

**Land Use and Development Code Amendment: Pedestrian Overlay District**

**Town of Gorham  
 Planning Board Meeting  
 February 5, 2024**

**ITEM 1 - Land Use and Development Code Amendment - Discussion:** proposed amendment to the Land Use and Development Code to add a new Pedestrian Overlay District and proposed amendments to all existing ordinance sections that include pedestrian/sidewalk standards.

| <b>INDEX OF ENCLOSURES</b>                                       |                    |
|--|--------------------|
| <b>DESCRIPTION</b>   | <b>PAGE NUMBER</b> |
| <b>1. Overview</b>   | <b>2</b>           |
| <b>2. Proposed Language</b>                                      | <b>2-10</b>        |
| <b>3. Motions</b>  | <b>10</b>          |
| <i>Attachment A: Map of proposed Pedestrian Overlay District</i> |                    |

**AMENDMENT TRACKING**

| <b>DESCRIPTION</b>                        | <b>COMMENTS</b> | <b>STATUS</b>  |
|---|-----------------|--|
| <b>Town Council</b>                       | Order #23-106   | 8/1/2023   |
| <b>TC Ordinance Committee</b>             |                 | 9/2022, 10/2022, 12/2022, 1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023 |
| <b>Planning Board</b>                     |                 | 9/11/2023  |
| <b>Planning Board Public Hearing</b>      |                 | 10/2023; 2/2024  |
| <b>Planning Board Ordinance Committee</b> |                 | 11/6/2023, 12/4/2023, 1/8/2024   |

**Memo completed by Carol Eyerman, Town Planner, and Damon Yakovleff, Assistant Planner**

# Land Use and Development Code Amendment: Pedestrian Overlay District

## 1. Overview

During the February 2023 meeting, the Town Council indicated that they would like to move forward with the creation of a Pedestrian Overlay District. This overlay district ordinance section would work in conjunction with the overlay map that has been created, included as *Attachment A*.

In the April 2023 meeting the Town Council Ordinance Committee reviewed the proposed ordinance amendments and recommended addition of a fee schedule to use for off-site fee in lieu of construction that breaks down the fees by square footage of building for commercial construction and a per unit fee for residential construction.

The Planning Board discussed this item at its meeting on September 11, 2023, and elected to refer it to the next scheduled Planning Board meeting for a public hearing. Board members expressed a desire to gather public input on the item before additional action and/or discussion.

At the October 2, 2023, Planning Board Meeting, the Board received input from a member of the public and referred the item to the Planning Board Ordinance Committee for discussion. The Ordinance Committee met on November 6, 2023, and elected to continue discussion of the item at an ordinance committee meeting to be scheduled for December 4, 2023. The Committee discussed the amendments on December 4, 2023, and then continued the discussion for January 2024.

At the January 8, 2024 Planning Board Ordinance Committee meeting, the Committee voted to send the item to the full Planning Board for a Public Hearing. The Committee made an edit to the section on exemptions, to exempt one-lot private ways. It also discussed the calculation of fee-in-lieu eligibility, Section 5 “Performance Standards”, E. Additional suggestions by town staff for edits to the section are included to match the intention of the Planning Board members expressed during their Committee discussion. The edits extend the fee-in-lieu option to smaller residential projects.

Below are proposed amendments to implement the overlay zone and language creating the overlay zone and amendments to existing sections to create uniform language and standards.

Staff recommends that the Committee continue to review the proposed ordinance section by section. After this process is completed, the Committee should then review the overlay map.

## 2. Proposed Amendments to Chapter 1 Zoning Regulations Section 1-1 B

Additions are underlined; deletions are ~~struck out~~.

### Chapter 1 Zoning Regulations

#### Section 1-1 General

#### B. ESTABLISHMENT OF ZONES

To implement the provisions of this Chapter, the Town of Gorham is hereby divided into the

## Land Use and Development Code Amendment: Pedestrian Overlay District

following classes of Districts:

### Pedestrian Overlay District

Add the following zoning overlay district language:

#### Section 1-26

##### Purpose

The purpose of the Pedestrian Overlay District (PED) is to establish a safer, more diverse, healthier, financially productive and business friendly environment. The district encourages walkability which complements the overall neighborhood design.

