

ORDER

STANDISH TOWN COUNCIL

DATE: November 10, 2015
ORDER NUMBER 109-15

SUBMITTED BY: Blanck

TITLE: AMENDMENT TO STANDISH TOWN CODE, CHAPTER 181, LAND USE, MULTIPLE SECTIONS REGARDING PUBLIC WATER SUPPLY

The Town of Standish hereby ordains the following amendments to the Land Use Ordinance, to be effective immediately upon adoption.

(Additions are underlined; deletions are ~~struck out~~):

Amend Part 1 (Zoning) of the Land Use Code by amending it as follows:

§ 181-7.1. Form Based Code Village Districts (FBCVD).

A. Definitions

PUBLIC WATER - A common water service operated by a municipality, governmental agency, or a public utility for the furnishing of water that meets the standards of the State of Maine for drinking water.

B. Administrative Provisions

(7) General Notes

- (a) All developments in a Form Based Code Village District, except for a new single family dwelling located on a lot of record created prior to the district, ~~shall be on public water and include buried utilities~~ and shall be on public water and unless a waiver is granted per § 181-35.9 181-73 or § 181-95 of this chapter.

§ 181-35.9. The Provision of Public Water Supply.

It is the policy of the Town of Standish to require the extension of the public water supply system to serve new development to the extent that such extensions are feasible and economically viable. The provisions of this section identify when public water supply must be used and/or the public water system extended to serve the use of land or development activity.

A. Required Provision of Public Water Supply.

Unless exempted by the Planning Board in accordance with subsection (D) below, any new principal building for nonresidential use for which a building permit is issued after January 12, 2016, or any new principal building in a subdivision that was approved after January 12, 2016, and that had not had substantive Planning Board review as of January 12, 2016., shall be connected to, and shall utilize, the

public water system, if the parcel(s) on which such development occurs is located, in whole or in part, in any of the following zoning districts:

1. The Industrial District
2. The Residential District
3. The Sebago Lake Village FBVCD
4. The Standish Corner FBCVD
5. The Village Centers District

B. Conditional Provision of Public Water Supply.

Unless exempted by the Planning Board in accordance with subsection (D). below, any new principal building for nonresidential or residential use (or group of buildings that is part of the same project) for which a building permit is issued after January 12, 2016,, that has a design sewage flow based upon the Maine State Plumbing Code of more than two thousand (2,000) gallons per day or that is required to be provided with a fire protection sprinkler system in accordance with fire protection codes or town ordinances, or any subdivision approved after January 12, 2016, and that had not had substantive Planning Board review as of January 12, 2016, that will allow for the construction of six (6) or more dwelling units or one or more principal buildings requiring site plan review, shall be connected to, and shall utilize, the public water system, if the parcel upon which the development is located is within three thousand (3,000) feet of a Portland Water District water main as measured along existing or proposed public rights-of-way from the existing main to the nearest corner of the parcel, and the parcel is located, in whole or in part, in any of the following zoning districts:

1. The Business and Commercial District
2. The Rural District
3. The Rural Residential District
4. The Water Oriented Commercial

C. Provision for the Orderly Extension of the Public Water System.

The Planning Board shall require that a subdivision or a building subject to site plan review but not covered by subsection (A) or (B) above, extend and/or utilize public water supply provided by the Portland Water District if the Planning Board determines the provision of public water to this project is necessary for the orderly extension of the public water system or for the development of the area in accordance with the Town's adopted Comprehensive Plan, and that such extension will not be financially unreasonable based upon the methodology set forth in subsection (E) below.

D. Exemption from Public Water Supply Requirements.

The Planning Board shall, by formal vote, exempt a development from the requirement to extend and/or use public water supply if it finds that any one of the following conditions is met:

1. That the Portland Water District has certified, in writing, that the District's water system cannot provide adequate service for the project, including, provisions for fire protection sprinkler systems, without a major investment in the District's facilities that the District is not prepared to make in a timely fashion, or
2. That the cost of providing public water service for the project is unreasonable given the anticipated benefit. The cost of providing public water service for a residential use or subdivision shall be deemed to be unreasonable if the Public Water Cost Per Unit (PWCU) exceeds the Maximum Private Water Cost Per Unit (MPWCU) based upon the methodology set forth in subsection (E) below. The cost for providing public water service for a non-residential use or subdivision shall be deemed to be unreasonable if the estimated cost is more than twice the cost of an equivalent private water supply system, including provisions for fire protection water supplies, based upon the methodology set forth in subsection (E) below.

