1970

Town of Gorham Maine Ordinances

Gorham (Me.). Town Leaders

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TOWN OF GORHAM

ADMINISTRATIVE CODE

Prepared and adopted in accordance
With Section 302.8 of the Council-Manager
Charter of the Town of Gorham

Adopted: August 4, 1970

Amended: October 6, 1970
May 4, 1971
August 3, 1971
March 4, 1972
June 4, 1974
January 2, 1979
January 6, 1981
May 5, 1981
January 3, 1989
March 7, 1989
July 2, 1996
March 14, 2000
August 4, 2009
July 6, 2010
March 1, 2011
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ARTICLE I

Section 101. Introduction

This Administrative Code of the Town of Gorham has been prepared by the Town Manager and submitted to and adopted by the Gorham Town Council, pursuant to Section 302.8 of the Town Charter. The Town Manager shall be responsible for the administration of this Code.

ARTICLE II

SECTION 201. Purpose

The purpose of this code is to identify and clarify the duties and responsibilities of the administrative service of the Town, comprised of the Town Manager and the various department heads of the Town government, except the Department of Education.

Section 202. Appointment

The Town Manager shall be appointed by the Town Council, pursuant to Section 203.1 and 301 of the Town Charter.

Section 203. Duties

The Town Manager shall perform such duties as are required of the Manager by the Charter, and by general statute. He shall be the chief executive officer of the Town and shall supervise the work of the several departments.

203.01 The Town Manager of his designate shall completely oversee the administration of the Gorham Municipal Center Building including but not limited to the administration of personnel, physical maintenance and structure of the building and furnishings and equipment of all the space within and without the structure including the grounds thereof. The intent of this is to give the Manager or his designate complete authority over the physical use of the facility, the people working therein, and that no department will purchase, arrange, or discontinue the use of any equipment, including office equipment such as typewriters, calculators, furniture, etc. without authority and approval from the Manager or his designate.

ARTICLE III

Section 301. Division of Administrative Service

The administrative service of the Town shall be divided, under the Town Manager, into the following departments:

<table>
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Section 302. Definition of “Department”

Whenever used in this ordinance, the word “department” shall be construed to mean department agency, or office of the Town, unless the context plainly requires otherwise. There will be division within departments, as may from time to time be established.

Section 303. Department Heads

The head of each department shall:

303.01 Perform all duties of his office required by charter, by ordinance, or other laws, and such other duties as may be assigned to him by the Town Manager;

303.02 Be directly responsible to the Town Manager for effective administration of his department;

303.03 Keep informed as to the latest practices in his particular field and inaugurate, with the approval of the Town Manager, such new practices as appear to be of benefit to the department and to the public;

303.04 Submit reports of the activities of his department whenever requested by the Town Manager, and submit an annual report of incorporation in the annual Town Report. Such reports shall contain such information as the Manager may require;

303.05 Establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the reports required by the Town Manager;

303.06 Have the power to delegate to members of his department such duties and responsibilities as he deems
advisable, and in no case may he delegate over-all responsibility for departmental operations;

703.07 Have authority to appoint and remove, subject to any personnel rules or regulations and subject to the approval of the Town Manager, all subordinate departmental employees;

703.08 Have custody of and be responsible for the proper maintenance of all town property and equipment used in his department and maintain a complete, current inventory thereof at all times;

703.09 Be appointed by and serve at the pleasure of the Town Manager;

703.10 Upon the approval of the Town Manager, arrange regular training programs for departmental employees, including programs sponsored by governmental or other agencies;

703.11 Be responsible for proper purchasing procedures, subject to the direction of the Town Manager, and prepare and submit to the Manager specifications for needed materials and equipment;

703.12 Prepare and justify the annual operating budget and the capital improvement budget of his department to the Town Manager;

703.13 Develop policies to promote effective, good public relations between his department and the citizens of the Town of Gorham;

703.14 Assist other department heads to promote the health, safety and welfare of the citizens of the Town of Gorham.

ARTICLE IV
DEPARTMENT OF FINANCE

Section 401. Establishment

There shall be a Department of Finance, the head of which shall be the Tax Collector-Treasurer, who shall be the Town Manager, if so determined by the Town council, and if not, such person as the Town Manager may appoint.

Within the Department of Finance there shall be the Division of Accounting and Control, the head of which shall be the Town Auditor, who shall be appointed by the Town Manager, a Division of Purchases and a Division of Treasury, the heads of which shall be appointed by, or shall be the Town Manager.
There shall also be a Division of Assessment, the head of which shall be the Town Assessor, who shall be appointed by the Town Council and serve at its pleasure.

Section 402. Bond Requirement

The Town Manager, Town Clerk and any other person, as determined by the Town Council, shall give bond for the faithful discharge of their duties to the Town of Gorham, in such sum as the Council shall determine and direct, and with surety or sureties to be approved by the Council. The premiums on said bonds shall be paid by the Town. (Article 10, Section 1011, Council-Manager Charter of Town of Gorham.)

Section 403. Duties

The Town Auditor shall be responsible for the proper pre-audit and recording of all financial transactions of the Town. He shall submit to the Treasurer, at least monthly, a statement of cash on hand and of appropriation balances of various accounts and such other financial statements as the Treasurer may from time to time require. All policies of insurance issued for the benefit of the Town shall be filed with the Auditor.

403.01 The Purchasing Agent shall purchase all supplies required by the various departments. He shall purchase commodities of high quality at the best possible competitive or negotiated cost.

403.02 The Tax Collector-Treasurer shall be responsible for financial planning and control. The Tax Collector-Treasurer shall be responsible for the proper and accurate account and recording of all moneys due the town, and in all respects comply with all laws and ordinances concerning moneys due or received by the Town.

403.03 The Town Assessor shall be responsible for the performance of all work pertaining to the assessing of property and the preparation of all assessment and tax rolls and tax notices as required by general law and shall also be responsible for the performance of all duties required of him by the Town Charter.

ARTICLE V
RECORDS DEPARTMENT

Section 501. Establishment

There shall be a Department of Records, the head of which shall be the Town Clerk, who shall be appointed by the Town Council, until such time, if any, as the Charter is amended to provide for
appointment by the Manager, in which case appointment shall be by
the Manager. In either case tenure shall be at the pleasure of
the appointing authority.

Section 502. Duties

The Town Clerk shall:

502.01 Serve as clerk of the Council, and perform such
other duties for the Council as it may require. He shall
authenticate by his signature and be responsible for the
filing, indexing, publication and safe-keeping of all
records of all proceedings by the Council;

502.02 Administer and make all the preparations for
elections, keep and maintain all election records and have
custody of all property used in connection with elections,
in accordance with state laws and town ordinances;

502.03 Administer to every person appointed to any town
office the proper oath of office and keep an accurate
records of the appointment and the administration of the
oath;

502.04 File and preserve all contracts, surety bonds,
certificate of qualifications for office and other documents
not required by other provisions herein to be filed
elsewhere;

502.05 Publish as Town Clerk all legal notices, including
notice of Council hearings, unless otherwise provided herein or by law;

502.06 Issue all licenses and permits and collect the
fees required therefrom provided by state law and town
ordinances;

502.07 Obtain and maintain all records and statistics
relating to births, marriages and deaths as required by law;

502.08 Be the custodian of the official Town Seal;

502.09 Perform all duties and exercise all powers
incumbent upon or invested in Town Clerks by state law;

502.10 Maintain in his office a public information
service and in response to reasonable requests furnish
information and material concerning the Town government.
Nothing herein shall be construed to require the Town Clerk
to supply or to request any other department to supply the
type of information which either state law or the public
interest require to be kept confidential;
Account for all public moneys received by him in such manner as the Treasurer may prescribe.

ARTICLE VI
POLICE DEPARTMENT

Section 601. Establishment

There shall be a Police Department, the head of which shall be the Chief of Police, who shall be appointed by the Town Manager.

The number of regular and special policemen shall be determined by, and each such policeman shall be appointed by, the Town Manager, except as he may from time to time delegate such appointive power to the Chief of Police. Said special policemen shall serve only when and as specifically required by the Chief of Police, and shall function only under the direction of the Chief of Police; they shall assist the Chief of police whenever called upon and whenever so called shall be compensated for the services rendered in such manner as the Town Manager may determine. No special policeman shall be on duty as a special policeman at any time or place without being ordered to do so by the Chief of Police, or in his absence the Town Manager or his official representative, and no special policeman shall be paid for police services directly by any person unless so authorized by the Chief of Police and, in his absence, by the Town Manager.

Section 602. The duties of the Chief of Police

Direct the police work of the Town;

Exercise command over the members and employees of the department and be responsible for their recruitment, training, safety, discipline, efficiency and morale;

Establish details, assignments, units and special duties necessary for the efficient performance of the functions of the department;

Supervise the handling and disposition of all complaints and all reasonable requests made by citizens relative to law enforcement and public safety;

Supervise, at any time, the investigation of any crime, accident, incident or complaint;

Establish a public relations program for the department through a demonstration of good service, and develop the attitudes and practices of the personnel within the department toward that end. To further establish and maintain good public relations with other law enforcement
agencies and departments and work in close cooperation with said organizations, in order that the Town will receive maximum service and benefit from all law enforcement units authorized to enforce federal, state and local laws and ordinances;

602.08 Receive and post all notices and papers, when requested to do so by an appropriate Town official, and make due return thereof;

602.09 Be responsible for the care and maintenance of all property used by the Police Department;

602.10 Cooperate with the department heads of the Town government in the best interest of public safety;

602.11 The Chief of Police may enter into Mutual Aid Pacts with the police departments of nearby cities or towns;

602.12 The Chief of Police is authorized to issue necessary orders for the use of Gorham police forces outside the Town boundaries and to direct such forces to place themselves under the operational control of the administrative head of the police force of the requesting city or town;

602.13 Such Mutual Aid Pacts shall become binding upon the Town of Gorham only after they are approved by the Town Council of the Town of Gorham and ratified by either the Town Council or the municipal officers of the corresponding city or town;

602.14 Whenever any of the police forces of any city or town are members of the Mutual Aid Pact are engaged in the Town of Gorham, they shall have the same powers, duties, privileges, rights, and immunities of the Mutual Aid Pact.

Section 603. Dog Officer

The Chief of Police shall designate a special police officer to be titled Dog Officer whose duty shall be to enforce state laws and local ordinances regarding dogs, or other animal complaints, as approved by the Chief of Police.

ARTICLE VII
FIRE DEPARTMENT

Section 701. Establishment

There shall be a Fire Department, the head of which shall be the Fire Chief, who shall be appointed by the Town Manager.

Section 702. Duties of the Fire Chief
The Fire Chief shall:

702.01 Be responsible for the prevention and extinguishing of all fires, the protection of life and property against fire and the removal of fire hazards;

702.02 Direct the Fire Department of the town;

702.03 Exercise command over the members and employees of the department and be responsible for the recruitment, training, safety, discipline, and the efficient performance of the functions of the department;

702.04 Be responsible for the care and maintenance of all property used by the Fire Department;

702.05 Establish details, assignments, units and special duties necessary for the efficient performance of the functions of the department;

702.06 Cooperate with the departments heads of the Town government in the best interest of public safety;

702.07 Establish a public relations program for the department through a demonstration of good service and develop the attitudes and practices of the personnel within the department toward that end;

702.08 The Chief, or his duly authorized representative, of the Fire Department of the Town of Gorham, upon request for aid from a duly authorized representative of a municipal or incorporated volunteer fire department of another municipality, within or without the state, is hereby authorized to send such other municipal or incorporated volunteer 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 in extinguishing a fire within each other municipality;

During the course of rendering such aid to another municipality, the aiding municipality shall, as between municipalities having similar ordinances, be responsible for and shall assume the risk of any personal injury or property damage caused to or by its own personnel or equipment, and for any payments required to be made to any members 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, all without affecting the right of the aiding municipality to recover damages from any other person or entity legally liable therefore.
The Town Manager is hereby authorized to executive, for and on 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.

**ARTICLE VIII**
**EMERGENCY RESCUE DEPARTMENT**

**Section 801. Establishment**

There shall be an Emergency Rescue Department, the head of which shall be the Rescue Chief, who shall be appointed by the Town Manager.

**Section 802. Duties of the Rescue Chief**

The Rescue Chief shall:

- **802.01** Subject to the provisions of any applicable laws, direct the emergency rescue activities of the town;
- **802.02** Be responsible for the maintenance and care of all equipment used by the Rescue Department;
- **802.03** Establish details, assignments, units and special duties necessary for the efficient performance of the functions of the department.
- **802.04** Cooperate with the department heads of the Town Government in the best interest of public safety;
- **802.05** Establish a public relations program for the department through a demonstration of good service and develop the attitudes and practices of the personnel within the department toward that end.

**ARTICLE IX**
**PLANNING AND DEVELOPMENT DEPARTMENT**¹

**Section 901. Establishment**

There shall be a department of Planning and Development, the head of which shall be the Zoning Administrator, who shall be appointed by the Town Manager pursuant to Section 302 of the Town Charter.

**Section 902. Duties of the Zoning Administrator**

- **902.01** Duty to Supervise Departments.

¹ Amended August 4, 2009
The Zoning Administrator shall supervise the Planning and Development Department.

902.02 General Duties.  
The function, duties and responsibilities of the Zoning Administrator shall be articulated in a job description which may be amended by the Town Manager to provide for changing needs of the Town in accordance with Section 302.1 of the Town Charter.

902.03 Department Functions and Responsibilities.  
The Planning and Development Department shall consist of the Town’s Planning and Code Enforcement functions and shall coordinate its efforts with the Town’s development efforts.

ARTICLE X
HEALTH DEPARTMENT

Section 1001. Establishment  
There shall be a Department of Public Health, the head of which shall be the Health Officer, who shall be a physician appointed by the Town Manager, as provided under Section 306 of the Town Charter. There shall also be one or more Plumbing Inspectors appointed by the Health Officer, to be under the direction of the Health Officer.

Section 1002. Duties of the Health Officer  
The Health Officer shall:

1002.01 Have charge and control of all functions involved in protecting and preserving the public health; he shall have all power provided by state law or town ordinance relative thereto.

Section 1003. License Inspections  
Shall inspect promptly all premises for any license which requires certification by the Health Officer, and either deliver to the Town Clerk promptly a certificate to the effect that health laws are complied with and that proper sanitary conditions exist, or promptly advise the Town Clerk of his refusal to so certify and of the reasons for such refusal.

Section 1004. Complaints  
Shall receive and investigate all complaints made by any of the inhabitants of Gorham concerning nuisances dangerous to health within the limits of the Town and take such action as may be authorized by law.
Section 1005. Action in cases of law violation

Subject to the approval of the Manager, shall institute or cause to be instituted civil or criminal action for violation of any health law or ordinance, and shall stand ready to appear as complainant and/or witness in all legal proceedings against all alleged violations of said law or ordinance.

Section 1006. Plumbing Inspector

The Plumbing Inspector or Inspectors shall perform such duties as may be required by state law and by any ordinance of the Town.

1006.01 Cooperate with the department heads of the Town Government in the best interest of public safety.

ARTICLE XI
DEPARTMENT OF PUBLIC WELFARE

Section 1101. Establishment
Department of Public Welfare, the head of which shall be the Director of Public Welfare, who shall be, or be appointed by the Town Manager.

Section 1102. Duties

The Director of Public Welfare shall:

1102.01 Be responsible for the planning, budgeting, reporting and control of the Town Welfare program;

1102.02 Exercise all the powers and perform all the duties conferred or imposed by state law upon Overseers of the Poor, or Director of Public Welfare.

ARTICLE XII
PUBLIC WORKS DEPARTMENT

Section 1201. Establishment

There shall be a Department of Public Works, the head of which shall be the Superintendent of Public Works, who shall be appointed by the Town Manager.

Section 1202. Duties of the Superintendent of Public Works

The Superintendent of Public Works shall:

1202.01 Be responsible for the conduct and operations of the Public Works Department;

1202.02 Be responsible for the planning of the annual work program of the Public Works Department;
1202.03 Exercise command over the members and employees of the Public Works Department;

1202.04 Be responsible for the care and maintenance of all property used by the Public Works Department;

1202.05 Prepare, or cause to be prepared, all contracts and specifications that may be required for public works; all such specifications and contracts shall be approved by the Town Manager;

1202.06 Cooperate with the department heads of the Town Government in the best interest of public safety.

1202.07 Establish a public relations program for the department through a demonstration of good service and develop the attitudes and practices of the personnel within the department toward that end.

Section 1203. Division of Parks and Grounds Maintenance

There shall be within the Department of Public Works a Division of Parks and Grounds Maintenance, the head of which shall be the Parks and Grounds Maintenance Foreman, who shall be appointed by and responsible to the Superintendent of Public Works.

Section 1204. Duties of Parks and Grounds Maintenance Foreman

The Parks and Grounds Maintenance Foreman shall:

1204.01 Be responsible for all care of, maintenance and improvements to all Town-owned grounds (i.e., schools, parks, cemeteries, Municipal Center and public road rights of way) including lawns, trees, shrubbery, walkways, ball fields, monuments;

1204.02 In the winter months, to be responsible for snow removal in all areas to within six feet of doors and other tasks as may be coordinated with the Public Works Superintendent;

1204.03 Be responsible for meeting with school officials, Athletic Director and Recreation Director to coordinate maintenance in accordance with use programs;

1204.04 Be responsible for purchasing, storing and repairing supplies and equipment used for section 1204.01 in accordance with the annual budget;

1204.05 Be responsible for planning the annual work program and submitting a budget to the Public Works Director;
1204.06 Be responsible for the hiring, training and supervision of employees;

1204.07 Shall be responsible for the duties normally assigned to the Tree Warden;

1204.08 Be responsible for meeting periodically with the Public Works Superintendent to review and coordinate work and to submit any reports as required by the Public Works Superintendent.

Section 1205. Qualifications

The Parks and Grounds Foreman shall have knowledge of training and background in accepted horticultural practices as it relates to section 1204.01.

ARTICLE XIII
RECREATION DEPARTMENT

Section 1301. Establishment

1301.01 There shall be a Recreation Department, the head of which shall be the Recreation Director, who shall be appointed by and shall report to the Town Manager.

1301.02 The Gorham Town Council may appoint a temporary Advisory Ad Hoc Committee to assist the Recreation Department. The Town Council shall determine the term of the Committee, its membership and purpose.¹

Section 1302. Duties of the Recreation Director

1302.01 Be responsible for planning, supervision and coordination of all public recreational programs;

1302.02 Be responsible for reporting needed maintenance of all recreation areas within the Town;

1302.03 Be responsible for the care and maintenance of all equipment of all recreation areas within the Town;

1302.04 Be responsible for the establishment of game rules;

1302.05 Be responsible for the recruitment, training and supervision of the employees and volunteers of the Recreation Department and for the efficient performance of the functions of the department;

¹ Amended July 6, 2010
1302.06 Be responsible within budgetary limitations for providing a sufficient number of teams for each sport so that any Gorham resident will have an opportunity to participate in the sport.

Section 1303. Philosophy of the Gorham Recreation Department

It shall be the intent that adequate and wholesome recreational programs be planned, developed and implemented which will serve the best interests of the residents of the Town of Gorham. The purpose of such programs will be to enhance the well being of participants both physically and mentally and to promote the general concept of leisure time activities.

Section 1304. Participation in Programs

1304.01 Participation in any program offered through the Gorham Recreation Department will be open to all Gorham residents.

A. Boys and Girls Basketball

1. Those students wishing to participate in this program will be assigned to the teams by the Recreation Director.

2. Twelve players will usually comprise a team, but in some instances additional players may be added to a roster at the discretion of the Recreation Director.

B. Boys and Girls Soccer

1. Those students wishing to participate in this program will be assigned to the teams by the Recreation Director.

2. The coaches shall attempt to play all those participants who regularly attend practices and the scheduled contests.

3. Twenty players will usually comprise a team, but in some instances this figure may be slightly lower or higher depending on the total number of participants in a given year.

C. Little League Baseball and Softball

1. Tryouts and a draft will be held each spring for the purpose of selecting new members for the baseball teams.
2. The selection process will be in the reverse order of the previous year’s finish order. The team finishing last shall have first choice, the team that finishes in first place shall choose last.

3. Those not selected by a team shall have the opportunity to participate in the Farm League Program.
   a. Those participants will be assigned to the Farm League by the Recreation Director.
   b. Eleven and twelve-year-old participants will not be allowed to pitch in the Farm League, but may participate in any other capacity.

4. The age limits in the Little League program shall be from eight to twelve years old.
   a. The date to be used in determining age eligibility shall be August 1st.

5. Each team shall be composed of an equal number of players.

6. Every player in a Little League contest shall play a minimum of one inning or one at bat per game. Base coaching does not constitute playing.

Section 1306. Sponsorship of Teams

Sponsors of athletic teams participating in the Recreation Program shall supply enough uniforms to outfit a team. Sponsorship shall not be limited to baseball.

Section 1307. Coaches of Athletic Teams

1307.01 Coaches shall be appointed by the Recreation Director based on such criteria as interest, ability to coach the sport, knowledge of the game and ability to work and communicate with the team members depending on age.

1307.02 Coaches shall be responsible to the Recreation Director for each teams’ organization.

1307.03 Coaches shall abide by the rules and regulations set forth in this article.

Section 1308. Officiating of Recreation Programs
1308.01 The Recreation Director shall see that officials are provided for those programs such as baseball, softball, basketball or soccer as they are needed. If volunteers are not available the Director shall pay the same hourly rate to officials regardless of the sport being officiated.

1308.02 Officials shall be selected based upon their knowledge of the rules of the game.

1308.03 The Recreation Director shall be the final judge in matters of dispute arising from the decisions of the officials.

