

AGENDA AND PROPOSED ORDERS  
GORHAM TOWN COUNCIL  
REGULAR MEETING  
June 1, 2021  
6:30pm  
Burleigh Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the May 4, 2021 Regular Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

**Public**

**Hearing # 1**

**On item #2021-6-01** Public Hearing on the proposed 2021-2022 Fiscal Year Budget for the Gorham School District. (Admin. Spon.)

**Proposed**

**Order # 21-076** ORDERED, that the following school budget items be adopted and approved for fiscal year 2021-2022:

***NOTE:** Pursuant to Section 405 of the Council-Manager Charter of Town of Gorham, "The Town Council, after reviewing the proposed budget, may change the total appropriation prior to approving the final budget." Pursuant to State law, 20-A M.R.S.A. Section 2307, "In charter municipalities where the municipal charter confers upon a municipal council or other municipal legislative body the authority to determine the total amount of the school budget and confers upon the school committee or school board the authority to direct the expenditure of those funds for school purposes, the municipal council or other municipal legislative body shall determine the total amount of the school budget to be submitted to a budget validation referendum and the school committee or school board shall determine the allocation of the approved school budget among the cost centers of the cost center summary budget format." Pursuant to section 15671-A(5 of Title 20-A of the Maine Revised Statutes, when the Council approves a school budget exceeding the State's EPS funding model, a separate recorded council vote is required to approve the funds raised. Consequently, a separate Order follows this Order for that purpose.*

ORDERED, that the following school budget items be adopted and approved for fiscal year 2021-2022:

That **\$19,447,086** be authorized to be expended for Regular Instruction;  
that **\$7,366,151** be authorized to be expended for Special Education;  
that **\$0** be authorized to be expended for Career and Technical Education;  
that **\$986,394** be authorized to be expended for Other Instruction;  
that **\$3,584,896** be authorized to be expended for Student and Staff Support;  
that **\$1,417,088** be authorized to be expended for System Administration;  
that **\$2,294,484** be authorized to be expended for School Administration;  
that **\$2,103,117** be authorized to be expended for Transportation and Buses;  
that **\$4,303,250** be authorized to be expended for Facilities Maintenance;  
that **\$2,644,163** be authorized to be expended for Debt Service and Other Commitments;  
and that **\$120,000** be authorized to be expended for All Other Expenditures.

**BE IT FURTHER ORDERED:**

That **\$44,266,629** appropriated for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and that **\$14,432,905** be raised as the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, section 15688.

*Explanation: The municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that a municipality must raise in order to receive the full amount of state dollars.*

That **\$740,888** be raised and appropriated for the annual payments on debt service previously approved by the municipality's legislative body for non-state-funded school construction projects, non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the municipality's contribution to the total cost of funding public education from kindergarten to grade 12.

*Explanation: Non-state-funded debt service is the amount of money needed for the annual payments on the municipality's long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the voters or other legislative body.*

**BE IT FURTHER ORDERED**, that the school committee be authorized to expend **\$44,266,629** for the fiscal year beginning July 1, 2021 and ending June 30, 2022 from the municipality's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

**BE IT FURTHER ORDERED**, that the Town will appropriate **\$301,513** for adult education and raise **\$62,401** as the local share; with authorization to expend any additional, incidental, or miscellaneous receipts in the interest and for the well-being of the adult education program.

**BE IT FURTHER ORDERED**, that the Town raise and appropriate to transfer **\$120,000** to the school nutrition program.

ORDERED that \$7,917,999 be raised and appropriated in additional local funds, which exceeds the State's Essential Programs and Services allocation model by \$7,917,999 as required to fund the budget recommended by the School Committee.

The School Committee recommends \$7,917,999 for additional local funds and gives the following reasons for exceeding the State’s Essential Programs and Services funding model by \$7,917,999. The State’s funding model does not support all of the costs of the schools because it includes only those costs considered essential by the new State Essential Programs and Services (EPS) model.

*Explanation: - The additional local funds are those locally raised funds over and above the municipality’s local Contribution to the total cost of funding public education from Kindergarten to grade 12 as described in the Essential Programs and Services funding Act and local amounts raised for the annual payment on non-state funded debt service that will help achieve the School Department budget for educational programs.*

**Item #21-6-02** Action to consider authorizing the Gorham School Department to use all of additional state subsidies to reduce the mil rate for FY22. (Admin. Spon.)

