

AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
July 1, 2014
BURLEIGH H. LOVEITT COUNCIL CHAMBERS

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the June 3, 2014 Town Council Regular Meeting.

Acceptance of the minutes of the June 17, 2014 Special Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

Westbrook Gorham Chamber of Commerce Report on Founders Festival

Election Report

Old Business

Item #8462 Action to consider amending the Council Rules to add a new Section 5.5 that would define "crime of moral turpitude" to include convictions for operating a motor vehicle while under the influence of alcohol and/or drugs or driving to endanger. (Councilor Robinson Spon.)

Proposed

Order #8462 Ordered, that the Town Council amend the Council Rules by adding a new Section 5.5 that would define "crime of moral turpitude" with the following language;

Section 5.5 Pursuant to Section 202 of the Town Charter, if a member of the Town Council is convicted of a crime of moral turpitude, the Council member's office shall immediately become vacant upon conviction. For purposes of this Section, the term "crime of moral turpitude" shall mean a statutory criminal offense involving an element of a bad moral choice for which a councilor has been convicted while in office, including, without limitation, crimes based on fraud, larceny or an intent to harm persons or things. The term shall include conviction(s) for operation of a motor vehicle under the influence of alcohol and/or drugs or driving to endanger.

Item #8463 Action to consider a proposal to ask the voters to amend the Town Charter by adding language to Section 202 of the Town Charter that would define the term "crime of moral turpitude" (Councilor Robinson Spon.)

Proposed

Order #8463 Ordered, that the Town Council approve a referendum for November 4, 2014 preceded by a Public Hearing at least 30 days in advance (with prior notice) that would ask voters to amend Section 202 of the Town Charter by adding a definition of "crime of moral turpitude", and

Be It Further Ordered, that the Town Council call a Public Hearing for September 2, 2014 on said referendum for the purpose of providing information, and
Be It Further Ordered, that the following language be added as an amendment to Section 202 of the Town Charter:

For the purposes of this section, the term "crime of moral turpitude" shall mean a statutory criminal offense involving an element of bad moral choice for which a councilor has been convicted while in office, including, without limitation, crimes based on fraud, larceny or an intent to harm persons or things. The term shall include conviction(s) for operation of a motor vehicle while under the influence of alcohol and/or drugs or driving to endanger and,
Be it Further Ordered, that the ballot question specifies that a majority of the Town Council recommend a yes vote.

New Business

Public Hearing #1 A Public Hearing on a proposal to amend the Town's Special Amusement Ordinance to allow special amusements outdoor and relax the sound provisions in the Ordinance.

Item #8477 Action to consider a proposal to amend the Town's Special Amusement Ordinance to allow special amusements outdoor and relax the sound provisions in the Ordinance. (Adm. Spon.)

Proposed Order #8477 Whereas the Town has an Ordinance to regulate special amusements, and
Whereas , in the past the Town has received applications to conduct special amusements outdoor that the Town Council was unable to approve because the existing Ordinance didn't allow them, and
Whereas, the Town of Gorham is growing and likely to receive other applications for outdoor special amusements, and
Whereas the Town Council would like to allow those applications, while also being fair and reasonable with abutting property owners and neighborhoods,
Now Therefore,

SPECIAL AMUSEMENT ORDINANCE AND PERMITS

Section 1. Applicability

This Ordinance amendment **applies to all events at all facilities licensed by the State to sell liquor, regardless of whether liquor is served at any specific event.** ~~shall be applicable to all proceedings, applications and petitions commenced after July 2, 1996, which is the date this ordinance amendment first appeared on the Town Council agenda.~~ **This Ordinance does not apply to off-premise catering services who have a license from the State of Maine and for catering at planned events or gatherings pursuant to Title 28-A, MRSA, Section 1052.**

Section 2. Repeal

All ordinances or parts thereof, inconsistent with the terms and provisions of this Ordinance, are hereby replaced.

Section 3. Authority

This Ordinance is enacted pursuant to Title 28-A, M.R.S.A., Section 1054 and Title 30-A, M.R.S.A., Section 3001.

