

SOLID WASTE, FLOW CONTROL. AND HAZARDOUS WASTE ORDINANCE

(Ordinance Relating to the Disposal of Solid Waste within the Town of Gorham)

**Enacted May 5, 1987
Revised February 4, 1992
Amended March 12, 1996
Amended February 4, 2003
Amended April 5, 2016**

**ORDINANCE RELATING TO THE DISPOSAL OF SOLID WASTE WITHIN THE MUNICIPALITY OF GORHAM;
PRESCRIBING RULES AND REGULATIONS THEREFORE; PROVIDING PENALTIES FOR VIOLATION THEREOF**

ARTICLE 1. GENERAL

1.1 Short Title

This Ordinance shall be known as and may be cited as the “Ordinance Relating to the Disposal of Solid Waste within the Town of Gorham, Maine; Prescribing Rules and Regulations Therefore; Providing Penalties for Violation Thereof” and shall be referred to herein as the “Ordinance”.

1.2 Purpose

The purpose of the Ordinance is to protect the health, safety and general well-being of the citizens of the Town of Gorham, enhance and maintain the quality of the environment, conserve natural resources and to prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Municipality in accordance with the provisions of Title 38 M.R.S.A. Sec. 1304-B and 1305 as amended from time to time.

1.3 Definitions

For the purposes of this Ordinance, the following definitions shall be observed in the construction of this Ordinance.

1.3.1 “Acceptable Waste” Shall mean ordinary household, municipal, institutional, commercial and industrial Solid Waste including but not limited to, the following:

- a. Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or small vehicle tires, to the extent that Ecomaine determines that the air emission criteria and standards applicable to and at the Ecomaine Disposal Facility are not violated; and
- b. Processible portions of commercial and industrial Solid Waste; and
- c. Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4 1/2) feet long and eight (8) inches in diameter, and leaves, twigs, grass and plant cuttings, provided that the Municipality shall not be obligated to deliver or cause to be delivered any items listed in this subpart (3) to the Ecomaine Disposal Facility, and further provided that such items may be delivered to the Ecomaine Disposal

Facility by or on behalf of the Municipality on an irregular basis only and shall represent an insignificant portion of the total Waste delivered to the Ecomaine Disposal Facility by or on behalf of the Municipality within any Calendar Year; and

d. Notwithstanding any provisions to the contrary, unacceptable Waste, including Hazardous Waste, shall not be "Acceptable Waste" and is explicitly excluded therefrom. Furthermore, any substances which as of the date of a certain Waste Handling Agreement between Town of Gorham and Ecomaine are included as "Acceptable Waste", but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall not be "Acceptable Waste" under the terms of this Ordinance. However, any substances which as of the date of said Waste Handling Agreement are not included within the definition of "Acceptable Waste" because they are considered harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall be considered "Acceptable Waste" unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction or unless such substances are otherwise considered "Unacceptable Waste" or "Hazardous Waste".

1.3.2 "Ashes" shall mean that residue from the burning of wood, coal, code or other combustible material.

1.3.3 "Biomedical Waste" shall mean Waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

1.3.4 "Board" shall mean the Town Council.

1.3.5 "Commercial Refuse Collector" shall mean a person, firm, corporation or other entity that collects, recycles or hauls the Solid Waste of another person, firm, corporation or other entity for a fee.

1.3.6 "Construction and Demolition Debris" shall mean

- a) "Construction/Demolition Debris"
- b) "Inert Fill"
- c) "Land Clearing Debris" and
- d) "Woodwaste"

all as defined in Chapter 400 of the Maine Department of Environmental Protection Regulations as may be amended from time to time, but excluding Acceptable Waste, Hazardous Waste and such other Solid Waste which the Board may by order or regulation exclude. The term "Construction and Demolition Debris" also shall exclude such items as are listed in Appendix B to the Demolition Materials Handling Agreement and amendments thereto.

1.3.7 "Demolition Materials Handling Agreement" shall mean a certain Demolition Materials Handling Agreement dated August 1, 1989 between the Municipality and RWS.

