

AMMENDED (Item #9471) REPORT OF THE
GORHAM TOWN COUNCIL
REGULAR MEETING
August 6, 2019

Chairman Hartwell opened the meeting with the Pledge of Allegiance to the Flag. There were 14 members of the public in attendance at the start of the meeting.

Roll Call: Chairman Hartwell, Councilors Shepard, Phillips, Hager, Smith, Pratt and Wilder Cross. Also in attendance were Town Manager Ephrem Paraschak and Town Clerk Laurie Nordfors.

Moved by Councilor Shepard, seconded by Councilor Wilder Cross and VOTED to accept the minutes of the July 2, 2019 regular Town Council meeting. 7 yeas

Open Public Communications

Lisa Bolduc, Sylvan Road, expressed her ongoing concerns for the current High School Expansion Project at the current location. She disagrees with the proposed closing of Access Road and putting all the traffic unto Ballpark Road. She is also against the closing of Robie Park.

Phil Gagnon, Gordon Farms Road, discussed the moving of the site plans for the new modular classrooms at Narragansett School. He is concerned that it will not benefit the many sport teams that play at the fields there and thinks that the project is being rushed.

Councilor Communications

Councilor Pratt reminded the public that there will be a Jetport Noise Abatement Committee meeting in October that he will be attending and encouraged any comments or concerns to be brought to his attention.

Councilor Shepard reported that the Ordinance Committee met on July 16th and discussed the Special Amusement Ordinance and the South Gorham Crossroads project, which the Committee is still working on. The next meeting will be on August 20th.

Councilor Phillips discussed the newly formed Founders Festival Committee and reported that they are actively working on plans for events in 2020. She revealed that the Committee is currently looking for volunteers and will meet again in September. She also reported that the Capital Improvements Committee met and discussed the many capital projects going on in the Town. Councilor Phillips is concerned about the number of people who are illegally dumping trash at the Silver Bullets around Town and encourages everyone to remember that the Silver Bullets are for recycling materials only and all of the trash that is dumped there costs the Town money and contaminates the recycling that is brought to Eco Maine.

Councilor Wilder Cross announced that there is an opening on the Planning Board and encouraged citizens to apply. She also reported that she has been working with Metro and Go Cat to make a video about riding the bus and is excited to see the outcome when it is finished. Councilor Wilder Cross met

with the Gorham Village Alliance and reports that they have many exciting things planned for the Village.

Councilor Hager reported that the Finance Committee will meet on August 12th and he will have an update on that meeting at the September Council Meeting.

Town Manager Report

Town Manager Paraschak announced that it was National Night Out at Windham High School which gives citizens a chance to meet our Police Officers and enjoy a fun night out. He also reported that Absentee Ballot Applications are now available for the November election and reminded citizens that they can vote from the comfort of their homes and avoid long lines by voting absentee. He announced that the Rec Department will be hosting the Glow in the Park Event on August 23rd at Shaw Park. Lastly he reminded citizens of the ongoing nightly road work on Main Street and asked everyone to be patient until the project is complete.

School Committee Report

Chairman Wright noted the opening of school schedule as follows; Grades K, 6th and 9th will start school on Wednesday, August 28th with everyone else starting on Thursday, August 29th. The new start times are as follows; all elementary schools will start at 8:50am and end at 3:10pm, Middle School will start at 8:00am and end at 2:20pm and High School will start at 7:50am and end at 2:10pm. He reminded parents that if there are any changes in bus runs for the coming year, they must go to the transportation website and complete the google form linked there. Bus schedules will be posted to the Districts website by August 16th and will be published in the Gorham Times on August 23rd. The times listed are approximate and it is strongly recommended that students get to their bus stops at least 10 minutes early. He reported that there has been a small list of accomplishments this summer in the schools including adding classroom walls to create new spaces, renovating bathrooms, updating technology and all of it done in a matter of a few weeks this summer. Also, the Narragansett modular work is moving forward and the Planning Board unanimously approved the final plans and with bids due in this week, the School Committee will meet soon to award the bids and keep the work moving along. The School Department is still in need of 3 van drivers and 1 more bus driver. He pointed out if anyone was interested in these positions to go to the schools website and click on "Human Resources", then on "Employment Opportunities" and then on "Transportation" to apply. The Gorham High School Building Committee will meet on August 13th and the School Committee on September 11th.

Chairman Hartwell opened **Public Hearing #1**. There were no comments from the public and the hearing was closed.

Item #9467

Moved by Councilor Hager, seconded by Councilor Pratt and ORDERED, that the Town Council designate the Harvey Performance Company Municipal Development and Tax Increment Financing District and the adoption of a Development Program for the said District, pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. The proposed District would include the 13.03 acre site located at 200 Narragansett Street in the Town of Gorham (Tax Map 39, Lot 2-1) and would capture 100% of the increased assessed value of the property for a period of 20 years. 55% of the tax revenue from the incremental value would be returned to the property owner, 49 Raceway Drive, LLC, to be applied to costs of development of

the site for the Harvey Performance Company and the remaining 45% would be retained by the Town to be used for various public improvements.