Section 4. Purpose

The purpose of this Ordinance is to control the issuance of special amusement permits as required by 28-A M.R.S.A., Section 1054, for music, dancing or entertainment of facilities licensed by the state to sell liquor.

Section 5. Severability

If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Definitions

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

Entertainment shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional or amateur entertainers, by patrons, or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

Exotic Dancing shall mean the appearance of a person or persons, on the licensee's premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee's premises in such a manner or attire as to expose to view any portion of the breast referred to as the aureole, nipple or simulation thereof. "Expose to view" shall be interpreted to mean, without limitation, clear, see-through or clothing which is otherwise non-opaque.

Licensee shall include any person, individual, partnership, firm, association, corporation or other legal entity which is the holder of a license **from the State Bureau of Alcoholic Beverages and Lottery Operations** for the sale of liquor to be consumed on premises owned by said licensee, or any agent or employee of any such licensee.

Premises shall mean **all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest that the licensee uses in the operation of the licensed business and that have been approved by the State of Maine Bureau of Alcoholic Beverages and Lottery Operations.**

Catering Service shall mean **a catering establishment as defined in Title 28-A MRSA, Section 2, and licensed by the State of Maine Department of Human Services.**

Off-Premise Catering shall mean **services of liquor, with or without food, by a person or persons at prearranged functions located at a place other than the licensee's premises.**

Area of Consumption shall mean **the area within the licensed premises approved by the State of Maine for the legal consumption of liquor.**

Section 7. Penalty

Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) to be recovered for the use of the Town of Gorham and shall be subject to such other legal and equitable remedies as may be available to the Town. Each day such violation continues shall be deemed to be a new offense.

Section 8. Application

a) No licensee for the sale of liquor to be consumed on the applicant/applicants licensed premises shall permit on the licensed premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town Council a special amusement permit.

(b) Applications for all special amusement permits shall be made in writing to the Town Council and shall state:

- (1) The name of the applicant;
- (2) The applicant/applicants resident address;
- (3) The name of the business to be conducted;
- (4) The applicant/applicants business address;
- (5) The nature of the applicant/applicants business;

(6) A sketch of the area within the licensed premises approved by the State of Maine for the consumption of liquor;

(7) The location to be used **for the special amusement;**

(8) Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances; and

(9) Whether the applicant, including all partners, corporate officers, managers or principal employees has ever been convicted of a felony or a Class A, B or C crime within the past five years and, if so, the applicant shall describe specifically those circumstances;

(10) A description of the Special Amusement; and

(11) Any additional information as may be required by the Town Council prior to the issuance of the permit, including but not limited to a copy of the applicant's current liquor license.

Section 9. General Requirements

a) No special amusement permit shall be issued for any thing or act or premises, if the premises and buildings to be used do not fully comply with all ordinances, codes, and regulations of the Town.

b) The application fee for a special amusement permit shall be as set by order of the Town Council and on file in the Town Clerk's office and is nonrefundable and must be paid when application is made for the permit.

c) A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in the permit.

d) All music, dancing and/or entertainment **licensed** subject to regulation under this ordinance, on the premises, shall **comply with the following hours:** end no later than 12:00 midnight.

(1) Outdoor Events:

8:00 am to 10:00 pm Sunday - Thursday
8:00 am to 11:00 pm Friday & Saturday

(2) Indoor Events:

8:00 am to 1:00 am Thursday – Saturday
8:00 am to 11:00 pm Sunday - Wednesday

e) The applicant will comply with the following noise regulations:

(e) ~~The maximum permissible sound pressure level produced by any music, dancing and/or entertainment on the premises shall not exceed 50 dB, measured four (4) feet above ground at the property boundary; this measure shall be made by a meter set on the A-weighted response scale, slow response, and the meter shall meet the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters".~~

(1) The maximum permissible hourly A-weighted equivalent sound level produced by any activity regulated by this Ordinance shall be established by the time period and type of land use listed below in Table 1. The term A-weighted equivalent sound level (L_{Aeq}) shall be as defined by applicable American National Standards Institute (ANSI) Acoustical Terminology.