1.3.8 "Disposal" shall mean the discharge, deposit, dumping, incineration, spilling, leaking or placing of any Hazardous or Solid Waste, sludge or septage into or on any land, air or water so that the Hazardous or Solid Waste, sludge or septage or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

1.3.9 “Ecomaine” shall mean ECO Maine, a non-capital stock, non-profit corporation created pursuant to Title 13-B, Title 30-A, Chapter 115, and Title 38, Section 1304-B(5) of the Maine Revised Statutes, or any successor thereto or assignee thereof.

1.3.10 Hazardous Waste

“Hazardous Waste” shall mean waste which by reason of its composition, characteristics or other inherent properties is dangerous to handle by ordinary means, or which may present a substantial endangerment to public health or safety. “Hazardous waste” shall also mean waste which is defined as harmful, toxic, dangerous or hazardous at any time during the term of the waste handling agreement between the Town of Gorham and Ecomaine pursuant to (1) the Solid Waste Disposal Act, 42 U.S.C. §6901 et seq., as amended; (2) the Maine Hazardous Waste, Septage and Solid Waste Act, 38 M.R.S.A. §1301 et seq. as amended; (3) any other federal, state, county or local codes, statutes or laws; and (4) any regulations, orders or other actions promulgated or taken with respect to the items listed in Subsections (1) through (3) above; provided, however, that any such materials which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be considered hazardous waste unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction.

1.3.11 Incombustible Refuse

“Incombustible Refuse” shall mean all discarded articles or materials except sewage, liquid waste, garbage, and combustible refuse.

1.3.12 Inert Fill

“Inert Fill” shall mean that material which does not chemically or biologically decompose, i.e., sand, gravel, bricks, rocks, etc.

1.3.13 “Municipality” shall mean the Town of Gorham.

1.3.14 “Municipal Disposal Facility” shall mean any land or structure or combinations of land area and structures owned or operated by, or under a contract with, the Municipality, including a transfer station or similar facility used in connection with the disposal of Acceptable Waste, whether such facilities are constructed before or after the completion of the RWS Disposal Facilities.

1.3.15 “Person” shall mean any natural person, corporation, partnership, or sole proprietorship, association or other legal entity.

1.3.16 “Public Solid Waste Disposal Facility” or “Public Disposal Facility” shall mean any land or structure or combination of land area and structures, including dumps and transfer stations used for storing, salvaging, including dumps and transfer stations used for storing, salvaging, reducing, incinerating, reclaiming or disposing of Solid Waste; this term shall include the Ecomaine Disposal Facility, the Municipal Disposal Facility and the Ecomaine Construction and Demolition Debris Disposal Facility.

1.3.17 “Resource Recovery” shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

1.3.18 "Ecomaine Disposal Facility" shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with Ecomaine and/or any other site designated by RWS or its assignee used for storing, salvaging, reducing, incinerating, reclaiming or disposing of Acceptable Waste pursuant to the Waste Handling Agreement and amendments thereto.

1.3.19 "Ecomaine Construction and Demolition Debris Disposal Facility" shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with, Ecomaine and/or any other site designated by Ecomaine or its assignee, used for storing, salvaging, incinerating, reclaiming or disposing of Construction and Demolition Debris pursuant to the Demolition Materials Handling Agreement and amendments thereto.

1.3.20 Revenue Recovery shall mean the materials or substances that still have useful physical or chemical properties after serving a specific purpose and that can be reused or recycled for the same or other purpose.

1.3.21 "RWS" or "Regional Waste Systems, Inc." shall mean Regional Waste Systems, Inc." , a non-capital stock, non-profit corporation created pursuant to Title 30, Chapter 203 and Title 13, Chapter 81 of the Maine Revised Statutes, or any successor thereto or assignee thereof.

1.3.22 "Solid Waste" shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse but shall not include septic tank sludge nor agricultural, Biomedical or Hazardous Wastes; it shall include Construction and Demolition Debris as defined herein. The fact that a Solid Waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

1.3.23 "Unacceptable Waste" shall mean that portion of Waste which is not Acceptable Waste and includes, but is not limited to, sewage and its derivatives, agricultural waste, Biomedical Waste, Construction and Demolition Debris, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and Hazardous Waste.

