

**AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
December 1, 2020
6:30pm
On-line Zoom Meeting**

The Town of Gorham invites you to view our upcoming Regular Town Council Meeting on December 1, 2020, 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, December 1, 2020 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/88611839053>, or join by phone by calling 1-929-205-6099 and entering Webinar ID: 886 1183 9053. 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 November 10, 2020 Regular Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

Public hearing #1

On Item #2020-12-01

Public hearing to hear comment on the proposed amendments to the Town of Gorham Cable Television Ordinance. (Admin. Spon.)

Proposed

Order #20-131

Ordered, that the Town Council hereby ordains that the "Cable TV Ordinance" be and hereby is repealed and replaced in its entirety with the attached.

*Note – Due to the length of the document, 35 pages, it is provided as a separate document.

Public hearing #2
On Item #2020-12-02

Public hearing to hear comment on the proposed amendments to the Gorham Municipal Employees Personnel Ordinance. (Admin. Spon.)

Proposed
Order #20-132

Ordered, that the Town Council approve the amendments to the Gorham Municipal Employees Personnel Ordinance.

*Note - Due to the length of the document, over 60 pages, it is not included in this agenda and is a separate document.

Public hearing #3
On Item #2020-12-03

Public hearing to hear comment on the proposed performance standards for Medical Marijuana Caregivers. (Admin. Spon.)

Proposed
Order #20-133

Ordered, that the Town Council amend the Marijuana Cultivation or Manufacturing Facility Licensing Ordinance as follows:

Town of Gorham
~~Marijuana Cultivation or Manufacturing Facility~~ Adult-Use and Medical Marijuana Licensing Ordinance
Adopted July 7, 2020
Amended December 1, 2020

Section 1 – Title

This ordinance shall be known as and cited as the “Town of Gorham ~~Marijuana Cultivation or Manufacturing Facility~~ Adult-Use and Medical Marijuana Licensing Ordinance” and will be referred to hereinafter as the “this Ordinance.” -This Ordinance limits all subject adult-use marijuana establishments and medical marijuana businesses, as both are defined herein, cultivation or manufacturing facilities to the zoning districts specified under the Gorham Zoning Ordinance, prescribes definitions and provides for permitting/licensing, regulation, and performance standards for cultivation or manufacturing facilities such uses.

Section 2 – Authority and Applicability

This Ordinance is adopted pursuant to the authority granted by 22 M.R.S.A. § 2429-D, 28-B M.R.S.A. § 101 et seq., as both may be amended or recodified, and the Town’s home rule authority under Chapter VIII, Part 2 Section 1 of the Maine Constitution and 30-A M.R.S.A. § 3001, as may be amended or recodified.

Section 3 – Purpose: Construction

The purpose of this Ordinance is to allow for the licensed operation of adult-use marijuana cultivation facilities, adult-use marijuana manufacturing facilities, adult-use marijuana testing facilities, medical marijuana caregivers, medical marijuana manufacturing facilities, and medical marijuana testing facilities in Gorham, while ensuring that the same are operated safely and in accordance with state law.

This Ordinance does not authorize the operation of adult-use marijuana stores as that term is defined in 28-B M.R.S.A. § 102(34), as may be amended or recodified. In addition, this Ordinance does not authorize the operation of medical marijuana caregiver retail stores or medical marijuana dispensaries, as those terms are defined in 22 M.R.S.A. §§ 2422(1-F) and 2422(6) respectively, as may be amended or recodified.

The operation of a medical marijuana caregiver within his/her primary residence, or in the primary residence of one or all of its officers or managers, is exempt from the licensing requirements of this Ordinance, but is still subject to the home occupation standards set forth in Section 2-15 of the Town of Gorham Land Use and Development Code.

This Ordinance does not, and shall not be interpreted to limit the rights and privileges afforded by the Maine Medical Use of Marijuana Act, 22 M.R.S.A. Chapter 558-C.

The purpose of this ordinance is to assure the safety of Gorham citizens by reviewing and regulating marijuana cultivation or manufacturing facilities, as permitted under state law.

