

AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
NOVEMBER 22, 2016
6:30pm
Burleigh H Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call of the 2015-2016 Town Council

Acceptance of the minutes of the October 4, 2016 Regular Town Council Meeting and the October 17, 2016 Special Town Council Meeting

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

Election Report

Swearing in of Newly Elected Town Councilors

Roll Call of the 2016-2017 Town Council

Item # 9139 Action regarding the election of a Council Chair for the 2016-2017 year. (Admin. Spon.)

Proposed
Order # 9139 Ordered, that the Town Council elect _____ as the Chair for the 2016-2017 year.

Item # 9140 Action regarding the election of a Council Vice-Chair for the 2016-2017 year. (Admin. Spon.)

Proposed
Order # 9140 Ordered, that the Town Council elect _____ as the Vice-Chair for the 2016-2017 year.

Item # 9141 Action regarding the appointment of members to various Council Committees for the 2016-2017 year. (Admin. Spon.)

Proposed
Order # 9141 Ordered, that the Town Council appoint the following people to the:

1. Finance Committee_____
2. Ordinance Committee_____
3. Appointments/Personnel Committee_____
4. Economic Development/Capital Improvements Committee_____
5. Representative to Greater Portland Council of Governments_____
6. Representative to Ecomaine_____
7. Representative to Jetport Noise Abatement_____
8. Representative to PACTS Policy Committee_____
9. Representative to METRO Regional Coalition_____

Item # 9142 Action to consider adopting Council Rules for 2016-2017 year. (Admin Spon.)

Proposed
Order # 9142 Ordered, that the Town Council adopt the same rules for 2016-2017 year as for 2015-2016 year.

Public Hearing #1
On Item # 9143 Public Hearing on a proposal to amend Chapters I and II of the Land Use and Development Code to expand the allowed Home Occupation use. (Admin. Spon.)

Proposed
Order # 9143 Whereas, the Town Council believes that small business operations that qualify as Home Occupation are important to the local economy, and
Whereas, the Town Council believes that allowing a limited expansion of Home Occupation activity, while maintaining adequate protection for neighborhoods, is in the best interest of the communities,
Now Therefore Be It Ordered, that the Town Council approve the following amendment:

Home Occupation

An occupation or profession which is: accessory to a residential use and is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the

family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

- 1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- 2) Not more than two people outside the family shall be employed in the home occupation. ~~There shall be no stock in trade.~~
- 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, ~~or electrical disturbance~~ 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 number 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.

A home occupation shall include, but not be limited to, the following:

art studio
bed and breakfast
day care home
~~dressmaking shop~~
farm stands / roadside stands
hairdressing shop
teaching or tutoring facilities
office of a physician, dentist, optometrist, lawyer, engineer, architect, or accountant
office of a real estate broker or agent
office of an insurance agent or broker
office of small builders, plumbers and electricians with the following conditions:

a) limited to two pick-up trucks, vans or box trucks and two trailers 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 dwelling unit. uses similar and compatible with the above as determined by the Town's Code Enforcement Officer. 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 or roadways.

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

facilities for the repair of motor vehicles
day care center

Public Hearing # 2
On Item # 9144

Public Hearing on a proposed moratorium of retail marijuana establishments
and Retail Marijuana Social Clubs. (Admin. Spon.)

Proposed

Order # 9144 WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act,” to be codified in the Maine Revised Statutes in Title 7, chapter 417 was voted on by a State-wide referendum election on November 8, 2016; and

WHEREAS, the Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§2421-2430-B) to qualifying patients, primary Caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications;

