

## SECTION 10.680 – GATEWAY NEIGHBORHOOD OVERLAY DISTRICT

### 10.681 Purpose

The Gateway Neighborhood Overlay District is hereby created for the purpose of creating additional housing opportunities in certain neighborhoods, and is referred to herein as the GNOD. This overlay shall allow for higher density housing in order to create neighborhoods where residents can live and work. A proposed **development** electing to use the provisions of the GNOD is referred to below as a GNOD **development**.

### 10.682 Applicability

#### 10.613.70

The provisions of the GNOD shall apply to all land identified on the Zoning Map as the **Gateway Neighborhood Overlay District (GNOD)**.

#### 10.682.20

The requirements and provisions of the GNOD shall apply to any **development** containing residential uses, and/or any **development** electing any of the incentives of within the GNOD. If the GNOD overlay options are not a part of a proposed **development**, then the underlying provisions of the zoning district shall apply.

### 10.683 Standards

#### 10.683.10

All residential or mixed-use GNOD **developments** that include a residential use shall comply with the provisions of Article 5B of this Ordinance, with the following exceptions:

- (1) No more than 24 **dwelling units** per **building** shall be allowed without providing Incentive Bonus Option(s) as provided herein.
- (2) Maximum **building height** for any **apartment building** or **mixed use building** containing residential uses shall not exceed 4 stories or 50 feet without providing Incentive Bonus Option(s) as provided herein.
- (3) Maximum **building length** shall not exceed 400 linear feet without an approved conditional use permit.
- (4) Front, side, and rear **building setback** from **lot lines** shall be a minimum of 10 feet.
- (5) Maximum **building coverage** shall not exceed 75%.
- (6) Minimum **open space coverage** shall be 10%.
- (7) Except for the above setback requirements, the requirements of Sections 10.5B22.20, .30 and .40, 10.5B33, and 10.5B71 shall not apply to land within the GNOD.

- (8) A **development** within the GNOD may include multiple lots owned or controlled by the same person or entity and assembled for a GNOD **development**. A GNOD **development** may contain more than one principal **building** or **building** type on the same **lot**.

### **10.683.20 Relationship to Other Provisions of this Zoning Ordinance**

The provisions of the GNOD shall take precedence over all other provisions of the Zoning Ordinance that directly conflict with the provisions of the GNOD; otherwise, all other provisions shall apply..

### **10.684 Allowed Uses**

In addition to the uses permitted in the underlying district, the following uses shall be permitted within the GNOD:

1. Multifamily Dwelling
2. Assisted Living Facility
3. **Retail Sales** conducted within a **building**
4. **Restaurant**, place of public assembly or function room
5. **Personal Services**
6. Consumer services such as copy shop, bicycle repair, and pet grooming.
7. Health club, yoga studio, martial arts school or similar **use**.

### **10.685 Parking**

In the GNOD, the shared parking provisions of Section 10.1112.62 shall apply, and shared parking shall be permitted on separate lots, whether in common ownership or separate ownership without the requirement of a conditional use permit. The provisions of Section 10.1113 (Location of Vehicular Use Facilities) shall not apply to a GNOD **development**.

### **10.686 Optional Density Bonus Incentives**

Buildings in the GNOD containing residential dwelling units are permitted to be up to four stories and to contain up to 24 units per building as a matter of right. In order to encourage multifamily housing within the GNOD, additional opportunities are provided through the optional incentives below that permit increased **building** heights and increased numbers of dwelling units per building.

The following incentives apply to residential **developments** and mixed use **developments** that include residential uses in the GNOD, with allowable bonuses as indicated in Table 1.