Table 1: Sound Level Limits: A-weighted hourly equivalent sound level

<u>District</u>	<u>Sound Level Limit (dBA)</u>	
	<u>Daytime (8am -12am midnight)</u>	<u>Nighttime (12am - 8am midnight)</u>
<u>Residential: Urban, Suburban, Rural, Office Residential</u>	<u>70</u>	<u>50</u>
<u>Industrial/Commercial: Urban Commercial, Roadside Commercial, Industrial, Commercial/Office, Village Center, Narragansett Development</u>	<u>70</u>	<u>60</u>
<u>The district classification of a lot is determined by that lot's zoning classification. Where two lots of differing district classifications abut, the residential sound level limit will apply.</u>		

(2) Sound level limits shall apply at all lot lines of the building, premises or location set forth under Section 8 of this ordinance where the sound is produced including all Residential District lot lines. Compliance measurements shall be taken in accordance with this Noise Ordinance, which is generally consistent with appropriate ANSI standards. Sound levels shall be measured at a height of at least five (5) feet (1.52 meters) above the ground surface using a Type 1 or Type 2 sound level meter (as defined by ANSI S1.4) at all major lot lines. The sound level meter and microphone shall be field calibrated at the site prior to and after conducting the sound level measurements. The sound level meter, microphone and field calibrator shall also have been calibrated by a certified acoustic laboratory within 12 months of field measurements.

f) Premises that are licensed for outdoor music, dancing and/or entertainment under this ordinance shall create a reasonable buffer zone between the performance/audience areas and the property line when requested by the Code Enforcement Officer to avoid nuisance conditions on neighboring properties.

(g) The Town Council may impose conditions for protecting the public health, safety and welfare on any Special Amusement License it issues.

Section 10. Conduct Constituting Offenses by Licensees

Tumultuous Conduct. The Licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or be disorderly by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety, or welfare.

Riots. The Licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

Unnecessary Noise. The Licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise which disturbs, annoys, injures or prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare, or the prosperity of the residents of the municipality.

Nuisances. The Licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances or rules and regulations of the municipality, or under any statutes of the State of Maine.

Prostitution and Public Indecency. The Licensee shall not allow on any licensed premises or aid in or offer or agree to or allow near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.

Gambling. The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the State of Maine.

Obscenity. The Licensee, on any licensed premises, shall not:

a) ***Material.*** Knowingly disseminate, distribute or make available to the public any obscene material; or

b) ***Performance.*** Knowingly make available to the public any obscene performance; or

c) ***Commercial Activity.*** Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or

d) ***Exposure.*** Provide service to patrons in such a manner as to expose to public view:

(1) The Licensee's or any of his agent's or employee's genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(2) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(3) Any portion of the female breast at or below the aureole thereof; or

e) *Promotion.* Knowingly promotes the commission of any of the above-listed acts of this Section.

f) *Definitions.* For the purpose of this Section, “obscene” means that to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this Section above, and the matter or act or performance considered as a whole lacks serious literary, artistic, political, or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine. “Material” means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines. “Disseminate” means to transfer possession of, with or without consideration. “Knowingly” means being aware of the character and the content of the material. “Performance” means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience. “Available to the public” means that the matter or performance or act may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor. “Service to patrons” means the provision of services to customers, patrons, or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hat-checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertainment. For the purposes of this Section and any other section of this Article, unless specified otherwise, “promote” means to cause, permit, procure, counsel or assist.

Section 11. Regulations for exotic dancing.

The following regulations apply to the performances of exotic dancers in establishments holding a special amusement permit:

(1) No dancer shall dance in the establishment except on a platform raised at least two (2) feet from the floor.

(2) No dancer shall dance closer than ten (10) feet from any patron.

