

**AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
April 6, 2021
6:30pm
On-line Zoom Meeting**

The Town of Gorham invites you to view our upcoming Regular Town Council Meeting on April 6, 2021, starting at 6:30PM. This meeting will be held remotely, hosted as a Zoom Webinar and streamed over GoCAM and Facebook Live for anyone who wishes to view. Staff strongly recommends those who would like to make public comment regarding agenda items to email written comments by 4pm on Tuesday, April 6, 2021 to the following email address: TC_Mtg_Public_Comment@gorham.me.us.

To join the meeting, follow this link on your computer or mobile device: <https://us02web.zoom.us/j/89476198041>. Or join by phone by calling 1-929-205-6099 and entering Webinar ID # 894 7619 8041.

To make a public comment during the meeting, we ask that you raise your hand using the button in Zoom, or for those joining by phone, you may type *9.

Please be advised that any comments made during the meeting on Facebook Live or GoCAT will not be reviewed and are not considered public comment for purposes of the public record.

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the March 2, 2021 Regular Town Council Meeting, and the March 11, 2021 and March 23, 2021 Special Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

**Public hearing #1
On item #2021-04-01**

Public hearing to hear comment on a proposal to issue a renewal liquor license to MK Kitchen LLC. (Admin. Spon.)

**Proposed
Order #21-048**

Ordered, that the Town Council issue a renewal liquor license to MK Kitchen, LLC, 2 School Street.

Public hearing #2
On Item #2021-04-02

Public hearing to hear comment on a proposal to issue a renewal liquor license to Gorham Country Club, INC. (Admin. Spon.)

Proposed
Order #21-049

Ordered, that the Town Council issue a renewal liquor license to Gorham Country Club, INC., 93 McLellan Road.

Public hearing #3
On item #2021-04-03

Public hearing to hear comment on a proposal to issue a renewal liquor license to Rustic Taps and Catering LLC, (Admin. Spon.)

Proposed
Order #21-050

Ordered, that the Town Council issue a renewal liquor license to Rustic Taps and Catering LLC, 25 Elm Street.

Public hearing #4
On Item #2021-04-04

Public hearing to hear comment on a proposal to issue an Adult Use Marijuana License to JAR Co. Farms LLC, 7 County Road, Building A, property owned by Tom Bill. (Admin. Spon.)

Proposed
Order #21-051

Ordered, that the Town Council issue an Adult Use Marijuana License to JAR Co. Farms LLC, 7 County Road, Building A, property owned by Tom Bill.

Public hearing #5
On item #2021-04-05

Public hearing to hear comment on a proposal to issue an Adult Use Marijuana License to Joint Efforts Inc., 36 Bartlett Road, Unit 8, property owned by Hinks Realty.(Admin. Spon.)

Proposed
Order #21-052

Ordered, that the Town Council issue an Adult Use & Medical Marijuana License to Joint Efforts Inc., 36 Bartlett Road, Unit 8, property owned by Hinks Realty.

Public hearing #6
On item #2021-04-06

Public hearing to hear comment on a proposal to issue a new Massage Licenses to Rhonda Hayley Lodgek. (Admin. Spon.)

Proposed
Order #21-053

Ordered, that the Town Council issue a new Massage License to Rhonda Haley Lodgek.

Public hearing #7
On item #20-09-10

Public hearing to hear comment on proposed zoning amendments to the Narragansett Mixed Use District in the Land Use Development Code. (Ordinance Comm. Spon.)

Proposed
Order #21-054

Ordered, that the Town Council approve zoning amendments to the Narragansett Mixed Use District in the Land Use Development Code to add personal service use as part of mixed use developments, and to revise the minimum side yard setbacks for commercial and mixed use as follows:

SECTION 1-16 – NARRAGANSETT MIXED-USE DEVELOPMENT DISTRICT

B. PERMITTED USES

- 2) **Commercial Uses which are only permitted as part of a mixed-use development**
 - c) Personal Service with 2,000 sq. ft. or less of gross floor area.

D. DIMENSIONAL STANDARDS

- 2)
 - d) Minimum side and rear yard – 20 feet or for structures taller than 35 40’ in height the required setback is two one and a half times (2 1.5) times the building height, whichever is greater.

Public hearing #8
On item #2020-08-08

Public hearing to hear comment on proposed amendments to the Adult Use and Marijuana Ordinance. (Ordinance Comm. Spon.)

Proposed
Order #21-055

Ordered, that the Town Council approve an amendment to the Adult Use and Marijuana Ordinance to add uses and performance standards for Medical Marijuana Businesses and Caretakers as follows:

SECTION 1-5 – DEFINITIONS

Adult-Use Marijuana Cultivation Facility – a “cultivation facility,” as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended or recodified.

Adult-Use Marijuana Products Manufacturing Facility - a “products manufacturing facility,” as that term is defined in 28-B M.R.S.A. § 102(43), as may be amended or recodified.

Adult-Use Marijuana Testing Facility – an adult-use “testing facility,” as that term is defined in 28-B M.R.S.A. § 102(54), as may be amended or recodified.