Section 4 – Conflict with other ordinances; state law

Whenever a provision of this ~~O~~rdinance conflicts with or is inconsistent with other provisions of this ~~O~~rdinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply. Nothing herein is intended to conflict with state law; whenever a provision of this ~~O~~rdinance conflicts with state law the more restrictive provision shall apply. All applicants and licensees shall comply with all applicable state laws.

Section 5 – Validity and severability

Should any section or provision of this ~~O~~rdinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this ~~O~~rdinance.

Section 6 – Effective Date

~~The effective date of this ~~O~~rdinance and the licensing thereunder~~ The effective date of this Ordinance shall be thirty (30) days from the date of adoption by the Town Council.

Section 7 – Definitions

Adult-use marijuana cultivation facility – an adult-use “cultivation facility,” as that term is defined in 28-B M.R.S.A. § 102(13), as may be amended or recodified. An adult-use marijuana cultivation facility includes a “nursery cultivation facility,” as that term is defined in 28-B M.R.S.A. § 301(5), as may be amended or recodified.

Adult-use marijuana establishment – an adult-use marijuana cultivation facility, an adult-use marijuana products manufacturing facility, or an adult-use marijuana testing facility, which uses are only allowed to operate in Gorham once properly licensed by the State of Maine and under the applicable sections of this Ordinance.

Adult-use marijuana products manufacturing facility - an adult-use “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.

Agricultural Building – a structure designed, constructed, and used to store farm machinery,

supplies, implements, livestock, or crops.

Cultivate or cultivation – the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale of adult-use or medical marijuana. “Cultivation” or “cultivate” does not include manufacturing, testing or marijuana extraction.

~~**Cultivation facility**— a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature plants and seedlings to marijuana stores. A cultivation facility includes a nursery cultivation facility. A cultivation facility includes a nursery cultivation facility.~~

~~**Manufacture, processing** – the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including but not limited to marijuana extraction or preparation by means of chemical synthesis. “Manufacture” or “manufacturing” does not include cultivation or testing. “manufacture,” as that term is defined in 28-B M.R.S.A. § 102(26), as may be amended or recodified.~~

~~**Manufacturing batch** – a quantity of marijuana concentrate or extract that is produced in one production cycle using the same extraction methods or formulation and standard operating procedures. “batch,” as that term is defined in 28-B M.R.S.A. § 102(5), as may be amended or recodified.~~

~~**Marijuana** – the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. “Marijuana” includes marijuana concentrate but does not include hemp as defined in Title 7 M.R.S.A. §2231(1-A paragraph D) or a marijuana product. “marijuana,” as that term is defined in 28-B M.R.S.A. § 102(27), as may be amended or recodified.~~

~~**Marijuana establishment.** “Marijuana establishment” means a cultivation facility, products manufacturing facility, a testing facility or a of adult use or medical marijuana store licensed under this ordinance.~~

~~**Medical Marijuana Caregiver** – a “caregiver,” as that term is defined in 22 M.R.S.A. § 2422(8-A), as may be amended or recodified.~~

~~**Medical Marijuana Business** – a medical marijuana manufacturing facility, a medical marijuana testing facility, 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, partners, managers, or members. A medical marijuana 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 medical marijuana “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 medical “marijuana testing facility,” as that term is defined in 22 M.R.S. § 2422(5-C), as may be amended or recodified.~~

~~**Plant canopy.** – “Plant canopy” means the total surface area within the licensed premises of a cultivation facility that is authorized by the town for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants. “plant canopy,” as that term is defined in 28-B M.R.S.A. § 102(41), as may be amended or recodified.~~

Section 8 – Annual License required; distribution of licenses; renewal

~~_____~~ **A. License Required.** No person may establish, operate or maintain an adult-use marijuana establishment or a medical marijuana caregiver-business cultivation or manufacturing facility for adult use or medical caregiver without first obtaining an annual license from the ~~town~~ Town Council.

