

Town of Gorham Development Transfer Fee Program

SECTION XVIII – DEVELOPMENT TRANSFER OVERLAY DISTRICT

[Note: The Development Transfer Overlay District (a Development Transfer Fee program) is included as a section of Gorham’s Land Use Zoning Regulation.]

A. PURPOSE

The purpose of the Development Transfer Overlay District is to create livable, walkable neighborhoods in areas of the community where public sewerage is available or planned while minimizing development in other areas of the community where intensive development is not desired. This will be accomplished by allowing well-planned, higher density residential development in designated areas with public sewerage in exchange for the payment of a development transfer fee. The development transfer fee will be used by the Town to purchase conservation land and/or easements and open space.

[Note: During the comprehensive planning process, Gorham identified a series of recommendations that were designated to encourage denser development in the village centers that were served by public water and sewer and to discourage development in rural areas. The Development Transfer Overlay District was developed as a result of these recommendations.]

B. APPLICABILITY

The provisions of this overlay district are optional. A land owner within the overlay district may choose to develop in accordance with the provisions of this overlay district or the provisions of the underlying zoning district. If the owner chooses to develop in accordance with these provisions, all subsequent development on the parcel shall then be subject to these requirements.

[Note: As the Development Transfer Overlay District is not mandatory here, for it to be used there must be adequate incentive for both the developer and the rural landowner to take advantage of the program. This ordinance allows a developer of a new subdivision or project that is subject to site plan review to make a choice with respect to the development of their land. They can choose to develop in accordance with the existing base zoning, or they can choose to develop it in accordance with the requirements of the overlay district. The overlay district allows the landowner to develop their property more densely than they would be able to under base zoning (up to double what they are allowed under existing zoning), but they have to pay a “development transfer fee” to the Town for each additional (bonus) unit in excess of what would be allowed under base zoning.]

The provisions of this overlay district may only be utilized by new residential subdivisions or projects that are subject to site plan review and that meet all of the following provisions:

- 1) The development is located within the Development Transfer Overlay District as shown on map of the Development Transfer Overlay District adopted by the Town Council as part of the Official Zoning Map;
- 2) The development will be served by public water and by the public sewerage system of the Town of Gorham and all buildings with plumbing facilities within the development will be connected to the sewer system; and
- 3) The owner or developer will pay a development transfer fee in accordance with the provisions of E.1.

[Note: It is important to clearly define the ‘receiving zone’ where density bonuses are allowed. These areas should be located around existing town centers and services.]

The provisions of this district supplement and modify the provisions of the underlying zoning district. Where the provisions of the overlay district differ from or conflict with the provisions of the underlying district, these provisions shall govern if the property owner has chosen to develop in accordance with the overlay district provisions. The plan of any development approved in accordance with the overlay district must include a plan note stating that the plan was approved in accordance with the Development Transfer Overlay District, that a development transfer fee will be required to be paid prior to the issuance of the building permit for each dwelling unit in the development, and that all future development of the original parcel or lots created as part of the approval must be done in accordance with the provisions of the overlay district.

The provisions of the overlay district only apply to subdivisions and other developments approved in accordance with the overlay district and may not be applied to a lot(s) that is not located within a subdivision that was approved and developed in accordance with the provisions of the overlay district including the following:

- 1) lots within a subdivision that was approved prior to the effective date of this section,
- 2) lots in a subdivision that was approved and developed in accordance with the provisions of the underlying zoning district, or
- 3) lots that are not part of a subdivision.

[Note: This approach does not address single lot development or projects that do not trigger project review.]

C. PERMITTED USES

Only uses allowed in the underlying zoning district shall be permitted in the overlay district. Uses that are permitted uses in the underlying zoning district remain permitted use and uses that are special exceptions in the underlying zoning district remain special exception uses.

D. SPACE STANDARDS

The following space standards apply to the subdivision or project and to the lots within the subdivision based upon the underlying zoning district.