**Proposed Order #21-077** Ordered, that the Town Council authorizes the Gorham School Department to use all of additional state subsidies received but not already included in the proposed FY22 budget to decrease the local cost share expectation, as defined in Title 20-A, section 15671 A(1)(B), for local property taxpayers for funding public education as approved by the School Board.

**Public Hearing #2**  
**On order #2021-6-03** Public Hearing on the proposed 2021-2022 Fiscal Year Budget for the Town of Gorham. (Admin. Spon.)

**Proposed Order #21-078** ORDERED, that the Town Council vote to adopt the 2021-2022 Fiscal Year Budget with the following departmental totals:

General Government	\$	2,000,787
Public Safety	\$	4,895,252
Public Works/Solid Waste/Engineering & Insp Services	\$	3,138,702
Health & Welfare and Social Service Agencies	\$	54,600
Recreation/Community Center/Cable	\$	604,849
Libraries and Museum	\$	517,053
Development	\$	155,458
Debt & Interest	\$	2,031,013
Capital Items	\$	47,000
Insurance and Employee Benefits	\$	3,087,443
Other Town Services and Unclassified	\$	<u>454,664</u>
Subtotal	\$	16,986,821
Cumberland County Property Tax	\$	<u>1,380,030</u>
Total	\$	<u>18,366,851</u>
Non-Property Tax Revenues	\$	8,025,054

BE IT FURTHER ORDERED that the Education budget as finally approved by the Gorham Town Council and subsequently approved by the voters of the Town of Gorham be incorporated into a final Municipal budget; and

BE IT FURTHER ORDERED that the Town Council vote to adopt the Capital Budget Part II in the amount of \$2,556,602 to be funded from the town's undesignated fund balance; and

BE IT FURTHER ORDERED that all taxes on real estate and personal property shall be due and payable upon approval of this Order and that one-half of all real estate and personal property taxes that remain unpaid on November 15, 2021 shall commence bearing interest on November 16, 2021, and that the final half of all real estate and personal property taxes that remain unpaid on May 15, 2022, shall commence bearing interest on May 17, 2022 at the interest rate of 6.0% per annum as authorized by Maine Law until paid and collected and the Tax Collector and Treasurer are authorized to collect and receive thereof; and

BE IT FURTHER ORDERED that the Gorham Town Council authorizes the Finance Director to accept prepayment of real and personal property taxes; and

BE IT FURTHER ORDERED that pursuant to Title 36, M.R.S.A., Section 506A, the Gorham Town Council establishes an interest rate of 2.0% per annum to be paid on all real estate and personal property taxes rebated due to overpayment of taxes; and

BE IT FURTHER ORDERED that pursuant to Title 36, M.R.S.A., Section 906, the Gorham Town Council hereby require and direct that any tax payment received from an individual as payment for any property tax be applied against outstanding or delinquent taxes due on that property in chronological order beginning with the oldest unpaid tax bill, provided, however, that no such payment shall be applied to any tax for which an abatement application or appeal is pending unless approved in writing by the taxpayer. This order shall remain in effect until rescinded by the Municipal Officers.

**Public  
Hearing #3  
On item #2021-6-04**

Public hearing to hear comment on the proposed amendment to the Land Use & Development Code to restrict the use of Invasive Terrestrial Plants for sale, for use in plantings and buffering, and to require the removal of invasive species within any street right-of-way. (Admin. Spon.)

**Proposed  
Order # 21-079**

Ordered, that the Town Council approve the amendments to the Land Use & Development Code to restrict the use of Invasive Terrestrial Plants for sale, for use in plantings and buffering, and to require the removal of invasive species within any street right-of-way as follows:

## **Chapter 2: General Standards of Performance, Section 2-1 Environmental,**

### **J. Invasive Terrestrial Plants**

- 1) No person shall import, export, buy, sell, or intentionally propagate for sale or distribution any living and viable portion of any plant species, which includes all of their cultivars, varieties and hybrids, listed under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273.
- 2) That the use of any of any invasive plant species, which includes all of their cultivars, varieties and hybrids identified under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273 shall be restricted from landscaping or buffering purposes for any property located within the Town.
- 3) That the transplanting of any invasive plant species, which includes all of their cultivars, varieties and hybrids identified under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273 within the Town or across Town boundaries is not permitted.
- 4) That the disposal any invasive plant species, which includes all of their cultivars, varieties and hybrids identified under 01-1001 Maine Department of Agriculture, Conservation and Forestry, Division of Animal and Plant Health, Chapter 273 shall be such as to not promote the dispersal of the invasive species to other lots, properties, and areas within the Town or outside of Town boundaries.