~~_____~~ It is a violation of this Ordinance for any person or entity to operate, or cause to be operated, ~~marijuana cultivation or manufacturing facility~~ an adult-use marijuana establishment or a medical marijuana business without a valid license issued by the ~~town~~ Town Council, pursuant to this Ordinance.

Pursuant to 28-B M.R.S.A. §301 and §502, an applicant seeking to operate an adult-use marijuana establishment cultivation or manufacturing facility may submit an application for a license concurrent with an application for a conditional license by the State of Maine to operate a marijuana cultivation or manufacturing facility.

B. Limit on Number of Licenses; Licenses Not Transferable. The Town Council may only issue one (1) total adult-use marijuana establishment to a single business, individual, or owner. For the purposes of this restriction, a “business” or “owner” shall include a separate business entity where the majority of ownership interests are held by the same individual(s) or entity/entities. The Town Council shall issue no more than one (1) adult-use marijuana establishment or medical marijuana caregiver business license per business/individual/owner.

The Town Council is authorized to issue no more than twenty (20) ~~adult-use~~ marijuana establishment licenses in accordance with this Ordinance and where allowed in the Land Use and Development Code.

~~Cultivation or manufacturing facilities that were operating with Town approval prior to the enactment of this ordinance shall have a priority of review for license issuance by the Town Council, provided that the owner/operator of the business submits a completed application for a license within 90 days of enactment of this ordinance. Such businesses shall be included in the maximum number of licenses permitted.~~

Licenses issued pursuant to this Ordinance are not transferable following a change in ownership of the licensee or a change in location of the licensed activity. Any change in ownership or change in officers of an owner of an ~~existing cultivation or manufacturing facility~~ adult-use marijuana establishment or medical marijuana business shall have a priority of review to maintain the issued license, provided that a completed license application is submitted prior to the change of ownership.

~~The Town Council shall issue no more than one (1) cultivation or manufacturing facility license whether for adult use or medical caregiver per business/individual/owner.~~

Adult-use ~~marijuana establishment or medical caregiver~~ Marijuana cultivation or manufacturing facility licenses shall be administered on a first come, first serve basis based upon the date the application is deemed complete.

Home cultivation ~~or manufacturing~~ of adult use or medical marijuana for personal use is exempt from the licensing requirements of this Ordinance.

Section 9 – Application procedure

A. An application for a license required by this Ordinance must be made on a form provided by the ~~T~~ town of Gorham.

B. Applications for a license required by this Ordinance shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and if referred to the municipal officers shall bear the recommendation for approval or disapproval with reasons noted of the Code Enforcement Officer, the Police Chief and the Fire Chief, and such other departments as may be required by the Municipal Officers or other Town ordinances.

C. ~~All applicants must be qualified according to the provisions of this Ordinance.~~ Applicants shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this Ordinance.

D. Application to establish a Marijuana Cultivation or Manufacturing Facility Application Requirements

1. If the applicant ~~who wishes to operate a Marijuana Cultivation or Manufacturing Facility~~ is a single individual, this person must sign the application for a license. If the applicant ~~who wishes to operate a Marijuana Cultivation or Manufacturing Facility is more than one individual~~ is a business entity, each person who has an interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

2. The completed application for an adult-use marijuana establishment or medical marijuana business license ~~Marijuana Cultivation or Manufacturing Facility license~~ shall contain the following information and shall be accompanied by the following documents:

a. If the applicant is an individual: The individual shall state their legal name and any aliases, and submit proof that they are at least twenty- one (21) years of age.

b. If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.

c. If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.

d. If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.

e. If the applicant intends to operate the adult-use marijuana establishment or medical marijuana business ~~Marijuana Cultivation or Manufacturing Facility~~ under a name other than that of the applicant, they must state the establishment or business ~~Marijuana Cultivation or Manufacturing Facility~~ name and submit the required registration documents.

f. If the applicant, an officer, member or employee has been convicted of criminal activity under State and/or federal law, they must list the specified criminal activity involved, and the date, place, and jurisdiction of each conviction.