Section 1309. Recreation Equipment

1309.01 Regarding recreation equipment, the Recreation Director will have the following responsibilities:

   A. Order and purchase new equipment as necessity warrants;

   B. Discard equipment which is worn out, obsolete, or unsafe;

   C. Make periodic inventory checks on recreation equipment in an effort to minimize losses through theft or carelessness;

   D. Oversee the safe and appropriate storage of that equipment which is not currently in use due to an off season;

   E. Assign recreation equipment to coaches or facilities as the Recreation Director deems necessary.

Section 1310. Facilities and Recreational Areas

1310.01 The Recreation Director shall be responsible for scheduling all non-school recreation buildings and grounds and for school buildings and grounds which are used for recreation programs, with permission of the School Committee.

1310.02 The Recreation Director shall be responsible for any damages to the facilities while in use by the Recreation Department.

1310.03 If provisions must be made for a janitor during the use of a school facility, the Recreation Director shall work through the School Department in the securing and paying of such services.

Section 1311. Summer Maintenance of Recreation Areas
1311.01  Summer maintenance of baseball, softball and soccer fields shall be provided by the Town of Gorham Public Works Department.

1311.02  The Recreation Director shall specify to the Manager how often fields should be mowed and lined and shall request any repairs needed.

1311.03  The Recreation Director shall make periodic visits to the various locations to assure that the conditions of the playing fields are in good shape and without hazards to participants.

1311.04  Budgeting for necessary repairs and maintenance of recreation areas will be in the Public Works Ground Maintenance Budget.

Section 1312. Use of Robie Gymnasium

1312.01  Those groups or organizations that wish to use the Robie Gym shall be classified as:

A.  Resident or nonresident
B.  Profit or nonprofit
C.  Admission charging or nonadmission charging

1312.02  The Recreation Director shall determine the scheduling of the Robie Gym for all events and will establish, with the approval of the Town Manager, a set rate of fees to be applied to the users of the facility.

ARTICLE XIV
CIVIL DEFENSE DEPARTMENT

Section 1401. Establishment

There shall be a Department of Civil Defense, the head of which shall be the Civil Defense Director, who shall be appointed by the Town Manager.

Section 1402. Duties of the Civil Defense Director

The Civil Defense Director shall:

1402.01  Be responsible for the planning, conduct and operation of Civil Defense activities in the Town of Gorham;

1402.02  Be responsible for the care and maintenance of all property used by the Civil Defense Department;
Cooperate with the department heads of the Town Government in the best interest of public safety;

Establish a public relations program for the department through a demonstration of good service and develop the attitudes and practices of the personnel within the department toward that end;

Be responsible for all activities of a local Civil Defense Director, as may be required of him by appropriate state statutes.

ARTICLE XV
CABLE TELEVISION

Section 1501. Establishment

There shall be a Gorham Cable Television System, which shall be a division of the Recreation Department and supervised by the Recreation Director.

Section 1502. Duties

1502.01 The Cable Television Station Manager shall operate and maintain the Town’s Cable Television System and make recommendations regarding the repair or replacement of equipment.
1502.02 The Station Manager shall make recommendations regarding the evolution of cable television and changes in technology.
1502.03 The Station Manager shall operate the system in accordance with the Cable T.V. Policies as established and periodically amended by the Town Council.

Section 1503. Insurance

The Town Manager shall ensure that all equipment of value is incorporated within the insurance coverage of the municipality and that there is appropriate insurance protection provided the municipality regarding members of the general public and volunteers associated with the Gorham Cable Television system.

ARTICLE XVI
BAXTER MEMORIAL LIBRARY AND BAXTER MUSEUM

1 Section added July 2, 1996
Section 1601. General

1601.01 Establishment

There is hereby established a library department, in accordance with Section 204.2 of the Town Charter.

1601.02 “Board” defined

Unless otherwise indicated, the word “board” when used in this chapter shall mean the Baxter Memorial Library Board of Trustees.

Section 1602. Library Director

1602.01 Position established

The position of library director is hereby established.

1602.02 Appointment

As provided by section 302.1 of the Town charter, the library director shall be appointed by the Town Manager on the basis of merit and fitness.

1602.03 Position included in personnel classification, compensation plan.

The position of library director shall be included in the personnel classification and compensation plan of the Town.

1602.04 Duty to supervise Library

The library director shall supervise the entire operation of the Baxter Memorial Library.

1602.05 General duties, responsibilities

The functions, duties and responsibilities of the library director shall be articulated in a job description which may be amended by the Town manager to provide for the changing needs of the library and the community.

Section 1603. Library Board of Trustees

1603.01 Establishment

In accordance with section 304 of the Town charter, the Baxter Memorial Library Board of Trustees is hereby created.
1603.02 Composition, appointment, and quorum

The board will consist of nine (9) members appointed by the Town Council. A quorum shall consist of five (5) members.

1603.03 Terms of office

The terms of office of the board members shall be three (3) years and terms of office shall expire on the last day of March or when their successors are duly appointed by the Town Council, whichever comes later.

1603.04 Vacancies

A. A board vacancy shall be created upon the resignation or death of a member, if a member missing three (3) consecutive unexcused absences or fifty percent of the board meetings in any calendar year.

B. A vacancy on the board shall be filled by the Town Council with another qualified person for the unexpired term of the resigned or removed member.

1603.05 Compensation

Members of the board shall serve without pay.

1603.06 Duty to elect chair, vice chair, secretary and treasurer.

In April of each year the board shall hold an annual meeting and elect from its membership a chair, vice chair, secretary, and treasurer.

1603.07 Meetings

The board shall meet no less than six times a year on a regularly scheduled and designated day and at such time as shall be established by the board at its annual meeting.

1603.08 Functions, duties, responsibilities

The functions duties and responsibilities of the board shall be to:

A. Advise and recommend to the Town Manager administrative rules and regulations to guide the operation and program of the Baxter Memorial
Library and Baxter Museum, including but not limited to the following:

1. Hours open to the public;

2. Type and quality of books and other library materials to be added to the library collection;

3. Services to schools and to special groups;

4. Special services to nonresident borrowers; use of meeting rooms, etc.;

5. Methods of extending services: interlibrary loans, book mobiles, participation in library system, etc.;

6. Public relations, customer service, and publicity,

B. Select representatives, when requested by the Town Manager, to assist in interviewing qualified applicants for the position of library director;

C. Determine the purposes of the library and know the program and needs of the library in relation to the community; keep abreast of state standards and library trends;

D. Establish, support and participate in a planed public relations program;

E. Review the annual budget prepared by the library director;

F. Attend board meetings and see that accurate records of the board meetings are kept on file in the library;

G. Evaluate and report to the Town Manager and Town Council on the maintenance and capital needs of the library;

H. Become familiar with the services as provided by the Baxter Memorial Library and become familiar with state and federal legislation impacting the library.

I. Administer trust funds in accordance with trust documents and fiduciary responsibilities;
J. Establish bylaws for the Board of Trustees;

K. Utilize for Library purposes and properly account for funds derived from donations, user fees, fines, memorials, book of merchandise sales;

L. Generally administer Baxter Museum to include programming, soliciting volunteers and supervision of collection and building maintenance.

Section 1604. Willful detention of library material

No one may willfully detain any book, audiovisual material, or other property belonging to the Baxter Memorial Library or Baxter Museum for more than ten (10) days after written notice to return the same, delivered by certified mail or in hand by a law enforcement officer, given after the expiration of the time which by the rules of the Baxter Memorial Library or Baxter Museum such article may be kept.

Section 1605. Violations

Any person or firm violating any provision of this ordinance shall be fined not less than $100 and not more than $5,000 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 for the enforcement of this ordinance, and the Town shall be entitled to recover its legal costs.

Section 1606. Severability

Should any section provision, or part thereof of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not invalidate any other section, provision, or part thereof of this Ordinance and the remaining shall continue in full force and effect.

ARTICLE XVII
TOWN COUNCIL

Section 1701. Duties and Powers

The Town Council shall have those duties and powers as specified in Article II of the Council-Manager Charter of the Town of Gorham.

Section 1702. Compensation

Pursuant to Article II, Section 205 of the Charter of the Town of Gorham, the Town Council shall by order fix the amount of annual

1 Amended March 14, 2000
compensation received by its members. Said amount may be changed from time to time by Council order.
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 note, 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

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.
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.
CABLE TV ORDINANCE

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

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 proving 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 CABLE TV POLICY

Section 1. Purpose

1.1 The Town of Gorham operates two cable TV community broadcast channels pursuant to Federal and State Law and has a cable franchise agreement with a service provider. It provides a wonderful opportunity for citizens to obtain information about the community, see local government at work, view community events, and receive information not otherwise available on commercial channels. This policy is intended to refine and clarify the roles and responsibilities regarding the operation of this valuable resource.

Section 2. Definitions

2.1 Educational Access Programming
Refers to programming that is produced by or sponsored by the Gorham School Department, primarily on Channel 2. These programs are regulated by the Gorham School Department.

2.2 Government Access Programming
Refers to programs that are produced by or sponsored by the Town of Gorham. Such programs are regulated by municipal officials.

2.3 Public Access Programming
Programming of community interest that may be produced by, or sponsored by, a Gorham resident or non-profit organization.

2.4 Producer/Sponsor
Refers to a resident of Gorham, or a person designated by an eligible non-profit organization, that assumes responsibility for the content of the program that they supply to GOCAT. Sponsored programs should provide a local phone number at the end of the program that residents may contact FMI.

Section 3. Roles and Responsibilities

3.1 Town Council
The Town Council is responsible for establishing policies, setting priorities and approving the annual budget regarding the operation of the local cable broadcast system.

3.2 Cable TV Committee
The Cable TV Committee shall consist of seven people appointed by the Town Council for three year terms. The Committee shall monitor the Franchise Agreement between the Town and cable provider for compliance and assist the Town, as requested, with any future negotiations regarding the franchise agreement. The Committee is responsible for evaluating changes in technology and making recommendations to the Recreation Director and Town Manager regarding technology improvement to the system and making recommendations concerning changes to policy. The Committee shall monitor progress on implementing policies after approval by the Town Council. The Cable TV Committee may act as a mediator regarding complaints from citizens relative to the cable TV station, franchise agreement, or service provider.

3.3 Station Manager
The Station Manager shall be responsible for ensuring the day to day operation of the cable TV system and maintaining the quality of the broadcast consistent with policy and priorities established by the Town Council. The Station Manager supervises the other cable TV system employees pursuant to the Town of Gorham Personnel Policy and carries out other duties as described in the job description for this position which may be changed from time to time. The Station Manager reports to the Recreation Director.

Section 4. Operational Use: Channels 2 and 3

4.1 Channel 2 shall be designated for programming sponsored by the Gorham School System for educational broadcasting. This channel will also broadcast
school athletic events or cultural events, community events, or public access, consistent with the priorities established by the Town Council.

4.2 Chanel 3 shall be designated for programming showing local government at work and providing information about local issues not otherwise available on commercial broadcast. This channel shall primarily broadcast governmental meetings multiple times in order to provide maximum opportunities for citizens to view meetings. The channel will also broadcast programs that are intended to inform the public about local issues or State issues not otherwise available on commercial television. Examples of informative programs include news programs with Gorham’s local or state elected officials and Candidates Night for local or State office elections.

Section 5. Cable System Priorities
5.1 The Town of Gorham has limited resources and is not able to provide all services all the time. In order to maximize our available but limited resources, the Town Council establishes the following priorities for utilizing the resources available to the cable tv system.

1st priority: Ensuring that all equipment is maintained and operating properly and the broadcasting of all Council Meetings including workshops, Planning Board Meetings, School Board Meetings and Board of Appeal Meetings, unless the responsible board or committee specifically asks that the meeting not be broadcast. This priority could also include other Committee meetings when the subject matter warrants their broadcast.

2nd priority: Provide training to assist volunteers in carrying out tasks consistent with Priorities 1 – 7 as set out in Section 4.1.

3rd priority: Broadcasting educational, athletic or cultural events emanating from the Gorham School System such as school plays, musical events, football, basketball, soccer, field hockey, ice hockey games or similar events.

4th priority: Other community events that show local government at work or are recognized community activities such as the recent New Years Eve Celebration, the Town Clock dedication ceremony, Gorham Family Fair, the Gorham Bypass ribbon cutting ceremony, the annual Gorham Marketplace and similar events.

5th priority: Other programs that inform the public about local government or the local education system that staff wish to have produced with the intent of informing the community about some health or safety issue, or useful information beneficial to the community.

6th priority: Programs produced by the State of Maine, Portland Water District, Ecomaine, or similar governmental or quasi-governmental agency intended to inform the community about an important public issue or programs produced by the Town involving the Town’s State legislative delegation, personnel from the State or Federal or local Town Government that are intended to inform the public about current issues and is not available on commercial stations.

7th priority: Loan equipment to members of the Gorham community, who have appropriate training, and who wish to use the Town’s equipment to produce programs.

Section 6. Responsibilities: Producer/Sponsor
6.1 Responsibility for the content of programs submitted to GOCAT for broadcast rests solely with the individual and/or the organization that requests it. A “User Application, Compliance, and Certification” form must be completed and on file at GOCAT. The producer must adhere to the program content guidelines stated in this policy guide.

Section 7. Community Announcements
7.1 Messages of community interest from non profit organizations will be aired on Channel 2. Official announcements from the Town and School Department will
be aired on Channel 3. Please see the form “Guidelines for Submitting Announcements” in the back of this policy guide.

Section 8. Archival Policy
8.1 Recorded meetings of the Gorham Town Council, School Board, Board of Appeals, and Gorham Planning Board will be retained at the Gorham Municipal Center for a period of two years. This policy is under the discretion of the Gorham Town Clerk. It is noted that media recordings are not considered the official minutes of such meetings.

Section 9. Equipment Use
9.1 The Town has a limited amount of equipment available for use by citizens of Gorham. In order to ensure that the equipment is properly used and maintained, the following rules apply to its use:
   a. The borrower must be a citizen of Gorham and verification will be required, consisting of a valid drivers license or photo ID, and a utility bill or rental lease agreement with an invoice date within the previous 2 months.
   b. You must be 18 years of age or older or if a minor, have a legal guardian sign for responsibility and supervision, or be a member of an organized group working under the supervision of the Gorham School system or Cable TV Station staff.
   c. You must complete a training process to insure proper operation of the equipment.
   d. The primary use of access equipment is to generate programming consistent with the priorities established in Section 4 of this policy for replay on the station. Some equipment may be available for non related broadcast use depending on availability.
   e. Any individual who is a legal resident of the Town of Gorham and who complies with the conditions stated above, may request use of equipment and/or broadcast time. The proper forms, including but not limited to: User Application, Equipment Sign-Out, & Channel Time application, must be completed.

Section 10. Programming
10.1 Program Content Guidelines:
Program broadcast time is a privilege granted to the residents of the Town of Gorham and eligible non-profit organizations and all programming shall comply with the following:
   a. Solicitation, advertising, bartering or promotion of commercial products, services or transactions, is not permitted. However, informational, journalistic, or civic content programming is allowable.
   b. Material that is slanderous, libelous, or is an invasion of privacy, is not permitted;
   c. Material that is obscene based on the FCC definition (76.701 Subpart L) and applied with community standards is not permitted;
   d. Material concerning lottery information is not permitted;
   e. Implicit or explicit threats of violence against any person or group of people are forbidden and maybe subject to prosecution if in violation of federal or state law;
   f. Use of any copyrighted material is the sole responsibility of the producer of the programming. Obtaining proper permission is strongly recommended.
   g. Fundraising for nonprofit organizations is permissible.
   h. Fundraising for political candidates is not permissible.
Any program ready for cablecast may be previewed for technical and content standards. All programs must comply with the standards put forth in this manual.

10.2 Programming Priorities:

Broadcasting of programs shall follow the priorities established in Section 4 of this policy.

Channel 2

a. Local origination of prerecorded programs generated by the School System.
b. Live broadcast for community events.
c. Programming provided from the classrooms of Gorham schools.
d. Local origination of pre-recorded programming from the community or GOCAT staff.
e. Programming from other community sources that is not commercially distributed and is available to enhance broadcast hours.

Channel 3

a. Live broadcast of official meetings of the Town of Gorham to include the Town Council, School Board, Gorham Planning Board, Gorham Zoning Board of Appeals, and any other special meetings as requested by the Town Manager.
b. Local origination of pre-recorded programming generated by the Town or School System.

10.3 GOCAT staff reserves the right to schedule programs as they determine appropriate with preference being given to Government Access Programming and Educational Access Programming, as specified in Section 4, and then to locally produced programs.

10.4 Programs with mature (adult) content, including but not limited to, descriptive sexual behavior will be aired between 12pm and 5am Monday through Thursday only. This does not restrict the responsibility of the staff to schedule programs consistent with Section 4.

Section 11. Technical Standards

11.1 All media replay requests must meet the technical standards to play at the time of submission. The Technical Standards necessary for broadcast are available from the Station Manager.

NOTE: Programs recorded on some consumer or home video equipment can be played back on the access channel if the program meets the technical standards. Please contact the Cable TV staff for additional information.

Section 12. Volunteers
12.1 Volunteers are vital to the success of local Community Television. We provide local people with the opportunity to gain experience in a broad range of media skills. Our goal is to inspire participation of volunteers to further the purpose of providing information to the citizens of Gorham, through governmental, political, scholastic, academic, cultural, educational, informative and newsworthy programming.

12.2 Prospective volunteers should contact the Station Manager to schedule a meeting. Every attempt will be made to train the individual so that their project can take place.

**Standard Training Outline:**
*Phase 1: Studio Camera & Audio*
*Phase 2: On Location Video & Audio*
*Phase 3: Directing & Producing*
*Phase 4: Editing*

12.3 GOCAT will periodically use venues such as the Gorham Recreation Department and Gorham Adult Education to offer group instruction. Individual training will be available provided that staff time and workload can accommodate citizen interest.

Section 13. Failure to Comply

13.1 The failure to adhere to these policies may result in denial of access privileges.

Section 14. Grievance Procedure

14.1 The term “grievance” is defined as any dispute between a citizen and the Town of Gorham Television station. The Town of Gorham Cable Committee may act as the mediator, consistent with Section 13. Excluded from consideration of grievance are those matters pertaining to program scheduling. **Every attempt should be made to resolve any dispute, at the lowest possible level, as soon as possible.**

Steps in the grievance procedure shall be as follows:

a. An attempt should be made for an oral agreement between the individual and the Station Manager.

b. If an oral agreement is not reached, the aggrieved may file a written complaint to the Gorham Cable TV Committee. The committee will make a determination of the merits of the complaint and give a written reply within 30 days.

c. If the individual is dissatisfied with the Gorham Cable TV Committee’s written decision, the aggrieved may take a formal written appeal to the Town Manager. The Town Manager, upon receipt of the written appeal, will consult with the appropriate resources, including but not limited to the Town Attorney. A formal decision will be issued. In all cases, the decision of the Town Manager will be final and binding.

8/12/09

Adopted: September 1, 2009
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. s441, 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 an 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.

Section 1. The regular meetings of the Town Council shall be held in the Gorham Municipal Center, or such other facilities as the Town Council may designate from time to time, at 7:00 p.m., current time, on the first Tuesday of each calendar month. When said day falls on a holiday or on Election Day, the regular meeting shall be held on the following Tuesday, at the same time and place. The date of any regular meeting may be changed by an order or resolve passed at the previous meeting upon the vote of five members of the Council, provided, however, that said change in date will still provide for one regular meeting each month.

Section 2. Special Meetings may be called by the Chairman, and in case of the Chairman's absence, disability or refusal, may be called by three members of the Town Council. Notice of such meeting shall be served in person or delivered to the residence of each member of the Town Council at least twenty-four (24) hours before the time for holding said special meeting, unless all members sign a waiver of said notice. Such a notice mailed to each council member and postmarked in Gorham at least three mail delivery days preceding the date of such special meeting shall meet the requirement for delivery to the Councilors' residences. The call for said special meeting shall set forth the matters to be acted upon at said meeting, and nothing else shall be voted upon at such special meeting.

Section 3. A majority of the members of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken, unless such absent members sign a waiver of said notice.

Section 4. The Town Council shall act only by ordinance, order or resolve. All ordinances, orders, and resolves shall be confined to one subject, which shall be clearly expressed in the title.

Section 5. All Orders approved by the Town Council that ask the voters of Gorham, through a referendum vote, to approve an expenditure of funds, shall include a statement advising voters of the estimated impact on property taxes of said expenditure.

Section 6. All By-Laws passed by the Town Council shall be termed "ordinances" and the enacting style shall be: "Be it ordained by the Town Council of the Town of Gorham, Maine, in Town Council assembled".

Section 7. In all votes of command, the form of expression shall be "Ordered"; and of opinions, principles, facts, or purposes, the form shall be "Resolved".

Section 8. Every ordinance, order or resolve shall have a full reading unless the reading is dispensed with by the unanimous vote of those present, in which case reading shall be by title only.

Section 9. The yeas and nays shall be taken upon the passage of all ordinances and entered upon the record of the proceedings of the Town Council by the Clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the Town Council.
Every ordinance, order and resolve shall require, on passage, the affirmative vote of four members of the Town Council.

**Section 10.** No ordinance, except emergency ordinances as defined in Article II, Section 213.1 of the Charter, shall take effect and be in full force until 30 days from and after it shall have received publication as required by Section 213 of the Charter.

**Section 11.** Orders or resolves shall take effect immediately upon passage.

**Section 12.** No ordinance, order, or resolve shall be in order for action at any meeting of the Town Council unless such ordinance order or resolve shall be filed in the office of the Town Manager on or before noon of the Wednesday prior to the regular meeting held on the first Tuesday of each month, and before noon of the fourth secular day next prior to the day of any other meeting. Delivery of all items to the members of the Town Council in accordance with the foregoing, if by postal service, shall be postmarked not later than Thursday prior to the regular meeting.

