

**REPORT OF THE REGULAR MEETING OF THE GORHAM TOWN COUNCIL
September 1, 2009 - 7:00 p.m.**

Chairman Robinson opened the meeting at 7:04 pm.

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

Roll Call of the Huston Waterman Trust: Present: Trustees Caldwell, Csoros, Loveitt, Miner, Moulton, & Robinson Absent: Trustee Phinney

Moved by Trustee Caldwell, seconded by Trustee Moulton and **VOTED** to appropriate \$500 from the Huston-Waterman Trust Fund for a hot water heater replacement. **6 yeas.**

Moved by Trustee Moulton, seconded by Trustee Csoros and **VOTED** to adjourn the meeting of the Huston-Waterman Trust. **6 yeas.**

Roll Call of the Town Council: Present: Chairman Robinson, Councilors; Caldwell, Csoros, Loveitt, Miner & Moulton Town Manager, David Cole and Town Clerk, Christina Silberman Absent: Councilor Phinney

Moved by Councilor Loveitt, seconded by Councilor Csoros and **VOTED** to accept the minutes of the August 4, 2009 Regular Town Council Meeting. **6 yeas.**

Open Public Communications

There were no communications from the public.

Councilor Communications

Councilor Moulton reported that the Capital Improvements Committee met and discussed the roof repairs at Robie Gym on the agenda tonight. They toured the building and it is in good shape for it's age and the Committee recommends the roof repairs.

Councilor Caldwell reported that the School Building Committee met August 5th. Things are moving along well. The bids have gone out and will be opened on September 22nd. The Committee will meet on September 23rd to discuss alternatives. Norman Justice is back on the School Building Committee. Councilor Caldwell also reported that on August 21st she met with the auditors and things are going great and are better than last year.

Councilor Loveitt reported that the Maine Turnpike Committee has been meeting. Town Manger, Mr. Cole and Economic Development Director, Mr. Ellsworth, have been very diligent at these meetings. Councilor Loveitt indicated that the process is currently a time of public input and all parties have an opportunity to put their oar in the water. Councilor Loveitt also reported that the Ordinance Committee has met and an item is on tonight's agenda. Councilor Loveitt asked that Chairman Robinson consider facilitating a program to organize citizens to take care of the roundabouts in town, similar to the "adopt a road" programs. Chairman Robinson stated that he will work on this.

Chairman's Report

Chairman Robinson thanked the Council for attending the workshop along with the Planning Board and Town Attorney Bill Dale. There was good conversation and they accomplished a lot. He also thanked Councilor Caldwell for nominating him for the County Budget Advisory Committee. Mr. Robinson will serve a two-year term and will meet with County Manager Peter Crichton. He is looking for no County tax increases. The Town

Council has been flooded with citizen e-mails lately and he has heard comments that it takes a long time for the Council to reply. Chairman Robinson explained that there are times when the Town Council has forwarded a question to a Department Head who then responds to the citizen. If the Council is aware that a Department Head has answered the question, the Council may not reply because the question has been answered. Chairman Robinson reminded citizens that in 10 days it will be the 8-year anniversary of Sept. 11th and we should remember this.

Town Manager's Report

Town Manger, David Cole, reported that nomination papers are currently available for two seats on the Town Council and two seats on the School Committee. Completed nomination papers must be submitted to the Town Clerk by Friday, September 18th. Mr. Cole reported that the Inter-library loan program is back up and running.

School Committee Report

School Committee Chairman, Dennis Libby, reported on the following:

- School has begun
- The new Facilities Director is Norm Justice. Mr. Libby welcomed Norm.
- A letter regarding flu season and considerations that are under way for possible flu vaccine clinics in schools.
- August 28th meeting with the State to discuss state revenue.
- New Elementary School Committee; the project has gone out to bid and there is final approval from the Department of Education. The bid opening will be September 22nd. Their next meeting will be on September 23rd to review the bids.

