

2018

Town of Gorham Maine Ordinances

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ALARM SYSTEM ORDINANCE

ALARM SYSTEM ORDINANCE

Adopted 12/7/82
Revised 1/7/92
Amended 3/3/92

ALARM SYSTEM ORDINANCE

I. PURPOSE

The purpose of this ordinance is to encourage a reduction in the frequency of false alarms; to establish a service fee to compensate for the inappropriate use of municipal resources in response to false alarms; and to establish an annual service fee for every alarm monitored

II. DEFINITIONS

For the purposes of this ordinance, the following words and terms, as used herein, shall have the meaning defined or explained as follows:

Alarm System - A system including any mechanism, equipment or device designed to automatically transmit a signal, message or warning from private premises, including telephonic alarm systems designed to operate automatically through the use of public telephone facilities to the Town of Gorham Public Safety Communications Center; or monitored by other private or public agencies which in turn transmit a signal to the Town of Gorham Public Safety Communications Center.

False Alarm - A false alarm shall be deemed to be an alarm caused by malfunctioning of alarm system, employee or resident error, inappropriate alarm equipment installation, improperly monitored equipment or inappropriate use of an alarm.

Appropriate - With respect to a Chief or Department, means the Fire Department for fire or rescue alarms and the Police Department for alarms of unlawful entry, theft or other criminal activity.

Center - Means the Public Safety Communications Center of the Town of Gorham.

III. PERMIT REQUIRED

No person shall install, operate, maintain, alter, or replace an Alarm System within the Town of Gorham after July 1, 1992 without an effective permit therefore signed by the Chief of the appropriate department.

Registration Form - The Public Safety Department will prepare and distribute to the alarm subscriber annually a registration form that will require specific information necessary for the successful emergency response in the event of an alarm activation. The information contained on this form will include but may not be limited to: that regarding the location and owner of the property; the type of property and any remarkable or dangerous contents; the type of system installed; the installer name, address and phone number; the service company name, address and phone number and emergency notification information. Such forms will be sent to the subscribers during the month of June of each calendar year and must be returned to the Public Safety Department no later than the last day of July of that calendar year.

IV. APPLICATION PROCEDURE

Application for an Alarm System permit shall be made to the appropriate Department by the owner of the premises to be protected, upon forms prepared by the Town of Gorham, accompanied by prepayment of the first annual service fee and tender of an agreement signed by the applicant releasing and discharging the Town of Gorham, its officers, agents and employees, from any liability arising from the failure of such Alarm System to operate properly, or from any failure to respond to an alarm sent by each System or from any other act or omission by the Town, its officers agents and employees excepting any knowing and intentional act or omission. The application shall require the full name, telephone number and address of the owner of the premises to be protected, of his designated agent within the Town, and of the proposed installer who must have the capacity to maintain and service such Alarm System from a point within the Greater Portland area; the application shall also require a description of the principal use of the premises to be protected, a description of the proposed system and the location for its installation, and such other data as the Chiefs may reasonably require in order to assure the use of appropriate equipment and its proper installation. The appropriate Chief shall issue any permit with such conditions as he deems reasonably designed to assure the foregoing objectives, and the Chiefs shall establish procedures and guidelines for processing such applications.

V. SERVICE FEE

The service fee for each newly installed System shall be fixed and may be changed by order of the Town Council and is initially fixed at \$25.00. Such fee shall apply to each Alarm System connected from the same premises or by the same owners, and to any dialer Alarm System programmed to activate the Gorham Public Safety Communications Center telephone. For any Alarm System to be installed after January 1 of the calendar year, the fee shall be one-half the regular fee.

Annual Registration Fee - Upon receipt of the alarm permit or upon receipt of the annual registration form the subscriber will be assessed a registration fee for the administration and maintenance of the alarm registration record. Said registration fee will apply to each property so protected and is initially fixed at \$15.00.

VI. PROHIBITED SYSTEMS

No system shall be permitted which automatically transmits to the Center telephone lines except to a number designated by the permit issued or as otherwise approved by the appropriate Chief. Each alarm shall be reported individually, and no system shall be permitted which uses a constant signal for one type of alarm and a pulsating signal for another.

VII. USE REGULATED

No alarm system shall be placed in operation until its location, equipment and installation have been finally approved by the appropriate Chief as conforming to the terms of the permit and the provisions of this ordinance. Thereafter the appropriate Chief may inspect, or cause the inspection by a qualified person of, any Alarm System to determine that its condition, location and use comply with its permit and this ordinance, and to assure that it will not interfere with the operation of the Center; access shall be permitted to all reasonable hours for such purpose. Any deficiency noted shall be reported to, and promptly corrected by, the owner. Information concerning any Alarm System shall be maintained confidentially, and release of any such information by any person to one not concerned with the maintenance or operation thereof, or the enforcement of this ordinance, shall constitute a violation of this ordinance.

VIII. ALARM RESPONSE

The property owner or his designated agent, as kept on file at the Center, shall respond to each alarm at the request of the appropriate Department for the purpose of securing the premises.

IX. FALSE ALARMS

Any owners of an alarm system whose system causes the transmittal of a false alarm more than two (2) times per fiscal year, after a 30-day start-up period for new installations, shall pay a fee of twenty-five dollars (\$25.00) for each instance of a non-emergency alarm in excess of that number, upon demand by the appropriate Chief; the appropriate Chief shall give suitable written warning to any permit holder, or to his designated agent, whose alarm sends a second non-emergency alarm in any fiscal year. Non-emergency alarms shall include, but shall not be limited to, false alarms caused by malfunctioning equipment, accidental or negligent activation of the alarm, or improperly monitored equipment. In the event an alarm is activated as a result of a natural or unnatural event beyond the property owner's control (i.e., disruption of electrical service due to a storm, motor vehicle accident, and the like), no fee shall be imposed at the direction of the appropriate Chief.

X. PERMIT REVOCATION

The appropriate Chief may revoke the permit for any Alarm System in the event that:

- A. Payment of any fee therefore is not made within thirty (30) days after the due date therefore,
- B. Any deficiency therein reported to the owner is not corrected within a reasonable time,
- C. Such Alarm System persistently causes an excessive number of non-emergency alarms or otherwise persistently interferes with the orderly operation of the Center,
- D. The owner refuses reasonable access for inspection of such system,
- E. Such System is placed in operation without final approval by the appropriate Chief, or
- F. Any data provided in the application of such System is found to have been falsified willfully or through gross negligence of the applicant.

Such revocation shall not be effective until the appropriate Chief has given the permit holder or his designated agent actual notice of the reason therefore and reasonable opportunity to justify the same.

In the event that an alarm has been deactivated after appropriate notice, the Town of Gorham, its officers, agents and employees, are released and discharged from any and all liability arising during this time period.

XI. APPEAL

In the event of the refusal to issue or the revocation of any permit hereunder, the permit holder may appeal to the Town Manager within ten (10) business days after actual notice of such decision is given to the permit holder or his designated agent. The Town Manager may affirm, modify or rescind such decision, and his action thereon shall be final and conclusive without right or further appeal.

XII. CIVIL VIOLATION

In addition to the foregoing grounds for revocation of a permit hereunder, the following events shall each constitute a civil violation, punishable in proceedings before the District Court by a fine not exceeding \$300.00:

- A. The installing, operation, maintenance, alteration or replacement of an Alarm System in the absence of an effective permit therefor signed by the Chief of the appropriate Department,
- B. The falsification of any data provided in an application for an Alarm System, done willfully or through gross negligence;
- C. The release of any information concerning any Alarm System to one not concerned with the maintenance or operation thereon or with the enforcement of this ordinance.

TOWN OF GORHAM

ANIMAL CONTROL ORDINANCE

Adopted - April 7, 2009

Effective - May 7, 2009

Amended – March 2, 2010

**TOWN OF GORHAM
ANIMAL CONTROL ORDINANCE**

Section 1. Purpose

1.1 The purpose of this ordinance is to require that all animals in the Town of Gorham be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public health threat.

1.2 The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

Section 2. Authority.

2.1 This ordinance is enacted pursuant to Title 30-A, M.R.S.A., Section 3001.

Section 3. Severability Clause.

3.1 If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Section 4. Definitions

4.1. ABANDONED ANIMAL:

An animal that has been deserted by its owner or keeper.

4.2. ANIMAL:

Every living, sentient creature not a human being.

4.3. ANIMAL CONTROL:

Control of dogs, cats and other domesticated animals.

4.4. ANIMAL CONTROL OFFICER:

Any person appointed by the Town of Gorham to enforce animal control laws.

4.5. ANIMAL SHELTER:

A facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused or owner-surrendered animals.

4.6. AT LARGE:

Off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

4.7. DOG:

Any of large and varied groups of domesticated animals in the canine family.

4.8 DOMESTICATED ANIMAL:

Any animal that is normally dependent on humans for food or shelter, including horses, swine, fowl, sheep, cattle, goats, dogs, deer, buffalo, wildlife hybrids, and other similar animals.

4.9. LEASH:

Hand held device, 30 feet or less in length, which can be used to restrain a dog if the dog fails to respond to voice commands or if the owner or responsible party is ordered by a law enforcement officer to leash the dog and at all times when this Ordinance requires dogs to be leashed.

4.10. OWNER:

Any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.

4.11. RESPONSIBLE PARTY:

As used in this ordinance, the term “responsible party” means any person who has possession or custody of a domestic animal.

4.12. VOICE CONTROL:

As used in this ordinance, the term “voice control” means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party’s verbal command. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs unless such person (or in the case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog.

Section 5. Animal Control Officer

5.1 A qualified person may be employed by the police department who shall be known as and perform the duties of Animal Control Officer. The Animal Control Officer shall be principally responsible for the enforcement of all laws related to dogs, cats, and other domesticated animals. However, all qualified law enforcement officers may enforce this ordinance.

Section 6. Disposition of Impounded Animal

6.1 An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met, and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal’s owner may be subjected to all civil penalties authorized by this ordinance.

Section 7. Impoundment Fee

7.1 An owner may reclaim an impounded animal by first paying a fee of \$30.00 (thirty dollars) for each animal impounded. All fees will be deposited in the separate account required by Title 7, M.R.S.A. 3945.

Section 8. Animal Noise

8.1 Except as provided in subparagraph (8.2) and (8.3) below, no owner shall permit or allow any animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 10 minutes or more or recur intermittently for one hour or more.

8.2 Section 8 shall not apply if any animal is provoked by trespassing people or animals on private property on which the animal is situated or by other legitimate cause for provocation.

8.3 Section 8 shall not apply to farm animals kept on a property located in the Rural or Rural-Manufactured Housing Districts under the Gorham Land Use and Development Code. In all other zoning districts, Section 8 shall not apply to farm animals kept on a property, a use of which is, the commercial production of farm products and is either a conforming use or a lawful nonconforming use under the Gorham Land Use and Development Code. For purposes of this exception, dogs are not “farm animals” and kennels are not “farms.”

Section 9. Control of Animal Waste

9.1 An owner must remove and dispose of any feces left by their animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property) and deposit such feces into appropriate litter receptacle. An owner whose animal is present on any property from which the animal’s feces is required to be removed pursuant to this section must have in his or her possession a plastic bag or similar utensil not part of the human body for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

Section 10. Dangerous Dogs

10.1 Any person who is assaulted by a dog or any person witnessing an assault against a person or domesticated animal or a person with knowledge of an assault against a minor, within thirty days of the assault, may make a written complaint to the Animal Control Officer that the dog is a dangerous dog. The Animal Control Officer may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. §3952. After issuing the citation and before hearing in court, if the dog poses an immediate or continuing threat to the public, the Animal Control Officer shall order the owner of the dog to muzzle, restrain or confine the dog to the owner’s premises or to have the dog at the owner’s expense at a place determined by the Animal Control Officer. If

the owner fails to comply with such order, the Animal Control Officer may apply to the District Court, Superior Court or a Justice of the Peace pursuant to 7 M.R.S.A. §3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

Section 11. Trespass

11.1 An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the Animal Control Officer or a law enforcement officer that the animal was found on the property of another.

11.2 The owner of an animal is responsible, at the owner's expense, for removing such animal found trespassing. The Animal Control Officer, may, at the owner's expense, remove and control the animal if: the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing; or the animal is an immediate danger to itself, to persons or to another's property.

- A. Any animal so removed shall be subject to the provisions of Sections 6 and 7, in the same manner as an at large dog.

Section 12. Dogs at Large, Prohibited in Cemeteries

12.1 It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner of any dog found at large shall be subject to the civil penalties provided in this ordinance.

12.2 It shall be unlawful for any owner to allow or permit any dog, whether on a leash or roaming at large or unrestricted, to enter any cemetery in the Town of Gorham, except that a service animal providing assistance to a person with disabilities may enter a cemetery.

Section 13. Tags and Stickers

13.1 No dog shall be kept within the limits of the Town of Gorham unless such dog is licensed by its owner in accordance with Maine Law. The Town Clerk shall provide with each new license issued for a dog a tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. §3922-B.¹

Section 14. Rabies Tags

14.1 Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner

¹ Amended March 2, 2010

shall produce proof of licensure and proof of rabies immunization within twenty-four hours upon request for the Animal Control Officer.

Section 15. Public Health Threat

15.1 The owner or keeper of an animal that may have been exposed to a contagious or viral disease may be served with a quarantine notice. The owner or keeper shall confine and control the animal in accordance with the instructions in the notice. Failure to comply with the notice will be considered a violation of this ordinance and may result in a court ordered seizure of the quarantined animal. The owner or keeper may also be subject to the penalties found in Section 16.

Section 16. Violation and Penalties

16.1 Except as otherwise provided by State law, anyone found guilty of violating any provisions of this Ordinance shall be subjected to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) to be recovered for the use of the Town of Gorham and shall be subjected to such other legal and equitable remedies as may be available to the Town. Each day such a violation continues shall be deemed to be a new offense.

Town of Gorham

ORDINANCE FOR OPTIONAL PROGRAM FOR LOCAL BUILDING PLAN REVIEW.

ADOPTED AUGUST 8, 2017

Section 1: Purpose:

1.1 This Ordinance is intended to provide a program for local building plan review other than one and two family dwelling units. This program shall be optional for the applicant who may choose to apply for local review of building plans or chose to apply for review of building plans through the State Fire Marshal.

Section 2: Adoption of NFPA 1.

2.1 The Town hereby adopts the 2006 edition of NFPA 1, Uniform *Fire Code*, as amended by the State of Maine, except that NFPA 1, Section 1 and Section 10 are hereby deleted and Appeals shall be made in accordance to Section 7 of this Ordinance.

Section 3: Optional Local Building Plan Review.

3.1 The Town, through its Fire Department, may provide review of building plans, other than one and two family dwelling units, as an option to the review provided by the State Fire Marshal.

3.2 This review does not include Barrier-Free construction review/permits which are done separately through the State Fire Marshal.

Section 4: Fees.

4.1 For projects reviewed by the Town of Gorham, the fee schedule for local review shall be 5 cents per square foot for occupied and unoccupied spaces and one cent per square foot shall be remitted to the State.

Section 5: Enforcement of Fire Prevention Codes.

5.1 The Fire Inspector shall be primarily responsible for enforcement of the Fire Prevention Code and review of Commercial and Industrial building plans under the general supervision of the Fire Chief. The Fire Chief may detail such members of the Fire Department, as inspectors, as shall from time to time be necessary for the review of the building plans and subsequent enforcement, if necessary.

Section 6: Penalty for violating codes.

6.1 Any person, being the owner or tenant or having control of any property or structure or part thereof which violates any of the provisions of the said Fire Prevention Codes and/or another section

of this article or who fails to conform to any of the provisions thereof, after having received a ten-day notice of such violation, shall be subject to the penalty provisions pursuant to Title 30-A M.R.S.A. Section 4452. The Fire Inspector, Fire Chief, or a person designated by the Fire Chief may cause a notice of violation or order to be served on the person responsible for the violation or non-compliance condition, in violation of the provisions hereof or in violation of a plan or of a detail statement made with a permit application. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. If the notice is complied with promptly, the Fire Inspector or Fire Chief, or a person designated by the Fire Chief, may issue a civil summons, or after consulting with the Town Manager, may request the Town Attorney to initiate the appropriate enforcement, to restrain, correct or abate such violation.

6.2 Such violations shall be punishable by a fine, as set forth in Title 30-A M.R.S.A. Section 4452, together with such injunctive relief or administrative remedies, as may be available. Each and every day such a violation continues after the ten-day notice period shall constitute a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

Section 7: Appeals

7.1: Any decision by the Fire Inspector may be appealed to the Fire Chief within thirty (30) days after issuance of a written decision by the Fire Inspector.

7.2: A person aggrieved by a decision by the Fire Chief may appeal to Superior Court as provided by law or may submit a new application to the State Fire Marshal. If a new application is submitted to the State Fire Marshal, such application shall be considered a new application and any fees paid as part of the local application shall be non-refundable.

Section 8: Severability Clause

8.1 If any part of this Ordinance is held to be invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

CABLE TV ORDINANCE

CABLE TV ORDINANCE

**Permanent Ordinance adopted 11/1/77
Amended 3/3/92**

CABLE TV ORDINANCE

An Ordinance providing for Town regulation and use of the community antenna television system including its construction, operation and maintenance in, along, upon, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated, and all extensions thereof and additions thereto in the Town of Gorham, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation in the Town of Gorham of the community antenna television system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV operations.

Section 1. Definitions

- (a) "C.A.T.V." shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast, by one or more television or radio stations, or originates its own signal or signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.
- (b) "Cable Television Company" shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of Gorham, sometimes hereinafter referred to as "the company".
- (c) "Town" shall mean the Town of Gorham, Maine, organized and existing under the laws in the State of Maine and the area within its territorial limits.

Section 2. Franchise Required

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this ordinance and unless said franchise is in full force and effect.

Section 3. Franchise Contract Authority and Procedure

- (a) The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interests of the municipality and its residents with one or more Cable Television Companies for the operation of a CATV system throughout the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years. Such a franchise or franchises may be exclusive or non-exclusive.
- (b) Applicants for a franchise shall pay a non-refundable filing fee to the Town of \$25.00 to defray the cost of public notice, and advertising expenses relating to such application. The applications shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to a general description of the applicant's proposed operation, a schedule of proposed charges, a statement detailing its business or corporate organization with a financial statement for the two previous fiscal years, an estimated fifteen (15) year financial projection of its proposed system and its proposed annual town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and Microwave service including that of its officers, management and staff to be associated with the proposed operation.
- (c) Said Franchise Contract may be revoked by the Municipal Officers for good and sufficient cause after due notice to the company and a public hearing thereon; with the right to appeal to the Cumberland County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure.
- (d) Prior to the preparation by the Town of requests for proposals for franchises or renewals thereof the Town shall hold a public hearing, with at least seven days' notice by publication in a newspaper of general circulation within the Town, to solicit public comment regarding special local needs and interests with respect to cable television services.
- (e) Before authorizing the issuance of any such franchise contract or contracts the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a CATV system throughout the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.
- (f) Upon the execution of any such franchise contract the Cable Television Company shall file a surety company performance bond in the amount of \$100,000 conditional upon the faithful performance of said contract and full compliance with any laws, ordinances, or regulations governing said franchise, and also evidence of such public liability insurance coverage as the Municipal Officers may require. Said performance bond shall be reduced to \$50,000 upon the completion of the installation of said system as per said contract.
- (g) Applications for a franchise to operate a CATV system in the Town and related documents are public records maintained by the Town Clerk pursuant to the State Freedom of Access Law (1 M.R.S.A. Sec. 401 et seq. as amended from time to time) and the public has the right to inspect and copy such applications and documents during the regular business hours of the Gorham Town Clerk's office.

Section 4. Franchise Contract Contents

Any franchise contract entered into after the effective date of this amendment, and any renewal of a franchise contract, which renewal is entered into after the effective date of this amendment, between the Town and any Cable Television Company, shall contain the following provisions:

- (a) A statement of the area or areas to be served by the Cable Television Company;
- (b) A line extension policy;
- (c) Procedures for the investigation and resolution of the complaints by the Cable Television Company; and
- (d) Any other terms and conditions that are in the best interests of the Town.

Section 5. Amendment

The Town Council as the Municipal Officers of the Town shall have the exclusive power to enact and amend this Ordinance. The Town Council shall provide at least seven days' notice of any hearing on the proposed amendment to this Ordinance, and notice of such hearings shall be

provided by publication in a newspaper of general circulation within the Town as well as by the posting of an attested copy in some conspicuous, public place in the Town together with a return on the notice in accordance with 30-A M.R.S.A. Sec. 2523 as amended from time to time.
Pursuant to 30-A M.R.S.A. Sec. 3008 and notwithstanding Sec. 213 of the Town Charter, such amendments shall become effective immediately.

Section 6. Compliance with all Laws

Cable Television Companies shall at all times comply with all applicable federal, State and local laws, statutes, rules, regulations, ordinances, codes and orders.

Section 7. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

TOWN OF GORHAM

CEMETERY ORDINANCE

Adopted by Town Council
June 6, 2017

Town of Gorham

Cemetery Ordinance.

Section 1: Purpose.

1.1 **Purpose:** Many Cemeteries in the Town of Gorham were previously managed by independent Cemetery Associations and were later turned over to the Town to manage. The records of the Cemetery Associations that were provided to the Town were sometimes incomplete or incorrect. The purpose of this ordinance is to standardize rules and regulations among the various cemeteries and maintain and administer these cemeteries for the benefit of the Town and its citizens, to preserve and protect the Cemeteries as peaceful and beautiful areas that serve as reverent symbols of the citizens' respect for the deceased. In formulating this Ordinance, a balance of interests of the various stakeholders purchasers of rights of interment; family, friends, and acquaintances of the deceased buried therein; Gorham citizens and taxpayers; maintenance workers; and commercial service providers is taken into consideration. Most important these rules and regulations are intended to ensure the safety of all who enter these Cemeteries. All persons visiting the Cemeteries shall abide by this Ordinance.

Section 2: Applicability; Rescission of inconsistent Ordinances or rules.

2.1 **Applicability:** This ordinance shall apply to the following Cemeteries and to any other Cemetery, now or in the future, maintained by the Town of Gorham:

1. Eastern Cemetery
2. Fort Hill Cemetery
3. Hillside Cemetery
4. Huston Road Cemetery
5. Little Falls Cemetery
6. North Street Cemetery
7. Sapling Hill Cemetery
8. Shaws Mills Cemetery
9. Smith Cemetery
10. South Gorham Cemetery
11. South Street Cemetery
12. West Gorham Cemetery (sometimes called Dow Road or Lewis Cemetery).

2.2 **Rescission:** Any previously adopted Ordinance or rules, dealing with cemeteries in Gorham are hereby repealed.

Section 3: General Rules.

3.1 General: The Town reserves the right to enlarge, reduce, re-plot, or change the boundaries or grading of the Cemeteries, or a section or sections thereof, from time to time, including the right to modify or change the location of, or remove or re-grade roads, drives, or walks, or any part thereof. The Town also reserves the right to lay, maintain and operate, or alter or change, pipe lines or gutters for sprinkler systems and drainage purposes and to use cemetery property, but not inconsistent with Rights of Interment already sold to Grantees, for cemetery purposes, including interment and inurnment of the dead, or for anything necessary, incidental, or convenient thereto. The Town reserves to it and to those lawfully entitled thereto, a perpetual right of ingress and egress over burial sites for the purpose of passing to and from other burial sites.

3.2 Supervisor: The Public Works Director shall have the general responsibility to supervise all Cemeteries in Gorham. Where ever the term Superintend is used it means the Public Works Director for the Town of Gorham or his/her designee.

3.3 Hours: The Cemeteries shall be open to the public seven days per week from 8 am to sunset each day.

3.4 Motor Vehicles: Motor vehicles must stop when meeting a funeral cortege and only resume movement after the procession passes. Maximum speed is ten (10) miles per hour. No vehicle may be driven or parked across or upon any burial site or lawn. Parking or leaving any vehicle on any road or drive in such a way as to prevent any other vehicle from passing is prohibited. Commercial vehicles that are not directly involved in the business of the Cemeteries are not permitted. Snowmobiles and unregistered motor vehicles such as motor scooters and all-terrain vehicles are prohibited within the Cemeteries except for attendance at funerals.

3.5 Pedestrian Use: Persons within the cemeteries shall only use the Avenues, walks and alleys and shall not walks upon or across lots or lawns unless it is necessary to gain access to a particular lot.

3.6 Violations: Any violation of these Rules and Regulations will be treated as a trespass or nuisance, depending on the violation, and will be referred to the Town Manager or Police Chief accordingly. Violation of the Rules and Regulations may also lead to prosecution for violation of federal or state laws. Improper conduct or violation of Rules and Regulations by anyone may result in a request to leave the Cemeteries.

3.7 Waste Removal: Individuals who enter the Cemeteries must carry out all waste that they create while in the Cemeteries. Depositing of waste, rubbish, and debris on the grounds of the Cemeteries, or neighboring and adjacent property, is prohibited.

3.8 Group Functions: The only group functions that are allowed within the Cemeteries are funerals, burials, memorial services, and educational tours. Other types of functions are not permitted unless permission is sought and granted, in advance, by the Town Manager or the Town Council.

3.9 Correction of Errors: The Town shall have the right to correct any errors that may be made by it or its agents in making interments, disinterments or removals, or in the description, transfer or conveyance of any Rights of Interment or interment property. Such corrections may include cancelling such conveyance and substituting and conveying in lieu thereof other Rights of Interment or other interment property of equal value and similar location as far as possible, or as may be selected by the Town, or, in the sole discretion of the Town, by refunding the amount of money paid to the Town on account of said conveyance. In the event such error shall involve the interment of the remains of any person in such property, the Town reserves the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

3.10 Town Authority: The Superintendent shall have charge of the grounds and property within the Cemeteries and all persons visiting the Cemeteries and the application and enforcement of these Rules and Regulations including, but not limited to, monuments, cremation and urns. The Town reserves the right to make final decisions regarding the application and enforcement of these rules and regulations.

3.11 Reasonable Precautions: Reasonable precautions will be taken to protect Grantees from loss or damage, but the Town shall not be responsible for loss or damage from causes beyond their reasonable control, and especially from damage caused by the elements, or act of God, common enemy, thieves, vandals, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the same be direct or collateral.

Section 4: RIGHT OF INTERMENT.

4.1 General: The Town will issue a Right of Interment ("Right") (right to bury human remains or to bury the ashes of a human being ("cremated remains" or "cremains"), the latter hereinafter referred to as an Inurnment) upon the payment in full of the current price for such rights. Purchase of a Right in no way grants any other rights or privileges to the purchaser, and a right of interment is subject to these Rules and Regulations. No Right shall be used for any purpose other than the burial or the memorializing of the human dead, or the cremains of the human dead. The statement of any employee or agent of the Town, unless confirmed in writing by an authorized representative of the Town shall in no way bind the Town.

4.2 Purchase of Interment: Individuals considering the purchase of a Right of interment should contact the Towns Finance Office at the Gorham Municipal Center. The Finance Office will notify the appropriate official who will assist the individual in making a decision to purchase.

4.3 Payment in Full Required: Complete payment of the purchase price for the Right of interment must be made to the Town before any burial is permitted. No partial payments will be accepted. Upon full payment for the Right of interment, and signing of Grantee Acknowledgement Form, the Town of Gorham will issue an executed document signifying the granting of the Right.

4.4 Right of Interment only: The Grantee is the individual who has purchased the Right of interment, or has inherited the Right from a deceased predecessor Grantee. The Grantee "owns" the right of interment, but does not own real property, just the right to use one or more specific burial sites in the Cemeteries subject to all of the Rules and Regulations as well as applicable laws and ordinances.

4.5 Inheritance: The laws of the state of Maine determine the descent of title to Rights of interment. Heirs must prove their legal inheritance before rights to burial spaces can be reassigned. Upon the death of a Grantee, the heirs or devisees of such person must file with the Town Clerk proof of ownership for the purpose of correcting the record. Notarized statements as to relationship (e.g. Affidavit of Heirs) and certified copies of wills or court decrees (if any) are normally sufficient. The Town shall charge an administrative fee for each descent of title of each burial right.

4.6 Repurchase of Rights: The Town has no obligation to repurchase Right of interment from Grantees.

4.7 Exchange Rights: The Town may, but is not obligated to, allow exchanges of Right of interment for different burial sites within its Cemeteries. The Town shall charge an administrative fee for each exchange of each burial right.

Section 5: CARE OF BURIAL SITES.

5.1 Burial Site and Grave Site: Burial Site is the basic unit of space within the Cemeteries used or intended to be used for the burial of human remains. It is also commonly referred to as a single "grave site".

5.2 Site Boundary: No burial site shall be defined by a fence, railing, hedge, crypt, or enclosure of any description. Boundaries that existed prior to the adoption of this Ordinance around burial sites may be maintained as a boundary by the owners of the interment right, but no one is allowed to add to or replace them.

5.3 Right to Remove: The Town, or their agent/designee have the right to remove all floral designs, vases, urns, decorations, flowers, shrubs, wreaths, plants, and other materials placed in Cemeteries that, in their opinion, become unsightly, dangerous, detrimental, diseased, or that interfere with normal maintenance of Cemeteries.

5.4 Perpetual Care: The general care of the surface conditions of the Cemeteries is the responsibility of the Town and includes cutting of grass, filling in sunken graves, trimming bushes and trees, and raking and cleaning the grounds. Perpetual care does not include, nor does the Town assume any responsibility, for caring for or planting flowers or ornamental plants, or other special work.

Section 6: INTERMENTS AND INURNMENTS.

6.1 Timing: Cemeteries shall be open for interments and inurnments Monday through Saturday from 8 am to 4 pm. There shall be no interments and inurnments permitted after December 1 through April 1. However, this prohibition may be waived at the discretion of the Town if weather conditions or soil conditions warrant such a waiver. Interments and inurnments will not be permitted on Sundays or federal or state holidays unless waived by the Town. Any service extending beyond the established hours will be subject to an additional fee.

6.2 Notice: Forty-eight (48) hours-notice (not counting Sundays or holidays) must be given to the Town by the funeral or burial service provider prior to all interments.

6.3 Delay: The Town reserves the right to postpone any interment and inurnment due to weather conditions or other emergency. The Town shall not be responsible or held liable for any costs or damages for any delay in an interment/inurnment due to a written, timely protest to the interment or inurnment by a third party, or where the Rules and Regulations or any law or ordinance has not been met. The Town is under no obligation to recognize any protest of an interment or inurnment unless it is in writing and delivered to the Town.

6.4 Location: When an interment and inurnment is to be made, the location of such shall be designated by the Grantee of the Right or their representative or agent. Should the Grantee or their representative fails or neglects to make such designation, particularly when the Grantee owns rights in multiple burial sites, the Town reserves the right to make or direct the interment and inurnment in a location designated by the Town. An individual who presents himself or herself as having the authority of the Grantee for this purpose of locating an interment or inurnment shall certify in writing that they have such authority (e.g., Affidavit of Authority) and accept full responsibility and liability for their actions, and will hold the Town, Superintendent, and Town harmless from any liability, including legal costs, on the account of such authority and disposition.

6.5 Instructions: Prior to the interment or inurnment, Grantees or their heirs or representatives are encouraged to provide the Superintendent a written communication as to the location of the burial. The Town cannot be responsible for a mistake as to the particular space or location in the plot resulting from lack of precise and proper written instructions (for example, mistake caused by any order given by telephone).

6.6 Vaults and concrete boxes: In order to maintain a high standard of care and to eliminate sunken graves, all burials must be made using rigid and durable outside containers (commonly known as "vaults and concrete boxes) made of natural stone, reinforced concrete, or any similar container approved by the Town. Cremated remains must be interred in a permanent container approved by the Town.

6.7 Limits: No interment of two (2) or more bodies shall be made in one (1) burial site except in the case of a mother or father and a child, or two (2) infants buried in one (1) casket (or two (2) caskets if small enough to fit within the burial space), or six (6) cremated remains, or one (1) full burial and two (2) cremations. All interments of multiple bodies' cremains shall be located and made by the Town. No double depth standard interments will be made.

6.8 Prohibition: Interments and inurnments are to be performed only by the Town or individuals or entities approved by the Town. Grantees and other parties not approved by the Town are specifically prohibited from performing interments or inurnments. The Town will take all reasonable action to rectify any such prohibited burials and seek damages and costs from violators of this rule. The Town will not be responsible for recording the unauthorized burial, including the identity of the deceased.

6.9 Movement of Monuments: Monuments and Markers may have to be moved or removed to gain access to burial sites for purposes on interment or inurnment. The Town will restore the moved items to their initial position as soon as time and weather permit.

6.10 Funeral Directors: All funeral or burial parties entering Cemeteries shall be under the direction of a funeral director licensed by the state of Maine who shall abide by the Rules and Regulations.

6.11 Casket: Once a casket containing a body is within the Cemeteries, it shall not be opened except by a licensed funeral director or his or her assistants or on an order signed by a court of competent jurisdiction.

6.12 Fee: The Town will charge an administrative fee for all interments and inurnments.

Section 7: PLANTS.

7.1 Shrubs: Prior to planting any shrub, approval of the Town must be obtained. Shrubs growing on any burial site may be pruned or removed by the Town or its agents at the discretion of the Town. Generally, no shrubs or trees will be permitted on a single burial site, or at individual Monuments or Markers. Plantings on two (2) abutting burial sites, or larger plots, may be permitted, subject to pre-approval of the Town.

7.2 Removal of plants to gain access: Planted materials may have to be removed to gain access to burial sites. The Town is not responsible for damage or losses resulting from removal of plant material during any interment or inurnment process.

7.3 Landscape: The Town may undertake, to the extent practicable, the pruning of trees and shrubs to preserve the general landscape features of the Cemeteries, but will not undertake to maintain individual plantings, or containers of plants.

7.4 Flowers: Any planting of flowering plants is restricted to non-spreading varieties. Any perennial plantings must be pre-approved by the Town.

Section 8: MONUMENTS AND MARKERS.

8.1 Definitions: Monument shall mean any above grade level burial site identification object made of stone, bronze, or other material. Marker (also commonly called "headstones" or "flush

markers or memorials") shall mean any grade level burial site identification object made of stone, bronze or other material.

8.2 Location and Construction: The location of all Monuments and Markers shall be determined and marked out by the Town. The Grantee has no authority, either specific or implied, to locate or mark out the Monument or Marker by himself or herself or to cause his or her agent to do so. The Grantee is responsible for any and all costs incurred for remedying any error in their locating a Monument or Marker independently of the Town. All Monuments must have a foundation as specified by the Town. The Town does not assume any responsibility for the proper construction of foundations or setting of Monuments or Markers.

8.3 Single Burial Site: A single burial site shall have no more than one (1) Monument and no more than two (2) Markers. The foundation base on a single burial site generally shall be no wider than thirty-two (32) inches. At the discretion of the Town, a Monument or Marker may have a base size of up to seventy-five percent (75%) of the width of the burial space.

8.4 Multiple Burial Sites: Multiple burial sites that abut each other may have a larger Monument than a single burial site, if approved in advance. The Town has authority to approve applications for such Monuments.

8.5 Repair: Monuments and Markers that are placed in the cemeteries remain the property of the Grantee or party purchasing them. Monuments and Markers erected by Grantees shall be maintained in a safe condition by the Grantee (including heirs and assigns), Notwithstanding the primary maintenance responsibility of the Grantee, the Town may, at its sole discretion, take appropriate steps to resolve safety concerns.

8.6 Installation: Monuments and Markers may not be installed until all relevant fees and expenses have been paid. The Town must approve, in advance, all installations.

8.7 Temporary Markers: Temporary Markers may remain on a burial site for up to 120 days of an interment or inurnment. The Town may remove such markers at the end of this period if the Grantee fails to do so. If a Monument or Marker is on order by the end of the 120-day period, the Town will allow the Temporary Marker to remain until the Monument or Marker is installed.

Section 9: DISINTERMENTS.

9.1 Law: Disinterment's are governed by State statute, Title 22 MRSA Section 2843 as may be amended from time to time. A permit for disinterment or removal of a dead human body must be obtained from the Town Clerk of the Town of Gorham.

9.2 Fee: Cost of the disinterment shall be the responsibility of the party causing or seeking the disinterment. The Town may charge a fee to reasonably cover administrative, labor and equipment costs.

9.3 **Opening:** The Town will allow and observe the opening of a grave upon showing, to the Superintendent's satisfaction, of requisite identification, authorization documentation and permit. In all disinterment cases, the responsibility of the Town shall be limited to identifying the grave only and the actual disinterment must be made by the person authorized to do so.

Section 10: RULES OF CONDUCT.

10.1 **Mischief:** No person shall destroy, mutilate, deface, injure or remove any Monument, Marker, gravestone, fence, railing, other structure, plant, or other Town properties within the Cemeteries.

10.2 **Dogs:** Dogs brought into the Cemeteries must be on leash at all times. Persons walking dogs in the Cemeteries must pick up any of their droppings and dispose of it outside of the Cemeteries, and will be strictly liable for any personal harm or property damage caused by the dog.

