

## MINUTES

### ORDINANCE COMMITTEE MEETING

Meeting of April 20, 2021 – 8:00 a.m.

#### Zoom Webinar

Present: Committee Chair, Councilor Shepard; Councilors Hartwell and Wilder Cross.

Also present: Town Manager Ephrem Paraschak; Fire Chief Ken Fickett; Police Chief Christopher Sanborn; Town Planner Carol Eyerman; Executive Assistant, Jessica Hughes.

1. **Consideration of the minutes of the March 16, 2021 meeting.**

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to accept the minutes of the March 16, 2021 meeting. Unanimous vote.

2. **Current Business**

- A. Review requirements and restrictions in place for the installation of commercial and residential solar systems and bring back recommendations to the Council for revisions in ordinances to help encourage installation of such systems (referred by the Town Council on December 1, 2020).

Town Planner Carol Eyerman explained that the intent of the proposed fee adjustments is to allow for more specific fees such as building permit fees based on the size of the solar system, and allow for more in-depth building review.

Fire Chief Ken Fickett shared that the four solar providers that he and staff recently remotely met with were not supportive of the requirement for roofs to have engineered roof trusses; if there is concern as to whether a roof will support the load of a solar system, staff from the solar providers perform an on-house analysis of the roof. Chief Fickett also said that half of the solar providers interviewed agreed that the proposed fee structure for residential solar system permits was comparable to other towns, and the other half said that Gorham's proposed fees were too high. One solar provider was not supportive of solar systems and roofs having to meet fire codes as the requirements could limit their work on residential projects, and the other three providers said that they already adhere to fire codes, because it is a safety issue. He further said that the Director of Community Development Tom Poirier (absent from meeting) proposed a fee structure that is comparable to other towns.

A discussion ensued regarding the proposed fee structure (attachment 2-A), in which Councilor Shepard referred to the second page where it referenced that the proposed solar facility spacing needs to meet NFPA-1 requirements and asked Chief Fickett if he had any concerns with the remaining content in that section. Chief Fickett said he agrees with the language as written. A previous concern was that he wanted to be sure that Gorham Fire could review the set of plans prior to the installation of a residential rooftop solar system to ensure the spacing of the panels met NFPA-1, and he has since confirmed that plans will be provided when an applicant submits a solar system permit application for a commercial structure. Gorham Fire will then review the plans at no cost to the company that is performing the installation.

Mr. Paraschak added that the proposed requirements simplify the NFPA-1 component and ensures that Fire Service personnel can access the chimney and roof if necessary. Additionally, he added that the proposed requirements now note that residential solar systems no longer require an engineer's approval of the roof and trusses, but all other structures (i.e. large commercial facilities) do require engineering approval.

Ms. Eyerman noted that the proposed requirements now allow for a waiver request as well.

Councilor Shepard summarized that the proposed requirements no longer require an engineered roof truss on a residential structure, or proof that the residential structure's roof has the ability to support the solar system load.

Councilor Wilder Cross asked to clarify the language regarding the recommended electrical permit fees on the first page of attachment A. She asked if the reference of the \$75 building permit fee should say, "for a 26 – 50 kV system," to which Mr. Paraschak agreed and said that the language should more clearly delineate where the threshold is, and that staff can make that change.

Mr. Paraschak asked the committee if they wanted to defer the review and approval of the proposed electrical permit fees to the Finance Committee, or would they like to decide on the fees now and send them to the Town Council, to which Councilors Hartwell and Wilder Cross said that they would prefer that the fees be reviewed by the Finance Committee.

Councilor Shepard commented that the committee's goal was to make the proposed fee structure affordable so as to promote the use of solar systems. He asked if the review of these fees would require a full meeting by the Finance Committee, to which Mr. Paraschak said that the Finance Committee has begun meeting every two to three weeks to review and discuss all Town fees, so the ordinance could be referred back to the Town Council for review and approval, and staff's proposed fees could be referred to the Finance Committee if the Ordinance Committee so wished. Mr. Paraschak also noted that the fees would be reviewed and approved by the Finance Committee and Town Council long before proposed changes to the Land Use and Development Code component will be made.