Department Report – Assessing Department

Town Assessor Michael D'Arcangelo thanked the Town Council for inviting Department Heads to speak and reported on the Assessing Department. The Assessing Department has three positions; two full time positions, the Assessor and Assistant Terry Calabraro and a half time person Dawn Pazmany. Assessing staff are cross-trained as much as possible. In Gorham, the assistant is required to obtain the Certified Maine Assessor designation within three years and Terry has done this.

Mr. D'Arcangelo reviewed the duties and responsibilities of the Assessing Department. The Assessing Department uses a computer program called Vision that is table driven and has information about value, room counts, etc. They gather information about personal property that businesses have and conduct sales studies and look at market sales every month. They do a lot of data entry for data gathered in the field, information on deeds, new owners and corrections, property value changes, new lots, etc. The Assessing department is the E911 official addressing agent and they create addresses using 50' increments. They update and create new tax maps annually. Assessing also does a lot of customer service. They administer many exemption and tax reduction programs. Assessing processes corrections, abatements, and issues supplemental bills. They issue the commitment and convert data into Fundsense, the accounting program. The Assessor and Assistant attend training to keep their CMA standing.

Mr. D'Arcangelo explained how taxes are calculated relevant to property values and the town budget. Mr. D'Arcangelo explained the State's Business Equipment Tax Exemption (BETE) program and explained that personal property taxes will be phased out over time.

Councilor Caldwell asked for information about the website. Mr. D’Arcangelo described the information available on the website and how to access it. Councilor Caldwell asked if comparisons can be done and Mr. D’Arcangelo replied that you can look at anyone’s data and can do comparisons.

Old Business

Moved by Councilor Loveitt, seconded by Councilor Csoros and **VOTED** to conduct the old business after the new business. **6 yeas.**

New Business

Public Hearing #1 Chairman Robinson opened the public hearing for a Special Amusement Permit for YourSpace. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7744 Moved by Councilor Loveitt, seconded by Councilor Caldwell and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the issuance of a Special Amusement Permit for YourSpace. **6 yeas.**

Public Hearing #2 Chairman Robinson opened the public hearing to consider approval to renew the liquor license for Gorham House of Pizza. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7745 Moved by Councilor Moulton, seconded by Councilor Miner and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve the renewal of the liquor license for Gorham House of Pizza. **6 yeas.**

Public Hearing #3 Chairman Robinson opened the public hearing on a request from Grondin Properties, LLC, to amend the Olde Canal Business Park Municipal Development and Tax Increment Financing (TIF) District. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7746 The proposed order was moved by Councilor Moulton and seconded by Councilor Caldwell. Phil Grondin, a manager at Grondin, LLC, explained this request. Moved by Councilor Moulton, seconded by Councilor Miner and **VOTED** to amend the proposed order to ask the Finance Committee to review the request. **5 yeas.** The amended order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled ask the Finance Committee to review a request to amend the Olde Canal Business Park Municipal Development and Tax Increment Financing (TIF) District by changing the expiration of the district from June 30, 2028 to June 30, 2033. **5 yeas.**

During discussion of the above item, the Chairman called for a recess and Councilor Moulton left the meeting temporarily and returned during discussion of the following item.

Public Hearing #4 Chairman Robinson opened the public hearing to amend the Land Use and Development Code Chapter II, Section V-Minimum Standards for the Design and Construction of Streets and Ways, paragraph C Access to Adjoining Land. Susan Duchaine, Design Dwellings, discouraged adoption of this item. Chairman Robinson closed the public hearing.

Item #7747 Moved by Councilor Miner, seconded by Councilor Loveitt and **VOTED** to waive further reading of the proposed order. **5 yeas.** The proposed order was moved by

Councilor Loveitt and seconded by Councilor Miner. Moved by Councilor Loveitt seconded by Councilor Caldwell and **VOTED** to amend the proposed order to incorporate the changes found in alternative B with a revised date of 8/14/2009 with the changes discussed by the Town Council Ordinance Committee on 8/26/2009. **4 yeas, 1 nay (Csoros)**. The amended order was then voted.

