



## Community Development Planning Division

Thomas M. Poirier, *Director of Community Development*

[tpoirier@gorham.me.us](mailto:tpoirier@gorham.me.us)

Carol Eyerman, *Town Planner*

[ceyerman@gorham.me.us](mailto:ceyerman@gorham.me.us)

GORHAM MUNICIPAL CENTER, 75 South Street, Gorham, ME 04038

Tel: 207-222-1620

### CHAPTER 1, SECTION XVIII. - DEVELOPMENT TRANSFER OVERLAY APPLICATION

#### DEVELOPMENT TRANSFER OVERLAY APPLICATION

(MUST BE SUBMITTED WITH SUBDIVISION APPLICATION)

CHAPTER I SECTION XVIII - DEVELOPMENT TRANSFER OVERLAY DISTRICT - SUBSECTION B. -  
APPLICABILITY: THE PROVISIONS OF THIS OVERLAY DISTRICT MAY ONLY BE UTILIZED BY NEW  
RESIDENTIAL SUBDIVISIONS OR PROJECTS THAT ARE SUBJECT TO THE SITE PLAN REVIEW AND THAT  
MEET ALL OF THE FOLLOWING THREE (3) PROVISIONS:

1	<input type="checkbox"/> YES <input type="checkbox"/> NO	The proposed development is located within the Development Transfer Overlay District adopted by the Town Council as part of the Official Zoning Map.
2	<input type="checkbox"/> YES <input type="checkbox"/> NO	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.
3	<input type="checkbox"/> YES <input type="checkbox"/> NO	The Owner or Developer will pay a development transfer fee in accordance with the Provisions of Subsection E.1 - Performance Standards.

PROVISIONS OF THE DTO 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:

4	<input type="checkbox"/> YES <input type="checkbox"/> NO	Lots within a subdivision that was approved prior to the effective date of this section.
5	<input type="checkbox"/> YES <input type="checkbox"/> NO	Lots in a subdivision that was approved and developed in accordance with the provisions of the underlying zoning district.
6	<input type="checkbox"/> YES <input type="checkbox"/> NO	Lots that are not a part of a subdivision.
7	<input type="checkbox"/> YES <input type="checkbox"/> NO	The proposed use is a permitted use, or is a special exception use in the underlying zoning district.

If you answered NO to any of the above seven (7) questions, the proposed development DOES NOT qualify for Development Transfer.

Ordinance requires that the Conditions of Approval for the proposed Plan include the following statements.  
Please check each box below to indicate that you have and/or will place the following notes on the Plan.

- ☐ This Plan is approved in accordance with the most current provisions of the Development Transfer Overlay District (DTO). All future development of the original parcel or lots created as part of the approved Plan must be

done in accordance with the provisions of the DTO.

- ☐ Prior to the issuance of a building permit, the Development Transfer Fee for each dwelling unit in the development must be paid to the Town.

**The number of “bonus units” shall be determined by the Planning Board as part of the approval of the subdivision or site plan.**

