

Land Use and Development Code Amendment: Underground Utility Standards

**Town of Gorham
Planning Board Meeting
July 10, 2023**

ITEM 1 - Public Hearing – Land Use and Development Code Amendment – Chapter 2, Section 2-10 – a proposed amendment to the Land Use and Development Code Chapter 2, Section 2-10 with appropriate references inserted into Land Use Code Chapters 1, 3, and 4 regarding underground utility standards.

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AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Planning Board - Public Hearing	Reviewed and decided to hold a public hearing at the July 10 Planning Board meeting to review additional changes	June 5, 2023
Planning Board - Public Hearing		July 10, 2023

The Planning Board refers to staff notes during the review process; however, it shall be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

Memo completed by Tom Poirier, Community Development Director, and Damon Yakovleff, Assistant Town Planner

Land Use and Development Code Amendment: Underground Utility Standards

1. OVERVIEW

For at least 20 years Gorham has not approved overhead utilities for any new subdivisions or private ways. The rationale behind this can be found in the land use code, Chapter 3, Section 3-3 C 2 c. which reads as follows: “Will not place an unreasonable burden by either direct cause or subsequent effect on the ability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.” However, this provision has introduced ambiguity and overhead utilities were recently approved for a subdivision in the town’s Rural zoning district.

The benefits of underground utilities are many, including greater reliability, aesthetics, protecting public health and safety, and especially for assuring emergency response during emergencies. Downed electric lines pose a risk to emergency service personnel, and may cut off vital access for fire, EMS, and police services to Gorham residents. This is practically a risk for residents of streets with single access points, including many subdivisions.

Currently, underground utilities are explicitly required in several zones (Roadside Commercial, Mosher Corner Mixed Use, Narragansett Mixed-Use Development District, Urban Residential, South Gorham Commercial District), in planned unit developments, “wherever possible” in clustered residential developments, for multifamily housing, in the campground overlay district, and for wireless telecommunications facilities.

The Town’s Land Use Code can be amended to require underground utilities in all zones for all new subdivisions and developments requiring subdivision and/or site plan approval. Staff’s recommendation is to amend Land Use Code section 2-10 “The provision of Public Water Supply” to apply to utilities generally. Furthermore, the Town’s Subdivision and Site Plan standards should reference the utilities standard in Chapter 2. Additionally, requirements for underground utilities should be removed from individual zoning district standards in Chapter 1 because this requirement would be rendered redundant by the updated standards added to Chapter 2, Section 2-10 as proposed. Additional references can be included in Chapter 3, Subdivision, and Chapter 4, Site Plan standards.

At the June 5, 2023 Planning Board meeting the Board discussed the wording of proposed language to be inserted in Land Use Code Section 2-10 regarding under what circumstances the Board may grant a waiver to the requirement for provision of underground utilities. The Board recommended several changes and directed staff to schedule an additional public hearing at the next Planning Board meeting, July 10, 2023 to review the changes. The new changes are shown in the ordinance section below in *highlighted italics*.

All Land Use Code amendments are shown using underline and ~~strikethrough~~.

2. PROPOSED AMENDMENT LANGUAGE TO ORDINANCE

SECTION 1-11 - ROADSIDE COMMERCIAL DISTRICT

Section 1-11, E, 2, b: Utilities

1. All developments and subdivisions shall connect to public water and sewer meeting the requirements for the Portland Water District and the Town of Gorham.
 - a. The Planning Board may grant a waiver for public water main extension if the lot is located greater than 200' from the nearest watermain and the proposal meets the Determination of Unreasonable Costs under Chapter 2, Section 2-10 The Provisions of Public Water Supply.
 - b. The Planning Board may grant a waiver for public sewerage main extension if the lot is located greater than 200' and the costs to connect into the system is greater than 3 times the costs for an onsite sewerage disposal system as identified by the Planning Board.”