WHEREAS, the Town’s ordinance do not include any regulations related to retail marijuana establishments or retail marijuana social clubs allowed under the new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of Gorham raises legitimate and substantial questions about the impact of such establishments and social clubs on the community, including questions about the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for the non-medical purposes and the potential increased burden on the Town’s Police Department and Fire Rescue Department; and the adequacy of the Town’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana social clubs within the Town has potentially serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town needs time to review the Act and to review its own Ordinances to determine the implications of future proposed retail marijuana establishments and/or social

clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the Town Council, the Administration and the Planning Board, with the professional advice and assistance of the Town Staff, shall study the Town's Ordinances to determine the land use and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result as the result of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law, if passed, was voted on November 8, 2016 referendum election, being located in the Town; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs;

NOW THEREFORE, be it ordered by the Town Council of the Town of Gorham, that the following Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

This Moratorium Ordinance shall take effect, once enacted by the Town Council, in accordance with the provisions of the City charter, but shall be applicable as of November 8, 2016, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the "Marijuana Legalization Act;" the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the Town.

BE IT FURTHER ORDERED, that this Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and

retail marijuana testing facilities, as those terms are defined by the “Marijuana Legalization Act” to be codified, if passed, at 7 M.R.S.A. §§2442 (36),(38),(39),(40) (41), that may be proposed to be located within the Town on or after November 8, 2016 applicability date of the Ordinance; and

BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Town official or board prior to November 8, 2016, the applicability date of this Ordinance; and

BE IT FURTHER ORDERED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the Town on or after November 8, 2016 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDERED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana social club; and

BE IT FURTHER ORDERED, that those provisions of the Town’s Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDERED, that if retail marijuana establishments or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDERED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Public Hearing # 3
On Item # 9145 Public Hearing on a renewal Liquor License for Lucky Thai Restaurant. (Admin. Spon.)

Proposed
Order # 9145 Ordered, that the Town Council approve a renewal Liquor License for Lucky Thai Restaurant, 593 Main Street.

Public Hearing #4
On Item # 9146 Public Hearing on a renewal Liquor License for Sebago Brewing Company. (Admin. Spon.)

Proposed
Order # 9146 Ordered, that the Town Council approve a renewal Liquor License for Sebago Brewing Company, 29 Elm Street.

Public Hearing #5
On Item # 9147 Public Hearing on a Renewal Liquor License for Gorham House of Pizza. (Admin. Spon.)

Proposed
Order # 9147 Ordered, that the Town Council approve a renewal Liquor License for Gorham House of Pizza, 2 State Street.

Item # 9148 Action to consider a request from the Presumpscott Regional Land Trust to use the balance of funds from the McLellan/Sampson House account towards the costs associated with transferring conservation land, previously held by Gorham Trails, Inc. to the Presumpscott Regional Land Trust. (Admin. Spon.)

Proposed
Order # 9148 Ordered, that the Town Council approve a request from the Presumpscott Regional Land Trust, to use the balance of funds from the McLellan/Sampson House account towards the costs associated with transferring 12 conservation lands, previously held by Gorham Trails, Inc., to the Presumpscott Regional Land Trust, and
Be It Further Ordered, after first using funds towards the transfer of properties held by Gorham Trails, Inc., should any funds remain, the Presumpscott Regional Land Trust is authorize to use the residual funds for the general purpose of the Presumpscott Regional Land Trust.

Item # 9149 Action to consider accepting a drainage easement. (Admin. Spon.)

Proposed
Order #9149 Ordered, that the Town Council accept a drainage easement as part of the Village Crossing Subdivision.

Item # 9150 Action to consider purchasing a Front-End Loader. (Admin. Spon.)

Proposed
Order # 9150 Ordered, that the Town Council accept a bid from Nortrax, for a Front-End Loader, with plow and wing, for \$171,500, with trade-in.

Item # 9151 Action to consider a proposal to amend Chapter II, Section III, Signs, of the Land Use and Development Code to allow rotating barber poles. (Councilor Phinney Spon.)

Proposed
Order # 9151 Ordered, that the Town Council refer a proposal to amend Chapter II, Section III, Signs, of the Land Use and Development Code, to allow rotating barber poles, to the Planning Board for their Public Hearing and recommendation.