1.3.24 "Waste" shall mean Solid Waste, Biomedical Waste, Hazardous Waste, agricultural waste and septic tank sludge, and includes both Acceptable and Unacceptable Wastes.

1.3.25 "Waste Handling Agreement" shall mean a certain Waste Handling Agreement dated July 1, 1986 between the Municipality and RWS.

1.4 Unlawful accumulation of solid waste

From and after the effective date of this ordinance and for reasons of health and sanitation, it shall be unlawful, except as provided for under §235-20, for any person to accumulate or permit to accumulate upon private property in the Town garbage, rubbish, combustible or incombustible refuse, white goods, or other solid waste generated within said Town, excepting inert fill material.

1.5 Unlawful disposal of solid waste

It shall also be unlawful for any person to dispose of within the limits of the Town any refuse, garbage, recyclable materials, rubbish, white goods, or other solid waste generated within said Town except in accordance with the terms of this ordinance.

1.6 Curbside collection from residences.

1.6.1 The Town shall collect acceptable waste and recyclable materials from residences in the Town as provided in this ordinance. The Town shall not collect commercial or industrial solid waste and recyclable materials.

1.6.2 The Town may enter into a contract or contracts with one or more commercial haulers, which shall be known as “authorized commercial haulers”, for the collection and transport of acceptable waste and recyclable materials from residences in the Town as provided for in this section. Any such contract shall require the authorized commercial hauler to transport recyclable materials directly to the party or parties as designated by the Town Council.

1.6.3 Occupants of residences within the Town shall place acceptable waste and recyclable materials in suitable containers at curbside no later than 7:00 am of the day of the scheduled Town collection. Town-designated trash bags or tags shall be used for the disposal of all acceptable trash herein defined. Suitable containers placed at curbside after such time shall be considered as being intended for collection and as such shall be collected by none other than an authorized commercial hauler, all suitable containers shall be covered or securely tied so as to prevent spillage, windblown littering, or the ingress or egress of flies, rats, or vermin.

1.6.4 For purposes of this ordinance, “curbside” refers to that portion of a right-of-way adjacent to paved or travelled Town ways and private roads, provided that the owner or owners of each residence abutting such private road have given the Town permission to enter upon the road for the purpose of the collection of acceptable waste and recyclable material and have agreed to release the Town from liability and to defend, indemnify and hold harmless the Town against any and all claims, damages, actions, causes of action, judgments and costs, including attorney fees, for any personal injury (including death) or property damage arising out of or resulting from said collection to the extent such personal injury or property damage is caused by the failure of the private road to be kept in repair so as to be safe and convenient for travelers with motor vehicles.

1.6.5 Care shall be taken in the loading or unloading of acceptable waste and recyclable material so that none is scattered or spilled during its collection, transport and disposal; any acceptable waste or recyclable material so spilled shall be immediately cleaned up and removed by the Town or, if it has contracted with a commercial hauler, by the authorized commercial hauler.

ARTICLE 2. PUBLIC SOLID WASTE DISPOSAL FACILITIES

2.1 Designation

2.1.1 In accordance with the provisions of Title 38 M.R.S.A. Sec. 1304-B, as amended from time to time, the Municipality hereby designates the Ecomaine Disposal Facility at 64 Blueberry Road in Portland, Maine and the Municipal Disposal Facility as its Public Solid Waste Disposal Facility for the depositing and disposal of Acceptable Waste, and, effective upon receipt by the Municipality of notice from Ecomaine of commencement of operations of the Ecomaine Construction and Demolition Debris Disposal Facility, designates the Ecomaine Construction and Demolition Debris Disposal Facility as its Public Solid Waste Disposal Facility for the depositing and disposal of Construction and Demolition Debris. The dumping or depositing by any person at any place other than at the Municipal Disposal Facility or the Ecomaine Disposal Facility of any Acceptable Waste generated within the Municipality is prohibited, and subsequent to receipt by the Municipality of notice from Ecomaine of commencement of operations of the Ecomaine Construction and Demolition Debris Disposal

Facility, the dumping or depositing by any person at any place other than the Ecomaine Construction and Demolition Debris Disposal Facility of any Construction and Demolition Debris generated within the Municipality is prohibited; provided, however, the owner of any lot, or any other person with the permission of the lot owners, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to State and local land use regulations.