WHEREAS, the Land Use and Development Code contains a provision that allows for the continuation of roads to provide access to adjoining property and limit unnecessary curb cuts; and,

WHEREAS, requiring that land be set aside for the continuation of roads to connect to previously dedicated right-of-ways on adjoining property furthers the intent to connect roads, when reasonable, in order to minimize future winter maintenance costs and limit curb cuts that erode roadway capacity,

NOW THEREFORE BE IT ORDAINED that the Town Council of the Town of Gorham, Maine, in Town Council assembled amend the Land Use and Development Code Chapter II, Section V-Minimum Standards for the Design and Construction of Streets and Ways, paragraph C Access to Adjoining Land as proposed in alternative B with a revised date of 8/14/2009 with the changes discussed by the Town Council Ordinance Committee on 8/26/2009. **4 yeas, 1 nay (Csoros)**.

PROPOSED AMENDMENT TO GORHAM LAND USE CODE ALTERNATIVE B Revised 08/14/09, Changes discussed at 08/26/09 Town Council Ordinance Committee Meeting SECTION V-MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS (Note: Additions are underlined and deletions are ~~struck-out~~.)

A. PURPOSE

The purpose of this section is to set uniform standards for the design of streets and ways in the Town of Gorham in order to provide for safe vehicular and pedestrian travel and appropriate service to adjacent land.

B. GENERAL

No street or way shall be laid out and accepted as a public street or way by the Town of Gorham, Maine except in accordance with the provisions of this Section of the Land Use and Development Code.

C. ACCESS TO ADJOINING LAND

- 1) The Planning Board shall provide for road continuation to limit unnecessary curb cuts and/or to provide for street access to ~~undeveloped~~ adjoining ~~property~~ properties by dedication on a subdivision plan, of a fifty-foot wide right-of-way to the boundary of adjacent ~~property~~ properties, unless the Planning Board determines it is not in the public interest to require access to adjoining land ~~and~~ or (1) the topography is not suitable for access to adjoining land, or (2) the project is surrounded by wetlands and no suitable land is available for continuation. Access to adjacent developed land shall be provided by the dedication on a subdivision plan of a 50-foot right-of-way connecting to previously dedicated rights-of-way.
- 2) Road connections to adjacent developed land are to be fully constructed at the time of development in subdivisions that are located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts unless the Planning Board determines that fully constructing the road connection is not in the public interest because (1) the road connection will create an unsafe situation for residents of the subdivision or existing neighborhoods due to a substantial increase in traffic

volume or speed, or (2) the road connection will result in motor vehicles using the connection as a cut-through to avoid either waits at nearby signalized intersections or the use of neighboring arterial or connector streets. Further, if full construction of the road connection is determined by the Planning Board to have the potential of creating lengths of unoccupied road that, due to their isolated location, may result in maintenance or nuisance issues, including but not limited to illegal dumping, the Planning Board may either waive the construction requirement or allow the street construction to be limited to clearing of the area and construction of the sub base.

- 3) In a subdivision that has proposed private ways as well as public streets that are proposed to be dedicated to the Town for acceptance, the future road connection rights of way shall be established from said public streets proposed to be dedicated to the Town for acceptance.
- 4) In subdivisions where only private ways are proposed, the subdivision plan does not need to comply with paragraph C1) ~~but not paragraph~~ or C2) above. In the event that a street approved as a private way in the subdivision is later presented to the Town for acceptance as a public street, the road connection right of way must be included in a deed to the Town for acceptance at the same time as the street and if the subdivision is located wholly or partly in the Development Transfer Overlay District, the Urban Residential District or the Village Centers Districts, the road connection must be fully constructed prior to street acceptance.