**Sub-section 12.01.** Any item to be placed on the agenda of the Council or recommended for consideration of the Council must be sponsored by a member of the Council, or by the Town Manager or in the instance when an item is recommended for action by one of the Council’s standing committees, shall be sponsored by the Committee with the Committee’s vote reflected. Those items sponsored by the Manager shall normally be restricted to routine town administration.

**Section 13.** The Chairman shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be taken, and, a quorum being present, shall proceed with the order of business.

**Section 14.01.** The Chairman shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided. The Council may also, at its first meeting or thereafter during the year, elect a Vice Chairman or Chairman Pro Tempore from among its members to exercise all the powers of Chairman during the temporary absence or disability of the Chairman.

**Section 14.02.** No member of the Town Council shall represent to anyone or knowingly allow anyone to infer that he/she speaks on behalf of the Town Council unless, by Order of the Council, a Councilor has been officially designated as its Representative to another organization.

**Section 15.** The Chairman shall declare all votes, but if any member doubts a vote, the Chairman shall cause a return of the members voting in the affirmative and in the negative without debate.

**Section 16.** When a question is under debate, the Chairman shall receive no motion but to:
(1) adjourn
(2) lay on the table
(3) for the previous question
(4) postpone to a day certain
Section 17. The Chairman shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, and the motion for the previous question, shall be decided without debate.

Section 18. When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next regular meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next regular meeting unless an item to that effect is contained on the agenda for such next regular meeting or unless five of the members present consent to such reconsideration. A petition once presented to and acted upon by the Town Council shall not again be received by the Town Manager for presentation to the Council in the same or substantially the same form during the term of the present Council. A member of the Town Council, voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

Section 19. Upon the motion for the previous question being made and seconded, the Chairman shall put the question in the following form: "Voting is now on whether there shall be further debate on (state the motion)." All debate shall then be suspended. If the motion for the previous question is adopted by a majority of the Councilors present, the motion to which it applied shall be voted at once.

Section 20. No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the chair or not.

Section 21. Every member present when a question is put shall give their vote, unless the Council, for special reasons, shall excuse that Councilor. Application to be so excused must be made before the Council is divided, or before the calling of the yeas and nays, and decided without debate.

Section 22. Every motion shall be reduced to writing, if the Chairman shall so direct.

Section 23. Any member may require the division of a question when the sense will admit it.

Section 24. A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

Section 25. All questions relating to priority of business to be acted upon shall be decided with discussion limited to Council members, but any Councilor may solicit information from any other person.
Section 26. The rules shall not be dispensed with or suspended unless five of the members of the Council consent thereto. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Section 27. Any person wishing to address the Town Council will be given the opportunity to do so in accordance with the following procedures:

1. Persons wishing to address the Council on an item which appears on the agenda shall wait until the public hearing is opened on the particular item or, if there is no public hearing, until the consideration of such item is announced, at which time they may address the Council on that particular item. Public comment on an agenda item or during a public hearing is encouraged to be limited to no more than five minutes by any one speaker. The Chair is granted the discretion to allow an extension of time if deemed necessary.

The public shall be encouraged to limit their comments to items directly relating to the actual agenda item, and not to repeat statements made by prior speakers. The Chair may decide questions of relevance. The Chair shall not allow comments of a personal or derogatory nature, as they relate to the applicant, Councilor or other speakers.

Once the public hearing has been closed or public comment has ceased on an agenda item that did not have a public hearing, the Council shall begin its deliberation and no further public comment will be taken. The Chair may, at its discretion, allow additional clarification of the facts adduced at the public hearing and individual Councilors may ask specific questions through the Chair of either the public or staff to further inform themselves prior to completing their deliberations.

2. Persons wishing to address the Council on an item not appearing on the agenda shall do so only on invitation from Council or after disposition of all items appearing on the agenda.

3. Any person wishing to address the Council shall so signify by raising a hand and/or standing. After being recognized by the Chairman and giving adequate identification he or she may address the Council. When, in the opinion of the Chairman, their identity has not been adequate for those assembled, the Chairman shall request further information before permitting the person to speak.

4. Persons present at Council meetings are requested not to applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.

Section 28. In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Robert's Rules of Order" shall be taken as authority to decide the course of proceedings.

Section 29. Within seven days after the Municipal Election, the Council shall hold an organizational meeting for the purpose of electing a Chairman and the following committees, each committee to consist of such members of the Council as the Town Council may designate:

1. Finance Committee
2. Ordinance Committee
3. Appointments/Personnel Committee
4. Economic Development/Capital Improvements Committee

Committees shall serve at the pleasure of the Council and will receive and
act upon only those items and will perform only such duties as have been specifically referred to each Committee by Council action.

**Sub-section 29.01** The Finance Committee shall consist of three members of the Council. Said Finance Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said committee, having no vote on the committee.

The members of the Finance Committee shall be appointed annually by vote of the Council. The Chairman shall be elected by a majority vote of the Committee members.

Among such other powers as the Council may from time to time assign to said committee, it shall have the power and duty to meet with the Town Manager to review his annual budget, and order public hearing thereof; to make recommendations to the entire Council on said budget.

The Finance Committee shall have the power and duty to review and advise the Town Manager on matters of current expenditures within the Municipal Budget and to approve all warrants for the expenditures of Town funds. The signatures or votes of two of the members of such committee shall be sufficient authorization for the expenditures of such funds.

The Council may refer matters relating to Town finances brought to its attention by the Town Manager to the Finance Committee, which shall study the same and make appropriate recommendations to the entire Council.

**Sub-section 29.02.** The Ordinance Committee shall consist of three members of the Council. Said Ordinance Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said Committee, having no vote on the committee.

The members of the Ordinance Committee shall be appointed annually by vote of the Council. The Chairman shall be elected by a majority vote of the Committee members.

In addition to those other powers which the Council may, from time to time assign to it, the Ordinance Committee shall review all proposed ordinances or amendments and make recommendations thereon to the Council prior to final action.

**Sub-section 29.03.** The Appointments/Personnel Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said committee, having no vote on the committee.

Among such other powers as the Council may from time to time assign to said committee, it shall recommend to the entire Council persons for appointment to various positions and offices which are properly to be filled by the Council, except that the Committee shall not make recommendations as to the composition of committees of the Council, such as the Finance Committee, the Appointments Committee, or to any other standing or ad hoc committees of the Council which may hereafter be established.

In addition to those other personnel matters which the Council may, from time to time, assign to it, the Committee shall review and make recommendations to the Council on methods of evaluating Council employees, implementing such evaluations, determining staff levels, additions and deletions to Personnel Policies, and
evaluating and implementation of salary survey.

**Sub-section 29.04.** The Economic Development/Capital Improvements Committee shall act by majority vote. The Council Chairman shall serve as an ex-officio member of said committee, having no vote on the committee. In addition to those other powers which the Council may, from time to time, assign to it, the Committee shall review and make recommendations to the Council on the Town's industrial and commercial development goals and objectives. The Committee will be responsible for developing and maintaining an economic development program and policies subject to full Council approval. In addition the Committee shall consult with the Town Manager and appropriate department heads regarding all proposed capital improvements or purchases of equipment, for fire, police, public works, or other public safety functions and shall serve as an advisory body to the Town Council.

**Section 30.** The members of the Council to serve on the Finance and Ordinance committees shall be chosen by the Council by majority vote, and the Chairman of the Council shall be ex-officio a member of such standing committees.

**Section 31.** A copy of the record of Council decisions taken at a formal meeting shall be attested and posted by the Town Clerk within three working days at one or more places within the Town of Gorham. Such minutes shall constitute the official record of the actions on all Ordinances, Resolutions, Orders and Votes taken by the Council; such posting shall constitute publication within the meaning of Section 902 of the Town Charter and the date of such posting shall be the date of publication for the purpose of determining the required time for filing petitions under this Section.

**Section 32.** Policies of the Gorham Town Council:

Pursuant to the Council Rules, the Gorham Town Council hereby directs the Town Manager to memorialize the following policies of the Gorham Town Council:

**Council Policies:**
A Council Policy is a guide for the consideration of certain recurring issues, and is not binding upon the Council. Council Policies shall be adopted in written form and shall be maintained in a document entitled “Policies of the Gorham Town Council.”

**Policy One: Appointments Procedure.**

1. Prior to recommending an applicant for service on the Planning Board, Board of Appeals or Economic Development Corporation, the Chair of the Appointments & Personnel Committee shall contact the Council Chair and the Chair of the volunteer board or committee to discuss the appointment or reappointment of the applicant. The Chair of the board or committee in question should be invited to attend the interview of the applicant.

2. Prior to recommending an applicant for service on Planning Board, Board of Appeals or Economic Development Corporation, the Town Council’s Appointments & Personnel Committee shall interview
the applicant, unless that applicant is currently serving on the committee.

3. The meeting agenda, the applications to be considered, and any other supporting documents shall be sent to Appointments & Personnel Committee members, in a timely manner, prior to the proposed meeting.

4. Applicants are encouraged to attend a meeting of the committee to which they wish to be appointed.

**Policy Two: Volunteer Board and Committee Reporting and Organization.**
Meeting agendas should be posted to the Town web site in a timely manner prior to a proposed meeting. Meeting minutes are encouraged to be taken and posted to the Town website. The Town Council Chair will be in receipt of all Reporting in a reasonable time frame from the original date of each meeting.

**Policy Three: Council Procedure.**
Initiatives to amend or enact a Town ordinance, prior to their referral to a committee or an administrative official for development and drafting, and inquiries to committees not related to Town Ordinance shall be placed on a Council agenda for provisional approval. If the ordinance initiative obtains the provisional approval of a majority of Councilors, it may then be referred to the appropriate committee or administrative official for further development and drafting.

**Policy Four: Council Norms on Contacting Staff.**
Councilor inquiries concerning routine Town business should notify the Town Council Chair and then the Town Manager. Direct inquiries by Councilors, on such matters, to department heads, should be avoided.
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.
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

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.
GENERAL ASSISTANCE ORDINANCE

The Municipality of __________________________ enacts the following General Assistance Ordinance. This Ordinance is filed with the Department of Health & Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the _______ day of ________________, __________, by the municipal officers:

(day) (month) (year)

__________________________          ___________________________
(Print Name)                                                                 (Signature)

__________________________          ___________________________
(Print Name)                                                                 (Signature)

__________________________          ___________________________
(Print Name)                                                                 (Signature)

__________________________          ___________________________
(Print Name)                                                                 (Signature)

__________________________          ___________________________
(Print Name)                                                                 (Signature)

__________________________          ___________________________
(Print Name)                                                                    (Signature)
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ARTICLE I

Statement of Policy

The Municipality of _______________________ 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 interviews 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;

b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance;

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;

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 re-applies 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/recipient 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 misspending 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

**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

¹ Amended 01/01/2010
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’s 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 Overall Maximums

#### Metropolitan Areas

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Prepared by MMA 9/10
### Sagadahoc HMFA:
Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich

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*Note: Add $75 for each additional person.

### York County HMFA:
Acton, Alfred, Arundel, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Shapleigh, Waterboro, Wells

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*Please Note: Add $75 for each additional person.*

### Non-Metropolitan Areas

### Persons in Household

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* Please Note: Add $75 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, 2012, those amounts are:

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

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## Non-Metropolitan FMR Areas

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### Non-Metropolitan FMR Areas

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## Metropolitan FMR Areas

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<td><strong>Monthly</strong></td>
<td><strong>Weekly</strong></td>
<td><strong>Monthly</strong></td>
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**Electric Utility Maximums**

**Without electric hot water**
The maximum amounts allowed for utilities for lights, cooking, and other electric uses, excluding electric hot water are:

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*Add $7.50 a month for each additional family member.

**With electric hot water**
The maximum amount allowed for electric utilities for dwelling units that have electrically heated hot water shall be $70 per month for the first member of the household, with an additional $10 per month for each additional household member.

<table>
<thead>
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<th>Weekly</th>
<th>Monthly</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$16.30</td>
<td>$70.00</td>
</tr>
<tr>
<td>2</td>
<td>$18.60</td>
<td>$80.00</td>
</tr>
<tr>
<td>3</td>
<td>$21.00</td>
<td>$90.00</td>
</tr>
<tr>
<td>4</td>
<td>$23.30</td>
<td>$100.00</td>
</tr>
<tr>
<td>5</td>
<td>$25.60</td>
<td>$110.00</td>
</tr>
<tr>
<td>6</td>
<td>$27.90</td>
<td>$120.00</td>
</tr>
</tbody>
</table>

**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 amount for fuel as provided in Appendix E.

In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant’s summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage.
1) The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.

2) The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.

3) The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

Pursuant to the use-of-income requirements in section 6.6 of this ordinance, whenever the administrator budgets for SPA’s or BPA’s under this section, the recipient will be required to pay the SPA or BPA him or herself to the extent of the income capacity of the household.


**Heating Fuel**

When considering requests for heating fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

<table>
<thead>
<tr>
<th>Month</th>
<th>Gallons</th>
<th>Month</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>50</td>
<td>February</td>
<td>225</td>
</tr>
<tr>
<td>October</td>
<td>100</td>
<td>March</td>
<td>225</td>
</tr>
<tr>
<td>November</td>
<td>200</td>
<td>April</td>
<td>125</td>
</tr>
<tr>
<td>December</td>
<td>200</td>
<td>May</td>
<td>50</td>
</tr>
<tr>
<td>January</td>
<td>225</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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. However, 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.
PERSONAL CARE & HOUSEHOLD SUPPLIES
(Appendix F, as Revised 09/2007)

<table>
<thead>
<tr>
<th>Number in Household</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-2</td>
<td>$10.50</td>
<td>$45.00</td>
</tr>
<tr>
<td>3-4</td>
<td>$11.60</td>
<td>$50.00</td>
</tr>
<tr>
<td>5-6</td>
<td>$12.80</td>
<td>$55.00</td>
</tr>
<tr>
<td>7-8</td>
<td>$14.00</td>
<td>$60.00</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Weekly Amount</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$12.80</td>
<td>$55.00</td>
</tr>
<tr>
<td>2</td>
<td>$17.40</td>
<td>$75.00</td>
</tr>
<tr>
<td>3</td>
<td>$23.30</td>
<td>$100.00</td>
</tr>
<tr>
<td>4</td>
<td>$27.90</td>
<td>$120.00</td>
</tr>
</tbody>
</table>
2008-2009 Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate (until June 30, 2009) for approved employment and necessary medical travel etc. is 42 cents (42¢) 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.
**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).]
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).]
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).
MASSAGE ESTABLISHMENT AND MASSAGE THERAPIST REGULATORY ORDINANCE

Adopted: September 3, 1991
Amended: April 1, 2008
Amended: April 7, 2009
TOWN OF GORHAM
MASSAGE 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.


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.


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.
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.

i) 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 Mobile 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 if 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

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
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.
SPECIAL AMUSEMENT ORDINANCE AND PERMITS

Enacted September 5, 1978
Revised July 2, 1996
SPECIAL AMUSEMENT ORDINANCE AND PERMITS

Section 1. Applicability

This Ordinance amendment shall be applicable to all proceedings, applications and petitions commenced after July 2, 1996, which is the date this ordinance amendment first appeared on the Town Council agenda.

Section 2. Repeal

All ordinances or parts thereof, inconsistent with the terms and provisions of this Ordinance, are hereby replaced.

Section 3. Authority

This Ordinance is enacted pursuant to Title 28-A, M.R.S.A., Section 1054 and Title 30-A, M.R.S.A., Section 3001.

Section 4. Purpose

The purpose of this Ordinance is to control the issuance of special amusement permits as required by 28-A M.R.S.A., Section 1054, for music, dancing or entertainment of facilities licensed by the state to sell liquor.

Section 5. 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.

Section 6. Definitions

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

*Entertainment* shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional or amateur entertainers, by patrons, or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

*Exotic Dancing* shall mean the appearance of a person or persons, on the licensee’s premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee’s premises in such a manner or attire as to expose to view any portion of the breast referred to as the aureole, nipple or simulation thereof. “Expose to view” shall be interpreted to mean, without limitation, clear, see-through or clothing which is otherwise non-opaque.

*Licensee* shall include any person, individual, partnership, firm, association, corporation or other legal entity which is the holder of a license for the sale of liquor to be consumed on premises owned by said licensee, or any agent or employee of any such licensee.
Section 7. Penalty

Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) to be recovered for the use of the Town of Gorham and shall be subject to such other legal and equitable remedies as may be available to the Town. Each day such violation continues shall be deemed to be a new offense.

Section 8. Application

a) No licensee for the sale of liquor to be consumed on the applicant/applicants licensed premises shall permit on the licensed premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town Council a special amusement permit.

(b) Applications for all special amusement permits shall be made in writing to the Town Council and shall state:

(1) The name of the applicant;

(2) The applicant/applicants resident address;

(3) The name of the business to be conducted;

(4) The applicant/applicants business address;

(5) The nature of the applicant/applicants business;

(6) The location to be used;

(7) Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances; and

(8) Whether the applicant, including all partners, corporate officers, managers or principal employees has ever been convicted of a felony or a Class A, B or C crime within the past five years and, if so, the applicant shall describe specifically those circumstances; and

(9) Any additional information as may be required by the Town Council prior to the issuance of the permit, including but not limited to a copy of the applicant’s current liquor license.

Section 9. General Requirements

(a) No special amusement permit shall be issued for any thing or act or premises, if the premises and buildings to be used do not fully comply with all ordinances, codes, and regulations of the Town.

(b) The application fee for a special amusement permit shall be as set by order of the Town Council and on file in the Town Clerk’s office and is nonrefundable and must be paid when application is made for the permit.

(c) A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in the permit.
(d) All music, dancing and/or entertainment subject to regulation under this ordinance, on the premises, shall end no later than 12:00 midnight.

(e) The maximum permissible sound pressure level produced by any music, dancing and/or entertainment on the premises shall not exceed 50 dB, measured four (4) feet above ground at the property boundary; this measure shall be made by a meter set on the A-weighted response scale, slow response, and the meter shall meet the American National Standards Institute (ANSI S1.4-1961) “American Standard Specification for General Purpose Sound Level Meters”.

Section 10. Conduct Constituting Offenses by Licensees

Tumultuous Conduct. The Licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or be disorderly by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety, or welfare.

Riots. The Licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

Unnecessary Noise. The Licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise which disturbs, annoys, injures or prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare, or the prosperity of the residents of the municipality.

Nuisances. The Licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances or rules and regulations of the municipality, or under any statutes of the State of Maine.

Prostitution and Public Indecency. The Licensee shall not allow on any licensed premises or aid in or offer or agree to or offer near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.

Gambling. The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the State of Maine.

Obscenity. The Licensee, on any licensed premises, shall not:

A. Material. Knowingly disseminate, distribute or make available to the public any obscene material; or

B. Performance. Knowingly make available to the public any obscene performance; or

C. Commercial Activity. Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or

D. Exposure. Provide service to patrons in such a manner as to expose to public view:
(1) The Licensee’s or any of his agent’s or employee’s genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(2) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(3) Any portion of the female breast at or below the aureole thereof; or

E. Promotion. Knowingly promotes the commission of any of the above-listed acts of this Section.

F. Definitions. For the purpose of this Section, “obscene” means that to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this Section above, and the matter or act or performance considered as a whole lacks serious literary, artistic, political, or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine. “Material” means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines. “Disseminate” means to transfer possession of, with or without consideration. “Knowingly” means being aware of the character and the content of the material. “Performance” means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience. “Available to the public” means that the matter or performance or act may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor. “Service to patrons” means the provision of services to customers, patrons, or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hat-checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertainment. For the purposes of this Section and any other section of this Article, unless specified otherwise, “promote” means to cause, permit, procure, counsel or assist.
Section 11. Regulations for exotic dancing.

The following regulations apply to the performances of exotic dancers in establishments holding a special amusement permit:

(1) No dancer shall dance in the establishment except on a platform raised at least two (2) feet from the floor.

(2) No dancer shall dance closer than ten (10) feet from any patron.

(3) There shall be no fondling, mingling or caressing in the establishment between any patron and any dancer with the intent to sexually arouse or excite a patron’s sexual desire.

(4) No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from any patron.

(5) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.

(6) Dancers on the premises who remove any outer garments shall not toll or throw those outer garments at or in the direction of the patrons.

(7) The licensee shall, at his own expense, post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each such performance.

(8) No one under twenty-one (21) years of age shall be permitted on the premises or portion of the premises where a performance by dancers is conducted during any such performance.

(9) Any premises upon which entertainment including a dancer or dancers is proposed to be conducted shall be located at least one thousand (1,000) feet from any church; school; park; other facility holding a special amusement license under this Ordinance and which provides “dancers” as defined in this Ordinance; or any area for which residential uses are either a permitted use or a conditional use under the Zoning Ordinance of the Town of Gorham, Maine (in each of the above instances, the distance shall be measured from property line to property line).

(10) There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing thin this paragraph shall prohibit the establishment from advertising by words the nature of the entertainment.

Section 12. Classes and Fees

(a) The fee for a special amusement permit shall entitle the applicant to one (1) of the following classes of permits:

(1) Class I. Permit for live performances of music, provided nevertheless that the Class I permit shall limit the holder of same to three (3) live musicians or singers performing within the restaurant structure. No dancing or floor show entertainment shall be allowed on the premises holding a Class I permit.
(2) **Class II.** All of the privileges allowed in a Class I permit plus dancing within the restaurant structure to recorded or live music with no limitation upon the number of live musicians or singers.

(3) **Class III.** All of the privileges allowed in Class I and Class II permits plus a floor show type of entertainment within the restaurant structure.