Mr. Paraschak asked Ms. Eyerman if any of the proposed requirements would be added to the Land Use and Development Code, to which Ms. Eyerman said – no.

Mr. Paraschak said that regardless of where the language is added, the proposed requirements need to be referred back to the Town Council, and that the proposed fee structure will be separate, but a related component that will be referred back to the Town Council once approved by the Finance Committee.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to send the residential solar permitting requirements to the Town Council for review and consideration at a future meeting, and to send the proposed residential solar permitting fee schedule to the Finance Committee for review at a future meeting. Unanimous vote.

- B. Review and recommend adding additional allowed uses to home occupations in the Land Use & Development Code (referred by the Town Council on January 5, 2021).

Ms. Eyerman shared that staff incorporated the committee's suggestion to add specific uses and definitions that were previously missing per the discussion on this item at the last Ordinance Committee meeting. The additional changes below were added to attachment B:

- Definition of a business and professional office and what is included under that category (i.e. dentists, physicians, psychiatrists, etc.).
- Definition of personal services was expanded and now references the types (i.e. barbershops, spas, etc.).
- Definition of repair services was expanded to include small appliances, bicycles (including electric bicycles) and snowmobiles.
- Definition of instructional services and types were added as it was used in other town ordinances across Maine, which would allow for music teaching, dance teaching and educational tutoring services.
- A home craft category was added.
- A performance standard was added stating that the home occupation would be clearly subordinate to the residential use to prevent large signage from being displayed outside the home.
- The word "offensive" was omitted from section 6 under chapter 2 – General Standards of Performance on the third page as it was interpreted by staff as being subjective, and language was added cross-referencing the noise standard from the Land Use and Development Code.
- Added a new section 7 under chapter 2 that addresses the number of vehicle trips to/from the residence per day.
- Added a new section 8 under Chapter 2 that addresses parking and would create buffering if a home occupation business owner has more than a certain number of parking spaces.
- Added a new section 9 under Chapter 2 that addresses the sale of products assembled in a home.
- Added a new section 10 under Chapter 2 disallowing the use of heavy commercial vehicles for delivery to/from the premises.
- A size limit was added under section 11 based on real examples given by home occupation business owners.
- A general list of allowed home occupation uses were enumerated by trade and/or business sector under section 12; this new general list would replace the detailed listing of all business categories.
- Repair services were added with performance standards that apply to that specific use.

Councilor Hartwell asked if the language applied to all zones, to which Ms. Eyerman said that it applies to zones that allow home occupations, so one would have to look at a specific zone to verify if home occupations are allowed.

Councilor Hartwell expressed concern with some home occupation uses and performance standards being overly restrictive for the rural zone and said that the proposed standards would be more applicable in the urban residential and suburban residential zones.

Councilor Hartwell noted that he agrees with the proposed addition of the cross-reference to the noise standards under section 4.6; however, he would prefer to keep the word “offensive” in the language as the standards without that word imply no noise is allowed whatsoever, and that some noise is reasonable.

Regarding section 10, he would prefer that the language say, “a home occupation shall limit ~~not~~ involve the use of heavy commercial vehicles for delivery,” as he recently had a large appliance delivered via a tractor trailer and like him, consumers often don’t have a say in how shipments are delivered. He noted that he would prefer to see the limitation of the use of heavy commercial vehicles for delivery be addressed in the Town’s roads ordinance, because the Town has the ability to limit truck sizes and require permits on certain roads.

Regarding the addition of repair services as an allowed use, Councilor Hartwell said that he would specify allowing it in the rural zone, and perhaps not in the suburban and urban residential zones.

Ms. Eyerman clarified that repair services of small engines or equipment with any type of gas, diesel, oil or natural gas engine are allowed in the rural zone.

Councilor Hartwell commented that if performance standards are being met, repair services should be allowed in all zones. He also noted that the heading for section 11 is a fragment/incomplete, to which Ms. Eyerman said that it will be fixed.