(3) There shall be no fondling, mingling or caressing in the establishment between any patron and any dancer with the intent to sexually arouse or excite a patron’s sexual desire.

(4) No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from any patron.

(5) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.

(6) Dancers on the premises who remove any outer garments shall not toss or throw those outer garments at or in the direction of the patrons.

(7) The licensee shall, at his own expense, post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each such performance.

(8) No one under twenty-one (21) years of age shall be permitted on the premises or portion of the premises where a performance by dancers is conducted during any such performance.

(9) Any premises upon which entertainment including a dancer or dancers is proposed to be conducted shall be located at least one thousand (1,000) feet from any church; school; park; other facility holding a special amusement license under this Ordinance and which provides "dancers" as defined in this Ordinance; or any area for which residential uses are either a permitted use or a conditional use under the Zoning Ordinance of the Town of Gorham, Maine (in each of the above instances, the distance shall be measured from property line to property line).

(10) There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing in this paragraph shall prohibit the establishment from advertising by words the nature of the entertainment.

Section 12. Classes and Fees

(a) The fee for a special amusement permit shall entitle the applicant to one (1) of the following classes of permits:

(1) *Class I.* Permit for live performances of music, ~~provided nevertheless that the Class I permit shall limit the holder of same to three (3) live musicians or singers performing within the restaurant structure.~~ No dancing or floor show entertainment shall be allowed on the premises holding a Class I permit.

(2) *Class II.* All of the privileges allowed in a Class I permit plus dancing ~~within the restaurant structure~~ to recorded or live music with no limitation upon the number of live musicians or singers.

(3) *Class III.* All of the privileges allowed in Class I and Class II permits plus a floor show type of entertainment. ~~within the restaurant structure.~~

(b) The entertainment allowed under any class of permit provided for herein shall be conducted at a level which complies with the provisions of Section 9(e) of this ordinance. Permits issued hereunder shall specify the hours during which permitted entertainment may be provided.

(c) An applicant may apply for any of the above three (3) classes of permit.

Section 13. Hearing.

(a) The Town Council shall, prior to granting a special amusement permit and after reasonable notice to the town residents and the applicant, hold a public hearing within thirty (30) days of receipt of a completed application, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.

(b) Prior to obtaining a permit, the applicant must show at the public hearing required in this section that:

(1) The issuance of the requested permit will not be detrimental to the public health, safety, or welfare;

(2) The proposed activity to be licensed will not create a traffic hazard;

(3) The applicant has ample parking to accommodate the proposed activity;

(4) The proposed activity will not, either by reason of its scope or noise, adversely affect surrounding or abutting property and that it will not unreasonably interfere with the use, enjoyment and value of surrounding and/or abutting property;

(5) The applicant is in conformance with all provisions of the town zoning ordinance, all applicable health codes, and other applicable municipal, state and federal codes, ordinances, regulations and statutes;

(6) In the case of a facility located in a residential zone, that the activities will not tend to change the residential character of the neighborhood.

(7) Neither applicant nor its officers, agents, or principle employees has been convicted of a felony or Class A, B, or C crime within the past five years.

(c) In making the determination of whether the applicant has satisfied the criteria set forth in (b) above, the Town Council shall consider, but shall not be bound by, neighborhood opinion and sentiment.

Section 14. Term of Permit

A special amusement permit shall be valid only for the license year of the applicant's existing liquor license.

Section 15. Inspections

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are approved for or required by ordinance or state law or are reasonably necessary to secure compliance with any town ordinance, code or regulation or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or detect violations thereof, it shall be the duty of the licensee, or person in charge of such premises, to give any authorized officer, official or employee of the Town requesting the same, sufficient samples of such material or commodity for such analysis or investigation upon request.

(c) In addition to any penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee who refuses to permit any such officer, official or employee to make an inspection or who interferes with such officer, official or employee while in the performance of his duty, provided that no license or special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

Section 16. Suspension or Revocation

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this ordinance on the grounds that the music, dancing, or entertainment permitted constitutes a detriment to the public health, safety or welfare or violates any town regulations, ordinances, or rules or determines that the application was false or misleading in a fashion material to the approval.