(b) The entertainment allowed under any class of permit provided for herein shall be conducted at a level which complies with the provisions of Section 9(e) of this ordinance. Permits issued hereunder shall specify the hours during which permitted entertainment may be provided.

(c) An applicant may apply for any of the above three (3) classes of permit.

**Section 13. Hearing.**

(a) The Town Council shall, prior to granting a special amusement permit and after reasonable notice to the town residents and the applicant, hold a public hearing within thirty (30) days of receipt of a completed application, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.

(b) Prior to obtaining a permit, the applicant must show at the public hearing required in this section that:

1. The issuance of the requested permit will not be detrimental to the public health, safety, or welfare;

2. The proposed activity to be licensed will not create a traffic hazard;

3. The applicant has ample parking to accommodate the proposed activity;

4. The proposed activity will not, either by reason of its scope or noise, adversely affect surrounding or abutting property and that it will not unreasonably interfere with the use, enjoyment and value of surrounding and/or abutting property;

5. The applicant is in conformance with all provisions of the town zoning ordinance, all applicable health codes, and other applicable municipal, state and federal codes, ordinances, regulations and statutes;

6. In the case of a facility located in a residential zone, that the activities will not tend to change the residential character of the neighborhood.

7. Neither applicant nor its officers, agents, or principle employees have been convicted of a felony or Class A, B, or C crime within the past five years.

(c) In making the determination of whether the applicant has satisfied the criteria set forth in (b) above, the Town Council shall consider, but shall not be bound by, neighborhood opinion and sentiment.

**Section 14. Term of Permit**

A special amusement permit shall be valid only for the license year of the applicant’s existing liquor license.
Section 15. Inspections

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are approved for or required by ordinance or state law or are reasonably necessary to secure compliance with any town ordinance, code or regulation or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or detect violations thereof, it shall be the duty of the licensee, or person in charge of such premises, to give any authorized officer, official or employee of the Town requesting the same, sufficient samples of such material or commodity for such analysis or investigation upon request.

(c) In addition to any penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee who refuses to permit any such officer, official or employee to make an inspection or who interferes with such officer, official or employee while in the performance of his duty, provided that no license or special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

Section 16. Suspension or Revocation

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this ordinance on the grounds that the music, dancing, or entertainment permitted constitutes a detriment to the public health, safety or welfare or violates any town regulations, ordinances, or rules or determines that the application was false or misleading in a fashion material to the approval.

Section 17. Appeals

(a) Any licensee requesting a special amusement permit from the Town Council shall be notified in writing of their decision no later than thirty (30) days from the date his application was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit has been denied.

(b) Any licensee who has requested a permit and has been denied or whose permit has been revoked or suspended may, within thirty (30) days from the date of the denial, suspension or revocation, appeal the decision to the Board of Appeals.

Section 18. Rules and Regulations for Special Use Permits

The Town Council is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of special amusement permits; the classes of permits; the music, dancing or entertainment permitted under each class; and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this division.
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 House 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 House 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
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.
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.


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

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.
TOWN OF GORHAM

MUNICIPAL EMPLOYEES PERSONNEL POLICY

Adopted – October 7, 2008
Amended March 1, 2011
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TOWN OF GORHAM
MUNICIPAL EMPLOYEES
PERSONNEL RULES AND REGULATIONS

Chapter 1: Introduction

Section 1.1: PURPOSE

The general purpose of this policy is to establish a system of personnel administration that meets the social, economic and program needs of the Town of Gorham. This policy includes policies and procedures for employee hiring and advancement, fringe benefits, retirement, discipline and other related activities. All references to masculine gender as used in these Rules and Regulations are intended to include both male and female. The policy and procedures apply to all employees, unless inconsistent with a collective bargaining agreement. These policies and procedures are not intended and do not constitute a binding employment contract with any individual or group of employees.

The goals of personnel management in the Town of Gorham:

A. promote effectiveness, economy, and productivity in delivering services to the citizens of Gorham;

B. encourage a commitment to professional excellence in serving the public and continue the professional development and upgrading of employee skills; and

C. provide reasonable assurances that all rights and benefits of employees and applicants for employment are protected and respected.

The Town may change, amend, repeal or modify any of these policies or procedures at any time for any reason.

Section 1.2: SEVERABILITY

If any provision of these Rules and Regulations or the application hereof to any person or circumstances is held invalid, this invalidity does not affect other provisions or applications of these Rules and Regulations which can be given effect without the invalid provision or application, and for this purpose the provisions of these Rules and Regulations are severable.

Section 1.3: AMENDMENTS AND INTERPRETATION

The Town of Gorham reserves the right to unilaterally amend, delete, modify or change these policies without prior notice and at any time for any reason. The Town Manager and Town Council shall have the exclusive and final authority to interpret these policies.

Chapter 2: General Provisions

Section 2.1: AFFIRMATIVE ACTION

As an Equal Opportunity Employer, the Town of Gorham shall employ, upgrade, and promote employees without discrimination as to race, creed, age, sex, disability, sexual orientation, national origin or political
affiliation, the best qualified persons who are available at the salary level established for the position, with first preference being given to citizens of the Town, all other factors being equal.

Section 2.2: RECRUITMENT AND EMPLOYMENT

A. The character of the recruitment and selection process for all town positions will vary with the position. Within the limits of time during which a position must be filled, there shall be as wide a search for qualified candidates as is practicable, this may include advertising, open competitive examination, contact with state and other employment offices and contact with special sources of information. It shall be the duty of the Town Manager or the responsible body to seek out the most qualified employees for the Town. Citizens of Gorham will be given first preference for the position, all factors being equal among the candidates.

B. No immediate family member of any Department Manager may be gainfully employed to work in his/her department. “Immediate family” means parents, spouse, brother, sister, child, stepchild, adopted child, grandmother, grandfather, mother-in-law, and father-in-law.

C. As a condition of employment, the Town may require a physical exam by a physician of the Town’s choice at the expense of the Town.

D. The Town is committed to providing an equitable and competitive compensation package that will attract and retain well-qualified employees.

Section 2.3: CLASSIFICATIONS OF EMPLOYMENT

A. REGULAR FULL TIME: A regular full time position shall be year-round in nature and the incumbent shall be required to work the standard work week of their particular department. The employee is subject to all personnel rules and regulations and receives all benefits and rights as provided by these rules, except where otherwise provided for in a collective bargaining agreement.

B. REGULAR PART TIME: An employee in this classification works less than the normal workweek, but on a continuing and indefinite basis. The employee is subject to all personnel rules and regulations. Regular part-time employees who work 20 or more hours per week are eligible to receive sick leave, vacation leave, and paid holidays in proportion to the hours worked, provided that the holiday falls on the day that the employee was regularly scheduled to work, but are not eligible for other benefits such as Disability Insurance. These employees are also eligible for Health, life, and dependent life insurance but the Town does not participate in paying the cost of the premium. Employees who regularly work (30) thirty hours or more a week are eligible to participate in the ICMARC Retirement Program and receive a Town match as specified in the Retirement Section of this Policy. Employees should review the retirement section for details. Regular part-time employees who work less than thirty (30) hours a week may participate in the I.C.M.A. Retirement Program, however, there is no Town match.

C. TEMPORARY EMPLOYEES: Temporary employees work on a non-regular basis usually within a limited time frame. Full-time and part-time seasonal employees are included in this classification. They are not entitled to benefits such as retirement, health insurance, holiday pay, or sick pay, except benefits mandated by law.

Section 2.4: PROBATION

A. Any employee appointed to a regular position shall be considered on probationary status for the first 180 days of employment. The object of the probationary period is to determine the ability of the employee to adhere to required work standards through a 180 day period of observation and review by the Department Manager.
B. During the probationary period, the Department Manager, with the approval of the Town Manager, may at any time, remove an employee who is unable or unwilling to perform the duties of the position satisfactorily or whose work habits and dependability did not merit the continuance of service.

C. After the first 180 days, the employee shall receive a formal written evaluation by his/her supervisor which will be delivered to the Town Manager. A successful evaluation will result in the employee being transferred to regular status. Employees will periodically receive written performance evaluations thereafter.

Section 2.5: PROMOTIONS

Town employees shall be given maximum opportunity for advancement in the service. Present employees shall be given first consideration in filling a vacancy, but it is recognized that the good of the community may require that a vacancy be filled from outside the ranks of employees of the Town of Gorham. A decision shall be made only after careful review of the qualifications of all Town employees who apply for the position.

Section 2.6: TRAINING AND EDUCATION

Both the Town and its employees profit from the provisions of educational training opportunities reasonably related to the employee’s position for which provisions have been made in the budget. It shall be the responsibility of the Town Manager to provide to Town employees reasonable opportunities for such in-service training and attendance at schools or conferences as will improve quality of performance and bring about more efficient and more effective operation. Representing the Town at out-of-state conferences shall be authorized by the Town Manager, if funds permit, and upon such conditions as the Town Manager may determine.

Section 2.7: DISABILITY ACCOMMODATION

The Town is committed to complying fully with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act, and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

The Town will not discriminate against any qualified employees or applicants because they are related to or associated with a person with a disability. Furthermore, the Town is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and the Maine Human Rights Act.

Section 2.8: VIDEO DISPLAY TERMINAL TRAINING POLICY

The Town of Gorham is required by a Maine training law enacted on July 1, 1989, and amended on July 17, 1991, to explain or describe the proper use of computer terminals and the protective measures that operators of VDTs should take to avoid or minimize symptoms (i.e., carpal tunnel syndrome) that may result from extended or improper use of these terminals.

This law requires that training be done orally and in writing to all VDT users annually. Included in the training is instruction on proper use of equipment (chairs, desks, terminal holders) and lighting. All new employees must receive the training within one month of their starting date as a VDT operator.

A VDT user can request, through the Town of Gorham Safety Committee, that a professional training in proper use of VDTs review the employee’s work station and recommend any improvements. The Town of Gorham will make every effort to insure that each VDT user has the proper equipment to perform their job safely and effectively.

Section 2.9: SAFETY POLICY
Personal injury and property loss are needless waste and squandering of precious resources. Personal injury places the Town of Gorham at a disadvantage in its ability to provide the necessary services and functions to its citizens. Property losses place an undue burden on limited funds for services and general operations.

As an employer, the Town of Gorham is legally responsible to ensure that mandated safety regulations be enforced. It is the Town’s policy that mandated safety regulations will be complied with by all town employees at whatever level. This is in the interest of both the Town and the employees.

Where it is the responsibility of the Town to provide safety equipment, it shall also enforce its use. It is incumbent upon employees to utilize such equipment.

It is the responsibility of every town employee to ensure that a safer workplace is maintained and that personal injury and property loss are minimized and/or eliminated wherever possible. This will ultimately reap benefits for us all.

Section 2.10: ALCOHOL AND DRUG POLICY AND TESTING PROCEDURES FOR THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991

Policy Statement and Authorization

The Town of Gorham has a strong commitment to the health, safety and welfare of its employees, their families, its customers, and the public at large. Accordingly, the Town seeks to hire and employee workers requiring a Commercial Drivers License (CDL) who are free from the illegal use and abuse of drugs and alcohol, and to protect employees, their families and the public from the adverse effects of alcohol and drug abuse. The Town requires that final applicants selected for the positions requiring a CDL undergo an Alcohol and Drug Test to detect the presence of alcohol and drug abuse substances in the body.

Any applicant with a positive pre-employment test may be denied employment with the Town by reason of the positive test.

The use and misuse of alcohol or drugs, whether prescribed or illegal, impairs the ability of an employee to perform assigned duties, particularly those requiring a CDL, and may endanger the employee, co-workers, the public, the Town, and the public and private property. The Town seeks to prevent employees from using alcohol and drugs when the use of such is illegal, or in any way endangers the Town or the public. The Town also wants to provide appropriate and reasonable assistance to employees whose use or misuse impairs their ability to perform their duties.

This policy is designed to comply with the Omnibus Transportation Employee Testing Act of 1991 and with the Rules and Regulations under CFP 49 Part 653, Prevention of Prohibited Drug Use in Transit Operations and CFR 49 Part 382, Substances and Alcohol Use and Testing (both published February 15, 1994) and related parts, and to provide guidance to town officials on the implementation of the requirements of the Act.

Section 2.11: DRUG AND ALCOHOL TESTING

The following circumstances shall require Drug and Alcohol Testing:

1. Pre-employment. Pre-employment Drug Testing shall be conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. Testing is also required when employees transfer to a safety-sensitive (driver) position. Pre-employment alcohol testing shall be required when or if the Federal Government requires it.

2. Post Accident. Post accident testing shall be conducted after accidents on drivers whose
performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and all fatal accidents even if the driver is not cited for a moving traffic violation.

3. Reasonable Suspicion. Reasonable Suspicion testing shall be conducted when a trained supervisor has reasonable suspicions, based upon specific, contemporaneous, articulate observations concerning the appearance, behavior, speech or body odors, that the employee has:
   A. Unlawfully used illicit drugs and/or abused controlled substances; or
   B. Report to work under the influence of or has illicitly ingested controlled substances or alcohol during work hours.

4. Random. Random testing shall be conducted on a random, unannounced basis just before, during or just after performance of as safety sensitive function. Fifty percent (50%) of employees in safety sensitive positions must be tested for controlled substances and twenty-five percent (25%) of employees in safety sensitive positions must be tested for alcohol on an annual basis.

5. Return to Duty and Follow-Up. Return to duty and follow-up testing shall be conducted when an individual who has violated the prohibited alcohol or drug conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after a driver returns to duty.

Responsibility

It is the responsibility of the Human Resources Director, under the direction of the Town Manager, to administer and enforce this policy and the procedures as outlined. Employment by the Town shall not be deemed to have been offered nor shall a perspective employee have the right to accept any offer or suggestion of an offer of employment until such time as a drug test evaluation has been received and cleared by the Human Resources Director. Any work performed by an individual for or in behalf of the Town prior to such approval shall not involve the operation of any Town equipment requiring a CDL prior to testing.

The Town of Gorham will contract for specimen collection, medical review, testing, and training for supervisors and employees. It is the responsibility of each department director, division head, supervisor or manager to administer applicable sections of this policy. It is the responsibility of the Human Resources Director and each Department Manager to see that supervisors are properly trained and that employees have notice of and are familiar with these drugs and alcohol policies and procedures.

Definition

**Alcohol and Drug Test.** A generally accepted and proven test methodology or methodologies as recommended by the Rules and Regulations under CFR 49 Part 653, Prevention of Prohibited Drug Use in Transit Operations and CFR Part 382, Substances and Alcohol Use and Testing. This test method determines whether an individual has ingested or otherwise used the substance in question within a period of time before the test.

**Applicant.** A person who has applied for a position with the Town of Gorham, including past employees eligible for rehire, and present employees voluntarily seeking another position.

**Medical Review Officer (MRO).** Physician responsible for reviewing all test results for confirmation prior to communicating same to the employer. The MRO is required to protect the confidentiality of the individual involved.

**NIDA.** The National Institute on Drug Abuse.

**Positive Test.** Alcohol and Drug tests results that meet or exceed the standards outlined under CFR 49.
**Random Testing.** A scientific method used to select employees for testing at random. This method will occur throughout the year, and involve a minimum of fifty-percent (50%) employees/positions requiring a CDL selected for drug testing and minimum of twenty-five percent (25%) for alcohol testing. The minimum percent to be tested may decrease in subsequent years based on the number of confirmed positive test results.

**Reasonable Suspicion.** A determination made by a trained supervisor that an employee is in violation of the Omnibus Transportation Employee Testing Act of 1991 concerning alcohol or controlled substances. This determination must be based upon specific, contemporaneous, articulate observations concerning the appearance, behavior, speech and body odors of the driver. Circumstances which may constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

1. A pattern of abnormal or erratic behavior;
2. Information provided by a reliable and credible source;
3. Direct observation of drug or alcohol use;
4. Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
5. Any trained supervisor who has reasonable suspicion to believe that a violation has occurred must complete an "Observed Behavior-Reasonable Cause Record" form within twenty-four (24) hours of the observed behavior or before the results of the tests are released, whichever is earlier.

**Substance Abuse.** The use of alcohol, prescription or over the counter drugs, any of which impairs the ability of an employee to perform the job safely and effectively, or the use of illegal drugs or other controlled substances without a valid prescription.

**Work-Related Vehicular Accident.** Any reportable vehicular accident that damages property or involves injury to self or others for which a moving traffic violation citation is issued (does not include minor personal injury not requiring transport to a medical facility or care beyond first aid). Any vehicular accident involving a fatality.

**Conduct Prohibited**

The following conduct or behavior is determined to be unacceptable and therefore is prohibited under this policy. Violation shall be cause for disciplinary action.

1. Reporting to or remaining on duty with a blood/alcohol concentration of 0.02 or greater. Any employee found to have a blood/alcohol concentration of at least 0.02 but less than 0.04 shall be immediately removed from the safety sensitive position and shall not be permitted to perform that function until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test. Any employee found to have blood/alcohol concentrations of greater than 0.04 may be subject to further disciplinary action.

2. Possessing alcohol on duty that is not manifested or part of a shipment.

3. Use of alcohol while on duty.

4. Use of alcohol for eight (8) hours after an accident that will require a post-accident test or until the test is performed, whichever occurs first.

5. Any use of alcohol within 4 hours of reporting to duty to perform a safety sensitive position.
Refusal to submit and properly participate in a required alcohol and/or controlled substances test. A refusal is defined as:

A. Failing to report immediately to the identified testing site, once notified, but in no case, more than two (2) hours after notification.

B. Failing to follow proper instructions or participate in the required testing procedures.

Reporting to or remaining on duty while using any controlled substance, except when used under the direct orders of a physician and the physician has informed the employee that the use will not affect the safety use and operation of the commercial vehicle.

Reporting to or remaining on duty after testing positive for any controlled substance under this Policy.

Testing for Job Applicants and Employees

Drugs to be tested for:

When chemical drug and alcohol screening is required under the provisions of this policy an CFR Title 49, a breath test and/or urinalysis test will be given to detect the presence of the following drug groups:

A. Alcohol (ethyl)
B. Amphetamines
C. Cocaine
D. Opiates
E. Phencyclidine (PCP)
F. Marijuana

Applicants for all classes of employment requiring a CDL will be required to undergo a chemical drug and alcohol test upon an offer of employment and prior to their final appointment to that position.

Current Employee Testing: General Standard

The Town may require a current Town employee whose position requires a CDL to undergo drug and alcohol testing if there is reasonable suspicion by the immediate supervisor or other trained management personnel within the Department that the employee is under the influence of drugs or alcohol during work hours.

Supervisors are required to document the specific facts, symptoms, or observations which formed the basis that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate Department Manager, and Human Resources Director. The "Observed Behavior-Reasonable Cause Record" form must be completed.

The Town will require a current Town employee in a position requiring a CDL to undergo post-accident drug and alcohol testing if he/she is involved in a reportable vehicular accident or if there is a fatality.
D. All current employees in safety sensitive positions requiring the use of a CDL will be subject to Random Testing.

E. The availability of drug abuse counseling and referral services.

4. Record Keeping
   A. Records shall be maintained by the Department or Division of supervisory training given, and copies shall be forwarded to the Human Resources Director.
   B. Records shall be maintained by the Department or Division documenting that employees have been provided with information required under this policy, and copies shall be forwarded to the Human Resources Director.

Testing Procedures

I. Notice and Consent
   A. Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of test results to those Town officials with a need to know. The chemical screen consent form shall provide space to indicate current or recent use of prescription and over-the-counter medication.
   B. All recruitment announcements for any position requiring a CDL, including in-hour recruitment and promotion, will disclose that a chemical, alcohol, and drug screening test will be required for the applicant.

2. Pre-employment Testing
   A. Before any Department Manager or other Town hiring authority makes a conditional offer of employment to an applicant, he/she will notify the Human Resources Director of the final or top applicant for the position. The Human Resources Director will schedule a chemical, alcohol and drug screening test for the applicant.
   B. The applicant shall be given a copy of this policy, a consent form to complete and sign, and will be informed of the test appointment.
   C. The MRO will notify the applicant of the test results, and if positive, will give the applicant an opportunity to discuss same prior to release of the information to the Town.
   D. After the Human Resources Director has received the test results from the MRO or medical facility, they will not inform the hiring department or division of the test results. This disclosure from the MRO will state whether the test is positive or negative, and if positive which substances were detected, and shall be kept confidential by the Human Resources Director.
   E. After the Human Resources Director has received the test results from the MRO or medical facility, they will inform the hiring Department Manager whether or not the applicant is eligible for employment. All results shall be kept confidential.

3. Reasonable Suspicion Testing
   A supervisor may, upon reasonable suspicion, and after at least attempting to consult with the division or Department Manager, if available, ask any on-duty employee to submit to an immediate alcohol and drug test. The Department Manager or designee should be notified as soon as possible.
A. The employee’s Department Manager or designee shall immediately advise the Human Resources Director or designee of the determination of reasonable suspicion.

B. The employee shall immediately be given a “Test Consent Form” to complete and sign.

C. The employee will be immediately taken by the supervisor or another supervisor or management employee of the department to the appropriate medical facility/clinic for testing.

D. If the employee is not able to be taken to the appropriate medical facility/clinic for testing, the supervisor shall immediately telephone the agency and primary medical facility (any time, day or night) and/or call medical personnel from the primary medical facility and request that they go to where the employee has been taken to acquire the drug and alcohol test samples.

E. The employee shall be immediately removed from duty and assisted in getting home after the drug and alcohol test.

F. When "reasonable suspicion" is the grounds for requiring a drug/alcohol test, the employee shall be placed on paid administrative leave until the test results are available and a preliminary administrative review has been conducted.

G. An alcohol and drug test for reasonable suspicion will include the urinalysis test.

H. Results from the alcohol and drug screen test will be given by the laboratory to the MRO who, after confirmation, will forward to the Human Resources Director.