Councilor Moulton returned to the meeting during discussion of the above item and did not vote on this item because he had missed part of the discussion.

Town Manager, David Cole, introduced the new Zoning Administrator, Sandra Mowery. Ms. Mowery greeted the Town Council and said that she is looking forward to getting a lot done.

Public Hearing #5 Chairman Robinson opened the public hearing on a proposed ordinance to manage stormwater after construction of a project. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7748 Moved by Councilor Loveitt, seconded by Councilor Caldwell and **VOTED** to waive further reading of the proposed order. **6 yeas.** The proposed order was moved by Councilor Loveitt, seconded by Councilor Caldwell and voted.

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

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

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

NOW THEREFORE BE IT ORDAINED that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt the Post Construction Stormwater Management Ordinance as proposed. **6 yeas.**

Post-Construction Stormwater Management Ordinance

Section 1. Purpose

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

Section 2. Objectives

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

Section 3. Definitions.

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

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

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

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

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

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

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

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

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

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

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

3.11 National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.

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

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

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

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

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

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

3.17 Qualified Post Construction Stormwater Inspector. “Qualified Post Construction Stormwater Inspector” means a person who conducts post-construction inspections of Stormwater Management Facilities and meets the following qualifications:

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

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

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

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

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

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

Have received appropriate training from the Department of Environmental Protection.

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

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

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

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

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

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

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

Section 4. Applicability.

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

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

Section 5. Post-Construction Stormwater Management Plan Approval

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

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

Section 6. Post-Construction Stormwater Management Plan Compliance

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

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

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

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

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

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

- A. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;
- B. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Municipality;
- C. The number of sites with documented functioning Stormwater Management Facilities; and

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

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

Section 7. Enforcement.

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

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

- A. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;
- B. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or
- C. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

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

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

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

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

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

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

Section 8. Severability.

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

Section 9. Basis.

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

APPENDIX 1

Town of Gorham
Annual Stormwater Management Facilities Certification
(to be sent to Code Enforcement Office
75 South Street, Suite 1
Gorham, ME 04038)

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

1. I am making this Annual Stormwater Management Facilities Certification for the following property:
_____ (print or type name of subdivision, condominium or other development)
located at _____ (print or type address), (the “Property”);
2. The owner, operator, tenant, lessee or homeowners’ association of the Property is: _____
(name(s) of owner, operator, tenant, lessee, homeowners’ association or other party having control over the Property);
3. (Circle One) I am the:
 - a. Owner
 - b. Operator
 - c. Tenant
 - d. Lessee
 - e. President of the Homeowners’ Association
 - f. A qualified Post Construction Stormwater Inspector
4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;
5. On _____, 20___, I inspected or had inspected by _____, a Qualified Post Construction Stormwater Inspector, the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

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

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

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

Date: _____, 20____. By: _____

Signature

Print Name

STATE OF MAINE

_____, ss. _____, 20__

Personally appeared the above-named _____, the _____ of _____, and acknowledged the foregoing

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

Before me,

Notary Public/Attorney at Law

Print Name

Mail this certification to the Municipal Enforcement Authority at the following address
Code Enforcement Office
75 South Street, Suite 1
Gorham, ME 04038

Public Hearing #6 Chairman Robinson opened the public hearing on a proposal to adjust the fee for subdivision applications and projects. Susan Duchaine, Design Dwellings, asked that this item be put on hold or sent to committee for review. Ms. Duchaine spoke against a flat-fee fee schedule. Chairman Robinson closed the public hearing.

