

AGENDA & PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
July 5, 2011 – 7:00 p.m.
Gorham Municipal Center – Burleigh H. Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the June 7, 2011 Town Council Regular Meeting and the June 24, 2011 Special Meeting.

Open Public Communications

Councilor Communications

Chairman’s Report

Town Manager’s Report

Election Report

School Committee Report

New Business

Public

Hearing #1 A public hearing on a proposal to amend the Land Use and Development Code to allow Caretaker Residential units in the Urban Commercial, Roadside Commercial, and Industrial Zones and in the Narragansett Development District.

Item #8026 Action to consider a proposal to amend the Land Use and Development Code to allow Caretaker Residential units in the Urban Commercial, Roadside Commercial, and Industrial Zones and in the Narragansett Development District. (Spon. Adm.)

Proposed

Order 8026 Whereas, the Town has a development Code that restricts residential development in commercial or industrial zones by either requiring minimum lot size or prohibits any residential units, and

Whereas, in limited situations, allowing a residential caretaker unit associated with a business would enhance the security of said business and be beneficial while still providing for development that is predominately commercial or industrial, and

Whereas the Planning Board held a public hearing on June 6, 2011 and after hearing voted to recommend approval of the proposed amendment, and

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Gorham, Maine, in Town Council assembled, that Chapter I, Zoning Regulations, of the Gorham Land Use and Development Code be amended as follows:

(Proposed additions to the Code are underlined; proposed deletions are ~~struck through~~.)

CHAPTER I – ZONING REGULATIONS, SECTION V – DEFINITIONS

Caretaker Unit: An accessory dwelling unit that is incorporated into, and is part of, a non-residential use and is occupied by an owner or an employee of the business occupying the principal use, and having a gross floor area of less than two thousand (2000) square feet.

CHAPTER I, ZONING REGULATIONS, SECTION X - Urban Commercial District

B. PERMITTED USES

- 3) Accessory uses and buildings including a caretaker unit.

CHAPTER I, ZONING REGULATIONS, SECTION XI – Roadside Commercial District

B. PERMITTED USES

- 3) Accessory uses and buildings, including a caretaker unit.

CHAPTER I, ZONING REGULATIONS, SECTION XII – Industrial District

B. PERMITTED USES

- 6) Accessory uses and buildings, including retail and service uses accessory to another permitted use and also including a caretaker unit for residential use ~~residential uses~~ provided that there shall be no more than one residential unit on a property and such unit shall be resided in by an owner of the property, an employee of the industrial operation, or a person who serves as a security person. In the event that the principal industrial use or other permitted use terminates, then the accessory residential use shall also terminate.

CHAPTER I, ZONING REGULATIONS, SECTION XVI – Narragansett Development District

B. PERMITTED USES

2) Other uses

- e) Uses and buildings that are accessory to the above-mentioned uses, including [caretaker units and](#) parking lots, are also permitted uses.

Public

Hearing #2 A public hearing on a proposal to adopt an updated Zoning Map.

Item #8027 Action to consider an updated Zoning Map. (Spon. Adm.)

Proposed

Order #8027 Whereas, the Town’s official Zoning Map was last updated on March 14, 2000, and

Whereas, the Town has approved many amendments to the Land Use and Development Code, including the approval of a new Development Transfer Overlay District, that is not on the current map and,

Whereas, the Planning Board held a public hearing on June 6, 2011 and after hearing voted to recommend approval of the new Zoning Map.

Public

Hearing #3 A public hearing on a proposal to adopt a Property Assessed Clean Energy (PACE) Ordinance.

Item #8028 Action to consider adopting a Property Assessed Clean Energy (PACE) Ordinance. (Spon. Adm.)

Proposed

Order #8028 Whereas, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Business,” also known as the Property Assessed Clean Energy Act” or the PACE Act” ; and

Whereas, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

Whereas, the Municipality wishes to establish a PACE program;

Now therefore, be it ordained by the Town Council of the Town of Gorham, Maine, in Town Council assembled, adopt the following Ordinance, and

Be it furthered ordered that the effective date of this Ordinance shall be July 6, 2011.

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

ARTICLE 1 - PURPOSE AND ENABLING LEGISLATION

1.1 Purpose

By and through this Chapter, the Town of Gorham declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

1.2 Enabling Legislation

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE 2 - TITLE AND DEFINITIONS

2.1 Title

This Ordinance shall be known and may be cited as “the Town of Gorham Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

2.2 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

1. Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. Municipality. “Municipality” shall mean the Town of Gorham.

3. PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

5. PACE district. “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. PACE loan. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. PACE mortgage. “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. PACE program. “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. Qualifying property. “Qualifying property” means real property located in the PACE district of the Municipality.