Standard	If the underlying zone is any district other than Rural	If the underlying zone is Rural
Minimum net acreage per dwelling unit	6,000 sq. ft.	9,000 sq. ft.
Minimum lot size: - one-family dwelling - two-family dwelling - multi-family dwelling or apartment - non-residential use	8,500 sq. ft. 15,000 sq. ft. 20,000 sq. ft. 15,000 sq. ft.	12,750 sq. ft. 22,500 sq. ft. 30,000 sq. ft. 15,000 sq. ft.
Minimum street frontage: - one-family dwelling - two-family dwelling - multi-family dwelling or apartment - non-residential use	75 feet 100 feet 120 feet 100 feet	75 feet 125 feet 150 feet 100 feet
Minimum front yard for one and two-family dwellings: - access or sub-collector street or private way - collector street or service road - arterial street	15 feet 30 feet 70 feet	15 feet 30 feet 70 feet
Maximum front yard for one and two-family dwellings: - access or sub-collector street or private way - collector street or service road - arterial street	25 feet* none none	25 feet* none none

Minimum front yard for multi-family dwellings, apartments and non-residential uses: - access or sub-collector street or private way - collector street or service road - arterial street	20 feet 30 feet 70 feet	20 feet 30 feet 70 feet
Minimum side and rear yards: - one-family dwelling - two-family dwelling - multi-family dwelling, apartment, or non-residential use	10 feet 15 feet 30 feet or height of building whichever is greater	10 feet 15 feet 30 feet or height of building whichever is greater
Maximum building height	None	None

* Not more than ten percent (10%) of single and two-family dwellings within a subdivision may have a front yard or setback of more than twenty-five (25) feet provided that:

- 1) any lot with a front yard greater than twenty-five (25) feet may not abut another lot with a front setback of more than twenty-five feet, and
- 2) any lot with a front yard greater than twenty-five feet must be identified on the approved subdivision plan and the maximum front yard for the lot specified on the plan.

[Note: These additional lot size and setback requirements allow buildings to be located close to the street and establish maximum setbacks to ensure the potential for usable back yards.]

E. PERFORMANCE STANDARDS

In addition to the performance standards of Chapter II, all new subdivisions and developments that are approved in accordance with the provisions of the Development Transfer Overlay District must conform to the following performance standards. If these standards conflict with the performance standards of the underlying zone, these standards apply.

1. Development Transfer Fee and Calculations

a) Calculation of the Fee – The development transfer fee that must be paid by a subdivision or development shall be based upon the number of “bonus units” included in the approved subdivision or development plan. “Bonus units” are approved dwelling units in excess of the number of dwelling units that could be built on the site in accordance with the provisions of the underlying zone.

The number of “bonus units” shall be determined by the Planning Board as part of the approval of the subdivision or site plan. The number of bonus units shall be calculated by determining the maximum number of dwelling units that could be developed on the site based on the underlying zoning, site conditions, and allowable density bonuses and subtracting those units from the number of approved dwelling units.

The maximum number of dwelling units allowed in the underlying zone shall be calculated as follows:

- 1) If the underlying zone has a maximum density provision based upon net residential density or net acreage per dwelling unit, the maximum number of units allowed under the underlying zoning shall be calculated based upon this requirement and calculated by dividing the net acreage of the area proposed to be subdivided by the per unit factor, plus any additional units allowed in the underlying district for the use of public sewerage and/or public water.
- 2) If the underlying zone does not have a maximum density requirement based upon net residential density or net acreage per dwelling unit, the maximum number of units allowed under the underlying zoning shall be determined by multiplying the gross acreage of the area proposed to be subdivided by sixty-five percent (65%) to allow for access and unusable land and then dividing the resulting net area by the minimum lot size for one family dwellings or the minimum lot area per dwelling unit for two-family dwellings or multifamily housing plus any additional units allowed in the underlying district for the use of public sewerage and/or public water.

The total development transfer fee for a subdivision or project shall be calculated by multiplying the number of “bonus units” determined by the Planning Board times the per unit Development Transfer Fee established by the Town Council.

b) Payment of the Fee – The total development transfer fee for the subdivision or project shall be divided by the total number of approved dwelling units in the subdivision or project to determine the development transfer fee for each dwelling unit. The per dwelling unit development transfer fee shall be paid to Town at the time of the issuance of the building permit for each dwelling unit in the project.

c) Use of the Fee – Development transfer fees collected by the Town shall be deposited into a separate account and must be used only for acquiring the fee in or conservation easements on potentially developable land in areas where the Town desires to discourage growth in accordance with the priorities set forth below.