~~2.—All developments are required to have underground utilities.~~

SECTION 1-13 – MOSHER CORNER MIXED USE

Section 1-13, E, 2, b:

b) Utilities

1. All non-residential uses and subdivisions shall be supplied with public water service meeting the requirements of the Portland Water District.
2. All non-residential uses and subdivisions shall connect to public sewer meeting the requirements of the Portland Water District and the Town of Gorham.
 - a. The Planning Board may grant a waiver for the requirements of the extension of public sewer main extension if the lot is located greater than 200 feet from the nearest connection to a public sanitary sewer and the costs to connect into the system is greater than 2 times the costs for an onsite sewerage disposal system as identified by the Planning Board.

~~3.—All developments are required to have underground utilities.~~

SECTION 1-16 – NARRAGANSETT MIXED-USE DEVELOPMENT DISTRICT

Section 1-16, E, 5:

5) Public Utilities

- a) All large scale developments and subdivisions shall connect to public sewer and water meeting the requirements of the Portland Water District and the Town of Gorham.

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1. The Planning Board may grant a waiver for the requirements of the extension of public sewer if the lot is located greater than 100 feet from the nearest connection to a public sanitary sewer and the connection to the public sanitary sewer would cause an undue hardship to the developer, as determined by the Planning Board.
2. The Planning Board may grant a waiver for the requirements of the extension of public water if the lot is located greater than 200 feet and the proposal meets the Determination of Unreasonable Costs under Chapter 2, Section 2 – Provision of Public Water Supply, D., Exemption from Public Water Supply Requirements.

~~b) — All developments are required to have underground utilities.~~

SECTION 1-24 – URBAN RESIDENTIAL EXPANSION DISTRICT

Section 1-24, E:

E. PERFORMANCE STANDARDS

1. The performance standards contained in Chapter 2 of this Code shall be fully observed.
2. Non-residential developments and uses shall be developed to meet the following requirements:
 - ~~a. — All non-residential uses shall be served by underground utilities.~~
 - b. All principal buildings and structures for non-residential purposes shall be of a traditional New England Village design to be compatible with the predominant scale and character of the existing Gorham Village architecture
3. Residential developments shall be developed to meet the following requirements:
 - ~~a. — All residential uses shall be served by underground utilities.~~
 - b. Layout of a street network shall be completed in a grid style to ensure two (2) points of connection for each street. The Planning Board may waive the requirement for two (2) points of connection for a portion of the development if the Planning Board finds that no other alternate street network is possible with 2 points of connection or it would be a financial hardship to complete the required 2 points of connection. For purposes of this Section, a financial hardship shall be considered to exist if establishing the two (2) points of connection would utilize more than twenty-five (25) percent of cost of the entire development.

The number of dwelling units used in the calculation shall be based on the maximum number of dwelling units allowed on the parcel as identified under the Urban Residential Expansion Space Standards. The request for waiver shall include two plans. One plan shall show a street/private way layout having two (2) points of connection, and the other plan shall show a street/private way layout with a dead end street/private way plan. The road layouts shown on both plans must be approved by the Planning Board.

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If the Planning Board grants a waiver of the requirement for two (2) points of connection for dead end streets or private ways providing access to more than 4 lots and/or dwelling units, the street or private way shall be of a cul-de-sac design meeting all the relevant requirements under Chapter 2, Section 2-5, Minimum Standards for the Design and Construction of Streets and Ways. Private ways serving a single lot and a single dwelling unit are exempt for the requirement for two (2) points of connection.

- c. Principal single-family, two-family, and multi-family buildings and structures shall be of a traditional New England design to be compatible with the predominant scale and character of the existing Gorham Village architecture.

SECTION 1-25 – SOUTH GORHAM COMMERCIAL DISTRICT

Section 1-25, D, 12:

12) Public Utilities

- a) All projects requiring site plan review and subdivisions shall connect to public sewer and water meeting the requirements of the Portland Water District and the Town of Gorham.
 - i) The Planning Board may grant a waiver for the requirements of the extension of public sewer if the lot is located more than 1,000 feet from the nearest connection to a public sanitary sewer and the connection to the public sanitary sewer would cause an undue hardship to the developer, as determined by the Planning Board.
 - ii) The Planning Board may grant a waiver for the requirements of the extension of public water if the lot is located more than 1,000 feet and the proposal meets the Determination of Unreasonable Costs under Chapter 2, Section 2 – Provision of Public Water Supply, D., Exemption from Public Water Supply Requirements.
- b) All developments are required to have underground utilities.