##### Applicability

The PED will be applied to select areas as an overlay to existing zoning districts. The PED shall be shown on the official zoning map. The design standards are stated in Chapter 2 Section 2-5 and shall apply to both public and private rights of way.

##### Board of Appeals

The Board of Appeals shall have no authority to grant variances from the design standards except as a result of notice of zoning **determination challenge**.

##### Exceptions

1. New developments within areas designated as PED are subject to the development and design standards of PED, with the following exceptions:
  - a. Development exempted under Chapter 3: Subdivision, Section 3-1 C. Administration.
  - b. Development exempted under Chapter 4: Site Plan Review, Section 4-2 Applicability, A., and B.
  - c. One-lot private ways shall be exempt from these requirements.

#### PERFORMANCE STANDARDS

1. Pedestrian facilities shall be provided to and within the development.
2. Pedestrian facilities shall adhere to current engineering practice as well as Federal and State law regarding design and construction.
3. Residential and commercial subdivisions and developments with private ways and public streets must be designed with sidewalks as described under Chapter 2, Section 2-5 Minimum Standards for the Design and Construction of streets and ways.
4. On-Site Pedestrian Relationships and Facilities
  - a. Where sidewalks exist or can physically be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives.

## Land Use and Development Code Amendment: Pedestrian Overlay District

- b. The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, which provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood.
- c. If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.
- d. Provisions shall be made for pedestrian circulation between buildings and uses within a site or on adjacent parcels if the buildings do not have a direct relationship to the sidewalk or if the front wall of the building is located more than one hundred (100) feet from the property line.

### 5. Off-site Fee in lieu of construction.

Where a new off-site sidewalk must be constructed, a waiver may be granted by the Planning Board/Site Plan Review Committee and a fee in lieu of that sidewalk shall be paid if one or more of the following conditions apply:

- a. The sidewalk is proposed to be constructed within an existing right-of-way where sufficient right-of-way or easement width does not exist or cannot be dedicated to build the sidewalk without reducing existing transportation facilities such as travel lanes, on-street parking, and bicycle lanes as determined by the Town Engineer and the adaptive reuse or preservation of an existing building or structure prevents extending the sidewalk onto private property. In these instances, compliance to the maximum extent practicable is required and a fee is paid for the balance of sidewalk not constructed.
- ~~b. The sidewalk is proposed to be constructed within or on existing natural resources or their associated setback requirements, steep slopes greater than 25%, historic or archaeological features.~~
- c. The sidewalk is a part of a publicly funded project that includes sidewalks. In this case, the developer shall pay the fee based on the town or State design up to the amount limited by the Fee Schedule.
- d. The sidewalk for a commercial project is five hundred (500) feet or more from an existing sidewalk, as measured from the closest

## Land Use and Development Code Amendment: Pedestrian Overlay District

points of the existing sidewalk to the subject property line along the existing road frontage.

- e. The sidewalk for a residential or mixed-use project is fifteen hundred (1,500) feet or more from an existing sidewalk, as measured from the closest points of the existing sidewalk to the subject property line along the existing road frontage., or fifty (50) times the maximum number of dwelling units allowed per the base density of the development parcel(s), whichever is greater,
- f. The fee shall be based on the amounts found in the town’s Fees Schedule and may be prorated based on partial compliance. The total cost of the project shall include all construction costs associated with the improvement as approved by the town.

If a fee in lieu of constructing a sidewalk is approved, the developer must provide a recorded easement for the future development of the sidewalk.

All fees shall be paid prior to the issuance of a building permit and shall not transfer to future projects on the same property.

The developer, wherever practical, shall grade for the future development of a sidewalk.