## **Chapter 2: General Standards of Performance, Section 2-5 Minimum Standards for the Design and Construction of Streets and Ways, E. Acceptance of Streets and Ways, 4. Streets Offered for Acceptance,**

i) That the applicant must present to the following documentation: Proof of the verification by a qualified professional approved by the public works department and compensated by the applicant that the street rights-of-way and any other property proposed to be conveyed in any manner to the Town, upon visual inspection, has been free of invasive terrestrial plants as defined in Chapter 2, J. Invasive Terrestrial Plants of this Code for a period of two years prior to the application filing. In the event that invasive terrestrial plants are present, the applicant shall provide proof to the Public Works Director that there have been appropriate eradication methods applied for a minimum of two growing seasons in a manner acceptable to the Public Works Director.

## **Chapter 4: Site Plan Review, Section 4-9 Approval Criteria and Standards**

**P. Landscaping** - The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.

- 1) The use of Invasive Terrestrial Plants is not allowed in any landscaping on the site per the standards and requirements identified under Chapter 2, Section 2-1, J. Invasive Terrestrial Plants.

**S. Buffering** - The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained.

- 1) The use of Invasive Terrestrial Plants is not allowed in any buffering on the site per the standards and requirements identified under Chapter 2, Section 2-1, J. Invasive Terrestrial Plants.

**Public  
Hearing #4  
On Item #2021-6-05**

Public hearing to hear comment on the proposed amendment to the Land Use & Development Code to add an exemption for well drilling activities to the Town's noise ordinance during times of severe drought. (Admin. Soon.)

**Proposed  
Order #21-080**

Ordered, that the Town Council approve amendments to the Land Use & Development Code to add an exemption for well drilling activities to the Town's noise ordinance during times of severe drought as follows:

## CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE

### SECTION 2-1 - ENVIRONMENTAL H. NOISE ABATEMENT

- 1) Noise is required to be muffled so as not to be objectionable to surrounding land\_uses. Noise may be equal to but not exceed an hourly A weighted equivalent sound level of 75 decibels (dBA) as defined and\_measured generally in accordance with ANSI standards. This standard shall apply at any boundary line. This section shall not apply to mineral exploration, excavation or gravel pits that are subject to the provisions of Chapter 2, Section 2-1 C(5)(a)(3) of this Code. The 75 decibel (dBA) limit applies at the lot line for all lots in Gorham, except as noted below.

After April 7, 2009 developments subject to site plan review are required to meet Chapter 4, Site Plan Review, Section 4-9, Approval Criteria and Standards, Subsection T, - Noise Abatement. Where there is a conflict between those noise requirements and the standards of this section, the more restrictive requirements shall govern.

- 2) A use shall not be subject to the noise limits established by this section at any property line where the property owner and the abutting property owner have agreed in writing that those noise limits will not apply at their shared property line or that the noise limits may exceed the 75 decibel limit by an amount established in writing. Any such agreement concerning the noise limits at the shared property line shall be set forth in reciprocal deeds between the property owners and shall be recorded in the Cumberland County Registry of Deeds.
- 3) The following activities are excluded from the sound level limits.
  - a) Construction and demolition work 7 am to 7 pm. With prior approval from the Town of Gorham Code Enforcement Officer, this exemption can be extended beyond daytime hours to accommodate certain activities such as major concrete pours.
  - b) Agricultural activity and daytime timber harvesting.
  - c) Landscaping, lawn mowing and related grounds keeping.
  - d) Snow removal and related winter maintenance such as sanding.
  - e) Operation and daytime (7 a.m. to 7 p.m.) testing of emergency equipment such as fire alarms, backup generators, and pressure relief valves.
  - f) Registered and inspected motorized vehicles traveling on public roads and when entering and departing from a parking or loading area and which are moving, starting or stopping. This excludes operation of vehicles and on-board equipment during loading, unloading, processing, mixing or related operations. Examples of non-exempt vehicle operations include refrigeration units on parked vehicles, cement mixers, and on-board loading pumps.
  - g) Safety and warning signals required by law, rule or regulation.
  - h) Cultural and sporting events with proper approval from the Town of Gorham.
  - i) At lot lines where the abutting property owner has granted a noise easement to the applicant, such an easement shall state the abutting property owner agrees that the sound level limits at the shared property line can be exceeded a specified amount but not by more than 10 dBA above the applicable sound level limits. Any agreement or easement concerning noise levels shall be included in the reciprocal deeds, and shall be only for the specific noise, land use and term covered by the noise easement and shall have no effect on the sound level limits applicable to other properties.
  - j) Maintenance, startups, shutdowns and other routine activities are not exempt from these sound level limits. Exceptions to this restriction can be granted by prior approval of the Code Enforcement Officer according to the following criteria:
    - 1) Frequency, no more than once every three months