10.3 **Insurance:** All commercial service providers entering the Cemeteries to perform services or deliver commercial products must have liability and workers' compensation coverage consistent with the Town's requirements and present proof of insurance to the Town.

10.4 **Prohibited:** Some articles are considered injurious to the beauty and dignity of the Cemeteries and can create safety hazards and reduce the peaceful ambiance therein. The following

objects are not permitted in the Cemeteries:

- Breakable items
- Unsightly items
- Eternal flames or any open flames and
- Weapons except those used by honor guards or in military funerals or carried by law enforcement officers consistent with their policies and procedures

10.5 **Alcohol or Illegal Substance:** No person shall be in possession of or consume any alcoholic beverage within Cemeteries. No person shall be in possession of or consume any illegal substance within Cemeteries.

10.6 **Peaceful conduct:** No person shall behave in a loud, indecent, or disorderly manner in the Cemeteries or create any unnecessary disturbance therein. It is of the utmost importance that there should be a strict observance of the proprieties in the cemetery. The discharge of firearms or fireworks therein are strictly prohibited. This is not to be construed as prohibiting ceremonial volleys with blank charges by properly supervised honor guards as a tribute to a deceased person if such ceremonial undertaking has been previously scheduled with the Town. Horseplay, games, contests, sports activities, or any similar activity or gathering not in keeping with the purpose and dignity of a cemetery are prohibited within the Cemeteries.

10.7 **Horses:** Horses are prohibited from the Cemeteries except for the purpose of funeral, ceremonial, or memorial functions. Owners are responsible for cleaning up after their horses.

Section 11: AUTHORITY.

11.1 **Authority:** The Superintendent, and the Superintendent's designee, is hereby vested with the supervision and control of the grounds, property, and visitors of the Cemeteries pursuant to Section 3.

11.2 **Decisions of Superintendent.** In the event that a Grantee or their representative or agent has been aggrieved by the Superintendent's application or enforcement of these Rules and Regulations, the Grantee or their representative or agent may appeal the Superintendent's decision to the Town Manager. The grievance must be received in writing within twenty-one (21) calendar days of the cause of action for the grievance.

Section 12: VIOLATIONS.

12.1 Any violation of any section of this ordinance may be prosecuted to the full extent of the law and subject to any fines and equitable relief as may be available.

Section 13: SEVERABILITY/AMENDMENT.

13.1 In the event any section or provision of this ordinance is declared invalid by a court of competent jurisdiction, the remaining sections or provisions shall continue in full force and effect.

13.2 This ordinance may be amended by the Town Council at any properly noticed meeti

COIN OPERATED AMUSEMENT DEVICE ORDINANCE

TOWN OF GORHAM

COIN OPERATED AMUSEMENT DEVICE ORDINANCE

Passed as Emergency Ordinance - 1/6/81

Passed as Permanent Ordinance - 2/3/81

Amended - February 2, 1982

Amended - April 4, 1989

Amended - June 3, 1997

THE TOWN OF GORHAM
COIN OPERATED AMUSEMENT DEVICE ORDINANCE FOR

ARTICLE I ESTABLISHMENT

Pursuant to M.R.S.A. §441, et seq. and Article II, Section 204.3 of the Council-Manager Charter of the Town of Gorham, the Town of Gorham hereby ordains the following Coin Operated Amusement Device Ordinance for the purpose of regulating the location and operation of any such device in or on any premises or location within the Town of Gorham.

ARTICLE II

A. Coin Operated Amusement Device Definitions

A coin operated amusement device shall include all of those machines whether mechanical or electronic which upon insertion of a coin, slug, token plate or disc may be operated by the public generally at public premises for use as a game, entertainment or amusement, but not limited solely to musical entertainment, whether or not registering the score and which are operated for amusement only and do not dispense any sort of payoff, prize or reward except free replays, provided, however, this definition shall include those machines which would otherwise come within the meaning of this term except that they have been manufactured and modified to be operated by remote control provided, further, those machines commonly denominated as mechanical kiddie rides and intended primarily for use of children six years of age and younger shall be excluded from this definition and so are not covered by this ordinance.

B. Good Moral Character

Proof of good moral character shall include general testimony of the applicant's reputation in the community and the results of a records check to be conducted by the Chief of Police and included in his report as required in Article IV. Such results shall be considered relevant only if they disclose a felony conviction within the last ten (10) years.

C. Effect on Neighboring Properties

The applicant shall establish that the location of a premises for the operation of coin operated amusement devices will not adversely effect the property values of other real property in the immediate vicinity of said premises. Any plans the applicants may have in regard to supervision of said premises to prevent vandalism and other potential property damage or personal injury to abutters shall be considered in this regard.

D. Traffic Hazards

Traffic conditions on any public way adjacent to said premises shall be evaluated to insure that the location of said premises will not unnecessarily aggravate said conditions, such evaluation shall be conducted by the Chief of Police in conjunction with the Department of Public Works.

E. General Health and Safety

The Code Enforcement Officer in conjunction with the Health Officer and Fire Chief shall inspect said premises and report on the general health and safety of the premises in regard to any violations or possible violations of the Building Code, Health Code, Fire Code or State Plumbing Code.

ARTICLE III - LICENSES

It shall be unlawful for any person, firm, corporation or association to keep for public patronage or to permit or allow the operation of any coin operated amusement device in or on any public premises or location under his or its charge, control or custody without having first obtained a license therefor from the Clerk of the Town of Gorham. Said license shall be issued by the Clerk upon payment of the annual fee of One Hundred (\$100) Dollars for each machine located at said premises and said license shall expire June 30 of each year.

No license shall be issued for any premises within 500 feet of any school, church, or any area zoned residential under the terms of the Town's Land Use and Development Code; provided, however, that based upon a showing by the applicant that relaxation of the distance restriction contained in this section would not be detrimental to the public health, safety, and general welfare and would not be inconsistent with the general purposes of this ordinance as set forth in Article II, the Town Council may waive said restriction; provided, further, at least five (5) affirmative votes shall be required for such a waiver. The 500 feet distance shall be measured from the main entrance of the licensed premises and from the main entrance of any church or school by the ordinary course of travel and from the edge of the residential zoning boundary line.

ARTICLE IV - CONDITIONS FOR LICENSE

A. Public Hearing

The clerk shall not issue such license as stipulated in Article III hereof until authorized by the municipal officers following a public hearing on the establishment of said coin operated amusement device location. Such hearing shall be held within thirty (30) days of the receipt of such license application and authorization or denial by said officers shall be by written decision stating the reasons therefor. At the public hearing the municipal officers shall receive testimony and take evidence as to the good moral character of the applicants as well as to such factors regarding the premises for location of said devices as traffic hazards, effect on neighboring properties and general health and safety of the premises to house said coin operated amusement devices.

In this regard the Code Enforcement Officer and the Chief of Police shall be required to submit written reports on their evaluation of said premises.

B. Conditions of Operation

There shall be a limit of eight (8) machines per establishment, each establishment shall maintain public rest room facilities. Children under the age of sixteen (16) unaccompanied by a parent or legal guardian shall not be permitted to play or operate such machines. Unless the Town Council specifically votes to the contrary no coin operated amusement device shall be operated between 11:00 p.m. and 6:00 a.m.

ARTICLE V LICENSE SPECIFICS

The license required by this ordinance shall be posted securely and conspicuously on the premises for which it is granted and shall be forwarded to the local police department after issuance. Said license shall not be transferable to any other person, firm, corporation or association or from location to location and shall be valid only at the location and for the person, firm, corporation or association designated therein. Further, such license shall not be granted to a person under the age of eighteen (18) years, nor to any firm, corporation or association whose officers are under said age.

ARTICLE VI REVOCATION OF LICENSE

Any such license issued herein may be revoked by the Clerk after hearing before the municipal officers when any of the following violations are found:

1. There are machines located on the premises which are not described in the license application.
2. That minors under the age of sixteen (16) years unaccompanied by a parent or legal guardian have been allowed to operate said machines in violation of the terms of the ordinance.
3. That any of the other specific findings required by this ordinance and defined in Article II have been violated and/or cease to be true.
4. That any of the conditions of the Article IV-B have been violated.
5. When it has been established to the municipal officers' satisfaction that the premises for which said license was granted had cease to be a proper location due to the creation of a public nuisance at said premises.

ARTICLE VII APPEAL

The decision of the municipal officers as carried out by the Clerk may be appealed to the Superior Court within thirty (30) days from the rendering of said decision.

ARTICLE VIII VIOLATIONS

Any person, firm, or, in the case of a corporation or association, any official thereof, violating any of the provisions of this ordinance, shall upon conviction be punished by a fine of not less than five hundred (\$500) dollars for the first offense and not less than one thousand (\$1,000) dollars for the second and each subsequent violation which fine shall be recovered to the use of the Town of Gorham. In addition, the Town will recover legal fees and costs to ensure compliance with this ordinance.

ARTICLE IX SEPARABILITY CLAUSE

If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.



Town of Gorham

Consumer Fireworks Ordinance

**Adopted August 7, 2012
Effective September 6, 2012**

SECTION 1: Purpose

1.1 This Ordinance regulates the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Gorham and of the general public.

SECTION 2: Title and Authority

2.1 This Ordinance shall be known as the "Town of Gorham Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions 8 M.R.S.A. § 223-A.

SECTION 3: Definitions

3.1 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

3.2 Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products which are illegal to sell, use, or possess in Gorham or the State of Maine:

A. Missile-type rockets, as defined by the State Fire Marshal by rule;

B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and

C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

3.3 Display or Commercial Grade Fireworks – Fireworks that only trained and licensed pyro-technicians may handle and are regulated by the State of Maine and Federal Law.

SECTION 4: Permit Required

4.1 No person shall use, display, fire, or cause to be exploded, consumer fireworks within the Town of Gorham without a permit. This Section shall not apply to a person in possession of a fireworks display permit by the State of Maine pursuant to Title 8, MRSA Section 227-A.

4.2 No permit shall be issued on any day with a Fire Danger Class of 3, 4, or 5.

4.3 A person may use consumer fireworks only on that persons property or on the property of a person who has consented, in writing, to the use of consumer fireworks on that property.

SECTION 5: Use of Consumer Fireworks Restricted

5.1 No person shall use, display, fire, or cause to be exploded, consumer fireworks within 150 feet of any buildings or structures.

5.2 A person shall not use, display, fire, or cause to be exploded consumer fireworks within the Town of Gorham or in or from any watercraft within waters of the Town except on the following days and during the following times:

- A) July 3rd, beginning at 12pm (noon) and ending at 10pm;
- B) July 4th, beginning at 12pm (noon) and ending at 11 p.m.;
- C) December 31st, beginning at 12pm (noon) and ending at 12:30 a.m. the following day; and
- D) January 1st, beginning at 12pm (noon) and ending at 10:00 p.m.
- E) Every Saturday beginning at 12pm (noon) and ending at 10pm.

SECTION 6: Violation and Enforcement

6.1 PENALTY FOR VIOLATION: Any person who violates the provisions of this Ordinance shall commit a civil violation punishable by a penalty of not less than two hundred dollars (**\$200.00**) and not more than five hundred dollars (\$500.00) plus attorney's fees and costs to be recovered by the Town of Gorham for its use. Each incident shall constitute a separate violation.

6.2 ENFORCEMENT: This Ordinance shall be enforced by the Town of Gorham Police Department.

6.3 INJUNCTION: In addition to any other remedies available at law or equity, the Town of Gorham, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.

6.4 SEIZURE & DISPOSAL OF CONSUMER FIREWORKS: The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

SECTION 7: Exceptions

7.1 This Ordinance does not apply to a person or group of persons issued a fireworks permit by the Town of Gorham pursuant to the State of Maine in accordance with 8 M.R.S.A. §§ 227-A to 237.

7.2 The Town of Gorham is exempt from the provisions of this Ordinance.

SECTION 8: Severability

8.1 In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

DOOR-TO-DOOR SOLICITATION

ORDINANCE REGULATING DOOR-TO-DOOR SOLICITATION

Enacted 5/7/91
Effective date 6/8/91

ORDINANCE REGULATING DOOR-TO-DOOR SOLICITATION

Sec. 1 Purpose

The purpose of this Ordinance is to secure for the residents of the Town the peaceful enjoyment of their homes and property by prohibiting door-to-door solicitation during those times when such solicitation is most intrusive and disruptive; to aid crime prevention and detection; and to ensure that persons engaged in door-to-door commercial solicitation have obtained required State registrations and permits.

Sec. 2 Definition

As used in this Ordinance, the term "commercial solicitation" means: To offer goods, services or real property for sale or rent or to provide information for the purpose of promoting the sale or rental of goods, services or real property provided, however, that offering goods or services for sale is part of fundraising for a non-profit organization shall not be commercial solicitation.

Sec. 3 Registration Required; Limit on Hours

- (A) It shall be unlawful to engage in door-to-door commercial solicitation without registration with the Town Clerk pursuant to this Ordinance.
- (B) It shall be unlawful to engage in any type of door-to-door solicitation between 9:00 p.m. and 8:00 a.m.
- (C) The provisions of this section shall not apply to home visits by prearranged appointment.

Sec. 4 Registration

Registration under this Ordinance shall be on forms provided by the Town Clerk. The form shall elicit at least the following information:

- (A) Name, address and telephone number of the registrant;
- (B) Physical description of the registrant;
- (C) Name, address and telephone number of the registrant's employer;
- (D) Description of the motor vehicles to be used by the registrant in conducting the solicitation;
- (E) Brief description of the types of goods or services to be offered for sale by the registrant, and
- (F) For any registrant whose activities would constitute the transient sale of consumer merchandise, as defined in 32 MRSA Sec. 4681, a copy of the registration issued under 32 MRSA Sec. 4682-A.

Sec. 5 Issuance and Term

- (A) The Town Clerk shall issue a proof of registration upon receipt of a completed registration form.
- (B) Each registration shall expire 30 days after issuance but shall be renewed by the Town Clerk for additional 30 days periods upon request of the registrant.
- (C) Each proof of registration shall contain the name, address, physical description and organizational affiliation of the permittee; a description of the solicitation activity to be engaged in; an expiration date; and the signature and seal of the Town Clerk. The Town Clerk shall keep a record of all registrations.

Sec. 6 Possession and Presentation

Every person engaged in door-to-door commercial solicitation shall have a valid proof of registration, as required by this Ordinance, in his or her possession at all times while so engaged in the Town and shall present the proof of registration for inspection upon request of any person.

Sec. 7 Violations

- (A) It shall be a violation of this Ordinance to engage in door-to-door solicitation activity prohibited by Section 3 or to disregard a clearly visible sign on private property which prohibits solicitation.
- (B) Any person who violates any provision of this Ordinance shall be subject to a fine of not more than \$100.00 for each violation. Each violation shall constitute a separate offense.

EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL FROM EXCISE TAX ORDINANCE

Section 1. Authority

This ordinance is enacted pursuant to 36 M.R.S.A §1483-A, which expressly authorizes such ordinances.

Section 2. Excise tax exemption: qualifications

Vehicles owned by a resident of the Town of Gorham who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814(1)(A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A. § 1481 (5).

Section 3. Effective date: duration

This ordinance shall take effect January 1, 2014 and shall remain in effect unless and until it or 36 M.R.S.A §.1483-A is repealed.

FIRE SUPPRESSION SYSTEMS ORDINANCE

ADOPTED JULY 7, 1987; effective August 6, 1987
AMENDED OCTOBER 6, 1987; effective October 6, 1987
AMENDED July 10, 1990 effective July 10, 1990
REVISED SEPTEMBER 4, 2001; effective October 7, 2001
Revised September 4, 2018 ; effective October 5, 2018

ARTICLE I. PURPOSE:

Section I. To establish an ordinance governing the installation of Fire Suppression Systems in certain buildings within the Town of Gorham.

ARTICLE II. Definitions and Requirements:

Section I. A "sprinkler/fire suppression system" shall mean an approved automatic system installed in accordance with the National Fire Protection Association NFPA Standard 13, NFPA 13R, NFPA 13D, and NFPA 750 and in accordance with the provisions of this ordinance and approved by the State Fire Marshal's Office, and shall remain subject to the Fire Chief's approval under Section III below.

Section II. Any structure requiring the installation of a Standard 13 or 13R System shall have a Fire Department Connection as that term is defined in NFPA. The location of the Fire Department Connection shall be approved by the Fire Chief and properly signed as the Fire Department Sprinkler Connection.

The department connection shall be kept clear of any obstruction, such as bushes, grass, or debris.

Section III. The type of system to be installed and its adequacy of life safety from fire in accordance with the provisions of this ordinance shall be reviewed and approved by the Fire Chief or his designee in accordance with this ordinance, provided adequate provisions are made for life and property safety. Any sprinkler, or suppression system installed, whether complete or partial at the choice of the owner occupant, shall meet the requirements of this ordinance.

Section IV. A permit shall be obtained from the Fire Chief before the start of construction of the system. A set of blue prints showing the entire sprinkler/suppression system and the rate of flow shall be provided when the permit is obtained. A fee of \$75.00 shall be charged for the permit.

A copy of the permit shall be forwarded to the Code Enforcement Office and no Certificate of Occupancy shall be issued until the system has been properly installed, tested and approved by the Fire Chief or his designee. The test papers from the installer shall be forwarded to the Fire Department upon completion of the system and prior to issuing the certificate of occupancy.

Section V. All sprinkler/suppression systems installed under this ordinance shall have the following:

1. Any sprinkler/suppression system installed, extended, modified or altered within the Town of Gorham shall be done by a State of Maine licensed installer.
2. Any sprinkler/suppression system that is installed that contains twenty (20) or more sprinkler heads, or the modifications of an existing sprinkler

system which includes twenty (20) additional sprinkler heads, shall have the plans approved by the State Fire Marshal's Office.

3. A tamper switch alarm at the system shut-off, except that this requirement shall not apply to NFPA 13D systems.
4. A flow switch alarm that shall activate an approved supervisory alarm system, which will transmit to an approved receiver or municipal alarm receiver. The determination of what systems and receivers are approved shall be made by the Gorham Fire Department in order to insure that systems are compatible.
5. An evacuation alarm for the building that will sound when the sprinkler/suppression system is activated. The activation alarm shall be audible throughout the entire structure.
6. An outside water flow alarm.
7. Butterfly valves will not be allowed on any Standard 13 system.
8. Sprinkler heads above and below ceilings, and in all areas with a 6" inch or more vertical void and a 24" inch or greater connecting horizontal space.

Section VI. Occupied and unoccupied buildings, or portions thereof of any construction having a sprinkler/suppression system in place, shall maintain all sprinklers/suppression and standpipe systems and all component parts in a workable condition at all times, and it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection these systems provide, except that this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary for the purpose of conducting tests, repairs, alterations, or additions; provided that the tests, repairs, alterations, or additions are done in such a way as to avoid the creation of a safety hazard.

The Chief of the Fire Department or his designee shall be notified before such tests, alterations, or additions are started.

Section VII. For the purpose of this ordinance, the term "building" shall mean any structure, (excluding any barn, or stable used exclusively for agricultural purposes) having a roof supported by columns or walls and intended for the shelter, storage, housing use, or enclosure of persons, animals, or chattel (other than agricultural food or fertilizer stuffs).

The term "building" shall also include any garage, out-building or other accessory building used for any commercial or industrial purposes.

Section VIII. For the purpose of this ordinance, portions of buildings separated from other portions by a firewall shall not be considered a separate building.

Section IX. Unit of occupancy means any interior space with defined boundaries described in a deed, lease, license or agreement in which a discreet business, residential living unit, commercial, office, service, industrial or industrial activity by interior or exterior walls.

Section X. Any building having more than one sprinkler riser shall have the risers separately zoned and wired to a local Fire Alarm Control Panel to provide zone

identification upon activation

The Fire Alarm Control Panel shall be located as near as possible to the main exit door. There shall also be a building map located at the Fire Alarm Control Panel showing each zone.

Section XI. A lock box or boxes shall be provided outside the structure at locations designated by the Fire Department on any buildings regulated hereunder, containing a key to allow access to all Fire Department areas, except that, for one and two family dwellings, the lock box requirement is optional.

Section XII. Any structure containing a sprinkler/suppression system shall be required to have a yearly test completed on the system by a qualified, Maine-licensed sprinkler technician. A written copy of the yearly test report shall be forwarded to the Fire Chief's Office by the Maine-licensed technician, or his firm; however, if the technician, or his firm, is not paid in full for the inspection services within 30 days of the inspection, the Fire Department shall consider the inspection incomplete and in violation of this section of the Ordinance.

Notwithstanding this section, the owner of a one or two family dwelling with an NFPA 13D system, except for the antifreeze systems, may conduct the annual sprinkler inspection using a self-inspection form provided by the Fire Department if the owner has attended a training course provided by the Fire Department and is recertified every third year with an on line course, or equivalent, provided by the Fire Department. The completed self-inspection form shall be forwarded to the Fire Chief's Office.

Every four (4) years or when there is a change in ownership of the building, whichever occurs sooner, the sprinkler/suppression system, including any antifreeze loops shall be inspected by a qualified, Maine-licensed sprinkler Technician and the report shall be forwarded to the Fire Chief's Office by the Technician or his firm.

ARTICLE III. VIOLATIONS AND LEGAL ACTION:

Section I. When any violation of any provision of this ordinance shall be found to exist, the Town Attorney, as designated by the Municipal Officers and upon notice from the Fire Chief or his designee, is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town.

ARTICLE IV. FINES:

Section I. Any person, firm or corporation being the owner or having control or use of any building or premises who violates any of the provisions of this ordinance, shall be guilty of a civil violation and shall be fined not less than \$25.00 nor more than \$100.00 for each violation. Each day such violation is permitted to exist after notification shall constitute a separate offense. Fines may be waived if the property owner enters into a binding consent agreement providing for improvements to the property that will substantially reduce violations of this ordinance to the Fire Chief's reasonable satisfaction and be completed within a reasonable time frame in his/her opinion.

ARTICLE V. NEW BUILDING CONSTRUCTION:

- Section I. A sprinkler/suppression system shall be installed in all areas of all new buildings meeting any or all of the following requirements.
- A. Three or more stories in height; or
 - B. 36 or more feet in height; or
 - C. 100,000 cubic feet in volume or 10,000 square feet in floor area; or
 - D. All newly constructed residential dwelling units and/or lodging units which are attached to one another, whether vertically or horizontally, in a configuration of three or more units. Examples include, but not limited to, all new one and two family dwelling units, multiplex housing, residential condominium units, garden apartments, hotels, motels, boarding homes and lodging houses, or any residential unit attached horizontally, or vertically, to a commercial or industrial unit; or
 - E. All mixed occupancies which shall have the same meaning as defined in NFPA 101. (see Section IX in Article II above for definition of Unit of Occupancy)
 - F. Non-residential units of occupancy which are attached to one another, whether vertically or horizontally, in a configuration of three or more units. (see Section IX in Article II above for definition of Unit of Occupancy)
- Section II. Changes of Occupancy: in any building or structure, whether necessitating physical alteration or not, a change from one NFPA occupancy classification to another, or from one occupancy sub-classification to another sub-classification of the same occupancy, shall be permitted only if such structure, building, or portion thereof conforms with the requirements of the NFPA 101 Life Safety Code and this ordinance applying to new construction for the purpose of new use. This section complies with the NFPA 101 Life Safety Code Section 13.12, as adopted by the Town of Gorham and State of Maine.

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. 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%).

- B. When an existing building containing 3 or more units of occupancy is enlarged, altered or renovated and the enlarged, altered, or renovated portion, together with the area and/or volume of any other enlargements, alterations, or renovations occurring since the effective date of this ordinance, does not exceed 25% of the area and/or volume of the building existing on the effective date of the ordinance, then a sprinkler/suppression system is not required. When the area and/or volume of such enlarged, altered, or renovated portion, together with the area and/or volume of any enlargements, alterations, or renovations occurring since the effective date of this ordinance, exceeds 25% of the area and/or volume of the building existing on the effective date of this ordinance, then a sprinkler/suppression system must be installed in the entire building.
- C. When a new dwelling or lodging unit is created in, or added to, an existing building, a sprinkler/suppression system must be installed in the entire building if, as a result of the creation of the new unit, the building as a whole will meet the criteria of Article V, Section 1 (D) or (E).
- D. When any other applicable ordinance, code, regulation, rule or statute requires a sprinkler/suppression system, then such appliance must be installed accordingly.

ARTICLE VII. SPRINKLER/SUPPRESSION SYSTEMS FOR ONE AND TWO FAMILY HOMES:

Section 1. Commencing with the effective date of these amendments, all new dwelling units, including those that are single family or duplex houses, including those that are one or two family dwellings and all newly constructed or newly re-purposed dwelling units, are required to be sprinkled. The automatic sprinkler/suppression system shall comply with the following:

- A. All new residential dwelling units, including all new one and two family dwellings, including all newly constructed or newly re-purposed dwelling units, shall be equipped with an NFPA 13D or 13R automatic sprinkler/suppression system. All areas of the building will have sprinkler coverage, with the following exceptions:
 - 1) Closets, as allowed under 13D or 13R unless they are used for laundry room or storage of flammable liquids.
 - 2) Attics, when the attic is not boarded over, has no stairway or ladder leading to the attic, and the shuttle hole is not bigger than 24" x 24" or 576 square inches, and the attic is not used for storage and that at least one (1) smoke detector, hard-wired, into the other detectors in the house, are placed in the attic.
 - 3) Attached garages, if there is no living space above or in the garage space and a two hour wall and a 1 ½ hour fire door including the jams is placed between the house and the garage. In addition a sprinkler/suppression system stub shall be installed in the garage and overhead area to allow for the extension of the sprinkler/suppression system into these areas if required in the future. The location of the stub shall be noted on the sprinkler/suppression system plans.
 - 4) The sprinkler/suppression system is not required to be monitored by an outside source. However, an electric alarm bell and a

flashing red LED light or a combination horn/light unit shall be located on the outside of the building.

- 5) A single two and one half inch (2½") Fire Department Connection is to be placed on the outside of the building. Exception: combination systems

ARTICLE VIII. APPEALS:

- Section 1. Appeals shall lie from the decision of the Fire Chief to the Board of Appeals and from the Board of Appeals to the Superior Court as provided by law.
- A. The Board of Appeals shall have the following powers and duties:
- 1) Administrative Appeals to hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Fire Chief in the enforcement of this Code. The action of the Fire Chief may be modified or reversed by the Board of Appeals by majority vote.
- Section 2. In all cases, a person aggrieved by a decision of the Fire Chief shall commence his appeal within thirty (30) days after issuance of a written decision by the Fire Chief. The appeal shall be filed with the Town Clerk on forms to be approved by the Town Council, and the aggrieved person shall specifically set forth on said form the grounds for said appeal. A fee in such amount(s) and for such purpose(s), as the Town Council may from time to time establish by Council order, shall be paid by the appellant to the Town of Gorham at the time of filing his appeal, which shall not be refundable. Each appeal shall be filed on a separate form. A separate fee shall be assessed for each appeal except that a single fee shall be assessed for multiple appeals filed by the same appellant, concerning the same property, and scheduled to be heard by the Board of Appeals at the same proceeding.
- Section 3. Before taking action on any appeal, the Board of Appeals shall hold a public hearing. The Town Clerk shall cause notice of the appeal to be published in a newspaper of general circulation in the Town at least seven days prior to the date of hearing. The notice of appeal shall be in a form which the Town Clerk deems to be an adequate summary of the appeal.
- Section 4. Following the filing of an appeal, the Town Clerk shall notify the Fire Chief and the appeal shall be in order for hearing within sixty (60) days of the receipt of the appeal.
- Section 5. For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor of Taxes for the Town of Gorham as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
- Section 6. At any hearing, a party may appear by agent or attorney. Hearings shall not be continued to other times except for good cause.
- Section 7. The Fire Chief or his representative as designated by the Town Manager shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.

Applicability date: notwithstanding the provisions of 1 M.R.S.A. Sec. 302, or any other provisions of applicable law, the amendments shown above shall be applicable, to the maximum extent allowed by law, to any and all residential, commercial, institutional or industrial property for which no building permit has in fact been lawfully obtained as of October 5, 2018, the date on which these amendments first appeared on the Town Council agenda.

**TOWN OF GORHAM
FIREARMS ORDINANCE
Enacted June 7, 1994
Amended September 6, 1994
Amended October 7, 2011**

SECTION 1. DEFINITIONS

1.1 “Firearm”, includes any instrument used in the propulsion of pellets, shot, or bullets by action of gunpowder.

1.2 Muzzle-Loading Firearm: “Muzzle-loading firearm” means a muzzleloader, a traditional muzzleloader, modern inline muzzleloader, or a muzzle-loading shotgun.

1.3 Muzzleloader: “Muzzleloader” means a firearm that:

- A. Is capable of being loaded only through the muzzle;
- B. Is ignited by a matchlock, wheel lock, flintlock or caplock, including an in-line caplock or shotgun or rifle primer mechanism;
- C. Has a rifled or smooth –bored barrel or barrels, each barrel capable of firing only a single charge;
- D. Propels a ball, bullet or charge of shot; and
- E. May have any type of sights, including scopes.

1.4 Direct family members: Any person related to the property owner by blood or by marriage.

1.5 Shotgun: A firearm typically used to fire a number of small balls from a shotgun shell through a rifled or smoothbore barrel of relatively large diameter, propelling a load of pellets, buckshot, bullets or slugs, for the purpose of big or small game hunting.

- A. A shotgun may have any type of sights, including scopes.

SECTION 2. SHOTGUN, AND MUZZLE LOADING, RESTRICTED ZONE

2.1 It shall be a violation of this ordinance for any person to discharge a firearm of any kind or description, except for shotguns or muzzle loaders, within the “Shotgun and Muzzle Loading Restricted Zone” as shown on the Gorham Firearms Map, which is dated September 6, 2011 and subsequently amended, as is kept in the Gorham Town Clerk’s office.

2.2 This section shall not apply to any person while on their own property to which they are legally entitled to possession, or on which they are actually domiciled, or their direct family members or persons who have written permission from the owner.

SECTION 3. OWNER OF PROPERTY

3.1 This ordinance shall not restrict an owner of said property, or any person that has obtained written permission from the owner, whether or not such property is located in the “Shotgun and Muzzle Loading Restricted Zone” from discharging a firearm on his/her own property to dispatch a wild animal that is destroying said property, so long as said owner or permitted individual of the property acts pursuant to and in accordance with Title 12 M.R.S.A., Sections 12401-12404.

SECTION 4. DISCHARGE OF FIREARM NEAR DWELLING IS PROHIBITED.

4.1 The discharge of a firearm, including shot guns or muzzleloaders, within 100 yards of a building or residential dwelling is prohibited without the permission of the owner, or in the owners absence, an adult occupant of the building or dwelling authorized to act on behalf of the owner.

SECTION 5. MUNICIPAL PROPERTIES

5.1 It shall be a violation of this ordinance for any person to discharge a firearm of any type of description at or on municipal properties as listed:

- A. Within 500 feet of any School Property
- B. Gorham Municipal Center
- C. Baxter Memorial Library
- D. The Chick Property located between Main Street, Libby Avenue and Gray Road
- E. Within 300 feet of the Public Works Garage
- F. Within 300 feet of the fuel tanks located on Huston Road
- G. Fort Hill Park
- H. Little Falls Recreation Area
- I. Little Falls School Area
- J. Shaw Park
- K. Robie Park

SECTION 6. NARRAGANSETT GAME SANCTUARY

6.1. "Narragansett Game Sanctuary" as defined in Title 12 M.R.S.A. Sec. 12706 (1)(S) is: "The following described territory situated in the Town of Gorham, in the County of Cumberland: Bounded on the north by the right-of-way of the W.N. and P. division of the Boston & Maine Railroad; on the east side by the Black Brook Road or Scarborough Road, also known as Brackett Road and Libby Avenue¹ so called, in said Town of Gorham; on the south side by the Stroudwater River; and on the west side by South Street or South Gorham Road, so called, in the Town of Gorham, containing 3,600 acres, more or less. For provisions relating specifically to Narragansett Game Sanctuary, see Title 12, M.R.S.A. Section 12707 (2)(D).

SECTION 7. VIOLATIONS/FINES

7.1 Any person found to be in violation of any part of this ordinance shall be fined not less than \$300.00 and not more than \$5,000.00, with the fine recovered for use by the Town of Gorham. The Town of Gorham may initiate any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of this ordinance and the Town shall be entitled to recover its legal costs.

SECTION 8. SEVERABILITY

8.1 If any section or provision of this ordinance shall be finally declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining sections and provisions of the ordinance.

TOWN OF GORHAM

Ordinance to Regulate Fraternity and Sorority Houses

Adopted - October 5, 2010

Effective – November 4, 2010

Amended – March 1, 2011

Ordinance to Regulate Fraternity and Sorority Houses

Section 1. Purpose

1.1 The purpose of this ordinance is to ensure the safe operation of fraternity and sorority houses, as defined below, for residents who are living in these facilities and to ensure that fraternities and sororities are good neighbors within the immediate areas in which they are located.

Section 2. Authority

2.1 This ordinance is enacted pursuant to Title 30-A M.R.S.A., Section 3001.

Section 3. Severability Clause

3.1 If any part of this Ordinance is held to be invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Section 4. Definitions

4.1 Fraternity or Fraternity House: Any building or structure, and the use thereof, traditionally affiliated with a college or university, regardless of whether any such affiliation is currently recognized formally or not, providing common living, dining, kitchen, study and/or sleeping areas for college or university students as members of the fraternity and their guests. The term shall be deemed to include similarly defined sorority houses, but shall not be deemed to include fraternal organizations, such as the Masons or the Elks.

4.2 License Year: Shall be the period of time from August 1 to July 31 of the following year.

4.3 Mass Gathering: For purposes of this ordinance, a Mass Gathering at a Fraternity House shall be any event when 15 or more non-resident guests are reasonably expected to attend at the Fraternity House.

Section 5. Annual License and Fee Required

5.1 Each Fraternity House shall be required to obtain an annual license from the Town by August 1. Said license will be good for the license year that runs from August 1 to July 31, unless revoked pursuant to section 5.4.

5.2 In order to obtain a license, a Fraternity House:

- Must have successfully passed its most recent Life Safety Code Fire Inspection conducted by the Town of Gorham's Fire Inspector.
- Must have all of the property taxes on the facility fully paid.

- Must pay the annual license fee.
- May not have recorded more than 5 responses by the Gorham Police Department requiring police action and attributable to violations by the offending fraternity in the preceding license year.

5.3 The annual license fee shall be established by the Town Council and may be periodically adjusted by Town Council vote.

5.4 The Town of Gorham may revoke an annual license for a Fraternity House when during the course of its license year, the facility:

- a. Complies 2 or more violations of this ordinance, or
- b. Records more than 5 responses by the Gorham Police Department, or
- c. Fails its most recent Life Safety Code inspection by the Town and has failed to bring the Fraternity House into compliance within a reasonable period of time, as solely determined by the Gorham Fire Department.

Section 6. Life Safety Code Inspections

6.1 The Fire Department shall conduct regular semi-annual inspections of Fraternity Houses to ensure continued compliance with all applicable Life Safety Codes. When violations are found pursuant to an inspection, and after written notice thereof and an order to correct any such violations have been given to the appropriate representative of the fraternity house, the Fire Department may conduct as many additional inspections as needed to ensure compliance. The Town Council shall by Council Order set a fee for the regular inspections and for follow up inspections which fee may be changed periodically by Town Council vote.

Section 7. Mass Gatherings

7.1 At any event held at a Fraternity House, when 15 or more non resident guests are reasonably expected to attend, the Officers of the Fraternity House shall notify the Gorham Police Department and Fire Department, in advance, of the time and place of the event, and the number of guests that are expected to be attending.

7.2 The Fire Department shall inspect the facility where the function is to be held and will determine the allowed occupant load for the function.

7.3 At any mass gathering event held at the Fraternity House, when alcohol is being served or allowed to be consumed, the Officers of the local chapter responsible for the Fraternity House¹ shall require all guests to sign-in. The sign-in list shall contain the printed name, signature and a method of contact for each guest. This list shall be available for immediate inspection, at any time, by the Gorham Police Department.

7.4 The Officers of the local chapter responsible for the Fraternity House¹ shall designate one of the Officers of the local chapter as the event supervisor who shall be in the facility at all times during the event and available to meet with any Police Officer or Emergency Response Personnel, responding to a call.

¹ Amended March 1, 2011

Section 8. Violations and Penalties

8.1 Except as otherwise provided by law, anyone found to be in violation of any provisions of this Ordinance shall be subject to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense to be recovered for use by the Town and shall be subject to such other legal and equitable remedies as may be available to the Town including, without limitation, an award of attorney's fees pursuant to 30-A MRSA, Section 4452. Each day any such violation continues, shall constitute a separate offense.

**TOWN OF GORHAM
GENERAL ASSISTANCE
ORDINANCE**

August 2006

Amended by Town of Gorham 01/04/2011

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ARTICLE I

Statement of Policy

The Municipality of Gorham administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be

furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 MRSA §4306*).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

ARTICLE II

Definitions

Section 2.1—Common Meaning of Words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

Section 2.2—Special Definitions

Applicant. A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application Form. A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic Necessities. Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality.