**ADDITIONAL COMMENTS:**

#### **CHAPTER 1 SECTION XVIII - DEVELOPMENT TRANSFER OVERLAY APPLICATION**

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

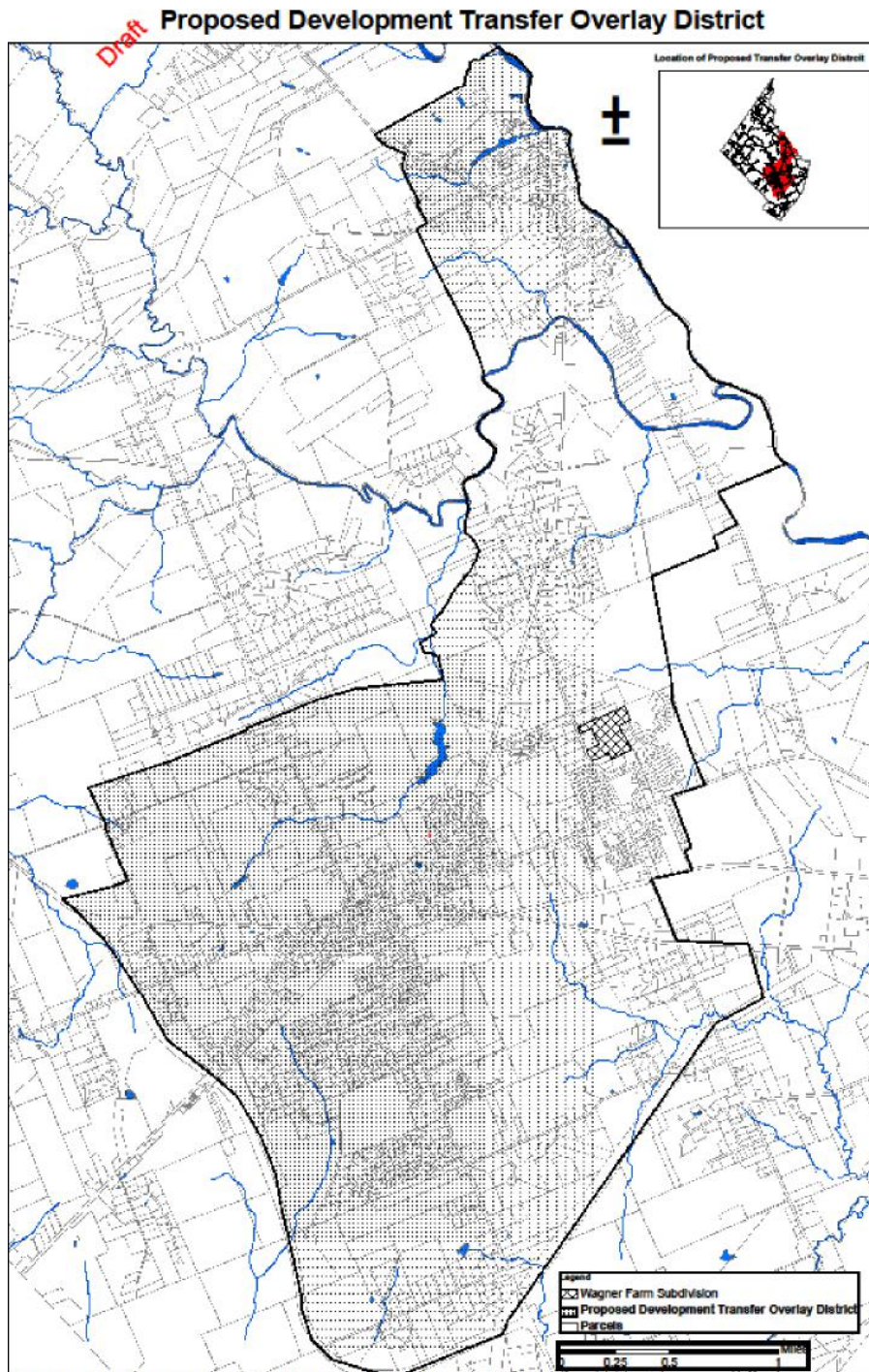
1) If the underlying zone has a maximum density provision based upon net residential density or net acreage per dwelling unit, the maximum number of units allowed under the underlying zoning shall be calculated based upon this requirement and calculated by dividing the net acreage of the area proposed 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.

**PROVIDE CALCULATIONS BELOW:**

## Development Transfer Overlay District



**DEVELOPMENT TRANSFER OVERLAY (DTO) DISTRICT** allows for well-planned, higher density residential development to be located in areas with public sewerage in exchange for the payment of a development transfer fee that would be used by the Town to purchase conservation land and/or easements and open space.

This DTO ordinance came about as a result of Gorham's Comprehensive Plan, which was prepared and adopted, in the early mid-1990s. Later, in 2006 the Town sought to

- 1) allow higher development density in and around the villages,
- 2) create a proposed village expansion south of Gorham Village,
- 3) create a method of discouraging development in rural areas, and
- 4) create a mechanism to accomplish development transfer.