4. Random Testing

A. This procedure will occur throughout the year and will initially involve a minimum of fifty percent (50%) of the employees/positions requiring a CDL for drug testing and twenty-five percent (25%) for alcohol testing selected at random and unannounced times throughout the year.

B. If the test yields a positive result and the positive result is confirmed by the MRO, then the employee will be subject to disciplinary action.

5. Post-Accident Testing

A. A post-accident test will be conducted on any CDL employee involved in a work-related motor vehicle accident if:

(1) The accident results in a loss of life.

(2) The operator receives a citation under local or State law for a moving traffic violation arising from the accident.

6. Return-to-Duty Testing

A. Any employee returning to duty following a confirmed positive test must be subjected to a return-to-duty test following the same guidelines described in the Pre-employment section. The test must show a verified negative result prior to the employee returning to duty.

7. Follow-Up Testing

A. An employee returning to work following a confirmed positive test and period of assistance/discipline will be subject to announcing testing for a period of not more than 60 months. There will be a mandatory minimum of 6 tests within the first 12 months.
B. Follow-up tests may be used to determine whether or not any controlled substance is still being used.

Refusal To Consent

1. Applicants

A. A job applicant who refuses to consent to a drug and alcohol screening test will be denied employment with the Town. If the applicant is a current Town employee, the applicant will be denied employment in the position for which application was made. No denial shall be made without first attempting to discuss the impact of the refusal with the applicant.

2. Employees

A. An employee who refuses to consent to a drug and alcohol screening test when selected for random testing, post accident, or when reasonable suspicion of drug or alcohol use has been identified, is subject to disciplinary action up to and including termination. The reasons for the refusal shall be considered in determining the appropriate disciplinary action. No disciplinary action shall be taken without first discussing the matter with the employee, Department Manager, and the Human Resources Director.

Consequences of Confirmed Positive Test Results - Drugs and Alcohol

1. Applicants: Job applicants will be denied employment with the Town if their initial positive test results have been confirmed. Applicants who are current Town employees shall be denied employment in the position for which application was made. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive test result. Employee applicants shall be handled in accordance with Section 2 below.

A. The applicant will be provided an opportunity to discuss with the MRO the results of any positive test and seek a second confirmation test.

2. If an employee's positive test result has been confirmed for Drug or Alcohol use, the employee is subject to action as follows:

A. Positive Drug Test: The employee shall be referred to a Substance Abuse Professional through the Town Employee Assistance Program (EAP). The Substance Abuse Professional shall determine what assistance, if any, is needed to resolve problems associated with controlled substance abuse. In accordance with MRSA 26, Section 685, the Town is obligated to offer treatment assistance and limited financial assistance. Failure to comply with the recommended treatment, if any, however, shall be cause for disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include but are not limited to: employee's work history, length of employment, current job performance and existence of past disciplinary actions. No disciplinary action shall be taken against any employee who voluntarily identifies himself/herself as a substance abuser prior to the time that it is apparent that the use has been detected. A second positive test or further violation of this policy following an initial positive test shall be cause for discharge.

Prior to any disciplinary action being imposed by the Town, the employee is entitled to a disciplinary hearing.

B. Positive Alcohol Test. The employee shall be referred to a Substance Abuse Professional through the Town Employee Assistance Program (EAP). The Substance Abuse Professional shall determine what assistance, if any, is needed to resolve problems associated with alcohol abuse and shall make those recommendations to the employee. Notwithstanding any
recommendations made by the Substance Abuse Professional, the Town may take disciplinary action up to and including termination. Factors to be considered when determining the appropriate disciplinary response include, but are not limited to: employee's work history, length of employment, current job performance and existence of past disciplinary actions. No disciplinary action shall be taken against any employee who voluntarily identified himself/herself as an alcohol abuser prior to the time that it is apparent that the use has been detected. A second positive test, should the employee continue to be employed following an initial positive test, shall be cause for discharge. Prior to any disciplinary action being imposed by the Town, the employee is entitled to a disciplinary hearing.

Consequences of a Controlled Substance Test Results (Drug Test)

1. An employee or job applicant whose drug test yields a positive result, confirmed by the MRO, shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

2. If the second test confirms the positive test result, the employee or applicant shall be notified of the results by the MRO who will offer the employee an opportunity to discuss the results. The MRO will then notify the Human Resources Director in writing. The letter of notification shall identify the particular substance found and its concentration level.

Confidentiality of Test Results

1. All information from an employee's or applicant's drug and alcohol test is confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency or organization is prohibited unless written authorization is obtained from the employee or applicant or upon subpoena. The results of a positive drug test shall not be released by the MRO until confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory. All positive test results will be maintained by the MRO, and reported to the Human Resources Director, where they will be kept on file.

Privacy in Chemical Drug Testing

1. Urine samples shall be provided in a private restroom stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Employees and applicants may be required to disrobe and will be given hospital gowns to wear while they are providing test samples in order to ensure that there is no tampering. Street clothes, bags, briefcases, purses, and other containers may not be carried into the test area. The water in the commode, if any, shall be colored with dye to protect against dilution of test samples.

2. An applicant or employee may waive the right to privacy and provide the urine sample in the presence of a witness (of the same gender) and not be required to disrobe and wear a hospital gown.

Laboratory Testing Requirements

1. All chemical drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the Town. To be considered as a testing site, a medical facility or lab must submit in writing a description of the procedures that will be used to maintain test samples. Factors to be considered by the Town in selecting a testing facility include in addition to NIDA certification:

   A. Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;

   B. Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
C. Chain-of-custody procedures which ensure proper identification, labeling and handling of test samples; and

D. Retention and storage procedures which ensure reliable results on confirmatory tests of original samples.

2. Second Confirmation Test

A. The applicant or employee may request from the MRO a second confirmation test of the same sample within 72 hours of notice that the first test was positive.

B. The cost of the second confirmation test must be paid in advance by the applicant or employee. If the test is negative, the Town shall reimburse the applicant or employee for the cost of the test.

C. The second confirmation test will be performed by a NIDA certified laboratory selected by the MRO.

Responsible City Official

The Human Resources Director may be contacted for further information about this Policy or its applicability.

Effective Date

This policy shall be become effective January 1, 1996.

Section 2.12: PERSONNEL RECORDS

Personnel records are maintained for each employee of the Town. Any employee may review his/her files in the presence of the Human Resources Director between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. So as not to cause inconvenience the employee shall set up an appointment for such a review in advance.

Chapter 3: Conditions of Employment

Section 3.1: EMPLOYEE CONDUCT AND PUBLIC RELATIONS

All employees are prohibited from engaging in any conduct, which could reflect unfavorably upon the Town or disrupt the efficient administration of the Town. All Town employees must avoid any action which might result in or create the impression of using public employment for private gain, giving preferential treatment to any person, or losing complete impartiality in conducting Town business.

Cooperation of all employees is essential to efficiency. Our taxpayers are entitled to the best service we can give them. Cooperation, courtesy and responsibility are the key elements of good service.

These policies and regulations are provided to assist the Management Team and all employees in functioning at peak efficiency with minimal cost to the taxpayers.

1. Receipt of gifts: All Town employees are prohibited from soliciting or accepting any gift, gratuity, entertainment, loans, or any other item of monetary value from any person, within or outside Town employment, whose interests may be affected by the employee’s performance or nonperformance of his/her official duties. This does not include fund-raising efforts for the benefit of charitable causes or other departmental programs.
2. Business Activities or Solicitations are prohibited: No employee shall engage in any business other than his/her regular duties during work hours.

Section 3.2: CONFIDENTIALITY POLICY

Confidentiality: Many Town employees have access to confidential information pertaining to persons or property in the Town. Employees must not use this privileged information to their private advantage or to provide friends or acquaintances with private advantages. Each employee is charged with the responsibility of releasing only information which is required under the “right to know” law.

Section 3.3: CONFLICT OF INTEREST

No Town employee who is authorized to make purchases shall have any interest either directly or indirectly in any contract with the Town.

Section 3.4: ATTENDANCE AND LATENESS

Employees shall be at their respective places of work in accordance with the general or departmental regulations. In the event of necessary absence because of illness or any other cause, it is the responsibility of employees to see that their Department Manager is advised of the reason for absence prior to the start of the work day and on each subsequent day so he may adjust the daily schedule of work as necessary. Similarly, if you are going to be unavoidably detained for some reason, phone your Department Manager and let them know you will be late and when you expect to arrive at the work place.

Section 3.5: TOWN PROPERTY

Employees must not, directly or indirectly, use or allow the use of Town property of any kind for other than official activities. Town telephones, cell phones, computers, etc. may be used for personal business only on an emergency basis. Any personal long distance telephone calls must be charged to your home telephone number.

Section 3.6: OUTSIDE COMPENSATION

Any employees receiving payment for services, from non-Town sources, rendered during his/her normal work day and for which work day Town compensation was given, shall turn the entire amount of that compensation over to the Treasurer, Town of Gorham. This provision does not apply to activities outside the work day or during periods of vacation.

Section 3.7: OUTSIDE EMPLOYMENT

A Town employee may engage in outside employment. However, no employees may engage in outside employment which in any manner interferes with the proper and effective performance of the duties of their position, results in a conflict of interest, or if it is reasonable to anticipate that such employment may subject the Town to public criticism or embarrassment. Employees must inform their department supervisor of their outside employment. If the Town Manager determines that such outside employment is disadvantageous to the Town or affects the employee’s efficiency, the Town Manager shall notify the employee in writing that the outside employment must be terminated. Any employee who engages in employment outside their regular working hours shall be expected to effectively perform their regular duties with the Town first.

The Town shall in no respect be liable nor grant sick leave or disability leave in cases where an employee is injured or contracts an occupational illness or develops occupational disability while engaged in outside employment.

Section 3.8: POLITICAL ACTIVITY
While working for the Town, all employees shall refrain from seeking or accepting nomination or election to any office in the Town government and from using their influence publicly in any way for or against any candidate for effective office in the Town government. Town employees shall not circulate petitions or campaign literature for elective Town officials, or be in any way concerned with soliciting or receiving subscriptions, contributions, or political service for any person for any political purpose pertaining to the Town government. This rule is not to be construed to prevent Town employees from beginning, or continuing to be, members of any political organization from attending political meetings, from expressing their views of political matters, or from voting with complete freedom in any local state or national election.

Section 3.9: DISCIPLINE AND CORRECTIVE ACTION

Whenever, in the supervisor’s judgment, employee performance, attitude, work habits, or personal conduct at any time falls below a suitable level, the supervisor shall inform the employee promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action.

The Town generally follows the principles of progressive discipline. However, the supervisor has the right to determine the appropriate level of discipline, taking into consideration the particular incident and any local, state, and federal laws, rules and/or guidelines.

Disciplinary action may consist of the following:

1) Verbal Warning
2) Written Warning
3) Suspension, withholding or deferring pay increase, or demotion
4) Dismissal

Dismissal shall only be done with the prior knowledge of the Town Manager. Notice of such action shall be given in writing to such employee, with a copy to the Town Manager. Such notice shall specify the action taken, the reason therefore, and the extent and duration of the penalty. This notice shall be given to the employee at the time of the disciplinary action.

Any employee who feels that he/she has been treated unfairly shall have access to the grievance procedure as outlined in these rules and regulations.

Section 3.10: GRIEVANCE PROCEDURE

The term “grievance” means any dispute between an employee and management concerning the effect, interpretation, application or claim of breach of violation of Town of Gorham Employment Rules and Regulations.

Excluded from consideration of grievance are those matters pertaining to: hiring, promotion of personnel, and compensation adjustments, except that regular employees may appeal performance evaluation.

Every attempt should be made to resolve any dispute as soon as possible to the satisfaction of all parties.

Steps in the grievance procedure shall be as follows:
1) Every reasonable effort should be made for an oral agreement between the individual and his/her supervisor or Department Manager.

2) If an oral agreement is not reached, the aggrieved may within five (5) working days file a written complaint to the supervisor or Department Manager. The Department Manager or supervisor shall make a careful inquiry of the facts and circumstances of the complaint and shall make a determination of the merits of the complaints and give a written reply within five (5) working days.

3) If the individual is dissatisfied with the Department Manager or supervisor’s written decision, the aggrieved may, within five (5) working days, make a formal written appeal to the Town Manager. The Town Manager will, upon receipt of the written appeal, return a formal written decision within five (5) working days. In all cases the decision of the Town Manager will be final and binding.

Section 3.11: POLICY ON HARASSMENT

It is the policy of the Town of Gorham that all our employees should be able to work in an environment free from all forms of harassment. Harassment, as defined by this policy, is prohibited. This policy refers not only to supervisor-subordinate actions but also to actions between co-workers. Any complaints of harassment will be investigated promptly. There will be no intimidation, discrimination or retaliation against any employee who makes a report of harassment.

A. Sexual Harassment:

1. Sexual harassment is the attempt to control, influence or affect the career, salary, or job of an individual in exchange for sexual favors. Sexual harassment can also be conducted which creates a hostile or offensive work environment or unreasonably interferes with a person’s ability to perform his/her job. Sexual harassment is an extremely serious matter. It is prohibited in the workplace by any person and in any form.

2. Specific conduct which is prohibited includes, but is not limited to:

   a. Threats or insinuations, implicit or explicit, that any employee’s refusal to submit to sexual advances will adversely affect the employee’s retention, evaluation, wages, promotion, duties or any other condition of employment;

   b. Unwelcome sexual flirtations, advances or propositions;

   c. Verbal or written abuse of a sexual nature;

   d. Graphic verbal comments about an individual’s body;

   e. Sexually degrading words used to describe an individual; or

   f. The display in the workplace of sexually suggestive objects or pictures.

3. Any employee who believes he/she has been the subject of sexual harassment should report all alleged acts to their Department Manager or the Town Manager.

4. Any Department Manager or employee who is found after appropriate investigation to have engaged in sexual harassment will be subject to discipline, up to and including discharge.

B. Verbal Harassment
Derogatory or vulgar comments regarding a person’s sex, religion, age, ethnic origins, physical appearance, or the distribution of written or graphic materials having such an effect, are prohibited. Any employee who believes he/she has been the subject of such harassment should report the alleged conduct to their Department Manager or the Town Manager. Any Department Manager or employee who is found, after appropriate investigation, to have engaged in any harassment will be subject to discipline, including discharge.

Effective October 19, 1991, the Maine Legislature passed a new law regarding Sexual Harassment in the Workplace. In compliance with this law, the Town of Gorham is required to provide annual written notification to all employees regarding sexual harassment. The Town of Gorham is also required to provide training to all new employees on sexual harassment before their first anniversary of employment. In addition, new supervisors must receive information on their responsibility to take immediate and corrective action in addressing sexual harassment complaints.

Section 3.12: INFECTIOUS DISEASE POLICY

I. Purpose

This is to establish the policy of the Town of Gorham for managing infectious disease issues as they relate to employees and/or prospective employees including but not limited to the following diseases: AIDS, Chickenpox, Hepatitis A, Hepatitis B, Impetigo, Measles, Mumps, Pertussis, and Parasitic Infestations. Any employee or volunteer who could or does come into contact with bodily fluids while performing his/her job as a Town employee or volunteer, should immediately reference the Town of Gorham Exposure Control Plan. Copies of the Exposure Control Plan are available in the Town Manager’s office, as well as in the Police, Fire/Rescue, Public Works and Community Services Departments.

II. Policy

1. It is the policy of the Town to assure to the extent possible a safe and healthful work environment.

2. It is also the policy of the Town to ensure full compliance with state, federal, and local requirements dealing with infectious diseases.

3. Town procedures shall comply with the Center for Disease Control recommendations for specific infectious diseases. These recommendations will be available through the employee’s Department Manager.

4. It is the obligation of all Town employees to take all reasonable precautions to protect themselves, co-workers, clients and the public from infectious diseases.

5. The Town of Gorham shall make available to all employees and volunteers who have occupational exposure the Hepatitis B vaccination series and post exposure evaluation and follow-up. Please reference the Town of Gorham Exposure Control Plan for detailed information on necessary procedure to follow.

III. Procedures

1. The Town will not discriminate against employees and/or prospective employees with infectious diseases who are otherwise qualified to perform their job functions with reasonable accommodation. Employees with infectious diseases will be treated under existing policies, state, federal, and local requirements, and collective bargaining agreements.

2. Where allowed by law, the Town retains the right to test employees for infectious
3. The Town must maintain confidentiality regarding an employee’s health status, and does not have a duty to inform other individual or organizations unless required by law.

4. Upon medical confirmation of an infectious disease that may be a threat to the public health, the affected employee has the responsibility to notify the Town’s Human Resources Director, and to carry out his or her assigned duties if reasonable accommodations can be made.

5. Upon notification by an employee that an infectious disease diagnosis has been confirmed and is a threat to the public health, the Human Resources Director will:
   a. Secure, if possible, all appropriate releases for information from the employee and notify those individuals for whom those releases have been acquired.
   b. Assist in the identification of reasonable accommodations to be made, if any.
   c. Assist individual departments, if necessary, in complying with this policy.

6. The Town will treat all occupational infectious disease injuries or illnesses according to state law.

7. The Town will provide appropriate educational opportunities and current informational material on infectious disease issues, including prevention, protection, control measures, and treatment practices.

8. Individual departments have the right to develop protocols regarding infectious disease control provided that those protocols conform to this policy.

9. An employee cannot refuse to carry out his or her assigned duties when dealing with a co-worker or the public with an infectious disease unless that individual makes a threat of harm to the employee. Failure to adhere to this procedure will result in disciplinary action.

IV. Accidental Needle Stick Procedure

Police, fire, and rescue personnel have the highest risk of exposure to needles and syringes. Exposure to a used, contaminated needle places an employee at risk for contracting an infectious disease. In the event of an accidental puncture with a contaminated needle, the procedure is as follows:

1. Wash the puncture site thoroughly with soap/disinfectant and water.
2. Report the incident to your supervisor.
3. Police, fire or rescue personnel must notify the medical facility receiving the patient of the incident.
4. Complete Incident and/or Workers Compensation forms.
5. Establish your potential exposure risk to infectious diseases.
6. Notify your Department Manager to establish your: (1) tetanus status, (2) Hepatitis B status, and (3) HIV exposure.
7. Seek further medical attention if necessary.
V. Procedure for Exposure to AIDS Infection

If a Town employee is exposed to the blood or body-fluid of a known or highly suspected AIDS infected person:

1. Wash the exposed areas thoroughly with soap and water. Clean any spills with a one (1) part bleach to ten (10) parts water solution.

2. Report the incident to your supervisor.

3. Complete the Incident and Workers Compensation forms.

4. Notify your Department Manager as soon as possible to schedule an appointment for a voluntary blood test.

5. The blood test will be drawn within two weeks of the incident, six months later, and nine months later. The blood test is sent to the Maine Public Health Division in Augusta. Results are received approximately one week later. You will be notified of the test results.

6. If all three specimens are negative, you are considered not to be infected.

7. Counseling occurs with each visit or when requested, and is also available to family members and co-workers.

8. Emotional counseling is available through a counselor of the employee’s choice and to be provided by the Town of Gorham.

9. Strict confidence will be maintained in all incidences unless appropriate medical and/or information releases have been obtained.

Section 3.13: ALCOHOL & DRUG USE AND ABUSE

The possession, sale, or use of alcohol or illegal drugs on the employer’s premises is strictly prohibited and is grounds for immediate dismissal. If an employee is unable to effectively perform his duties or causes disruptions in the workplace due to the influence of drugs or alcohol, disciplinary action may be taken.

Pursuant to Public Law 100-690 Title V, Subtitle D, the Town of Gorham has established the following policy:

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Town of Gorham’s workplace. As a condition of employment with the Town of Gorham, all employees will abide by the terms of the policy and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. The Town of Gorham, within 30 days of receiving notice, with respect to any employee who is so convicted, will take one of the following actions:

1. taking appropriate personnel action against such an employee up to and including discharge; and/or

2. requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

Section 3.14: WORKPLACE SMOKING POLICY
In accordance with the provisions of the Workplace Smoking Act of 1985, the Town maintains a smoke free environment for its employees and visitors to municipal facilities.

1. The Town recognizes that smoking in the workplace can adversely affect employees. Accordingly, smoking is prohibited in all Town buildings and facilities, Town vehicles and equipment except for areas where it is specifically authorized. The Town Manager's Office is responsible for implementing and monitoring smoking regulations; Department Managers and supervisors are expected to enforce the regulations.

2. Employees are expected to exercise common courtesy and to respect the needs and sensitivities of co-workers with regard to the smoking policy. Smokers have an obligation to keep designated smoking areas litter-free and not to abuse break and work rules. Complaints about smoking issues should be resolved at the lowest level possible but may be processed through the grievance process. Employees who violate this policy may be subject to disciplinary action.

Section 3.15: RESIGNATIONS

An employee may resign from Town service in "good standing". "Good standing" shall mean the submittal of a written notice 14 calendar days in advance of the last day of actual work. Failure of a resigning employee to comply with this rule may be cause for denying future employment with the Town. The Town Manager may permit a shorter period of notice if extenuating circumstances exist. The resignation should be accompanied by a statement by the Department Manager as to the resigning employee’s service performance and pertinent information concerning the cause of resignation. The effective date of the employee’s termination with the Town is considered to be the last day actually worked.

Upon separation from service in “good standing”, the Town shall pay all wages owed as well as earned and/or pro-rated vacation pay and accumulated sick time due to the employee per schedule in the Sick Leave Section of the Personnel Policy, if any on the next regular pay day.