E. Determination of Unreasonable Cost.

Abbreviations used in Determination of Unreasonable Cost are as follows:

CCIF = Construction Cost Inflation Factor

CCIF = ENR CCI Current/ENR CCI 01-2016 where ENR CCI Current is the ENR Construction Cost Index for the month in which the calculation is made as published in ENR (Engineering News-Record) magazine and ENR CCI 01-2016 = the ENR Construction Cost Index for January 2016

ENR = Engineering News-Record

ENR CCI = the ENR Construction Cost Index for January 2016

ENR CCI Current = the ENR Construction Cost Index for the month in which the calculation is made as published in ENR (Engineering News-Record) magazine

EX = the estimated current cost for any extraordinary costs for the water service such as bridge crossings and \$75 is the typical cost per foot for a water main in an existing street, \$40 is the typical cost per foot for a water main in a new street or right-of-way, and \$1,425 is the typical average cost for a house service

LDG = the estimated current cost for ledge trench at \$20 per lineal foot times the estimated number of feet of ledge trench or other estimate of ledge removal cost approved by the Planning Board based upon field knowledge/documentation provided by the applicant

MPWCU = Maximum Private Water Cost Per Unit

NL = the lineal feet of new water main in a proposed street or right-of- way

PWCU = Public Water Cost Per Unit

SL = the lineal feet of new water main in an existing street,

UN = the number of units in the development to be served

If a property owner or developer requests an exemption from the requirement to provide public water supply based upon the cost of providing public water supply, he/she shall submit an analysis of the estimated cost of providing public water service versus the cost of providing private water supplies.

The analysis shall be based upon the proposed development scenario as if the entire lot or parcel will be developed/subdivided and there is no potential for future additional development. The Planning Board shall require that the analysis be based upon a full build-out scenario for the parcel that assumes that the entire parcel will be developed based upon the allowed zoning density with public water and cluster development, if appropriate, taking into consideration site constraints and town regulations. If only a portion of the lot or parcel is being proposed to be developed/subdivided, the analysis shall be based upon a full build-out scenario for the parcel that assumes that the entire parcel will be developed and that the area not currently proposed for development will be developed based upon the allowed zoning density with public water and cluster development, if appropriate, taking into consideration site constraints and town regulations. The development scenario shall be submitted to the Town Planner and shall be subject to the Planner's and Planning Board's approval as a reasonable development scenario for the parcel.

1. **Residential Developments** -- The cost of providing public water service for a residential use or subdivision shall be deemed to be unreasonable if the Public Water Cost Per Unit (PWCU) exceeds the Maximum Private Water Cost Per Unit (MPWCU) based upon the following methodology:

Step 1. Determine the PUBLIC WATER COST PER UNIT (PWCU) based upon the following formula:

$$\text{PWCU} = \frac{(((SL \times \$75) + (NL \times \$40))/UN) + \$1,425}{CCIF + (((LDG) \times CCIF) + EX)/UN}$$

Where: SL = the lineal feet of new water main in an existing street,

NL = the lineal feet of new water main in a proposed street or right-of- way,

UN = the number of units in the development to be served,

CCIF = Construction Cost Inflation Factor

LDG = the estimated current cost for ledge trench at \$20

per lineal foot times the estimated number of feet of ledge trench or other estimate of ledge removal cost approved by the Planning Board based upon field knowledge/documentation provided by the applicant

EX = the estimated current cost for any extraordinary costs for the water service such as bridge crossings and \$75 is the typical cost per foot for a water main in an existing street, \$40 is the typical cost per foot for a water main in a new street or right-of-way, and \$1,425 is the typical average cost for a house service.

CCIF = ENR CCI Current/ENR CCI 01-2016 where ENR CCI Current is the ENR Construction Cost Index for the month in which the calculation is made as published in ENR (Engineering News-Record) magazine and ENR CCI 5-04 is the ENR Construction Cost Index for January 2016

Step 2. Determine the MAXIMUM PRIVATE WATER COST PER UNIT (MPWCU) based upon the following formula:

$$\text{MPWCU} = \$12,100 \times \text{CCIF}$$

Where: CCIF = Construction Cost Inflation Factor, and \$12,100 is the typical developer cost for a well, water treatment system, and unit cost of fire tank.

Step 3. Compare the calculated PWCU to the calculated MPWCU to determine if providing public water supply is reasonable.

- 2. Non-Residential Developments** -- The cost for providing public water supply for a non- residential use or subdivision shall be deemed to be unreasonable if the estimated cost for the public water supply is more than twice the cost of an equivalent private water supply system including provisions for fire protection water supplies. The analysis shall be prepared by a Maine licensed professional engineer based upon documented construction costs and reviewed and approved by the Portland Water District unless this requirement is waived by the Planning Board based upon the scale or nature of the development.