Moved by Councilor Hager, seconded by Councilor Phillips and VOTED to amend the order to strike out Harvey Performance Company and add #10 to the name to now read the **Municipal Development and Tax Increment Financing District #10** instead of the Harvey Performance Company Municipal Development and Tax Increment Financing District. **7 yeas**

Item # 9467 VOTED as amended, 7 yeas

Chairman Hartwell opened **Public Hearing #2**. There were no comments from the public and the hearing was closed.

Item #9468 Moved by Councilor Shepard, seconded by Councilor Wilder Cross and Ordered, that the Town Council issue a new Liquor License to JBN1, LLC, DBA Junction Bowl, 7 Railroad Avenue. **7 yeas**

Chairman Hartwell opened **Public Hearing #3**. There were no comments from the public and the hearing was closed.

Item #9469 Moved by Councilor Shepard, seconded by Councilor Phillips and Ordered, that the Town Council issue a new Special Amusement Licenses to JBN1, LLC, DBA Junction Bowl, 7 Railroad Avenue. **7 yeas**

Chairman Hartwell opened **Public Hearing #4**. There were no comments from the public and the hearing was closed.

Item #9470 Moved by Councilor Hager, seconded by Councilor Shepard and Ordered, that the Town Council issue a new Liquor License to Grand Central Wine Bar, LLC, 7 Railroad Avenue. **7 yeas**

Chairman Hartwell opened **Public Hearing #5**.

Craig Sterling, Canal Street, voiced his concerns over the ordinance change and does not support it.

The public hearing was closed.

Moved by Councilor Shepard, seconded by Councilor Hager and VOTED to waive the reading of Item #9471 due to length. **7 yeas**

The following item was moved by Councilor Hager and there was not a second so the Items fails.

Item #9471 Ordered, that the Town Council amend the Land Use and Development Code to allow for one farm animal under 50 pounds to be kept on a lot with an area of under 40,000 square feet as follows:

CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE
SECTION 2-12 – KEEPING OF URBAN FARM ANIMALS

1) Number of Farm Animals allowed:

b. Small animals and fowl (such as sheep, goats, pot-belly pigs, ducks, that typically weigh not more than 100 pounds at maturity, geese and turkeys, other than domestic pets and chickens).

~~(1) One (1) animal, under 50 pounds at maturity, may be kept on a lot with a lot area of under 40,000 square feet.~~

~~(1) (2)~~ Up to two (2) animals may be kept on a lot with a lot area of a minimum of 40,000 square feet.

~~(2) (3)~~ For each additional 20,000 square feet in addition to 40,000 square feet, one (1) additional small animal may be kept.

5) Exemptions: The following animals are considered exempt from the aforementioned requirements.

a. One neutered mini-pig under 16 inches in height and/or 100 pounds in weight at maturity, such as but not limited to Mulefoot Hog, Ossabaw Island Hog, American Guinea Hog, Kunekune Breed, Mesihan Breed, Juliana Breed, Yucatan Breed, Pot-bellied Pig, Hanford Mini Swine, and small mixed pigs, shall be allowed per lot as long as the mini-pig is kept indoors for a majority of the day.

*Additions: Underline

**Deletions: ~~Struck Through~~

*****Bold**: Changes between Council version.

Item #9471 fails

Chairman Hartwell opened **Public Hearing #6**.

Craig Stirling, Canal Street, spoke in favor of the item and remarked that it was very well crafted and hopes everything stays intact.

The hearing was closed.

Moved by Councilor Hager, seconded by Councilor Shepard and VOTED to waive the reading of Item #9472 due to length. **7 yeas**

Item # 9472

Moved by Councilor Wilder Cross, seconded by Councilor Phillips and Ordered, that the Town Council amend the Land Use and Development Code to regulate the growing of personal adult-use marijuana as follows:

CHAPTER 2: SECTION 2-17 – ADULT-USE MARIJUANA CULTIVATION FOR PERSONAL USE

Adult-Use Marijuana Growing for Personal Use

1. Purpose

The purpose and intent of this chapter is to regulate personal cultivation of marijuana for the grower's use on the property where the grower's residence is located. The ordinance prohibits growing for any person not living on the property where the marijuana is being cultivated, all commercial cultivation for adult-use, and the sale of "adult-use" marijuana from a residential property.

This chapter is adopted by the Town Council pursuant to 28-B M.R.S.A. § 1502(3) and the home rule authority granted to municipalities by 30-A M.R.S.A. § 3001 and the Constitution of Maine, Article VIII, Part Second.