Item #7749 The proposed order was moved by Councilor Loveitt and seconded by Councilor Csoros. Moved by Councilor Loveitt seconded by Councilor Miner and **VOTED** to amend the proposed order to remove the word "user". **6 yeas**. Moved by Councilor Moulton and seconded by Councilor Miner to amend the proposed order to add "and be it further ordered that the Finance Committee be asked to review the fee structure". Moved by Councilor Moulton and seconded by Councilor Miner to retract the previously proposed amendment. Moved by Councilor Moulton, seconded by Councilor Csoros and **VOTED** to amend the proposed order to ask the Finance Committee to review the proposed changes to the fee schedule. **6 yeas**. The amended order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled ask the Finance Committee to review the proposed changes to the Fee Schedule. **6 yeas**.

Public Hearing #7 Chairman Robinson opened the public hearing on a proposal to amend the Sex Offender Ordinance. There were no comments from the public. Chairman Robinson closed the public hearing.

Item #7750 Moved by Councilor Caldwell, seconded by Councilor Loveitt and **VOTED** to waive further reading of the proposed order. **6 yeas**. The proposed order was moved by Councilor Caldwell, seconded by Councilor Miner and voted.

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

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

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

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

0 years, 6 nays – motion fails.

Item #7751 The proposed order was moved by Councilor Moulton, seconded by Councilor Caldwell and voted.

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

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

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

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

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

NOW THEREFORE BE IT RESOLVED that the Town Council of the Town of Gorham, Maine, in Town Council assembled encourage voters to vote "NO" on this referendum because of the negative consequences to Gorham and further agree to provide information to the voters regarding the harm to the community. **4 years, 2 nays (Csoros & Miner).**

Item #7752 Moved by Councilor Moulton, seconded by Councilor Caldwell and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled adopt a new Cable Television Policy, as presented; and,

BE IT FURTHER ORDERED that the Cable Television Policy approved by the Town Council on August 6, 1991 and By-Laws of the Gorham Cable Television System approved by the Town Council on June 2, 1981 shall be voided effective September 1, 2009. **6 years.**

TOWN OF GORHAM CABLE TV POLICY

Section 1. Purpose

1.1 The Town of Gorham operates two cable tv community broadcast channels pursuant to Federal and State Law and has a cable franchise agreement with a service provider. It provides a wonderful opportunity for citizens to obtain information about the community, see local government at work, view community events, and receive information not otherwise available on commercial channels. This policy is intended to refine and clarify the roles and responsibilities regarding the operation of this valuable resource.

Section 2. Definitions

2.1 **Educational Access Programming**

Refers to programming that is produced by or sponsored by the Gorham School Department, primarily on Channel 2. These programs are regulated by the Gorham School Department.

2.2 Government Access Programming

Refers to programs that are produced by or sponsored by the Town of Gorham. Such programs are regulated by municipal officials.

2.3 Public Access Programming

Programming of community interest that may be produced by, or sponsored by, a Gorham resident or non-profit organization.

2.4 Producer/Sponsor

Refers to a resident of Gorham, or a person designated by an eligible non-profit organization, that assumes responsibility for the content of the program that they supply to GOCAT. Sponsored programs should provide a local phone number at the end of the program that residents may contact FMI.

Section 3. Roles and Responsibilities

3.1 Town Council

The Town Council is responsible for establishing policies, setting priorities and approving the annual budget regarding the operation of the local cable broadcast system.

3.2 Cable TV Committee

The Cable TV Committee shall consist of seven people appointed by the Town Council for three year terms. The Committee shall monitor the Franchise Agreement between the Town and cable provider for compliance and assist the Town, as requested, with any future negotiations regarding the franchise agreement. The Committee is responsible for evaluating changes in technology and making recommendations to the Recreation Director and Town Manager regarding technology improvement to the system and making recommendations concerning changes to policy. The Committee shall monitor progress on implementing policies after approval by the Town Council. The Cable TV Committee may act as a mediator regarding complaints from citizens relative to the cable tv station, franchise agreement, or service provider.

3.3 Station Manager

The Station Manager shall be responsible for ensuring the day to day operation of the cable tv system and maintaining the quality of the broadcast consistent with policy and priorities established by the Town Council. The Station Manager supervises the other cable tv system employees pursuant to the Town of Gorham Personnel Policy and carries out other duties as described in the job description for this position which may be changed from time to time. The Station Manager reports to the Recreation Director.