Section 3.16: WORK SCHEDULES

Normal Work Hours

A. The normal working days in the work week shall be Monday through Friday. However, it is necessary, owing to the variations in the different services provided by the Town, that there be variations in the hours and days of work per week within different departments. The hours of work, the starting and quitting time, and 30 minute lunch periods will be established within each department with the Town Manager’s approval. The hours of work, the starting and quitting time, or the lunch periods may be changed by mutual agreement of the Department Manager and department employees, subject to approval by the Town Manager.

B. It is understood, however, that salaried employees exempt from overtime shall accomplish the work assigned to the position regardless of the hours required to do the work; this policy will be applied within reason. Those employees not eligible for overtime under this section shall be determined administratively with a master list maintained in the Manager’s office. It is the responsibility of each Department Manager to insure that the department’s work hours are adhered to by all employees.

Section 3.17: OVERTIME

A. Any time actually worked in excess of 40 hours of a work week shall be compensated for by overtime pay at a time and one-half rate or compensatory time if they so desire except for Firefighter/Paramedics who shall be paid overtime after 42 hours of a work week. Sick leave and other forms of paid leave shall not be counted as time worked. Holidays and vacation days shall be considered work days.
B. Any time worked on a Holiday, regardless of what occurs during the rest of the regular work week, shall be compensated for by overtime pay at a time and one-half rate. In addition, the employee still receives his Holiday pay.

C. When an hourly paid Public Works employee has left work after the regular workday and then is called into work, he/she shall be paid a minimum of three hours pay. If and when time worked, for each particular call-in, exceeds three hours, he/she shall be paid for the actual hours worked.

D. The Town will make every responsible effort to distribute overtime equally among employees and their respective departments.

Section 3.18: COMPENSATORY TIME

A. With approval of the department manager, an employee who earns overtime may be granted compensatory time in lieu of overtime pay. An employee may accumulate up to 40 hours of comp time, after which all overtime shall be paid as wages. In order to take comp time, an employee must make a request at least one (1) day in advance and must receive written permission from the department manager.

B. With the approval of the Department Manager and the Town Manager, employees who earn excessive overtime because of a single storm event or because of a series of repeated storm events, and who have already accumulated the 40 hours of compensation time allowed in Section 3.18 Paragraph A, may accumulate up to an additional 40 hours of compensation time, in a separate account called “Storm Event Comp”, for an combined total of 80 hours of compensation time. The total amount of an employee’s compensation time must be reduced to no more than 40 hours by the following October 1 or the employee will be paid for the balance of comp house in excess of 40 hours. In order to use this additional compensation time, an employee must make a request at least one (1) day in advance and must receive written permission from the Department Manager.

C. Exempt employees shall not be eligible to accumulate compensatory time.

D. Department Managers and other FLSA-exempt employees occupy positions of responsibility, accountability, and discretion. They may be required to work outside the normal schedule of working or office hours and are compensated, in part, on the basis of accomplishing the tasks demanded of the position without regard for the specific number of hours worked. They are also expected to be accountable for their time, be available to the public and other staff, and generally to conform with normal operating hours. Exempt employees may take discretionary time off without charging such time off to sick or vacation leave:

1. When it does not interfere with the operations of their department or office.

2. When there are no other priorities which should be completed which, if not completed, might interfere with the operations of another department, and

3. For separate absences of more than one-half a work day, when the employee receives the permission of his/her Department Manager; or, in the case of Department Managers, the Town Manager.

4. Absences of one-half day or less may be taken at the discretion of the employee, subject to the review of the Department Manager; or, in the case of Department Managers, the Town Manager.

Section 3.19: INCELEMENT WEATHER/UTILITY FAILURE POLICY
Inclement Weather

Municipal facilities are made available with public funds to provide services to the public, our customers. As such, it is the intent of the Town to remain open and maintain regular operating hours during most storm events. Employees are advised to be prepared for Maine weather events and are expected to report to work during storm events including most snowstorms. In the event of a particularly significant storm event, the Town Manager is authorized to use his/her judgment and may close appropriate facilities.

1. When the Town Manager closes facilities because of a storm event employees will be paid their regular wages for the remaining balance of their workday.
2. Employees who become concerned with travel conditions, may request permission from their supervisor to absent themselves from work and Department Managers may grant or deny permission subject to the following conditions.
   a. It is the responsibility of the Department Manager to ensure that sufficient personnel remain at work to provide adequate service to the public and may limit the number of employees who may leave to accomplish this goal.
   b. Employees who absent themselves pursuant to this paragraph (2) must use accrued vacation time or unpaid leave for the balance of their regular workday regardless of whether the office is closed or not.

Utility Failure/Emergency Event

In the event of an inability to operate because of a utility failure, emergency event or some other condition, the Town Manager may establish temporary facilities at some other location or may declare appropriate facilities temporarily closed. In instances where facilities are closed and employees are asked not to report to work, employees will receive their regular wages during the closure.

Section 3.20: PERSONAL USE OF TOWN VEHICLES BY TOWN EMPLOYEES

The Town recognizes that certain employees are required to be “on-call” during off-duty hours. This policy is intended to assure that these employees are able to have the vehicles at their disposal necessary to fulfill the duties of their positions while at the same time ensuring only those uses authorized by the Town are permitted.

POLICE DEPARTMENT

Marked Vehicles: Employees whose positions require that they be available during off-duty hours to respond to stakeouts, surveillance sites, fires or emergency calls, may with the prior approve of the Town Manager or the Town’s Police Chief, use the Town’s marked police vehicles while “on-call” during off-duty hours, even if such use involves personal matters.

Marked policy vehicles used during off-duty hours shall be used exclusively within the Town’s municipal boundaries, except those employees who live outside the Town’s municipal boundaries may also use such vehicles to travel to and from the employee’s home but for no other use outside the Town’s municipal boundaries.

Unmarked Vehicles: This provision applies only to the Town’s law enforcement officers who, for purposes of this provision, include the Town’s full-time police detectives and other law enforcement officers who satisfy all of the following requirements: are involved in investigatory or crime prevention work, are authorized to carry firearms and regularly do so, execute search warrants, and are authorized to make arrests (other than merely a citizen’s arrest). All such full-time law enforcement officers whose positions require that they be available during off-duty hours to respond to stakeouts, surveillance sites, fires or to emergency calls may, with prior approval of the Town Manager or Police Chief use the Town’s
unmarked law enforcement vehicles while “on call” during off-duty hours, even if the use of the vehicle involves personal matters.

Unmarked law enforcement vehicles used during off-duty hours may be used both within and outside the Town’s municipal boundaries while the employee is off-duty but “on call”. Any personal use of an unmarked law enforcement vehicle by an employee at a time when he/she is off-duty and not “on call” is prohibited unless the prior approval of the Town Manager or Police Chief is obtained, in which case the employee must maintain a legible daily log book that tracks the extent to which the vehicle is used for personal use during off-duty hours when the employee is not “on call” other than for commuting to and from work. The Town’s Finance Director shall provide the employee with the form of the logbook to be used, and the employee shall return a complete photocopy or the original logbook to the Town’s Finance Director at the end of each calendar year. Based on the daily logbook maintained by the employee, the Finance Director shall report the employee’s personal use of the vehicle while not “on call” as a taxable fringe benefit to the Internal Revenue Service and the Maine Bureau of Taxation. If the employee fails to maintain a legible daily log book of his or her off-duty use of an unmarked law enforcement vehicle, then all of such off-duty use of the vehicle, whether “on call” or “off call”, will be deemed to be personal use that is reportable as a taxable fringe benefit.

FIRE DEPARTMENT

Marked Vehicles: Employees whose positions require that they be available during off-duty hours to respond to fires or emergency calls, may with the prior approval of the Town Manager or the Fire Chief, use the Town’s marked fire vehicles while “on call” during off-duty hours, even if such use involves personal matters.

Marked fire vehicles used during off-duty hours shall be used exclusively within the Town’s municipal boundaries, except those employees who live outside the Town’s municipal boundaries may also use such vehicles to travel to and from the employee’s home but for no other use outside the Town’s municipal boundaries.

PUBLIC WORKS DEPARTMENT

The Public Works Director is authorized to take home a Town vehicle to allow the Director, during off-duty hours, to respond to calls which require an inspection of road conditions or responding to emergency calls for service. Because commuting to and from work is a taxable benefit under IRS regulations, the commuting miles will be treated as personal use and taxed as a taxable fringe benefit. The $3.00 per day will be included in the Director’s gross income, quarterly, based on the number of workdays for the quarter. Any other personal use of the Public Works vehicles during off-duty hours is strictly prohibited.

The Public Works Deputy Director and Roads Foreman are also authorized to take home a Town vehicle to allow them, during off-duty hours, to respond to calls which require conducting an inspection of road conditions or responding to emergency calls for service. Because commuting to and from work is a taxable benefit under IRS regulations, the commuting miles will be treated as personal use and taxed as a taxable fringe benefit. The $3.00 per day will be included in their gross income, quarterly, based on the number of workdays for the quarter. Any other personal use of the Public Works vehicles during off-duty hours is strictly prohibited.

TOWN MANAGER

The Town Manager is authorized to take home the Town’s unmarked vehicle to allow the Town Manager, during off-duty hours, to respond to emergency calls or attend meetings and functions when acting as the Town’s representative. Because commuting to and from work is a taxable benefit under IRS regulations, the commuting miles will be treated as personal use and taxed as a taxable fringe benefit. The $3.00 per day will be included in the employee’s gross income quarterly based on the number of workdays for the quarter. Any other personal use of the Town vehicle during off-duty hours is strictly prohibited.
If the Town Manager decides to receive a travel stipend instead of using an unmarked Town vehicle, then these payments must be treated as a taxable fringe benefit and will be paid through payroll, subject to all employment taxes.

OTHER

Except as stated in this policy, Town employees shall not be permitted to use the Town’s vehicles for any other purpose while off-duty.

WORKING CONDITIONS BENEFITS POLICY

A working condition benefit is any property or service provided to an employee to the extent that, if the employee paid for the property or service, the payment would be allowable as a trade or business deduction under Internal Revenue Code Section 162, or as a depreciation deduction under Section 167. In order to qualify as a working condition benefit that is excludable from an employee’s income, the employer must require the employee to:

1. use the payment for expenses in connection with specific or pre-arranged activity for which a deduction is allowable under Internal Revenue Code Section 162 or Section 167;
2. verify that the payment is actually used for such expenses; and
3. return to the employer any part of the payment not so used.

If all three conditions are satisfied, the payment to the employee is not subject to payroll and income taxes.

Examples of working condition benefits include an employee’s use of a Town vehicle for business and job-related education provided to an employee.

Uniform Allowances and Clothing Reimbursements

Clothing reimbursements and uniform allowances, in order for the amounts to be nontaxable, must meet the accountable plan rules:

1. be specifically required as a condition of employment;
2. not be adaptable to general usage as ordinary clothing; and
3. not worn for general usage.

It is not enough that an employee wear distinctive clothing, the Town must specifically require the clothing. Nor is it enough that the employee does not, in fact, wear the work clothes away from work. The clothing must not be suitable for taking the place of regular clothing.

Example: The cost and upkeep of work clothes for firefighters and law enforcement officers would be nontaxable to the employee since the above criteria have been met.

If clothing does not qualify as a deductible expense (i.e. is a uniform) then, according to IRS Regulations, these payments must be treated as a taxable fringe benefit and will be paid through payroll, subject to all employment taxes.

Example: A detective’s suit jacket and related clothing, since they are suitable for everyday wear, do not qualify as a uniform and would be taxable to the employee.

Protective Clothing

Protective clothing reimbursements are nontaxable if for such items as safety shoes or boots, safety glasses, hard hats, and work gloves.
3.21: REIMBURSEMENT OF EXPENSES

Travel Expenses. Employees shall be reimbursed for reasonable and necessary expenses incurred while carrying out approved, official Town business. Such reimbursement shall be made in accordance with current approved rates upon submission of a standard expense sheet, signed by the employee’s immediate supervisor. Such reimbursement shall not apply to travel between employee’s home and the Town office.

Requests for reimbursement of meals, parking fees, lodging and registration fees must be accompanied by receipts of same whenever possible.

Section 3.22: INTERNET AND ELECTRONIC MAIL POLICY

I. Purpose

Electronic mail, Internet and telecommunication access are resources made available to Town employees to communicate with each other, other governmental entities, companies and individuals for the conduct of business and the benefit of the Town of Gorham.

II. Policy

The Town of Gorham’s Electronic Mail System (e mail) and Internet connection is designed to facilitate any Town business communication among employees and other business associates for messages or memoranda. Since no computer system is completely secure, the e mail system is not intended to transmit sensitive materials, such as personnel decisions and other similar information which may be more appropriately communicated by written memorandum or personal conversation.

The e mail system is Town property and intended for Town business. It must be understood that use of this system is a privilege, which may be limited or removed if the privilege is abused at any time or for any reason, at the sole discretion of the Town of Gorham. The system is not to be used for employee personal gain or to support or advocate for non-Town activities or business purposes. All data and other electronic messages within this system are the property of the Town of Gorham. E-mail messages have been found to be public records and may be subject to the right-to-know laws, depending on their content.

In addition, the Town, through its managers and supervisors, reserves the right to review the contents of employee’s e-mail communications when necessary for Town business or performance purposes.

Employees may not intentionally intercept, eavesdrop, record, read, alter, or receive other persons’ e-mail messages without proper authorization.

The Town of Gorham owns and administers the necessary software and licenses to provide access to e-mail and Internet services. Employees may not rent, copy or loan the software, or its documentation. The Town has invested much time and money to secure its electronic systems from intrusion and harmful viruses. Therefore, employees may not provide alternative software to access the system. Employees may be held responsible for any damages caused by using unauthorized software or viruses they introduce into the Town system. All Department Managers are responsible for the implementation and adherence of this policy within their departments.

III. Procedures

A. General Information on Passwords

While you may have a confidential password, users should be aware that this does not mean that the system is for personal confidential communication, nor does it suggest that the e-mail is the property right of the employee. The use of the e-mail system is for Town business. Passwords should be
periodically changed to ensure security of the e-mail system. Users should not share their passwords with anyone else, other than as his or her supervisor may require.

B. Internet Use

The Internet provides the Town with significant access and dissemination of information to individuals outside the Town. The use of the Internet system for access and dissemination is intended to serve Town business. Like all e-mail messages, Internet messages are capable of being forwarded without the express permission of the original author. Internet messages are also routinely passed through routers before they reach their final destination. A message is “touched” many times before it gets to its recipient, and the message author should be aware of this. Therefore, users must use caution in the transmission and dissemination of messages outside of the town and must comply with all state and federal laws.

C. Prohibited Uses

The Town’s e-mail and Internet systems may be used only for lawful purposes. When sending e-mail messages, appropriateness and good judgment should be used. The following are examples (but are not limited to this list) of Internet and e-mail uses which are prohibited:

- Communications that in any way may be construed by others as disruptive, offensive, abusive, or threatening.
- Communications of sexually explicit images or messages or that constitutes child pornography.
- Communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on race, national origin, sex, age, disability or religious beliefs.
- Solicitation for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations.
- Access to Internet resources, including web sites and news groups, that are inappropriate in a business setting.
- Communications that encourage conduct that would constitute a criminal offense or give rise to civil liability.
- Any other use that may compromise the integrity of the Town of Gorham and its business in any way.

D. Retention of E-Mail

Generally, e-mail messages are intended to be temporary communications which are non-vital and may be discarded routinely. However, depending on the content of the e-mail message, it may be considered a more formal record and should be retained pursuant to the Town’s record retention schedules. As such, these e-mail messages are similar to printed communication and should be written with the same care. Each Department Manager is responsible for establishing and maintaining department retention schedules for the information communicated through the e-mail system.

However, employees should be aware that when they have deleted a message from their workstation mailbox, it may not have been deleted from the central e-mail system. The message may be residing in the recipient’s mailbox or forwarded to other recipients. Furthermore, the message may be stored on the computer’s back-up system for an indefinite period. Note that e-mail has been classified as “public” documents, i.e. available to the media, in at least one State. Keep that in mind when you create or store e-mail.

Employees should delete e-mail messages as soon as possible after reading. An accumulation of files will degrade system performance and response times.

E. Applicability to Employees, Part-time Employees, Contractors, and Other Users
This internet and e-mail policy applies to all employees, contractors, part-time employees, volunteers, and other individuals who are provided access to the Town's system. Third parties should only be provided access to the e-mail system as necessary for their business purpose with the Town, and only if they abide by all applicable rules.

F. Employee Termination, Leave of Absence, Vacation, and Other

Employees who leave employment with the Town of Gorham have no right to the contents of their e-mail messages and are not allowed access to the e-mail system. Supervisors or management may access an employee’s e-mail if employees are on leave of absence, vacation, sick leave or otherwise absent and it is necessary for the Town’s business purposes.

F. Penalties

The misuses of the Internet or e-mail privileges may be considered sufficient cause for discipline, up to and including discharge of employment, in accordance with the Town of Gorham’s Personnel policy and/or other applicable rules or laws. In addition, in the event of suspected, alleged or actual illegal activity, the Town may notify or cooperate with applicable law enforcement authorities for potential civil or criminal investigation or prosecution.

IV. Acceptance

The Town may require employees to read and accept the terms of this policy before making electronic systems available.

Chapter 4: Benefits

Section 4.1: HOLIDAYS

The Town of Gorham observes the following holidays:

- New Year’s Day
- Martin Luther King Day
- Washington’s Birthday
- Patriot’s Day
- Memorial
- Independence Day
- Labor Day
- Columbus Day
- Veteran’s Day
- Thanksgiving and following Friday
- Christmas

If a regular holiday falls on a Sunday, the following Monday is considered a holiday; if on a Saturday, the preceding Friday, unless otherwise regulated by law.

A person on a leave of absence without pay shall not be entitled to holiday pay.

Holiday pay is to be considered a normal day’s wages.

Temporary and seasonal employees shall not be entitled to paid holidays.

Section 4.2: VACATION

Each regular employee who works 20 or more hours per week shall earn annual vacation time with pay in proportion to the hours worked in accordance with the employee’s current term of continuous employment and in accordance with the following schedule:

Date of Hire to completion of five year’s service (0-5) - 10 working days.
Starting with the 6\textsuperscript{th} year through the 11\textsuperscript{th} year (6-11) - 15 working days.  
Starting with the 12\textsuperscript{th} year to separation (12+) - 20 working days.

Request for vacation time must be made on properly completed Vacation Request Sheets. Scheduling of vacations shall be done by the employee's immediate supervisor and in accordance with operational needs. In case a holiday falls within the vacation period, the vacation will be extended to compensate therefore. It is the responsibility of the Department Manager to insure that the employee has adequate earned vacation hours available to cover the vacation period requested. Vacation time may be granted only for time already accumulated. Only under special circumstances to be determined and approved by the Town Manager will employees be allowed to “borrow” on future earned vacation hours.

Any absence from duty for which sick leave is paid or for official leaves of absence shall not constitute a break in the record.

Unused vacation days for regular full-time employees may accrue from one year to the next a maximum of 150 hours for employees with less than six (6) years of continuous service, 225 hours for an employee with six (6) years of continuous service but less than eleven (11) years of continuous service and 260 hours for employees with eleven (11) or more years of continuous service. Unused vacation days for regular part-time employees who work 20 or more hours per week may accrue to a maximum of 80 hours for employees with less than six (6) years of continuous service, 120 hours for employees with six (6) years of continuous service but less than eleven (11) years of continuous service, and 138 hours for employees with eleven (11) or more years of service.

No vacation of more than two (2) weeks duration will be allowed unless approved by the Department Manager and the Town Manager.  

Vacation leave will be accounted for on an hourly basis. Earned vacation time will be accumulated as the employee earns it and will reflect available time on the paycheck stub. Any employee who has successfully completed their probationary work period may begin using accrued vacation leave in accordance with these policies. 

Vacation leave shall not accumulate after an employee has been absent due to a Workers Compensation injury for one year from the first date of absence.

Accumulated vacation leave, subject to the maximum allowed, shall be paid to an employee upon separation or upon death, to his or her beneficiary. The payment will be made in one lump sum.

\textbf{Section 4.3: SICK LEAVE}

Paid sick leave for each regular employee, and each regular part-time employee who works 20 or more hours per week, is earned at the rate of one day for each calendar month of service in proportion to the hours worked and may accumulate to not more than 180 days.

Sick leave may be granted for any of the following reasons:

1. Personal illness or injury of an incapacitating nature sufficient to justify absence from work;

2. Personal medical or dental appointments which cannot be scheduled during other than working hours.

3. Employees may use accrued sick leave in accordance with Family Medical Leave as specified in the Family Medical Leave section.

4. For family medical needs, employees may use up to five (5) days a year to attend to the employee’s immediate household who are ill and require care by the employee, unless otherwise covered by Family Medical Leave which shall be used first.
An employee is required to contact the Department Manager, or in the case of the Department Manager’s absence, the Department Manager’s designee, prior to the start of the employee’s regularly scheduled workday but no later than 15 minutes after the start of the regularly scheduled workday unless specific department policy requires otherwise. In the case of an emergency situation, i.e. hospitalization, the employee will make every effort to notify the Department Manager or designee as soon as possible. Failure to report within this time frame will result in disallowance of sick pay for that day.

An employee is required to call the Department Manager or the Department Manager’s designee each day of the absence unless previous arrangements have been made between the employee and the Department Manager. In the event that an employee fails to call the Department Manager or Department Manager’s designee the day of the absence, and the day of the absence falls before a holiday, the employee will not receive holiday pay for that holiday period.

The Town Manager may, after 3 days, as a condition precedent to continuance of sick pay, require a certificate of a qualified physician certifying the condition of the employee to be such as to justify the continued absence from employment.

Probationary employees shall not be entitled to paid sick leave until they have completed ninety (90) days employment. At the completion of ninety (90) days employment by probationary employees, cumulative sick leave days shall be computed from the original date of employment.