2. Definitions

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

- A. **Authorized Grower**— a person twenty-one years of age or older who resides on the lot where the adult-use marijuana is being cultivated in compliance with state law.
- B. **Cultivation** — the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.
- C. **Indoor Cultivation** — the growing of marijuana plants inside a residence or inside an accessory residential structure that has the ability to be locked when the grower is not attending to the marijuana plants.

- D. **Outdoor Cultivation** — the growing of marijuana plants outside in a fenced-in area. The fence shall be a minimum of 6' in height and shall be locked when the grower is not attending to the marijuana plants.
- E. **Lot**— a single, legal parcel of property where the grower or grower's residence(s) is/are located. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall not constitute a single "lot" for the purposes of this chapter.
- F. **Marijuana** — the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" does not include industrial hemp as defined in 7 M.R.S.A. § 2231(1).
- G. **Residence** —a home, abode, or place where the grower is actually living.

3. Standards

The growing of adult use marijuana shall conform to the below requirements:

- A. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence, accessory structure, or fenced-in area from the public right-of-way or abutting properties including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.
- B. The authorized grower's primary or full-time residency shall be on the lot where the marijuana is being cultivated. The residence shall include a fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.
- C. Each grower on a lot is limited to grow a maximum of 3 mature plants and 12 immature plants in an area of 50 square feet. If multiple authorized growers are located on a lot, the 50 square foot area for each grower shall be separate and lockable from the other growers located on the lot. The unlimited seedlings are not required to be located within the 50 square feet of growth area but are required to be in a lockable area.
- D. Outdoor cultivation is only allowed for lots with over 40,000 sq.ft. of lot area and which have 1 single-family dwelling.
- E. Indoor cultivation is required for lots with multiple dwelling units.
- F. Cultivation areas shall be set back a minimum of ~~25~~ 50' from the property line and shall not be located within any front, side, or rear yard setbacks.
- G. That a property owner's written consent to cultivate marijuana is required for growers located on lots not owned by them. ~~Nothing in this ordinance shall prohibit a~~ An owner of a residential structure, accessory structure, or lot ~~from can~~ prohibiting the cultivation of marijuana on his or her property.

- H. All cultivation areas shall meet all applicable local, state, and federal building, electrical, and fire codes.
 - I. The outside or inside cultivation areas shall be locked when not being attended to by the grower of the marijuana.
 - J. A marijuana cultivation permit is required prior to commencing any marijuana cultivation by any grower(s) owning, leasing, occupying, or having charge or possession of any legal lot or premises where marijuana cultivation is proposed to occur. The marijuana cultivation permit must be obtained from the Code Enforcement Officer or his or her designee, to ensure compliance with the requirements of this chapter.
 - K. **The odor generated from marijuana cultivation or harvesting at the subject property shall not be reasonably detectable from any adjacent lot or public right-of-way.**
4. Permit requirements: The following information will be required with the initial permit application and subsequent permit extensions.
- A. Physical site address of where the marijuana will be cultivated.
 - B. The name of each person owning, leasing, occupying, or having charge of any legal parcel or premises where marijuana will be cultivated.
 - C. Proof of a grower's residency on the lot where the marijuana cultivation will be conducted.
 - D. Property owner's written consent to the cultivation of marijuana at the premises, if different from the grower.
 - E. Plan showing the location where the cultivation area will be located in the residence, accessory structure, and/or the lot.
 - F. Detailed explanation of how the grower will meet all the required performance standards.
 - G. Permit Duration: The permit shall be valid for 1 year and may be renewed every year upon determination that the standards and conditions set forth under these standards are met. The permit may be denied or not renewed unless satisfaction of the minimum requirements of this chapter can be demonstrated.
 - H. Enforcement: Violations of this chapter shall constitute a public nuisance and may be enforced by the provisions of this chapter or any other applicable law. Violations of this ordinance shall be subject to fines and penalties contained in 30A MRSA Section 4452.
5. Prohibited: The following is prohibited as part of the adult-use marijuana growing for personal use.
- A. The home extractions of marijuana concentrate using hazardous substances.

- B. The cultivation, manufacturing, testing, retail sale, gifting, and/or growing of marijuana for adult use by someone not a resident of the lot.