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt
- Furniture
- Loan re-payments

- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
 - Security deposits for rental property(except for those situations where no other

permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

Case Record. An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant’s request for fair hearing and those fair hearing decisions.

Categorical Assistance. All state and federal income maintenance programs.

Claimant. A person who has requested a fair hearing.

Deficit. An applicant’s deficit is the appropriate overall maximum level of assistance for the household as provided in section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

Disabled Person. A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.

Dwelling Unit. A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. § 4301(2)).

Eligible Person. A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)).

Emergency. Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person At the municipality's option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. § § 4301(4), 4308(2), 4310).

General Assistance Program. A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 4301(5)).

General Assistance Administrator. A municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. § 4301(12)).

Household. "Household" means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The income of

household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

Income. “Income” means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans’ pensions and/or benefits
- Retirement accounts or benefits
- Workers’ compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance
- program such as, TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
 - Food Stamps (7 USCS § 2017(b))
 - Li-Heap (42 USCS § 8624)
 - Family Development Accounts (22 M.R.S. § 3762)
 - Americorp VISTA program benefits (42 USCS § 5044 (f))
 - Property tax rebates issued under the Maine Residents Property Tax Program (AKA “Circuitbreaker” Program) (36 M.R.S.A. § 6216)
 - Aspire Support Service Payments (10-144 CMR Chapter 323)

Initial Applicants. A person who has not applied for assistance in this or any other municipality are considered initial applicants.

Just Cause. A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. § § 4301(8), 4316-A(5)).

Lump Sum Payment. A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property

damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 MRSA § 4301 (8-A)).

Material Fact. A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

Maximum Levels of Assistance. The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

Misconduct. For purposes of the GA work requirement (*see 22 MRSA §4316-A*) misconduct shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). (*See Appendix I of this ordinance for the official definition of misconduct.*) Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

Municipality. Any city, town or plantation administering a general assistance program.

Municipality of Responsibility. The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. § § 4301(9), 4307).

Need. The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the

individual's family are less than the maximum levels of assistance (22 M.R.S.A. §§ 4301(10), 4308).

Net General Assistance Costs. Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).

Period of Eligibility. The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).

Pooling of Income. "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

Real Estate. Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

Recipient. A person who has applied for and is currently receiving general assistance.

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

Resident. A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the

municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

Resources. Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: “available” and “potential”. Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource

and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

30-Day Need. An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

Unforeseen Repeat Applicants. Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

Unmet Need. An applicant's unmet need is the household's 30-day need as established by section 6.6 of the ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

Work Requirements. Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

ARTICLE III

Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

Release of Information. Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

Information from Other Sources; Penalty. Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a

material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

Misuse of Information. Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less)
- written decisions
- requests for fair hearings and the fair hearing authority decisions
- workfare participation records
- repayments to the municipality
- narrative writings documenting the need for general assistance, the

- results of home visits,
 - collateral information,
 - referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or the administrator's decisions.

Retention of Records. General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

ARTICLE IV

Application Procedure

Section 4.1—Right to Apply

Who May Apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. § § 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

Application Via Telephone. When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail and visiting the applicant's home with his or her permission (22 M.R.S.A. § 4304).

Written Application Upon Each Request. Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. § § 4308, 4309).

Applications Accepted; Posted Notice. Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

Section 4.2—Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

Section 4.3—Contents of the Application

At a minimum, the application will contain the following mandatory information:

- | | |
|--|---|
| a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number; | household members for whom the applicant is seeking assistance; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other | c) total number of individuals living with the applicant; |
| | d) employment and employability information; |

- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

Section 4.4—General Assistance Administrator's Responsibilities at the Time of the Application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

Application Requirements. The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

Eligibility Requirements. The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

Applicant Rights. The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

Reimbursement/Recovery. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for

the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

Section 4.5—Responsibilities of the Applicant at the Time of Application

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

- c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. § §4316-A, 4317).

Section 4.6—Action on Applications

Written Decision. The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

Content. The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and

- e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

- a) the applicant requests in writing that his or her application be withdrawn; or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

Section 4.8—Temporary Refusal to Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;

- c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

Section 4.9—Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

Assistance Prior to Verification. Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

- a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

Telephone Applications. If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

Limitation on Emergency Assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MRSA § § 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert

the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

Section 4.10—Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

Moving/Relocating. The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

Institutions. If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or

hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).

Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions (*-above*) if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

Note: Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).

Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

ARTICLE V

Eligibility Factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

Section 5.1—Initial Application

Initial Application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (*see section 5.5 of this ordinance*). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

Subsequent Applicants. Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “Types of Income” at section 6.7 of this ordinance.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

Section 5.3—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them.

At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking

account per household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned "essential"

reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
- e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant’s principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the last 120 consecutive days; and
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) **Other Property.** If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A. § 4320).

Section 5.5—Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

Employment; Rehabilitation. All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services, except as provided below (*see “Exemptions”*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A “suitable job” means any job, which the applicant is mentally and physically able to perform. “Available for work” means that applicants must make themselves available for

work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

Ineligibility. After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places

repeatedly will not be considered to be performing a diligent worksearch and will be disqualified;

- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work; or
- f) refuse to participate or participate in a substandard manner in the municipal work program (*see section 5.6*).

Ineligibility Due to Job Quit or Discharge for Misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (*see Appendix I, 26 M.R.S.A. § 1043 (23) for the definition*) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301(8), 4316-A (1-A)).

Just Cause. Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A(5)).

Applicant's Burden of Establishing Just Cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

Eligibility Regained. Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under "Eligibility Regained".

Dependents. Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and

- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

Exemptions. The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

Section 5.6—Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient

in securing employment. The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

Consent. Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

Subtracting Value of Workfare Performed from Client's GA Debt. Pursuant to 22 MRSA § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

Limitations. The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).

- 1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.

- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
 - a) existing employment;
 - b) ability to follow up on a bona fide job offer;
 - c) attendance at an interview for possible employment;
 - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
 - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require

verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

- 7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following “workfare first” policy.

“Workfare First” Policy. Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- 1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
- 2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
 - a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
 - b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

- c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
 - d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
 - e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
 - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just

cause reasons shall be reassigned or excused at the discretion of the GA administrator.

Work-Related Expenses. A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316.2(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

Disqualification. Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

Eligibility Regained. Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see section. 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

Reports. The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. § 4316-A(2)).

Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of “Resources”*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

Minors. A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent’s home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the DHHS determines that the physical or emotional health or safety of the minor or the minor’s dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

Mental or Physical Disability. Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

Written Notice; Disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

Forfeiture of Benefits. Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

Section 5.8—Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. § § 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

Work Requirement. Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days (*see section 6.4, "Fraud"*). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

ARTICLE VI

Determination of Eligibility

Section 6.1—Recognition of Dignity and Rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

Section 6.2—Determination; Redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

Section 6.3—Verification

Eligibility of applicant; duration of eligibility. The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

Applicant's responsibilities. Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

Initial Applicants. A person who has not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate

to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

Repeat Applicants. All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

Unforeseen Repeat Applicants. Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.

Overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is

responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

Redetermination of eligibility. The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

Penalty for Refusing to Release Information. Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. §§ 4314(5), 4314(6), 4315).

Section 6.4—Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

Period of Ineligibility. When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making

himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

Right to a Fair Hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

Reimbursement. If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

Dependents. In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be

calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

Section 6.5—Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these

expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. § § 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

Income for Basic Necessities. Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need

assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

Use-of-Income Requirements. The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for “unforeseen” repeat applicants (*See Section 6.3 of this ordinance*), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

- 1) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
- 2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
- 3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
- 4) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Calculation of Income and Expenses. When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

Consolidation of Deficit. As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- 1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- 2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- 3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

Section 6.7—Income

Income Standards. Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

Calculation of Income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

Types of Income. Income that will be considered in determining an applicant's need includes:

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S.A. § 4301(7)).

- b) **Income from Other Assistance or Social Services Programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Residents Property Tax Program (so-called “Circuitbreaker” program) (36 M.R.S.A. § 6216)

- c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services’ Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.
- d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).
- e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool

or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

- g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- h) **Lump Sum Income.** A lump sum payment received by any GA applicant or recipient prior to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the

lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the greater of the verified actual monthly amounts for all of the household's basic necessities or 150% of the applicable federal poverty guidelines. 22 M.R.S.A. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308)

Section 6.8—Basic Necessities; Maximum Levels of Assistance

Overall Maximum Levels of Assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S.A. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

The maximum levels of assistance are adjusted annually and incorporated into this Ordinance as promulgated by the State of Maine.¹

¹ Amended 01/01/2010

Maximum Levels of Assistance for Specific Basic Necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A) **Food**. The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

B) **Housing**. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members

will be provided assistance according to the maximum level for the number of rooms actually needed.

Rental Payments to Relatives. The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

Rental Payments to Non-Relatives. When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department

of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

Mortgage Payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
- (7) the likelihood that the provision of housing assistance will prevent such dislocation; and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

Liens. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate. (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

Property Taxes. In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

Housing Maximums. The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine

State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance

- C) **Utilities.** Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and*

6.3). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

Electricity Maximums for Households Without Electric Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.

Electricity Maximums for Households that Use Electrically Heated Hot Water. See Appendix D of this ordinance for the current year's electricity maximums.

Non-Electric Utilities. The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

D) **Fuel.** Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

E) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under 5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.

F) **Other Basic Necessities.** Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

- 1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- 2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are

determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the

admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no

other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.
- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary

travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.

- 10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:
 - 1) the failure to do so would place the applicant(s) in emergency circumstances;
 - 2) there are no other resources available to effect the capital repair; and
 - 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished

in the same manner as for mortgage payments, as described in subsection (B) “Liens”, above.

Section 6.9—Burials; Cremations

Funeral Director Must Give Timely Notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of the next business day following the funeral director’ receipt of the body, whichever is earlier (22 M.R.S.A. §4313(2)). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director’s responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

Application for Assistance Shall be Calculated on Behalf of the Deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial

responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

The Financial Responsibility of Certain Family Members. Grandparents, parents, siblings, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

Consideration of the Financial Responsibility of Family Members. Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

Proration of Familial Responsibility. A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

Ten Days to Determine Eligibility. The administrator may take up to 10 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 10-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 10-day period allowed by law to unreasonably delay the municipality's decision.

The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute. The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the

municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

Burial Expenses. The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.

Cremation Expenses. In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

Section 6.10—Notice of Decision

Written Decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3)) (*see Article IV, section 4.6*).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants’ right to a fair hearing in the written notice of decision.

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;
- b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

Disbursement of General Assistance. Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 4305(6)).

ARTICLE VII

The Fair Hearing

Section 7.1—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

Section 7.2—Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

Written Request. To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and

- c) the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn (in writing) by the claimant.

Scheduling the Fair Hearing. Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant; and
- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA , or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

Section 7.4—Fair Hearing Procedure

When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 4322).

Claimant's Failure to Appear. In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear.

For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a) a death or serious illness in the family;

- b) a personal illness which reasonably prevents the party from attending the hearing;
- c) an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d) an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- e) lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

Section 7.5—The Fair Hearing Decision

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

ARTICLE VIII

Recovery of Expenses

Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

Recipients Anticipating Workers’ Compensation Benefits. The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers’ Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers’ Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers’ Compensation. Any general assistance applicant who has applied for or who is receiving Workers’ Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

Recipients of SSI. All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

Relatives. The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, siblings, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

ARTICLE IX

Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendix A* are effective from **July 1, 2013 to June 30, 2014**. The maximums found in *Appendices B, C, D, E, and F* are effective from **October 1, 2013 to September 30, 2014**.

APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	1	2	3	4	5	6
<u>Cumberland</u>	750	888	1148	1444	1546	1621

NOTE: For each additional person add \$68 per month.

(The applicable figures from Appendix A, *once adopted*, should be inserted here.)

APPENDIX B - FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1,052
8	279.53	1,202

NOTE: For each additional person add \$150 per month.

APPENDIX C - HOUSING MAXIMUMS

Number of Bedrooms	<u>Unheated</u>		<u>Heated</u>	
	Weekly	Monthly	Weekly	Monthly
0	111	479	124	534
1	131	563	148	636
2	167	720	119	821
3	228	982	259	1115
4	271	1167	308	1326

(The applicable figures from Appendix C, *once adopted*, should be inserted here.)

APPENDIX D - UTILITIES

ELECTRIC

NOTE: For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

1) Electricity Maximums for Households Without Electric Hot Water: The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.20	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) Electricity Maximums for Households With Electrically Heated Hot Water: The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$19.10	\$82.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

APPENDIX E - HEATING FUEL

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

GA Overall Maximums

Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	579	669	845	1,061	1,223
Penobscot County HMFA:					

Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	576	576	690	874	1,056
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	529	626	818	1,031	1,094
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	750	888	1,148	1,444	1,546
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	936	939	1,123	1,635	1,779
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	623	731	941	1,244	1,483

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	742	742	887	1,117	1,533
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	678	704	891	1,191	1,233

*Note: Add \$68 for each additional person.

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	506	539	644	840	929
Franklin County	555	585	711	856	1,217
Hancock County	594	683	842	1,116	1,146
Kennebec County	507	587	750	952	1,015
Knox County	698	709	865	1,110	1,259
Lincoln County	649	717	904	1,126	1,208
Oxford County	543	602	726	979	1,268
Piscataquis County	564	641	791	1,004	1,073
Somerset County	573	600	715	972	988
Waldo County	633	677	815	1,014	1,078
Washington County	544	585	697	863	1,045

* Please Note: Add \$68 for each additional person.

Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through October 1, 2013, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1,052
8	279.53	1,202

Note: For each additional person add \$150 per month.

GA Housing Maximums (Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (See Instruction Memo for further guidance.)**

Non-Metropolitan FMR Areas

<u>Aroostook County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		82	353	106	455
1		82	353	107	460
2		93	401	130	558
3		120	514	166	714
4		124	535	181	777
<u>Franklin County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		95	408	117	505
1		97	418	121	520
2		114	491	144	620
3		135	579	181	779
4		206	887	263	1,129
<u>Hancock County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		105	451	124	533
1		117	503	140	602
2		145	622	180	775
3		197	845	240	1,031
4		197	845	241	1,035
<u>Kennebec County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		83	359	106	454
1		94	404	123	527
2		123	529	159	682
3		159	685	200	862
4		159	682	212	911

Non-Metropolitan FMR Areas

		<u>Unheated</u>		<u>Heated</u>	
<u>Knox County</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	128	552	150	647
	1	128	552	150	643
	2	150	645	186	798
	3	197	846	240	1,032
	4	209	899	252	1,083
<u>Lincoln County</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	119	513	132	568
	1	124	535	145	622
	2	159	684	195	837
	3	200	862	244	1,048
	4	207	889	260	1,118
<u>Oxford County</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	89	382	114	490
	1	101	434	120	516
	2	113	487	153	657
	3	161	693	209	900
	4	216	928	274	1,179
<u>Piscataquis County</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	96	413	111	479
	1	103	441	125	539
	2	123	527	154	663
	3	157	675	196	844
	4	157	675	205	881
<u>Somerset County</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	94	405	122	523
	1	94	405	126	542
	2	107	459	151	650
	3	164	703	209	899
	4	164	703	209	899

Non-Metropolitan FMR Areas

		<u>Unheated</u>		<u>Heated</u>	
<u>Waldo County</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	116	497	128	552
	1	119	510	136	583
	2	139	597	162	698
	3	174	749	217	935
	4	176	758	230	987
<u>Washington County</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	93	402	108	463
	1	95	410	118	507
	2	108	465	141	607
	3	134	575	182	782
	4	163	703	222	954

Metropolitan FMR Areas

		<u>Unheated</u>		<u>Heated</u>	
<u>Bangor HMFA</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	100	432	123	527
	1	113	487	142	610
	2	145	625	181	778
	3	183	789	227	975
	4	210	904	263	1,133
<u>Penobscot County HMFA</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	99	424	114	491
	1	99	424	114	491
	2	100	429	131	565
	3	136	587	172	741
	4	155	668	214	919
<u>Lewiston/Auburn MSA</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	89	381	111	476
	1	103	445	132	566
	2	139	597	174	750
	3	178	766	221	952
	4	180	774	233	1,003

Metropolitan FMR Areas

		<u>Unheated</u>		<u>Heated</u>	
<u>Portland HMFA</u>	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	142	611	154	666
	1	166	715	183	788
	2	214	922	238	1023
	3	271	1165	300	1292
	4	274	1180	318	1367
<u>York/Kittery/S. Berwick HMFA</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	170	729	182	784
	1	170	729	182	784
	2	191	823	221	949
	3	289	1241	318	1368
	4	300	1289	343	1473
<u>Cumberland County HMFA</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	111	479	124	534
	1	131	563	148	636
	2	167	720	119	821
	3	228	982	259	1115
	4	271	1167	308	1326
<u>Sagadahoc County HMFA</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	140	603	153	658
	1	140	603	153	658
	2	155	667	179	768
	3	186	798	228	976
	4	271	1167	314	1351
<u>York County HMFA</u>					
	Bedrooms	Weekly	Monthly	Weekly	Monthly
	0	126	541	139	596
	1	126	541	147	633
	2	156	672	188	810
	3	216	928	259	1,114
	4	216	928	266	1,143

2008-2009 Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. Effective January 1, 2009, the mileage allowance was increased to forty-four cents (**\$.44**) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

Funeral Maximums

Burial Maximums

The maximum amount of general assistance granted for the purpose of burial is **\$1,125**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

Cremation Maximums

The maximum amount of assistance granted for a cremation shall be **\$785**. Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

26 MRSA §1043 (23)

Misconduct. “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

[1999, c. 464, §2 (new).]

Appendix I

Effective: 10/01/10-10/1/11

B. "Misconduct" may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
 - (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer's notification rules and policies; or
 - (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.
- [1999, c. 464, §2 (new).]

Adopted by Town Council: October 4, 2016

**TOWN OF GORHAM
HISTORIC PRESERVATION ORDINANCE**

Section 1. PURPOSE

1.1 The purpose of this Ordinance is to preserve, protect, and enhance historic resources within Gorham by providing a legal framework within which the residents of the town can protect the architectural heritage of its historically significant neighborhoods, landmarks, and sites while also encouraging compatible new construction and fostering proper maintenance and repair of existing resources. The heritage and economic well-being of the town will be strengthened by preserving its architectural and historic setting, conserving property values in unique areas, fostering civic beauty, and promoting the use of historic or architecturally significant buildings for the education and welfare of the citizens of Gorham.

Section 2. DEFINITIONS

2.1 Archaeological Site: A geographic location of the remains of prehistoric life or historic human beings. These include, but are not limited to, structures, artifacts, terrain features, graphics and evidence of plants or animals.

2.2 Architectural Feature: Any feature that helps give a structure its distinctive architectural character. Such character defining features include but are not limited to columns, pilasters, cornice boards, brackets, balustrades, quoins, fanlights, corner boards, window and door frames and transoms.

2.3 Demolition: The complete or substantial removal of any building, structure, or site located in a historic district.

2.4 Historic District: A geographically definable area, possessing a significant concentration, linkage, or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A Historic District shall further mean an area designated by the Town Council as a Historic District pursuant to the criteria established in Section 5 of this Ordinance.

2.5 Historic landmark: Any building or monument of historic value.

2.6 Historic Preservation Certificate: A document issued by the Historic Preservation Commission that signifies approval of an application to make a material or significant change in the exterior appearance of a designated historic property, landmark or historic site.

2.7 Historic site: means any parcel of land which is of historic value, or upon which is positioned any historic landmark.

2.8 National Register of Historic Places: A register assigned by The National Historic Preservation Act of 1966, as amended, that recognizes building, sites, districts, structures and objects significant in American history, archaeology, architecture, engineering or culture and identifies them as worthy of preservation.

2.9 Structure: A work made up of interdependent and inter-related parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

Section 3. USES PERMITTED

3.1 The uses permitted in historic districts and individual historic properties and at historic sites or historic landmarks shall be those set forth in the Land Use and Development Code of the Town of Gorham, Maine for the zone in which such a district, site, property or landmark is located.

Section 4. HISTORIC PRESERVATION COMMISSION

4.1 This ordinance establishes the Gorham Historic Preservation Commission. The members of the Commission shall be appointed by the Town Council. Members appointed shall be residents or property owners of Gorham and have a combination of interest, knowledge, and experience in the Town, its history and historic preservation. The members of the Commission shall serve without compensation.

4.2 The Commission shall consist of seven (7) members who serve staggered 3-year terms. For the initial appointments, 2 members shall be appointed for 1-year terms, 2 members shall be appointed for 2-years terms and 3 members shall be appointed for 3-year terms.

4.3 All meetings of the Historic Preservation Commission are public meetings and governed in accordance with Title 1 MRSA Sections 401-414, as amended.

4.4 Duties of the Commission:

- a.** The Commission shall receive all applications for the establishment of Historic Districts Historic Sites, Individual Historic Properties and Historic Landmarks and requests for Historic Preservation Certificates. Upon receipt of an application the Commission shall schedule a public hearing and after hearing, make a written recommendation to the Town Council.
- b.** The Commission shall assist, advise and educate residents, property owners and officials of the Town concerning the physical and financial aspects of preservation, renovation, rehabilitation and re-use of historic and archaeological sites, structures, buildings and landmarks.
- c.** Serve as an advisor to the Town regarding historical and cultural resources.
- d.** Establish and maintain a detailed inventory of property within historic districts and of landmarks and historic sites in Gorham.
- e.** Compile resources that may be useful to individual property owners who wish to construct or maintain historic property.

Section 5. HISTORIC DISTRICTS, HISTORIC SITES, HISTORIC LANDMARKS AND INDIVIDUAL PROPETIERS

5.1 In considering applications for designating structures or districts as significant, the Commission shall be guided by the following criteria and shall make specific findings with respect to how the application conforms to the following criteria.

5.2 In addition to Section 7, one or more of the following characteristics shall serve to qualify a historic district, historic site, historic landmark or individual historic property:

- a.** Structures or sites listed on or eligible for listing on the National Register of Historic Places and structures or sites listed as or eligible for listing as a National Historic Landmark.
- b.** Structures of sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military or social history of Gorham or of larger patterns of the North American heritage.
- c.** Structures or sites importantly associated with historic personages.
- d.** Structures or remains and sites, not significantly altered, embodying examples of architectural types valuable for study or representing a period, style or method of building construction or community living.

Section 6. DESIGNATION OF DISTRICTS AND STRUCTURES FOR PRESERVATION

6.1 The following described lands, buildings, structures or areas of the Town of Gorham are currently designated as historic districts or historic landmarks by the National Register of Historic Places and recognized for the purposes of this Ordinance:

a. Historic Districts:

1. South Street Historic District located on South Street.
2. Gorham Campus Historic District on the campus of the University of Southern Maine.
3. Gorham Historic District located along College Avenue, State Street and School Street.

b. Landmarks listed on the National Register of Historic Places:

1. Art Gallery at the University of Southern Maine.
2. Gorham Academy Building at the University of Southern Maine.
3. Isaac Dyer Estate at 180 Fort Hill Road.
4. Baxter House Museum on South Street.
5. McLellan House on the University of Southern Maine campus.

6.2 Significant structures and districts, except for districts established prior to the passage of this ordinance, shall be designated in accordance with this ordinance. Such designations may be initiated by written notification of the Historic Preservation Commission by any one of the following:

- a.** Reference from the Town Council;
- b.** A petition signed by ten (10) or more residents or property owners of Gorham, eighteen (18) years of age or older;

- c. The Planning Board;
- d. The Gorham Historic Preservation Commission;
- e. Maine Historic Preservation Commission;
- f. The Greater Portland Landmarks.

6.3 Any application for the designation of structures and districts for historic preservation shall be in writing and shall include the following:

a. Structures:

- 1. A concise description of the physical elements, qualities, architectural style and period represented by the structure, including a consideration of scale, materials, workmanship and special qualities;
- 2. A concise statement of how the structure meets the review criteria;
- 3. Exterior photographs of the structure, illustrating significant details.

b. Districts:

- 1. A concise statement of the physical elements that make this area a historic district and a description of building types and architectural styles and periods represented;
- 2. A concise statement of how the district meets the review criteria;
- 3. A justification of the boundaries of the district;
- 4. A definition of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of noncontributing structures;
- 5. A map showing all district structures with the identification of contributing structures.

6.4 The Historic Preservation Commission shall hold a public hearing on any written application within a reasonable period of time.

a. The Commission shall provide written notice of the public hearing to all applicants and to all owners of property within a proposed district and a public notice must be provided at least 7 days before the public hearing by posting at the Municipal Center and on the Town's Web Site.

b. Failure of any petitioner to receive the notice of the public hearing shall not necessitate another hearing nor shall it constitute grounds for objections by such petitioner and shall not invalidate any recommendation by the Commission on such matter.

c. The Commission, after holding a public hearing, shall make its report and recommendation, including the identification of contributing structures, when applicable, to the Town Council who shall make a final decision on the designation of any new districts or structures.

Section 7. STANDARDS FOR DESIGNATION

In considering applications for designating structures or districts as significant, the Commission shall be guided by the following criteria. In making a recommendation to the Town Council for the designation of a structure or district, the Commission shall make specific findings with respect to how the application conforms to the following standards:

7.1 Historic Importance:

a. The structure, district or site:

1. Has character, interest or value, as part of the development, heritage or cultural characteristics of the Town, State or Nation;
2. Is the site of a historic event with an effect upon society;
3. Is identified with a person or group of persons who had some influence on society; or
4. Exemplifies the cultural, political, economic, social or historic heritage of the community.

7.2 Architectural Importance:

a. The structure or district:

1. Portrays the environment of a group of people in an area of history characterized by a distinctive architectural style;
2. Embodies those distinguishing characteristics of an architectural type specimen;
3. Is the work of an architect or master builder whose individual work has influenced the development of the Town; or
4. Contains elements of architectural design, detail, materials, or craftsmanship that represent a significant innovation.

7.3 Geographic Importance:

a. The structure or district:

1. Because of being part of, or related to, a square, park or other distinctive area, should be developed or preserved according to a plan based on a historic, cultural or architectural motif;
2. Due to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or Town.

7.4 Archaeological Importance:

- a. The site has yielded or may be likely to yield, information important in prehistory or history.

Section 8: ACTIVITIES REQUIRING A HISTORIC PRESERVATION CERTIFICATE

8.1 A property owner shall obtain a Historic Preservation Certificate for any of the following activities within any historic district or activities at any historic site, landmark, or individual historic property listed on the National Register of Historic property.

- a. Demolition of a historic landmark, individual historic property of any contributing structure in a historic district.
- b. Moving a historic landmark, individual historic property or any contributing structure in a historic district.
- c. Construction of a residential unit; but not including additions to existing structures or routine maintenance.

8.2 A historic landmark, or any structure in a historic district or any attached structure, whether residential or commercial, shall not be demolished, moved or constructed without a Historic Preservation Certificate. A Historic Preservation Certificate shall not be issued unless one of the following conditions is met:

- a. The structure has been identified by the Commission as non-contributing or incompatible with the historic district in which it is located, or
- b. The property owner can demonstrate that it cannot be renovated or constructed so as to earn an economic return on its value in its present location as determined by a qualified real estate appraiser. If a home is demolished or moved and another home is to be constructed, the building plans must be approved by the Historic Preservation Commission

Section 9: APPEAL

9.1 A decision of the Historic Preservation Commission to issue or not issue a Historic Preservation Certificate may be appealed to the Town Council within thirty (30) day of receipt of the Commission's written notice.

**TOWN OF GORHAM
LARGE OUTDOOR EVENT ORDINANCE
ADOPTED JANUARY 4, 2011
EFFECTIVE JANUARY 5, 2011**

Section 1. Statement of Purpose.

- 1.1 The Town of Gorham is concerned about the adverse effect to the general health and safety of the community that may result from large crowds which attend outdoor events, including but not limited to, exhibitions, festivals, music concerts and fairs. Large outdoor gatherings may lead to sanitation problems, resulting from inadequate waste disposal, insufficient drinking water and ill-equipped first aid facilities. Such gatherings may also threaten the safety of the community through the obstruction of roads, violation of liquor and drug laws, and destruction of property. Therefore, the following ordinance is hereby ordained for the purposes of protecting the general welfare, preventing disease, promoting health and providing for the public safety.

Section 2. Severability.

- 2.1 If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- 3.1 Charitable organizations shall mean any person or entity, including any person or entity organized in a foreign state that holds itself out to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable purpose. For purpose of this chapter, an organization established for and serving bona fide religious purposes is not a charitable organization.
- 3.2 Event coordinator shall mean the person responsible for the outdoor event.
- 3.3 Licensee shall mean the person named in the application.
- 3.4 Nonprofit organization shall mean a corporation designated as a not-for-profit corporation by the United States Internal Revenue Service.
- 3.5 Outdoor event shall mean any gathering held outdoors with the intent to attract one thousand (1,000) or more persons for a festival, exhibition, amusement, show, fair, theatrical performance, musical performance, road race/athletic event or similar activity or any gathering held outdoors with the intent to attract 250 or more people that will continue overnight.
- 3.6 Performance guarantee shall mean a performance bond issued by an entity authorized to do business in Maine, cash escrow, or other financial guarantee acceptable to the

Town Clerk and in a form approved by the Town Attorney/Finance Director, provided by an applicant for an outdoor event license to guarantee the payment of the costs of the prompt cleaning of the grounds after the close of the outdoor event, and the Town Police, Fire, Rescue, other Municipal Employees and Public Works prevention and Law Enforcement activities performed by the Town as a result of the outdoor event (the "public costs"). These public costs shall be those costs incurred by the Town in connection with the proposed outdoor event which would not be incurred by the Town if the outdoor event were not held. The Town shall release the performance guarantee if the event coordinator pays all such public costs within thirty (30) working days all costs have been paid in full.

3.7 Person shall mean any natural person, sole proprietorship, partnership, corporation, or other entity.

3.8 Town shall mean the Town of Gorham, Maine.

3.9 Town Clerk shall mean the Town Clerk of Gorham, Maine.

3.10 Town Council shall mean the Town Council of Gorham, Maine.

Section 4. Requirement of a License for Outdoor Events.

4.1 No person may sponsor, promote, operate, or hold any outdoor event unless a license is first obtained from the Town Clerk.

(a) The licensing procedure will be administered in the following manner:

1. The person(s) seeking a license must file a complete application with the Town Clerk no less than 45 days before the proposed commencement of the outdoor event.
2. The application must clearly specify the event coordinator.
3. A non-refundable application fee for the license shall be established by order of the Town Council. The Town Clerk may at the Clerks discretion reduce or waive the fee for charitable and nonprofit organizations.
4. The application for an outdoor event to be held on private property must include an agreement with the property owner allowing use of the facility or property unless the property or facility is owned by the applicant.
5. Within five (5) days of the receipt of an application, the Town Clerk shall notify the Town Manager, Police Chief, Fire Chief and Code Enforcement Officer of the application.

4.2 When considering the issuance of a license for an outdoor event, the Town Clerk may seek advice from the Police Chief, Fire Chief, Code Enforcement Officer, Health Officer and such other Town Officials as the Clerk deems necessary.

- 4.3 The provisions in this ordinance do not apply to outdoor events sponsored by the Gorham School Department or any other agency or department of the Town of Gorham.

Section 5. License Standards.

- 5.1 In reviewing the outdoor event license applications, the Town Clerk, with advice from the appropriate Department Managers, shall determine whether the application meets all the following standards:
- (a) Safety and access. That convenient and safe access for the ingress and egress of pedestrian and vehicular traffic exists, and that traffic safety will be maintained on streets serving the outdoor event.
 - (b) Site.
 - 1. That the outdoor event assembly area will be well drained and so arranged to provide sufficient space for persons assembled, vehicles, sanitary facilities, and appurtenant equipment.
 - 2. That trees, underbrush, large rocks and other natural features will be left intact and undisturbed whenever possible, and that the natural vegetative cover shall be retained, protected, and maintained so as to facilitate drainage, prevent erosion, and preserve the scenic attributes.
 - 3. That the site shall be maintained free from the accumulation of refuse and from health and safety hazards constituting a nuisance.
 - 4. The assembly area shall be adequately lighted, but lighting shall not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.
 - 5. The licensee shall be responsible for the posting of an area of “No Parking” under the direction of the Chief of Police.
 - (c) Sanitation.
 - 1. That when water is not available under pressure, and non water carriage toilets are used, at least three (3) gallons of water per person per day shall be provided for drinking and lavatory purposes.
 - 2. That where water under pressure is not available, equivalent facilities shall be provided and installed in accordance with the requirements of the Department of Human Services, Bureau of Health, Mass Gathering Rules and informational guidelines.
 - 3. That the required sanitary facilities will be conveniently accessible and well marked.

4. That wastewater will be discharged in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering.
 5. That disposal and/or treatment of any excretion or liquid waste will be in a manner consistent with the requirements of the State Department of Human Services, Division of Health Engineering.
- (d) Refuse disposal.
1. That refuse will be collected, stored, and transported in such a manner as to protect from odor, infestation of insects and/or rodents any and other nuisance condition, or conditions which are inconsistent with the health, safety, and welfare to the patrons of the outdoor event or of the public.
 2. That all refuse will be collected from the assembly area at least twice each twelve (12) hour period of the outdoor events, with a minimum of two (2) such collections per outdoor event exceeding six (6) hours, or more if it necessary, and disposed of at a waste disposal site approved by the Town.
 3. That the grounds and immediate surrounding property will be cleared of refuse within twenty-four (24) hours following the outdoor event.
- (e) Safety.
1. That where an electrical system is installed, it will be installed and maintained in accordance with the provisions of the applicable State standards and regulations and the town's electrical codes.
 2. That the grounds, building, and related facilities will be maintained and used in a manner as to prevent fire and in accordance with the applicable local fire prevention regulations.
 3. That internal and external traffic and security control will meet requirements of the applicable State and local law enforcement agencies.
- (f) State License.
1. Any applicant intending to attract the continued attendance of Two Thousand (2000) or more persons for twelve (12) or more hours must obtain a State License pursuant to Title 22, MRSA, Sections 1601-1607.
 2. Applications that require a State License must provide a copy of the approved State License.

Section 6. License Decision and Conditions.

- 6.1 The Town Clerk may deny the license or grant the license, or grant the license and impose such reasonable conditions on the issuance of a license as would safeguard the public interest including requiring the applicant to:
- (a) Post a performance guarantee in an amount estimated by the Town Clerk to be equal to the public costs;
 - (b) Meet with the Chief of Police to determine if there is a need to hire security and to determine what level of security shall be in place. The cost of certified police officers, rescue and fire personnel for security; including overtime and benefits costs are set by the Town and will be paid by the licensee. All security guards and/or police must be approved by the Chief of Police. In addition, the Police Chief will approve the traffic control plan;
 - (c) Agrees to pay for any equipment or supplies provided to them by the Town; and
 - (d) Demonstrate, by means of a written, descriptive plan, addressing the standards of this article, that adequate facilities will be provided at the site of the outdoor event, in order to protect the health of the people who attend, including:
 - 1. Adequate waste disposal facilities.
 - 2. Adequate fire fighting, rescue and police personnel, facilities, equipment; first aid.
 - 3. Adequate water supplies.
 - 4. Adequate communication equipment.
 - 5. Notice to the appropriate Town, County and State Officials, as named by the Town Clerk.
 - 6. Adequate on-site parking spaces will be available if applicable.
 - 7. Demonstrate, by means of a written descriptive plan, that adequate parking spaces will be available.
 - 8. Provide for outdoor events, a detailed plan showing how crowd security and police protection of private property will be accomplished.
 - 9. A detailed plan for controlling traffic to be approved by the Chief of Police.

Section 7 Appeals to Town Council

- 7.1 Any person who is denied an outdoor event license by the Town Clerk or who objects to any condition in a license granted to that person by the Town Clerk may appeal the Town Clerk's decision to the Town Council within five (5) days. After a public hearing, the Town Council shall apply the provisions of Section 4 and Section 5, and affirm or reverse the decision of the Town Clerk.

Section 8 Inspections

- 8.1 The person in charge of the site which is the subject of an application for an outdoor event license, or a site that has received an outdoor event license, shall admit any officer, official or employee of the Town authorized to make inspections of the site for compliance with this article or any other ordinance or statute at any reasonable time that admission is requested.
- 8.2 In addition to any other penalty which may be provided, the Town Clerk may revoke the outdoor event permit of any licensee in the Town who refuses to permit entry by any such officer, official, or employee, or who interferes with such officer, official or employee while in the performance of his or her duty.

Section 9 Waivers

- 9.1 The Town Clerk may, in the Clerk's discretion, waive any of the requirements under Section 5 of this article, if the Clerk finds the requirement of information or materials with the application is unnecessary or irrelevant to the review of a particular outdoor event permit application.