CHAPTER 1A - PLANNED UNIT DEVELOPMENT

SECTION 1A-6 - PLANNED UNIT DEVELOPMENT SITE PLAN APPROVAL

Section 1A-6, B, 8:

8. Location of electrical service lines and all utility connections for attached residential and all non-residential uses. Utilities shall be underground in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”. ~~unless this requirement is waived by the Planning Board. Waivers shall only be granted if the Planning Board determines that underground utilities would constitute a safety hazard or that above-ground utilities can be adequately screened.~~

SECTION 2-4 – RESIDENTIAL

Section 2-4, A, 6, f:

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- b) Utilities: all utilities shall be installed underground in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”. ~~wherever possible~~. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.

Section 2-4, B, 1, b:

- b) For new construction, utilities shall either be placed underground in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”. ~~or, if above the ground, designed so as to be visually compatible with the overall development.~~

SECTION 2-6 – CAMPGROUND OVERLAY DISTRICT - ESTABLISHMENT

A campground may only be established or expanded within the Town’s Campground Overlay District.

- 1) Land Area. A campground may not be constructed on less than 5 acres of land.
- 2) Camp Site Area. Each area proposed for a tent site or parking space for a travel trailer, pick-up camper, motorized camper, or tent trailer must contain at least 2,500 square feet.
- 3) Firepit. Each campsite must be provided with a masonry or metal firepit approved by the Fire Chief.
- 4) State Law. In all other regards, the applicant shall observe the provisions of State Law governing campgrounds.
- 5) License and Permit. The licensing and permit issuance and requirements shall be the same as the regulations pertaining to mobile home parks licensing in the Mobile Home Park Ordinance.
- 6) Campgrounds shall be closed from November 1 of one year to April 14 of the following year. During such time, no person shall occupy any campsite and the water and electrical service to all campsites shall be turned off or disconnected.
- 7) There shall be a buffer strip of at least 25 feet in width adjacent to all lot lines and any of the campsites or facilities shall be adequately screened from the view of any abutting residential property.
- 8) All utilities (electrical, water, telephone, and cable) shall be installed underground in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”.

SECTION 2-10 –PROVISION OF UTILITIES

Section 2-10A - Provision of Underground Utilities

- A. Underground utilities shall be required for all newly constructed streets and for any new development requiring Subdivision, Private Way, and/or Site Plan Approval.
- B. The Planning Board may waive the requirement for provision of underground utilities for ~~non-residential~~ projects including large-scale energy consumers and/or producers where underground installation will create an undue burden based on natural features or resource constraints, as determined recommended by the Town Engineer.

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Section 2-10B - Provision of Public Water Supply

(No further edits to section)

CHAPTER 3: SUBDIVISION

SECTION 3-3 - PRELIMINARY PLAN

Section 3-3, B, 18:

- 18) Location of existing and proposed electric and telephone service in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”.

CHAPTER 4: SITE PLAN REVIEW

SECTION 4-8 - PROCEDURES FOR MAJOR DEVELOPMENTS

Section 4-8, C, 9: and after construction

9. Location and nature of electrical, telephone and any other utility services to be installed at the site in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”.

SECTION 4-9 - APPROVAL CRITERIA AND STANDARDS

Section 4-9:

- J: Utilities - The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project in accordance with Land Use Code Chapter 2-10 Section 2-10A “Provision of Underground Utilities”.

PROPOSED MOTION:

Move to recommend adoption by the Town Council of the Zoning Amendment to the Land Use and Development Code under Chapter 1, Sections 11, 13, 16, 24 and 25; Section Chapter 2, Sections 4, 6 and 10; Chapter 3 Section 3; and Chapter 4 Section 8 and 9 (as amended by the Planning Board).