*Additions: Underline

**Deletions: ~~Struck Through~~

*****Bold:** Changes between Council version.

Moved by Councilor Hager, seconded by Councilor Shepard and VOTED to amend the order to state in 4- Permit Requirements, G- Permit Duration: **The Initial permit shall be valid for 6 months and may be renewed annually for one year durations. 6 years, 1 nay (Phillips)**

Item #9472 VOTED as amended, 7 yeas

Item #9473 Moved by Councilor Shepard, seconded by Councilor Pratt and Ordered, that the Town Council approve all qualifying applications from the Senior Property Tax Relief Program as reviewed and recommended by staff. **7 yeas**

Item # 9474 Moved by Councilor Pratt, seconded by Councilor Shepard and Ordered, that the Town Council forward changing Map 32, Lot 19 from the Roadside Commercial Zone to the Industrial Zone to the Planning Board for public hearing and their recommendation. **7 yeas**

Item #9475 Moved by Councilor Phillips, seconded by Councilor Hager and Ordered, that the Town Council instruct the Appointments Committee to draft an attendance policy for all Council appointed boards and committees for the Council's review. **7 yeas**

Item #9476 Moved by Councilor Pratt, seconded by Councilor Shepard and Ordered, that the Town Council accept a trail easement from Avesta Housing located on Map 26, Lot 18 for the purposes of extending access to the Cross Town Trail.

Moved by Councilor Hager, seconded by Councilor Smith and VOTED to table item #9476 until the September meeting. **4 yeas, 3 nays (Pratt, Phillips, Shepard)**

Item #9477 Moved by Councilor Shepard seconded by Councilor Wilder Cross and Ordered, that the Town Council transfer \$26,460.50 from account # 903-01-5070663 to a designated account for repairs to the entrances of the Gorham Municipal Building. **7 yeas**

Item # 9478

Moved by Councilor Phillips, seconded by Councilor Smith and Ordered, that the Town Council forward to the Ordinance Committee for its review and recommendation, amending the Land Use & Development Code to allow for the commercial adult use cultivation, manufacturing and processing of marijuana; and
Be it further ordered, that the Town Council schedule a workshop with legal counsel on the same.

Moved by Councilor Phillips, seconded by Councilor Hager and VOTED to table the item until the September meeting and a Council Workshop. **7 yeas**

Moved by Councilor Hager, seconded by Councilor Pratt and VOTED to waive the reading of Item #9479 due to length. **7 yeas**

Item #9479

Moved by Councilor Hager, seconded by Councilor Shepard and Ordered, that the Town Council forward a proposal to amend the Land Use & Development Code to allow for a waiver and/or reimbursement of impact fees when no new net dwelling is created, to the Planning Board for a Public Hearing and their recommendation, as follows:

Amendment to LUDC Chapter 7 (Impact Fee Ordinance)

A. Amend Section 7-1.G as follows:

The Town Council may, by formal vote following a public hearing, waive the payment of a required impact fee, in whole or in part, if it finds that:

- 1) The developer voluntarily agrees to construct the improvement for which the impact fee would be collected, or
- 2) The developer is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee, or
- 3) The infrastructure that the impact fee relates to has been created to attract industry and the fee would be charged to an industrial use-, or
- 4) The residential development activity will not result in a net addition of new dwelling units because the new dwelling unit will replace a demolished dwelling unit that was previously owned and occupied by the developer.

B. Add a new subsection after Section 7-1.F.2:

- 3) If a developer paid an impact fee pursuant to this chapter prior to the effective date of July 1, 2019, but would have been eligible for a waiver of the fee pursuant to Section 7-1.G.4 at the time of construction of the replacement dwelling unit, the developer may apply for a refund of the impact fee paid. Such application must be made in writing to the Director of Community Development within five years of the date of construction of the replacement dwelling unit, and

must go to the Town Council for a formal vote following a public hearing. If approved, the refund of the impact fee shall be paid to the developer without interest.

*Additions: Underlined

Item #9479 VOTED, 7 yeas.

Item #9480

Moved by Councilor Wilder Cross, seconded by Councilor Shepard and Ordered, that the Town Council instruct the Town Manager to authorize notice plates within roundabouts in Gorham indicating that signs are not authorized within the perimeter of the traffic control circles according to State Statute, policy and for the benefit of public safety.

Moved by Councilor Pratt, seconded by Councilor Shepard and VOTED to amend the order to strike **notice plates** and replace with **stenciled letter on curbing. 7 yeas**

Item #9480 VOTED as amended, 7 yeas.

Item #9481

Moved by Councilor Wilder Cross, seconded by Councilor Shepard and Ordered, that the Town Council enter into executive session for the purposes of a personnel matter pursuant to 1 M.R.S.A. § 405(6) (A) and also 1 M.R.S.A. § 405(6) (C) to discuss economic development, where public discussion would harm the position of the Town of Gorham.
7 yeas

Moved by Councilor Phillips, seconded by Councilor Shepard and VOTED to come out of Executive Session. **7 yeas**

Moved by Councilor Phillips, seconded by Councilor Shepard and VOTED to adjourn. **7 yeas**

Time of adjournment: 9:30 pm

A True Record of Meeting
08/06/2019

ATTEST _____ 08/07/2019
Laurie Nordfors, Town Clerk