Section 10 Penalty

- 10.1 Any violation of this ordinance shall be punishable by a fine of not less than three hundred (\$300) dollars for the first offense and not less than five hundred (\$500) dollars for the second and subsequent violation which shall be recovered for the use of the Town of Gorham. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

MESSAGE ESTABLISHMENT AND MESSAGE THERAPIST REGULATORY ORDINANCE

**Adopted: September 3, 1991
Amended: April 1, 2008
Amended: April 7, 2009**

**TOWN OF GORHAM
MESSAGE ESTABLISHMENT ORDINANCE**

Section 1. General Provisions.

1.1 Purpose.

The purpose of this Ordinance is to regulate the operation of massage establishments in order to promote the public health, safety, and general welfare.

1.2 Severability.

In the event that any section or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such declaration shall be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

Section 2. Definitions.

2.1 Disqualifying Criminal Conviction.

Any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but not including any conviction which is shown to have been set aside on appeal or for which a pardon, certificate of rehabilitation, or the equivalent under the laws of sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing massage establishments.

2.2 Massage.

Massage therapy as defined in Section 14301(3) of Chapter 125 of Title 32 of the Maine Revised Statutes.

2.3 Massage Establishment.

Any business, including but not limited to sole proprietorship, in which the business operation consists of providing or making available massage in the Town of Gorham for consideration or with the expectation of receiving consideration or any gratuity whether or not the business has a fixed place of business within the limits of the Town.

2.4 Massage Therapist.

Any person who performs massage for consideration or gratuity or with the Expectation of receiving consideration or any gratuity.

2.5 Patron.

Any person who receives a massage.

2.6 Person.

Any individual, partnership, corporation, or other entity.

2.7 Recognized School.

Any school or institution of learning which has for its purpose the teaching of the theory, method, profession and work of massage and is recognized or certified by the State of Maine or any other state. Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a Recognized School.

Section 3. Exemptions.

3.1 The following shall be exempt from this Ordinance, if duly licensed by and while practicing in accordance with the laws of this State: Physicians and surgeons (medical doctors and doctors of osteopathy) Physicians' Assistants, Nurses, Chiropractors, Physical Therapists, Barbers, Cosmetologists, Beauticians, and other health and hygiene professionals.

Section 4. Massage Tables.

4.1 All massages shall be administered on a massage table or chair, treatment table, or treatment mat.

Section 5. Maintenance and Cleaning.

5.1 Every person who conducts or operates a massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

Section 6. Prohibited Activities.

- 6.1 No massage therapist shall administer a massage to a patron whose genitals are exposed.
- 6.2 No massage therapist shall administer or agree to administer a massage to the genitals or anus of a patron.
- 6.3 No massage therapist shall administer a massage unless he or she is fully clothed with non-transparent clothing of the type customarily worn by massage therapists while administering a massage.

Section 7. Closing Hours.

7.1 No massage establishments shall be kept open for massage purposes between the hours of 10 p.m. and 6 a.m., provided that any massage begun before 10 p.m. may be completed.

Section 8. Supervision.

- 8.1 At all times when open for business, a massage establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license who shall be available to supervise the operation of the establishment and assure that no violations of this Ordinance occur.

Section 9. List of employees.

- 9.1 A massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the Chief of Police, the Chief's authorized deputy, the Town Clerk, or the Clerk's representative, upon request.

Section 10. License Required.

- 10.1 Massage Establishment License.

No person shall operate a massage establishment without a valid massage establishment license. A separate license shall be required for each such establishment.

- 10.2 Massage Therapist License.

No person shall work as a massage therapist without a valid massage therapist license or a combined massage establishment/massage therapist license.

- 10.3 Combined Massage Establishment/Massage Therapist License.

A sole practitioner who employs no massage therapist other than himself/herself may apply for a combined massage establishment/massage therapist license in lieu of both a massage establishment license and a massage therapist license.

- 10.4 Conditional Massage Therapist License.

For the purpose of allowing an applicant for a license pursuant to Section 10.2 or Section 10.3 who is otherwise qualified to obtain such a license, except for compliance with Section 15, to comply with Section 15, a conditional massage therapist license may be issued under the following conditions:

- A. All provisions of Section 10 shall apply to a licensee under this section, except Section 15.
- B. Licensee under this section shall designate one massage therapist or combined massage establishment/massage therapist licensed by the Town of Gorham as the supervisor for licensee.

- C. Licensee under this section may designate no more than one licensed supervisor pursuant to Section 10.4 unless said licensed supervisor shall voluntarily surrender his/her license.
- D. The designated licensed supervisor may supervise two (2) or fewer conditional massage therapists per license year.
- E. Licenses issued pursuant to Section 10.4 may not be renewed.

Section 11. Licenses Displayed.

- 11.1 A valid massage establishment license shall be displayed at all times in an open and conspicuous place in the massage establishment for which it was issued. A valid conditional massage therapist license, massage therapist license or combined massage establishment/massage therapist license must be readily available to be produced immediately if demanded of the licensee.

Section 12. Standards for Denial.

- 12.1 A license application under this Ordinance shall be denied to any of the following persons:
 - A. Massage Establishment License
 - 1. a corporation not registered to do business in this states;
 - 2. a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years; or
 - 3. an applicant other than a corporation if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction, within the immediately preceding five (5) years.
 - B. Massage Therapist, Combined Massage Establishment/Massage Therapist, or conditional Massage Therapist.
 - 1. to an applicant who has a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or
 - 2. to an applicant who is not at least eighteen (18) years of age.
- 12.2 The Clerk shall make and keep a written record of every decision to deny an Application for any license hereunder.

Section 13. Grounds for Suspension or Revocation.

- 13.1 Any license may be suspended or revoked upon a determination that the licensee:
- A. failed to notify the clerk of any change in material facts set forth in the Application for such license; or
 - B. violated any provision of this Ordinance.
- 13.2 In addition to the provisions of subsection 13.1, either a massage establishment license or combined massage establishment/massage therapist license may be suspended or revoked upon a determination that the licensee:
- A. permitted any person to perform massage without a valid license to do so;
 - B. permitted or allowed an employee, massage therapist or conditional massage therapist to violate any provision of this Ordinance on the premises of the establishment or in the course of conduct of the business of the establishment; or
 - C. knowingly permitted any violation of Title 17-A M.R.S.A. sections 851 through 855. Such knowledge shall be presumed if there have been two (2) or more convictions for any such offense within any one-year period. The applicant or licensee may rebut said presumption by showing that (i) due diligence was exercised to prevent the recurrence of any such offense and (ii) despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.

Section 14. Application for Massage Establishment, Combined Massage Establishment/Massage Therapist and Massage Therapist Licenses.

- 14.1 Any person desiring a license pursuant to this ordinance shall file a written, signed application with the Town Clerk on a form to be furnished by the Town Clerk. An application for a combined massage establishment/massage therapist license, a massage therapist license or a conditional massage therapist license shall be accompanied by a signed photograph of the applicant taken within thirty (30) days of the application, of such sizes as the Clerk may specify.

Section 15. Basic Proficiency.

- 15.1 Each applicant for a massage therapist license or combined massage establishment/massage therapist license shall show proof of basic proficiency in the field of massage therapy which may be satisfied by:
- A. evidence of completion of a formal training course in massage therapy given by a recognized school;
 - B. evidence of one hundred (100) hours of on-the-job training in massage performed in the presence of a person holding a valid massage therapist license or a combined massage establishment/massage therapist license issued by the Town of Gorham.

- C. evidence of continuous practice as a massage therapist for at least one (1) year, accompanied by the written recommendation of at least five (5) persons holding a valid massage therapy license or a combined massage establishment/massage license issued by the Town of Gorham, which shall state that said person has personally received a massage from the applicant that was administered in a skilled and professional manner; or
- D. evidence of successful completion of a certifying exam given by another municipality or state, or the certifying exam given by American Massage Therapy Association.

Section 16. Obtaining License by Fraud.

- 16.1 No person shall make any false, untruthful, or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this Ordinance. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.
- 16.2 Any license so secured shall be void.

Section 17. Use of License.

- 17.1 No person shall make use of, in any manner, to his or her own or another's benefit, any license which has not been duly issued to him or her in accordance with this Ordinance.

Section 18. Compliance of Existing Therapists and Massage Establishments.

- 18.1 Any person presently operating as a massage therapist and/or operating a massage establishment in Gorham as defined herein on the effective date of this Ordinance shall comply with the terms of this Ordinance upon renewal of their existing license.

Section 19. Application Process for New Licenses and Renewals.

- 19.1 A new license under this ordinance may be issued by the Town Clerk only if the Town Clerk is satisfied that the application meets all of the requirements of this ordinance. If the Town Clerk denies an application, the Clerk shall issue a written decision stating the reason for not granting the license.
- 19.2 An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before December 31. If the holder applies for renewal on or before December 31, the existing license shall remain in effect until final action on the renewal application. Otherwise, the existing license shall expire on December 31 and an application for a new license must be filed. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance.

- 19.3 Applicants who are denied a license by the Town Clerk may appeal the Clerk's decision within thirty (30) days to the Town Council. The Town Council, after public hearing, notice of which shall be given at least seven (7) days in advance by publication in a newspaper having a circulation in the Town, shall issue a decision on the appeal.
- 9.4 The Town Council shall not take final action on an application it has received, pursuant to Section 19.3, for a new license (including an application for a renewal license filed after December 31) until the Town Clerk has received and reviewed a criminal background check from the State Bureau of Investigation on the applicant and any persons having a relationship to the applicant described in Section 3 of this Ordinance.

Section 20. Term of License.

- 20.1 Licenses issued pursuant to this Ordinance shall be for a term of no more than one year and shall expire annually on December 31.

Section 21. Application Fees.

- 21.1 The fees for licenses issued under this Ordinance shall be established by the Town Council. Applicants should contact the Town Clerk for the current fee.
- 21.2 The fees are payable at the time of application and are non-refundable.

Section 22. Penalty.

- 22.1 The violation of any provision of this Ordinance shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action.

3/19/09

MOBILE HOME PARK ORDINANCE

MOBILE HOME PARK ORDINANCE

Ordinance Enacted 1/4/72

Amended 10/6/81

Amended 6/2/87

I. Scope

A. This Ordinance shall regulate the establishment, enlargement and operation of mobile home parks in the Town of Gorham. No person, firm, or corporation shall establish or enlarge a mobile home park without a permit, or shall maintain a mobile home park without a license, issued in conformity with the provisions of this Ordinance.

II. Administration

A. Purpose

This Ordinance has been prepared for the purpose of defining and regulating mobile home parks in the following manner: to establish minimum standards governing the construction and maintenance of mobile home parks; to establish minimum standards governing utilities and facilities; to make mobile home parks safe and sanitary for human habitation; to establish the responsibilities and duties of owners and operators of mobile home parks; to authorize the inspection of mobile home parks and establish penalties for violations; and to establish procedures for municipal review of all proposed mobile home park construction and maintenance.

B. Jurisdiction

The provisions of this Ordinance shall apply to all land within the boundaries of the municipality.

C. Administration

1) The Planning Board of the municipality, hereinafter called the Board, shall administer this Ordinance in accordance with all of the provisions set forth herein.

2) It shall be the duty of the Building Inspector to enforce the provisions of this Ordinance.

3) A variation in the strict application of the Mobile Home Park Ordinance may be permitted when, in the opinion of the Board, topography, natural conditions including soil or other influences on development, shape and size of land under consideration, undue hardship, or other considerations warrant such variation provided that public convenience, safety, health and welfare will not be affected adversely.

D. Appeals

The failure of the Planning Board to issue a written notice of its decision, directed to the applicant within 30 days after the application for the proposed mobile home park has been submitted, constitutes its disapproval.

E. Conflict with other Ordinances

In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance or code of the municipality existing on the effective date of this ordinance, the provision which establishes the higher standards for the promotion and protection of health and safety shall prevail.

F. Severability

The invalidity of any section, subsection, paragraph, sentence, clause, phrase or word of this Ordinance shall not be held to invalidate any other section, subsection, paragraph, sentence, clause, phrase or work of this Ordinance; and to this end, the provisions of this Ordinance are hereby declared to be severable.

III. Definitions

Developer An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that undertakes the activities governed by this Ordinance.

License That document issued annually by the Town Clerk for the operation of a mobile home park.

Mobile Home A detached residential dwelling unit designed for transpiration, after fabrication, on streets or highways on its own wheels, or on a flat bed or other trailer or on detachable wheels, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for location of jacks or other temporary or permanent foundations and connection to approved utilities of a mobile home park. A

mobile home shall contain not less than 450 square feet of floor area. For purposes of this Ordinance, a mobile home shall include any dwelling unit defined as a "mobile home" in the Land Use and Development Code of the Town of Gorham.

Mobile Home Park A continuous parcel of land having a minimum area of 25 acres and plotted for the development of a minimum of 25 mobile home lots which are to be rented, leased or sold.

Mobile Home Lot A parcel of land having a minimum area of 7,000 square feet for the exclusive use of the occupants of a mobile home with all required utilities and services available.

Mobile Home Stand That part of an individual mobile home lot which has been reserved for the placement of a mobile home, appurtenant structures or structures.

Patio - An outdoor living space surfaced with asphalt or other durable material and designed to supplement the mobile home living area.

Permit - That document issued by the Building Inspector granting permission to establish or enlarge a mobile home park.

Trailer - Trailer shall mean any vehicle used or so constructed as to permit its being used as conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling for one or more persons. A trailer shall not be construed as a mobile home for the purposes of this Ordinance.

IV. General Provisions

A. No mobile home shall be moved into a duly licensed mobile home park unless (1) it has been approved and certified by the Maine State Housing Authority or other appropriate State inspection agency, or by the U.S. Department of Housing and Urban Development; or (2) it meets standards comparable to the Federal Mobile Home Construction and Safety Standards, Code of Federal Regulations, Title 24, Part 3280 (published as Part 280 in Federal Register, Vol. 40, No. 244, December 18, 1975).

B. Mobile home parks will be authorized for development only in zones where permitted by the zoning ordinance for the Town of Gorham.

V. Permits and Licenses

A. Application for a permit to establish or enlarge a mobile home park shall be submitted to the Building Inspector. The applicant shall file with the application proof of ownership of the premises or of a lease or written permission from the owners.

B. Initial application for a permit to establish or enlarge a mobile home park shall be accompanied by a Preliminary Plan, and after approval, a Final Plan in accordance with Section VI of this Ordinance. If the proposed mobile home park is located in a zoning district permitting mobile home parks as special exceptions or conditional uses, the developer shall go before the Zoning Board of Appeals in accordance with Section 13 of the Zoning Ordinance, after receiving Final Approval by the Planning Board.

C. The issuance of a permit to establish or enlarge a mobile home park shall have prior approval of the park design by the Planning Board and, if permitted as a special exception or conditional use, by the Zoning Board of Appeals.

D. The making of extensions or alterations to an existing mobile home park without the obtaining of a permit from the Building Inspector shall be cause of immediate revocation of the mobile home park license.

E. No mobile home park shall be in operation or shall be occupied without a valid license issued by the Town Clerk.

F. A license for the operation of a new or existing mobile home park may be issued annually by the Town Clerk provided such parks conform with all the health and sanitation requirements of this Ordinance, and other State and local codes, even though existing parks do not meet the design standards set forth in this Ordinance.

G. A license for a mobile home park shall expire annually upon July 1. Before the Town Clerk may issue a renewal of the license, the park shall be inspected by the Health Officer and the Building Inspector, who shall certify in writing whether the park continues to conform to the provisions of this Ordinance. If the park fails to so conform, said license shall not be renewed.

H. Each application for a renewable license or a renewal thereof shall be accompanied by a fee of \$25.00, except that for each and every mobile home lot exceeding 10 there shall be an additional fee of \$2.00. The license fee for seasonal campgrounds or trailer parks shall be \$25.00 for the first fifty (50) lots and \$1.00 per lot for each lot in excess of fifty (50).

Each application for a permit to establish or enlarge a mobile home park shall be accompanied by a fee of \$150.00 plus \$20.00 for each new or additional lot. Each application for a permit to establish or enlarge a seasonal campground or trailer park shall be accompanied by a fee of \$150.00 for the initial twenty-five (25) new or additional trailer or tent sites and \$10.00 for each site thereafter. Each permit application shall also be accompanied by an independent consulting and peer review escrow deposit of \$50.00 per lot or tent or trailer site, in accordance with Chapter II, Section VIII of the Land Use and Development Code.

VI. Procedure for the Submission and Approval of Plans

A. Pre-Application

- 1) Prior to the formal submission of a preliminary plan, the developer may appear informally to discuss the proposed mobile home park at a regular meeting of the Planning Board.
- 2) The Preliminary Sketch of the proposed mobile home park should relate existing to proposed land usage; any preliminary observations and general ideas on what might be accomplished on the land.
- 3) Binding commitments shall not be made between a developer and a municipality at this stage. A clear understanding of what is proposed, what is possible and what is acceptable is the aim of the pre-application meeting.

B. Preliminary Plan Requirements

- 1) Following the application to the Building Inspector for a permit, a request for approval of a mobile home park shall be made to the Planning Board in writing and shall be accompanied by 3 copies of a preliminary plan. The plan shall be drawn at no smaller scale than 100 feet to the inch. There shall be included a location map showing the relationship of the proposed mobile home park to adjacent properties and public access and drawn at no smaller scale than 500 feet to the inch.
- 2) When practical, a standard sized sheet, 24' x 36" shall be used for all plans and shall contain the following information:
 - a) Name of mobile home park, owner(s) and engineer(s) or surveyor(s).
 - b) Graphic scale, date and north point.
 - c) Boundaries of tract.
 - d) Existing zoning.
 - e) Ownership and location of abutting properties.
 - f) Name, location, width, profile, cross-section, radius of curves, angles of change in direction and center line length of all existing and/or proposed streets, other public ways, building lines and easements in the mobile home park. All street names for proposed streets located in a mobile home park shall be checked against existing street names or so similar as to cause confusion.
 - g) Type, location, profile and cross-section of all existing and/or proposed surface water drainage.
 - h) Location of all existing and/or proposed utilities -- water, gas, electricity or other.
 - l) Location of all existing and/or proposed sanitary sewers showing size, profile and cross-section; or description, plan, location of other means or sewage disposal with evidence of successful percolation tests. In areas outside of those presently sewered where disposal is proposed by use of septic tanks, the Board shall require a written statement from the local public health officer or other authorized person that suitable percolation tests have been made and that the land is considered suitable for disposal systems using septic tanks.
 - m) Proposed public recreation, conservation or other areas, if any.
 - n) Acreage of land.
- 3) In addition to the Preliminary Plan, the Board may require the developer or others to submit additional information to assist the Board in carrying out its duties under the provisions of this Ordinance.

C. Preliminary Plan Review

- 1) An application for approval of a Preliminary Plan shall be considered at a regular meeting of the Board within 30 days after receipt of such application. The Board shall, after such consideration and within 30 days of receipt of an application and Preliminary Plan, issue a written statement informing the owner or his authorized agent of any approval, disapproval or conditioned approval and of any changes required prior to the submission of the Final Plan. In reviewing a Preliminary Plan, the Board shall consider the following general requirements and design standards in addition to those found in Section VII of this Ordinance.

General

- 2) Any proposed mobile home park shall be in conformity with the Comprehensive Plan of the municipality and with the provisions of all pertinent State and local codes and ordinances.
- 3) Land designed for public use may not be subdivided or put to any other purpose.
- 4) Any proposed mobile home park shall be reviewed by the Board with respect to its effect upon existing community services and facilities including schools and recreational areas. The Board shall advise the municipality and the developer regarding the designation of space for future community facilities and may withhold approval of Final Plan pending such designation.
- 5) Any proposed mobile home park shall be so designed that every lot has access to a public, private or dedicated street in accordance with Section VII of this Ordinance.

- 6) Land susceptible to flooding, and land not suitable for development because of soil characteristics, which may also be hazardous to life, health or property shall not be used, unless approved by the Board and other pertinent authorities, for open space purposes public or otherwise.
- 7) Any natural drainageways and their easements shall be so incorporated that no flooding will occur and all storm water can be disposed of properly.
- 8) The Board may require that a proposed mobile home park design will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare or irreplaceable natural areas.
- 9) Street trees, esplanades and open spaces may be required at the discretion of the Board. When such improvements are required, they shall be incorporated in the Final Plan.
- 10) The following are required improvements: street signs, streets, sidewalks, water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of this Ordinance.
- 11) The size, type and location of public utilities, such as street lights, electricity, telephones, gas line, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.
- 12) Utilities shall be installed underground except as otherwise approved by the Board in accordance with Section II:D:3.

D. Final Plan

- 1) A request for Final Approval of a mobile home park shall be made within 12 months of Preliminary Approval to the Planning Board in writing and shall be accompanied by a Final Plan of such mobile home park legibly drawn.
- 2) The Plan shall be accompanied by certification from authorized public officials and/or agencies that the design of sewage disposal and storm drainage facilities, streets and utilities in the proposed Mobil home park conform to the requirements of all pertinent State and local codes and ordinances.
- 3) Two signed copies of the Final Plan, as approved, shall be filed with the municipality, one with the Town Clerk and one with the Planning Board. The developer shall be required to record and file the signed original transparency of the Final Plan with the Cumberland County Registry of Deeds prior to the sale of any individual lots.
- 4) If the proposed mobile home park, or any extension to one existing, falls within and is subject to review by the Environmental Improvement Commission, then the approval of the Environmental Improvement Commission shall be secured, in writing, prior to the submission of the Final Plan.

Requirements

The plan may be presented on one or more sheets of standard 24" x 36" size and shall contain the following information:

- a) All the information required for the Preliminary Plan and amendments thereto suggested by the Planning Board excepting that information not deemed necessary by the Board.
- b) Existing and final proposed lines of streets, ways, lots, easements for utilities and/or drainage and public areas within the mobile home park.
- c) Sufficient data to determine the exact location, direction, and length of every street line, easement, lot line and boundary line and to reproduce these lines upon the ground.
- d) Location of all permanent monuments existing and/or proposed.
- e) Lot numbers and letters in accordance with the prevailing policy on existing tax maps.

E. Bond Required

- 1) After Final Approval by the Planning Board, and if the proposed mobile home park is located in a zone permitting mobile home parks as a special exception or conditional use, after a favorable decision by the Zoning Board of Appeals, the mobile home park developer shall file with the Town Clerk prior to the issuance of a permit a performance guarantee in an amount sufficient to defray all expenses. This may be tendered in the form of a certified check payable to the municipality, a faithful performance bond running to the municipality and issued by a Surety Company acceptable to the municipality or a savings account in the name of the Town with possession of the passbook by the Town. The condition and amount of such certified check, performance bond, or savings account shall be determined by the Planning Board of the municipality with the advice of the various municipal departments and agencies concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage and utilities and other improvements specified on the Final Plan within two years of the date of the certified check or performance bond.
- 2) The Planning Board may grant a maximum extension of 12 months to a guaranteed performance period when the developer can demonstrate, to the satisfaction of the Board, good cause for such extension.
- 3) Before a mobile home park developer may be released from any obligation required by his guarantee of performance, the Planning Board will require certification from the various departments

and agencies concerned to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinances.

4) The Board may substitute the requirement of a performance guarantee with a properly executed conditional agreement with the municipality. Such agreement, if executed with the municipality, shall be endorsed in writing on the Final Plan and shall provide that the Board may approve the Final Plan, or any part thereof on condition that no lot in such mobile home park shall be leased or rented until it shall have been certified in the manner set forth in Section VI:E:3 above, that all improvements have been made within 2 years of the date of executing such conditional agreement.

5) After filing the performance guarantee, the mobile home park developer shall be issued a permit by the Building Inspector to establish the approved mobile home park.

VII. Design: Parks for Mobile Homes

A. Minimum Project Size

1) The minimum area of any lot to be used as a mobile home park shall be 25 acres.

B. Location

1) A mobile home park may be constructed or extended only where such a use is permitted by the Zoning Ordinance of the Town of Gorham.

2) A mobile home park shall be reasonably accessible to essential community services, such as shopping areas, schools, and police and fire protection.

3) Topography, soil, rock formations, ground level, and drainage shall be such as not to constitute hazards to the health and safety of the occupants or to their property.

C. Site Plan

1) Adaptation to site: The Park shall be fitted to the terrain with a minimum disturbance of the land. Existing trees, rock formations and other natural site features shall be preserved wherever it is practicable to do so in order that a monotonous layout may be avoided.

2) Street Plan: A mobile home park shall be so laid out that those areas that will be served by both water and sewerage systems can readily be converted to a conventional subdivision of privately owned, single-family lots of 10,000 square feet, or the minimum lot size permitted in the district in which the proposed mobile home park is located, whichever is greater, or to other housing permitted in the same zoning district by the Zoning Ordinance of the Town of Gorham. All streets shall have not less than a 50' right-of-way. The plan shall provide for convenient extension of streets into adjacent properties where, in the opinion of the Planning Board, such streets may be needed in the future. The layout of streets shall conform to the standards concerning grades, alignment, intersection, turning circles and backing spaces set forth in the Subdivision Ordinance of the Town of Gorham.

3) Access: A mobile home park shall be provided with safe and convenient vehicular access from a public street. The Planning Board may require two access streets for a mobile home park containing 40 lots or more.

4) Space for Recreation: At least 10% of the area of the mobile home park shall be reserved for recreational facilities, such as a playground, swimming pool, or park for the use of the occupants of the park.

5) Drainage: Adequate provision shall be made for the collection and disposal of surface and subsurface water to protect all mobile home stands and to provide safe and convenient use of all parts of the park. Drainage ditches shall be protected effectively from erosion by the use of ground cover, rip-rap or other means, and they shall not hold standing water. The diameter of any culvert shall be not less than 12".

6) Screening: Fences, hedges, shrubbery or free-standing walls shall be installed where necessary to provide screening around laundry yards, refuse collection points, and playgrounds. The Planning Board may require additional screening where it is needed as a buffer between the park and nearby uses in order to avoid an adverse effect between uses in the park and adjacent areas.

D. Streets and Walks

1) The right-of-way of every street shall be not less than 50' in width. Streets shall be constructed and paved in the same way as a public street, in accordance with the provisions set forth in the Street Acceptance Ordinance. The street pavement shall be at least 26 feet in width and shall lie within the middle of the right-of-way.

2) A system of common walks shall be provided and maintained for the convenience of pedestrian traffic. Walks shall be provided on at least one side of each street within the mobile home park. The Planning Board may require walks on both sides where, in their opinion, they are necessary for public safety. Common walks shall be at least 3 1/2 feet per side and shall be separated from the street pavement by at least 5 feet. The surface shall be durable and easy to maintain.

E. Utilities

1) Water: All lots shall be supplied with water for a domestic use, either from mains belonging to a public utility or from a private system approved by the Health Officer. The water supply system shall be capable of supplying a minimum of 150 gallons per day per mobile home and of maintaining a

pressure of at least 40 pounds per square inch with normal demand. Where a public water supply is available, hydrants shall be installed in accordance with the standards of the New England Fire Rating Association.

F. Regulations Concerning Individual Lots

- 1) Each mobile home lot shall contain a minimum of 7,000 square feet.
- 2) No part of a mobile home shall be located nearer than 12 feet to the boundary of its lot, or nearer than 50 feet to the right-of-way of any public street. For the purpose of this section, one or more roofed accessory structures occupying a total area of 25 square feet or more shall be considered to be part of the mobile home.
- 3) The stand shall be made of appropriate material, properly graded, placed and compacted, so as to remain durable and adequate for the support of the maximum anticipated loads during all seasons. Convenient access shall be provided to each mobile home stand by means of an accessway reserved for maneuvering the mobile home into position and kept free from trees and other immovable obstructions. The minimum width of the accessway shall be 12 feet.
- 4) A patio, containing not less than 180 square feet, shall be provided for each stand as appropriate outdoor living space to supplement the interior space of a mobile home except that a patio may be omitted if its equivalent is provided by the mobile home itself. The patio shall be appropriately placed and fitted to the terrain.
- 5) The limits of each mobile home lot shall be clearly marked, by suitable durable markers.
- 6) At least 2 off-street parking spaces shall be provided for each mobile home lot, either upon the lot itself or within 100 feet of it.
- 7) A mobile home stand shall be connected by a private walk, not less than 3 feet in width, to a common walk or to a paved street, or to a paved driveway or parking bay leading off a paved road.

G. Common Facilities

- 1) Laundry: Facilities for drying clothes shall be provided either for individual lots or within a common area conveniently located for the use of the occupants of the park. All area provided for the drying of clothes shall be well-drained.
- 2) Storage: At least 100 cubic feet of storage space shall be provided for each mobile home lot. Such storage shall be provided on each lot or in compounds located within a reasonable distance or under the mobile home in accordance with Section VIII:D of this ordinance. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be constructed of suitable weather-resistant materials.
- 3) Location: Consolidation of management, laundry and other common facilities in a single building or area is acceptable of the location will adequately serve all mobile home lots.

VIII. Maintenance

- A. Park management shall maintain all common areas, and park occupants shall maintain their lots and accessory facilities, in a clean, sanitary and neat condition. Mobile home parks shall be kept free of litter, rubbish and other combustible material, and of accumulations of debris which may provide harborage of rodents or breeding places for flies and other pests.
- B. The collection and disposal of trash and garbage shall satisfy the requirements of the Health Officer and shall comply with State and municipal laws and regulations. Until properly disposed, refuse shall be stored in tight containers which shall be located not closer than 150 feet to any mobile home.
- C. Exposed ground surfaces in all parts of the park, other than streets and walks, shall be covered either with a hard, durable surface such as flagstones or concrete, or with grass or other vegetation that is susceptible of maintenance in an attractive manner.
- D. Skirtings, porches, awnings and other additions shall be installed only if permitted and approved by the park management. When installed, they shall be maintained in good repair. The space immediately underneath a mobile home shall be used for storage only if permitted by the management. If permitted, the following conditions shall be satisfied:
 - 1) The storage area shall be provided with a base of impervious material.
 - 2) Stored items shall be located so as not to interfere with convenient inspection of the undersides and connections of the mobile home.
 - 3) The storage area shall be enclosed by skirting.

IX. Violation and Revocation of License

- A. The licensee shall maintain the mobile home park in a clean and sanitary condition to the satisfaction of the Health Officer, and shall maintain properly all roads, drains, sidewalks and other facilities as required by this Ordinance.
- B. Upon complaint of dirty or unsanitary conditions within the mobile home park, or upon their own motion, the Municipal Officers may instruct the Health Officer to inspect it. If, upon such inspection, the Health Officer finds evidence of unclean and unsanitary conditions, he shall require prompt rectification and shall set a time

limit for compliance. If the licensee has not complied with the requirements upon expiration of the time limit, the Health Officer shall direct the Town Clerk to revoke the license, and said Clerk shall forthwith revoke it.

C. Upon complaint of inadequate maintenance by the licensee of any street, sidewalk, drain, utility, structure, or other facility required by this Ordinance, or upon their own motion, the Municipal Officers may require an inspection by the Building Inspector. The Inspector shall report his findings to the licensee and to the Municipal Officers who may institute legal proceedings to see that the provisions of this Ordinance are enforced.

D. A licensee who fails to keep a mobile home park in a clean and sanitary condition, or who fails to maintain facilities in proper condition, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$10 and not more than \$100. Each day that such violation continues shall constitute a separate offense.

E. Appeals from the refusal to issue or renew a license, or from the revocation of a license, may be entertained by the Municipal Officers in accordance with the provisions of Title 30, Maine Revised Statutes, Section 2151.

The "Trainer Park Ordinance, Town of Gorham" enacted March 7, 1966 be and hereby is repealed.

MOTORIZED VEHICLES ORDINANCE

MOTORIZED VEHICLES ORDINANCE

Permanent Ordinance enacted 4/4/78
Repealed 2/6/79

New Permanent Ordinance enacted 2/6/79
Repealed 2/4/86

New Permanent Ordinance enacted 2/6/86

SECTION 1 DEFINITIONS

For the purpose of this Ordinance, the term "motorized vehicle" shall include any self-propelled, unregistered vehicle, other than farm vehicles as defined in 29 M.R.S.A. s255, powered by other than human power and shall specifically include, without limitation, those unregistered vehicles commonly known as "mini-bikes", "trail bikes", "go-karts" and "dirt bikes", and motorized bicycles and snowmobiles, whether commercially manufactured or homemade; also be included in this definition, whether registered or not. Excluded from this definition are vehicles used in the care of gardens and lawns and vehicles engaged in construction, farm and forestry work.

SECTION 2 PROHIBITION

It shall be unlawful for any person to operate, cause to be operated, or permit the operation of any motorized vehicle:

- A. Over or upon the property of the Town of Gorham, Maine; except over or upon such motorized vehicle trails as may be approved by order of the Town Council; or
- B. Over and upon any public way within the Town of Gorham, Maine; except as provided by law; or
- C. Over and upon any privately owned parking areas or roadways open for public access; or
- D. Within 200 feet of any dwelling or farm building, or on private property, unless the operator has obtained the permission, in writing, of the owner or occupant of said dwelling or land.
 - (1) Any person operating a motorized vehicle upon the land of another shall stop and identify himself and produce evidence of the owner's consent or, in the case of an all-terrain vehicle, the state registration certificate required pursuant to 12 M.R.S.A. upon the request of the land owners, his duly authorized representative or a police officer.
 - (2) No person shall operate an all-terrain vehicle on the land of another after having been forbidden to do so by the owner thereof, the owner's agent or a police officer, either personally or by appropriate notices posted conspicuously on that property. There shall be included within these prohibitions the use of any registered, motorized vehicle, as defined above, over or upon the property of the Town of Gorham except in such areas and at such times as the use of such vehicles is customarily permitted.

SECTION 3. PENALTIES

Any person of the age of 18 years or over who violates any of the provisions of Section 2 hereof shall upon adjudication, be punished by a fine of not less than \$25 nor more than \$100. If the Chief of Police is satisfied that a juvenile under the age of 18 years has operated a motorized vehicle in violation of any of the provisions of Section 2 hereof, he may impound the motorized vehicle for a period not to exceed 5 days for the first offense and for a period not to exceed 30 days for any subsequent offense. Further, any such vehicles operated in violation of any provision of this Article upon which a complaint has been issued or a fine is unpaid may, at the option of the police officer, be impounded and stored until all fees for all outstanding violations and any fees for impoundment, transfer and storage have been paid. The police officer impounding the vehicle under this Article shall notify the operator, in writing, at the time of impoundment of the location of impoundment and the requirements for release.

All fines shall be recovered on complaint to the use of the Town of Gorham, Maine.

SECTION 4.

The Ordinance Regulating Motorized Vehicles, adopted by the Town Council and effective February 6, 1979 is repealed.

MUTUAL AID ORDINANCE

MUTUAL AID ORDINANCE
TOWN OF GORHAM

SECTION 1. The Chief, or his duly authorized representative, of the Fire Department of the Town of Gorham, upon request for and from a duly authorized representative of a municipal or incorporated volunteer fire department of another municipality, having a similar ordinance, within or without the State, is hereby authorized to send to such other municipal or incorporated fire department such equipment and/or personnel belonging to the Fire Department of the Town of Gorham as he shall deem feasible for the purpose of rendering aid.

SECTION 2. During the course of rendering such aid to another municipality, the aiding municipality shall be responsible for damage to its own equipment, personal injury or property damage caused by the negligence of its personnel in the operation of its personnel equipment, and for any payments which it is required to make to any member of its Fire Department or to his widow or other dependents on account of injuries or death, as required by the Workmen's Compensation Act of the State of Maine.

SECTION 3. The Town Manager is hereby authorized to execute, for and on the behalf of the Town of Gorham, a mutual aid agreement in accordance with the provisions of the above Sections with any other municipality or municipalities having a similar ordinance.

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
Adopted July 5, 2011
Effective July 6, 2011

ARTICLE 1 - PURPOSE AND ENABLING LEGISLATION

1.1 Purpose

By and through this Chapter, the Town of Gorham declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

1.2 Enabling Legislation

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE 2 - TITLE AND DEFINITIONS

2.1 Title

This Ordinance shall be known and may be cited as “the Town of Gorham Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

2.2 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

1. Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

- (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
- (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. Municipality. “Municipality” shall mean the Town of Gorham.

3. PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

5. PACE district. “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. PACE loan. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. PACE mortgage. “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. PACE program. “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. Qualifying property. “Qualifying property” means real property located in the PACE district of the Municipality.

10. Renewable energy installation. “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. Trust. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE 3 - PACE PROGRAM

3.1 Establishment; funding.

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.

3.2 Amendment to PACE program.

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE 4 – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1 Standards adopted; Rules promulgated; model documents.

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE 5 – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;

2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

3. the Trust, or its agent, will disburse the PACE loan to the property owner;

4. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;

5. the Trust, or its agent, will be responsible for collection of the PACE assessments;
6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
7. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.2. Liability of Municipal Officials; Liability of Municipality

- A.** Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.
- B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

PARADE AND PROCESSIONS ORDINANCE

PARADE AND PROCESSIONS ORDINANCE

Enacted 5/7/91

SECTION I. TITLE

This ordinance shall be known and cited as the "Parades and Processions Ordinance of the Town of Gorham, Maine".

