

**AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
EMERGENCY MEETING
March 24, 2020
6:00pm
Online Via Google Meet**

***Note - No public comment will be taken during this meeting although it is anticipated that future remote regular Town Council meetings will incorporate a means by which to provide public comment. This meeting may be viewed on local access television and found on the Town website through GOCAM at www.gorham-me.org or <https://www.gorham-me.org/gorham-government-education-television>**

Roll Call

Item #2020-3-13 Action to consider the emergency adoption of an ordinance entitled “Town of Gorham Emergency Management Ordinance.” (Council Philips Spon.)

**Proposed
Order # 20-041** Ordered, that the Town Council adopt an Emergency Management Ordinance pursuant to Section 213.1 of the Gorham Town Charter as follows:

**TOWN OF GORHAM
EMERGENCY MANAGEMENT ORDINANCE**

March 24, 2020

Emergency Preamble:

WHEREAS, the Town of Gorham (“Town”) currently has no ordinance, policy or other provisions to establish emergency management processes and procedures, or a means by which to issue a proclamation that an emergency exists within the Town; and

WHEREAS, there is currently an outbreak of novel coronavirus disease 2019 (“COVID-19”), a respiratory illness, first detected in Wuhan City, Hubei Province, China, which continues to expand to a growing number of international locations, including the United States; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services announced a nationwide public health emergency to respond to COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization (the “WHO”) declared that the global health crisis involving COVID-19 is a pandemic; and

WHEREAS, on March 15, 2020, Governor Janet Mills declared a State of Civil Emergency for the entire State of Maine in order to address the threat that COVID-19 poses to the health and welfare of residents and visitors to the State of Maine; and

WHEREAS, as of March 23, 2020, there were one hundred and seven (107) case in Maine of COVID-19 with several confirmed cases in Gorham; and

WHEREAS, the Maine Center for Disease Control and Prevention has confirmed that there is community spreading of the disease in Cumberland County; and

WHEREAS, in the judgment of the Gorham Town Council, these facts create an emergency within the meaning of Article II, Section 213.1 of the Town Charter and require the following ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town Council hereby ordains that an Emergency Management Ordinance for the Town of Gorham be adopted to read as follows:

Section 1. Purpose.

It is the intent and purpose of this ordinance to establish an emergency management team in compliance and in conformity with the provisions of 37-B M.R.S. §§ 781 *et seq.* to ensure the complete and efficient utilization of the Town's facilities and resources to combat disaster as defined herein.

Section 2. Definitions.

The following definitions shall apply in the interpretation of this ordinance:

A. The term "Emergency Management Director" shall mean the director of the Town's emergency management team, appointed as prescribed in this ordinance.

B. The term "disaster" shall mean the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, disease, epidemic, pandemic, air contamination, critical material shortage, infestation, explosion or riot.

C. The term "emergency management team" shall mean the entire group of Town departments working under this ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, in order to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, emergency medical services, emergency welfare, rescue, engineering, public warning and communications services, evacuation of persons

from stricken areas, allocation of critical materials in short supply, emergency transportation, other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.

D. The term “emergency management team forces” shall mean the employees, equipment and facilities of all Town departments, boards, institutions and commissions, and in addition it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Section 3. Team organization.

A. The Town Manager shall be responsible for the emergency management team’s organization, administration and operation. The Town Manager may employ such permanent or temporary employees as he or she deems necessary and prescribe their duties.

B. The Town Council shall review the existing operational organization to ascertain the emergency management team’s ability to cope with its responsibilities and shall approve the Town’s Emergency Operations Plan, as defined below.

Section 4. Emergency Management Director.

The Town Manager shall recommend to the Town Council his or her appointment for Emergency Management Director; this appointment will be subject to Council confirmation as outlined in 37-B M.R.S. § 782. The Emergency Management Director shall coordinate the activities of all Town departments, organizations and agencies for civil emergency preparedness within the Town and maintain a liaison with other emergency management agencies and public safety agencies and have such additional duties as prescribed by the Town Manager.

Section 5. Policies.

The Emergency Management Director shall prepare, under the direction of the Town Manager, such policies as may be deemed necessary for the administration and operational requirements of the team, which policies must be approved by the Town Council prior to becoming effective.

Section 6. Emergency proclamation.

A. The Town Manager shall have the power and authority, upon consultation with the Chair of the Town Council, to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the Town. If the Town Manager is temporarily absent from the Town or otherwise unavailable, the person designated by the Town Manager pursuant to Article III, Section 304 of the Town Charter may issue the proclamation that an emergency exists. If neither the Town Manager nor the person designated to act in the Town Manager’s absence is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Emergency Management

Director, the Fire Chief, the Police Chief, and the Public Works Director. A copy of such proclamation shall be filed within twenty-four (24) hours in the office of the Town Clerk.