g. If the applicant has had a previous license under this Ordinance or other similar marijuana-related ~~Marijuana Cultivation or Manufacturing Facility~~ license applications in another town, city or state denied, suspended or revoked, they must list the name and location of the facility ~~Marijuana Cultivation or Manufacturing Facility~~ for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this Ordinance, whose license has previously been denied, suspended or revoked, listing the name and location of the Marijuana Cultivation or Manufacturing Facility for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.

h. If the applicant holds any other permits/licenses under this Ordinance or other similar marijuana-related ~~Marijuana Cultivation or Manufacturing Facility~~ license from another town, city, or state the applicant shall provide the names and locations of such other permitted/licensed businesses.

- i. The type of ~~Marijuana Cultivation Facility~~ of adult-use marijuana establishment, or medical marijuana business for which the applicant is seeking a license.
- j. The location of the proposed ~~Marijuana Cultivation or Manufacturing Facility~~ adult-use marijuana establishment or medical marijuana business, including a legal description of the property, street address, and telephone number.
- k. Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the adult-use marijuana establishment or medical marijuana business ~~Marijuana Cultivation or Manufacturing Facility~~ pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.
 - l. The applicant's mailing address and residential address.
 - m. Recent passport-style photograph(s) of the applicant(s).
 - n. The applicant's driver's license.
 - o. A sketch showing the configuration of the subject premises, including building footprint, interior layout with floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.
 - p. A copy of a ~~T~~town of Gorham Tax Map depicting: (1) the subject property lines, and (2) the property lines of other properties containing any existing Marijuana Cultivation or Manufacturing Facility within one thousand (1,000) feet of the subject property; and the property lines of any preexisting public or private school within seven hundred and fifty (750) feet of the subject property, measured in accordance with this Ordinance.

~~3. All applications for Marijuana Cultivation or Manufacturing Facility license shall be kept confidential by the town.~~ Medical marijuana caregivers and other applicants submitting applications and supporting information that is confidential under 22 M.R.S.A. § 2425-A(12), as may be amended or recodified, and the Maine Freedom of Access Act, 1 M.R.S.A. § 403(3)(F), shall mark such information as confidential. An individual who possesses a valid Maine medical marijuana registered caregiver identification card need not identify themselves in an application for a license for a medical marijuana business. The cardholder must, however, identify themselves and provide the relevant cards to the Town Clerk for examination, but the identity of the cardholder shall not be a public record and the Town shall not share the identity of the cardholder, except as necessary by law in the performance of the Town's official functions. At the time of the application, the cardholder may appoint a representative to appear before the Town Council on their behalf. Advertisements for the requisite public hearing shall contain the location of the proposed medical marijuana business and the identity of the owner of the real estate and the identity of the designated representative.

Section 10 – Standards for license

General

- 1. All ~~adult-use marijuana establishments and medical marijuana businesses~~ Marijuana Cultivation or Manufacturing Facilities shall comply with applicable state and local laws and regulations.
- 2. Adult-use marijuana establishments and medical marijuana businesses ~~Marijuana Cultivation or Manufacturing Facilities~~ shall only be located within the zoning districts permitted in the Gorham Zoning Ordinance.
- 3. Adult-use marijuana establishments and medical marijuana businesses ~~Marijuana Cultivation or Manufacturing Facilities~~ may not be located on property within seven hundred and fifty (750) feet of the property line of a preexisting public or private school (K-12). For the purposes of this Ordinance, "school" includes a public school, private school, or public preschool program as defined in 20-A

M.R.S.A. §1, or any other educational facility that serves children from prekindergarten to grade 12. Required setbacks shall be measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the adult-use marijuana establishment or medical marijuana business is located. ~~Marijuana Cultivation or Manufacturing Facilities is located.~~ If the adult-use marijuana establishment or medical marijuana business ~~If the Marijuana Establishment~~ is located within a subdivision, the required setback shall be measured from the front door of ~~the Marijuana Cultivation or Manufacturing Facilities~~ the facility to the property line of the school. Presence of a town, city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

4. No ~~outdoorside~~ cultivation, ~~testing~~, or ~~m~~Manufacturing or storage of marijuana, marijuana products, or related supplies is permitted, except as allowed by ordinance.