Medical Marijuana Caregiver – a “registered caregiver,” as that term is defined in 22 M.R.S.A. § 2422(11), as may be amended or recodified.

Medical Marijuana Business – a medical marijuana manufacturing facility, a medical marijuana testing facility, and/ or a medical marijuana caregiver that operates in a location that is not that caregiver’s primary residence, or in the case of a caregiver that is a registered entity, the primary residence of any of the entity’s officers or managers. A medical marijuana caregiver business does not include or encompass a medical marijuana caregiver store or a medical marijuana dispensary, neither of which are authorized to operate in the Gorham.

Medical Marijuana Manufacturing Facility – a “manufacturing facility,” as that term is defined in 22 M.R.S. § 2422(4-R), and further specified in 22 M.R.S. § 2423-F, as both may be amended or recodified.

Medical Marijuana Testing Facility – a “marijuana testing facility,” as that term is defined in 22 M.R.S. § 2422(5-C), as may be amended or recodified.

SECTION 1-8 - RURAL DISTRICT

25) Medical Marijuana ~~Caregiver Cultivation or Manufacturing Facility Business~~ when inside an existing agricultural building.

SECTION 1-12- INDUSTRIAL DISTRICT

12) Medical Marijuana ~~Caregiver Cultivation or Manufacturing Facility Business~~

SECTION 1-21- OLDE CANAL INDUSTRIAL DISTRICT

14) Medical Marijuana ~~Caregiver Cultivation or Manufacturing Facility Business~~

SECTION 2-15 – HOME OCCUPATION STANDARDS

Home occupations shall conform to the following requirements:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto with the exception of farm/roadside stands which are allowed to be carried on in a separate structure.
2. Not more than two people outside the family shall be employed in the home occupation.

3. There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
4. No nuisance, offensive noise, vibration, smoke, dust, odors, heat, or glare shall be generated.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
6. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum of users the home occupation may attract during peak operating hours.
7. The home occupation shall not utilize more than 20% of the total floor area of the dwelling unit with the exception of home day care facilities which may utilize up to 50% of the dwelling unit in addition to the use of the exterior of the property for State required play areas.
8. A home occupation shall be limited to the following:
 - a. art studio
 - b. bed and breakfast
 - c. day care home
 - d. dressmaking shop
 - e. farm/roadside stands
 - f. hairdressing shop
 - g. teaching or tutoring facilities
 - h. office of a physician, dentist, optometrist, lawyer, engineer, architect or accountant
 - i. office of a real estate broker or agent
 - j. office of an insurance agent or broker
 - k. office of construction services
 - l. uses similar and compatible with the above as determined by the Town's Code Enforcement Officer
 - m. medical marijuana caregiver
9. Permit required. A permit must be obtained from the Code Enforcement Department prior to commencement of the Home Occupation. As part of the permit approval, the Town's Code Enforcement Officer is authorized to limit the proposed use or require on-site improvements to minimize potential negative impacts to the neighborhood and/or roadways.

10. A home occupation shall not be interpreted to include the following:
 - a. facilities for the repair of motor vehicles
 - b. day care center

11. In addition to the home occupation standards listed above, the home occupation use for office or construction services, plumbers and electricians must also meet the following requirements:
 - a. limited to two of the following: pick-up trucks, vans or box trucks and one trailer parked/stored outside
 - b. no outside storage of materials
 - c. material storage buildings/space limited to 20% of the size of the total area of the dwelling unit

12. In addition to the home occupation standards 1 through 10 listed in this section, the home occupation use for medical marijuana caregivers must also meet the following requirements:
 - a. Medical marijuana caregivers may only receive or otherwise serve patients, or other vendors, between the hours of 10:00 A.M. and 6:00 P.M., Monday through Friday.
 - b. All growing and related growing supplies are required to be stored inside and within 20% of the total floor area of the dwelling unit occupied by the home occupation
 - c. No outside cultivation or storage of marijuana, marijuana products, or related supplies is permitted. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence or within a building or other **accessory** structure ~~accessory~~, including but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.
 - d. The odor generated from marijuana cultivation or harvesting shall not be reasonably detectable from any adjacent lot, public right-of-way, or outside of the growers' leased area. The marijuana cultivation shall provide for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation from being dispersed or released outside the building or lease line.
 - e. The medical marijuana caregiver shall obtain **and maintain an active and valid medical marijuana caregiver registration with the State of Maine conditional license** prior to operating in the Town of Gorham.
 - f. That the grow plant canopy size shall be capped at a maximum of **500** sq. ft.
 - g. All cultivation areas shall meet all applicable local, state, and federal building, electrical, and fire codes.
 - h. That a property owner's written consent to cultivate marijuana is required for growers located on lots/leased areas not owned by them. An owner of a residential structure can prohibit the cultivation of marijuana on his or her property.
 - i. The cultivation areas shall be locked when not being attended to by the grower of the marijuana.
 - j. **Prohibited:** The following **is are** prohibited as part of **the home occupation a medical marijuana caregiver home occupation-growing:**

- 1) The home extractions of marijuana concentrate using hazardous substances.
- 2) The, manufacturing, testing, or retail sale of marijuana or marijuana products intended for adult (and not medical) use.
- 3) The establishment or operation of a medical marijuana caregiver retail store, as that term is defined in 22 M.R.S.A. § 2422(1-F).
- 4) Any other activity that is not authorized for medical marijuana caregivers under applicable State law, in 22 M.R.S.A. § 2423-A(2).

k. The purpose of this Subsection 12 is to regulate both new and existing medical marijuana caregivers operating as home occupations within the Town. These regulations are intended to protect the public health, safety and welfare, to ensure compatibility with the surrounding neighborhood, and to minimize any adverse impact of such caregiver operations on adjacent and nearby properties.

