
**TOWN OF GORHAM
WATER MAIN AND HYDRANT ORDINANCE**

Section 1. Purpose.

This ordinance is intended to provide appropriate regulations for the replacement or extension of water mains in a manner that is consistent with the Comprehensive Plan and to promote the health, safety, and general welfare of the community.

Section 2. Authority.

This ordinance is enacted in accordance with Title 30-A, M.R.S.A., Section 3001 and shall have an effective date of May 6, 2003.

Section 3. Severability.

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

Section 4. Extensions and Replacements Allowed.

4.1 The Town Council may authorize the extension or replacement of public water mains and the provision of fire hydrants in accordance with specifications approved by the Portland Water District to serve private development activities in accordance with 4.2 or to serve public purposes in accordance with 4.3. Extensions to serve public purposes may be initiated by the Town Council or by petition by the property owners to be served by the proposed extension or replacement.

4.2 Water mains may be extended along public ways and provided within public streets and private ways in approved subdivisions within the Town either upon initiation of the Town Council or as required by the Town of a developer pursuant to an application and the provisions of the Land Use and Development Code. The location of all water mains within the public right-of-way must be approved by the Public Works Director. All extensions must conform to specifications approved by the Portland Water District.

4.3 The Town may contract with the Portland Water District to extend or replace water mains and hydrants if deemed in the public interest contingent upon one or more of the following criteria:

- a. The extension conforms to the Town of Gorham's Comprehensive Plan.
- b. The extension conforms to a water main service area Master Plan adopted by the Town Council.
- c. The extension is necessary to provide a safe and portable water supply to an area where the Maine Department of Environmental Protection has investigated and identified a ground water contamination threat.
- d. To address a significant need for public fire protection.
- e. The extension promotes the public health, safety, and welfare or other public purposes.

Section 5. Financing.

5.1 Methods of Funding or Replacement

This ordinance provides for three basic methods for funding the extension or replacement of public water mains depending on the purpose of the project.

5.2 Developer Funding

When water mains and fire hydrants are installed to provide water service for industrial, commercial or residential subdivisions or for residential and nonresidential buildings as required by the Land Use and Development Code, all costs of the extension or replacement shall be paid by the owner or developer unless the Town Council determines that there is a public benefit in the extension. In such cases, the Council may authorize the Town to share in the cost of the water main extension in proportion to the public benefit. All water main extensions or replacement and hydrants must be done in accordance with Portland Water Districts standards and specifications.

5.3 Abutter Costs.

In cases where sixty percent (60%) of abutters of both sides of a street petition the Town Council to approve a water main and hydrant extension or replacement, the Town Council may, after holding a public hearing, set up a development district pursuant to Title 30-A M.R.S.A., Section 5221 and assess each abutter for the cost of the project in accordance with Section 6.

- a. The Town will work with the Portland Water District to develop an estimate of project costs and to calculate an estimated cost for abutters. However, abutters will be responsible for all final project costs even if those costs exceed estimated costs.
- b. The Town Council may provide for the payment of the assessments in annual payments over the period the cost is financed by the Town or such other period as determined by the Town Council.

5.4 Public Funding

In cases where it is deemed in the broad public interest to extend or replace water mains and hydrants within public streets or ways, the Town Council may approve such extension or replacement and finance the actual costs of construction or any portion thereof with public funds, in accordance with the Town Charter.

5.5 Public Financing.

In cases where the Town Council has received a petition from abutters in accordance with Section 5.3, and the Council has held a public hearing and approved an extension or replacement of a water main as being in the public interest and set up a development district, the Council may authorize the Town to finance the project in accordance with the following criteria:

- a. The funds will be borrowed for a term of not longer than 20 years.

- b. The interest rate would be set by the lending institution.
- c. The project has received approval in a referendum vote if the cost of the project requires voter approval.

Section 6. Initial Allocation of Costs.

In cases where the Town Council has received a petition from abutters pursuant to Section 5.3 and subsequently approved an extension and will facilitate financing in accordance with Section 5.5, each abutting property owners cost shall be determined by:

- a. Determining the project cost including the actual construction cost, financing costs, pre-project costs, and any other costs directly associated with the project such as design costs, legal costs, and similar administrative costs. The project cost to be used for determining abutting property owners assessments may be reduced proportionately by the Town Council if the Town Council finds that there will be a public benefit from the improvement and that the abutters should not fund that portion of the total cost of the project.
- b. Determining the base lot cost by dividing seventy-five (75) percent of the project costs by the number of lots with road frontage on the public road within the area of the extension or replacement.
- c. Determining the additional per foot lot frontage cost by determining the total amount of useable lot frontage along the public road within the area of the extension or replacement and dividing twenty-five (25) percent of the project costs by the total useable frontage to get a per foot frontage cost. In determining the useable lot frontage, the Town Council may exclude any area that it deems does not benefit from the extension or replacement such as intersecting streets, unbuildable areas due to natural constraints or permanent legal restrictions or similar situations.
- d. Determining the additional frontage cost for each lot with road frontage on the public road within the area of the extension or replacement by multiplying the per foot frontage cost by the amount of the frontage the lot has on the public street based on the Towns assessment records.
- e. Determining the assessment for each lot by adding the base lot cost and the additional frontage cost for that lot.

Section 7. Assessment of Subsequent users for Abutter Initiated Projects

When a water main has been extended or replaced pursuant to a project initiated by abutters under Section 5.3 and the abutters have been assessed for all or a portion of the project costs, any user that connects directly or indirectly to that water main shall be subject to an assessment for a portion of the project costs. That assessment shall be based upon the following provisions.

7.1 Lot Splits with Road Frontage on the Subject Road

If a lot that is subject to a water main extension assessment is split into two or more lots which have road frontage on the public road within the area of the extension or replacement, the assessment for each of the lots shall be calculated by determining the road frontage of each of the lots and calculating the assessment based upon the base lot cost plus the additional frontage cost as set forth in Section 6.

7.2 Lots that Do Not Have Frontage on the Subject Road

If a lot that does not have road frontage on the public road within the area of the extension or replacement and, therefore is not subject to a water main assessment, is connected directly to the water main that was extended or replaced or by a water service connection or is connected indirectly to the water main via another public water main extension or a private extension, the lot may be assessed for the cost of the initial extension in accordance with normal assessment procedures of the Portland Water District for water main and service line extensions as governed by the Maine Public Utilities Commission regulations and Maine Law. The assessment for each such lot shall be the base lot cost as set forth in Section 6.

7.3 Refund or Surplus Assessments

If the total amount of water main assessments collected by the Town for a water main extension or replacement exceeds the project costs used to determine the assessments initially in accordance with Section 6, the surplus shall be refunded by the property owners that paid the assessment in proportion to the amount each owner paid. When the financing for the project is paid off, the Town shall do a reconciliation to determine the total amount of assessments paid by abutters for the project. If this amount exceeds the initial project cost, the surplus to be refunded shall be determined. The Town shall calculate the percentage of the total assessments collected paid by the owners of each lot and shall refund that proportion of the surplus to the current owner of record of the lot.

Section 7. Pre-project Costs.

In order to provide a reasonable estimate of the costs for extending a water main, the Portland Water District will incur certain pre-project costs, such as taking soundings to determine the amount of ledge, pre-design work, and other costs. These costs must be paid by the applicant in advance and are non-refundable, regardless of whether the project proceeds or not.