B. Notwithstanding the above, when consultation with the Chair of the Town Council would result in a substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Town Manager, or his successor as outlined above, is authorized to take whatever actions are necessary to prevent the loss of life and property in the Town.

C. The Town Manager and/or the Emergency Management Director shall be responsible for submitting a full report to the Town Council of all actions taken as a result of the declared emergency as soon as the Town Council can be convened.

Section 7. Termination of emergency.

A. When the Town Manager, or his or her successor as outlined above, is satisfied that a disaster or civil emergency no longer exists, he or she shall terminate the emergency proclamation by another proclamation affecting the sections of the Town covered by the original proclamation, or any part thereof. Said termination of emergency shall be filed in the office of the Town Clerk.

B. No state of emergency may continue for longer than five (5) days unless renewed by the Town Council.

Section 8. Town Manager's duties and emergency powers.

A. During any period when an emergency proclamation is in effect, the Town Manager may implement rules and/or regulations as he or she deems necessary to protect life and property and to preserve critical resources within the purposes of this ordinance. Such regulations may include, but are not limited to, the following:

- (1) Regulations prohibiting or restricting the movement of vehicles in areas within or without the Town;
- (2) Regulations facilitating or restricting the movement of persons within the Town;
- (3) Regulations pertaining to the movement of persons from hazardous areas within the Town; and
- (4) Such other regulations necessary to preserve public peace, health, safety and welfare.

B. The Town Manager may suspend the enforcement of any ordinance or rules prescribing the procedures for conduct of Town business if strict compliance with the provisions of the ordinance or rule would in any way prevent, hinder or delay necessary action in coping with the emergency.

C. Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to it by State statute, Town ordinance or the Town Charter.

D. The Town Manager or his designee may order the evacuation of persons from hazardous areas within the Town.

E. The Town Manager, or his or her designee, shall be authorized to request aid or assistance from the State or any political subdivision of the State, utilize any such aid received, and render assistance to other political subdivisions under the provisions of Title 37-B, Chapter 13, of the Maine Revised Statutes.

F. The Town Manager may obtain vital supplies, equipment and other items found lacking and needed for the protection of health, life and property during an emergency without following normal purchasing or formal bid procedures.

G. The powers of the Town Manager and any regulations promulgated hereunder shall terminate at the end of the declared emergency.

Section 9. Emergency Operations Plan.

A. The Emergency Management Director shall prepare an all hazard Emergency Operations Plan (EOP) for the Town, which shall be submitted to the Town Council for approval. The EOP shall incorporate the principles of the National Incident Management System (NIMS) and the Incident Command System (ICS) and shall include those elements required by 37-B M.R.S. § 783.

B. It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portions of the EOP in a current state of readiness. The EOP shall be reviewed periodically by the Town Manager in conjunction with all the Town department heads and the Emergency Management Director.

Section 10. Immunity from liability.

All emergency management team forces, while engaged in emergency management activities, shall be immune from liability, as set forth in 37-B M.R.S. § 822.

Section 11. Compensation for injuries.

All emergency management team forces appointed to specific functions, whether paid or volunteer, shall be deemed to be employees of the Town when engaged in training or on duty and shall have all of the rights of Town employees and will be covered by the Town's workers' compensation insurance for the duration of the training or incident. All persons responding to assist the Town as part of existing mutual aid agreements will be covered by their employer or by the State of Maine under the Workers' Compensation Act as set forth in 37-B M.R.S. § 823.

Section 12. Violations of regulations.

It shall be unlawful for any person to violate any provision of this ordinance or of the regulations or plans issued pursuant to the authority contained herein or to obstruct, hinder or delay any emergency management team forces as herein defined in the enforcement of the provisions of this ordinance or any regulation or plan issued hereunder.

Section 13. Penalties.

Any person, firm or corporation violating any provision of this ordinance or any rule or regulation promulgated hereunder, upon conviction thereof, shall be punished by a fine of not less than \$100 and not more than \$500 and the costs of prosecution, including attorney's fees.

Section 14. Severability.

Should any provision of this ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this ordinance as a whole, it being the legislative intent that the provisions of this ordinance shall be severable and remain valid notwithstanding such declaration.

Section 15. Conflicting ordinances and regulations superseded during emergency.

At all times when an emergency proclamation is in effect, the orders, rules and regulations made pursuant to this ordinance shall supersede all existing ordinances, orders, rules and regulations, insofar as the latter may be inconsistent herewith.

Section 16. Effective date.

In view of the emergency cited in the Emergency Preamble, this ordinance shall take effect on immediately upon adoption by the Town Council on March 24, 2020.

Adjourn