SECTION II. STATEMENT OF PURPOSE

The purpose of this ordinance is to protect the health, safety and well-being of any participants in a parade, road race, athletic event, walk, procession or assemblage, as well as the citizens of Gorham, by requiring a permit for any such event.

SECTION III. PERMIT REQUIRED

A. No person, corporation, partnership or other entity may hold, sponsor or organize any parade or procession, including but not limited to a march, ceremony, exhibition, pageant, foot race, walk or athletic event, upon any public way or in or upon any town-owned parks, fields or lands, without first obtaining a written permit therefor from the Town's Chief of Police.

B. Exceptions: This ordinance shall not apply to:

1. Funeral processions;
2. Town or school sponsored events, providing such conduct is under the immediate direction and supervision of the proper Town or school authorities; or
3. Parades or processions by the United States armed forces.

SECTION IV. PERMIT APPLICATION

A. A person seeking a Parades or Procession permit shall file an application with the Town's Chief of Police on a form provided by the Town.

B. An application for a Parades or Processions Permit must be filed with the Chief of Police no less than twenty-one (21) days prior to the proposed date of the parade or procession.

C. An application for the Parades and Processions Permit shall set forth the following information:

1. The name, address and telephone number of the person seeking to conduct the parade or procession;
2. If the parade or procession is proposed to be conducted for, on behalf of, or by a corporation, partnership or other entity, the name, address and telephone number of the same and of the officers of the same;
3. The name, address and telephone number of the person who will be parade or procession chairperson and who will be responsible for its conduct;
4. The proposed date for the parade or procession;
5. The starting point, the route to be traveled and the termination point of the parade or procession;
6. The approximate number of persons, animals and/or vehicles that will participate in the parade or procession and a description of the types of animals and vehicles;
7. The proposed time of day when the parade or procession will begin and terminate;
8. The identity of any public ways and town parks, fields and lands that will be used for the parade or procession;
9. If the parade or procession will use a public way or ways, a statement as to whether the parade or procession will occupy all or a portion of the width of the way or ways; and
10. A description of the nature of the parade or procession (i.e., a road race, parade, march, etc.).

SECTION V. STANDARDS FOR ISSUANCE

The Chief of Police shall issue a Parades and Processions Permit, upon finding after reviewing the application that:

A. The conduct of the parade or procession will not substantially interfere with the safe and orderly movement of other traffic on the Town's public ways, and

B. The conduct of the parade or procession will not interfere with proper police and fire protection of, or rescue service to, residents of the Town of Gorham.

SECTION VI. NOTICE OF REJECTION

The Chief of Police shall act upon the application for a Parades and Processions Permit within seven (7) days after the application is received by him. If the Chief of Police denies the application, he shall immediately notify the applicant in writing of that denial, stating the reasons for that denial.

SECTION VII. RIGHT OF APPEAL

An applicant shall have the right to appeal the denial of an application for a Parades and Processions Permit to the Town Council by filing a written notice of appeal with the Town Manager within seven (7) days from the date of the Chief of Police's decision. The Town Council shall act upon the appeal within fourteen (14) days after its receipt by the Town Manager.

SECTION VIII. ALTERNATIVE PERMIT

The Chief of Police, in denying an application for a Parades and Processions Permit, is authorized to approve the conduct of the proposed parade or procession on a date, at a time or over a route different from that proposed by the applicant. An applicant desiring to accept an alternate permit shall, within seven (7) days after the date of the Chief of Police's action, file a written notice of acceptance with the Chief of Police. An alternate permit shall conform with all conditions and requirements of this ordinance.

SECTION IX. CONDITIONS

Prior to this actual issuance of a Parades and Processions Permit under this ordinance, the applicant shall obtain insurance in an amount not less than \$300,000 from a company authorized to do business in the State of Maine to protect the Town, its officers, agents and employees from claims and damages for property damage and/or personal injury that may arise out of the parade or procession, and furnish the Chief of Police with a certificate of insurance evidencing such coverage and listing the Town of Gorham and its agents, officials and employees as additional named insureds, however, the Chief of Police and/or Town Manager may waive the insurance requirement upon good cause shown.

SECTION X. CONDUCT DURING PARADES AND PROCESSIONS

- A. No person shall hamper, obstruct, impede or interfere with any parade or procession or with any person, vehicles or animal participating or used in a parade or procession.
- B. No driver of a vehicle shall drive between persons, vehicles or animals comprising a parade or procession when such persons, vehicles or animals are in motion and are conspicuously designated as a parade or procession.

PLANNING BOARD ORDINANCE

TOWN OF GORHAM

PLANNING BOARD ORDINANCE

Permanent Ordinance passed 4/2/74
Amended 11/10/87

Article I Establishment

Pursuant to M.R.S.A. Constitution and VIII-A and 30 M.R.S.A., Section 1917, there is hereby created a Planning Board for the Town of Gorham for which purpose it shall serve to act as an Advisory Board to the Town Council in matters relating to the Town's planned development and general land use.

Article II Appointment, Tenure, Qualification and Vacancy

The Planning Board shall consist of seven members who shall be appointed by the Town Council and who shall serve without pay and who shall be representatives of the Town at large. The initial members shall be appointed three for 3 years, two for 2 years and two for 1 year and thereafter each member shall be appointed for three years, or until a successor is appointed.

Members appointed shall be residents of the Town.

A vacancy may occur by reason of resignation, death, giving up residency or failure to attend at least 75% of all meetings during the previous twelve months. The Chairman of the Board shall immediately notify the Town Council in writing of any vacancy when it occurs.

Article III Organization and Rules

Upon appointment of the members of the Planning Board, the members shall meet and elect a chairman and a vice-chairman and such other officers as they may determine to serve for a period of one year or until a successor is elected, and a member may succeed himself in office if so elected. The Planning Board shall hold a regular monthly meeting and other meetings as it deems necessary from time to time. All records shall be deemed public after acceptance by the Planning Board and may be inspected at the office of the Code Enforcement Officer during regular business hours.

On any and all voting matters pertaining to recommended adoption or amendments to the Comprehensive Plan or to proposed adoption or amendments to the Land Use Code, an affirmative vote of a majority of all the members of the Board (4 votes) shall be necessary for its passage and only after a public hearing has been conducted on the matter. All other voting matters shall be decided by a majority vote of those present and voting.

Article IV Powers and Duties

The Planning Board shall maintain a Comprehensive Plan for the Town as defined by Title 30 M.R.S.A., Section 4961. A Comprehensive Plan or amendments as recommended by the Planning Board shall be submitted to the Town Council for adoption in the form of an Ordinance.

The Planning Board shall exercise such powers and perform such other functions as are authorized and provided for under the Town's ordinances and the Laws of the State pertaining to zoning, sub-divisions and land-use throughout the Town.

The Planning Board shall have such other powers and perform such other duties as may be necessary for the administration of its affairs on behalf of the Town, and may obtain goods and services necessary for its proper functions within the limits of its budget as approved by the Town Council.

The Planning Board shall cooperate fully with other individuals and private or governmental agencies.

Article V Savings Provision

The present Planning Board shall continue in existence and continue its functions until the Planning Board is organized in accordance with this Ordinance, and the Town's present Comprehensive Plan and Land Use Ordinance shall continue in full force until such time as any Ordinance or amendments to the present Plan or Ordinance is adopted.

PUBLIC WORKS DEPARTMENT ORDINANCE

PUBLIC WORKS DEPARTMENT ORDINANCE

Enacted 7/15 /69

A. PURPOSE OF ORDINANCE

To establish a formal Public Works Department as per Sections 204.2, and 305 of the Charter.

To define the aspects of the Public Works activities, programs and operations.

To provide the citizens of the Town of Gorham better services and more efficient use of their tax money through a better directed and controlled Public Works Department, as directed by a Public Works Superintendent.

B. THE PUBLIC WORKS DEPARTMENT

A department under the Town Manager and directed by a Public Works Superintendent who is responsible to the Town Manager for the operation of the Public Works Department.

A department which shall serve the safety, comfort and welfare of the Town through the following activities:

1. Build and maintain public roads.
2. Provide snow removal and ice control on public roads.
3. Maintain public dumps and disposal areas.
4. Maintain public buildings and grounds.
5. Maintain public cemeteries.
6. Maintain Public Works equipment.
7. Maintain a continuing program of tarvia on public roads.
8. Maintain public sewers.
9. Maintain and construct bridges and culverts.
10. Assist in the removal, planting and care of town trees and forests.

C. TO CREATE THE POSITION OF PUBLIC WORKS SUPERINTENDENT

1. To be responsible to the Town Manager for the conduct and operation of the Public Works Department.
2. Plan the annual work program with the assistance of the Town Manager, and submit an annual budget to the Town Manager upon request.
3. To coordinate and direct the operation and the daily work program of the Public Works Department.
4. Shall supervise all employees of the Public Works Department and shall coordinate, assign, direct and inspect the work of employees.
5. Shall orient and train employees.
6. May attend instructional and training sessions as from time to time are offered.
7. Shall be responsible for proper and regular maintenance of Public Works equipment.
8. Shall record and maintain all records of Public Works activities. i.e. equipment maintenance, daily and monthly work reports, records of materials and labor efficiency, and payroll records.

D. ACCOUNTS AND FINANCES

All accounts and appropriations for the purpose of financing the above activities shall be accounts of the Public Works Department.

Ordinance for the Recall of Elected Officials of the Town of Gorham

SECTION 1. Establishment

Under M.R.S.A. Title 30-A Section 2602 (6), a town may enact an ordinance for the recall of elected municipal officials with the exception of school board members (“Elected Officials”)

SECTION 2. Purpose and Authority

This ordinance provides the means and method by which the voters of Gorham may seek the recall of Elected Officials. This ordinance is enacted pursuant to Title 30-A M.R.S.A., §2528, §2602, §3001, and §3002.

SECTION 3. Procedure

a. The petition for recall must contain only signatures of the registered voters of the Town of Gorham, equal to, or greater than, 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.

b. The petition shall be addressed to those members of the Town Council, whose recall is not the subject of the petition. If all Elected Officials are the subject of the recall, then the petition shall be addressed to the Town Clerk.

c. The petition shall state the name and office of the person whose removal is being sought, and specify the petitioners’ reason(s) the recall is sought, as outlined in Section 3. d.

d. An Elected Official may be recalled for (i) failure to appropriately carry out duties and responsibilities of the office (such as failure to represent the will of the people of Gorham); (ii) engaging in conduct which brings the office into disrepute; (iii) engaging in conduct which displays an unfitness to hold the office; or (iv) for the indictment or conviction of a felony under the laws of the State of Maine or the laws of the United States, or the laws of any other State or Nation, or entry of a plea of guilty or no-contest to such an offense.

e. If recall of more than one Elected Official is being sought, there shall be a separate petition for each official whose recall is being sought.

f. Each page of the petition shall provide a space for the voter's signature, address and printed name.

g. The petition blanks shall be dated with the date the petitioner initiates the recall request. The petition shall be available for signatures for 30 calendar days. At the expiration of said 30 calendar days, the Town Clerk shall declare the petition closed.

h. A petition form may be circulated or signed only by a registered voter of the Town of Gorham. Petitions may not be left, unattended or unsupervised for signatures. Circulators are responsible for certifying the validity of signatures on a petition and certifying that the signatures were made in their presence.

i. All petition pages shall be filed as one document.

SECTION 4. Incumbent Duties Continued

The incumbent shall continue to perform the duties of the office until the results of the recall election are certified. If not recalled, the official shall continue in office for the remainder of the unexpired term, subject to the subsequent recall. If recalled, the official shall be deemed removed from office upon certification of the election results.

SECTION 5. Clerk's Certification

Within ten days of receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications as set forth in Section 3 of this ordinance. Should the petition be found insufficient, the petition will be filed in the clerk's office, and the voter who filed the petition will be notified.

SECTION 6. Calling the Recall Election

a. If the Town Clerk certifies the petition as sufficient, the Clerk will submit the petition with his or her certification to the Town Council at its next regular meeting and shall notify the official or officials whose removal is being sought of such action.

b. Subject to the provisions of Sec. 211 and Sec. 811 of the Town Charter, within ten days of receipt of the certified petition, the Town Council shall order an election by written, secret ballot, pursuant to 30-A MRSA § 2528, to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition. In such case, the Town Council may, at its discretion, provide for the holding of the recall election on the date of the regular municipal election.

c. In the event that the Town Council fails or refuses to order an election as herein provided, the Town Clerk shall call the election to be held not less than 45 days nor more than 60 days following the Town Council's failure or refusal to order the required election.

d. If, between the time of ordering the recall election and the 21st day before said election, the official whose recall is being sought requests a public hearing, the Town Council shall promptly schedule such a hearing to occur not fewer than 7 days before the election, and shall provide adequate posting at least 7 days before said hearing.

SECTION 7. Ballots for Recall Election

Unless the official or officials whose removal is being sought have resigned within ten days of receipt of the petition by the Town Council, the ballots shall be printed and shall ask the question: "SHALL (name of official) BE RECALLED?," and provide adjacent boxes for "Yes" or "No" responses.

SECTION 8. Result of Election; applicability

a. To be valid, the total number of votes cast in the recall election shall be at least 25% of the number of votes cast in Gorham for and against Governor in the last gubernatorial election.

b. If a 65% majority, or more, of those voting in a recall election shall vote in favor of recalling such official, such official is thereby removed from office upon certification of the vote by the Town Clerk. A tie vote will defeat the recall.

d. This ordinance shall apply to Elected Officials in office at the time of adoption of this ordinance, as well as those elected subsequently.

SECTION 9. Vacancies to be filled

A vacancy resulting from removal from office under this ordinance shall be filled in accordance with the provisions of Maine law and the Town Charter.

SECTION 10. Limitations

a. No petition for recall shall be filed against an official with fewer than 60 days of a multiyear term remaining.

b. If an official has been the subject of an unsuccessful recall election, no new recall petition shall be filed against that official until at least twelve months have passed since said recall election.

SECTION 11. Validity

It is intended that each section of this ordinance shall be deemed independent of all other sections herein and that if any provision within this ordinance is declared invalid, all other sections shall remain valid and enforceable.

SECTION 12. Effective date

This ordinance shall be in full force and effect as soon as passed by the Town Council.

GORHAM RECREATIONAL VEHICLE ORDINANCE

Section 1. Authority.

This ordinance is enacted in accordance with Title 30-A, M.R.S.A.

Section 2. Definitions.

Recreational vehicle - Any motorcycle, motorbike, trail bike, all-terrain vehicle, go-cart or any similar type of vehicle that is designed principally for use off-road. This term shall not include any vehicle that is designed or used principally for agricultural purposes.

Section 3. Prohibited conduct.

3.1 No person shall operate a recreational vehicle on the private property of another without the express permission of the owner or the occupant of that property.

3.2 No person shall operate any recreational vehicle within the limits of the Town of Gorham in a manner that unnecessarily annoys or disturbs any person due to the continued or repeated operation anytime day or night.

3.3 No person shall operate a recreational vehicle in a careless, reckless, or negligent manner so as to endanger the safety of any person or the property of any person.

Section 4. Violation; Penalties.

Violation of this Ordinance shall be a civil infraction. Penalties for a violation shall be \$100 for a first violation, \$250 for a second violation, and \$500 for any subsequent violation. In addition, the Town may seek injunctive relief in court, as well as its costs of prosecution of the violation, including attorneys fees.

Section 5. Separability Clause.

If any portion of this Ordinance shall be held to be declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining sections or provisions of this ordinance. 4 yeas. 2 nays (Phinney and Dugas).



**TOWN OF GORHAM
SENIOR PROPERTY TAX
ASSISTANCE ORDINANCE**

Adopted January 2, 2018

ARTICLE I

Property Tax Assistance

Purpose

The purpose of this article is to establish a program to provide property tax assistance to persons 65 years of age and over who reside in the Town of Gorham. Under this program, the Town of Gorham will provide refund payments to those individuals who maintain a homestead in the Town of Gorham and meet the criteria established by this article.

ARTICLE II

Definitions.

As used in this article, the following terms shall have the meanings indicated:

A. BENEFIT BASE — Property taxes paid by a qualifying applicant during the tax year on the qualifying applicant's homestead or rent constituting property taxes paid by the resident individual during the tax year on a homestead.

B. HOMESTEAD — For purposes of this article, "homestead" shall have the same meaning as defined in 36 M.R.S.A. § 5219-KK(1)(C). Generally, a homestead is a dwelling owned or rented by the person seeking tax assistance under this article or held in a revocable living trust for the benefit of that person. The person must reside in the homestead at least 9 months of the calendar year.

C. INCOME — Total household income as determined by the total (gross) income reported on the applicant's most recent federal income tax return (line 22 of Form 1040; line 15 of Form 1040A; line four of Form 1040EZ), plus the total (gross) income reported on the most recent federal income tax return of each additional member of the household if filing separately. If the applicant and/or any member of the household do not file a federal income tax return, income shall be the cumulative amount of all income received by the applicant and each additional member of the household from whatever source derived, including, but not limited to the following:

- i. Compensation for services, including wages, salaries, tips, fees, commissions, fringe benefits and similar items;
- ii. Gross income derived from business;
- iii. Gains derived from dealings in property (capital or other);
- iv. Interest;
- v. Rents from real estate;
- vi. Royalties;
- vii. Dividends;
- viii. Alimony and separate maintenance payments received;
- ix. Annuities;
- x. Pensions;
- xi. Income from discharge of indebtedness;
- xii. Distributive share of partnership gross income;
- xiii. Income from an interest in an estate or trust;
- xiv. IRA distributions;
- xv. Unemployment compensation; and
- xvi. Social security benefits.

D. QUALIFYING APPLICANT — A person who is determined by the Town Clerk or her designee, after review of a complete application under Article 2 of this ordinance, to be eligible for a refund payment under the terms of this article.

E. RENT CONSTITUTING PROPERTY TAX — Fifteen percent of the gross rent actually paid in cash or its equivalent during the tax year solely for the right of occupancy of a homestead. For the purposes of this article, "gross rent" means rent paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement.

In order to participate in the property tax assistance program, an applicant shall demonstrate all of the following:

- i. The applicant shall be 65 years of age or more at the time of application.
- ii. The applicant shall have a homestead in the Town of Gorham at the time of the application and for the entire year prior to the date of application.
- iii. The applicant has been a resident of the Town of Gorham for at least five years immediately preceding the date of application for participation in the program.
- iv. The applicant shall meet the application and eligibility criteria set forth in Section A and Section B of this article.

ARTICLE III

Application and payment procedures.

Persons seeking to participate in the property tax assistance program shall submit an application to the Town Clerk no later than August 1 of the year for which the refund is requested. Applications are required for every year the applicant seeks to participate in this program. The application form for the program shall be made available upon request in the Town Clerk's office and shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof of household income.

Applicants shall also submit proof of property taxes paid or rent constituting property taxes paid during the tax year on the individual's homestead in the Town of Gorham.

The Town Clerk or a designee shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the program. The Town Clerk or the designee shall notify an applicant if an

application is determined to be incomplete within 2 weeks of the application being submitted. The Town Clerk's or the designee's decision on eligibility to participate and benefit base amount in the program shall be final. Appeals to the Town Clerk's or the designee's determinations are to be submitted in writing to the Town Council within 14 days of Town Clerk's or the designee's determinations. The Town Council will then review and make a determination within 30 days of receipt of an appeal.

Determination of eligibility and amount.

A. Eligibility under this article is designed to provide greater benefits proportionally to applicants with lower income in relation to their benefit base. Applicants with income greater than an amount equal to 90% of the current United States Department of Housing and Urban Development metropolitan area median family income shall not be eligible for benefits under this article. Eligible applicants will receive a benefit totaling the amounts set forth in Subsection A(1) and (2) as follows, provided that the cumulative maximum benefit allowed shall be \$500:

The total amount of any increase to the applicant's benefit base from the most recent tax year to the current tax year; and

Benefits based on a calculation of the applicant's benefit base as a percentage of their income $[(\text{Benefit}/\text{Income}) \times 100 = \text{Benefit base as percent of income.}]$

If the benefit base as a percent of income is greater than 10%, the applicant will receive \$500;

If the benefit base as a percent of income is 8% to 10% of income, the applicant will receive \$350;

If the benefit base as a percent of income is 5% to 7% of income, the applicant will receive \$200;

ARTICLE IV

Limitations on payments.

The Town Manager shall report to the Town Council for its approval at its September meeting each year the projected payments and number of eligible applicants requesting assistance from the program fund.

Payments under this article shall be conditioned upon the existence of sufficient monies in the program fund for the year in which participation is sought. If there are not sufficient monies in the program fund to pay all qualifying applicants under this article per the calculations set forth in Section II (E), payments shall be limited to the amounts available in the fund and may be prorated accordingly. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request and/or unpaid balance will not carry over to the next year.

ARTICLE V

Creation of program fund.

The program fund from which payments shall be made under the terms of this article shall be created as follows:

As funds are available, the Town Council shall annually appropriate monies from the general fund or other sources to support this program.

Any surplus monies available after all payments have been made shall be carried forward within the fund to the next fiscal year.

ARTICLE VI

Timing of payments.

A person who qualifies for payment under this program shall be mailed a check for the benefit amount for which he/she is eligible under Section II (E) no later than 30 days from the date of Council approval of the applications for the year in which participation is sought.

ARTICLE VII

One applicant per household.

Only one qualifying applicant per household shall be entitled to payment under this program each year. Eligibility shall be determined based on total household income. The right to file an application under this article is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney in fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Assessor shall be disbursed to another member of the household as determined by the Assessor. If the applicant was the only member of a household, then no payment shall be made under this article.

SERVICE CHARGE ORDINANCE

SERVICE CHARGE ORDINANCE

Adopted June 6, 1996

SERVICE CHARGE ORDINANCE

Article 1. Authority.

This ordinance is enacted in accordance with Title 30-A, M.R.S.A., Section 3001 and Title 36 M.R.S.A., Section 652 (1)(L).

Article 2. Service Charge Established.

An annual service charge is hereby established. It shall be levied by the Town of Gorham against all residential property owned by an institution or organization if the property is otherwise totally exempt from property taxation and used to provide rental income. The Assessor shall provide a list of such property to the Town on request. This service charge shall not apply to student housing or parsonages.

Article 3. Calculation of Service Charge Limitation; Abatement.

The service charge established in Section 2 shall be calculated according to the actual cost of providing municipal services to the property in question and the persons who use that property. Services considered in making this calculation shall include, without limitation: fire protection, police protection, road maintenance and construction, traffic control, snow and ice removal, water and sewer service, sanitation services, and any services other than education and welfare.

The total service charge levied by the Town of Gorham under this ordinance against any institution or organization shall not exceed two percent (2%) of the gross annual revenues of that institution or organization. To qualify for this limitation, the institution or organization shall file with the Finance Director an audit of the revenues of the organization for the year immediately prior to the year in which the service charge is levied. The Finance Director shall abate the service charge amount that is in excess of the two percent (2%) of the gross annual revenues.

Article 4. Collection.

Unpaid service charges shall be collected following the procedure provided in 38 M.R.S.A. Section 1208, as may be amended from time to time.

Article 5. Use of Revenues.

Revenues accrued from service charges shall be used, as much as possible, to fund the cost of providing the services which were considered in calculating the service charge.

Article 6. Appeals

Any institution or organization wishing to challenge the decision of the Town of Gorham to levy a particular service charge or the amount of a particular service charge may appeal that determination to the Board of Assessment Review. Such appeals shall be filed in writing within sixty (60) days of the date on which notice is provided by the Town to the institution or organization indicating the amount of the service charge which they have noted to levy.

Section 7. Severability

If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance. 6 years.

SEX OFFENDER ORDINANCE

**Adopted July 3, 2007
Effective August 1, 2007**

TOWN OF GORHAM
SEX OFFENDER ORDINANCE

Section 1. Authority.

This ordinance is enacted pursuant to Title 30-A M.R.S.A., Section 3001.

Section 2. Purpose.

In acknowledgement that sex offenders who prey upon children are at a higher risk of re-offending, the Town of Gorham has a compelling interest to protect the health, safety, and welfare of its children by restricting access to areas where concentrations of children exist.

Section 3. Definitions.

- A. **Registered Sex Offender** – An individual convicted of a sex offense, as defined by 34-A M.R.S.A. §§11203 (6)-(7) against a person under the age of 18 and as a result, required to register for life pursuant to Title 34-A M.R.S.A., Chapter 15.
- B. **School / Daycare** – Any public or private educational facility that provides services to those 18 years or younger or a licensed daycare facility that is clearly marked.
- C. **Premises** – The building structure or surrounding the building, playground area, playing fields, or courts.
- D. **Radius** – Distance shall be measured from the outer property lines.
- E. **Residence** – That place or those places, other than a domicile in which a person may spend time living, residing, or dwelling.

Section 4. Restrictions.

- A. Any person who is a convicted sex offender involving a minor, and is required to register for life, shall not reside within a 2500-foot radius of the property line of a school or within a 1000-foot radius of the property line of a daycare center.
- B. Any person who is a convicted sex offender involving a minor, and is required to register for life, is prohibited from entering upon the premises of a school or daycare center unless specifically authorized by the school administration or daycare center owner.
- C. No person who is a convicted sex offender and is required to register for life shall loiter or remain within a 2500-foot radius of a school or within a 1000-foot radius of a licensed daycare center.

Section 5. Exceptions.

A registered sex offender residing within 2500-feet of a school or within 1000-feet of a licensed daycare center is not in violation if the residency was established prior to the date of passage of this ordinance and residency has been consistently maintained. A sex offender is not in violation of this ordinance if a school or daycare facility is built or moved into the 2500/1000-foot restricted area as long as the offender resided at this

location prior to the new establishment and residency has been consistently maintained.

Section 6. Violation; Injunctive Relief and Penalties.

Any person who, after written notice from the Town about the requirements of this ordinance, is in violation of the provisions of this ordinance and shall be subject to an action brought by the Town in the District Court or Superior Court to enforce the requirements of this ordinance. The Town may seek injunctive relief to require compliance with the provisions of the ordinance. The Town may also seek a penalty in the minimum amount of \$500, which may be imposed on a daily basis for each day that a violation continues after notice from the Town. In the event that the Town is the prevailing party in an action under this ordinance, it shall be entitled to an award of its reasonable attorney's fees, expert witness fees, or any other associated costs.

Section 7. Severability.

In the event that any section or any portion of this ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be effected to affect the validity of any other section or portion of this ordinance. The provisions of this ordinance are hereby declared to be severable.

Section 8. Effective Date.

Notwithstanding any law to the contrary, this ordinance shall take effect as of August 1, 2007.

SIDEWALK CONSTRUCTION

ORDINANCE RELATING TO SIDEWALK CONSTRUCTION

Ordinance passed 4/2/74

ORDINANCE RELATING TO SIDEWALK CONSTRUCTION

ARTICLE I - PURPOSE

Section 1. Sidewalks may be constructed along public streets or ways designated for use by the public within the Town of Gorham either upon initiation of the Town, or as required by the Town of a developer of a subdivision or upon approval by the Town from petition of abutters on both sides of the street.

Sidewalks to be constructed and maintained shall be designated primarily for the safety of pedestrians.

ARTICLE II - CONSTRUCTION

Section 1. The Town may build sidewalks along public streets if deemed in the public interest to do so. Construction shall be in accordance to general standards and practice as approved by the Town Manager. Costs to be assumed by the Town.

Section 2. The Town may require sidewalks to be built in accordance with the Land Use and Development Code of the Town in new subdivisions. Costs to be assumed by the developer.

Section 3. The Town may build sidewalks along public streets upon petition received by the Council from a majority of abutters on both sides of a street and along the entire length proposed for sidewalk construction. Upon receipt of a petition the Council shall hold a public hearing on the petition to enable all abutters to express their opinions regarding such sidewalks.

Following such hearing, the Council shall determine if the Town shall build a sidewalk.

Costs for construction shall be borne at least one-half by the Town, one-quarter of the costs to be assessed upon each abutter on both sides of the street, said assessment to be on a per footage basis to be collected by lien procedure if necessary.

ARTICLE III - NOTICE OF CONSTRUCTION

Section 1. Upon approval by the Council of construction by petition the Town Manager shall give at least thirty days written notice to the owners of property abutting on both sides of the street of said Council order authority construction.

Section 2. The Town Manager shall keep an accurate account of the expense of such work and shall, as soon as practicable after the completion thereof, make a return showing the location of each sidewalk and/or curbing, its length and width, material of which constructed, cost of construction, and the names of the abutting property with the amounts properly chargeable against each. Within one year after the completion of such work, the Town Council shall assess upon the abutting properties their just proportion of the cost thereof and all assessments so made shall constitute a lien on said property to be enforced in the manner provided for the collection of real estate taxes in the Town of Gorham.

STORM WATER ORDINANCE

**Adopted by Town Council
March 1, 2011**

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CHAPTER 1
NON-STORM WATER DISCHARGE

Section 1. Purpose/Objectives.

1.1. Purpose. The purpose of this Non-Storm Water Discharge Ordinance (the Ordinance) is to provide for the health, safety, and general welfare of the citizens of the Town of Gorham through the regulation of Non-Storm Water Discharges to the Municipality's Storm Drainage System as required by federal and State law. This Ordinance establishes methods for controlling the introduction of Pollutants into the Town of Gorham's Storm Drainage System in order to comply with requirements of the federal Clean Water Act and State law.

1.2. Objectives. The objectives of this Ordinance are:

- a.** To prohibit unpermitted or unallowed Non-Storm Water Discharges to the Storm Drainage System; and
- b.** To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this Ordinance.

Section 2. Definitions.

For the purposes of this Ordinance, the terms listed below are defined as follows:

2.1. Clean Water Act. Clean Water Act means the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the "Clean Water Act"), and any subsequent amendments thereto.

2.2. Discharge. Discharge means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to waters of the State. Direct discharge or point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

2.3. Enforcement Authority. Enforcement Authority means the person(s) or department authorized under Section 4 of this Ordinance to administer and enforce this Ordinance.

2.4. Exempt Person or Discharge. Exempt Person or Discharge means any Person who is subject to a Multi-Sector General Permit for Industrial Activities, a General Permit for Construction Activity, a General Permit for the Discharge of Stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a General Permit for the Discharge of Stormwater from State or Federally owned Authority Municipal Separate Storm Sewer System Facilities; and any Non-Storm Water Discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S.

Environmental Protection Agency (“EPA”) or the Maine Department of Environmental Protection (“DEP).

2.5. Industrial Activity. Industrial Activity means activity or activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

2.6. Municipality. Municipality means the Town of Gorham.

2.7. Municipal Separate Storm Sewer System, or MS4. Municipal Separate Storm Sewer System or MS4, means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

2.8. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

2.9. Non-Storm Water Discharge. Non-Storm Water Discharge means any Discharge to an MS4 that is not composed entirely of Storm Water.

2.10. Person. Person means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity which creates, initiates, originates or maintains a Discharge of Storm Water or a Non-Storm Water Discharge.

2.11. Pollutant. Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

2.12. Premises. Premises means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges in Storm Drainage System are or may be created, initiated, originated or maintained.

2.13. Regulated Small MS4. Regulated Small MS4 means any Small MS4 regulated by the State of Maine .General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems dated June 3,2003 (General Permit), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4 located outside a UA that as of the issuance Of the General Permit have been designated by the DEP as Regulated Small MS4S.

2.14. Small Municipal Separate Storm Sewer System or Small MS4. Small Municipal Separate Storm Sewer System, or Small MS4, means any MS4 that is not already covered by the Phase I MS4 Stormwater program including municipally owned or

operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

2.15. Storm Drainage System. Storm Drainage System means the Municipality's Regulated Small MS4.

2.16. Storm Water. Storm Water means any Storm Water runoff, snowmelt runoff, and surface runoff and drainage; Storm Water has the same meaning as Stormwater.

2.17. Urbanized Area (UA). Urbanized Area or UA means the areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

Section 3. Applicability.

3.1 This Ordinance shall apply to all Persons discharging Stormwater and/or Non-Storm Water Discharges from any Premises into the Storm Drainage System.

Section 4. Responsibility for Administration.

4.1 The Code Enforcement Officer, Assistant Code Enforcement Officer, and any employee designated by the Town Manager is the Enforcement Authority who shall administer, implement, and enforce the provisions of this Ordinance.

Section 5. Prohibition of Non-Storm Water Discharges.

5.1. General Prohibition. Except as allowed or exempted herein, no Person shall create, initiate, originate or maintain a Non-Storm Water Discharge to the Storm Drainage System. Such Non-Storm Water Discharges are prohibited notwithstanding the fact that the Municipality may have approved the connections, drains or conveyances by which a Person discharges unallowed Non-Storm Water Discharges to the Storm Drainage System.

5.2. Allowed Non-Storm Water Discharges. The creation, initiation, origination and maintenance of the following Non-Storm Water Discharges to the Storm Drainage System is allowed:

- a.** Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains: air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff: water line flushing and discharges from potable water sources; and individual residential car washing;

b. Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety; and

c. Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.

5.3. Exempt Person or Discharge. This Ordinance shall not apply to an Exempt Person or Discharge, except that the Enforcement Authority may request from Exempt Persons and Persons with Exempt Discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the Discharge(s).

Section 6. Suspension of Access to the Municipality's Small MS4.

6.1 The Enforcement Authority may, without prior notice, physically suspend Discharge access to the Storm Drainage System to a Person when such suspension is necessary to stop an actual or threatened Non-Storm Water Discharge to the Storm Drainage System which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System, or which may cause the Municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the Discharge to prevent or minimize a Non-Storm Water Discharges to the Storm Drainage System. If the Person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent or minimize damage to the Storm Drainage System, or to minimize danger to persons, provided, however, that in taking such steps the Enforcement Authority may enter upon the Premises that are the source of the actual or threatened Non-Storm Water Discharge to the Storm Drainage System only with the consent of the Premises' owner, occupant or agent.

Section 7. Monitoring of Discharges.

7.1 In order to determine compliance with this Ordinance, the Enforcement Authority may enter upon and inspect Premises subject to this Ordinance at reasonable hours with the consent of the Premises' owner, occupant or agent: to inspect the Premises and connections thereon to the Storm Drainage System; and to conduct monitoring, sampling and testing of the Discharge to the Storm Drainage System.

Section 8. Enforcement

8.1 It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this Ordinance. Whenever the Enforcement Authority believes that a person has violated this Ordinance, the Enforcement Authority may enforce this Ordinance in accordance with Title 30-A M.R.S.A. Section 4452.

8.2. Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance, the Enforcement Authority may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

- a. The elimination of Non-Storm Water Discharges to the Storm Drainage System, including, but not limited to, disconnection of the Premises from the MS4;
- b. The cessation of discharges, practices, or operations in violation of this Ordinance;
- c. At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of Non-Storm Water Discharges to the Storm Drainage System and the restoration of any affected property; and/or
- d. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

8.3. Penalties/Fines/Injunctive Relief. Any Person who violates this ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

8.4. Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.

8.5. Appeal of Notice of Violation. Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals. The notice of appeal must be received The notice of appeal must be received "vithin30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a *de novo* hearing on the appeal "within 30 days from the date of receipt of the Notice of appeal. The Board of Appeals may affirm. reverse or modify the decision of the Enforcement Authority. A suspension under Section 6 of this Ordinance remains in place unless or until lifted by the Board of Appeals or by a reviewing court. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

8.6. Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation. or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the municipality's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure. Notwithstanding these requirements, in the event of an emergency situation that presents an immediate threat to public health, safety or welfare or that may result in damage to

the Town's Storm Drainage System, the Town may seek injunctive relief at any time after learning of such emergency situation.

8.7. Ultimate Responsibility of Discharger. The standards set forth herein are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants into waters of the U.S. caused by said Person. This Ordinance shall not create liability on the part of the Municipality, or any officer agent or employee thereof for any damages that result from any Person's reliance on this Ordinance or any administrative decision lawfully made hereunder.

Section 9. Severability.

9.1 The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Section 10. Basis.

10.1 The Town of Gorham enacts this Non-Storm Water Discharge Ordinance (the Ordinance pursuant to Title 30-A M.R.S.A. § 300 I (municipal home rule ordinance authority), Title 38 M.R.S.A. § 413 (the Wastewater Discharge Law), 33 U.S.C. § 1251 *et seq.* (the Clean Water Act), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System (NPDES)). The Maine Department of Environmental Protection, through its promulgation of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems dated June 3, 2003, has listed the Town of Gorham as having a Regulated Municipal Separate Storm Sewer System (Small MS4); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality's Storm Water Management Program.

CHAPTER 2 POST-CONSTRUCTION STORMWATER MANAGEMENT

Section 1. Purpose.

1.1 The purpose of this “Post-Construction Stormwater Management Ordinance” (the “Ordinance”) is to provide for the health, safety, and general welfare of the citizens of the Town of Gorham through monitoring and enforcement of compliance with post-construction stormwater management plans in order to comply with minimum control measures requirements of regulations found in the federal Clean Water Act, and Maine’s Small Municipal Separate Storm Sewer Systems General Permit.

