded easements necessary to meet the setbacks requirements as contained in Section 8.3;

b. Wind system sound level specifications and manufacturer's guarantee level including apparent sound power provided by an independent certification organization as having been tested in accordance with IEC 61400-3d edition, 2010, to include analysis of short duration repetitive and tonal sounds.

- c. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
- d. Evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the Small Wind Energy System;
- e. Other supporting documentation as deemed necessary by the Code Enforcement Office.

11.3 Fees. The fee required for a Building Permit from the Code Enforcement Office must accompany the application for a Building Permit for a Small Wind Energy System.

11.4 Expiration. A permit issued pursuant to this Section shall expire if the Small Wind Energy System is not installed and functioning within twelve (12) months from the date the permit is issued.

Section 12 Administrative Review Site Plan Required.

12.1 The building permit application shall be accompanied by a site plan that includes the following:

- a. Property lines and physical dimensions of the property directly abutting properties in all directions and properties for which easements have been granted, if any;
- b. Location, dimensions, and types of existing structures on the property;
- c. The right-of-way of any public road that is contiguous with the property;
- d. Any overhead utility lines on the property;
- e. Location of the proposed wind system tower.

12.2 Location Plan Required. The building permit application shall be accompanied by a location plan depicting the following:

- a. Location of the proposed wind system tower;
- b. The location of all inhabited or inhabitable residential structures within 250 feet of the proposed location of the wind system tower;
- c. All overhead public utility and telephone lines within 250 feet of the proposed location of the wind system tower;
- d. All public and private road right-of-ways within 250 feet of the proposed location of the wind system tower;
- e. Other right-of ways, including railroads, utility corridors, etc. within 250 feet of the proposed location of the wind system tower;
- f. Other Small Wind Energy Systems, telecommunications towers, Met towers, and water towers within 250 feet of the proposed location of the wind system tower; and
- g. Distances between the proposed tower and all of the above.

Item #7933 Action to consider accepting a new road constructed from Main Street to Gray Road as a public way. (Adm. Spon.)

Proposed Order #7933 **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept the newly constructed road that runs from Main Street (Route 25) to Gray Road (Route 202) near the Public Safety Building as a public way; and,

BE IT FURTHER ORDERED that the new road shall be named “Chick Property Drive”; and,

BE IT FURTHER ORDERED that this road shall be classified as a service road.

Item #7934 Action to consider purchasing a dump truck and plow. (Adm. Spon.)

Proposed Order #7934 **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept the bid of _____ in the amount of \$_____ for the purchase of a dump truck and plow.

Item #7935 Action to consider amending the Baxter Memorial Library Card Policies and Borrowing Rules as recommended by the Library Trustees. (Adm. Spon.)

Proposed Order #7935 **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Baxter Memorial Library Card Policies and Borrowing Rules as presented.

Proposed amendments to the Baxter Memorial Library - Library Card Policy and Borrowing Rules (NOTE: additions are underlined and deletions are ~~struck through~~, only sections with proposed changes are shown.)

GENERAL RULES

A library account is not required to participate in library programs or to use library resources while at the library.

A library account in good standing is required to check out or renew library materials, as well as to reserve or request materials from other lending libraries. A valid library card must be *presented* for all transactions associated with a given account. If the library card is not available at that moment, patrons may use valid photo identification to access their own account. To access or inquire about the status of any other ~~family member's~~ patron's account, including the accounts of children of any age, the card associated with that account is required. No alternative means may be used to access or inquire about the status of another patron's account.

ACCOUNT INQUIRIES

Patrons may inquire about the status of their own account or a ~~family member's~~ another patron's account by presenting the library card attached to the account in question.

Patrons may also check their account online using all digits on their library card or by calling the library and providing the last 6 digits of the library card. When not presenting a library card in person or when giving a library card number by telephone, the patron may be asked by a staff member to verify personal information.

Without a library card in hand, the alternative methods listed above will only allow access to the patron's own account and not to anyone else's account. This includes the accounts of children of any age.