Section 17. Appeals

(a) Any licensee requesting a special amusement permit from the Town Council shall be notified in writing of their decision no later than thirty (30) days from the date his application was received. In the

event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit has been denied.

(b) Any licensee who has requested a permit and has been denied or whose permit has been revoked or suspended may, within thirty (30) days from the date of the denial, suspension or revocation, appeal the decision to the Board of Appeals.

Section 18. Rules and Regulations for Special Use Permits

The Town Council is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of special amusement permits; the classes of permits; the music, dancing or entertainment permitted under each class; and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this division.

Public

Hearing #2 A Public Hearing on a proposed Ordinance to provide for the Recall of elected officials.

Item #8478 Action to consider a proposed Ordinance to provide for the Recall of Elected Officials. (Council Spon. Roullard and Moulton)

Proposed

Order #8478 Whereas, the Town of Gorham had several instances that have led to discussions about whether individual Council members have violated Section 202 of the Town Charter, and whether the Town Council should act on these instances, and
Whereas, in the course of those discussions, it was realized that the citizens had no recourse to recall an elected official, and
Whereas, the Town Council believes that citizens should have an opportunity to recall elected officials but also wants to have effective government and not hold elected officials hostage every time they vote on a controversial issue,
Now Therefore Be It Ordained by the Town Council of the Town of Gorham, Maine in Town Council assembled that the following Town of Gorham Ordinance for the Recall of Elected Officials be and hereby adopted:

Ordinance for the Recall of Elected Officials of the Town of Gorham

SECTION 1. Establishment

Under M.R.S.A. Title 30-A Section 2602 (6), a town may enact an ordinance for the recall of elected municipal officials with the exception of school board members (“Elected Officials”)

SECTION 2. Purpose and Authority

This ordinance provides the means and method by which the voters of Gorham may seek the recall of Elected Officials. This ordinance is enacted pursuant to Title 30-A M.R.S.A., §2528, §2602, §3001, and §3002.

SECTION 3. Procedure

- a.** The petition for recall must contain only signatures of the registered voters of the Town of Gorham, equal to, or greater than, 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.
- b.** The petition shall be addressed to those members of the Town Council, whose recall is not the subject of the petition. If all Elected Officials are the subject of the recall, then the petition shall be addressed to the Town Clerk.
- c.** The petition shall state the name and office of the person whose removal is being sought, and specify the petitioners' reason(s) the recall is sought, as outlined in Section 3. d.
- d.** An Elected Official may be recalled for (i) failure to appropriately carry out duties and responsibilities of the office (such as failure to represent the will of the people of Gorham); (ii) engaging in conduct which brings the office into disrepute; (iii) engaging in conduct which displays an unfitness to hold the office; or (iv) for the indictment or conviction of a felony under the laws of the State of Maine or the laws of the United States, or the laws of any other State or Nation, or entry of a plea of guilty or no-contest to such an offense.
- e.** If recall of more than one Elected Official is being sought, there shall be a separate petition for each official whose recall is being sought.
- f.** Each page of the petition shall provide a space for the voter's signature, address and printed name.
- g.** The petition blanks shall be dated with the date the petitioner initiates the recall request. The petition shall be available for signatures for 30 calendar days. At the expiration of said 30 calendar days, the Town Clerk shall declare the petition closed.
- h.** A petition form may be circulated or signed only by a registered voter of the Town of Gorham. Petitions may not be left, unattended or unsupervised for signatures. Circulators are responsible for certifying the validity of signatures on a petition and certifying that the signatures were made in their presence.
- i.** All petition pages shall be filed as one document.

SECTION 4. Incumbent Duties Continued

The incumbent shall continue to perform the duties of the office until the results of the recall election are certified. If not recalled, the official shall continue in office for the remainder of the unexpired term, subject to the subsequent recall. If recalled, the official shall be deemed removed from office upon certification of the election results.