### Use of fees.

All fees collected by the town pursuant to these provisions shall be accounted for separately from other monies and shall be spent only for the construction or rehabilitation of sidewalks or other pedestrian improvements in the town.

The following are proposed amendments to existing ordinance sections:

## SECTION 1-9 - VILLAGE CENTERS DISTRICT

### SUBSECTION 2. GORHAM VILLAGE CENTER DISTRICT

#### e. PERFORMANCE STANDARDS

#### 7. ~~Pedestrian Relationships and Facilities~~

~~Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives. The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood. If a sidewalk is interrupted or crossed by a proposed driveway, access road, or other vehicular facility,~~

## Land Use and Development Code Amendment: Pedestrian Overlay District

~~the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.~~

### SECTION 1-10 URBAN COMMERCIAL DISTRICT

#### E. PERFORMANCE STANDARDS

##### ~~7. Pedestrian Relationships and Facilities~~

~~Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives if the front wall of the building is located within one hundred (100) feet of the property line. The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood. If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.~~

~~Provisions shall be made for pedestrian circulation between buildings and uses within a site or on adjacent parcels if the buildings do not have a direct relationship to the sidewalk or if the front wall of the building is located more than one hundred (100) feet from the property line.~~

### SECTION 1-11 - ROADSIDE COMMERCIAL DISTRICT

#### E. PERFORMANCE STANDARDS

##### e) Access Management:

- 1 Entrances and uses in this district shall be combined to the maximum extent possible. Developments must allow for ~~pedestrian and~~ vehicular access into the lot's driveways, sidewalks, and/or parking lots from the abutting properties.

### SECTION 1-13 – MOSHER CORNER MIXED USE

#### E. PERFORMANCE STANDARDS

##### e) Access Management

## Land Use and Development Code Amendment: Pedestrian Overlay District

1. Entrances and uses in this district shall be combined to the maximum extent possible. Developments must allow for ~~pedestrian and~~ vehicular access into the lot's driveways, sidewalks, and/or parking lots from the abutting properties.

### SECTION 1-16 – NARRAGANSETT MIXED-USE DEVELOPMENT DISTRICT

#### E. PERFORMANCE STANDARDS

7) Bike paths/greenway systems – the applicant shall provide convenient and safe ~~pedestrian and~~ bicycle access to and within the development. ~~The requirement for off site sidewalk extension shall be modified by the Planning Board or Site Plan Review Committee provided the following conditions are met:~~

- ~~a) For projects under site plan review the costs for offsite sidewalks exceeds a cost of \$1,000 per 2,000 sq. ft. of gross commercial floor area or for projects proceeding under subdivision review the costs for offsite sidewalks exceeds a cost of \$10,000 per lot. Subdivision lots that have been reviewed under this provision are not required to be reviewed again under site plan review.~~
- ~~b) In place of a full sidewalk extension, the applicant is required to extend the nearest sidewalk the following lengths towards the proposed development:
  - ~~1. For roads with existing closed drainage systems and curbing the applicant shall extend the sidewalk 200' for each 5,000 sq. ft. of gross floor area under site plan review or 400' for each lot;~~
  - ~~2. For roads without existing closed drainage systems and curbing the applicant shall extend the sidewalk 100' and close in the drainage system for each 5,000 sq. ft. of gross floor area under site plan review or 250' for each lot; curbing the applicant shall extend the sidewalk 100' and~~
  - ~~3. For existing public roads with sidewalks in poor condition as determined by the Public Works Director or his designee, an applicant can request that half of the required extension be utilized to repair the existing sidewalk network on a foot by foot exchange.~~~~