Section 2. Objectives

2.1 This Ordinance seeks to ensure that post-construction stormwater management plans are followed and stormwater management facilities are properly maintained and pose no threat to public health or public safety.

Section 3. Definitions.

For the purposes of this Ordinance, the terms listed below are defined as follows:

3.1 Applicant. "Applicant" means a Person with requisite right, title or interest or an agent for such Person who has filed an application for New Development or Redevelopment that requires a Post-Construction Stormwater Management Plan under this Ordinance.

3.2 Best Management Practices (“BMP”). “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

3.3 Clean Water Act. “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

3.4 Construction Activity. “Construction Activity” means Construction Activity including one acre or more of Disturbed Area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb equal to or greater than one acre.

3.5 Discharge. “Discharge” means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of Pollutants to “waters of the State.” “Direct discharge” or “point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which Pollutants are or may be discharged.

3.6 Disturbed Area. “Disturbed Area” is clearing, grading and excavation. Mere cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of land or improvements thereon.

3.7 Enforcement Authority. “Enforcement Authority” means the person(s) or department authorized by the Town of Gorham to administer and enforce this Ordinance.

3.8 Municipality. “Municipality” means the Town of Gorham.

3.9 Municipal Permitting Authority. “Municipal Permitting Authority” means the municipal official or body that has jurisdiction over the land use approval or permit required for a New Development or Redevelopment.

3.10 Municipal Separate Storm Sewer System, or MS4. “Municipal Separate Storm Sewer System” or “MS4,” means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, State agency or Federal agency or other public entity that discharges directly to surface waters of the State.

3.11 National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit” means a permit issued by the U.S. Environmental Protection Agency (“EPA”) or by the Maine Department of Environmental Protection (“DEP”) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

3.12 New Development. “New Development” means any Construction Activity on unimproved Premises.

3.13 Person. “Person” means any individual, firm, corporation, municipality, quasi-municipal corporation, State agency or Federal agency or other legal entity.

3.14 Pollutant. “Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

3.15 Post-Construction Stormwater Management Plan. “Post-Construction Stormwater Management Plan” means BMPs and Stormwater Management Facilities employed by a New Development or Redevelopment to meet the stormwater standards of the Municipality’s subdivision, site plan, or other zoning, planning or other land use ordinances and approved by the Municipal Permitting Authority.

3.16 Premises. “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the Municipality from which Discharges into the Storm Drainage System are or may be created, initiated, originated or maintained.

3.17 Qualified Post Construction Stormwater Inspector. “Qualified Post Construction Stormwater Inspector” means a person who conducts post-construction inspections of Stormwater Management Facilities and meets the following qualifications:

- a. The Inspector shall not have any ownership of financial interest in the property being inspected nor be an employee or partner of any entity having an ownership or financial interest in the property, and
- b. The Inspector shall also meet the following or similar criteria as approved by the Public Works Director, who shall maintain a list of approved Qualified Post-Construction Stormwater inspectors:
 1. Have a working knowledge of Chapter 500, Stormwater management Rules and Maine’s Stormwater BMP Manual,
 2. Have a college degree in environmental science, civil engineering, or comparable expertise,
 3. Have a demonstrated practical knowledge of stormwater hydrology and stormwater management techniques, including the maintenance requirements for Stormwater Management Facilities,
 4. Have the ability to determine if stormwater facilities are performing as intended, and
 5. Have received appropriate training from the Department of Environmental Protection.

3.18 Redevelopment. “Redevelopment” means Construction Activity on Premises already improved with buildings, structures or activities or uses, but does not include such activities as exterior remodeling of structures.

3.19 Regulated Small MS4. “Regulated Small MS4” means any Small MS4 regulated by the State of Maine “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems” effective July 1, 2008 (“General Permit”), including all those located partially or entirely within an Urbanized Area (UA) and those additional Small MS4s located outside a UA that as of the issuance of the General Permit have been designated by the DEP as Regulated Small MS4s.

3.20 Small Municipal Separate Storm Sewer System, or Small MS4. “Small Municipal Separate Storm Sewer System”, or “Small MS4,” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

3.21 Storm Drainage System. “Storm Drainage System” means the Municipality’s Regulated Small MS4.

3.22 Stormwater. “Stormwater” means any Stormwater runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “Storm Water.”

3.23 Stormwater Management Facilities. “Stormwater Management Facilities” means any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the Post-Construction Stormwater Management Plan for a New Development or Redevelopment.

3.24 Urbanized Area (“UA”). “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of the Census.

Section 4. Applicability.

4.1 This Ordinance applies to all New Development and Redevelopment within the Urbanized Area and to associated Stormwater Management Facilities.

4.2 Exception. This Ordinance does not apply to New Development or Redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that has received approval of its Post-Construction Stormwater Management Plan and Stormwater Management Facilities under the Municipality’s subdivision or other zoning, planning or other land use ordinances; said lot, tract or parcel shall not require additional review under this Ordinance, but shall comply with the Post-Construction Stormwater Management Plan requirements for that approved subdivision.

Section 5. Post-Construction Stormwater Management Plan Approval

5.1 General Requirement. Notwithstanding any ordinance provision to the contrary, and except as provided in Section 4.2, no Applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable shall receive such permit or approval for that New Development or Redevelopment unless the Applicant also receives approval under the Municipality’s subdivision, site plan or other zoning, planning or other land use ordinances for its Post-Construction Stormwater Management Plan and Stormwater Management Facilities for that New Development or Redevelopment, even if the Municipality’s subdivision, site plan or other zoning, planning or other land use ordinances would not otherwise apply to that New Development or Redevelopment.

5.2 Notice of BMP Discharge to Municipality’s MS4. At the time of application for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for New Development or Redevelopment to which this Ordinance is applicable, the Applicant shall notify the Municipal Permitting Authority if its Post-Construction Stormwater Management Plan includes any BMP(s) that will discharge to the Municipality’s MS4 and shall include in this notification a listing of which BMP(s) will so discharge.

Section 6. Post-Construction Stormwater Management Plan Compliance

6.1 General Requirements. Any Person owning, operating, leasing or having control over Stormwater Management Facilities required by a Post-Construction Stormwater Management Plan approved under the Municipality’s subdivision, site plan or other zoning, planning or other land use ordinances shall demonstrate compliance with that Plan as follows.

- a.** That Person or a Qualified Post Construction Stormwater Inspector hired by that Person, shall, at least annually, inspect the Stormwater Management Facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection,

cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan.

b. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, that Person shall take corrective action(s) to address the deficiency or deficiencies.

c. That Person or a Qualified Post-Construction Stormwater Inspector hired by that Person, shall, on or by May 1 of each year, provide a completed and signed certification to the Enforcement Authority in a form identical to that attached as Appendix 1 to this Ordinance, certifying that the Person has inspected the Stormwater Management Facilities and that they are adequately maintained and functioning as intended by the approved Post-Construction Stormwater Management Plan, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the Stormwater Management Facilities and, if the Stormwater Management Facilities require maintenance or repair of deficiencies in order to function as intended by the approved Post-Construction Stormwater Management Plan, the Person shall provide a record of the required maintenance or deficiency and corrective action(s) taken.

6.2. Right of Entry. In order to determine compliance with this Ordinance and with the Post-Construction Stormwater Management Plan, the Enforcement Authority may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the Stormwater Management Facilities.

6.3. Annual Report. Beginning July 1, 2009 and each year thereafter, the Municipality shall include the following in its Annual Report to the Maine Department of Environmental Protection:

a. The cumulative number of sites that have Stormwater Management Facilities discharging into their MS4;

b. A summary of the number of sites that have Stormwater Management Facilities discharging into their MS4 that were reported to the Municipality;

c. The number of sites with documented functioning Stormwater Management Facilities; and

d. The number of sites that required routine maintenance or remedial action to ensure that Stormwater Management Facilities are functioning as intended.

e. In addition, any persons required to file an annual certification under Section 6.1 of this Ordinance shall include with the annual certification payment in the amount of Twenty Dollars (\$20) to pay the administrative and technical costs of review of the annual certification.

Section 7. Enforcement.

7.1 It shall be unlawful for any Person to violate any provision of or to fail to comply with any of the requirements of this Ordinance or of the Post-Construction Stormwater Management Plan.

Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452.

7.2 Notice of Violation. Whenever the Enforcement Authority believes that a Person has violated this Ordinance or the Post-Construction Stormwater Management Plan, the Enforcement Authority may order compliance with this Ordinance or with the Post-Construction Stormwater Management Plan by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

- a. The abatement of violations, and the cessation of practices, or operations in violation of this Ordinance or of the Post-Construction Stormwater Management Plan;
- b. At the Person's expense, compliance with BMPs required as a condition of approval of the New Development or Redevelopment, the repair of Stormwater Management Facilities and/or the restoration of any affected property; and/or
- c. The payment of fines, of the Municipality's remediation costs and of the Municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation, compliance with BMPs, repair of Stormwater Management Facilities and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

7.3 Penalties/Fines/Injunctive Relief. Any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any Person who violates this Ordinance or the Post-Construction Stormwater Management Plan also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the Municipality for violation of federal and State environmental laws and regulations caused by or related to that Person's violation of this Ordinance or of the Post-Construction Stormwater Management Plan; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this Section.

7.4 Consent Agreement. The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance or of the Post-Construction Stormwater Management Plan for the purposes of eliminating violations of this Ordinance or of the Post-Construction Stormwater Management Plan and of recovering fines, costs and fees without court action.

7.5 Appeal of Notice of Violation. Any Person receiving a Notice of Violation or suspension notice may appeal the determination of the Enforcement Authority to the Board of Appeals in accordance with Chapter 1 Section IV of the Land Use and Development Code. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a *de novo* hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The Board of Appeals may affirm, reverse or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

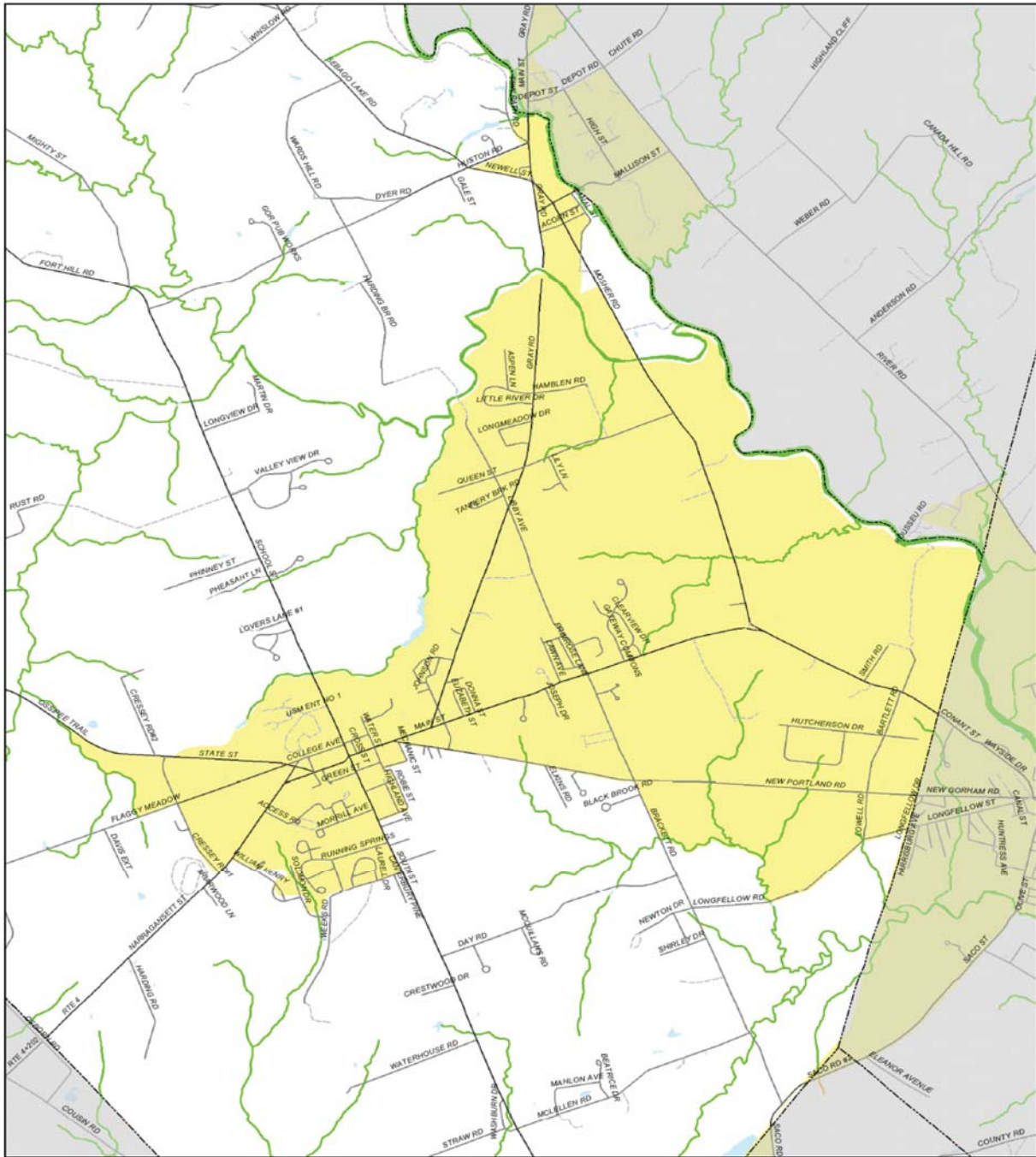
7.6 Enforcement Measures. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming the Enforcement Authority’s decision, then the Enforcement Authority may recommend to the municipal officers that the municipality’s attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 8. Severability.

8.1 The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this Ordinance.

Section 9. Basis.

9.1 The Town of Gorham enacts this “Post-Construction Stormwater Management Control Ordinance” (the “Ordinance”) pursuant to 30-A M.R.S.A. § 3001 (municipal home rule ordinance authority), 38 M.R.S.A. § 413 (the “Wastewater Discharge Law”), 33 U.S.C. § 1251 *et seq.* (the “Clean Water Act”), and 40 CFR Part 122 (U.S. Environmental Protection Agency’s regulations governing the National Pollutant Discharge Elimination System (“NPDES”). The Maine Department of Environmental Protection, through its promulgation of the “General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems,” has listed the Town of Gorham as having a Regulated Small Municipal Separate Storm Sewer System (“Small MS4”); under this General Permit, listing as a Regulated Small MS4 necessitates enactment of this Ordinance as part of the Municipality’s Storm Water Management Program in order to satisfy the minimum control measures required by Part IV D 5 (“Post-construction stormwater management in new development and redevelopment”).



**NPDES Phase II Stormwater Program
Automatically Designated MS4 Areas - Gorham, Maine**

Available As A Google Earth Application At: <http://www.maine.gov/dep/gis/datamaps/>

- Political Boundary
- Regulated Area (2000 Urbanized Area)
- Stream Classification 2008
- AA
- A
- B
- C



APPENDIX 1
Town of Gorham
Annual Stormwater Management Facilities Certification
(to be sent to Code Enforcement Office
75 South Street, Suite 1
Gorham, ME 04038)

I, _____ (print or type name), certify the following:

1. I am making this Annual Stormwater Management Facilities Certification for the following property: _____
(print or type name of subdivision, condominium or other development) located at _____
_____ (print or type address), (the "Property");

2. The owner, operator, tenant, lessee or homeowners' association of the Property is: _____
_____ (name(s) of owner, operator, tenant, lessee, homeowners' association or other party having control over the Property);

3. (Circle One) I am the:
- a. Owner
 - b. Operator
 - c. Tenant
 - d. Lessee
 - e. President of the Homeowners' Association
 - f. A qualified Post Construction Stormwater Inspector

4. I have knowledge of erosion and stormwater control and have reviewed the approved Post-Construction Stormwater Management Plan for the Property;

5. On _____, 20__, I inspected or had inspected by _____
_____, a Qualified Post Construction Stormwater Inspector, the Stormwater Management Facilities, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Post-Construction Stormwater Management Plan for the Property;

6. At the time of my inspection of the Stormwater Management Facilities on the Property, I or the Qualified Post Construction Stormwater Inspector identified the following need(s) for routine maintenance or deficiencies in the Stormwater Management Facilities:

7. On _____, 20__, I took or had taken the following routine maintenance or the following corrective action(s) to address the deficiencies in the Stormwater Management Facilities stated in 6. above:

8. As of the date of this certification, the Stormwater Management Facilities are functioning as intended by the approved Post-Construction Stormwater Management Plan for the Property.

Date: _____, 20__.

By: _____
Signature

Print Name

STATE OF MAINE

_____, ss.

_____, 20__

Personally appeared the above-named _____, the
_____ of _____, and acknowledged the foregoing
Annual Certification to be said person's free act and deed in said capacity.

Before me,

Notary Public/Attorney at Law

Print Name: _____

Mail this certification to the Municipal Enforcement Authority at the following address

Code Enforcement Office
75 South Street, Suite 1
Gorham, ME 04038



STREETS AND SIDEWALKS ORDINANCE

ENACTED: MARCH 3, 2009
EFFECTIVE DATE: MARCH 4, 2009
AMENDED: JULY 7, 2009
AMENDED: FEBRUARY 1, 2011
AMENDED: APRIL 2, 2013
AMENDED: JULY 16, 2013
AMENDED: DECEMBER 6, 2016

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CHAPTER 1 - STREET AND SIDEWALKS

SECTION 1. CONDUCT OF PERSONS

1 .1 It shall be unlawful for any person to loiter in, on, or adjacent to a public way, after having been requested to disperse by a duly authorized law enforcement officer. For the purposes of this ordinance, loitering is defined as the act of standing, sitting, leaning or idling in, on, or adjacent to any street, way, sidewalk, or parking area adjacent to a public way, so as to hinder or impede the passage of pedestrians or vehicles.

1 .2 No person shall in, on or adjacent to any of said streets, ways, parking area, or public places, make, continue or cause to be made or continued any loud, unnecessary, or unusual noise or noises which shall either annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others. The sounding of any horn or signaling device, except as a danger warning, the playing of any radio, musical instrument, phonograph, or any other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of neighboring inhabitants and passers-by; the use of any loud speaker or amplifier for the purpose of commercial advertising or attraction of the public to a specific building, location or business, yelling, shouting, hooting, whistling, or singing shall be considered to be loud, disturbing, and unnecessary noises and a violation of this ordinance but such enumeration shall not be deemed exclusive.

1 .3 It shall be unlawful for any person to drink any malt, vinous, or spirituous liquors upon any streets, sidewalks, or any public way, or parking area adjacent to a public way.

1 .4 It shall be unlawful for any person or persons to enter or remain on public land known as Fort Hill Park, 1/2 hour after sunset up to sunrise.

SECTION 2. PARKING REQUIREMENT

2.1 Standing or parking close to curb - No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within twelve (12) inches of the curb or edge of the roadway except as otherwise provided in this article.

2.2 Signs or marking indicating angle parking

- A. The Police Chief shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any Federal-aid or State highway within this town unless the Maine Department of Transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

2.3 Obedience to angle-parking signs or markings - Upon those streets which have been signed or marked by the Police Chief for angle parking, no person shall park or stand a vehicle other than at the angle at the curb or edge of the roadway indicated by such signs or markings.

2.4 Stopping, Standing, or Parking Prohibited in Specified Places

- A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk

2. Within 5 feet of a public or private driveway.
3. Within an intersection
4. Within 10 feet of a fire hydrant
5. On a crosswalk
6. Within 20 feet from the center of a crosswalk at an intersection
7. Within 30 feet upon the approach to any flashing beacon, stop signs, or traffic-control signal located at the side of a roadway; unless otherwise indicated by signs or pavement markings.
8. Within 50 feet of the nearest rail of a railroad crossing
9. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when property signposted).
10. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
11. On the roadway side of any vehicle stopped or parking at the end or curb of a street - so called "Double Parking"
12. Upon any bridge or other elevated structure upon a highway
13. At any place where official signs prohibit stopping

2.5 Parking not to obstruct traffic - No person shall park any vehicles in the travel lane of a street in a manner to obstruct traffic.

2.6 All night parking prohibited - No person shall park a vehicle on the street between the hours of midnight and 6 a.m. from November 1st to May 1st.

2.7 Parking for certain purposes prohibited - No person shall park a vehicle upon any roadway for the principal purpose of:

- A. Displaying such vehicle for sale.
- B. Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

2.8 Parking adjacent to schools

- A. The Police Chief is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.
- B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

2.9 Parking prohibited on narrow streets

- A. The Police Chief is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.
- B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

2.10 No stopping, standing or parking near hazardous or congested places

- A. The Police Chief is hereby authorized to determine and designate by proper sign areas in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- B. When official signs are erected at hazardous or congested places as authorized herein no person shall stop, stand or park a vehicle in any such designated place.

2.11 Handicapped parking

- A. It shall be unlawful for any vehicle to park in a parking space(s) designated as a handicapped parking space without first displaying a special registration plate or placard issued under Title 29A, Section 521 of M.R.S.A. or a similar plate issued by another state, providing that such area(s) after being designed as a handicapped parking space(s) are signed and posted adjacent to and visible for each handicapped parking space a sign consisting of a profile view of a wheelchair with occupant in white on a blue background, and bearing the following warning: Handicapped Parking.

SECTION 3 – LOADING ZONES

3.1 Police Chief to designate curb loading zones - The Police Chief is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

3.2 Standing in passenger curb loading zone - No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when regulations applicable to such curb loading zone are effective, and then only for a period not to exceed 5 minutes.

3.3 Standing in freight curb loading zone - No person shall stand or park a vehicle for any purpose or length of time than for the expeditious unloading and delivery or pickup and unloading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

SECTION 4 - STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS

4.1 Application of article - The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when in compliance with the directions of a police officer or official traffic-control device.

4.2 Regulations not exclusive - The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

4.3 Parking prohibited at all times on certain streets - When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described in Schedule A attached to and made a part of this ordinance.

4.4 Parking time limited on certain streets - When signs are erected giving notice thereof, no person shall park a vehicle for longer than one hour at any time (a) between the hours of 7 a.m. and 7 p.m.

on any day except Sundays and public holidays upon any of the streets described in Section 1 of Schedule B attached to and made a part of this ordinance; or (b) between the hours of 7 a.m. and 4 p.m. of any day except Sundays and public holidays upon any of the streets described in Section 2 of Schedule B attached to and made a part of this ordinance.

4.5 Parking time limited on certain streets - When signs are erected giving notice thereof, no person shall park a vehicle for longer than two hours at any time between the hours of 7 a.m. and 7 p.m. on any day except Sundays and public holidays upon any of the streets described in Section 4 of Schedule B.

4.6 Parking prohibited at certain times on certain streets - When signs are erected giving notice thereof, no persons shall park a vehicle at any time between the hours of 6 a.m. and 4 p.m., Monday through Friday upon any of the streets described in Schedule D attached to and made a part of this ordinance.

4.7 Parking signs required - Whenever by this or any other ordinance of this Town any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the Chief of Police to cause to be erected appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense. Parking and No Parking signs are placed on the street at an angle, so that they may be viewed from a vehicle while parking. Signs have arrows indicating the direction of parking and no parking. You must picture the sign to be parallel with the roadway.

SECTION 5 – OVERHEAD SIGNS

5.1 The Town Manager is authorized to place overhead signs at appropriate locations indicating traffic movement and direction and also to place signs indicating that pedestrians have the right of way on crosswalks.

SECTION 6 - EMERGENCY HAZARDS

6.1 The Town Manager, or his designee, with the advice of the Chief of Police and the Public Works Superintendent, shall be authorized to establish emergency parking, traffic or pedestrian regulations in the instance of civil emergencies, including but not limited to fire, rescue, holocaust, construction, snow or other weather storms. Such regulations shall be of a temporary nature and shall be conspicuously posted. Any posting of such regulations adjacent to a street shall be prima facie evidence that such posting was done in conformance with this ordinance and it shall be unlawful for any person to violate any posted emergency regulations.

6.2 The Chief of Police or his designee may cause any vehicle parked, disabled or abandoned on any Town way at a place, in a manner or for a length of time prohibited by this ordinance or in violation of emergency parking, traffic or pedestrian regulations under Section 1 of this Article to be removed from the way and brought to a garage, storage place, parking place or Town property.

SECTION 7 - SIDEWALKS

7.1 It shall be unlawful for any person to use a sidewalk or other pedestrian way for the use of any motorized vehicle (except for the purpose of Public Works), or horseback riding.

SECTION 8 - STREETS RESTRICTED TO CERTAIN TRAFFIC

8.1 When signs are erected giving notice thereof no person shall drive a three (3), four (4), or five (5) axle through truck anytime upon the streets described in Schedule C, attached to and made part of this ordinance.

SECTION 9 - STREETS RESTRICTED TO ENTERING TRAFFIC

9.1 When signs are erected giving notice thereof no person shall drive a vehicle onto a street marked "Do Not Enter". The following locations are hereby authorized to display said signs:

- A. At State Street and Pine Street thereby prohibiting vehicles from entering Pine from State Street, except for the initial 160 feet for the purpose of entering business parking lots at 76 and 88 State Street.
- B. At Narragansett Street and Alden Lane thereby prohibiting vehicles from entering Alden Lane from Narragansett Street.

SECTION 10 - STREETS RESTRICTED TO RIGHT-TURNS

10.1 When signs are erected giving notice thereof, no person shall turn left when exiting a street onto another street as described in Schedule E when an intersection is marked "No Left Turns".

SECTION 11 - REMOVAL OF SNOW FROM PRIVATE PROPERTY TO STREETS

11.1 No person shall lay, throw, place or plow or cause to be laid, thrown, placed or plowed on or into any public street, any snow or ice from private property. If in the removal of snow or ice from private property it is necessary to temporarily place snow or ice on any public street, such snow or ice shall be immediately removed from the public way by and at the expense of the person that caused it to be placed thereon or caused the hiring of a person to remove said snow or ice.

11.2 No person shall place snow or ice at any intersection or in such location so as to hinder vision of those persons entering a public way.

11.3 During snowplowing operations, the following procedure will be implemented for the night-time hours (12 midnight to 6 a.m.).

- A. In the event that a vehicle is parked in the street or otherwise inhibiting snow removal operations, the plow operators will:
 - 1. Radio to Public Safety Dispatcher with the plate number and description of the vehicle and the vehicle's exact location.
 - 2. Advise the area patrol officer of the violation and if he/she has not already done so on that particular shift he/she will go immediately to that location and issue a parking tag for: overnight parking and/or snow removal violations, (both on the same ticket, if applicable).
 - 3. The dispatcher will then utilize the directory, teletype, or similar communications to determine the registered owner or, if impractical, the responsible party and will call the residence and advise the party to immediately remove the vehicle and will also advise that if they refuse to remove it, the vehicle will be towed at their expense.
 - 4. If no contact is made by telephone, the Public Works Director or the working

highway crew foreman will be called and will determine if the vehicle still needs to be towed. If so, the officer will make a good faith attempt to notify someone at the residence at which it is parked. If the officer is still unable to make notification, the next available wrecker will be called to tow the vehicle.

5. The assigned wrecker will tow the vehicle to its own storage area. The wrecker operator will be responsible for collecting his/her towing charges.
6. Once a vehicle has been towed, the officer will then notify Dispatch to notify Public Works to return to the area to continue snow removal.

11.4 During other snowplowing operations between the “business hours” of 6 a.m. and 12 midnight the following procedures will be implemented.

- A. In the event that a vehicle is parked in the street, the plow operator will notify the responsible party and bring attention to the problem and ask that the vehicle be removed.
 1. Use their lights, horn, or similar communications in a good faith attempt to notify the responsible party and bring attention to the problem and ask that the vehicle be removed.
 2. Should these efforts fail, the plow operator will notify the Public Safety dispatcher of the vehicle plate number, description and exact location (in front of which house).
 3. The dispatcher will then utilize the directory, teletype, or similar communications to determine the registered owner or, if impractical, the responsible party, and will call the residence and advise the party to immediately remove the vehicle and that if they refuse to move it the vehicle will be towed at their expense (if the vehicle is immediately removed no ticket will be issued).
 4. If no contact is made by the telephone, the area patrol officer will be dispatched to the scene and he/she, if not making immediate contact with the registered owner or, if impractical, the responsible party at the residence, will issue a ticket for interfering with snow removal operations.
 5. The Public Works Director or working crew foreman will be called and will determine if the vehicle needs to be towed. If so, the officer will make any additional reasonable attempts at notification (calling known work number, etc.) and being unsuccessful in this attempt will cause the vehicle to be towed as outlined above.
 6. The assigned wrecker will tow the vehicle to its own storage area. The wrecker operator will be responsible for collecting his/her towing charges.
 7. Once the vehicle has been towed, the Officer will then notify Dispatch to notify Public Works to return to the area to continue snow removal.

SECTION 12 - PENALTIES

12.1 Any violation of Section 1 through Section 11 of this ordinance, except as specified in Section 12, paragraph 12.2, shall be punishable by a fine not to exceed \$100 to be recovered for the use of

the Town of Gorham, Maine.

12.2 The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered. Said person charged with a violation of the parking regulations contained in the Streets and Sidewalks Public Safety Ordinance of the Town of Gorham, Maine may waive his right to court action by the payment to the Town of the fees specified below within a period of 15 days from the date of the violation.

- A. For violation of the parking regulations contained in Section 2 of this ordinance, a fee of Twenty-Five (\$25.00) Dollars.
- B. For violation of Section 6, paragraph 6.1 of this ordinance (parking in violation of emergency hazard regulations) a fee of Fifty Dollars (\$50.00)
- C. Immobilize (booting) vehicles with three or more outstanding (unpaid) tickets may be booted if they are ticketed for a violation. In order to get a boot removed, the owner must first pay all unpaid parking tickets, plus a boot fee of Fifty (\$50.00) Dollars. Payments must be made in cash, money order or bank check. No personal checks will be accepted. Payments are to be made at the Gorham Police Department, 270 Main Street, 207-839-5581, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m. After 6:00 p.m., we begin towing and impounding immobilized vehicles at the owner's expense. All outstanding parking tickets and boot fees must be paid to the Town of Gorham as well as any towing and storage fees to the tow company before said vehicles will be released. The individual tow company sets the tow fee. After the first 24 hours, there is an impound/storage fee that is also set by the individual tow company.

12.3 The Town Manager is hereby authorized to have prepared in such form as he deems appropriate, for the use by the Police Department, tickets notifying violators of their right to waive court action upon payment of the fees specified herein within the time limits specified herein.

SCHEDULE A - No Parking Allowed

SECTION 1

Parking shall be prohibited on the following streets:

Academy Street	The easterly side from College Avenue to State Street. The westerly side from 170 feet from College Avenue to a point 45 feet from State Street.
Access Road	The northerly side from Ball Park Road continuing westerly to the driveway of #6 Access Road, a distance of 1,815 feet. The southerly side from the driveway of #7 Access Road easterly to the designated parking spaces located on Access Road for a distance of 200 feet
Alden Lane	Both sides from State Street to College Avenue, a distance of 107 feet.
Church Street	The northerly side 260 feet from School Street The southerly side 190 feet from School Street
College Avenue	The southerly side from 100 feet west of School Street to State Street for a distance of 1,400 feet. The northerly side 160 feet from School Street. The northerly side from State Street to the University of

	Southern Maine fire lane, a distance of 860 feet.
Cross Street	The easterly side 168 feet from Church Street.
Elm Street	The westerly side from Main Street to Preble Street
Gray Road	The westerly side from Huston Road 125 feet southerly. The westerly side from Huston Road 162 feet northerly to the fire hydrant near utility pole #125.
Green Street	On the northerly side 160 feet from South Street
Johnson Road	The westerly side from Main Street to Gray Road. The easterly side 100 feet from Gray Road. The easterly side 75 feet from Main Street.
Lincoln Street	The northerly side from the entrance of Village School to South Street, a distance of 848 feet. The southerly side from the entrance of Village School 100 feet westerly to the driveway of #29 Lincoln Street.
Lombard Street	The west side of Lombard Street
Main Street	The northerly side from 100 feet east of New Portland Road to Cross Street. The southerly side from New Portland Road to South Street. The southerly side beginning 190 feet west of the midpoint of the intersection of Route 202 and Route 25 and extending 310 feet easterly.
Mechanic Street	The easterly side from the New Portland Road to Railroad Avenue. The westerly side from the New Portland Road to Railroad Avenue.
Middle Jam Road	The easterly side from the North Gorham Road to 400 feet north of the North Gorham Road The westerly side from North Gorham Road to 400 feet north of the North Gorham Road
New Portland Road	The northerly side from Main Street to 100 feet east of Mechanic Street The southerly side from Main Street to 100 feet east of Mechanic Street
North Gorham Road	On either side from a distance of 850 feet westerly from the intersection of the North Gorham Road and the Gorham-Windham Municipal boundary. On both sides 200 feet westerly from the intersection of Standish Neck Road.
Ball Park Road	The west side of Ball Park Road from Morrill Avenue to the Access Road
Pine Street	The westerly side from State Street to 200 feet south of State Street
Preble Street	The southerly side from South Street to Elm Street
School Street	The westerly side beginning at CMP pole #1 to the intersection of College Avenue, a distance of 203 feet.

	The easterly side beginning at a point 270 feet north of Main Street and continuing north to the intersection of Church Street, a distance of 60 feet. The westerly side beginning at CMP pole #8 and continuing north to the compact zone line. The easterly side beginning at CMP pole #8 and continuing north to the compact zone line.
South Street	The easterly side from Main Street to 120 feet south of Main Street.
Standish Neck Road	On both sides 125 feet from the intersection of North Gorham Road.
State Street	The southerly side from South Street to 200 feet east of Pine Street within the right-turn lane. The southerly side from Pine Street continuing westerly to the compact zone line. The northerly side from the driveway of #35 State Street continuing westerly to the compact zone line.
Water Street	The westerly side from Main Street to the intersection of Church Street On the easterly side 470 feet from Main Street

SECTION 2

Parking shall be prohibited within the boundaries of Robie Park. These boundaries being: Morrill Avenue on the south side, Ball Park Road on the east side, Access Road on the north side, and the high school parking lot and the unnamed roadway that runs from Morrill Avenue to the high school parking lot on the west side of the park.

SCHEDULE B - Limited Parking

SECTION 1 (One Hour Limit: 7 a.m. – 7 p.m.)

Parking shall be limited to a maximum of one hour between the hours of 7 a.m. and 7 p.m. on the following streets:

Gray Road	The westerly side of Gray Road, between CMP pole #126 southerly to CMP pole #127 for a distance of 164 feet. The easterly side of Gray Road directly across the street from the same CMP poles and for the same distance.
Main Street	The northerly side from School Street to Cross Street
South Street	Town owned parking on the north side of Robie Gym and Town owned parking located in front of Robie Gym on South Street.

SECTION 2 (One Hour Limit: 7 a.m. – 4 p.m.)

Parking shall be limited to a maximum of one hour between the hours of 7 a.m. and 4 p.m. of any day except Sundays and public holidays upon the following streets:

CHAPTER 2 - STREET OPENING ORDINANCE

Section 1. Purpose

1.1 The purpose of this ordinance is to protect the enormous public investment in the streets and roads of Gorham and also to protect the health, safety, and welfare of the traveling public.

Section 2. Definitions, License, Insurance Permit

Definitions:

The following words and phrases, when used in Chapter 2 of this ordinance, shall have the meanings respectively ascribed to them:

- 2.1 Town shall mean Town of Gorham and/or its public works authority.
- 2.2 Excavation shall mean any opening in the surface of a public place made in any manner whatsoever, except an opening in a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.
- 2.3 Facility shall mean pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire tower, pole, pole line, anchor, cable, junction box, or any material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under, or over any public place.
- 2.4 Licensed excavator shall mean any person who has been issued a license by the Town of Gorham to excavate in public places in the Town.
- 2.5 Newly constructed, reconstructed or repaved streets shall mean any street that has been newly constructed, reconstructed or repaved within the last five (5) years.
- 2.6 Permittee shall mean a person who has obtained a permit as required by this article.
- 2.7 Public place shall mean any public street, way, place, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the Town and dedicated to public use, and any dedicated-but-unaccepted street or way.
- 2.8 Substructure shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, wire or utility system appurtenance, or any other similar structures located below the surface of any public place.
- 2.9 Utility shall mean a private company, corporation or quasi-municipal corporation under the direction and control of the Public Utilities Commission, as defined in 35-A M.R.S.A., Section 102 as it may hereinafter be amended.
- 2.10 Major Excavation shall mean repair or replacement of any main utility line, repair or replacement of the majority of utility services lines on any street, any excavation project of a one hundred (100) foot length, or more, or a two hundred and fifty (250) square foot area or greater, or any project complex enough to be deemed major by the Public Works Director.

2.11 Minor Excavation shall be any repair or replacement that is not a Major Excavation.

2.12 Person shall mean any individual, firm, company, association, corporation, trust or governmental authority, partnership, public or private corporation or authority, trust, estate, governmental entity, or agency or political subdivision of a municipality, the State of Maine, or other legal entity, or their representatives, agents or assigns. The singular shall include the plural where indicated by the context.