10. Renewable energy installation. “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. Trust. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A.

§ 10103 and/or its agent(s), if any.

ARTICLE 3 - PACE PROGRAM

3.1 Establishment; funding.

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

3.2 Amendment to PACE program.

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE 4 – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1 Standards adopted; Rules promulgated; model documents.

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE 5 – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;

2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
3. the Trust, or its agent, will disburse the PACE loan to the property owner;
4. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
5. the Trust, or its agent, will be responsible for collection of the PACE assessments;
6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
7. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Item #8029 Action to consider a contract with the State of Maine, Efficiency Maine Trust, to administer the Property Assessed Clean Energy (PACE) program. (Spon. Adm.)

Proposed

Order #8029 Ordered, that the Town Council approve a contract with Efficiency Maine Trust to administer the Property Assessed Clean Energy (PACE) program; and

Be it further ordered, that the Town Manager is authorized to sign any documents necessary to implement the contract.

Item #8030 Action to consider appointing a Town Clerk. (Spon. Councilor Robinson)

Proposed

Order #8030 Ordered, that the Town Council appoint Cornelia (Connie) Loughran as the Town Clerk.

Item #8031 Action to consider a request from Hans Hansen for a contract zone on property he owns in South Gorham. (Spon. Ordinance Committee 3-0)

Proposed

Order #8031 Ordered, that the Town Council refer a proposal for a contract zone on property owned by Hans Hansen in South Gorham to the Planning Board for public hearing and their recommendation.

Item #8032 Action to appropriate funds for final payment of the Town's 15% local share of a State Road project on Mosher Road, completed in 2004. (Spon Adm.)

Proposed

Order #8032 Ordered that the Town Council appropriate \$74, 095.55 from a Town Clock Reserve Fund, \$127.82 from a North Street Cemetery Fence Reserve Fund and \$22,812.61 from the Vacuum Truck Reserve Fund for a total appropriation of \$97,035.98 to pay the Town's 15% local share of a State Road Project PIN 0087223.00 on Mosher Road completed in 2004, and

Be it furthered ordered, that it is the Town's understanding that this payment is the final payment and closeout of this road project.

Item #8033 Action to consider restoring recreation impact fee funds that had been appropriated for the Chick Property Phase 2 project. (Spon. Councilor Robinson)

Proposed

Order #8033 Ordered, that the Town Council return to the Recreation Impact Fee Account the remaining balance of funds that had been appropriated by the Town Council on October 5, 2010 as seed money to develop the Chick Property Phase 2 project (the remaining balance estimated to be \$160,000.)

Item #8034 Action to consider a request from BH2M on behalf of Chase Custom Homes to amend the Town's Wastewater Ordinance. (Spon. Adm.)

Proposed

Order #8034 Ordered, that the Town Council refer a request from BH2M on behalf of Chase Custom Homes, to amend the Town's Wastewater Ordinance, to the Ordinance Committee for their review and recommendation, and

Be it further ordered, that the Town Council ask the Council's Capital Improvements Committee to discuss the concerns the developer has with the South Gorham Sewer Study and report back to the Town Council.

Item #8035 Action to consider developing an impact fee to support the extension of public sewer down South Street. (Spon. Adm.)

Proposed

Order #8035 Ordered, that the Town Council ask the Town Manager to develop the concept and language for an impact fee to support the extension of public sewer down South Street for the Town Council to discuss and consider at a future meeting.

Item #8036 Action to consider asking the Finance Committee to review wage and benefit packages, planning and code fees and use of excise tax to fund the municipal budget. (Spon. Mattingly)

Proposed

Order #8036 Ordered that the Town Council ask the Finance Committee to review the Town's wage and benefit packages, to assess the revenue from planning and code fees and the use of the excise tax to fund the municipal budget and report back to the Town Council at a future meeting with any recommendations.

Item #8037 Action to consider asking the Capital Improvements Committee to review the economic impact of planning and code fees, to review the structure of the Gorham Economic Development Corporation to improve funding and effectiveness, and to ask the Committee to develop a policy for capital investment for Gorham's transportation corridors, including a feasible maintenance and reconstruction plan. (Spon. Mattingly)

Proposed

Order #8037 Ordered that the Town Council ask the Capital Improvements Committee to review the economic impact of planning and code fees, to review the structure of the Gorham Economic Development Corporation to improve funding and effectiveness and to ask the Committee to develop a policy for capital investment for Gorham's transportation corridors, including a feasible maintenance and reconstruction plan and report back to the Town Council with any recommendations.

ADJOURN