SECTION 5. Clerk's Certification

Within ten days of receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in Section 3 of this ordinance. Should the petition be found insufficient, the petition will be filed in the clerk's office, and the voter who filed the petition will be notified.

SECTION 6. Calling the Recall Election

- a.** If the Town Clerk certifies the petition as sufficient, the Clerk will submit the petition with his or her certification to the Town Council at its next regular meeting and shall notify the official or officials whose removal is being sought of such action.
- b.** Subject to the provisions of Sec. 211 and Sec. 811 of the Town Charter, within ten days of receipt of the certified petition, the Town Council shall order an election by written, secret ballot, pursuant to 30-A MRSA § 2528, to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition. In such case, the Town Council may, at its discretion, provide for the holding of the recall election on the date of the regular municipal election.
- c.** In the event that the Town Council fails or refuses to order an election as herein provided, the Town Clerk shall call the election to be held not less than 45 days nor more than 60 days following the Town Council's failure or refusal to order the required election.
- d.** If, between the time of ordering the recall election and the 21st day before said election, the official whose recall is being sought requests a public hearing, the Town Council shall promptly schedule such a hearing to occur not fewer than 7 days before the election, and shall provide adequate posting at least 7 days before said hearing.

SECTION 7. Ballots for Recall Election

Unless the official or officials whose removal is being sought have resigned within ten days of receipt of the petition by the Town Council, the ballots shall be printed and shall ask the question: "SHALL (name of official) BE RECALLED?," and provide adjacent boxes for "Yes" or "No" responses.

SECTION 8. Result of Election; applicability

- a.** To be valid, the total number of votes cast in the recall election shall be at least 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.
- b.** If a 65% majority, or more, of those voting in a recall election shall vote in favor of recalling such official, such official is thereby removed from office upon certification of the vote by the Town Clerk. A tie vote will defeat the recall.
- d.** This ordinance shall apply to Elected Officials in office at the time of adoption of this ordinance, as well as those elected subsequently.

SECTION 9. Vacancies to be filled

A vacancy resulting from removal from office under this ordinance shall be filled in accordance with the provisions of Maine law and the Town Charter.

SECTION 10. Limitations

- a.** No petition for recall shall be filed against an official with fewer than 60 days of a multiyear term remaining.

b. If an official has been the subject of an unsuccessful recall election, no new recall petition shall be filed against that official until at least twelve months have passed since said recall election.

SECTION 11. Validity

It is intended that each section of this ordinance shall be deemed independent of all other sections herein and that if any provision within this ordinance is declared invalid, all other sections shall remain valid and enforceable.

SECTION 12. Effective date

This ordinance shall be in full force and effect as soon as passed by the Town Council.

Public Hearing #3 A Public Hearing on a proposal to amend Chapter II, Section V, and Chapter II, Section VI of the Land Use and Development Code to adopt a campground overlay district.

Item #8479 Action to consider a proposal to amend Chapter II, Section V and Chapter II, Section VI of the Land Use and Development Code to provide for a campground overlay district.. (Admin. Spon)

Proposed Order #8479 Whereas, the Town of Gorham has a campground business that has been in existence for many years, and
Whereas, the long existing campground would not be in compliance with the Town’s Land Use and Development Code, and
Whereas, it is in the Town’s interest and the Campground owners interest that the Town adopt thoughtful regulations that bring the campground into compliance and also provide reasonable regulations for any future expansion that may occur,
Now Therefore

SECTION VI **Campground overlay District** ~~Seasonal and Recreational~~

A. **CAMPGROUNDS AND TRAILER PARKS**

- 1.) **Land Area.** A campground may not be constructed on less than 5 acres of land.
- 2.) **Tent Site Area** Each area proposed for a tent site or parking space fir a travel trailer, pick-up camper, motorized camper, or tent trailer must contain at least 2,500 square feet.
- 3.) **Fireplace** Each tent site must be provided with a masonry or metal fireplace approved by the **Fire Chief** ~~Director of Public Works~~.
- 4.) **Site Plan** An applicant for a campground permit must furnish specific information concerning the campground including site plan illustrating the location and design of the proposed sewage disposal and water supply systems, the means of firefighting, and the type and location of roads proposed within the campground.
- 5.) **State Law** In all other regards, the applicant shall observe the provisions of State Law governing campgrounds.
- 6.) **License and Permit** The licensing and permit issuance and requirements shall be the same as the regulations pertaining to mobile home parks licensing in the Mobile Home Park Ordinance.

