

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

January 4, 2011 – 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 December 7, 2010 Regular Town Council Meeting and the December 28, 2010 Special 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 consider approval to renew a beer and wine liquor license for PineCrest Bed & Breakfast Inn, LLC.

**Item #7942** Action to consider approval to renew a beer and wine liquor license for PineCrest Bed & Breakfast Inn, LLC. (Adm. Spon.)

**Proposed Order #7942** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of a beer and wine liquor license for PineCrest Bed & Breakfast Inn, LLC.

**Public Hearing #2** Public Hearing on a proposal to replace the Town's Mass Gathering Ordinance with a new Ordinance for large outdoor events.

**Item #7943** Action to consider a proposal to replace the Town's Mass Gathering Ordinance with a new Ordinance for large outdoor events. (Adm. Spon.)

**Proposed Order #7943** **WHEREAS**, the Town has a Mass Gathering Ordinance to regulate gatherings of 250 or more people to enhance the public safety and welfare; and,

**WHEREAS**, most indoor event facilities are regulated by Life Safety Codes and other regulations; and,

**WHEREAS**, Regulating gatherings of 250 people cause many events that do not create public health or safety issues to unnecessarily obtain permits and is administratively inefficient,

**NOW, THEREFORE BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled hereby:

1. Repeals the current Mass Gathering Ordinance effective January

5, 2011, and  
Adopts a new Large Outdoor Event Ordinance that shall have an effective date of January 5, 2011, as follows:

**Proposed LARGE OUTDOOR EVENT ORDINANCE (DRAFT #3 12/16/10)**

**Section 1. Statement of Purpose.**

1.1 The Town of Gorham is concerned about the adverse effect to the general health and safety of the community that may result from large crowds which attend outdoor events, including but not limited to, exhibitions, festivals, music concerts and fairs. Large outdoor gatherings may lead to sanitation problems, resulting from inadequate waste disposal, insufficient drinking water and ill-equipped first aid facilities. Such gatherings may also threaten the safety of the community through the obstruction of roads, violation of liquor and drug laws, and destruction of property. Therefore, the following ordinance is hereby ordained for the purposes of protecting the general welfare, preventing disease, promoting health and providing for the public safety.

**Section 2. Severability.**

2.1 If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section 3. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

3.1 *Charitable organizations* shall mean any person or entity, including any person or entity organized in a foreign state that holds itself out to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable purpose. For purpose of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.

3.2 *Event coordinator* shall mean the person responsible for the outdoor event.

3.3 *Licensee* shall mean the person named in the application.

3.4 *Nonprofit organization* shall mean a corporation designated as a not-for-profit corporation by the United States Internal Revenue Service.

3.5 *Outdoor event* shall mean any gathering held outdoors with the intent to attract one thousand (1,000) or more persons for a festival, exhibition, amusement, show, fair, theatrical performance, musical performance, road race/athletic event or similar activity **or any gathering held outdoors with the intent to attract 250 or more people that will continue overnight.**

3.6 *Performance guarantee* shall mean a performance bond issued by an entity authorized to do business in Maine, cash escrow, or other financial guarantee acceptable to the Town Clerk and in a form approved by the Town Attorney/Finance Director, provided by an applicant for an outdoor event license to guarantee the payment of the costs of the prompt cleaning of the grounds after the close of the outdoor event, and the Town Police, Fire, Rescue, other Municipal Employees and Public Works prevention and Law Enforcement activities performed by the Town as a result of the outdoor event (the "public costs"). These public costs shall be those costs incurred by the Town in connection with the proposed outdoor event which would not be incurred by the Town if the outdoor event were not held. The Town shall release the performance guarantee if the event coordinator pays all such public costs within thirty (30) working days all costs have been paid in full.

3.7 *Person* shall mean any natural person, sole proprietorship, partnership, corporation, or other entity.

3.8 *Town* shall mean the Town of Gorham, Maine.

3.9 *Town Clerk* shall mean the Town Clerk of Gorham, Maine.

3.10 *Town Council* shall mean the Town Council of Gorham, Maine.

#### **Section 4. Requirement of a License for Outdoor Events.**

4.1 No person may sponsor, promote, operate, or hold any outdoor event unless a license is first obtained from the Town Clerk.