- 2) Permitted sound level, no more than 85 dBA for brief limited, intermittent time periods totaling no more than one hour for the duration of maintenance,
  - 3) Maintenance exceeding normal sound limits, as described in item 2 to occur only between the hours of 7AM and 5PM
- k) Well drilling work 7 am to 7 pm. With prior approval from the Town of Gorham Police Department, this exemption can be extended beyond daytime hours to accommodate welling drilling activities during times of severe drought.

**Public  
Hearing #5  
On Item #2021-6-06**

Public hearing to hear comment on the proposed amendment to the Land Use & Development Code requiring surveyors to identify setbacks. (Admin. Spon.)

**Proposed  
Order #21-081**

Ordered, that the Town Council approve amendments to the Land Use & Development Code requiring surveyors to identify setbacks as follows:

**CHAPTER 1: ZONING REGULATIONS SECTION 1-3 - ADMINISTRATION E.  
APPLICATION**

- 1) Unless excused by the Code Enforcement Officer, all applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building or alteration and the proposed sewage disposal system as required by the Maine State Plumbing Code certified by a registered land surveyor or registered civil engineer or a plumbing inspector appointed by the Town. The Code Enforcement Officer may require at his discretion additional tests to be performed under his observation and at the expense of the applicant. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this Code.
  - a. All newly created lots less than 60,000 sq.ft. of lot area shall be surveyed by a State of Maine Registered Surveyor and all property corners shall be marked with permanent markers. For the purpose of this section a permanent marker shall be one of the following: a granite monument; a concrete monument; an iron pin; or a drill hole in ledge. A stamped copy of the official boundary survey shall be given to the Code Enforcement Officer for the record and part of the building permit review.



- b. Newly created lots greater than 60,000 sq.ft. may require a survey by a State of Maine Registered Surveyor if the Code Enforcement Officer determines that the proposed structure proximate to a front, side, rear, or shoreland setback warrants concerns about a given setback not meeting the minimum allowed. Should a boundary survey be warranted, all property corners shall be marked with permanent markers, For the purpose of this section a permanent marker shall be one of the following: a granite monument; a concrete monument; an iron pin; or a drill hole in ledge. A stamped copy of the official boundary survey shall be given to the Code Enforcement Officer for the record and part of the building permit review.
  
- c. If any part of the structure is proposed to be located closer than 5 feet to the minimum front, side, rear or shoreland setback required by the applicable zoning district regulations; or if the Code Enforcement Officer determines that special conditions such as complex curves in the property lines, or other unusual features of lot shape or topography, the Code Enforcement Officer may require that the foundation be set and pinned by a professional land surveyor.

**Public  
Hearing #6  
on Item #2021-6-07**

Public hearing to hear comment on a proposed increase to the transfer overlay fee to promote use and development in respective areas while maximizing contributions. (Admin. Spon.)

**Proposed  
Order #21-082**

Ordered, that the Town Council increase the transfer overlay fee from \$15,000 to \$16,500 to promote use and development in the respective areas while maximizing contributions.

**Item #2021-6-08**

Action to consider amending the Land Use & Development Code with regard to adding additional uses to home occupations. (Ordinance Committee Spon.)

**Proposed  
Order #21-083**

Ordered, that the Town Council forward to the Planning Board, for public hearing and recommendation, amendments to the Land Use & Development Code as follows:

## Chapter 1: ZONING REGULATIONS

### SECTION 1-5 - Definitions

Business and Professional Offices for the conduct of business and involve no sales of tangible products available on the premises, except as a minor and ancillary use as would be directly related to the conduct of a given profession, or storage of materials or equipment that are used off the premises.

**Professional offices include, but are not limited to, the following: office facility of a salesman, sales representative or a manufacturer's representative; office facility of an architect, engineer, broker, dentist, physician, optometrist, psychiatrist, insurance agent, land surveyor, lawyer, musician, real estate agent or accountant; office facility of a minister, rabbi or other religious leader, provided that the office is open to the public or congregation.** The following uses are not considered business and professional offices:

- 1) Distribution facilities
- 2) Sales offices involving on-premises display and sales of materials, except as a minor and ancillary use as described above
- 3) Offices of building contractors involving the storage of materials or equipment.