ARTICLE 3. ADMINISTRATION

3.1 Governing Board

3.1.1 The Town Council shall establish the rules and regulations governing the availability and use of the designated Public Solid Waste Disposal Facility.

3.1.2 The operation of the designated Public Solid Waste Disposal Facilities shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

ARTICLE 4. RESTRICTIONS AND FEES FOR DISPOSAL

4.1 Restrictions

4.1.1 No person shall dispose upon any land within the corporate limits of the Town of Gorham Solid Waste of any kind generated within the Municipality, unless such land has been designated by the Town Council as a Solid Waste Disposal Facility.

4.1.2 Certain materials may be excluded by order or regulation from that solid waste which may be deposited at a Public Solid Waste Disposal Facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, burning materials or materials containing hot or live coals; Hazardous Wastes; and other materials which the Municipality deems necessary to exclude. Hazardous Wastes and Biomedical Wastes shall be handled in accordance with Title 38 M.R.S.A. Sec. 1319-0 as amended from time to time.

4.1.3 Except for licensed disposal of Hazardous or Biomedical Wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate within the Municipality any Solid Waste generated within the Municipality other than leaves.

4.1.4 It shall be a violation of this Ordinance for any person to dispose of Solid Waste generated within the Municipality at any location or place other than at a Public Solid Waste Disposal Facility as designated under this Ordinance.

4.1.5 If the Town of Gorham adopts an Order by which it agrees to pay to Ecomaine the tipping fee for disposal of a certain type or types of Solid Waste (i.e., residential, commercial, industrial, or Construction and Demolition Debris), it shall be a violation of this Ordinance for a person disposing of Solid Waste at a Public Disposal Facility to misrepresent to Ecomaine that the Solid Waste is the type for which the Municipality has agreed to pay the tipping fee.

ARTICLE 5. RULES AND REGULATIONS

5.1 Authorized Disposal Facility Users

5.1.1 The availability and use of the designated Public Solid Waste Disposal Facilities shall be limited to residents of or owners of property in, the Municipality and to those residents of any other municipality which may, by mutual agreement, be authorized to use the designated Public Solid Waste Disposal Facilities. As a means of user control, the Municipality may distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the Public Disposal Facility.

5.2 Resource Recover

5.2.1 The Town of Gorham may require Solid Waste to be separated into such categories as may be established by Municipal regulation and disposed of only in such manner and at such sites and locations as designated.

5.3 Property Rights

5.3.1 Any Solid Waste generated within the boundaries of the Town of Gorham shall become the property of the Municipality or Ecomaine pursuant to the terms of said Waste Handling Agreement and Demolition Materials Handling Agreement and amendments thereto. No one shall salvage, remove, or carry off any such Solid Waste without prior approval of the Town of Gorham and Ecomaine.

ARTICLE 6. LICENSING

Commercial and Residential Refuse Collectors

6.1 No Commercial or Residential Refuse Collector shall collect, recycle, or haul Solid Waste generated within the boundaries of the Town of Gorham without first obtaining an annual license.

6.2 License Applications

6.2.1 Any person wishing to obtain a Commercial or Residential Refuse Collector License shall present a written application therefor on a form provided by the Town of Gorham accompanied by payment of a fee and evidence of a waste hauling agreement between the applicant and Ecomaine for disposal of Gorham solid waste collected or transported by the applicant from the date that the application is filed and throughout the upcoming license year. A Commercial or Residential Refuse Collector License shall be issued by the Town of Gorham's Clerk (the "Issuing Authority"). All fees collected shall be for the use of the Town of Gorham unless the Town Council elects to delegate its licensing authority as described in §6.2.2 below. All licenses shall expire on June 30, unless revoked or suspended pursuant to §6.6. All renewal licenses shall be applied for by May and if granted, will be effective on July 1.

The applicant for a Commercial Refuse Collector license must submit the written application and all required supporting documentation, including but not limited to the valid existing contract with Ecomaine on or before May 1 immediately preceding the commencement of the license year.