5. ~~Ventilation and Odor~~—All adult-use marijuana establishments and medical marijuana businesses ~~Marijuana Cultivation or Manufacturing Facility~~ are required to operate ~~be~~ in compliance with the state standards ~~requirements~~ related to odor control and mitigation, as outlined in 18-691 C.M.R., ch. 1, § 2.4.2, as may be amended or recodified, and all adult-use marijuana establishments and medical marijuana businesses ~~Marijuana Cultivation or Manufacturing facilities~~ shall have odor mitigation systems such that odor is imperceptible from ~~the outside of any building or lease line~~ any adjoining property line. A ventilation plan shall be required ~~for marijuana cultivation and manufacturing facilities~~ that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or manufacturing of marijuana or marijuana related products from being dispersed or released outside the building or lease line. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its manufacturing or cultivation to be effectively confined to the any building or lease line.

6. All ~~Marijuana Cultivation or Manufacturing Facilities~~ adult-use marijuana establishments shall obtain a State of Maine conditional license prior to operating in the Town of Gorham. All caregivers or other individuals or entities wishing to operate medical marijuana businesses must be licensed by the State of Maine prior to applying for licensure from the Town of Gorham, and must provide a copy of said license to the Town as part of its licensing application.

7C. Operating Plan

~~A. All Marijuana Cultivation or Manufacturing Facilities~~ Adult-use marijuana establishments and medical marijuana businesses are required to submit an operation plan that at a minimum addresses the following:

- a. wastewater
- b. disposal of waste
- c. ventilation and odor
- d. parking
- e. landscaping

Section 11 - License expiration and renewal

A separate license must be obtained for each adult-use marijuana establishment or medical marijuana business ~~marijuana cultivation or manufacturing facility~~ located on the same premises. Each license shall be effective for a period of one year from the date of its issuance. A license must be obtained prior to the opening of adult-use marijuana establishment or medical marijuana business ~~marijuana cultivation or manufacturing facility~~. Applications for renewal licenses shall be submitted at least sixty (60) days prior to expiration of the existing term. Any licensee that fails to submit a renewal application by the applicable deadline shall not have authority to operate until a new license is granted.

Section 12 – Denial, suspension or revocation of license

~~A marijuana cultivation or manufacturing facility license~~ An application for any license under this Ordinance shall be denied to the following entities or persons:

1. A person or entity who fails to meet the requirements of this Ordinance.
2. A person or entity that has had a license for an adult-use marijuana establishment or a medical marijuana business ~~marijuana cultivation or manufacturing facility~~ revoked by the Town of Gorham or by the State of Maine.
3. A person or entity who has not acquired all necessary state approvals and other required local approvals prior to issuance of a license.

The Town may suspend or revoke a license for any violation of this Ordinance, Chapter 1, ~~or~~ Chapter 2 of the Land Use and Development Code, or any other applicable building and life safety code requirements. The Town may suspend or revoke a license if the licensee has had a state license for an adult-use marijuana establishment ~~a marijuana cultivation or manufacturing facility~~ suspended or revoked ~~by the state, or in the case of a medical marijuana business, the applicant has been disqualified as a caregiver, or otherwise had a needed license suspended or revoked by the State of Maine.~~ The licensee shall be entitled to notice and a hearing before the Town Council prior to any suspension or revocation, provided, however, that any such suspension hearing, including all documents related thereto, pertaining to a licensed medical marijuana caregiver business, shall be confidential and conducted in executive session.

Section 13 - Right of Access/Background Check/Inspection

A. Every ~~adult-use and medical caregiver~~ adult-use marijuana establishment and medical marijuana business licensee ~~Marijuana Cultivation or Manufacturing Facility~~ shall allow law enforcement officers and the Gorham Code Enforcement Officer (“CEO”) to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance.