Section 4. Operational Use: Channels 2 and 3

4.1 Channel 2 shall be designated for programming sponsored by the Gorham School System for educational broadcasting. This channel will also broadcast school athletic events or cultural events, community events, or public access, consistent with the priorities established by the Town Council.

4.2 Channel 3 shall be designated for programming showing local government at work and providing information about local issues not otherwise available on commercial broadcast. This channel shall primarily broadcast governmental meetings multiple times in order to provide maximum opportunities for citizens to view meetings. The channel will also broadcast programs that are intended to inform the public about local issues or State issues not otherwise available on commercial television. Examples of informative programs include news programs with Gorham's local or state elected officials and Candidates Night for local or State office elections.

Section 5. Cable System Priorities

5.1 The Town of Gorham has limited resources and is not able to provide all services all the time. In order to maximize our available but limited resources, the Town Council establishes the following priorities for utilizing the resources available to the cable tv system.

1st priority: Ensuring that all equipment is maintained and operating properly and the broadcasting of all Council Meetings including workshops, Planning Board Meetings, School Board Meetings and Board of Appeal Meetings, unless the responsible board or committee specifically asks that the meeting not be broadcast. This priority could also include other Committee meetings when the subject matter warrants their broadcast.

2nd priority: Provide training to assist volunteers in carrying out tasks consistent with Priorities 1 – 7 as set out in Section 4.1.

3rd priority: Broadcasting educational, athletic or cultural events emanating from the Gorham School System such as school plays, musical events, football, basketball, soccer, field hockey, ice hockey games or similar events.

4th priority: Other community events that show local government at work or are recognized community activities such as the recent New Years Eve Celebration, the Town Clock dedication ceremony, Gorham Family Fair, the Gorham Bypass ribbon cutting ceremony, the annual Gorham Marketplace and similar events.

5th priority: Other programs that inform the public about local government or the local education system that staff wish to have produced with the intent of informing the community about some health or safety issue, or useful information beneficial to the community.

6th priority: Programs produced by the State of Maine, Portland Water District, Ecomaine, or similar governmental or quasi-governmental agency intended to inform the community about an important public issue or programs produced by the Town involving the Town's State legislative delegation, personnel from the State or Federal or local Town Government that are intended to inform the public about current issues and is not available on commercial stations.

7th priority: Loan equipment to members of the Gorham community, who have appropriate training, and who wish to use the Town's equipment to produce programs.

Section 6. Responsibilities: Producer/Sponsor

6.1 Responsibility for the content of programs submitted to GOCAT for broadcast rests solely with the individual and/or the organization that requests it. A "User Application, Compliance, and Certification" form must be completed and on file at GOCAT. The producer must adhere to the program content guidelines stated in this policy guide.

Section 7. Community Announcements

7.1 Messages of community interest from non profit organizations will be aired on Channel 2. Official announcements from the Town and School Department will be aired on Channel 3. Please see the form "Guidelines for Submitting Announcements" in the back of this policy guide.

Section 8. Archival Policy

8.1 Recorded meetings of the Gorham Town Council, School Board, Board of Appeals, and Gorham Planning Board will be retained at the Gorham Municipal Center for a period of two years. This policy is under the discretion of the Gorham Town Clerk. It is noted that media recordings are not considered the official minutes of such meetings.