(a) The licensing procedure will be administered in the following manner:

1. The person(s) seeking a license must file a complete application with the Town Clerk no less than 45 days before the proposed commencement of the outdoor event.
2. The application must clearly specify the event coordinator.
3. A non-refundable application fee for the license shall be established by order of the Town Council. The Town Clerk may at the Clerk's discretion reduce or waive the fee for charitable and nonprofit organizations.
4. The application for an outdoor event to be held on private property must include an agreement with the property owner allowing use of the facility or property unless the property or facility is owned by the applicant.
5. Within five (5) days of the receipt of an application, the Town Clerk shall notify the Town Manager, Police Chief, Fire Chief and Code Enforcement Officer of the application.

4.2 When considering the issuance of a license for an outdoor event, the Town Clerk may seek advice from the Police Chief, Fire Chief, Code Enforcement Officer, Health Officer and such other Town Officials as the Clerk deems necessary.

4.3 ~~The provisions in this article relating to payment of application fees and to obtaining performance bonds do not apply to outdoor~~ **ordinance do not apply to outdoor** events sponsored by the Gorham School Department or any other agency or department of the Town of Gorham.

#### **Section 5. License Standards.**

5.1 In reviewing the outdoor event license applications, the Town Clerk, with advice from the appropriate Department Managers, shall determine whether the application meets all the following standards:

(a) Safety and access. That convenient and safe access for the ingress and egress of pedestrian and vehicular traffic exists, and that traffic safety will be maintained on streets serving the outdoor event.

(b) Site.

1. That the outdoor event assembly area will be well drained and so arranged to provide sufficient space for persons assembled, vehicles, sanitary facilities, and appurtenant equipment.
2. That trees, underbrush, large rocks and other natural features will be left intact and undisturbed whenever possible, and that the natural vegetative cover shall be retained, protected, and maintained so as to facilitate drainage, prevent erosion, and preserve the scenic attributes.
3. That the site shall be maintained free from the accumulation of refuse and from health and safety hazards constituting a nuisance.
4. The assembly area shall be adequately lighted, but lighting shall not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.
5. The licensee shall be responsible for the posting of an area of "No Parking" under the direction of the Chief of Police.

(c) Sanitation.

1. That when water is not available under pressure, and non water carriage toilets are used, at least three (3) gallons of water per person per day shall be provided for drinking and lavatory purposes.
2. That where water under pressure is not available, equivalent facilities shall be provided and installed in accordance with the requirements of the Department of Human Services, Bureau of Health, Mass Gathering Rules and informational guidelines.
3. That the required sanitary facilities will be conveniently accessible and well marked.
4. That wastewater will be discharged in a manner consistent with the requirements of

the State Department of Human Services, Division of Health Engineering.

5. That disposal and/or treatment of any excretion or liquid waste will be in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering.

(d) Refuse disposal.

1. That refuse will be collected, stored, and transported in such a manner as to protect from odor, infestation of insects and/or rodents any and other nuisance condition, or conditions which are inconsistent with the health, safety, and welfare to the patrons of the outdoor event or of the public.

2. That all refuse will be collected from the assembly area at least twice each twelve (12) hour period of the outdoor events, with a minimum of two (2) such collections per outdoor event exceeding six (6) hours, or more if it necessary, and disposed of at a waste disposal site approved by the Town.

3. That the grounds and immediate surrounding property will be cleared of refuse within twenty-four (24) hours following the outdoor event.

(e) Safety.

1. That where an electrical system is installed, it will be installed and maintained in accordance with the provisions of the applicable State standards and regulations and the town's electrical codes.

2. That the grounds, building, and related facilities will be maintained and used in a manner as to prevent fire and in accordance with the applicable local fire prevention regulations.

3. That internal and external traffic and security control will meet requirements of the applicable State and local law enforcement agencies.

(f) State License.

1. Any applicant intending to attract the continued attendance of Two Thousand (2000) or more persons for twelve (12) or more hours must obtain a State License pursuant to Title 22, MRSA, Sections 1601-1607.