B. Every owner and employee of an adult-use marijuana establishment, medical marijuana manufacturing facility, or medical marijuana testing facility ~~Establishment~~ applying for a license, shall contact the Gorham Police Department for the purposes of fingerprinting and criminal background checking, ~~and~~.

C. All medical marijuana caregivers shall provide to the Town a copy of all registered caregiver licenses issued to any and all officers, managers, and/or employees, and shall update the same annually.

D. All licensees ~~all premises managers for Marijuana Cultivation or Manufacturing Facility~~ shall submit emergency contact information to the Police Department.

E. Due to fire, explosion, and other hazards inherent in ~~Marijuana Cultivation or Manufacturing facilities~~ adult-use marijuana establishments and medical marijuana caregiver businesses, including, but not limited to, heavy electrical loads, hot lighting fixtures, CO2 enrichment, and flammable contents, the owners and/or operators of all such facilities shall agree to be inspected annually by the Gorham Fire Department and have a Lock Box installed at the structure's exterior entrance for emergency access. Lock Boxes shall be obtained and installed in coordination with the Gorham Fire Department.

Section 14 - Indemnification

By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any ~~Marijuana Establishment~~ adult-use marijuana establishment or medical marijuana business owners, operators, employees, clients, or customers for a violation of local, State or federal laws, rules, or regulations. By accepting a license issued pursuant to this Ordinance, the permittee/licensee agrees to indemnify, defend, and hold harmless the Town, its officers, elected officials, employees, attorneys, agents, and insurers against all liability,

claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a ~~permitted/licensed Marijuana Establishment~~ an adult-use marijuana establishment or medical marijuana business licensed under this Ordinance.

Section 15 - State Law

In the event the State of Maine adopts any additional or stricter law or regulation governing the ~~cultivation or manufacturing of Marijuana~~ adult-use marijuana businesses, medical marijuana businesses, or medical marijuana caregivers, the additional or stricter regulation shall control. ~~the establishment or operation of any Marijuana Cultivation or manufacturing Facility in Gorham.~~ Compliance with all applicable State laws and regulations shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with State laws or regulations shall be grounds for revocation or suspension of any license issued hereunder.

Section 16 – Advertisement and Public Hearing

A. For new or renewal licenses requiring Town Council action, the Council shall hold a public hearing. At said hearing the Town Council shall determine whether the license applicant has satisfied all applicable licensing criteria as outlined in this Ordinance, and if so, shall authorize the issuance of such a license, with or without conditions.

B. Prior to any public hearing held in accordance with this Ordinance, the application shall be advertised by posting notice in two (2) or more public places and advertising in a local newspaper, at least seven (7) days prior to the public hearing.

C. In the case of an application for license by a medical marijuana caregiver, or any renewal thereof, the notice and public hearing shall be subject to the confidentiality provisions of Section 9(D)(3) of this Ordinance, if applicable.

Section 17 – License Fees

Licensing Fees for a ~~marijuana cultivation or manufacturing facility~~ adult-use marijuana establishments and medical marijuana businesses shall be as set forth in the fee schedule established by the Gorham Town Council and shall be paid annually ~~paid annually~~ as set forth below.

All applications must be submitted with a ~~nonrefundable/~~ nontransferable \$500 fee.

If an application is approved, the following license fees must be paid before the Town will issue a license:

Adult-Use Marijuana Manufacturing Facility: \$5,000

Adult-Use Marijuana Cultivation Facility:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: \$1,000.

Tier 2: 501 to 2,000 SF of mature plant canopy: Annual License Fee: \$1,500.

Tier 3: 2,001 to 7,000 SF of mature plant canopy: Annual License Fee: \$2,500.

Tier 4: greater than 7,000 SF of mature plant canopy: Annual License Fee: \$5,000.

Adult-Use Nursery Cultivation facility: Annual License Fee: \$1,000 (Plant canopies of individual Nursery Cultivations are capped at 1,000 SF, subject to the requirements and restrictions of State law.)