Councilor Shepard suggested to adjust the heading for section 11 to read as, “the home occupation uses listed below should meet the following additional standards.”

Councilor Wilder Cross noted that the reference of “which” should be replaced with “that” in the line before the bold and underlined language in section 1.5, because the phrase “are used off the premises” is important to the meaning of the full sentence. Alternatively, she would support staff putting a comma in front of “which,” but it would change the meaning of the sentence.

Councilor Shepard noted that the home crafts section seems overly restrictive and gave an example of a resident hand-crafting furniture at his home and customers paying for and picking up furniture from the craftsman’s home, which is not a traditional retail store in that sense.

Councilor Wilder Cross noted that the home crafts section contradicts section 9. She further said that she doesn’t want standards to be too limiting for entrepreneurs selling crafts from their homes.

Councilor Hartwell wants to limit overly restrictive performance standards as much as possible.

Mr. Paraschak cautioned the committee to be cognizant of the wide degree of uses in areas within the rural zone. He also noted that roads in the rural zone and other zones are not designed for routine heavy traffic.

Councilor Hartwell commented that he would rather see concerns with limiting heavy commercial vehicle traffic be addressed through a homeowners association (HOA) rather than the Town trying to draft a one-size fits all ordinance for an entire zone. Regarding the protection

of roads from heavy commercial vehicle traffic, he feels that it should be addressed in the Town's roads ordinance.

Councilor Wilder Cross asked Councilor Hartwell if an HOA could set up its own restrictions apart from the Town's ordinance, to which Councilor Hartwell said – yes, and the restrictions could far more restrictive if the HOA wanted.

Mr. Paraschak asked if the HOA would already need to have the restrictions in place, or can they make restrictions effective after-the-fact, to which Councilor Hartwell said the HOA needs to be active and could then vote to create whatever restrictions they want.

Councilor Shepard asked to clarify if the HOA's restrictions had to be the same as or more restrictive than the Town's ordinances or requirements, to which Councilor Hartwell said that was correct.

A brief discussion ensued regarding whether this ordinance needs to instruct residents to refer to an HOA (if applicable) for additional restrictions, in which Councilor Hartwell said that it would be in the best interest of the Town to avoid referring to HOAs in its ordinances.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to ask staff to make the recommended adjustments and bring back the revised ordinance for further review at the next meeting. Unanimous vote.

- C. Perform a full overview of the Firearms Ordinance and provide recommendations to the Town Council (referred by the Town Council on February 2, 2021).

The committee decided to take this item out of order from the agenda to allow Chief Chris Sanborn to speak regarding the item.

Councilor Shepard summarized the changes discussed at previous committee meetings, which included:

- Have no firearms at all in certain areas;
- Keep “no shotgun/muzzle loader restricted zones” as-is;
- Added the Narragansett Game Sanctuary area outlined and highlighted in green on the map/attachment D provided.

Mr. Paraschak said that the discussion at the last meeting was mainly regarding the map and making it in more alignment with the ordinance, and he noted that he will be sure that staff did not miss a step since the ordinance was not provided for this discussion.

Mr. Paraschak asked to clarify if the committee was looking for a “no firearms discharge zone” or “no firearms zone,” as he wants to be sure that the firearms map aligns with the committee's intent, to which Councilors Wilder Cross and Shepard agreed that their intent was for a “no firearms discharge zone.” Mr. Paraschak said that staff will make that modification to the map and double-check that the ordinance has a “no firearms discharge reference.”

Chief Sanborn commented that the ordinance does have a “no firearms discharge reference.”

Councilor Wilder Cross asked how the ordinance and map protects people on trails in general, to which Mr. Paraschak said someone would not be able to discharge a firearm for any reason

within the red zones on the map provided, except for self-defense and other reasons specified in the ordinance. He noted that the red zones include the Cherry Hill trail, Town facilities, parks, Public Works, the Lavoie Bike Pump Track, Narraganset Game Sanctuary and areas by the Gorham Middle School. Mr. Paraschak further noted there are no restrictions for shotguns or rifles throughout the rest of Town.