Section 9. Equipment Use

9.1 The Town has a limited amount of equipment available for use by citizens of Gorham. In order to ensure that the equipment is properly used and maintained, the following rules apply to its use:

- a. The borrower must be a citizen of Gorham and verification will be required, consisting of a valid drivers license or photo ID, and a utility bill or rental lease agreement with an invoice date within the previous 2 months.
- b. You must be 18 years of age or older or if a minor, have a legal guardian sign for responsibility and supervision, or be a member of an organized group working under the supervision of the Gorham School system or Cable TV Station staff.
- c. You must complete a training process to insure proper operation of the equipment.
- d. The primary use of access equipment is to generate programming consistent with the priorities established in Section 4 of this policy for replay on the station. Some equipment may be available for non related broadcast use depending on availability.
- e. Any individual who is a legal resident of the Town of Gorham and who complies with the conditions stated above, may request use of equipment and/or broadcast time. The proper forms, including but not limited to: User Application, Equipment Sign-Out, & Channel Time application, must be completed.

Section 10. Programming

10.1 Program Content Guidelines:

Program broadcast time is a privilege granted to the residents of the Town of Gorham and eligible non-profit organizations and all programming shall comply with the following:

- a. Solicitation, advertising, bartering or promotion of commercial products, services or transactions, is not permitted. However, informational, journalistic, or civic content programming is allowable.
- b. Material that is slanderous, libelous, or is an invasion of privacy, is not permitted;
- c. Material that is obscene based on the FCC definition (76.701 Subpart L) and applied with community standards is not permitted;
- d. Material concerning lottery information is not permitted;
- e. Implicit or explicit threats of violence against any person or group of people are forbidden and maybe subject to prosecution if in violation of federal or state law;
- f. Use of any copyrighted material is the sole responsibility of the producer of the programming. Obtaining proper permission is strongly recommended.
- g. Fundraising for nonprofit organizations is permissible.
- h. Fundraising for political candidates is not permissible.
- i. Any program ready for cablecast may be previewed for technical and content standards. All programs must comply with the standards put forth in this manual.

10.2 Programming Priorities:

Broadcasting of programs shall follow the priorities established in Section 4 of this policy.

Channel 2

- a. Local origination of prerecorded programs generated by the School System.
- b. Live broadcast for community events.
- c. Programming provided from the classrooms of Gorham schools.
- d. Local origination of pre-recorded programming from the community or GOCAT staff.
- e. Programming from other community sources that is not commercially distributed and is available to enhance broadcast hours.

Channel 3

- a. Live broadcast of official meetings of the Town of Gorham to include the Town Council, School Board, Gorham Planning Board, Gorham Zoning Board of Appeals, and any other special meetings as requested by the Town Manager.
- b. Local origination of pre-recorded programming generated by the Town or School System.

10.3 GOCAT staff reserves the right to schedule programs as they determine appropriate with preference being given to Government Access Programming and Educational Access Programming, as specified in Section 4, and then to locally produced programs.

10.4 Programs with mature (adult) content, including but not limited to, descriptive sexual behavior will be aired between 12pm and 5am Monday through Thursday only. This does not restrict the responsibility of the staff to schedule programs consistent with Section 4.

Section 11. Technical Standards

11.1 All media replay requests must meet the technical standards to play at the time of submission. The Technical Standards necessary for broadcast are available from the Station Manager.

NOTE: Programs recorded on some consumer or home video equipment can be played back on the access channel if the program meets the technical standards. Please contact the Cable TV staff for additional information.

Section 12. Volunteers

12.1 Volunteers are vital to the success of local Community Television. We provide local people with the opportunity to gain experience in a broad range of media skills. Our goal is to inspire participation of volunteers to further the purpose of providing information to the citizens of Gorham, through governmental, political, scholastic, academic, cultural, educational, informative and newsworthy programming.

12.2 Prospective volunteers should contact the Station Manager to schedule a meeting. Every attempt will be made to train the individual so that their project can take place.

Standard Training Outline:

Phase 1: Studio Camera & Audio

Phase 2: On Location Video & Audio

Phase 3: Directing & Producing

Phase 4: Editing

12.3 GOCAT will periodically use venues such as the Gorham Recreation Department and Gorham Adult Education to offer group instruction. Individual training will be available provided that staff time and workload can accommodate citizen interest.