Item # 9152 Action to consider developing a Wetland Conservation Ordinance. (Councilor Stelk Spon.)

Proposed
Order # 9152 Ordered, that the Town Council ask Staff to develop a Wetland Conservation Ordinance and present it to the Ordinance Committee, and
Be It Further Ordered, that the Ordinance Committee review the drafted ordinance and make any reasonable modifications and subsequently present the draft ordinance to the Town Council for their consideration.

Item # 9153 Action to consider amending the Streets and Sidewalks Ordinance to allow traffic to enter Pine Street from Route 25, to access parking lots at the entrance of Pine Street. (Councilor Benner Spon.)

Proposed
Order # 9153 Ordered, that the Town Council schedule a Public Hearing for December 6, 2016, on a proposal to amend the Town's Street and Sidewalks Ordinance by allowing traffic to enter Pine Street from Route 25, for the initial 160 feet, for the purpose of accessing parking lots that support the businesses near the entrance.

Item # 9154 Action to write off taxes that are uncollectable. (Finance Com. Spon, 3-0)

Proposed
Order # 9154 Ordered, that the Town Council write off the remaining taxes on a mobile home (Tax Map 2, Lot 1.71) because the taxes are uncollectable and the asset has limited value.

Item #9155 Action to consider scheduling an item on a future Council meeting agenda to discuss the need to have more engagement between Gorham High and USM, facilitate student internship programs, coop programs and job shadowing programs with business participation and develop programs to educate teachers and other educational staff about business. (Councilor Phinney Spon.)

Proposed
Order # 9155 Ordered, that the Town Council schedule a discussion at their December 6, 2016 meeting or January 3, 2017 meeting to discuss the need to have more engagement between Gorham High School and USM, facilitate student internships, coop programs and job shadowing programs with business participation and develop programs to educate teachers and other educational staff about business and invite the Superintendent of Schools and School Board to participate in the discussion.

Item # 9156 Action to consider appropriating funds to install a double-sided electronic sign at the Public Safety Complex. (Admin. Spon.)

Proposed
Order # 9156 Ordered, that the Town Council appropriate the remaining funds in the Public Safety Fiber Network Account (\$9022.97), Public Safety Building Account (\$4844.66), McLellan/Sampson House Repair Account (\$15,769) and \$1200 from the Contingency account to purchase a double-sided electronic sign for the Public Safety Complex.

Item # 9157 Action to consider asking Gorham Legislative Delegation to sponsor legislation that would authorize the Maine Turnpike Authority to construct a new sustainable controlled access highway to improve travel between the terminus of the Bernard P Rines Highway and Maine Turnpike, at or near Exit 45, consistent with the Town's Comprehensive Plan and the Gorham East-West Corridor Feasibility Study. (Admin. Spon.)

Proposed
Order # 9157 Ordered, that the Town Council ask Gorham's Legislative Delegation to sponsor and strongly support legislation that would allow the Maine Turnpike Authority to construct a new sustainable controlled access highway between the terminus

of the Bernard P Rines Highway and the Maine Turnpike at or near Exit 45 as stipulated in the Town of Gorham's recently approved Comprehensive Plan and consistent with the recommendations of the Gorham East-West Corridor Feasibility Study.

Item# 9158 Action to consider purchasing a Loader Backhoe. (Admin. Spon.)

Proposed
Order # 9158 Ordered, that the Town Council accept a bid from Nortrax for a Loader Backhoe for \$103,500, with trade-in.

Item # 9159 Action to consider providing comment to the Maine Department of Transportation about the installation of a traffic light at the intersection of Libby Avenue and Main Street. (Admin. Spon.)

Proposed
Order # 9159 Ordered, that the Town Council recognizes that the intersection of Libby Avenue and Main Street is a high accident location, approves of the Main Department of Transportation intention to install traffic lights at this intersection as soon as sufficient funding becomes available.

Adjourn