2.13 Emergency shall mean any event which may threaten public health or safety, including but not limited to leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged underground electrical and communication facilities, or downed overhead pole structures.

Section 3. License Required

3.1 No person or utility shall excavate in a public place without holding a valid license for such work from the Town of Gorham. The public works authority shall issue such license upon receipt of an application therefore and the annual license fee, after having satisfied himself or herself of the competency and ability of the applicant to carry on the business of excavating. No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit to do any work under this license; provided, however, that nothing herein shall be construed to prohibit a licensed excavator from doing such work through an authorized agent or employee who is directly and continuously supervised by him while in the performance thereof. A license issued to an excavator may be revoked after notice and hearing, if it is determined by the Town that the licensed excavator has willfully disobeyed any portion of this article.

3.2 The excavator may, within 30 days from the date the permit was revoked, appeal this decision to the Board of Appeals.

3.3 The annual non-refundable excavator license fee shall be established by the Town Council and the Town Council may change the fee at any time as they determine to be in the Town's best interest. The license shall be valid from January 1 to December 31 and contains no prorated provisions.

Section 4. Insurance

4.1 This article shall not be construed as imposing upon the Town of Gorham or any official or employee of the Town any liability or responsibility for damages to any person injured by the performance of an excavation work for which an excavation permit is required under this article, nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this article shall not be construed as authorizing any action that is inconsistent with any private rights in said street or way by the Town for highway or any other purposes. For purposes of this section, every licensed excavator shall maintain at all times a minimum of \$1,000,000.00 public liability insurance coverage protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. Evidence of such coverage shall be a condition precedent to the issuance of any license hereunder and shall be submitted in a form satisfactory to the public works authority.

Section 5. Permit

- 5.1 No person or utility shall make any excavation or fill any excavation in any public place without first obtaining a permit to do so from the Town. A certificate of Public Liability Insurance is required prior to the issuance of any excavation permit, with a minimum of \$1,000,000.00 coverage naming the Town as an additional insured.
- 5.2 No excavation permit shall be issued unless a written application on a form provided by the Town for an issuance of an excavation permit is submitted to the Town. The written application shall state the name and address of the applicant, the name of the public place to be excavated and street number, the beginning date of proposed work, the type of work to be done, signatures of utility approval, the signature of Town departments (if involved), a diagram of the planned excavation on the back of the form.
- 5.3 Utilities, although having to submit an application for a permit to the Town, may contact other utilities involved by phone and the authorized person doing so shall sign the application in the appropriate place. All applications shall be presented to the Town for the issuance of an excavation permit within thirty (30) days from the date of the last utility approval. After the expiration of this thirty (30) day period such application shall become null and void and shall have to be renewed.
- 5.4 In order to obtain a permit, the applicant must be in possession of a current excavator license from the Town of Gorham, and the applicant must be current on all of its financial obligations to the Town.
- 5.5 Excavation work must be started no later than sixty (60) days from this date of the issue of the excavation permit. After the expiration of this sixty (60) day period, such permit shall become null and void and shall have to be renewed.

Section 6. Special Conditions

6.1 Relocation and protection of utilities

The permittee shall not interfere with any existing facility without the written consent of the Town and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. No facility owned by the Town shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus, which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along, or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall

inform itself as to the existence and location of all underground facilities and protect the same against damage.

6.2 Protection and non interference of public property:

- a. The permittee shall not remove, even temporarily, any trees or shrubs which exist in the street area without first obtaining the consent of the appropriate Town department or Town official having control of such property.
- b. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, traffic signal cables or loops and all other equipment designated by the Town.

6.3 Urgent Work

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours including up to twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible.

6.4 Emergency action

Nothing in this article shall be construed to prevent the making of such emergency excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making emergency repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations in accordance with 23 MRSA, Section 3360-A.

6.5 Noise, dust and debris

Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the Town or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb sleep or occupants of the neighboring property.

6.6 Preservation of monuments

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the Town, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Town to do so. Permission to remove or disturb such monuments, reference points or bench marks shall be granted only when no alternative route for the proposed substructure or conduit is available. If the Town is satisfied that no alternative route is available, permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such

permission shall pay all expenses incident to the proper replacement of this monument by the Town or permittee.

6.7 Granite and bituminous curb

No person or utility shall remove, damage, haul away or cause misalignment of any bituminous curb, granite curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the Town. Any curb missing, damaged or misaligned shall be replaced or aligned by the Town at the rate set forth herein and will be charged to the permittee; provided, however, that the Town, at its option, may allow the permittee to replace or realign that portion of the curb damaged by the permittee's excavation. In such event, replacement or realignment shall be done in a manner and under specifications prescribed by the Town and subject to inspection by the Town and shall be completed within a period of ninety (90) days after such authorization to complete such work. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such work and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

6.8 Manholes and/or catch basins

No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames, and/or covers missing damaged or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Public Works Department.

6.9 Excavations in reconstructed streets

Whenever the Town has developed plans to reconstruct a street, the Town or its representative shall give written notice thereof to all abutting property owners, to the Town departments, and to all public utilities that have or may wish to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have sixty (60) days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or facility shall make a written application to the Town explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed and after such street has been reconstructed, no permit shall be granted to open such street for a period of five (5) years unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. The above mentioned five (5) year moratorium for street openings also pertains to all new public or private streets, i.e. new subdivisions or developments that have been accepted in accordance with Town specifications.

6.10 Incurred expenses through repairing and backfilling by Town of Gorham

- a. If the work or any part thereof mentioned in this article for repairing or backfilling the trenches or excavations shall be unskillfully or improperly done, the Town shall cause the same to be skillfully and properly done, and shall keep an account of the expense thereof, and in such case such person or utility shall pay the Town an amount equal to the whole of the expense incurred by the Town with an additional amount of fifty (50) percent. Thereafter, upon completion of the work and the

determination of the costs thereof, the Town shall issue no further or new permits to any person or utility until it shall receive payment of the estimated costs.

- b Any person or utility who continues to violate any section of this article shall receive no further permits until such time as the Town is satisfied that the person or utility shall comply with the terms of this article.

6.11 Maintenance of drawings

Every person or utility owning, using, controlling, or having an interest in substructures, under the surface of the public way used for the purpose of supplying or conveying gas, electricity, communication, impulse, water, steam, ammonia or oil in the Town, shall file with the Town, a map or set of maps each drawn to scale of not less than one (1) inch to fifty (50) feet, showing in detail the plan, location, size and kind of installation, if known, of all new or renewed substructures, except service lines designed to serve single properties. These maps shall be provided to the Town no later than sixty (60) days after the completion date of construction.

6.12 Annual work program to be submitted by utilities

Each year on or before March 31 st, each utility shall submit to the public works authority its planned work program for the ensuing year, which shall not include emergencies and normal house service lines. Thereafter, no permit shall be issued to a utility for excavations not contained within its planned work program, except for emergencies and house service lines, until a prior written application for such excavation shall have been submitted to and approved by the public works authority.

Section 7. Excavation, Resurfacing

7.1 Clearance for vital structures

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops and all other vital equipment as designated by the Town.

7.2 Protective measures and routing of traffic

- a. Safe crossings. The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.
- b. Barriers and warning devices. It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian and bicycle traffic shall be subject to final review and approval of the Public Works Department. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on

Uniform Traffic Control Devices.” Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace light sources.

- c. Normalizations of traffic conditions. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.
- d. Closing of streets. When traffic conditions permit, the Public Works Department, with the approval of the police and fire departments of the Town, may by written approval (or by verbal approval in case of an emergency), permit the closing of streets to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary. The written approval of the Public Works Department may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency on week nights, weekends or holidays the utility company having such emergency shall contact the police and fire departments by phone before closing a street to traffic.
- e. Interference with arterial streets. The permittee is also informed that construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the Town. The full inbound roadway lane width shall be maintained between the hours of 6:45 a.m. and 8:30 a.m. and the full outbound roadway lane width shall be maintained between the hours of 4:00 p.m. and 5:45 p.m.
- f. Shifting traffic to opposite side. The permittee may shift traffic to the opposite side of the roadway to maintain required lane width. The permittee may only make such shift with the approval of the Public Works Department following proper review of detour plans to insure adequate safe two-way traffic flow and proper number and placement of police officers.

7.3 Breaking through pavement in streets and sidewalks

- a. All excavations on paved street and sidewalk surfaces shall be pre-cut in a neat straight line with pavement breakers, saws, or asphalt cutters.
- b. Heavy duty pavement breakers may be prohibited by the Town when the use endangers existing substructures or other property.
- c. Cutouts of the trench lines must be normal or parallel to the trench line.
- d. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.
- e. Unstable pavement shall be removed over cave-outs and over breaks and the sub grade shall be treated as the main trench.
- f. The permittee shall not be required to pay for repair of pavement damage existing prior to the excavation unless his or her cut results in small floating sections that

may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.

- g. When three (3) or more street openings are made in sequence fifteen (15) feet or less, center to center, between each adjacent opening, the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.
- h. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on the other side of the excavation.

7.4 Care of Excavated material

- a. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Town shall have the authority to require that the permittee haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling.
- b. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.
- c. All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Town. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, the boards or bins may be required by the Town to prevent the spreading of dirt into traffic lanes.

7.5 Backfilling of excavation

Crushed stone or sand shall be used to bed all underground utilities and shall be thoroughly compacted under, around and to a minimum of 6 inches above the structure. After being properly bedded, the backfill material, if suitable, shall be the excavated material. If the excavation is not suitable, backfill shall be of a like material approved by the Town. All backfill materials shall be placed in eight (8) to ten (10) inch lifts and thoroughly compacted with approved mechanical compactors. Within eighteen (18) inches of the sub grade of the pavement, gravel shall be used as backfill material consisting of fifteen (15) inches of bank run and three (3) inches of crushed or screened gravel in accordance with the Town's specification. The Town may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in its opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Town. All expense of such tests shall be borne by the permittee.

7.6 Trenches

The maximum length of open trench in an excavation permissible at any time shall be two hundred (200) feet, and no greater length shall be opened for pavement removal,

excavation, construction, backfilling, patching or any other operation without the written permission of the Town.

7.7 Prompt completion of work

After an excavation is commenced, the permittee shall prosecute with diligence and expedite all excavation work covered by the excavation permit and shall promptly complete such work and restore the street as specified in this article. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel by foot or vehicle.

7.8 Excavation during winter

No person or utility shall be granted a permit to excavate or open any street or sidewalk from the time of November first of each year to April fifteenth of the following year unless an emergency or special condition exists and permission is obtained in writing from the Town. Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation existing to the Town before issuance is granted. If a hazardous condition, which could endanger life of property exists, excavation work shall not be delayed by this section, however, a written explanation shall be delivered to the Town as soon as possible and a street opening permit obtained for the opening made.

7.9 Manholes and/or catch basins

No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames, and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Public Works Department.

7.10 Resurfacing of Streets and Sidewalks

- a. Permanent resurfacing by the Town. Permanent resurfacing of excavations in streets shall be made by the Town.
- b. Temporary resurfacing by the permittee. The top surface of backfill shall be covered with four (4) inches compacted depth of bituminous temporary resurfacing material, by the permittee. Such temporary paving material shall be cold mix, except that the permittee may use or the Town may require hot mix. All temporary paving material shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain the temporary paving and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving by the Town, except if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian and vehicular traffic, then the permittee shall maintain barriers and lights where required herein.
- c. Permanent resurfacing by the permittee. Upon completion of the backfilling and temporary resurfacing of an excavation within a public place for the installation of removal of a substructure, the Town, at its option, may allow the permittee to

permanently resurface that portion of the street surface damaged by the permittee's excavation. In such event, permanent resurfacing shall be done in a manner and under specifications prescribed by the Town and subject to inspection by the Town and shall be completed within a period of ninety (90) days after such authorization to complete final resurfacing. If such permanent resurfacing is satisfactory to the Town, all charges for resurfacing except for permit fees, long-term maintenance reserves and Town inspection charges, as herein set forth, will be canceled. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such resurfacing and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

7.11. Inspections

The Town shall make such inspections as are reasonably necessary in the enforcement of this article. The Town shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

Section 8. Fees and Charges

- 8.1 Fee. A non-refundable fee of twenty five dollars (\$25.00) shall be paid for each issuance and for each renewal of an excavation permit. A non refundable fee of fifty dollars (\$50.00) shall be paid for each application and for each renewal of a major excavation permit.
- 8.2 Waiver of Fees. The Town Manager may waive all permit fees in streets, sidewalks, or driveway areas to contractors under contract to the Town (including the Portland Water District), the Maine Department of Transportation, or the Town of Gorham.
- 8.3 Cost of Replacement. Charges shall be established and updated from time to time by order of the Town Council to cover the cost of replacement of the street or sidewalk after openings under this article, which charges shall not be in excess of the reasonable cost of such replacement.
- 8.4 Major Excavation Projects.
- a. For major excavation projects (as defined in Section 2.10 of this ordinance), the application fee shall be fifty (\$50.00) dollars. Applicants must post a performance bond equal to 105% of the estimated excavation costs of the project (as determined by the Public Works Director or the Director's designee) or twenty thousand (\$20,000) dollars, whichever is more, for a minimum of twelve (12) months or the duration of the project, whichever is more.¹
 - b. Applicants must agree in writing to repair any excavation work to Town standards.
 - c. Applicants must agree in writing to warranty their work until the street, where the excavation work was done, is repaved.

¹ Amended July 7, 2009

8.5 Special Conditions.

- a Where three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall be charged for one opening measured from the first opening to the last opening.
- b The Town of Gorham reserves the right, after due notice:
 1. To provide such supervision and inspection as the Town may deem necessary.
 2. To re-excavate and backfill as may be necessary.
 3. If the area is improperly and unsatisfactorily cleaned up, to clean up the area.
 4. To charge the holder of the permit the cost of all work performed under reservations (1,2, and 3 above); which charge will be in addition to the normal fee for street openings and will be included in the final bill to permit holder.
- c In streets where the Town has installed new sanitary sewer or storm drain and the pavement on such streets is in need of major repair, the Town may waive up to fifty (50) percent of the total street opening repair charge to utilities and individuals having work to do on such streets.

Section 9. Billing Procedures

- 9.1 Upon completion of the excavation work and after settlement has stabilized, a measurement shall be made by the Town of the size of the opening and a bill will be mailed to the permittee depending upon the costs of the opening to be repaired. Cost of repair of the opening will be a factor of the total number of square yards multiplied by the appropriate rate as set forth herein. Bills rendered in accordance with this section shall be due and payable by the permittee immediately upon receipt thereof. If a permittee does not pay any such bill within thirty (30) days after receipt, the Town shall issue no further permits to any such permittee until it receives payment of such outstanding bill.

Section 10. Penalty

- 10.1 Any person, firm or corporation who violates any of the provisions of Chapter 2 of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than One thousand dollars (\$1 ,000.00) for the first offense and not less than Two thousand (\$2,000) dollars for the second and subsequent violation and shall be subject to any legal and equitable remedies as may be available to the Town. Each day such violations continue shall constitute a separate offense.

If the work or any part thereof mentioned in the preceding sections of repairing or backfilling the trenches or excavations aforesaid shall be unskillfully or improperly done, the Town shall cause the same to be skillfully and properly done, and shall pay the Town an amount equal to the whole of said expense incurred by said Town with an additional amount of fifty (50) percent. Thereafter, upon completion of the work and the determination of the costs thereof, the Town shall issue no further or new permits to any person or utility until it shall receive payment of said costs.

Any person or utility who continues to violate any section of this article shall receive no further permits until such time as the Town is satisfied that the person or utility shall comply with the terms of this article.

Section 11. Liability of Town

- 11.1 This article shall not be construed as imposing on the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of an excavation work for which an excavation permit is issued hereunder; nor shall the Town or any official or employee of the Town be deemed to have assumed any such liability or responsibility by reason of inspections authorized by this ordinance, the issue of any permits, or the approval of any excavation work.

Section 12. Validity and Severability

- 12.1 If any section or provision of this ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Section 13. Conflicts with Other Ordinances

- 13.1 This ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw or provision of law. If this ordinance conflicts with any other ordinance, regulation, bylaw, or provision of law, the greater restriction shall prevail.

CHAPTER 3 – RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

Section 1. Purpose and Authority

- 1.1 The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Gorham which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of Town ways and bridges, and to reduce the public expense of their maintenance and repair.

Section 2. Definitions

- 2.1 The definitions contained in Title 29 M.R.S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices

- 3.1 The municipal officers, the Town Manager or the Town Manager's designee may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the Town ways and bridges to which the restrictions shall apply.
- 3.2 Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.
- 3.3 The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the appropriate municipal officials.
- 3.4 The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelway. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.
- 3.5 No person may remove, obscure or otherwise tamper with any notice so posted except as provide herein.

Section 4. Exemptions

- 4.1 The following vehicles are exempt from this ordinance;
 - (a) any two-axle vehicle while delivering home heating fuels;
 - (b) any vehicle while engaged in highway maintenance or repair under the direction of the State or Town;
 - (c) any emergency vehicle (such as firefighting apparatus or ambulances) while responding to an emergency;

- (d) any school transportation vehicle while transporting students;
- (e) any public utility vehicle while providing emergency service or repairs;
- (f) any vehicle making regular delivery or pickup of agricultural products such as feed delivery and milk pickup vehicle serving dairy farms;
- (g) any vehicle making regular pickups of normal household solid waste. (This exemption does not include demolition debris, metal goods, bulky waste, etc.); and,
- (h) any vehicle whose owner or operator holds a valid permit from the municipal officers, the Town Manager or the Town Manager's designee, as provided herein.

Section 5. Permits

- 5.1 The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Town Manager or the Town Manager's designee for a permit to operate on a posted way or bridge notwithstanding the restriction. The Town Manager or the Town Manager's designee may issue a permit only upon all of the following findings:
- (a) no other route is reasonably available to the applicant;
 - (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and,
 - (c) the applicant has tendered cash, a bond or other suitable security running to the Town in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same. Applicants are still responsible for any damage which occurs in excess of the bond amount and must provide sufficient funds within sixty (60) days of receiving written notice to pay for all damages.
- 5.2 Even if the Town Manager or the Town Manager's designee makes the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways.
- 5.3 In determining whether to issue a permit, the Town Manager or the Town Manager's designee shall consider the following factors:
- (a) the gross registered weight of the vehicle;
 - (b) the current and anticipated condition of the way or bridge;
 - (c) the number and frequency of vehicle trips proposed;
 - (d) the cost and availability of materials and equipment for repairs;
 - (e) the extent of use by other exempt vehicles; and,
 - (f) such other circumstances as may, in their judgment, be relevant.

- 5.4 The Town Manager or Town Manager's designee may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number of frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Permit Fees

- 6.1 There shall be a fee of fifteen dollars (\$15) for any permit that runs for less than eight (8) consecutive days. There shall be a fee of twenty-five dollars (\$25) for any permit that runs for eight (8) consecutive days or longer. No permit may be issued for more than four (4) months.

Section 7. Administration and Enforcement

- 7.1 This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as the Public Works Director, Code Enforcement Officer, Police or other Law Enforcement Officer).

Section 8. Penalties

- 8.1 Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$25.00 nor more than \$5,000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.
- 8.2 Prosecution shall be in the name of the Town of Gorham and shall be brought in the Maine District Court.

Section 9. Severability; Effective Date

- 9.1 In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

Section 10. Amendment

- 10.1 This ordinance may be amended by the municipal officers at any properly noticed meeting.

VARIANCE REQUESTS ON VACANT PROPERTY

ORDINANCE REGARDING NEW SYSTEM VARIANCE REQUESTS ON VACANT PROPERTY

Enacted January 3, 1995
Effective Date February 3, 1995

SECTION 1 - SUBSURFACE WASTEWATER DISPOSAL VARIANCES FOR RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT

For an application for a New System Variance under the Maine State Plumbing Code to be approved and signed by the Town Manager on behalf of the Town Council prior to submission to the Department of Human Services, all of the following conditions must be met:

- A. The site must score a minimum of 75 points on the variance rating system of said Code or there must be two sites that each scores between 65 to 74 points on the variance rating system of said Code and that are accessible to the proposed structure, as determined by the Code Enforcement Officer;
- B. The site must be a lot which has existed in its present size and shape since January 1, 1980; and
- C. The lot must meet the minimum lot size for the zoning district in which it is located.

This Section 1 applies to improved properties proposed to be improved by residential dwellings or by non-residential structures or buildings requiring a new system variance for subsurface waste disposal systems.

SECTION 2 - VARIANCES FOR HOLDING TANK SYSTEMS FOR COMMERCIAL INDUSTRIAL DEVELOPMENT

For an application for a New System Variance under the Maine State Plumbing Code (to install a holding tank) to be approved and signed by the Town Manager on behalf of the Town Council prior to submission to the Department of Human Services, the following conditions must be met, which conditions are in addition to any and all conditions and requirements of the Maine State Plumbing Code, as amended from time to time:

- A. The applicant shall submit evidence that no other reasonable disposal alternative is available on the site;
- B. The installation of holding tank systems shall be limited to proposed commercial or industrial uses which generate one hundred (100) gallons or less per day.
- C. The proposed use shall not require or provide any rest room facilities for use by the general public;
- D. The owner of the holding tank system shall install a water meter and shall submit to the Licensed Plumbing Inspector on a quarterly basis, evidence of dates and quantities of wastewater removed and water usage records, names of person(s) or firms(s) contracted to remove the wastewater, as well as any other evidence or information that is requested by the Licensed Plumbing Inspector.
- E. The site must be a lot which has existed in its present size and shape since January 1, 1980; and
- F. The lot must meet the minimum lot size for the zoning district in which it is located.

This Section 2 applies only to unimproved properties proposed to be improved by structures or buildings for commercial or industrial uses requiring a new system variance for the installation of a holding tank.

SECTION 3 - APPLICATION REQUIREMENTS

A completed application shall consist of the following submissions:

- A. A completed HHE-200 Form or other suitable documentation prepared by a licensed site evaluator; and
- B. A completed Holding Tank Pumper Agreement between the property owner or lease holder and a licensed septic tank service.

SECTION 4 - APPROVAL REQUIREMENTS

As part of the approval, the Town of Gorham requires that deed covenants be established which:

- A. Note that the subsurface waste water disposal system was installed with a variance and has a possibility of failure or that the holding tank was installed with a variance and requires regular maintenance; and
- B. Require that the lot remain the same in terms of use, size and shape unless changes are approved by the Planning Board or the dwelling, structure, or building is connected to a public sewer system.

SECTION 5 - REPEAL OF THE "POLICY FOR NEW SYSTEM VARIANCE REQUESTS ON VACANT PROPERTY"

The "Policy for New System Variance Requests on Vacant Property" adopted by the Gorham Town Council on September 3, 1985 and amended on November 12, 1985 is hereby repealed.

TOWN OF GORHAM

VICTUALER'S ORDINANCE

Adopted - October 6, 1998
Amended - July 1, 2008
Amended - April 7, 2009

VICTUALER'S ORDINANCE

SECTION 1 PURPOSE

- A. The purpose of this Ordinance is to regulate the sale of prepared food in the Town of Gorham. The regulations are those which the Town Council in a public meeting have clearly found to be necessary in order to protect the general welfare, public safety and health of the Town of Gorham and its citizens.

SECTION 2 LICENSE

- A. Any place where food or drink is prepared or served to the public for consumption on or off the premises shall be licensed annually as a Victualer, in order to operate within the Town of Gorham.
- B. Establishments must be in compliance with all local ordinances and property taxes and local fees must be paid in full prior to the issuance or renewal of a Victualer's License.

SECTION 3 EXCEPTIONS

- A. A public or private school, any non-profit organization selling food or drink, or any booster group raising money for a charitable cause; grocery stores, except those selling food items prepared on the premises; educational activities or public agency programs and food and drink sold only through vending machines shall be exempt from the provisions of this ordinance.

SECTION 4 APPLICATION PROCESS

- A. New Application: New applicants may apply at any time during the year. Applications for a license shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and when submitted to the Town Council shall bear the recommendation for approval or disapproval with reasons noted by the Code Enforcement Officer, the Police Chief, the Fire Chief and the Tax Collector.

A license shall be granted by the Town Clerk if the property in question complies with all Federal, State and local laws and the applicant demonstrates that the premises will be conducted in a healthful and sanitary manner in accordance with the Food Code so as not to jeopardize the public health, safety and welfare and that the applicant is not delinquent in the payment of any taxes or fees owed to the Town of Gorham. A new license, when granted, shall be valid until June 30th, immediately following said granting of license. If the clerk is not satisfied that the application meets all the requirements of this ordinance, the clerk shall submit the application to the Town Council which, after public hearing, shall consider the application.

- B. Renewal License: An existing license may be renewed by the Town Clerk, provided that the holder of the existing license makes application for renewal on or before June 30th. If the holder applies for renewal on or before June 30th, the existing license shall remain in effect until final action of the renewal application. Otherwise, the existing license shall expire on June 30th and an application for a new license must be filed. The Clerk may renew a license only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which after public hearing, shall process the application in the same manner as an application for a new license.

SECTION 5 ADVERTISEMENT AND PUBLIC HEARING

The Town Council shall hold a public hearing prior to considering any application for a Victualers' License applications. Prior to the public hearing applications 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 meeting.

SECTION 6 SECURING, SUBMITTING OF APPLICATION FOR LICENSE

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.

A Victualer's License shall be granted if the property in question complies with all federal, State and local laws and the applicant demonstrates that the Victualer's premises will be conducted in a healthful and sanitary manner so as not to jeopardize the public health, safety and welfare, provided that the applicant is not delinquent in the payment of any taxes or fees owed to the Town of Gorham.

SECTION 7 CLASSES OF LICENSE/FEEES

The Town Council shall establish a Schedule of Application and License Fees.

SECTION 8 SUSPENSION, REVOCATION OF LICENSE

A Victualer's license may, after notice and public hearing, be suspended or revoked by the municipal officers for non-compliance with the ordinances, statutes, and regulations of the Town of Gorham and the State of Maine.

SECTION 9 REINSTATEMENT OF LICENSE

A licensed Victualer may, at any time after the suspension of the license, make an application in writing for the reinstatement of the license to the Town Clerk and such application shall be submitted to the municipal officers.

SECTION 10 PENALTY

Any violation of this ordinance shall be punishable by a fine of not less than three hundred (\$300) dollars for the first offense and not less than five hundred (\$500) dollars for the second and subsequent violation which shall be recovered for the use of the Town of Gorham. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

SECTION 11 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

WASTE WATER ORDINANCE

WASTE WATER ORDINANCE

Adopted October 14, 1986
Effective November 13, 1986

Amended: August 2, 1988
September 6, 1988
February 7, 1989
December 4, 1990

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ARTICLE XIII	- VALIDITY

An Ordinance regulating the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system; and providing penalties for violations thereof: in the Town of Gorham, County of Cumberland, State of Maine.

ARTICLE I - GENERAL

SECTION 1 - SCOPE

The provisions of this ordinance shall apply to and govern sanitary facilities, sewers and wastewater treatment; the excavation, construction, installation, usage, maintenance, extension, alteration, repair, or removal of any building sewer, building drain, or sanitary sewer systems; the type of wastewater prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible. The facilities affirm that these facilities are regulated by Part Two of the State of Maine Plumbing Code and that the said code is enforced by the Town. This ordinance does not impose any additional regulations on non public sewer systems, except as they relate to connecting such systems to the public sewer.

SECTION 2 - INTENT AND PURPOSE

It shall be the intent and purpose of this Ordinance to reduce to the extent practicable, existing pollution and to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the requirements of the State of Maine and the Federal Government. All this is a furtherance of the health, welfare, comfort and convenience of the inhabitants of the Town.

Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for wastewater treatment, none of the provisions of this Ordinance shall be construed to repeal or otherwise interfere with the rights, duties, and/or powers granted to the Portland Water District pursuant to Chapter 433 of the Private and Special Laws of the State of Maine of 1907, as amended.

SECTION 3 - ENFORCING OFFICER

The Superintendent of Sewers as appointed by the Town Council shall administer and enforce the provisions of this Ordinance.

SECTION 4 - PROTECTION FROM DAMAGE

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person(s) violating this provision may be subject to arrest under the charge of criminal mischief as set forth in Maine Revised Statutes Annotated, Title 17-A, Chapter 33, Subsection 806.

ARTICLE II - DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

SECTION 1 "Biochemical Oxygen Demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees centigrade, expressed in milligrams per liter.

SECTION 2 "Building" shall mean a structure built, erected and framed of component structural parts designated for the housing, shelter, enclosure, or support of persons, or property of any kind.

SECTION 3 "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain extends eight (8) feet outside the inner face of the building wall.

SECTION 4 "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.

SECTION 5 "Chemical Oxygen Demand (COD)" shall mean the quantity of oxygen utilized in the chemical oxidation of matter under standard laboratory procedure, expressed in milligrams per liter.

SECTION 6 "DEP" shall mean State of Maine Department of Environmental Protection.

SECTION 7 "Domestic Wastes" shall mean liquid wastes and liquid-borne wastes discharged from sanitary convenience such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens, and floor drains free of industrial wastes or toxic materials.

SECTION 8 "Easement" shall mean an acquired legal right for the specific use of land owned by others.

- SECTION 9 "EPA" shall mean United States Environmental Protection Agency.
- SECTION 10 "Fats, Oil, and Grease (FOG)" shall mean material in a physical state such it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of FOG if it is properly pretreated and the wastewater does not interfere with the wastewater facilities.
- SECTION 11 "Force Main" shall mean any sanitary sewer carrying wastewater under pressure as in a pump discharge or inverted siphon.
- SECTION 12 "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
- SECTION 13 "Industrial Wastes" shall mean the wastewater from industrial processes, trade or business, or any source other than those defined in "Domestic Wastes."
- SECTION 14 "Natural Outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- SECTION 15 "Owner" shall mean the owner of record according to the Town's Tax Assessor files.
- SECTION 16 "Person" shall mean any individual, firm, company, association, society, corporation, municipal or quasi-municipal agency, state agency, federal agency, or other legal entity.
- SECTION 17 "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is a weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration 10^{-7} .
- SECTION 18 "Pollutant" shall mean to include but is not limited to dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discharged equipment, rock, sand, dirt, and industrial municipal, domestic, commercial, or agricultural wastes of any kind.
- SECTION 19 "Portland Water District" or "District" shall mean the Portland Water District, Portland, Maine and its elected and appointed officials acting in an authorized manner.
- SECTION 20 "Private Wastewater Disposal System or Sewer" shall mean non-public sewage disposal facilities as permitted under the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations or non-public wastewater facilities as licensed by the DEP.
- SECTION 21 "Properly Shredded Garbage" shall mean the wastes from the handling, preparation, cooking, and serving of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 10mm (0.39 inch) in any dimension.
- SECTION 22 "Public Sewer" shall mean a common sewer owned, operated, and maintained by the Town of Portland Water District.
- SECTION 23 "Readiness to Serve Fee" shall mean an annual fee assessed to a property which abuts a public sewer having available to it a connection stub.
- SECTION 24 "Sanitary Sewer" shall mean a sewer that carries liquid and water-carried wastes from residencies, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- SECTION 25 "Septage" shall mean the water, sludge, grit, and all other solid and liquid substances collecting in septic tanks, cesspools, and other similar devices.
- SECTION 26 "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- SECTION 27 "Sewer User" shall mean the person owning a building connected to or required to be connected to the public sewer.
- SECTION 28 "Shall" is mandatory; "May" is permissive.

SECTION 29 "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation and/or adversely affects the public sewer system and/or adversely affects the public sewer system and/or performance of the wastewater treatment works.

SECTION 30 "Storm Drain" shall mean a drain or sewer for conveying groundwater, surface water, or unpolluted water from any source.

SECTION 31 "Superintendent" shall mean the Superintendent of Sewers as appointed by the Town Council or his authorized Deputy, agent, or representative or other authorized agent of the Town.

SECTION 32 "Suspended Solids (SS)" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods For The Examination of Water and Wastewater" published by the American Public Health Association.

SECTION 33 "Town" shall mean Town of Gorham, Maine and its elected and appointed officials acting in authorized manner.

SECTION 34 "Unpolluted Water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

SECTION 35 "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of liquid and water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground, surface, and stormwaters as may be present.

SECTION 36 "Wastewater Treatment Works" shall mean an arrangement of devices and structures for treating wastewater, industrial waste, and sludge.

SECTION 37 "Wastewater Facilities" shall mean the pipes, structures, equipment, and processes required to collect, pump, carry away, and treat domestic and industrial wastes and to dispose of the effluent and by-products.

SECTION 38 "Water Course" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

ARTICLE III - USE OF PUBLIC SEWERS REQUIRED

SECTION 1 - UNLAWFUL DISPOSAL OR DISCHARGE

Except as provided under the Rules of the Maine Department of Human Services, Division of Health Engineering, known as the State Plumbing Code, Part II, and except in accordance with provisions for licensing by the Maine Department of Environmental Protection for the discharge of suitably treated wastes, it shall be unlawful to construct or maintain any privy, vault, septic tank, cess pool, or other facility intended or used for the disposal of polluted water, wastewater, or human excrement, or to discharge such excrement or water to any natural outlet within the Town, or in any area under the jurisdiction of the Town.

SECTION 2 - CONNECTION TO PUBLIC SEWER REQUIRED

The owners of any building used for human occupancy, employment, recreation, or otherwise contains plumbing systems for conveying water borne waste, situated within the Town and abutting on any street, road, or right-of-way in which there is now located or planned to be located a public sanitary sewer, excluding force mains, is hereby required to connect, at the owner's expense, any said plumbing facilities directly with the public sewer in accordance with the provisions of this Ordinance within 120 days after date of notice by the Superintendent to do so.

The building owner may request in writing to the Superintendent, deferral of this connection requirement on the basis of undue hardship if the building has an existing properly operating private wastewater disposal system, in which case the owner shall demonstrate the nature and degree of hardship. The need for the owner to pump to the public sewer shall not alone be considered a hardship.

If the building owner can provide to the satisfaction of the Superintendent that a suitable private wastewater disposal system is currently in use, the owner shall be exempt from connection to the public sewer but shall be assessed a readiness to serve fee.

During construction of a public sewer, owners of unimproved lots and land abutting such sewer, have the option of having a service stub brought to the edge of the roadway at Town expense, (except as provided in Article IX) in which case the property owner will be assessed the readiness to serve fee.

ARTICLE IV - PRIVATE WASTEWATER DISPOSAL SYSTEMS

SECTION 1 - PUBLIC SEWER NOT AVAILABLE

Where a public sanitary sewer is not available under the provisions of Article III, Section 2, the building shall be connected to a private wastewater disposal system complying with the provisions of this article and the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations or to non-public wastewater facilities licensed by the DEP.

SECTION 2 - PERMIT REQUIRED

Before commencement of construction of a private wastewater disposal system or non-public wastewater facilities licensed by the DEP, the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for a subsurface wastewater disposal permit shall be made on a form furnished by the Division of Health Services, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Plumbing Inspector. A permit and inspection fee as established by the Town Council shall be paid to the Code Enforcement Officer at the time the application is filed.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector. The Plumbing Inspector shall be allowed to inspect the work at any stage of construction and in any event the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Plumbing Inspector.

SECTION 3 - STATE COMPLIANCE

The type, capacities, location and layout of a private wastewater disposal system shall comply with the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations and minimum lot size law (Maine Revised Statutes Annotated) Title 12, Chapter 423-a or as provided and licensed by the DEP as may be amended. No private wastewater disposal system shall be permitted to the discharge to any outlet unless approved and licensed by the DEP.

SECTION 4 - PUBLIC SEWER AVAILABLE

At such time as building with an existing private wastewater disposal system is connected to the public sewer as provided in Article III, Section 2, any septic tanks, cesspools, and similar private wastewater disposal facilities shall no longer be used and shall be cleaned of sludge, and filled with clean bankrun gravel or completely removed with 30 days from connection.

SECTION 5 - PRIVATE SYSTEM OPERATION

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town. The contents from private wastewater disposal systems shall not be discharged to the public sewer.

SECTION 6 - ADDITIONAL REQUIREMENTS

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Town's Health Officer, Building Inspector or Code Enforcement Officer.

SECTION 7 - CLUSTER SYSTEMS PROHIBITED

No new cluster private waste disposal facility shall be approved for uses first established after December 6, 1988. This section shall not be subject to the granting of a variance under Article XII or otherwise except in the event of failure in the non-clustered systems for such uses. A cluster facility is defined to mean any system designed, installed, or operated, or operated to treat wastewater from more than two residences or more than one commercial/industrial structure.

ARTICLE V - BUILDING SEWERS AND CONNECTIONS

SECTION 1 - PERMIT REQUIRED

No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being

discharged into the system shall notify the Superintendent at least forty-five (45) days prior to the proposed change or connection, and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter I, Subsection 361 as determined by the Superintendent.

There shall be two classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner(s) or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for both residential and industrial services as established by the Town Council for the appropriate class shall be paid to the Town at the time the application is filed.