After any extended sick leave it may be required by the Department Manager that the absent employee obtain a physician’s statement, at his or her own cost, that he or she is physically capable to return to normal duty. It shall be the responsibility of the Department Manager to insure that this requirement is appropriately followed before the employee is allowed to return to his or her regular duties.

At the time of separation from employment by the employee, accumulated sick leave, subject to the maximum allowed, shall be paid to the employee as follows:

- Start of Employment through the 5th year: no payment
- Beginning with the 6th year through 10 years of service: 25%
- Beginning with the 11th year of service or over: 50%

In the event of an employee’s death, the Town will pay all accumulated sick leave benefits, subject to the maximum allowed, to the employee’s family.

Section 4.4: FAMILY MEDICAL LEAVE

An employee who has been employed by the Town of Gorham for at least twelve 12 months (this does not need to be consecutive) and who has worked at least 1,250 hours during the prior twelve (12) months preceding the start of the leave is entitled to a family medical leave of up to twelve (12) weeks in any one year for the birth of the employee’s child or the employee’s domestic partner’s child, adoption of a child 16 years of age or less with the employee or with the employees domestic partner, or serious illness of the employee, child, a domestic partners child, spouse, domestic partner, or parent, and the death or serious health condition of the employee’s spouse, domestic partner, parent or child of the spouse, domestic partner, parent or child as a member of the State military forces, as defined in 37-B.M.R.S.S. § 102, or the U.S. Armed Forces, including the National Guard Reserves, dies or incurs a serious health condition while on active duty. Serious illness means an accident or disease or condition that: (1) poses imminent danger of death; (2) requires inpatient care in a hospital, hospice, or residential medical care facility; or (3) any mental or physical condition that requires constant in-home care. Please refer to the Human Resources Director for further details or clarification.

A. To be eligible for a family medical leave, the employee must give at least 30 days notice of the
intended date upon which family medical leave will commence and terminate, unless the employee is prevented from giving notice because of a medical emergency. The employee requesting family medical leave must do so on a preprinted form available in the Town Manager’s office.

B. The Town may require certification from a physician to verify the amount of leave requested by the employee.

C. Family medical leave is without pay. If the employee is enrolled in group medical insurance prior to utilizing unpaid leave, the Town of Gorham will pay for the employer's share of the medical insurance premium for the period of the unpaid family medical leave; said period not to exceed twelve (12) weeks. The employee’s share of medical insurance, life insurance, income protection and retirement benefits will continue during the period of unpaid family medical leave at the cost of the employee.

D. The employee may use accrued holiday, vacation, and sick leave in accordance with the policies concerning such leaves, to cover absences related to family medical leave; however, the total amount of family medical leave may not exceed twelve (12) weeks.

E. Vacation, sick leave and holidays do not accrue during an unpaid leave period.

F. Upon the end of the family medical leave, an employee will be restored to the position occupied by the employee immediately prior to the commencement of the leave or to an equivalent position with the same employee benefits and pay as existed immediately prior to the commencement of the leave, except in the event of conditions unrelated to the employee’s taking of a family medical leave which prevent the restoration to the same or equivalent position.

G. An employee should return to work from the family medical leave no later than the first working day following the expiration of the leave. If the employee has not returned at the expiration of their leave, his/her termination date will be the last day she/he was entitled to group coverage.

H. An employee may request to take leave on an intermittent basis or by working a reduced schedule by completing a preprinted form available in the Town Manager’s Office.

Section 4.5: UNPAID LEAVE OF ABSENCE

A regular employee may be granted a leave of absence without pay by the Town Manager on recommendation of the Department Manager, with such leave not to exceed one year in length. Such leave shall only be granted when, it appears, because of the past record of the employee or because of the purpose for which the leave is granted, to be in the Town’s best interest to grant the leave. The granting of the leave shall protect the employee’s existing continuous service for the leave period but shall not count as service time for Maine State Retirement, nor shall vacation or sick leave accrue during the absence, nor will the employee receive pay for municipal holidays.

Section 4.6: MILITARY LEAVE

Full-time regular and regular part time employees who are members of the organized military reserves and who are required to perform field duty will be granted a maximum of two weeks reserve service leave, in addition to normal vacation leave, per fiscal year. For any such period of reserve service leave, the Town will pay the difference (if any) between service pay, and the employee’s regular pay, provided that the employee on military leave furnishes their Department Manager an official statement by military authorities giving his/her rank and pay.

Section 4.7: JURY DUTY

An employee will be granted special leave, as required, for jury duty or performance of other civic duty requiring appearance in court or before another public body. The employee shall be paid the difference (if any) in compensation between the amount received from the rendering of such service and his or her regular rate of pay, if the service occurs during a work day. Time paid for Jury Service shall not be
counted as time worked for purposes of overtime computation. These provisions shall apply only to employees who have completed their probation period who give notice of such absence.

Section 4.8: BEREAVEMENT LEAVE

Special leave with pay shall be granted to regular employees for up to three days for absence caused by the death of a member of the immediate family. “Immediate family” means parents, spouse, brother, sister, child, stepchild, grandmother, grandfather, mother-in-law, and father-in-law. Special exceptions to this rule may be made by the Town Manager. Employees who need more than the initial 3 days of paid leave and who have accrued sick leave may also use up to 2 additional days of sick leave.

Employees who have accrued sick leave may use up to 1 day of sick leave to attend the funeral of an Aunt, Uncle, Niece or Nephew.

Section 4.9: ALL LEAVE UTILIZED

When all leave including sick and vacation leave, has been utilized by an employee, salary payments to the employee shall cease immediately. The Town will no longer pay any amount toward life and medical insurance. The employee will then have the opportunity to continue the benefits by paying the cost themselves.

Section 4.10: HEALTH INSURANCE

Regular employees working 30 hours or more are eligible to participate in the Maine Municipal Health Trust Plan or equivalent. The employees must pay for 10% of the cost, the Municipality pays for 90% of the cost. Participants in the Health Insurance Plan currently receive Basic Life Insurance equal to one year’s salary at no cost. Participants may purchase Supplemental and Dependent coverage at their expense. Insurance will start at the first of the next month following employment. Regular employees working 20 hours or more may purchase Health Insurance and Basic, Supplemental, and/or Dependent Life Insurance coverage at their expense from the Maine Municipal Employees Health Trust.

Section 4.11: DENTAL INSURANCE

Regular full-time employees and regular part-time employees working 20 hours or more a week are eligible to participate in the Maine Municipal Health Trust Dental Plan at their expense, provided a minimum number of employees participate in the program to meet program requirements. Employees who are interested should obtain more information and carefully evaluate the details before deciding whether to participate.

Section 4.12: LIFE INSURANCE

Regular employees working 20 hours or more may purchase Basic, Supplemental, and/or Dependent Life Insurance coverage at their expense from the Maine Municipal Employees Health Trust.

Section 4.13: FLEXIBLE REIMBURSEMENT BENEFITS ACCOUNTS (IRS SECTION 125 PLANS)

The Town offers a flexible benefits program to regular full-time employees. Employees who voluntarily choose to participate may elect to make weekly deductions into their accounts to reimburse them for up to $5,000 in annual Dependent Care expenses and for up to $5,000 in annual medical expenses on a tax-free basis.

Employees who are interested should obtain more information and carefully evaluate the details before deciding whether to participate.

Section 4.14: WORKER’S COMPENSATION
The Town of Gorham provides Worker’s Compensation Insurance coverage for all employees. When an on-the-job accident occurs the affected employee is to report it immediately to his or her direct supervisor or Department Manager. The Department Manager shall notify the Human Resources Director within 24 hours of the injury or on the next following work day of the accident.

A. Preferred Provider Program

The Town of Gorham encourages safety in our work environment. We are concerned about employee well being and take an active role to assist the employee with a proper recovery.

Because of our interest in employees, we have coordinated a preferred provider program for work-related medical services. For information on who the Town’s preferred provider is, please see either your Department Manager or the Human Resources Director.

It is required that all employees, unless it is an emergency situation, seek medical treatment through the Town’s preferred provider. Initial medical treatment is to be obtained from the Town’s preferred provider and is authorized by law under the Maine Workers’ Compensation Act of 1992, Title 39-A, M.R.S.A., Section 206.

All initial medical treatment is to be obtained from the Town’s preferred provider and will be scheduled through the Department Manager who in turn will notify the Human Resources Director.

We look forward to working together to maintain a safe, healthy work environment, as well as provide opportunities for a proper recovery.

B. Medical Bills

Medical bills, when received either by the department or the employee, are to be forwarded immediately to the Town Manager’s office. Medical bills are paid without any waiting period. For employee compensation there is a seven day waiting period. The Town remains responsible for employee compensation for the first seven days of the absence, this will be charged to employee sick leave, between eight and thirteen days the insurance carrier provides compensation; fourteen days and over all compensation is retroactive to day one by the insurance carrier and the employee’s sick leave shall be credited back to the Town upon payment by the employee to the Town for the seven days. Firefighters, police and communications personnel are excluded from the waiting period and must receive compensation from the date of incapacity.

C. Transitional Work Program

In the case of an employee out of work due to a work-related injury, the Human Resources Director will coordinate a transitional work program with the employee, employee’s doctor and Department Manager. This program may be in the employee’s department, in a different department or spread over several departments and is designed to provide less strenuous work or modified work tasks to those employees able and approved by their doctor to return to work in some capacity. Transitional work may start at a reduced schedule with a gradual increase in hours or may include a full time work schedule as coordinated by the physician, employee and Town. The Town reserves the right to discontinue the transitional work program or any employee’s participation in this program consistent with the provisions of the Workers Compensation laws.

In some instances worker’s compensation payments may be held up. If this occurs, the Town will continue to pay the employee by charging his time to sick leave, of which the employee must buy back from the compensation paid by the insurance carrier.
If a worker is receiving worker’s compensation he must continue to pay his share of life and medical insurances.

Section 4.15: RETIREMENT

Social Security - Any person who becomes a regular or temporary employee of the Town must participate as a condition of employment.

ICMA Retirement Corporation

A. All regular employees who work 30 hours or more a week and grandfathered regular part-time employees are eligible to participate in this option retirement plan. Eligible employees can join the retirement program at any time during their employment with the Town.

B. Currently, the program offers various investment options. However, due to the complexities of the program and to changes that are made from time to time, employees should refer to current available literature for information.

C. Employees may begin making contributions to the program commencing with their first day of employment. However, for the first six months of employment, the Town will not make contributions on behalf of the employee. After six months of employment the Town matches contributions made by regular employees who work 30 hours or more a week and grandfathered regular part-time employees up to a maximum amount equal to seven and one-half percent (7 1/2%) percent of an employee’s salary. For example, if Employee A contributes two percent (2%) of his salary, the Town will match the employee’s contribution with two percent (2%). If Employee B contributes seven percent (7%), the Town would contribute seven percent (7%).

Employees may contribute more than seven and one-half percent (7 1/2%) of their salary. However, the Town’s matching contribution will not exceed seven and one-half percent (7 1/2%).

D. Effective January 1, 1997 any regular part time employee who works less than 30 hours a week and who is not considered a grandfathered employee may participate in the ICMA 457 Retirement Plan by making contributions from the employee’s salary. The Town of Gorham does not match or contribute to an employee’s retirement under this paragraph.

E. Withdrawal of funds from this program is strictly regulated by the Internal Revenue Service, and improper withdrawals may violate IRS Regulations. Request for withdrawals will be sent to I.C.M.A. Retirement Corporation for a determination of conformity with I.R.S. regulations. The Town will not overrule an I.C.M.A. Retirement Corporation determination.

Maine State Retirement System

Effective January 7, 1997, the Town of Gorham is not a member of the Maine State Retirement System. Newly hired employees will not be eligible to enroll in M.R.S.A.

Section 4.16: INCOME PROTECTION

An income protection plan is available for those regular employees who work 30 hours or more per week. The amount of income protection insurance available is either 40%, 55% or 70% of employee’s salary. Cost of this coverage is at the expense of the employee. There is a maximum coverage available of $2,000 per month.

Section 4.17: EMPLOYEE ASSISTANCE PROGRAM

A. The Town of Gorham recognizes that alcohol and drug problems are problems for which there is
effective treatment and rehabilitation in the majority of cases. Employment assistance is designed as a means of helping employees seek the necessary treatment to alleviate problems affecting job performance. Therefore, the Town of Gorham will establish an Employee Assistance Program (EAP) to service employees in dealing with drug or alcohol problems.

B. Employees may receive assistance from the EAP through self-referral or supervisory referral.

1. Self-referral is a referral in which an employee initiates contact with the EAP directly.

2. Supervisory referral is a referral in which the supervisor strongly suggests to the employee that he/she seek consultation with the EAP. Supervisors may refer employees to the EAP when deteriorating skills or job performances do not respond to normal supervisory action.

C. Employees who seek help through the EAP or who are referred to the EAP by a supervisor will be referred for diagnosis and/or evaluation by an Employee Assistance Counselor. The Employee Assistance Counselor is a person who has a Master’s Degree (or similar certification) in counseling, human services or social work who will provide counseling or refer the employee to appropriate diagnosis, evaluation and/or treatment. The Employee Assistance Counselor will be designated by the Town.

D. An employee who refuses help or demonstrates little or no effort to perform satisfactorily is subject to normal disciplinary actions. Employees participating in the EAP are expected to meet existing job performance standards and establish work rules.

E. All EAP records are confidential and maintained separately from other personnel records. These records will be protected from disclosure to the fullest extent possible and existing State and Federal regulations.

F. In the case of a supervisory referral, the Employee Assistance Counselor will ask the employee to sign appropriate release forms so that the Counselor can have contact with the supervisor and the referral agent, if applicable.

G. The Counselor will be responsible for keeping a record of the diagnostic evaluation and the treatment recommendation which will be kept confidential.

H. The Counselor will inform the supervisor as to whether the employee kept the appointment with the Counselor and whether the employee was willing to follow through the treatment plan. The Counselor will follow-up with the employee as treatment progresses.

I. If the employee’s performance or attendance shows no improvement within a reasonable time frame (mutually agreed upon if possible), the employee will be subject to appropriate disciplinary action.

Section 4.18: RIGHTS OF EMPLOYEES UTILIZING THE EMPLOYEE ASSISTANCE PROGRAM

A. Employees using the EAP have the right to confidential services. EAP records do not become part of any personnel records and release of EAP records can only be made with the written permission of the employee.

B. EAP information cannot be shared with supervisors without the employee’s written consent.

C. If the employee is using the EAP as a result of a supervisory referral, the Counselor will only provide the following information to a supervisor, unless the employee signs a written consent agreeing to the release of additional information:

1. Whether the employee made and kept the appointment;
2. Whether the Counselor assesses there is a problem (specifics will not be discussed); and
3. Whether the employee is open to recommendations made by the Counselor.

D. Employees have the right to have access to their records, the right and relevant information regarding their treatment and referrals, and the right to any and all information regarding benefits.

Section 4.19: MILEAGE REIMBURSEMENT

The Town shall reimburse employees who use their vehicles for approved municipal purposes at the rate established by the IRS. Employees must provide appropriate documentation for reimbursement.

Section 4.20: TUITION REIMBURSEMENT POLICY

Employees may apply for job related courses or training. The Town will reimburse each employee 75% of the tuition cost only upon satisfactory completion of the course. This reimbursement will be approved for up to 12 credit hours per fiscal year upon prior recommendation of the Department Manager and approval of the Town Manager.

Reimbursement may be requested following each approved 3 credit course or program by submitting a tuition receipt and evidence of satisfactory completion to the office of the Town Manager. To insure proper budgeting for tuition reimbursement, employees shall notify their Department Manager and the Town Manager by April 1 of each year when possible concerning anticipated course work or training.
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.
5. Maintain public cemeteries.
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 RELATING TO SIDEWALK CONSTRUCTION

Ordinance passed 4/2/74

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.
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-feet radius of the property line of a school or within a 1000-feet 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-feet radius of a school or within a 1000-feet 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-feet 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.
ORDINANCE RELATING TO SIDEWALK CONSTRUCTION

Ordinance passed 4/2/74

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.

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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.
ORDINANCE RELATING TO THE DISPOSAL OF SOLID WASTE WITHIN THE MUNICIPALITY OF GORHAM;
PRESCRIBING RULES AND REGULATIONS THEREFORE; PROVIDING PENALTIES FOR VIOLATION THEREOF

ARTICLE I. GENERAL

1.1 Short Title

This Ordinance shall be known as and may be cited as the “Ordinance Relating to the Disposal of Solid Waste within the Municipality of Gorham, Maine; Prescribing Rules and Regulations Therefore; Providing Penalties for Violation Thereof” and shall be referred to herein as the “Ordinance”.

1.2 Purpose

The purpose of the Ordinance is to protect the health, safety and general well-being of the citizens of the Municipality, enhance and maintain the quality of the environment, conserve natural resources and to prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Municipality in accordance with the provisions of Title 38 M.R.S.A. Sec. 1304-B and 1305 as amended from time to time.

1.3 Definitions

For the purposes of this Ordinance, the following definitions shall be observed in the construction of this Ordinance.

1.3.1 “Acceptable Waste” Shall mean ordinary household, municipal, institutional, commercial and industrial Solid Waste including but not limited to, the following:

(1) Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or small vehicle tires, to the extent that Regional Waste Systems, Inc. (RWS) determines that the air emission criteria and standards applicable to and at the RWS Disposal Facility are not violated; and

(2) Processible portions of commercial and industrial Solid Waste; and

(3) Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4 1/2) feet long and eight (8) inches in diameter, and leaves, twigs, grass and plant cuttings, provided that the Municipality shall not be obligated to deliver or cause to be delivered any items listed in this subpart (3) to the RWS Disposal Facility, and further provided that such items may be delivered to the RWS Disposal Facility by or on behalf of the Municipality on an irregular basis only and shall represent an insignificant portion of the total Waste delivered to the RWS Disposal Facility by or on behalf of the Municipality within any Calendar Year; and

Notwithstanding any provisions to the contrary, unacceptable Waste, including Hazardous Waste, shall not be “Acceptable Waste” and is explicitly excluded therefrom. Furthermore, any substances which as of the date of a certain Waste Handling Agreement between Municipality and Regional Waste Systems, Inc. (RWS) are included as “Acceptable Waste”, but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall not be “Acceptable Waste” under the terms of this Ordinance. However, any substances which as of the date of said Waste Handling Agreement are not included within the definition of “Acceptable Waste” because they are considered harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall be considered “Acceptable Waste” unless a contrary determination has been or is made by any other governmental agency or unit having
appropriate jurisdiction or unless such substances are otherwise considered “Unacceptable Waste” or “Hazardous Waste”.

1.3.2 “Ashes” shall mean that residue from the burning of wood, coal, code or other combustible material.

1.3.3 “Biomedical Waste” shall mean Waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

1.3.4 “Board” shall mean the City or Town Council or Board of Selectmen, whichever is applicable.

1.3.5 “Commercial Refuse Collector” shall mean a person, firm, corporation or other entity that collects, recycles or hauls the Solid Waste of another person, firm, corporation or other entity for a fee.

1.3.6 “Construction and Demolition Debris” shall mean
   a) “Construction/Demolition Debris”
   b) “Inert Fill”
   c) “Land Clearing Debris”
   d) “Woodwaste”

all as defined in Chapter 400 of the Maine Department of Environmental Protection Regulations as may be amended from time to time, but excluding Acceptable Waste, Hazardous Waste and such other Solid Waste which the Board may by order or regulation exclude. The term “Construction and Demolition Debris” also shall exclude such items as are listed in Appendix B to the Demolition Materials Handling Agreement and amendments thereto.

1.3.7 “Demolition Materials Handling Agreement” shall mean a certain Demolition Materials Handling Agreement dated August 1, 1989 between the Municipality and RWS.

1.3.8 “Disposal” shall mean the discharge, deposit, dumping, incineration, spilling, leaking or placing of any Hazardous or Solid Waste, sludge or septage into or on any land, air or water so that the Hazardous or Solid Waste, sludge or septage or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

1.3.9 “Hazardous Waste” shall mean a waste substance or material in any physical state, designated as hazardous by the terms of the Waste Handling Agreement and amendments thereto.

1.3.10 “Municipality” shall mean the Town of Gorham.

1.3.11 “Municipal Disposal Facility” shall mean any land or structure or combinations of land area and structures owned or operated by, or under a contract with, the Municipality, including a transfer station or similar facility used in connection with the disposal of Acceptable Waste, whether such facilities are constructed before or after the completion of the RWS Disposal Facilities.

1.3.12 “Person” shall mean any natural person, corporation, partnership, or sole proprietorship, association or other legal entity.

1.3.13 “Public Solid Waste Disposal Facility” or “Public Disposal Facility” shall mean any land or structure or combination of land area and structures, including dumps and transfer stations used for storing, salvaging, including dumps and transfer stations used for storing, salvaging, reducing, incinerating, reclaiming or disposing of Solid Waste; this term shall include the RWS Disposal Facility, the Municipal Disposal Facility and the RWS Construction and Demolition Debris Disposal Facility.

1.3.14 “Resource Recovery” shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

1.3.15 “RWS Disposal Facility” shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with Regional Waste Systems, Inc. (“RWS”) and/or any other site designated by RWS or its assignee used for storing, salvaging, reducing, incinerating, reclaiming or disposing of Acceptable Waste pursuant to the Waste Handling Agreement and amendments thereto.

1.3.16 “RWS Construction and Demolition Debris Disposal Facility” shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with Regional Waste Systems, Inc. (“RWS”), and/or any other site designated by RWS or its assignee, used for storing, salvaging, incinerating, reclaiming or disposing of Construction and Demolition Debris pursuant to the Demolition Materials Handling Agreement and
amendments thereto.