Councilor Shepard said that it would be very difficult to list every trail in Gorham on the map and ordinance and equally challenging to enforce that.

Mr. Paraschak noted that firearms cannot be discharged in the Village area, and Chief Sanborn concurred with Mr. Paraschak's statement, which he said was correct by virtue of state law.

A brief discussion ensued regarding the circling around the Public Works garage on the map provided, in which Councilor Shepard asked if an exception needed to be added exempting the Gorham Police Department's firing range from the no firearms discharge zone, to which Mr. Paraschak said that the exception was added to the last version of the revised ordinance that the committee saw during the last two meetings.

Councilor Hartwell cited that state law prohibits discharge within so many feet of a dwelling without permission of the owner, which he said takes care of a lot of issues. He added that in certain zones, it may not be a bad idea to add a standard or requirement that if you are going to build a berm, it should be inspected to ensure that it is adequate and safe. He then gave a personal example to support his suggestion.

Mr. Paraschak said that staff could draft and include "common sense" language regarding firearms safety in the ordinance.

Mr. Paraschak said that he doesn't feel that this ordinance is overly repressive; it's in existence and needs to be modified, and the Police Department isn't receiving excessive calls. He asked if there was anything in general that the committee wants to examine beyond what was discussed, to which Councilor Wilder Cross said to make the previously recommended language adjustment to reflect "no discharge."

Councilor Shepard said that the ordinance was well written to begin with; other than making the recommended changes, he has no further recommendations.

Chief Sanborn said he was comfortable with the changes to the map, the language in the ordinance and the additions that were discussed in this meeting.

A motion was MADE by Hartwell, SECONDED by Councilor Councilor Wilder Cross and VOTED to ask staff to make the recommended adjustments and bring back the revised ordinance and map for review at the next meeting. Unanimous vote.

- D. Review and recommend adding agricultural event centers and agricultural tourism uses to the Land Use & Development Code (referred by the Town Council on January 5, 2021).

Ms. Eyerman said that staff took the committee's feedback shared at the last meeting and made the following adjustments to the attachment C provided:

- Added definitions of farming and agritourism, so that agritourism would include the full idea of what the committee wanted to do.
- Added an "agritourism" category and performance standards; the agritourism ordinance would be in association with a working farm, and incidental and supportive of the farm itself.
- It permits the activity without going through a site plan review, but includes some requirements related to site plan review, which would be to provide bathroom facilities, and allow for parking.
- A section was added that points to the signage requirements in the existing language in section 3, chapter 2 of the Land Use and Development Code.
- A third-party food vendor requirement was added that has to comply with state and federal laws.
- Added a reference to existing noise standards.
- Suggested hours of operation were added.
- A suggested attendance limit was added; if attendance is larger than 250, the farm or applicant would need to refer to the large outdoor event ordinance that is already in existence.

A discussion ensued regarding the limiting the number of events. Councilor Hartwell did not support there being a limit to the number of events and he proposed keeping the ordinance simple; the limit could be set at five with the ability for the applicant to request a waiver from the Town Council to hold a few more events.

Mr. Paraschak referenced that the first draft of the ordinance had limited events to being held between May 1 and November 1, with no more than 14 events per year. He noted that the version before them is more narrowly tailored for smaller events versus the other ordinance that addresses larger venues and events.

Ms. Eyerman suggested not limiting events during specific seasons in a year as there are so many different events that people may want to have such as Christmas tree sales or Maine Maple Sunday throughout the year. She said that 12 events is generous.

Councilor Shepard recommended limiting events to six per year.

Councilor Wilder Cross recalled that the committee discussed allowing up to 25 events per year at the last meeting.

Councilor Shepard is in support of educational events not counting toward the annual event limit, to which Mr. Paraschak said that staff could craft an exemption for educational activities under a certain size.

Ms. Eyerman explained that the definition of agritourism that staff provided within the proposed performance standards includes agricultural education programs and experiences.