SECTION 2 - COSTS BORNE BY OWNER

All costs and expense incident to the installation and connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

SECTION 3 - SEPARATE BUILDING SEWER REQUIRED

A separate and independent building sewer shall be provided for every building requiring a sewer connection; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, then the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

SECTION 4 - OLD BUILDING SEWERS

Old building sewers may be used in connection with new buildings only when they are found to meet all requirements of this Ordinance and such use is authorized by the Superintendent.

SECTION 5 - METHODS OF CONSTRUCTION

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the State of Maine Plumbing Code and other applicable rules and regulations of the Town.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. If determined by the Superintendent that a clogged street sewer could cause sewage backflow in the service line and result in damage to the building and/or contents, the Superintendent may require the installation of a backflow preventer valve at the owner(s) expense.

SECTION 6 - BUILDING SEWER INSPECTION

The Superintendent shall be allowed to inspect all building sewers installed pursuant to this Article at any stage of construction and in any event, the applicant for the permit shall notify the Superintendent when the work is ready for inspection and before any underground portions are covered. A timely inspection shall be made by the Superintendent.

No building sewer installation constructed pursuant to this Article can be approved if such sewer is covered prior to inspection.

The owner will be held in violation of this section if the Superintendent has not inspected and approved the installation.

SECTION 7 - CONNECTION BY TOWN

If an existing entrance or connection to the public sewer is not available for a new building sewer connection, the owner shall notify the Superintendent two business days before the expected time of connection. All such connections at the public sewer shall be made by the Town or its agent at the owner(s) expense.

SECTION 8 - STORMDRAIN CONNECTION PROHIBITED

No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer unless such connection is approved by the Superintendent for purposes of disposal of polluted surface drainage.

SECTION 9 - BUILDING DEMOLITION

In the case of buildings being removed or demolished, the building sewer shall be capped at the street right-of-way line to the satisfaction of the Superintendent.

SECTION 10 - STREET & PUBLIC RIGHT-OF-WAY

All street openings, or installations in a public right-of-way shall be performed in strict accordance with Town regulations and approved by the Director of Public Works.

SECTION 11 - CONNECTION TO FORCE MAIN PROHIBITED

No person shall make connection of a building sewer or pipe of any type to force main or inverted siphon which is part of the public sewer system.

ARTICLE VI - USE OF PUBLIC SEWERS**SECTION 1 - STORMWATER**

No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process waters to any sanitary sewer.

Stormwater and all other unpolluted drainage shall be discharged to storm drains, or to natural outlets approved by the Superintendent. Unpolluted industrial cooling water or process water may be discharged, on approval of the Superintendent to a storm sewer, combined sewer, or natural outlet; and the discharge shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subsection 413.

SECTION 2 - PROHIBITED WASTES

No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
- (B) Any waters or pollutants containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant, including but not limited to those substances as defined in standards issued from time to time by EPA and DEP;
- (C) Any water or pollutants having a pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater facilities;
- (D) Any solid or viscous substances in such quantities or of such size as capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, disposable diapers, wood, unground, garbage, seafood shells, whole blood, paunch manure, hair and fleshings, entails, and paper or plastic dishes, cups, milk containers, etc. either whole or ground by garbage grinders;
- (E) Any waters of pollutants, including oxygen demanding pollutants (DOB, etc.), which released in quantities of flow or concentrations or both constitute a "slug" as defined herein;
- (F) Any heated waters or pollutants in amounts which will inhibit or interfere with biological activity in the wastewater treatment works but in no case heated waters or pollutants in such quantities that the temperature at the wastewater treatment works influent exceeds 40 Degrees C (86 degrees F).

SECTION 3 - LIMITED WASTES

The following described substances, materials, waters, or pollutants shall be limited in discharge to the public sewer to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. The limitations or restrictions of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as

follows:

- (A) Wastewater having a temperature higher than 60 degrees C (140 degrees F);
- (B) Wastewater containing more than 25 mg/l of petroleum oil, nonbiodegradable cutting oils, or products of mineral oil origin;
- (C) Wastewater containing fats, oils and grease, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one Hundred Fifty (150) degrees F (0 and 65 degrees C);
- (D) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food, in kitchens for the purpose of consumption on the premises, or when served by caterers;
- (E) Wastewater containing any hexavalent chromium, aluminum, iron, tin, fluorides, arsenic, phenols, chlorides, sulfates, or mercury; or the following metals in concentrations exceeding those listed:

METAL	MAXIMUM FOR ANY ONE DAY (mg/l)	AVERAGE OF DAILY VALUES FOR 30 CONSECUTIVE DAYS
CADMIUM	0.064	0.016
CHROMIUM	2.87	0.80
COPPER	3.72	1.09
LEAD	0.67	0.23
NICKEL	3.51	1.26
SILVER	0.44	0.13
ZINC	2.64	0.80

- (F) Wastewater containing odor-producing substances exceeding limits which may be established by the Superintendent;
- (G) Any radioactive wastes or isotopes which exceed limits established by applicable state or federal regulations or standards;
- (H) Wastewater containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;
- (I) Wastewater which, by interaction with other water or pollutants in the public sewer system, release obnoxious gases, form suspended solids which interfere with the public sewer system, or create a condition deleterious to the wastewater facilities;
- (J) Any wastes having color not removable by the treatment works;
- (K) Any wastes having average BOD in excess of 400 mg/l;
- (L) Any wastes having average COD in excess of 600/l;
- (M) Any wastes having average SS in excess of 400 mg/l;
- (N) Any wastes having dissolved solids in such quantity and character as compatible with the wastewater treatment works.

SECTION 4 - TOWN OPTIONS FOR PROHIBITED WASTES

If any waters or pollutants are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 2 or 3 of this Article, and which in the judgment of the Superintendent may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (A) Reject the waters of pollutants;
- (B) Require pretreatment to an acceptable condition for discharge to the public sewers, and/or;
- (C) Require control over the quantities and rates of discharge, and/or;

- (D) Require payment to cover the added costs of handling and treating the wastes.

SECTION 5 - PRETREATMENT OR FLOW EQUALIZATION

If the Superintendent requires or permits the pretreatment or equalization of waste flows, the design and installation of the pretreatment or equalization plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, laws, and the municipal discharge permit. All such pretreatment or flow-equalization facilities shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

SECTION 6 - GREASE AND SAND TRAPS

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 3(C), or any flammable wastes, sand, and other harmful ingredients. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located outdoors as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner, shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials, not performed by the owner must be performed by currently licensed waste disposal firms.

SECTION 7 - INDUSTRIAL WASTE PERMIT REQUIRED

All discharges of industrial wastewater are required to obtain a permit from the Superintendent. All permits and applications for permits shall be in a form determined by the Superintendent and shall include an application fee established by the Town Council. In cases where the Town incurs administrative or outside professional costs in preparing such applications, such costs shall be charged directly to the applicant. Each permit shall have an annual expiration date. Such permits shall require compliance with all federal and state pretreatment standards and may include other requirements imposed by the Superintendent.

SECTION 8 - INDUSTRIAL WASTE MONITORING

(A) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial pollutants shall install a suitable structure together with such necessary meters, and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such located and constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(B) All measurements, tests, and analyses of the characteristics of waters and pollutants to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods For The Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the structure as required in Paragraph A of this section, or upon suitable samples taken at the upstream and downstream manholes in the public sewer nearest to the point at which the building sewer is connected.

(C) All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records, and reporting the results of such monitoring to the Superintendent. Such records shall be retained by the owner for a minimum of three (3) years and made available upon request by the Superintendent to the Portland Water District, DEP or EPA.

(D) All sampling and testing shall be carried out by the qualified person at the owner's expense. The method and location of sampling and quality of testing is subject to approval of the Superintendent. Any users of public sewers discharging or causing to be discharged into such public sewers any industrial wastes shall provide the Superintendent with samples, when requested.

SECTION 9 - EPA PRETREATMENT REGULATIONS

The municipality shall develop and the Superintendent shall enforce pretreatment regulations for existing and new sources of pollution that are discharged or proposed to be discharged into the municipality-owned wastewater treatment facilities as set forth in Title 40, Chapter 1, Part 128 and Part 403 of The Final Rules of the United States Environmental Protection Agency.

SECTION 10 - EXCLUSION OF INDUSTRIAL WASTE

The Superintendent, with approval of the Town Manager, shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the municipal sewers whenever, in his or her opinion, such action is necessary for the purpose of determining the effects of such wastes upon the public sewers or wastewater facilities. The Superintendent shall notify the affected user prior to taking such actions, and shall afford the user a reasonable time for response. The Superintendent shall have the authority to take actions necessary to halt the discharge of pollutants from any user to the treatment works which reasonably appears to present an imminent endangerment to the wastewater facility or to the health or

welfare of persons. Such actions shall be preceded by notification, oral or written to the user.

SECTION 11 - ADDITIONAL INFORMATION REQUIRED

The Superintendent may require a user of sewer services to provide information needed to determine compliance with this Ordinance. These requirements may include:

- (A) Wastewater discharge rates and volumes (average, minimum, peak) over a specified time period.
- (B) Chemical analyses of wastewaters.
- (C) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (D) Quantity and disposition of specified liquids, sludge, oil, solvent, or other materials important to sewer use control.
- (E) An engineering drawing by a registered engineer on sewers of the user's property showing sewer and pretreatment facility location and details of wastewater pretreatment facilities.
- (F) Details of systems to prevent and control the losses of materials through spills to the public sewer.

SECTION 12 - SPECIAL ARRANGEMENTS

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Town and any industrial sewer user whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore by the industrial sewer user; provided that such agreements do not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder, and are compatible with any user charge system in effect.

ARTICLE VII - POWERS AND AUTHORITY OF SUPERINTENDENT

SECTION 1 - RIGHT OF ENTRY

The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the public sewer system in accordance with the provision of this Ordinance.

SECTION 2 - PROCESS INFORMATION

The Superintendent or other duly authorized employees or agents are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the public sewer system. The industry may request that such information be kept confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

SECTION 3 - SAFETY ON PRIVATE PROPERTY

While performing the necessary work on private properties referred to in Article VII, Section 1, the Superintendent or duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the owner and the owner shall be held harmless for the injury to death to the Superintendent, employees or agents and the Town shall indemnify the owner against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.

SECTION 4 - EASEMENT ENTRY

The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town or Portland Water District holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE VIII - PENALTIES

SECTION 1 - WRITTEN NOTICE OF VIOLATION

Any person found to be violating any provision of this Ordinance, except Article I, Section 4 and Article VI, Section 10 shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

SECTION 2 - FINES

Any person who shall continue any violation beyond the time limit provided for in Article VIII, Section 1, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not less than \$100.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

SECTION 3 - LIABILITY FOR PUBLIC EXPENSE

Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned the Town or the Portland Water District by reason of such offense including:

- (A) Any physical impairment of the wastewater facilities.
- (B) Any fines which the Town or the Portland Water District may be required to pay as a result of such offense.

SECTION 4 - INJUNCTIVE RELIEF

Notwithstanding any of the foregoing provisions, the Town or Portland Water District may institute any appropriate action including injunction or other proceedings to prevent, restrain, or abate violations hereof.

ARTICLE IX - SEWER EXTENSIONS

SECTION 1 - NEW SUBDIVISIONS

Any person who subdivides land within the Town, of which any part either is located within 500 feet of a public sanitary sewer, or is located that it can be connected to such a public sanitary sewer without undue hardship, as determined by the Planning Board, shall, if such subdivision has not been finally approved before the effective date of this Ordinance, and assuming capacity exists in the sewer system as determined by the Town Council, will, at his own expense, construct for dedication to the Town a sanitary sewer extension to serve all structures within such subdivision which will require the disposal of wastewater. Such sanitary sewer shall be designed by a registered engineer, its design shall be approved by the Town and its design, construction and acceptance shall be in accordance with the provisions of Article IX, Section 3, 4 and 5.

SECTION 2 - EXISTING BUILDINGS

Any one or more property owners, builders or developers may propose the extension of any sanitary sewer within the Town by presenting to the Town Council a petition therefore signed by the owners of at least two-thirds (2/3) of the buildings and properties which would be required to connect to such sewer or be assessed a readiness to serve charge under the provisions of Article X. If the Council does allow the construction of such extension, it may permit the petitioners to construct the same for dedication to the Town upon a determination that such extension is consistent with Town plans for public sewers, is properly located and sized and may lawfully be so constructed. The Council may also elect to participate in the cost of extending the sanitary sewer if circumstances deem it to be in the best interest of the Town. Such sanitary sewer shall be designed by a registered engineer, its design shall be approved by the Town and its design, construction and acceptance shall be in accordance with the provisions of Article IX, Section 3, 4 and 5. Any sewer extension shall be of adequate size and depth to permit further extensions of sewer service.

SECTION 3 - PROCEDURAL REQUIREMENTS

Any person constructing a sanitary sewer extension in accordance with Article IX, Section 1 and 2, shall pay for the entire installation, including all expenses incidental thereto including design review by a registered engineer. Each building sewer must be installed and inspected as required under Article V and all connections shall be made as required under Article V; permit and inspection fees shall be paid for each building sewer connection to the sanitary sewer extension in accordance with Article V. The installation of the sewer extensions must be subject to periodic inspection by the Superintendent and the expenses for this inspection shall be paid for by the owner, builder or developer.

SECTION 4 - PUMP STATION DESIGN

Sewer and pump station design shall be in accordance with the sewer design specifications adopted by the Town. Pump station telemetry shall be in accordance with the requirements of the Portland Water District. The Portland Water District shall approve, prior to installation, all necessary instrumentation for all pump stations. All pump stations with an installed design capacity greater than 150 gallons per minute shall be designed and constructed by the Portland Water District, with the developer or the property owners requiring the pump station paying all of the costs.

SECTION 5 - BUILDING PERMIT REQUIREMENT

No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the Town, unless a suitable and approved method of sewage disposal is proposed and approved by the Town.

SECTION 6 - EXTENSION POLICY

Notwithstanding the provisions of Section 1 and Section 2 above, no extension of the Gorham Public Sewer systems shall be authorized until the earlier of June 30, 1991 or such time as the Town Council enacts an amendment to this ordinance providing for a sewer extension policy; provided, however, until the earlier of those two events, providing public sewer service to the following areas shall not constitute an extension:

- A. Land, including travel or utility easement interests therein, which are either crossed by or abut that portion of a public way or easement area through which the Gorham sewer systems run, provided that this exemption shall be limited to such lands and contiguous lots in common ownership as evidence by a deed recorded in the Cumberland County Registry of Deeds on or before July 1, 1988 provided, further, in the Narragansett Game Sanctuary (as defined by statute), this exemption will allow only one single family house hook-up per lot of record as of said date; or
- B. Land zoned Industrial on the official Town zoning map for permitted uses only under Chapter I, Section XII-B of the Land Use and Development Code and located within 1500 feet of the Gorham Village public sewer system (as shown on the sewer design plans dated December of 1982, revised through December 1987 and drawn by BH2M Engineers) exclusive of any supplemental service areas pursuant to this section.

SECTION 7 - RESERVATION OF ALLOCATIONS

Subject to the provisions of Section 6 above, and for good cause shown, the Superintendent may upon application grant or reserve allocations for currently unused capacity in the Gorham public sewer systems on the following conditions:

- (1) Filing of a completed development application for review and approval with the applicable Town official or board. Such application must indicate precisely the nature and amount of sewer system capacity required;
- (2) Such application must be prosecuted diligently to completion before all applicable Town and other governmental agencies;
- (3) Such reservations shall remain valid for one year only from date of issuance subject to renewal by the Superintendent prior to expiration on the same terms as originally issued;
- (4) Payment by the applicant at the time of reservation of a non-refundable amount equal to the readiness to service for the proposed project without regard to whether such charge would otherwise be required; and
- (5) Payment by the applicant at the time of reservation of an amount equal to the then-current connection and inspection fees as most recently established by the Town Council which amount shall be refundable if the project does not use the reserved capacity for any reason.

ARTICLE X - SEWER FEES

SECTION 1 - SEWER FEE SYSTEM ESTABLISHED

The Town Council shall establish a sewer fee system in accordance with appropriate federal and state laws, rules and regulations and shall further the equitable allocation of the capital and operating costs of the public sewage system among municipal use, private use, and the availability of use to properties not connected to the system. Subject to these requirements, such charges and any classification thereof shall be fair and reasonable, bearing a substantial relationship to the cost of providing sewage facilities and services to the Town. Such charges shall be at a rate sufficient to approximately 100% of the total annual cost of providing sewage facilities and services to the Town, unless the Town Council elects to offset some capital costs from general Town funds. Such charges shall include adequate revenues for renewal and replacement of the wastewater facilities.

The sewer fee system shall include a financial management system which accounts for sewer system revenues and expenditures.

SECTION 2 - SEWER FEE REQUIREMENTS

- (A) The Town Council is hereby authorized to establish sewer user fees, industrial waste discharge fees, and readiness to serve fees. The Town Council is authorized to levy such fees upon persons owning land abutting on existing or future public sewer for the use of and benefit from such sewer whether or not buildings on such land are connected to such sewer. After public hearing such fees shall be established by the Town Council on no less than an annual basis.
- (B) Sewer user fees shall be based on the amount of water, estimated or measured, as shown on the records of the Portland Water District, provided to the sewer user during the previous billing period; provided however, that where water is obtained from a source or sources other than the Portland Water District, whether or not Portland Water District also supplies water, the computation shall include the amount of water obtained from all sources, unless the user establishes that some water is not entering the sewer system. The Town may require, or the user may opt for, additional metering, either of water sources or of the sewer outflow, to be installed and maintained at the owner's expense where such metering is required to accurately measure the volume of wastewater entering the sewer system.
- (C) Readiness to serve fees shall be charged to properties which abut a public sewer having available to it a connection stub. Such fees can be used only for payment of fixed costs that are not related to flow.
- (D) Each sewer user shall pay a minimum fee regardless of actual water usage. Such minimum fee shall be established by the Town Council on an annual basis.
- (E) Industrial waste surcharge fees shall be charged to users which have or may have industrial wastes discharging to the public sewer system. Such fees may be based on measured or estimated quantities of material exceeding the limits listed in Article VI and on Town costs for administering and monitoring the provisions in Article VI related to industrial wastes.

SECTION 3 - BILLING

- (A) Bills for all charges under this Article are payable by the owner, but may be sent to other persons on request, including the occupant or persons requesting water service if mutually agreeable to the Owner and Town.
- (B) Bills shall be sent periodically at such intervals as the Town Council may determine, and are due and payable on presentation.
- (C) The Town may use the service, procedures, and personnel of the Portland Water District for the purpose of billing and collection of charges under this Article. All such charges billed by the Portland Water District are payable to the District as an agent of the Town.

SECTION 4 - LATE PAYMENTS, LIENS

- (A) Interest at the same rate as that established for unpaid property taxes shall be added to all unpaid bills beginning 30 days after the date of bill.
- (B) There shall be a lien on the property served or to which service is available, to secure payment of the charges and fees established herein, which shall take precedence over all other claims on such real estate, excepting only claims for taxes.
- (C) All delinquent unpaid sewer charges will be turned over to the Treasurer of the Town. The Treasurer of the Town shall have the same authority and power to collect such service charges as are granted by Title 38, Section 1208, and may be amended, to Treasurers of sanitary sewer districts. In addition to the lien established hereby, the Town may maintain a civil action against the party so charged for the amount of said sewer charge in any court competent to try the same, and in such action may recover the amount of such charge with legal interest on the same from the date of said charge and costs.

ARTICLE XI - APPEALS

SECTION 1 - FIRST NOTICE TO SUPERINTENDENT

Any person aggrieved by a determination made under the provisions of this Ordinance, or any person questioning the amount of or the validity of any charge or fee hereunder, shall first contact the Superintendent who may make such adjustments as he deems appropriate within the limits of his authorization in this Ordinance.

SECTION 2 - APPEAL TO SEWER APPEALS BOARD

Any person dissatisfied with the action of the Superintendent may appeal in writing within ten (10) days to the Sewer Appeals Board, which shall within thirty (30) days hold a hearing on the appeal. The Sewer Appeals Board may affirm or amend the Superintendent's action, and it may permit exceptions to or variances from the specific provisions of this Ordinance, including but not limited to, a requirement for added water or sewerage flow metering and reporting. All Sewer Appeals Board adjustments or decisions will be provided in writing and dated.

SECTION 3 - APPEAL TO SUPERIOR COURT

An aggrieved party may appeal the decision of the Sewer Appeals Board to the Superior Courts as provided by the Laws of the State of Maine.

ARTICLE XII - SEWER APPEALS BOARD

SECTION 1 - CREATION AND APPOINTMENT

The establishment of a Board of Sewer Appeals is hereby authorized. The members of the Board shall be appointed by the Town Council. They shall be residents of the Town and shall serve without compensation. In accordance with the laws of the State of Maine, the following provisions shall apply:

- (A) The Board shall consist of five (5) members. A quorum shall consist of three (3) members.
- (B) The term of office of members shall be three years except that initial appointment of members shall be one for one, two for two and two for three years.
- (C) No municipal officer shall be a member of the Board of Sewer Appeals.
- (D) The Town Council may remove a member of the Board of Sewer Appeals. Unexcused absence of any member from three (3) consecutive meetings of the Board shall be considered cause for such removal.
- (E) When there is a permanent vacancy, whether caused by death, resignation, removal or loss of eligibility, the Town Council may appoint a person to serve for the unexpired term.
- (F) The Board of Sewer Appeals shall elect a Chairman and a Secretary from its own membership annually.

SECTION 2 - JURISDICTION

The Board of Sewer Appeals shall have the following powers and duties to be exercised only upon written appeal by a party aggrieved by a decision of the Superintendent, the Health Officer and/or the Plumbing Inspector insofar as such decision arises from requirements of this Ordinance.

- (A) To determine whether the decisions of said officers are in conformity with the provisions of this Ordinance, and to interpret the meaning of this Ordinance in cases of uncertainty.
- (B) To grant variance from the terms of the Ordinance where there is no substantial departure from the intent of the Ordinance and/or, where necessary, to avoid undue hardship. A projected expenditure of an amount exceeding 15 percent of the assessed value of the buildings on the land to be served by the public sewer shall be considered as prima facie evidence of undue hardship.

SECTION 3 - HEARINGS

The Board of Sewer Appeals shall annually determine a regular monthly meeting date. All appeals or other matters to come before the Board, requiring a notice as prescribed herein, shall be filed with the Town Clerk at least fifteen days prior to said next monthly meeting day who shall cause to be advertised in a newspaper of general circulation in the Town of Gorham a notice of such appeal identifying the property involved, the nature of the appeal and stating the time and place of a public hearing of such appeal which shall not be earlier than ten (10) days after the date of such publications.

The Board of Sewer Appeals shall not continue hearings on an appeal to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and to the officer concerned, forthwith. Failure of the Board to issue such notice within (30) days of the date of the hearing shall constitute a denial of said appeal.

ARTICLE XIII - VALIDITY

SECTION 1 - ORDINANCE

All ordinances or parts of ordinances in conflict with this Waste Water Ordinance are hereby repealed.

SECTION 2

The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

**TOWN OF GORHAM
WATER MAIN AND HYDRANT ORDINANCE**

Section 1. Purpose.

This ordinance is intended to provide appropriate regulations for the replacement or extension of water mains in a manner that is consistent with the Comprehensive Plan and to promote the health, safety, and general welfare of the community.

Section 2. Authority.

This ordinance is enacted in accordance with Title 30-A, M.R.S.A., Section 3001 and shall have an effective date of May 6, 2003.

Section 3. Severability.

If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of any remaining portions of this ordinance.

Section 4. Extensions and Replacements Allowed.

4.1 The Town Council may authorize the extension or replacement of public water mains and the provision of fire hydrants in accordance with specifications approved by the Portland Water District to serve private development activities in accordance with 4.2 or to serve public purposes in accordance with 4.3. Extensions to serve public purposes may be initiated by the Town Council or by petition by the property owners to be served by the proposed extension or replacement.

4.2 Water mains may be extended along public ways and provided within public streets and private ways in approved subdivisions within the Town either upon initiation of the Town Council or as required by the Town of a developer pursuant to an application and the provisions of the Land Use and Development Code. The location of all water mains within the public right-of-way must be approved by the Public Works Director. All extensions must conform to specifications approved by the Portland Water District.

4.3 The Town may contract with the Portland Water District to extend or replace water mains and hydrants if deemed in the public interest contingent upon one or more of the following criteria:

- a. The extension conforms to the Town of Gorham's Comprehensive Plan.
- b. The extension conforms to a water main service area Master Plan adopted by the Town Council.
- c. The extension is necessary to provide a safe and portable water supply to an area where the Maine Department of Environmental Protection has investigated and identified a ground water contamination threat.
- d. To address a significant need for public fire protection.
- e. The extension promotes the public health, safety, and welfare or other public purposes.

Section 5. Financing.

5.1 Methods of Funding or Replacement

This ordinance provides for three basic methods for funding the extension or replacement of public water mains depending on the purpose of the project.

5.2 Developer Funding

When water mains and fire hydrants are installed to provide water service for industrial, commercial or residential subdivisions or for residential and nonresidential buildings as required by the Land Use and Development Code, all costs of the extension or replacement shall be paid by the owner or developer unless the Town Council determines that there is a public benefit in the extension. In such cases, the Council may authorize the Town to share in the cost of the water main extension in proportion to the public benefit. All water main extensions or replacement and hydrants must be done in accordance with Portland Water Districts standards and specifications.

5.3 Abutter Costs.

In cases where sixty percent (60%) of abutters of both sides of a street petition the Town Council to approve a water main and hydrant extension or replacement, the Town Council may, after holding a public hearing, set up a development district pursuant to Title 30-A M.R.S.A., Section 5221 and assess each abutter for the cost of the project in accordance with Section 6.

- a. The Town will work with the Portland Water District to develop an estimate of project costs and to calculate an estimated cost for abutters. However, abutters will be responsible for all final project costs even if those costs exceed estimated costs.
- b. The Town Council may provide for the payment of the assessments in annual payments over the period the cost is financed by the Town or such other period as determined by the Town Council.

5.4 Public Funding

In cases where it is deemed in the broad public interest to extend or replace water mains and hydrants within public streets or ways, the Town Council may approve such extension or replacement and finance the actual costs of construction or any portion thereof with public funds, in accordance with the Town Charter.

5.5 Public Financing.

In cases where the Town Council has received a petition from abutters in accordance with Section 5.3, and the Council has held a public hearing and approved an extension or replacement of a water main as being in the public interest and set up a development district, the Council may authorize the Town to finance the project in accordance with the following criteria:

- a. The funds will be borrowed for a term of not longer than 20 years.

- b. The interest rate would be set by the lending institution.
- c. The project has received approval in a referendum vote if the cost of the project requires voter approval.

Section 6. Initial Allocation of Costs.

In cases where the Town Council has received a petition from abutters pursuant to Section 5.3 and subsequently approved an extension and will facilitate financing in accordance with Section 5.5, each abutting property owners cost shall be determined by:

- a. Determining the project cost including the actual construction cost, financing costs, pre-project costs, and any other costs directly associated with the project such as design costs, legal costs, and similar administrative costs. The project cost to be used for determining abutting property owners assessments may be reduced proportionately by the Town Council if the Town Council finds that there will be a public benefit from the improvement and that the abutters should not fund that portion of the total cost of the project.
- b. Determining the base lot cost by dividing seventy-five (75) percent of the project costs by the number of lots with road frontage on the public road within the area of the extension or replacement.
- c. Determining the additional per foot lot frontage cost by determining the total amount of useable lot frontage along the public road within the area of the extension or replacement and dividing twenty-five (25) percent of the project costs by the total useable frontage to get a per foot frontage cost. In determining the useable lot frontage, the Town Council may exclude any area that it deems does not benefit from the extension or replacement such as intersecting streets, unbuildable areas due to natural constraints or permanent legal restrictions or similar situations.
- d. Determining the additional frontage cost for each lot with road frontage on the public road within the area of the extension or replacement by multiplying the per foot frontage cost by the amount of the frontage the lot has on the public street based on the Towns assessment records.
- e. Determining the assessment for each lot by adding the base lot cost and the additional frontage cost for that lot.

Section 7. Assessment of Subsequent users for Abutter Initiated Projects

When a water main has been extended or replaced pursuant to a project initiated by abutters under Section 5.3 and the abutters have been assessed for all or a portion of the project costs, any user that connects directly or indirectly to that water main shall be subject to an assessment for a portion of the project costs. That assessment shall be based upon the following provisions.

7.1 Lot Splits with Road Frontage on the Subject Road

If a lot that is subject to a water main extension assessment is split into two or more lots which have road frontage on the public road within the area of the extension or replacement, the assessment for each of the lots shall be calculated by determining the road frontage of each of the lots and calculating the assessment based upon the base lot cost plus the additional frontage cost as set forth in Section 6.

7.2 Lots that Do Not Have Frontage on the Subject Road

If a lot that does not have road frontage on the public road within the area of the extension or replacement and, therefore is not subject to a water main assessment, is connected directly to the water main that was extended or replaced or by a water service connection or is connected indirectly to the water main via another public water main extension or a private extension, the lot may be assessed for the cost of the initial extension in accordance with normal assessment procedures of the Portland Water District for water main and service line extensions as governed by the Maine Public Utilities Commission regulations and Maine Law. The assessment for each such lot shall be the base lot cost as set forth in Section 6.

7.3 Refund or Surplus Assessments

If the total amount of water main assessments collected by the Town for a water main extension or replacement exceeds the project costs used to determine the assessments initially in accordance with Section 6, the surplus shall be refunded by the property owners that paid the assessment in proportion to the amount each owner paid. When the financing for the project is paid off, the Town shall do a reconciliation to determine the total amount of assessments paid by abutters for the project. If this amount exceeds the initial project cost, the surplus to be refunded shall be determined. The Town shall calculate the percentage of the total assessments collected paid by the owners of each lot and shall refund that proportion of the surplus to the current owner of record of the lot.

Section 7. Pre-project Costs.

In order to provide a reasonable estimate of the costs for extending a water main, the Portland Water District will incur certain pre-project costs, such as taking soundings to determine the amount of ledge, pre-design work, and other costs. These costs must be paid by the applicant in advance and are non-refundable, regardless of whether the project proceeds or not.

WRECKERS AND VEHICLE TOWING ORDINANCE

WRECKERS AND VEHICLE TOWING ORDINANCE

(An Ordinance relating to Town-requested/ordered towing)

Ordinance enacted 2/2/88
Effective date 3/3/88
Amended 3/8/95
Amended 4/2/96

I. PURPOSE

In order to protect persons who operate motor vehicles within the town limits, to insure that the streets, public ways and public property of the Town of Gorham remain open and free of hazard to the public and to further effectuate the efficient enforcement of the town's traffic, parking, snow removal, and other regulatory ordinances, it is deemed necessary to register and regulate businesses engaged in vehicle wrecker or towing services when said services are performed for the Town of Gorham. The following regulations are promulgated by the Chief of Police for that purpose, consistent with the powers vested in him by State and Municipal Law.

II. DEFINITIONS

- A. "Towing List" means a list maintained by the Gorham Police Department containing the names of those wreckers registered by the Town to respond to requests for the towing of vehicles made by the Gorham Police Department.
- B. "Wrecker" means a business engaged in, or offering the services of a vehicle wrecker or towing services, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle specifically adapted to and designed for that purpose.
- C. "Principal Place of Business" means the one location where the main business activities of the wrecker company are headquartered as evidenced by its office space, auto storage space, wrecker storage space, payment of wrecker excise taxes and identification as such on official business filings with the Secretary of State, State Treasurer and Internal Revenue Service.

III. REGULATIONS

The following minimum regulations must be met on a continuous basis by a registered wrecker:

- A. Each registrant shall be a legally organized business, having its principal place of business within the Town of Gorham.
- B. Each registrant shall own and operate its own wrecker(s) and shall supply to the Chief of Police satisfactory evidence, including vehicle registration and title, to show ownership by the resident wrecker.
- C. Each wrecker shall maintain satisfactory and secure storage facilities within the Town of Gorham for those vehicles towed.
- D. Each wrecker shall maintain Comprehensive and Liability Insurance policies and valid Road Service Liability Policies of at least \$300,000 or greater in accordance with the limitation on damages established in Title 14, Section 8105 M.R.S.A. as subsequently amended. The intent of this section is that the minimum amount of insurance required will at a minimum equal the limitation of damages in Title 14, Section 8105 M.R.S.A. as amended. Each operator must offer proof of appropriate insurance coverage upon registration.
- E. In registering, a wrecker shall hold the Town of Gorham harmless from all claims for damages to property and injuries to persons resulting from wrecker's negligence in the towing of or storage of vehicles pursuant hereto.
- F. Upon registering, a wrecker shall submit a schedule of its towing fees to the Chief of Police and shall notify him immediately upon changing any of said charges.
- G. Each wrecker shall maintain such records as hereinafter may be required by the Chief of Police and shall permit their inspection during normal business hours. Among these records will be receipts for towing and storage of vehicles towed at the request of the Gorham Police Department; and that all receipts indicate the place of vehicle storage and any damage sustained during or after the towing operation.
- H. Each registrant shall permit the Chief of Police or his designee to conduct inspections of each towing vehicle and of each storage area during normal business hours.
- I. Licensees shall arrive on the scene within (30) minutes of receipt of a request for service from the Gorham Police Department.
- J. Vehicles must be towed/carried, not driven, to storage sites.
- K. No vehicle will be towed outside of Gorham town lines unless requested by the vehicle owner or a Gorham Police officer.
- L. At the request of the Police, a wrecker shall clean the accident area of any debris resulting from the accident.
- M. The licensee must be available 24 hours a day to respond to police requests.
- N. Three (3) refusals to respond to a police department request to remove a vehicle shall constitute elimination from said wrecker list for one (1) calendar year, at which time application can be made to resume wrecker duties for the Town of Gorham.
- O. Licensees' wreckers shall have that equipment on board which would enable the removal of a vehicle regardless of the amount of damage sustained during or after the towing operation.
- P. Licensees' wreckers shall have an amber light(s) which is visible at 360 degrees per Title 29-A, Section 2054, subsection 2, C, (2) M.R.S.A.

IV. WRECKER SELECTION PROCEDURE

- A. Those wreckers wishing to be placed on the towing list shall complete a prescribed registration form at the Gorham Police Station and shall submit other required documents to the satisfaction of the Chief of Police or his designee.

B. Upon satisfactorily meeting the registration requirements as herein set forth, the wrecker name and the phone number shall be placed on the towing list, which shall be utilized in all cases in which a vehicle is to be towed from a public way or public property or from any private property at the request or direction of the Gorham Police Department.

C. When a request for towing a vehicle is received at the Gorham Police Department, the dispatcher or his/her supervisor shall select the name of a wrecker from the towing list. Names shall be selected on a rotating basis; that is, the name shall be selected which next succeeds the last wrecker called for towing services. The selections shall proceed in a manner until the end of the list is reached, at which point a wrecker shall be selected from the top of the list, and so on, consecutively.

D. In the event that a wrecker does not respond to a phone call from the Gorham Police Department or if it does not respond to the scene in the prescribed thirty (30) minute time span, the next name on the towing list shall be called until its name appears in the rotation.

E. Those wreckers maintaining more than one towing vehicle shall be selected only once during each rotation of the towing list.

F. "Preference calls" shall have no impact on the rotation list. A separate list will be kept by the dispatcher when a preference call is indicated.

G. When a request for AAA towing is received by the Gorham Police Department, the dispatcher, or his/her supervisor shall select the name of an AAA wrecker from the AAA Wrecker List that is maintained in the dispatcher center. Names shall be selected on a rotating basis; that is, the name shall be selected which next succeeds the last wrecker called for towing services. In the event all the AAA wreckers on the Gorham Police Department list are unavailable, the dispatcher will contact the local AAA office and request an AAA wrecker.

V. OTHER WRECKER SELECTION

No wrecker shall respond to the scene of an accident or other emergency unless specifically called there by the police or the person involved in the accident or emergency. It is intended that no wrecker owner, his agent, or employee solicit towing contracts at the scene. However, nothing in this section shall be construed as prohibiting a towing service from privately contracting with any person.

A. At his discretion, the Chief of Police or his designee may select a wrecker that does not appear on the towing list sequence when warranted by the requirement for special equipment and procedures or when due to the location or unusual circumstances surround vehicle removal.

VI. NON-DISCRIMINATION

Nothing in these regulations should be construed as creating vested exclusive rights of a towing list wrecker to be called, or selected for a towing operation requested by an employee or official of the Town of Gorham. Neither are the provisions contained herein designed or intended to restrain the course of free trade nor restrict the number of qualified registrants on the towing list.

VII. REMOVAL

The Chief of Police may remove or suspend any registrant from the towing list when the Chief finds:

A. That the towing list registration was secured by fraud or by concealment of a material fact by the wrecker owner and such fact, if known, would have caused disqualification.

B. That the wrecker owner has violated any of the requirements or regulations established herein.

C. That the Chief of Police is not satisfied with general services of the wrecker or its employees or with the cooperation it has received when services are rendered.