#### Personal Services

**A service based on the intellectual or manual efforts of an individual rather than a salable product. Personal services** includes, **but are not limited to, the following:** barber, hairdresser, beauty parlor, **spa, barbershop**, shoe repair, shoe shine, photographic studio, and businesses providing similar services of a personal nature.

#### Repair Services

Businesses providing for the repair and maintenance of personal and business property such as radios and televisions; electrical and electronic equipment; watches, clocks, and jewelry; furniture and upholstery; musical instruments; sporting equipment; small engines and equipment; **small appliances; bicycles; electric bicycles** and similar items but not including the repair of motor vehicles, boats, recreational vehicles or heavy equipment. Retail sales of parts and supplies shall be allowed provided such sales are accessory to the repair service.

#### Instructional Services

**An instructional service is a use in which the practitioner provides the client with special instruction in a specific area of study. Instructional services include, but are not**

**limited to, the following: music, dance, arts and crafts, and tutoring.**

**Home crafts**

**The business activities whereby the commodity for sale is completely manufactured by the resident craftsman. Home crafts may include, but are not limited to, the following: artists, jewelers, sculptors, dressmaking, seamstresses and tailors, and include such activities as model making, bakery, rug weaving, lapidary work and furniture making.**

**CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE**

**SECTION 2-15 – HOME OCCUPATION STANDARDS**

Home occupations shall conform to the following requirements:

**1. The use of a dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes.**

**2. A home occupation may not alter the residential character of the structure, neighborhood or change the character of the lot from its principal use as a residence.**

**3.3.** 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.

**4.4.** Not more than two people outside the family shall be employed in the home occupation.

**5.5.** 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.

**6.6.** No nuisance, offensive noise, vibration, smoke, dust, odors, heat, or glare shall be generated. **The noise standards shall comply with the standards identified under Chapter 4, Section 4-9, and T. Noise.-**

**7.7.** No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood **or generate more than 10 vehicle trips per day.**

~~6-9~~ In addition to the off-street parking provided to shall meet the standards set forth in Section 2-2 of this Chapter. If additional parking spaces are provided, they shall be located to the rear or side yard of the principal structure but not within the yard setbacks. Off-street parking lots with three (3) or more spaces shall be buffered from abutting residences. normal requirements of the dwelling, adequate off-street parking be provided for the vehicles of each employee and the vehicles of the maximum of the home occupation may attract during peak operating hours.

10. The sale of products shall be limited to those which are crafted, assembled or substantially altered on the premises, to catalog items ordered off the premises by customers and to items which are accessory and incidental to a service which is provided on the premises.

~~7-11.~~ The home occupation shall not utilize more than 20% of the total floor area of the dwelling unit or 576 square feet, whichever is more, with the exception of day care home 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.

8-12. The following uses shall be allowed as home occupations as defined in Chapter 1, Section 1-5 Definitions:

- a. Business and Professional offices
- b. Personal Services
- c. Instructional Services
- d. Repair Services
- e. Day Care Home
- f. Home crafts
- g. Construction Services
- h. Office of a Contractor or Tradesman
- i. Medical marijuana caregiver

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

**1. uses similar and compatible with the above as determined by the Town's Code Enforcement Officer**

**9-13.** 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.

14 .A home occupation shall not be interpreted to include the following:

- a. facilities for the repair of motor vehicles
- b. day care center

.15. In addition to the home occupation standards listed above, the home occupation uses **listed below shall meet the following requirements:**

**a. Instructional Services**

- 1) **Instructional services involving a maximum of four students at a time are permitted. In the case of musical instructions, no more than two students at a time shall be permitted.**

**b. Day Care Home**

- 1) **Prior to the permit approval of the use by the Code Enforcement Officer, the applicant must obtain a license from the State of Maine Department of Child and Family Services.**

**c. Construction Services**

- 1) Limited to two of the following: pick-up trucks, vans or box trucks and one trailer parked/stored outside.
- 2) No outside storage of materials.
- 3) Material storage buildings/space limited to 20% of the size of the total area of the dwelling unit.

**d. Repair Services**

- 1) **The repair of any small engines or equipment with any type of gas, diesel, oil, or natural gas engine is not permitted.**

Adjourn