Adult-Use Marijuana Testing Facility: Annual License Fee: \$3,000.

Medical Marijuana Caregiver (Non-Home Occupation): Annual License Fee:

Tier 1: 0 to 500 SF of plant canopy: Annual Permit/Licensing Fee: \$1,000.

Tier 2: 501 to 2,000 SF of mature plant canopy: Annual License Fee: \$1,500.

Tier 3: 2,001 to 7,000 SF of mature plant canopy: Annual License Fee: \$2,500.

Tier 4: greater than 7,000 SF of mature plant canopy: Annual License Fee: \$5,000.

Medical Marijuana Manufacturing Facility: Annual License Fee: \$5,000.
Medical Marijuana Testing Facility: Annual License Fee:\$3,000.

Renewal applicants for ~~Adult use and medical caregiver~~adult-use -mMarijuana ~~c~~Cultivation licenses may seek an increase to a higher tier if they comply with the requirements in this section and State law.

Section 18 – Enforcement; Violations
Violations

_____ Any violations of this ordinance, including failure to comply with any conditions, may be enforced in accordance with 30-A M.R.S.A. § 4452. Every day a violation exists constitutes a separate violation.

_____ ~~Commencement~~Operation of any ~~adult-use and medical caregiver marijuana cultivation or manufacturing facility~~adult-use marijuana establishment or medical marijuana business without a town license ~~for same~~ shall be a violation of this ~~O~~rdinance. Any party committing such a violation shall immediately cease operations, whether of a construction, renovation, or business nature, upon notification by the Code Enforcement Officer (CEO). Upon such CEO notification, and failure of the licensee or other individual or business to take the required remedial action in a timely manner, the ~~T~~own can pursue fines and/or penalties under 30-A M.R.S.A. § 4452.

~~Law enforcement officer and code enforcement~~

_____ ~~Law enforcement officers and the CEO may at any reasonable time conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to license approvals and shall investigate all complaints of alleged violations of this ordinance.~~

Section 19 - Appeals

Any appeal of a decision of the Town made in connection with this Ordinance shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

Public hearing #4

On Item #2020-12-04

Public hearing to hear comment on the proposed amendments to the Town of Gorham Fire Suppression Systems Ordinance. (Ordinance Committee Spon.)

Proposed

Order #20-134

Ordered, that the Town Council approve the proposed amendments to the Town of Gorham Fire Suppression Systems Ordinance as follows:

ARTICLE VI. BUILDING ADDITIONS:

Section I. A.

When a building is enlarged, altered, or renovated, a sprinkler/suppression system must be installed in the enlarged, altered, or renovated portion if, as a result of the enlargement, alteration, or renovations, the building as a whole will meet the criteria listed in Article V, Section 1 A through E above, or if the renovations are equal to or greater than fifty percent (50%) of the then current building value as shown on the assessment records of the Tax Assessor of the Town of Gorham, an appraisal from a licensed appraiser in the State of Maine, value established from a realtor website such as Zillow.com or Realtor.com or a fair market analysis from a licensed realtor in the State of Maine. When the area and/or volume of such enlarged, altered, or renovated portion, together with the area and/or volume of any other enlargements, alterations, or renovations occurring since the most recent effective date of any amendments to this ordinance, exceeds 25% of the area and/or volume of the building existing on the most recent effective date of any amendments to this ordinance amendment, then a sprinkler/suppression system must be installed; provided, however, for detached one or two family dwellings and detached duplex dwellings, both of the percentage thresholds above shall be seventy-five percent (75%).

***Additions: Underlined.**

Item #2020-12-05 Action to consider adopting Council Rules for the 2020-2021 year. (Admin. Spon.)

**Proposed
Order #20-135** Ordered, that the Town Council adopt the same rules for the 2020-2021 year as for the 2019-2020 year.

Item #2020-12-06 Action to consider forwarding proposed amendments to the Land Use & Development Code with regards to medical marijuana performance standards. (Ordinance Committee Spon.)