Councilor Shepard reiterated that he wants to be sure that those activities are not counted as an event, to which Ms. Eyerman said that staff can add a specific line with that exemption.

Mr. Paraschak asked if the intent of the 250 cap on attendees at any given event is just that and does not apply to rolling events such as Maine Maple Sunday where over 1,000 attendees may come throughout the period of 10 hours in a day, to which Councilor Shepard said that he thought the committee had discussed making Maine Maple Sunday and Open Farm day exempt from counting toward the annual event limit.

Councilor Hartwell said that state-promoted events should be exempt from the event limit; if farms are hosting too many events, it is inhibiting them from their own production. The goal of this item was help supplement Gorham farms and not take their hand out of production. He noted that he would like to add the broad term of “enjoying the farm environment” to the definition of agritourism as per a legal decision made by the Supreme Court.

Councilor Shepard said that he recalled the committee previously having discussed prohibiting the building of a new facility on farm land to accommodate events, and that if the farm had an existing building, they could use that for events.

Councilor Hartwell commented that it was not so much a prohibition of adding a new building, but if they were to construct another building to accommodate events, it should be done through a contract zone. He then asked if language should be added to more clearly state the requirement to go through a contract zone, to which Ms. Eyerman said that the language could be added in the contract zone portion of the ordinance.

In summary, Councilor Hartwell asked if staff could add within the proposed performance standards a cross-reference to the contract zone part of the ordinance for events not covered under the agritourism performance standards.

Regarding hours of operation, Councilor Wilder Cross said that allowing events until 9pm on Sunday and weeknights, and 11pm on Friday through Saturday seemed too late.

Councilor Shepard concurred with Councilor Wilder Cross and suggested allowing events from 8am to 8pm on Sunday through Thursday, and 8am to 10pm on Friday and Saturday. Councilor Wilder Cross agreed.

Mr. Paraschak said that farms are likely already in production at 7am, so allowing events to start that early should not pose a problem, but he will defer to the committee for their decision.

Ms. Eyerman suggested adding in “event” hours of operation so as to not inhibit the setup of events.

Councilor Shepard emphasized that he doesn’t want to allow actual events to start until 8am, to which Councilors Hartwell and Wilder Cross agreed.

The committee agreed to adjust the hours of operation to 8am to 8pm on Sunday through Thursday, and 8am to 10pm on Friday and Saturday.

Ms. Eyerman asked if the committee approves of allowing weddings to remain under the definition of agritourism on the first page of the proposed performance standards, to which Councilor Shepard gave his support as long as weddings had 250 or less attendees. Ms. Eyerman



said that weddings with more than 250 guests will have to go before the Town Council for approval under the large outdoor gathering ordinance.

Regarding wedding events, Councilor Shepard asked if a rehearsal dinner on a separate evening would be counted as a separate event, or as one with the wedding event date, to which Ms. Eyerman said that staff can add in a provision stating that one wedding event can include a rehearsal service on a separate date.

Mr. Paraschak commented that the committee and Town Council had previously discussed this same scenario several years ago and ultimately no action or decision was made. He noted that the committee could approve of the revised performance standards and ordinance now, and amend it later if the specific component regarding wedding events held across multiple days becomes an issue.

Mr. Paraschak noted that staff should have everything they need to make the requested adjustments.

A motion was MADE by Hartwell, SECONDED by Councilor Councilor Wilder Cross and VOTED to ask staff to make the recommended adjustments and bring back the revised performance standards for agritourism for review at the next meeting. Unanimous vote.

3. **Items Referred by Town Council to Committee for Future Meetings/Action**

- A. Review expansion of the remaining village areas, other than the village expansion zone 1/Little Falls area, as called for by the Comprehensive Plan and provide recommendations to the Town Council by or before February 2024 (referred by the Town Council on November 10, 2020).
- B. Review the feasibility of adding requirements to the Land Use & Development Code that would require phased build outs of subdivisions and report back to the Town Council with a recommendation (referred by the Town Council on April 6, 2021).