The cost for supplying public water shall include the estimated cost of any water main extensions and required upgrades to existing facilities as well as the cost for providing local water mains and services within the project and shall be reduced by any cost sharing by the Water District, any impact fee revenues available to fund the project, and any other potential sources of outside funding. In evaluating the reasonableness of providing public water service, the Planning Board shall consider the potential for cost sharing with any approved developments or any projects for which a pre-application or application has been filed. The cost for private water supplies shall include the cost for the private supplies, services, and any provisions

for fire protection required by this Code or the fire protection or building codes.

F. Responsibility and Standards for Extensions of the System.

If a parcel or lot proposed for development or subdivision is required to be connected to, and utilize, the public water system, and a public water main is not available adjacent to the parcel or lot to provide the service, the owner or developer of the parcel or lot shall be responsible for extending a public water main within an adjacent public street or other public right-of-way approved by the Town Council to provide water service to the proposed building or subdivision at his/her cost. The extension shall be designed by a Maine licensed Professional Engineer, shall meet the design and construction standards of the Portland Water District, shall be constructed at the property owner's or developer's expense, shall be inspected in accordance with the requirements of the Portland Water District, and shall be transferred to the Portland Water District upon completion.

Any water main extension undertaken to comply with the requirements of this section shall include the installation of fire hydrants in accordance with the standards of the Standish Fire Department and fire protection codes.

Amend Part 2 (Site Plan), Article XII (Standards) of the Land Use Code by amending it as follows:

§ 181-73. Standards and conditions for approval.

No preliminary or final site plan shall be approved unless, in the judgment of the Planning Board, the applicant has proven that the plan meets all of the following standards.

M. Within the Form Based Code Village Districts, the plan must meet all of the following additional standards:

(6) Underground utilities.

(a) On new frontage type FBCVD streets, utilities shall be buried.

(b) All developments shall be served by public water.

(c) ~~Except for existing SCD Town Center street frontage type, t~~The requirements for buried utilities and the provision for a project to be served by public water can be waived by the Planning Board pursuant to the standards set forth in § 181-35.9. ~~if the applicant can demonstrate all of the following:~~

~~[1] The project is more than 2,000 feet in road distance from an existing public water line; and~~

~~[2] Subsurface conditions, such as ledge, make the extension of waterlines or buried utilities cost prohibitive.~~

(d) When a waiver for requirements of buried utilities is granted by the

Planning Board, the following additional standards shall be met:

- [1] All newly created lots shall be greater than 60,000 square feet each ~~in area per dwelling unit without public water~~ and contain a minimum of 175 feet of street frontage; and
- [2] The aboveground utilities shall be placed behind buildings facing the FBCVD street minimizing visual impacts and interference with FBCVD streetscapes.
- (e) Provisions shall be made for phased construction such as conduit extensions and stubs. This information will be located and noted on an approved site plan and recorded in the Cumberland County Registry of Deeds.

Amend Part 3 (Subdivision), Article XVIII (General Standards) of the Land Use Code by amending it as follows:

§ 181-95. Utilities.

The size, type and location of public utilities, such as streetlights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Planning Board and installed in accordance with local practice.

- A. Within a Form Based Code Village District, underground utilities shall be required and governed as follows:
 - (1) On new frontage type FBCVD streets utilities shall be buried.
 - (2) All developments shall be served by public water.
 - (3) ~~Except for existing SCD Town Center street frontage type, the requirements for buried utilities and the~~ The provision for a project to be served by public water can be waived by the Planning Board pursuant to the standards set forth in § 181-35.9 if the applicant can demonstrate all of the following:
 - ~~(a) The project is more than 2,000 feet in road distance from an existing public water line; and~~
 - ~~(b) Subsurface conditions, such as ledge, make the extension of waterlines or buried utilities cost prohibitive.~~
 - (4) When a waiver for requirements of buried utilities is granted by the Planning Board, the following additional standards shall be met:
 - (a) All newly created lots shall be greater than 60,000 square feet each per dwelling unit without public water and contain a minimum of 175 feet of street frontage; and

(b) The aboveground utilities shall be placed behind buildings facing the FBCVD street, minimizing visual impacts and interference with FBCVD streetscapes.

- (5) Provisions shall be made for phased construction such as conduit extensions and stubs. This information will be located and noted on an approved subdivision plan and recorded in the Cumberland County Registry of Deeds.

APPROVED _____ DISAPPROVED _____

ROLL CALL YEA NAY ABSTAIN

BLANCK	_____
HIGGINS	_____
NESBITT	_____
OLSON	_____
ORDWAY	_____
POMERLEAU	_____
SARGENT	_____

COUNCIL CHAIR _____
CLERK/SECRETARY _____

Proposed timeline:

Planning Board Public Hearing – TBD
Council introduction – 11/10/2015
Council First Reading – 12/8/2015
Council public Hearing – 1/12/2016