7.) **Establishment. A campground and/or trailer park may only be established or expanded within the Town's Campground Overlay District.**

Item # 8480 Action to consider clarifying the responsibilities of the Town Council's Finance Committee.
(Councilor Phillips Spon)

Proposed

Order #8480 Ordered, that the Town Council clarify that the on-going responsibilities of the Finance Committee include reviewing all of the monthly financial reports, including the monthly report of the recreation reimbursable accounts, reviewing restricted and reserve accounts that are not part of the annual budget, tax lien foreclosures, to meet with the Town Auditors to review the annual audit and, in addition, to consider other items referred to the Finance Committee by the Town Council.

Item #8481 Action to consider asking the Ordinance Committee to consider developing an amendment to Chapter II, Section III, Signs, of the Land Use and Development Code to allow for A-frame or Sandwich board signs in Gorham Village and as directional signs for Farm stands. (Councilors Benner and Roullard Spon.)

Proposed

Order #8481 Ordered, that the Town Council ask the Ordinance Committee to consider developing amendments to Chapter II, Section III, Signs, of the Land Use and Development Code to allow for A-frame or Sandwich board signs in Gorham Village and as directional signs for Farm stands for the Council to consider at a future meeting.

Item #8482 Action to consider appropriating funds from the South Street Sidewalk reserve fund for improvement to the sidewalk on South Street (Admin. Spon.)

Proposed

Order #8482 Ordered, that the Town Council appropriate \$14,000 from the Rt. 25/114 sidewalk reserve fund for repairs to the sidewalk on the west side of South Street from Green Street to Morrill Avenue and for renovations to the sidewalks at the intersections of South Street and Green Street and South Street and Preble Street to accommodate a cross-walk from Green Street across South Street to Preble Street.

Item #8483 Action to consider a request to remove the parking spaces near 60 South Street. (Admin Spon.)

Proposed

Order #8483 Ordered, that the Town Council remove the parking spaces abutting the driveway at 60 South Street.

Item #8484 Action to consider asking the Ordinance Committee to review the Narragansett Development District to see if additional permitted uses or other changes could be made to encourage more development within the district. (Councilor Phinney Spon.)

Proposed

Order #8484 Ordered, that the Town Council ask the Ordinance Committee to review the Narragansett Development District to see if additional permitted uses or other changes could be made to

encourage more development within the District and recommend appropriate changes to the Land Use and Development Code for the Town Council to consider.

Item #8485 Action to consider sending the certificate of taking document produced for the Phinney Street Extension eminent domain proceedings to a forensic lab for verification. (Councilor Hartwell Spon.)

Proposed

Order #8485 Ordered, that the Town Council send the Certificate of Taking Document produced for the Phinney Street Extension eminent domain proceedings voted by the Town Council on March 5, 2002, to the Speklin Forensic Laboratories in East Lansing, Michigan for verification, and Be It Further Ordered that the Town Council appropriates an amount not to exceed \$2,500 from the contingency account to pay for the work.

Item #8486 Action to go into Executive Session pursuant to Title 1, M.R.S.A Section 405 (6) (D) to discuss labor negotiations with the employees of the Fire Department and the Labor Contract with Police employees. (Admin Spon.)

Proposed

Order #8486 Ordered, that the Town Council, pursuant to Title 1, M.R.S.A. Section 405 (6) (D), go into Executive Session to discuss labor negotiations with employees of the Fire Department and the Labor Contract with Police employees.

ADJOURN