[Note: As an example of how to calculate the development transfer fee under Gorham's ordinance, assume the property in the development transfer overlay district can be developed with 10 homes under the base zoning, but is approved for 16 homes using the overlay provisions. The landowner is required to pay a fee for the 6 additional bonus units. The development transfer fee, \$15,000 per bonus unit, is based on a per unit land cost for recent subdivisions in town. The developer pays the town a development transfer fee of \$90,000 (6 additional units x \$15,000). This fee is spread over all the units ($\$90,000/16 \text{ units} = \$5,625 \text{ per unit}$) within the subdivision and is paid when the building permit for each unit is issued. The town accumulates the fees in an account that can only be used to purchase land or development rights (conservation easements) for permanent conservation from buildable land located in other parts of the community.]

Any land acquired with development transfer fees must be permanently restricted from development and be used for conservation, passive and/or active recreation, and open space purposes. Development transfer fee revenue may be used in conjunction with other Town funds, impact fee revenue, or other private or government funding to acquire land or easements provided that the intent of this section is met.

The Town Council shall be guided by the following priorities in acquiring land or development rights/conservation easements with the development transfer fees:

- land that is adjacent to Town-owned recreational facilities or open space that is consistent with that use
- land that is adjacent to the Presumpscot or Little Rivers
- land that is currently in agricultural or silvicultural use and will remain in agricultural or silvicultural use
- land that is adjacent to land that is in agricultural or silvicultural use and that is permanently protected from development
- land with significant historical or archeological value
- land that has significant natural resource value but that is developable
- land within the viewshed from the top of Fort Hill toward Mount Washington with a priority for those parcels closest to the top of the hill

- land adjacent to or visible from arterial and rural collector roads in areas that are zoned Rural or a future low-density equivalent
- land that maintains the integrity of unfragmented habitat blocks
- other land that is identified as open space or conservation land in the Town's Comprehensive Plan including land adjacent to the principal approaches to Gorham

[Note: To ensure that the conservation priorities of the community are met with the land that is protected in the rural areas, the ordinance clearly identifies the town's land conservation priorities. The list of open space priorities should be linked to community priorities as identified in the town's comprehensive and or open space plans.]

2. Design Standards

All subdivisions and other developments are subject to the provisions of A. 6) of Chapter II. Section IV – Residential and the plan shall show how these criteria will be addressed.

[Note: To ensure the development that occurs in the overlay district at these higher densities is a positive addition to the community, the overlay district establishes additional performance standards dealing with the layout of lots, design of development, access limitations, open space within development and the location of parking lots.]

3. Additional Standard for One and Two-Family Lot

If a subdivision approved in accordance with these overlay provisions contains individual lots that will be developed with one or two-family dwellings, the layout of those lots should be deeper than they are wide to provide a suitable, private rear yard. At least eighty percent (80%) of lots within the subdivision that will contain single-family or two-family dwellings must have an average lot depth that is at least one hundred forty percent (140%) of the lot width as measured between the side lot lines of the lot at the rear of the required minimum front yard.

4. Access Limitations

Access to subdivisions or developments shall be designed to minimize the number of entrances onto arterial or collector roads. Direct vehicular access to individual lots or uses from existing roads classified as arterials, collectors or sub-collectors shall not be allowed unless the Planning Board finds that there is no reasonable alternative access.

5. Open Space

A portion of any new subdivision or project with more than ten lots or units must be set aside within the development and permanently protected as open space to serve the residents of the project. This requirement is in addition to any requirement for the payment of a recreational facilities or open space impact fee. The total combined area of the open space set aside within the subdivision shall be a minimum of ten percent (10%) of the gross area of the parcel. This open space must include an area of usable land as defined by the net acreage provision that is at least five percent (5%) of the total net acreage of the parcel (For example, if the net acreage of the parcel is twenty acres then at least 5% or one acre of the open space must be usable land).

The required open space within the subdivision or project may be used for the following types of uses:

- formal open spaces such as greens, commons, and parks
- passive recreation areas
- natural resource or conservation areas

At least fifty percent (50%) of the required usable land within the open space shall be developed for formal spaces or recreation facilities. The Planning Board may waive or reduce this requirement if it finds that, due to the scale of the development, compliance with this requirement will not result in usable open space.

6. Parking Lot Locations

Parking lots for five or more vehicles to serve multi-family housing, apartments, and non-residential uses shall be located to the side or rear of the building where feasible. No parking lots for these uses shall be permitted in the required front yard area