Section 13. Failure to Comply

13.1 The failure to adhere to these policies may result in denial of access privileges.

Section 14. Grievance Procedure

14.1 The term "grievance" is defined as any dispute between a citizen and the Town of Gorham Television station. The Town of Gorham Cable Committee may act as the mediator, consistent with Section 13. Excluded from consideration of grievance are those matters pertaining to program scheduling. **Every attempt should be made to resolve any dispute, at the lowest possible level, as soon as possible.**

Steps in the grievance procedure shall be as follows:

- a. An attempt should be made for an oral agreement between the individual and the Station Manager.
- b. If an oral agreement is not reached, the aggrieved may file a written complaint to the Gorham Cable TV Committee. The committee will make a determination of the merits of the complaint and give a written reply within 30 days.
- c. If the individual is dissatisfied with the Gorham Cable TV Committee's written decision, the aggrieved may take a formal written appeal to the Town Manager. The Town Manager, upon receipt of the written appeal, will consult with the appropriate resources, including but not limited to the Town Attorney. A formal decision will be issued. In all cases, the decision of the Town Manager will be final and binding.

Item #7753 Moved by Councilor Csoros, seconded by Councilor Miner and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled approve an appointment to the Recycling Committee as presented. **6 years.**
Jane Knapp to an existing vacancy with a term to expire on April 1, 2012.

Item #7754 Moved by Councilor Moulton, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled refer a proposal to amend the Land Use and Development Code, Chapter II, Section V-Minimum Standards for the Design of Streets and Ways (F)(4)(b) to increase the length of dead-end roads provided that all homes on the road are serviced by residential sprinkler systems to the Planning Board for public hearing and their recommendation. **6 years.**

Item #7755 Moved by Councilor Loveitt, seconded by Councilor Caldwell and **VOTED** to postpone action on this item to refer a proposal to amend the Land Use and Development Code Chapter II, Section VIII (D)(2). **6 years.**

Item #7756 Moved by Councilor Csoros, seconded by Councilor Loveitt and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled authorize the purchase of a 6 wheel dump truck from C. B. Kenworth in the amount of \$129,333. **4 years, 2 nays (Miner & Moulton).**

Item #7757 Moved by Councilor Loveitt, seconded by Councilor Moulton and **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled accept a proposal from Great Falls Construction to make repairs to the roof of Robie Gym; and,

BE IT FURTHER ORDERED that the Town Council appropriate an amount not to exceed \$32,850 from the Capital Reserve Fund for this project. **4 years, 2 nays (Miner & Csoros).**

Old Business

Item #7743 was moved by Councilor Loveitt and seconded by Councilor Caldwell. Moved by Councilor Loveitt, seconded by Councilor Csoros and **VOTED** to amend the proposed order to add “and pursuant to Title 1 M.R.S.A., Section 405 (D) & (E) to discuss potential litigation” at the end of the proposed order. **6 yeas**. The amended order was then voted. **ORDERED** that the Town Council of the Town of Gorham, Maine, in Town Council assembled go into executive session, pursuant to Title 36 M.R.S.A., Section 841 (2) for the purpose of considering an application to abate taxes based on poverty and pursuant to Title 1 M.R.S.A., Section 405 (D) & (E) to discuss potential litigation. **6 yeas**.

Moved by Councilor Loveitt, seconded by Councilor Csoros and **VOTED** to come out of executive session. **6 yeas**.

Moved by Councilor Loveitt, seconded by Councilor Csoros and **VOTED** to abate the accrued interest and costs provided that applicant #A0903 enter into a payment schedule and maintain it. **6 yeas**.

Moved by Councilor Robinson, seconded by Councilor Csoros and **VOTED** to adjourn the meeting at 11:00 pm. **6 yeas**.

A TRUE RECORD OF MEETING

Attest: _____
Christina Silberman, Town Clerk