2. Applications that require a State License must provide a copy of the approved State License.

### **Section 6. License Decision and Conditions.**

6.1 The Town Clerk may deny the license or grant the license, or grant the license and impose such reasonable conditions on the issuance of a license as would safeguard the public interest including requiring the applicant to:

(a) Post a performance guarantee in an amount estimated by the Town Clerk to be equal to the public costs;

(b) Meet with the Chief of Police to determine if there is a need to hire security and to determine what level of security shall be in place. The cost of certified police officers, rescue and fire personnel for security; including overtime and benefits costs are set by the Town and will be paid by the licensee. All security guards and/or police must be approved by the Chief of Police. In addition, the Police Chief will approve the traffic control plan;

(c) Agrees to pay for any equipment or supplies provided to them by the Town; and

(d) Demonstrate, by means of a written, descriptive plan, addressing the standards of this article, that adequate facilities will be provided at the site of the outdoor event, in order to protect the health of the people who attend, including:

1. Adequate waste disposal facilities.

2. Adequate fire fighting, rescue and police personnel, facilities, equipment; first aid.

3. Adequate water supplies.

4. Adequate communication equipment.

5. Notice to the appropriate Town, County and State Officials, as named by the Town Clerk.

6. Adequate on-site parking spaces will be available if applicable.

7. Demonstrate, by means of a written descriptive plan, that adequate parking spaces will be available.

8. Provide for outdoor events, a detailed plan showing how crowd security and police protection of private property will be accomplished.
9. A detailed plan for controlling traffic to be approved by the Chief of Police.

#### **Section 7 Appeals to Town Council**

7.1 Any person who is denied an outdoor event license by the Town Clerk or who objects to any condition in a license granted to that person by the Town Clerk may appeal the Town Clerk's decision to the Town Council within five (5) days. After a public hearing, the Town Council shall apply the provisions of Section 4 and Section 5, and affirm or reverse the decision of the Town Clerk.

#### **Section 8 Inspections**

8.1 The person in charge of the site which is the subject of an application for an outdoor event license, or a site that has received an outdoor event license, shall admit any officer, official or employee of the Town authorized to make inspections of the site for compliance with this article or any other ordinance or statute at any reasonable time that admission is requested.

8.2 In addition to any other penalty which may be provided, the Town Clerk may revoke the outdoor event permit of any licensee in the Town who refuses to permit entry by any such officer, official, or employee, or who interferes with such officer, official or employee while in the performance of his or her duty.

#### **Section 9 Waivers**

9.1 The Town Clerk may, in the Clerk's discretion, waive any of the requirements under Section 5 of this article, if the Clerk finds the requirement of information or materials with the application is unnecessary or irrelevant to the review of a particular outdoor event permit application.

#### **Section 10 Penalty**

10.1 Any violation of this ordinance shall be punishable by a fine of not less than three hundred (\$300) dollars for the first offense and not less than five hundred (\$500) dollars for the second and subsequent violation which shall be recovered for the use of the Town of Gorham. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

### **Public Hearing #3**

Public Hearing on a proposal to amend the Town's General Assistance Ordinance.

### **Item #7944**

Action on a proposal to amend the Town's General Assistance Ordinance. (Adm. Spon.)

### **Proposed Order #7944**

**WHEREAS**, the Town of Gorham has a General Assistance Ordinance that is updated annually with new maximum levels of assistance as determined by the State; and,

**WHEREAS**, previously, the Town Council has held a public hearing and acted on each annual update even though the ordinance must be updated by the new levels of assistance as determined by the State; and,

**WHEREAS**, publishing a notice of the public hearing, drafting agenda language and incorporating new language into the General Assistance Ordinance costs staff time and money and is inefficient; and,

**WHEREAS**, the new language would allow the annual changes while being more efficient with staff time and taxpayer funds,

**NOW, THEREFORE BE IT ORDAINED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Town of Gorham's General Assistance Ordinance by:

1. Amending Article 6, Section 6.8 by adding "The maximum levels of assistance are adjusted annually and incorporated into this ordinance as promulgated by the State of Maine" and,
2. Amending Article 6, Section 6.8, paragraph B to remove the words "~~pursuant to the ordinance adoption and amendment procedure found in Title 22 M.R.S.A., section 4305~~".

**Item #7945** Action to establish a committee to organize an event that would attract people to Gorham and be a benefit to businesses and the community. (Spon. Finance Committee 3-0.)

**Proposed Order #7945** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled establishes a committee for the purpose of organizing an event that would attract people to Gorham and be a benefit to businesses and the community; and,

**BE IT FURTHER ORDERED** that the Town Council Chair shall appoint one member of the Town Council who shall serve as the Chair of said committee; and,

**BE IT FURTHER ORDERED** that the Committee Chair shall appoint members of the community and general public as needed to implement the order.

**Item #7946** Action to appropriate funds for a committee to organize an event to attract people to Gorham and be a benefit to business and the community. (Spon. Finance Committee 3-0.)