6.2.2 The Town Council may designate a third party to serve as the Town's licensing agent and authorize the licensing agent to receive and process applications for solid waste hauling, licenses, establish and collect applicable licensing fees, and ensure that all license applications comply with the requirements set forth in this ordinance.

6.2.3 Fees for collection of transport of solid waste generated within the Town shall be established by order of the Town Council, or by the licensing agent, if the Town Council elects to delegate its licensing authority as described in Section 6.2.2 above.

6.3 An application for a Commercial or Residential Refuse Collector License shall contain the following information:

6.3.1 The applicant's name, business address, telephone number, and e mail address;

6.3.2 A copy of the applicant's certificate of good standing from the state of incorporation;

6.3.3 A list of the names and positions of principal officers and directors/members of the business, if a partnership, or LLC or corporation;

6.3.4 For each of the applicant's vehicles to be registered under the license, a list of the vehicle information, including year, make/model, tag number, and vehicle identification number;

6.3.5 Copies of the applicant's certificates of insurance for commercial general liability insurance (minimum of \$1 million per occurrence) and automobile liability insurance (minimum of \$1 million per occurrence), each naming the Town of Gorham as an additional insured, and worker's compensation insurance for all employees (statutory limits);

6.3.6 A copy of the applicant's current license from the Maine Department of Environmental Protection to transport non-hazardous waste, if applicable; and

6.3.7 An acknowledgement that the applicant understands and agrees that all acceptable waste collected in the Town must be disposed of at the Ecomaine facility or other licensed solid waste facility designated in writing by the Town of Gorham.

6.4 A copy of each Commercial or Residential Refuse Collector License issued and of each application thereof and of each monthly update shall be sent by the Town of Gorham to Ecomaine. Upon issuing a license hereunder, the Town of Gorham also shall issue to the Commercial or Residential Refuse Collector for each vehicle to be used by it a numbered sticker, provided by Ecomaine, and shall inform Ecomaine of the number on the sticker assigned to the Commercial or Residential Refuse Collector; provided, however, that if the licensed Commercial or Residential Collector already has a numbered sticker because it has obtained a current Commercial or Residential Refuse Collector License from another Ecomaine Municipality, the Issuing Authority shall not issue another numbered sticker but shall note on the Commercial Refuse Collector or Residential License the Municipality that issued such license and the number on the sticker issued by the Municipality. A licensed Commercial or Residential Refuse Collector shall affix this numbered sticker to the lower left-hand corner of the front windshield of each vehicle owned or operated by it. Ecomaine shall refuse to accept Solid Waste from vehicles lacking this numbered sticker.

6.5 All licensed Commercial or Residential Refuse Collectors shall comply with such rules and regulations as the Town Council may adopt from time to time; failure to comply with such rules and regulations shall be a violation of this Ordinance. Each Licensed Commercial Refuse Hauler shall send Ecomaine a copy of each Category A manifests that it provides to the Department of Environmental Protection pursuant to Chapter 411, Section 6 of the Department's Rules as amended from time to time.

6.5.1 All licensed Commercial or Residential Refuse Collectors must pay all invoices from Town of Gorham within fourteen (14) days or the Town may charge interest to the unpaid portion of the invoiced amount in an

amount not to exceed maximum interest rate allowed in the then current year for municipal real estate taxes. If an invoice or any portion thereof, remains unpaid after four months, violation of the license shall exist and the licensed Refuse Collector will be subject to penalties under section 6.6 including the possibility of license suspension and revocation.

6.6. Licensing, identification, and use of roll-on roll-off containers.

6.6.1 This licensing requirement applies only to roll-on roll-off containers.

6.6.2 Every roll-on roll-off container used to transport solid waste, construction and demolition debris or materials to be recycled, generated within the Town of Gorham, shall be visibly marked as follows:

a. on the two (2) largest sides with the name of waste hauler company, company's address and telephone number.

6.6.3 A container may only contain one (1) type of waste at a time. Acceptable waste, construction and demolition debris and unacceptable waste may not be placed in the same container at the same time.