It was determined that the transfer mechanism would require developers who would benefit from allowed higher density to pay a fee which would be used to compensate rural land owners who voluntarily give up the development potential of their land.

The concept basically

- 1) allows higher residential density in areas with public sewer,
- 2) requires payment of a development transfer fee for the additional units gained, and
- 3) the fee revenue obtained is used to acquire open space and recreational land or to buy conservation easements in areas where development is not desired

## CHAPTER 1 SECTION XVIII – DEVELOPMENT TRANSFER OVERLAY APPLICATION

A property owner whose property is within the Overlay District has the option of using or developing the land either with the existing zoning or to use the provisions of the DTO, but can utilize only one option.

Use of the DTO is limited to new residential subdivisions.

- (1) The development must be connected to the public sewer system,
- (2) There must be a development transfer paid for each bonus unit, [ie. those units in excess of what is permitted under existing zonings, and
- (3) The development must conform to the Overlay standards.
- (4) The developer must pay \$16,500 per bonus unit.

The intent is to create narrow, deep lots with short frontages and to maximize the potential to create useable private back yard space and smaller front yards. The Town wants to encourage reasonable density on a “*Village scale*” and not squander the land on what are suburban residential densities.

The ordinance contains priorities for how the fees would be used, such as acquiring land along the Presumpscot and Little Rivers, agricultural land, land with significant natural resource value, land in the view shed from the top of Fort Hill, and land in the green belt around Gorham Village. ALL OF IT MUST BE *DEVELOPABLE LAND*.

The ordinance allows for the purchase of a conservation easement on agricultural land. THE INTENT IS THAT NO DEVELOPMENT OCCURS, it does not mean that the land becomes public land with public access.

### HOW IT WORKS

Within the Development Transfer Overlay district, a land owner or developer is given a choice with respect to the development this land. The land can be developed in accordance with the existing zoning or with the requirements of the Overlay District. Under the Overlay standards, the land can be developed more densely (with more units) than it could be under the existing zoning; but to do that, the development would have to be connected to the public sewer system, the development would have to conform to the additional standards for the Overlay District, and the owner/developer would have to pay a “development transfer fee” to the Town for each ‘bonus unit’ in excess of what could be built under the existing zoning.

For example, if a parcel in the Overlay District could be developed with 10 homes under the current zoning but is approved for 16 homes using the Overlay provisions, there would be 6 bonus units. The owner or developer would have to pay the development transfer fee for those 6 bonus units. The tentative proposal suggests that the transfer fee be \$15,000 per bonus unit. This cost was derived based upon the typical per unit raw land cost for recent subdivisions in Gorham. In this example, the developer would have to pay a development transfer fee of \$90,000 (6 bonus units times \$15,000 per bonus unit) for the right to build the 6 additional units. This fee is proposed to be spread over all of the units within the subdivision and paid when the building permit for each unit is issued. Therefore, a development transfer fee of \$5,625 (\$90,000/16) would be paid for each of the 16 units in the subdivision.

The Town would take these fees and put them into an account that can only be used to purchase land or development rights from buildable land in other parts of the community. The priorities for land conservation include land adjacent to existing Town land, land along the rivers, agricultural land, land with natural resource, historic, or archeological significance, scenic land around Fort Hill, etc. Any land purchased with these fees would have to be permanently preserved for recreation or open space.

The proposed development standards require a minimum lot size of 8,500 square feet with 75 feet of street frontage for single-family lots if the current zone is anything other than Rural. If the current zoning is Rural, the minimum lot size is 12,750 square feet. The space standards allow the buildings to be located close to the street (minimum 15 feet for single-family homes) and establish a maximum setback as well to assure that there is the potential for a useable back yard on the lots.

To assure that 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 the development, access limitations, open space within the development, and the location of parking areas for multi-family housing and non-residential uses.

The proposed amendments also address the street construction standards for subdivisions that utilize the Overlay provisions. These amendments require that these streets be built to the Town’s “urban” standards and that sidewalks be provided as they would be for other development in the villages. In addition, the amendments call for the planting of street trees in these subdivisions.