### SECTION 1-25 – SOUTH GORHAM COMMERCIAL DISTRICT

#### D. SITE PERFORMANCE STANDARDS

~~7) Pedestrian Relationships and Facilities~~

- ~~a) Where sidewalks exist or can be constructed in front of the parcel,~~

## Land Use and Development Code Amendment: Pedestrian Overlay District

~~the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives.~~

- ~~b) The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are usually compatible with other pedestrian facilities in the neighborhood.~~
- ~~c) If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.~~
- ~~d) Provisions shall be made for pedestrian circulation between buildings and uses within a site or on adjacent parcels if the buildings do not have a direct relationship to the sidewalk or if the front wall of the building is located more than one hundred (100) feet from the property line.~~

### Chapter 2 General Standards of Performance

#### SECTION 2-4 - RESIDENTIAL

##### B. PERFORMANCE STANDARDS FOR MULTI-FAMILY HOUSING

- 2. g) Sidewalks within the development are required to allow pedestrian connections to structures, amenities, and/or prominent natural features within the development and the existing sidewalk network.

~~1. The applicant may request a waiver from the full off site sidewalk extension as outlined under Chapter 2, Section 2-5, F, 11 Sidewalks.~~

#### SECTION 2-5 - MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS

##### F. STREET DESIGN STANDARDS - PUBLIC WAYS

- 11) Sidewalks - Sidewalks shall be provided within all subdivisions and commercial development located in the Pedestrian Overlay District. All pedestrian facilities shall adhere to the Performance Standards in Section 1-26 Pedestrian Overlay District and the design standards under this section. in the Village Center, Urban Commercial, Commercial Office, Office Residential, and Urban Residential Districts, and for all subdivisions located within the Development Transfer Overlay District that conform to the overlay



## Land Use and Development Code Amendment: Pedestrian Overlay District

~~district, within Chapter 2 Section 2-5 Minimum Standards for the Design and Construction of Streets and Ways.~~

~~The requirements, with connection to the existing sidewalk network provided for the safety and convenience of the residents, per the standards in Table 1 and Figures 1, 2, 3 and 5. The sidewalk location in figures 1, 2, 3 and 5 is preferred; however, it may, at the discretion of the Planning Board, be positioned at curb line with zero esplanade. Sidewalks may also be required in subdivisions which abut any of the above Districts.~~

~~The requirement for off site sidewalk extension in the Urban Residential District shall be modified by the Planning Board provided the following conditions are met:~~

- ~~a. The cost for off site sidewalks exceeds a cost of \$5,000 per dwelling unit. 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 District Space standards.~~
- ~~b. In place of a full sidewalk extension as required in subsection 11, the applicant is required to extend the nearest sidewalk the following lengths towards the proposed development:
  - ~~(1) For roads with existing closed drainage systems and curbing the applicant shall extend the sidewalk 200' for each proposed dwelling unit in the development.~~
  - ~~(2) For roads without existing closed drainage systems and curbing the applicant shall extend the sidewalk 100' and close in the drainage system for each proposed dwelling unit in the development.~~
  - ~~(3) For existing public roads with sidewalks in poor condition as determined by the Public Works Director or his designee, an applicant can request that half of the required extension be utilized to repair the existing sidewalk network on a foot by foot exchange.~~~~

~~Sidewalks may also be required, for the safety and convenience of the public, by the Planning Board or Site Plan Review Committee for major and minor developments located along arterial and collector streets and which are within reasonable distance of the existing sidewalk network.~~

## Land Use and Development Code Amendment: Pedestrian Overlay District

~~Sidewalks, when required, shall be a minimum of five (5) feet in width, unless site conditions dictate a different width.~~

### Chapter 4 Site Plan Review

#### SECTION 4-9 - APPROVAL CRITERIA AND STANDARDS

~~E. Pedestrian Circulation The development plan will provide for a system of pedestrian circulation within and to the development. If the project is located in a village area, this system will connect with existing sidewalks if they exist in the vicinity of the project.~~

#### Pedestrian Relationships and Facilities

- a. Adequate pedestrian facilities shall be provided to and within the development if any part of the development is in the Pedestrian Overlay District.

#### **Proposed motion:**

Move to forward the Pedestrian Overlay amendments (with edits) to the Town Council with a recommendation for adoption.