1) Application

The operational requirements of Subsection 2-15 shall apply to all existing medical marijuana caregivers operating as home occupations on the effective date of this ordinance as well as new caregiver operations. To qualify as an existing medical marijuana caregiver operating as home occupation, the operation must be a lawful use under the Zoning Ordinance as of _____, 2021, must have been in operation at some time over the five (5) years immediately preceding _____, 2021, and must have been in full compliance with all applicable Town ordinances during all such times of operation.

2) Registration Requirements

Within one hundred eighty (180) days of _____ all medical marijuana caregivers operating as home occupations and existing as of that date shall be registered with the Code Office and submit the following:

- (a) initial registration fee of \$ _____;**
- (b) names and addresses of the current owner of the property and of the medical marijuana caregiver, and a copy of the deed or rental lease if the medical marijuana caregiver is not the property owner;**
- (c) evidence that the medical marijuana caregiver's operation was in existing operation as defined above, including, without limitation, the State of Maine registered caregiver license and any other State-issued licenses, including any food establishment license; and**
- (d) evidence of the location of the medical marijuana caregiver's growing operation on the property, which shall include a depiction of the canopy size, setbacks of the growing area from property line**

boundaries, and actions taken to meet the relevant Home Occupation Standards as identified below.

3) Operational Requirements for New and Existing Medical Marijuana Caregivers

Unless otherwise expressly provided, the foregoing requirements contained in this Subsection 12 apply to all medical marijuana caregivers operating as home occupations; however, any existing medical marijuana caregiver operating as a home occupation and lawfully in operation at the effective date of this ordinance which does not comply with these operational requirements shall be grandfathered with regard to such deficiencies except that there shall be no grandfathered rights as to Chapter 2, Section 2-15 Home Occupation Standards, Subsection 12(a) through 12(d) and 12(f) through 12(i).

Item #2021-04-07

Action to consider accepting a resignation from the Gorham Economic Development Corporation. (Admin. Spon.)

Proposed

Order #21-056

Ordered, that the Town Council accept the resignation of Brian Rancourt from the Gorham Economic Development Corporation; and

Be It Further Ordered, that the Council thanks Brian Rancourt for his many years of service on the Corporation.

Item #2021-04-08

Action to consider instructing the Appointments Committee to fill a vacancy on the Gorham Economic Development Corporation. (Admin. Spon.)

Proposed

Order #21-057

Ordered, that the Town Council appoint Ben Gilman to the Gorham Economic Development Corporation.

Item #2021-04-09

Action to consider amendments to the Land Use & Development Code to required phase build outs of subdivisions. (Councilor Pratt Spon.)

Proposed

Order #21-058

Ordered, that the Town Council instructs the Ordinance Committee to 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.

Item #2021-04-10 Action to consider directing the Ordinance Committee to create or amend Town Ordinances to classify sidewalks for winter maintenance. (Councilor Hartwell Spon.)

Proposed Order #21-059 Ordered, the Town Council instructs the Ordinance Committee to 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.

Item #2021-04-11 Action to authorize staff to administratively approve certain licenses. (Councilor Phillips Spon.)

Proposed Order #21-060 Ordered, that the Town Council authorizes Town staff to approve massage and liquor licenses that have not been flagged by any Town Department and have had five years of preceding consecutive licensing with the Town of Gorham.

Item #2021-04-12 Action to consider setting a workshop date(s) for the FY22 Municipal Budget. (Admin. Spon.)

Proposed Order #21-061 Ordered, that the Town Council establishes the first workshop for the FY22 on April 13, 2021 at 6:30pm via Zoom; and

Be It Further Ordered, that the Town Council establishes a second workshop date, if needed, on April 27, 2021 at 6:30pm via Zoom.

Item #2021-04-13 Action to consider scheduling a Town Council Workshop to discuss the road acceptance process. (Councilor Pratt Spon.)

Proposed Order #21-062 Ordered, that the Town Council schedule a workshop for Tuesday, May 18, 2021 for the purpose of discussing the Town's road acceptance process.

Item #2021-4-14

Action to consider accepting offers for conservation easements and land purchases associated with the Development Transfer Overlay District. (Councilor Phillips Spon.)

**Proposed
Order # 21-063**

Ordered, that the Town Council authorizes staff to solicit conservation easements and land acquisitions per the Development Transfer Overlay District to promote the preservation of lands in the rural zone; and

Be It Further Ordered, that staff shall report back to the Town Council with findings and recommendations for the distribution of funds to preserve rural lands according to the requirements of the Development Transfer Overlay District.

Adjourn