6.7 Exemption for small collectors or transporters.

6.7.1 The licenses and fee requirements of this section shall not apply to collectors or transports who collect or transport less than ten (10) tons of Gorham waste per year.

6.8 License Denial, Revocation or Suspension

6.8.1 Licenses and renewals of licenses issued under Section 6.1 through 6.4 hereunder may be denied, revoked or suspended by the Issuing Authority as follows:

6.8.1.1 The first violation by a licensed Commercial or Residential Refuse Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or relief that the Municipality may seek under Paragraph VII of this Ordinance, in a thirty (30) day suspension of that Commercial or Residential Refuse Collector's License, or if on the date of the first violation, said license shall expire in less than thirty (30) days, the revocation of said license.

6.8.1.2 The second violation, at any time, by licensed Commercial or Residential Refuse Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or relief the Municipality may seek under Paragraph VII of this Ordinance, in a six (6) month suspension of that Commercial Refuse Collector's license or, if on the date of the second violation, said license will expire in less than six (6) months, the revocation of said license.

6.8.1.3 The third violation, at any time, by a licensed Commercial or Residential Refuse Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or relief the Municipality may seek under Paragraph VII of this Ordinance, in revocation of that Commercial or Residential Refuse Collector's license and in the denial of Commercial and Residential Refuse Collector's licenses to that person for subsequent calendar years unless and until the Town Council determines that the Commercial or Residential Refuse Collector may be allowed to apply for and receive all licenses under this Ordinance due to a change in the person's circumstances since the time of the third violation; provided, however, that any further violation shall result in the revocation of the Commercial or Residential Refuse Collector's license and the barring of that Commercial or Residential Refuse Collector from applying for a license under this Ordinance in subsequent calendar years.

6.8.1.4 No Commercial or Residential Refuse Collector's license may be suspended or revoked unless there first has been a hearing before the Issuing Authority, with seven (7) days' prior written notice to the Commercial or Residential Refuse Collector.

6.8.2 Decision of the Issuing Authority may be appealed to the Board of Appeals within ten (10) days after receipt of written notice of the Issuing Authority's decision, and seven (7) days' prior written notice of a hearing on such an appeal shall be given to the Commercial or Residential Refuse Collector or applicant. The taking of an appeal to the Board of Appeals shall not stay the Issuing Authority's decision or any denial, revocation or suspension of a Commercial or Residential Refuse Collector's license ordered by the Issuing Authority.

6.8.3 The Town of Gorham shall inform Ecomaine immediately in writing whenever it denies, suspends, or revokes a Commercial or Residential Refuse Collector's License hereunder.

ARTICLE 7. Construction and Demolition Debris

7.1 Effective upon receipt by the Municipality of notice from a licensed facility of commencement of operations of a Construction and Demolition Debris Disposal Facility, all persons who obtain a building or demolition permit from the Town of Gorham shall be required to simultaneously obtain a Construction and Demolition Debris Disposal Facility Permit from the Issuing Authority as provided herein in Part E. Prior to issuing a building or demolition permit, the municipal building inspector or code enforcement officer shall inspect the premises for which the building or demolition permit is proposed to be issued to determine whether hazardous or special wastes are present on the premises; if hazardous or special wastes are present on such premises, the parties seeking to obtain the building or demolition permit shall furnish the Town of Gorham with evidence of lawful disposal of such hazardous or special wastes prior to issuance of the building or demolition permit and Construction and Demolition Debris Disposal Facility Permit. This Permit shall be valid for the calendar year in which it is issued, and shall authorize the person to whom it is issued to dispose of Construction and Demolition Debris from the premises for which the building or demolition permit is issued at the licensed Construction and Demolition Debris Disposal Facility for a fee or fees to be set by the Town Council by order; however, the Issuing Authority, in addition to any penalty or relief the Town of Gorham may seek under Paragraph VII of this Ordinance, shall revoke this Permit for violation of this Ordinance. The licensed facility shall refuse to accept Construction and Demolition Debris from persons who lack a Construction and Demolition Debris Disposal Facility Permit.

7.2 No Construction or Demolition Debris Disposal Facility Permit may be revoked unless there first has been a hearing before the Issuing Authority, with seven (7) days' prior written notice to the Permit holder.