COLLEGE STUDENTS

~~Full or part time college students enrolled in a local college may apply for a free library card. Proper identification and proof of enrollment are required. If the student is living in campus housing, at a fraternity/sorority house, or in student housing that is not his/her legal address, that student must also provide the address and telephone number of their legal address. The library card may be renewed each year as long as the patron is enrolled as a student in a local college.~~

A student of the University of Southern Maine (USM) may present his/her valid student identification to check items out of the Baxter Memorial Library. The student must be in good standing with the University of Southern Maine Libraries. Failure of the USM student to return items borrowed on his or her USM identification or to pay for lost/damaged items he or she borrowed from the Baxter Memorial Library will be reported to the USM library and may result in consequences (i.e.: inability to register for classes, loss of access to transcripts, inability to graduate) at USM.

NON-RESIDENT DIRECTORS OF GORHAM KINDERGARTENS, PRESCHOOLS, DAYCARE CENTERS, GROUP HOMES, AND SENIOR CENTER ACTIVITY DIRECTORS

These library patrons may apply for a free library card for work related use. These

cards may be renewed each year as long the patron is employed in Gorham in one of the positions listed above. The library card is not valid after the patron leaves employment. Proper identification and proof of employment is in a position listed above is required. The patron may use the work contact information but must also provide a home address as he/she is personally responsible for items checked out to the library card.

Additional "special circumstances" free library cards may be issued at the discretion of the Library Director or his/her designee.

BORROWING RULES

Loan limits

Patrons may check out up to ~~eight (8) DVD~~ **four (4) DVD** items at a time from the library. All other circulating library materials are available on an unlimited basis. In order to provide equal access to the collections for all users, patrons are requested not to take more than half the available items on a single subject.

Renewals

Library items may be renewed ~~twice~~ **once** by phone, in person or online using the library card number to which the items were checked out. Renewals are subject to demand; if another patron has placed a reserve on that item, it cannot be renewed.

- Item #7936** Action to consider an agreement to provide the City of Westbrook with emergency response billing services. (Adm. Spon.)
- Proposed Order #7936** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the Town Manager to sign an agreement to provide emergency response billing services to the City of Westbrook.
- Item #7937** Action to consider establishing a committee to organize a Fair, or similar event, that would attract people to Gorham and be a benefit to businesses and the community. (Councilor Gagnon Spon.)
- Proposed Order #7937** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled establish a committee whose purpose will be to organize a Fair, or similar event, that would attract people to Gorham and benefit the community and businesses with the committee to report back to the Town Council; and,
- BE IT FURTHER ORDERED** that the Recreation Department provide reasonable assistance to the committee with this event.
- Item #7938** Action to consider amending the Council Rules to have items that are recommended for Town Council action by one of the Town Council's standing committees be sponsored by that committee. (Chairman Robinson Spon.)
- Proposed Order #7938** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend Sub-section 12.01 of the Rules of the Gorham Town Council to have items that are recommended by one of the Council's standing committees for consideration by the Town Council be sponsored by the Committee making the recommendation, to read as follows:
- (NOTE: Additons are underlined)**
Sub-section 12.01. Any item to be placed on the agenda of the Council or

recommended for consideration of the Council must be sponsored by a member of the Council, or by the Town Manager, or in the instance when an item is recommended for action by one of the Council's standing committees, shall be sponsored by the committee with the committee vote reflected. Those items sponsored by the Manager shall normally be restricted to routine town administration.

Item #7939 Action to consider accepting the resignation of Russell French from the Park and Conservation Commission. (Adm. Spon.)

Proposed Order #7939 **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept the resignation of Russell French from the Park and Conservation Commission; and,

BE IT FURTHER ORDERED that the Town Council express their appreciation for his service on the Park and Conservation Commission.

Item #7940 Action to consider appropriating funds to provide electricity to the gazebo. (Adm. Spon.)

Proposed Order #7940 **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled appropriate \$3,000 from the contingency account to provide electrical power to the gazebo.

ADJOURN