1.3.17 “RWS” or “Regional Waste Systems, Inc.” shall mean Regional Waste Systems, Inc., a non-capital stock, non-profit corporation created pursuant to Title 30, Chapter 203 and Title 13, Chapter 81 of the Maine Revised Statutes, or any successor thereto or assignee thereof.

1.3.18 “Solid Waste” shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse but shall not include septic tank sludge nor agricultural, Biomedical or Hazardous Wastes; it shall include Construction and Demolition Debris as defined herein. The fact that a Solid Waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

1.3.19 “Unacceptable Waste” shall mean that portion of Waste which is not Acceptable Waste and includes, but is not limited to, sewage and its derivatives, agricultural waste, Biomedical Waste, Construction and Demolition Debris, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and Hazardous Waste.

1.3.20 “Waste” shall mean Solid Waste, Biomedical Waste, Hazardous Waste, agricultural waste and septic tank sludge, and includes both Acceptable and Unacceptable Wastes.

1.3.21 “Waste Handling Agreement” shall mean a certain Waste Handling Agreement dated July 1, 1986 between the Municipality and RWS.

ARTICLE II. PUBLIC SOLID WASTE DISPOSAL FACILITIES

2.1 Designation

2.1.1 In accordance with the provisions of Title 38 M.R.S.A. Sec. 1304-B, as amended from time to time, the Municipality hereby designates the RWS Disposal Facility at 64 Blueberry Road in Portland, Maine and the Municipal Disposal Facility as its Public Solid Waste Disposal Facility for the depositing and disposal of Acceptable Waste, and, effective upon receipt by the Municipality of notice from RWS of commencement of operations of the RWS Construction and Demolition Debris Disposal Facility, designates the RWS Construction and Demolition Debris Disposal Facility as its Public Solid Waste Disposal Facility for the depositing and disposal of Construction and Demolition Debris. The dumping or depositing by any person at any place other than at the Municipal Disposal Facility or the RWS Disposal Facility of any Acceptable Waste generated within the Municipality is prohibited, and subsequent to receipt by the Municipality of notice from RWS of commencement of operations of the RWS Construction and Demolition Debris Disposal Facility, the dumping or depositing by any person at any place other than the RWS Construction and Demolition Debris Disposal Facility of any Construction and Demolition Debris generated within the Municipality is prohibited; provided, however, the owner of any lot, or any other person with the permission of the lot owners, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to State and local land use regulations.

ARTICLE III. ADMINISTRATION

3.1 Governing Board

3.1.1 The Board shall establish by order the rules and regulations governing the availability and use of the designated Public Solid Waste Disposal Facility.

3.1.2 The operation of the designated Public Solid Waste Disposal Facilities shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

ARTICLE IV. RESTRICTIONS AND FEES FOR DISPOSAL

4.1 Restrictions

4.1.1 No person shall dispose upon any land within the corporate limits of the Municipality Solid Waste of any kind generated within the Municipality, unless such land has been designated by the Board as a Public Solid Waste Disposal Facility.

4.1.2 Certain materials may be excluded by order or regulation from that solid waste which may be deposited at a Public Solid Waste Disposal Facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to disposal, burning materials or materials containing hot or live coals; Hazardous Wastes; and other materials which the Municipality deems necessary to exclude. Hazardous Wastes and Biomedical Wastes shall be
handled in accordance with Title 38 M.R.S.A. Sec. 1319-0 as amended from time to time.

4.1.3 Except for licensed disposal of Hazardous or Biomedical Wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate within the Municipality any Solid Waste generated within the Municipality other than leaves.

4.1.4 It shall be a violation of this Ordinance for any person to dispose of Solid Waste generated within the Municipality at any location or place other than at a Public Solid Waste Disposal Facility as designated under this Ordinance.

4.1.5 If the Municipality adopts an Order by which it agrees to pay to RWS the tipping fee for disposal of a certain type or types of Solid Waste (i.e., residential, commercial, industrial, or Construction and Demolition Debris), it shall be a violation of this Ordinance for a person disposing of Solid Waste at a Public Disposal Facility to misrepresent to RWS that the Solid Waste is the type for which the Municipality has agreed to pay the tipping fee.

ARTICLE V. RULES AND REGULATIONS

5.1 Authorized Disposal Facility Users

5.1.1 The availability and use of the designated Public Solid Waste Disposal Facilities shall be limited to residents of, or owners of property in, the Municipality and to those residents of any other municipality which may, by mutual agreement, be authorized to use the designated Public Solid Waste Disposal Facilities. As a means of user control, the Municipality may distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the Public Disposal Facility.

5.2 Resource Recover

5.2.1 The Municipality may require Solid Waste to be separated into such categories as may be established by Municipal regulation and disposed of only in such manner and at such sites and locations as designated.

5.3 Property Rights

5.3.1 Any Solid Waste generated within the boundaries of the Municipality shall become the property of the Municipality or Regional Waste Systems, Inc. pursuant to the terms of said Waste Handling Agreement and Demolition Materials Handling Agreement and amendments thereto. No one shall salvage, remove, or carry off any such Solid Waste without prior approval of the Municipality and RWS.

ARTICLE VI. LICENSING

Part A. Commercial and Residential Refuse Collectors

6.1 No Commercial or Residential Refuse Collector shall collect, recycle, or haul Solid Waste generated within the boundaries of the Municipality without first obtaining an annual license therefor as provided herein in Part A.

All licenses shall expire on August 1, unless revoked or suspended pursuant to Section 6.6.

All renewal licenses shall be applied for by June 1 and if granted, will be effective on August 1. Any person applying for a license shall provide satisfactory proof of irrevocable liability insurance with the Town of Gorham named as an additional insured in the amount of $1,000,000.

6.2 Any person wishing to obtain a Commercial or Residential Refuse Collector License shall present a written application therefor on a form provided by the Municipality, accompanied by payment of a fee to be set by the Town Council by order and evidence of a waste hauling agreement between the applicant and RWS for disposal of Gorham solid waste collected or transported by the applicant from the date that the application is filed and throughout the upcoming license year. A Commercial or Residential Refuse Collector License shall be issued by the Municipality's Clerk (the "Issuing Authority"). All fees collected shall be for the use of the Municipality.

For the licensing year commencing on August 2, 2003 and for each subsequent year thereafter, the applicant for a Commercial Refuse Collector license must submit the written application and all required supporting documentation, including but not limited to the valid existing contract with RWS on or before March 1 immediately preceding the commencement of the license year.
6.3 An application for a Commercial or Residential Refuse Collector License shall contain the following information:

6.3.1 Applicant’s name;

6.3.2 Applicant’s residence;

6.3.3 Address of the applicant’s place(s) of business;

6.3.4 If the applicant is a corporation, the names and addresses of each of its directors and officers;

6.3.5 A description of the vehicles and equipment to be used, including the make, model, year of manufacture and license plate number of said vehicles and equipment; and

6.3.6 Whether applicant will be collecting, recycling or hauling Solid Waste generated by residences, by commercial activities or uses and/or by industrial activities or uses; if the applicant intends to collect, recycle or haul Solid Waste generated by commercial and/or industrial activities or uses, the applicant shall describe the location of any dumpster(s) or other container(s) used by the commercial or industrial activity or used to store solid waste along with the serial number, if any, on such dumpster(s) or container(s). No later than the 15th day of each month, each licensed Commercial or Residential Refuse Collector shall provide the Issuing Authority with updates for the previous month of the application information required by this paragraph 6.3.6

6.3.7 A copy of the haulers current license with the Maine Department of Environmental Protection.

6.3.8 A copy of the current waste hauling agreement with RWS, as required by Section 6.2.

6.4 A copy of each Commercial or Residential Refuse Collector License issued and of each application thereof and of each monthly update shall be sent by the Municipality to RWS. Upon issuing a license hereunder, the Municipality also shall issue to the Commercial or Residential Refuse Collector for each vehicle to be used by it a numbered sticker, provided by RWS, and shall inform RWS of the number on the sticker assigned to the Commercial or Residential Refuse Collector; provided, however, that if the licensed Commercial or Residential Collector already has a numbered sticker because it has obtained a current Commercial or Residential Refuse Collector License from another RWS Municipality, the issuing Authority shall not issue another numbered sticker but shall note on the Commercial Refuse Collector or Residential License the Municipality that issued such license and the number on the sticker issued by the Municipality. A licensed Commercial or Residential Refuse Collector shall affix this numbered sticker to the lower left-hand corner of the front windshield of each vehicle owned or operated by it. RWS shall refuse to accept Solid Waste from vehicles lacking this numbered sticker.

6.5 All licensed Commercial or Residential Refuse Collectors shall comply with such rules and regulations as the Town Council may adopt by order from time to time; failure to comply with such rules and regulations shall be a violation of this Ordinance. Each Licensed Commercial Refuse Hauler shall send RWS a copy of each Category A manifests that it provides to the Department of Environmental Protection pursuant to Chapter 411, Section 6 of the Department’s Rules as amended from time to time.

6.5.1 All licensed Commercial or Residential Refuse Collectors must pay all invoices from Town of Gorham within fourteen (14) days or the Town may charge interest to the unpaid portion of the invoiced amount in an amount not to exceed maximum interest rate allowed in the then current year for municipal real estate taxes. If an invoice or any portion thereof, remains unpaid after four months, violation of the license shall exist and the licensed Refuse Collector will be subject to penalties under section 6.6 including the possibility of license suspension and revocation.

6.6 License Denial, Revocation or Suspension

6.6.1 Licenses and renewals of licenses issued under Section 6.1 through 6.4 hereunder may be denied, revoked or suspended by the issuing Authority as follows:

6.6.1.1 The first violation by a licensed Commercial or Residential Refuse Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or relief that the Municipal may seek under Paragraph VII of this Ordinance, in a thirty (30) day suspension of that Commercial or Residential Refuse Collector’s License, or if on the date of the first violation, said license shall expire in less than thirty (30) days, the revocation of said license.

6.6.1.2 The second violation, at any time, by licensed Commercial or Residential Refuse Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or relief the Municipality may seek under Paragraph VII of this Ordinance, in a six (6) month suspension of that Commercial Refuse Collector’s license or, if on the date of the second violation, said license will expire in less than six (6) months, the revocation of said license.
6.6.1.3 The third violation, at any time, by a licensed Commercial or Residential Refuse Collector of any provision or provisions of this Ordinance shall result, in addition to any penalty or relief the Municipality may seek under Paragraph VII of this Ordinance, in revocation of that Commercial or Residential Refuse Collector’s license and in the denial of Commercial and Residential Refuse Collector’s licenses to that person for subsequent calendar years unless and until the Town Council determines that the Commercial or Residential Refuse Collector may be allowed to apply for and receive all licenses under this Ordinance due to a change in the person’s circumstances since the time of the third violation; provided, however, that any further violation shall result in the revocation of the Commercial or Residential Refuse Collector’s license and the barring of that Commercial or Residential Refuse Collector from applying for a license under this Ordinance in subsequent calendar years.

6.6.1.4 No Commercial or Residential Refuse Collector’s license may be suspended or revoked unless there first has been a hearing before the Issuing Authority, with seven (7) days’ prior written notice to the Commercial or Residential Refuse Collector.

6.6.2 Decision of the Issuing Authority may be appealed to the Board of Appeals within ten (10) days after receipt of written notice of the Issuing Authority’s decision, and seven (7) days’ prior written notice of a hearing on such an appeal shall be given to the Commercial or Residential Refuse Collector or applicant. The taking of an appeal to the Board of Appeals shall not stay the Issuing Authority’s decision or any denial, revocation or suspension of a Commercial or Residential Refuse Collector’s license ordered by the Issuing Authority.

6.6.3 The Municipality shall inform RWS immediately in writing whenever it denies, suspends, or revokes a Commercial or Residential Refuse Collector’s License hereunder.

Part 3. Construction and Demolition Debris

6.7 Effective upon receipt by the Municipality of notice from a licensed facility of commencement of operations of a Construction and Demolition Debris Disposal Facility, all persons who obtain a building or demolition permit from the Municipality shall be required to simultaneously obtain a Construction and Demolition Debris Disposal Facility Permit from the Issuing Authority as provided herein in Part E. Prior to issuing a building or demolition permit, the municipal building inspector or code enforcement officer shall inspect the premises for which the building or demolition permit is proposed to be issued to determine whether hazardous or special wastes are present on the premises; if hazardous or special wastes are present on such premises, the parties seeking to obtain the building or demolition permit shall furnish the Municipality with evidence of lawful disposal of such hazardous or special wastes prior to issuance of the building or demolition permit and Construction and Demolition Debris Disposal Facility Permit. This Permit shall be valid for the calendar year in which it is issued, and shall authorize the person to whom it is issued to dispose of Construction and Demolition Debris from the premises for which the building or demolition permit is issued at the licensed Construction and Demolition Debris Disposal Facility for a fee or fees to be set by the Town Council by order; however, the Issuing Authority, in addition to any penalty or relief the Municipality may seek under Paragraph VII of this Ordinance, shall revoke this Permit for violation of this Ordinance. The licensed facility shall refuse to accept Construction and Demolition Debris from persons who lack a Construction and Demolition Debris Disposal Facility Permit.

6.7.1 No Construction or Demolition Debris Disposal Facility Permit may be revoked unless there first has been a hearing before the Issuing Authority, with seven (7) days’ prior written notice to the Permit holder.

6.7.2 Decision of the Issuing Authority may be appealed to the Board of Appeals within ten (10) days after receipt of written notice of the Issuing Authority’s decision, and seven (7) days’ prior written notice of a hearing on such an appeal shall be given to the Construction and Demolition Disposal Facility permit holder. The taking of an appeal to the Board of Appeals shall not stay the Issuing Authority’s decision or the revocation of a construction and demolition Debris Disposal Facility Permit ordered by the Issuing Authority.

ARTICLE VII. PENALTIES

7.1 Whoever violates any of the provisions of this ordinance shall be punished by a fine of not not less than Three Thousand Dollars ($3,000) for the first violation and not less than Five Thousand Dollars ($5,000) for the second and subsequent violations plus costs which fine shall be recovered on complaint to the use of the Municipality. Each day upon which any continuing violation of any provisions of this ordinance shall occur shall constitute a separate violation, and each incident of disposal of Solid Waste in violation of this ordinance shall constitute a separate violation. In addition, the Municipality may seek equitable relief, including but not limited to injunctive relief and indemnification of the Municipality’s liquidated damages to RWS, and attorney’s fees and costs to ensure compliance with the terms of this ordinance.

ARTICLE VIII. MISCELLANEOUS

8.1 It shall be the duty of the Town Council or its designee to enforce the provisions of this ordinance.
8.2 All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

8.3 If any section, subsection, sentence or part of the ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.
SPECIAL FIRE-POLICE ORDINANCE

SECTION I - APPLICATION

Persons desiring appointment as Special Fire-Police shall make application to the Chief of Police upon forms prescribed by the Chief of Police and containing such forms prescribed by the Chief of Police and containing such information as the Chief of Police shall require.

SECTION II - APPOINTMENT

The Chief of Police, upon recommendation from the Fire Chief, may appoint Special Fire-Police to serve for a term of one (1) year. Appointments may be continued by the Chief of Police on a one (1) year basis to expire March 31 of each year.

SECTION III - POWERS

Special Fire-Police shall be empowered to direct traffic, to participate in crowd control measures and to act pursuant to the specific direction and authorization of the Police Department or Fire Department at the scene of fires, accidents or other major occurrences or when called to duty by either the Police Department or the Fire Department. Such Special Fire-Police shall have none of the powers of a regular police or fire officer and shall serve only during his or her term of office. Such Special Fire-Police shall not wear a uniform or cap in a color or style similar to that worn by regular police officers of the Town. Such Special Fire-Police shall not have the power to arrest or issue legal process, and shall not wear, carry or display any firearm.

SECTION IV - SUPERVISION OF CHIEF OF POLICE/FIRE CHIEF

The members of the Special Fire-Police shall serve under the control and supervision of the Chief of Police and the Fire Chief. The Chief of Police and the Fire Chief are authorized to prescribe the organization, training and such other regulations and conditions of membership as the Chiefs shall deem necessary or appropriate. The Chiefs may also institute such disciplinary actions as the Chiefs deem necessary or appropriate for violation of this Article or any regulations.

SECTION V - COMPENSATION

Special Fire-Police shall be compensated at the same rate as volunteer firemen.

SECTION VI - REMOVAL

Special Fire-Police appointed or continued under the terms of this Ordinance may be removed by the Chief of Police and/or the Fire Chief for cause after notice and hearing.
ARTICLE 1. PURPOSE:

Section I. To establish an ordinance governing the installation of sprinkler systems in certain buildings within the Town of Gorham.

ARTICLE II. Definitions and Requirements:

Section I. An approved automatic sprinkler system shall mean a system installed in accordance with the National Fire Protection Association NFPA Standard 13, NFPA 13R or NFPA 13D 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 System shall have a Fire Department connection. The location of the Fire department connection shall be approved by the Fire Chief and properly signed 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 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 system and the rate of flow shall be provided when the permit is obtained. A fee of $25.00 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 systems installed under this ordinance shall have the following:

1. Any sprinkler system installed, extended, modified or altered within the Town of Gorham shall be done by a State of Maine Licensed installer.

2. Any sprinkler 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.

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 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 system in place, shall maintain all sprinklers and standpipe systems and all component parts in a workable condition at all times, and 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 test, repairs, alterations, or additions. Provided that the test, 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 test, 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.

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, professional institutional, or 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.

Section XII. Any structure containing a sprinkler system shall be required to have a yearly test completed on the system by a qualified sprinkler technician. A written copy of the yearly test report shall be forwarded to the Fire Chief’s Office.

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 Offense and shall be fined not less than $25.00 nor more than $100.00 for each offense. Each day such violation is permitted to exist after notification shall constitute a separate offense.

ARTICLE V. NEW BUILDING CONSTRUCTION

Section I. An approved automatic sprinkler 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. Multiple family (3 or more) or new construction of 3 or more multiple occupant dwelling 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, multiplex housing, 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. Mixed occupancy – mixed occupancies shall be defined as any occupancy while in the same structure and that share any common egress. (see Section IX 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 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 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 1-3.12 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, an approved Automatic sprinkler 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 or if the renovations is 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 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 an approved automatic sprinkler system must be installed.

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 an approved automatic sprinkler 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 other 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 an approved automatic sprinkler 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, an approved automatic sprinkler 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, an approved automatic sprinkler system must be installed accordingly.

ARTICLE VII SPRINKLER SYSTEMS FOR ONE AND TWO FAMILY HOMES

Section 1 Whenever single family and/or two family dwellings are required to be sprinkled under the requirements of the Town of Gorham’s Land Use Ordinance, any other code, regulation, rule of statute, and/or by the Owner’s free choice, the automatic sprinkler system shall comply with the following:

A. Single family and two family dwellings shall be equipped with an NFPA 13D or 13R automatic sprinkler 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 two (2) smoke detectors, hard wired, into the other detectors in the house are placed in the attic.

3) Attached garages, if there is no living area above or in the garage space and a two-hour firewall is placed between the house and garage.

4) The sprinkler system is not required to be monitored by an outside source. However, an electric alarm bell located on the outside of the building is required.

5) A single two and one half inch (21/2) Fire Department connection is to be placed on the outside of the building.

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 account 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 appeal by agent or attorney. Hearing shall not be continued to other times except for good cause.
Section 7   The Fire Chief of 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.
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:


2.2.  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.


2.16. 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).


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 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 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.


3.13 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.


3.22 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 I 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”).
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

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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 Street from 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

School Street
The easterly side from Main Street continuing north to a point 90 feet from Main Street.
The westerly side from State Street continuing north to a point 96 feet from State 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:
Access Road
Church Street
Douglas Circle
Green Street
Lombard Street
Morrill Avenue
Narragansett Street From Alden Lane to #104 Narragansett Street
Ball Park Road
Pine Street
South Street From 65 and 66 South Street to Robie Street
Sylvan Road
Village Woods Circle
Village Woods Drive

SECTION 3 (Two Hour Limit: 7 a.m. – 7 p.m.)

Parking shall be limited to a maximum of two hours at any time between the hours of 7 a.m. and 7 p.m. on any day except Sundays and public holidays on the following streets:

School Street The easterly side beginning at a point 90 feet north of Main Street and continuing north to a point 270 feet north of Main Street, a distance of 180 feet.

SECTION 4 (No Parking: 6 a.m. – 4 p.m.)

Parking shall be prohibited at any time between the hours of 6 a.m. and 4 p.m. Monday through Friday on the following streets:

Lincoln Street The southerly side from the driveway of 29 Lincoln Street to South Street, a distance of 748 feet.

SCHEDULE C - No through trucks allowed

No three (3), four (4), or five (5) axle through trucks shall be allowed on the following streets:

Deering Road From the Buxton Town Line to Route 22
Flaggy Meadow Road From the Buxton Town Line to Route 25
Huston Road From Route 237 to Route 202
New Portland Road From Bartlett Road to Route 25 (Main Street)
Wood Road From the Finn Parker Road to Route 25

SCHEDULE D - Right – Turn Only

The following intersections are restricted to right-turn only vehicular movement. Left turning vehicular movements are strictly prohibited.

Cross Street onto Main Street (Route 25)
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 unskilfully 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 31st, 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 of 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,
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. Wavier 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 provided 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.
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's interest contingent upon one or more of the following criteria:

- The extension conforms to the Town of Gorham's Comprehensive Plan.
- The extension conforms to a water main service area Master Plan adopted by the Town Council.
- 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.
  - To address a significant need for public fire protection.
- The extension promotes the public hearth, 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 Abuter 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.

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.

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.

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:

termining 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.

termining 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.

termining 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.

termining 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.
etermining 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.
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/FEES

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.
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 head-quartered 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 it's 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 know, 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.