7.3 Decision of the Issuing Authority may be appealed to the Board of Appeals within ten (10) days after receipt of written notice of the Issuing Authority's decision, and seven (7) days' prior written notice of a hearing on such an appeal shall be given to the Construction and Demolition Debris Disposal Facility permit holder. The taking of an appeal to the Board of Appeals shall not stay the Issuing Authority's decision or the revocation of a construction and demolition Debris Disposal Facility Permit ordered by the Issuing Authority.

ARTICLE 8. HAZARDOUS MATERIALS INCIDENT BILLING POLICY

8.1 The following policy shall be in effect regarding the billing for costs incurred by the Town of Gorham during hazardous materials incidents within Gorham. Costs incurred by the Cumberland County Haz-Mat shall be billed separately by them.

8.2 The purpose of this policy is to regulate the billing for costs incurred by the Town during hazardous materials incidents which occur within the Town. Since hazardous materials pose potentially large risks for both the citizens of Gorham and the environment, it is imperative that the Town adopt a policy to ensure the availability of resources to clean up hazardous materials incidents and, where appropriate, to assure that the generator or transporter of the hazardous materials in question be made responsible for the cleanup costs of the same so that those costs need not be borne by the taxpayers of Gorham generally.

8.3 Responsible Party: The responsible party or person causing the discharge of the hazardous materials is liable for all acts and omission of its servants and agents that are committed within the scope of their employment.

8.4 The Responsible Party of any property, building, facility, or mobile property of any sort, who has a hazardous materials incident occur, will be billed for the total cost of the operation and as determined by the Fire Chief as allowed by Maine law, 38 M.R.S.A. §1318-A, as the same may be amended from time to time; provided that the Fire Chief may abate all or a portion of the hazardous materials incident cleanup costs if in his judgment it would be unfair and inconsistent with the purposes of this policy to impose such costs on the person otherwise responsible; provided, however, no such abatement may be granted if the owner or transporter was negligent or in violation of any applicable federal or State environmental or hazardous materials laws and such negligence or non-compliance caused or contributed to the incident.

8.5 Any one who is billed for an incident shall have the right to appeal any or all of that bill to the Town Council, which shall make the final determination of costs due the Town' provided, however, the Town Council shall have the authority to abate any or all of such costs if it would be unfair or inconsistent with the purposes of this policy to impose the costs on the person otherwise responsible; provided, further, no such abatement may be granted if the owner or transporter was negligent or in violation of any applicable federal or State environmental or hazardous materials laws and such negligence or non-compliance caused or contributed to the incident.

8.6 The following items (but not limited to) shall be included as part of the operation cost:

- A. Hourly rate for apparatus: Apparatus shall be billed at the same rate established by the Cumberland County Haz-Mat Team, as promulgated and subsequently amended from time to time.
- B. Total replacement for repair cost of equipment lost or damaged.
- C. Total cost of evacuation, including house and meals for evacuees.
- D. Total cost of manpower for all Town agencies involved in the operation.
- E. Total cost of outside agencies, mutual aid companies, and individuals called to assist with the incident.
- F. Any other cost incurred.

8.7 The total bill shall be forwarded to the owner of the incident. The owner will then have 30 days to notify the Town Manager in writing of any wish to appeal.

ARTICLE 9. PENALTIES

9.1 Whoever violates any of the provisions of this ordinance shall be punished by a fine of not less than Three Thousand Dollars (\$3,000) for the first violation and not less than Five Thousand Dollars (\$5,000) for the second and subsequent violations plus costs which fine shall be recovered on complaint to the use of the Town of Gorham. Each day upon which any continuing violation of any provisions of this ordinance shall occur shall constitute a separate violation, and each incident of disposal of Solid Waste in violation of this ordinance shall constitute a separate violation. In addition, the Town of Gorham may seek equitable relief, including but not

limited to injunctive relief indemnification of the Municipality's liquidated damages to Ecomaine, and attorney's fees and costs to ensure compliance with the terms of this ordinance.

ARTICLE 10. MISCELLANEOUS

10.1 It shall be the duty of the Town Council or its designee to enforce the provisions of this ordinance.

10.2 All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

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