**Proposed Order #7946** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled appropriate \$3,253 from the Marcia Parkhurst Fund and \$1,747 from the Dana Estes Fund, for a total of \$5,000 to provide funds for the committee to organize an event to attract people to Gorham and be a benefit to business and the community.

**Item #7947** Action to consider accepting MaryAnn Drive, located in Douglass Knoll Subdivision as a public road. (Adm. Spon.)

**Proposed Order #7947** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept MaryAnn Drive, located in Douglass Knoll subdivision, as a public road; and,

**BE IT FURTHER ORDERED** that MaryAnn Drive be classified as a Rural Access Road.

**Item #7948** Action to consider a request from the Economic Development / Capital Improvements Committee to meet with the Gorham Economic Development Corporation and Gorham Civic and Business Exchange to explore and discuss efforts to encourage economic development. (Spon. Economic Development / Capital Improvements Committee 3-0.)

- Proposed Order #7948** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the request of the Economic Development / Capital Improvements Committee to meet with the Gorham Economic Development Corporation and Gorham Civic and Business Exchange to explore and discuss efforts to encourage economic development.
- Item #7949** Action to consider a request to update the NFPA 101 Life Safety Code by adopting the 2009 edition. (Adm. Spon.)
- Proposed Order #7949** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a request to update the NFPA 101 Life Safety Code by adopting the 2009 edition, to the Ordinance Committee for their review and recommendation.
- Item #7950** Action to consider a recommendation from the Ordinance Committee to not approve a proposal to amend the Land Use and Development Code to allow gasoline stations in Little Falls and Gorham Village Center Districts to advertise the price of fuel in LED lighting. (Spon. Ordinance Committee 3-0.)
- Proposed Order #7950** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled not approve a proposal to amend the Land Use and Development Code to allow gasoline stations in Little Falls Village Center District and Gorham Village Center District to advertise the price of fuel in LED lighting.
- Item #7951** Action to consider authorizing the Town to submit applications for four Community Development Block Grants. (Adm. Spon.)
- Proposed Order #7951** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the Town to submit applications and endorse the following Community Development Block Grants as follows:
1. Gorham Village façade improvements for \$56,000 with a local match from the property owners.
  2. A joint application with the Town of Windham for improvements to the Little Falls / South Windham Village for \$80,000 with a local match of \$16,000 (\$8,000 from Windham and \$8,000 from Gorham), with Gorham's local match of \$8,000 appropriated from the contingency account if the grant is approved..
  3. Purchase of a delivery vehicle for the Gorham Ecumenical Food Pantry for \$20,000 with the local match from the Food Pantry.
  4. A planning grant to study the use of Form Based Zoning for \$10,000 with no local matching requirement.
- Item #7952** Action to consider accepting a proposal to conduct a limited planning study of South Gorham. (Adm. Spon.)
- Proposed** **ORDERED** that the Town Council of the Town of Gorham, Maine, in

**Order #7952** Town Council assembled accept a proposal from Bruce Hyman Planning to conduct a planning study of South Gorham; and,  
**BE IT FURTHER ORDERED** that the Town Council appropriate \$35,000 from account #550941-41/55009041 (the Town Clock Reserve Account) for this study; and,  
**BE IT FURTHER ORDERED** that the Town Council close account #550941-41/55009041 and return the balance of \$39,095.55 to the Capital Reserve Account, where the money was originally appropriated from on May 2, 2006.

**Item #7953** Action to consider a proposal to amend the Land Use and Development Code to add a definition for a shed. (Adm. Spon.)

**Proposed Order #7953** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled forward a proposal to amend the Land Use and Development Code by adding a new definition for a shed to the Planning Board for public hearing and their recommendation with the proposal to read as follows:

Shed An accessory detached building used for residential storage, allowed in all districts. If a shed is less than 150 square feet in total area and has a height of less than 15 feet, the shed need only meet a 5 foot side and/or rear yard setback requirement. Only one shed per lot shall be allowed to have the reduced setback. Additional sheds on the lot must meet the otherwise applicable setbacks for the zoning district in which they are located. No variance of the minimum five foot setback requirements shall be granted by the Zoning Board of Appeals

**Item #7954** Action to consider appointment of the Registrar of Voters. (Adm. Spon.)

**Proposed Order #7954** **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled appoint Jennifer Elliott as the Registrar of Voters for the Town of Gorham, per M.R.S.A., Title 21-A, Section 101(2), to a two-year term to expire December 31, 2012.

**ADJOURN**