Mr. Paraschak commented that this item will involve a comprehensive discussion.

- C. Create or amend Town Ordinances to classify sidewalks for winter maintenance (referred by the Town Council on April 6, 2021).

Mr. Paraschak commented that his understanding of this item was that this committee would look at creating ordinance that would address the legal issue of potentially requiring some residents or all residents to maintain the sidewalk in front of their property that is in a public way, or the Town would maintain the sidewalk.

Councilor Shepard is not in support of requiring residents to maintain the sidewalk in front of their homes. On the other hand, he does not want to see the Town be responsible for plowing every sidewalk in Town. He noted that the Maine Municipal Association (MMA)'s guidance advises that Towns are required to perform the work. He asked if there is a provision that requires the Town to only have to continue maintaining the sidewalks in a village areas, which he believes is already the current practice. He asked if the committee would consider only requiring Town maintenance of sidewalks within certain radiuses of schools, or say that the Town will not plow a sidewalk in a subdivision in west Gorham if it only serves eight to 10 houses.

Councilor Wilder Cross commented that the Town should be required to plow a sidewalk if it is close enough for children to be able to walk to school. If children can walk to school, she believes that they should be able to do it in a safe way and the Town is responsible for ensuring the walkway is safe.

Councilor Hartwell agreed with Councilor Wilder Cross, and is also in support of Councilor Shepard's statement that the Town should not be responsible for plowing a sidewalk in a subdivision that only serves those homes.

Mr. Paraschak said that staff can draft something and will try to have it ready for the committee to react to at the next meeting. He said that either we have to request that state representatives push to amend the law, the Town has to maintain the sidewalks within a road that the Town is already plowing, or the Town has to require someone else to maintain the sidewalks. The supporting materials that will be provided for the committee's review will illustrate a defined area that is the Town's responsibility, the areas that the Town normally plows, and everything else will have to be classified as someone else's responsibility in the ordinance in order to fulfill the legal obligation.

Councilor Hartwell suggested that if an area of sidewalk is the responsibility of the residents and it is not maintained, instead of enforcing the maintenance, the Town could plow the sidewalk and charge a fine or fee to the residents and if the fees are not paid, the Town could record a principal lien against the property just like the Town does with unpaid tax bills.

Mr. Paraschak commented that the scenario that Councilor Hartwell suggested could be done, but would not be very popular. He suggested alternatively that the Town could look at how this ordinance is applied in other communities, so that staff and the committee don't need to reinvent the wheel.

- D. Prepare an ordinance that would classify certain sidewalks for winter maintenance within the Town of Gorham as the responsibility of the abutting property owner, as well as classify those which would be the responsibility of the Town of Gorham (referred by the Town Council on April 6, 2021).

#### 4. **Other Business**

No items were discussed.

#### 5. **Schedule next meeting and discuss agenda items for next meeting.**

The next meeting of the committee is scheduled for Tuesday, May 18, 2021 at 8:00 a.m. The following items will be discussed at the next meeting:

- A. Review requirements and restrictions in place for the installation of commercial and residential solar systems and bring back recommendations to the Council for revisions in ordinances to help encourage installation of such systems (referred by the Town Council on December 1, 2020).
- B. Review and recommend adding additional allowed uses to home occupations in the Land Use & Development Code (referred by the Town Council on January 5, 2021).
- C. Review and recommend adding agricultural event centers and agricultural tourism uses to the Land Use & Development Code (referred by the Town Council on January 5, 2021).

- D. Perform a full overview of the Firearms Ordinance and provide recommendations to the Town Council (referred by the Town Council on February 2, 2021).
- E. Create or amend Town Ordinances to classify sidewalks for winter maintenance (referred by the Town Council on April 6, 2021).

6. **Recent Items Sent to Town Council with Committee Recommendations**

7. **Adjournment**

There being no further business, a motion was MADE by Councilor Wilder Cross and SECONDED by Councilor Hartwell and VOTED to adjourn. Time of adjournment: 9:27am.

Respectfully submitted,  
Jessica R. Hughes, Executive Assistant