Proposed

Order #20-136

Ordered, that the Town Council forward proposed amendments to the Land Use & Development Code regarding medical marijuana performance standards 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

- 24) ~~Marijuana Cultivation or Manufacturing Facility~~ Adult-Use Marijuana Cultivation Facility, Adult-Use Marijuana Products Manufacturing Facility, or Adult-Use Marijuana Testing Facility, when inside an existing agricultural building**

25) Medical Marijuana Business when inside an existing agricultural building.

SECTION 1-12- INDUSTRIAL DISTRICT

11) ~~Marijuana Cultivation or Manufacturing Facility~~ Adult-Use Marijuana Cultivation Facility, Adult-Use Marijuana Products Manufacturing Facility, or Adult-Use Marijuana Testing Facility

12) Medical Marijuana Business

SECTION 1-21- OLDE CANAL INDUSTRIAL DISTRICT

13) ~~Marijuana Cultivation or Manufacturing Facility~~ Adult-Use Marijuana Cultivation Facility, Adult-Use Marijuana Products Manufacturing Facility, or Adult-Use Marijuana Testing Facility

14) Medical Marijuana 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, between the hours of 10:00 A.M. and 4:00 P.M., Monday through Friday.**
 - b. **All growing and related growing supplies are required to be stored inside and within the 20% of the total floor area of the dwelling unit.**
 - 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, 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. **That the grow plant canopy size shall be capped at a maximum of 500 sq.ft.**
 - f. **All cultivation areas shall meet all applicable local, state, and federal building, electrical, and fire codes.**

- g. 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.
- h. The cultivation areas shall be locked when not being attended to by the grower of the marijuana.
- i. Prohibited: The following is prohibited as part of the home occupation of medical marijuana caregiver:
 - 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 operation of a medical marijuana caregiver retail store.
 - 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).

*Deletions: ~~Struck Through~~

** Additions: Underlined

Item #2020-12-07 Action to consider reviewing requirements for commercial and residential solar installations in the Town of Gorham. (Councilor Hartwell Spon.)

Proposed Order #20-137 Ordered, that the Town Council instruct the Ordinance Committee to review requirements and restrictions in place for the installation of commercial and residential solar systems and to bring back recommendations to the Council for revisions in ordinances to help encourage installation of such systems.

Item #2020-12-08 Action to consider entering into a joint planning study with the Town of Windham for the Little Falls Village. (Councilor Pratt Spon.)

Proposed Order #20-138 Ordered, that the Town Council authorizes staff to work with the Town of Windham on a joint planning study for the Little Falls Village and to apply for grant funding for such planning studies as needed.

Item #2020-12-09 Action to consider selecting a commercial broker for the new business and

Industrial park. (Councilor Pratt Spon.)

**Proposed
Order #20-139**

Ordered, that the Town Council accepts the recommendation of the Industrial Park Steering Committee for a commercial broker; and

Be It Further Ordered, that the Town Manager is authorized to enter into a contract for services on terms that are in the best interest of the Town.

Item #2020-12-10

Action to consider selecting a consulting firm for a town wide facilities planning study. (Councilor Pratt Spon.)

**Proposed
Order #20-140**

Ordered, that the Town Council accepts the recommendation of a joint capital facilities committee between the Gorham School Department and the Town Council on the selection of a town wide facilities planning study; and

Be It Further Ordered, that the Town Manager is authorized to enter into a contract for services under terms that are in the best interests of the Town.

Item # 2020-9-10

Action to consider amending the Land Use & Development Code to change side and rear setbacks and to add Personal Services as an allowed use in the Narragansett Mixed Use Development District. (Ordinance Committee Spon.)

**Proposed
Order #20-141**

Ordered, that the Town Council forwards to the Planning Board, for public hearing and recommendation, amendments to the Land Use & Development Code in the Narragansett Mixed Use Development District modifying side and rear setbacks and adding Personal Services as an allowed use 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 (≥ 1.5) times the building height, ~~whichever is greater.~~

3)

e) 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 (≥ 1.5) times the building height, ~~whichever is greater.~~

Adjourn