10.686.10 Table 1: Optional Density Bonus Incentives Maximums (If Requirements Are Met)			
Incentive Option	Building Height Stories/Feet	Dwelling Units/Building	Approval Requirements
For All GNOD Developments over 4 Stories, 50 Feet and 24 Units Per Building:			
10.686.10 Public Realm Improvements	5/68	80	Director of Planning and Sustainability
And For Additional Height and Density, <i>One of the Following</i> :			
10.686.20 Workforce Housing	6/80	120	Conditional Use Permit by the Planning Board
10.686.20 Payment in Lieu	6/80	120	Conditional Use Permit by the Planning Board
10.686.30 Land Transfer	6/80	120	City Council Approval

### 10.686.10 Public Realm Improvements Incentive Option

In order to qualify for a **public realm** improvements incentive bonus in the GNOD, as described here and in Section 10.5B73.20, the proposed **public realm** improvements shall be reviewed by the Planning Board as a part of site plan approval. The Planning Board shall then make written comments regarding the proposed public realm improvements to the Director of Planning and Sustainability. To the extent that the Planning Board's comments are not followed or incorporated into the Director of Planning and Sustainability's decision, the Director shall set forth findings relative to the Planning Board's comments.

All public realm improvements shall be subject to administrative approval by the Director of Planning and Sustainability. The Director of Planning and Sustainability shall review all proposed public realm improvements for compliance with Section 10.5B73.20, ensure that proposed public realm improvements are constructed to City standards, and are in the public interest. Public realm improvements under this section shall be permitted on a different lot than the **development**, and the remaining requirements of Section 10.5B73.20 (4) shall not apply to **public realm** improvements within the **GNOD**.

### 10.686.20 Workforce Housing or Payment in Lieu Incentive Option

The Planning Board may grant a conditional use permit for this optional bonus in accordance with Sections 10.240, et. seq. To qualify for this bonus, a development shall include either or a combination of the following:

- (1) Workforce Housing may be provided in accordance with Section 10.5B73.10.
- (2) A payment to the City in lieu of providing workforce housing in an amount based on the particular makeup of the development and in accordance with the fees established annually by the Fee Committee and the City Council in the fee schedule.

### 10.686.30 Land Transfer Incentive Option

In order to facilitate future development of below-market rate housing, there may be appropriate circumstances where applicants may convey real property to the City in lieu of or in conjunction

with meeting the other requirements for workforce housing of the GNOD. However, recognizing the unique nature of land, not all property may be suitable or desirable for this purpose. Therefore, any real property offered to the City pursuant to this section shall be subject to acceptance by the City Council, and in accordance with the following requirements.

- (1) In lieu of constructing workforce housing units within a GNOD Development, an applicant may offer real property to the City. Any real property offered to the City shall be suitable for developing workforce housing of a size set forth in section 10.686.40 and shall not require a conditional use permit from the Planning Board. Instead, the conveyance shall be subject to approval and acceptance by the City Council. In exchange for transferring land to the City, the developer shall be permitted to construct buildings up to six stories and 80 feet in height, and to construct up to 120 units per building.
- (2) Any applicant must, at their own expense, provide a certificate of title and Phase one environmental report for any property offered to the City Council. All closing costs shall be borne by the applicant. The City Council may request any additional information regarding the offered real property or the proposed transfer, the preparation of which shall be by the applicant.
- (3) Any applicant must, at their own expense, demonstrate the suitability of the proposed land to be conveyed to the City for workforce housing purposes. This requirement shall be met by submitting a constraints site plan to the Director of Planning and Sustainability depicting: boundaries, existing and proposed; the setbacks; wetlands and wetlands buffers, if any; rights of way; utility easements; and, other identifiable **development** constraints. The Director of Planning and Sustainability shall provide comments on the proposed site's suitability based on the constraints site plan to the City Council prior to acceptance.
- (4) Prior to acceptance by the City Council, the Planning Board shall provide written comments to the City Council regarding the offered real property and its compliance with this Article. Any comments offered by the Planning Board shall be advisory in nature only, but the City Council shall, to the extent that the Planning Board's comments are not followed or incorporated into the City Council's decision, set forth findings relative to the Planning Board's comments.
- (5) The City Council shall not accept any real property offered if acceptance would subject the municipality to potential liability as an owner of property under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., RSA 147-A and 147-B, and any other federal or state environmental statute which imposes strict liability on owners for environmental impairment of the real estate involved.
- (6) In addition to the circumstances described in paragraph 2, the City Council may refuse to accept any offered real property whenever in its judgment acceptance and ownership

of the real estate would subject the municipality to undesirable obligations or liability risks, including obligations under real estate covenants or obligations to tenants, or for any other reason would be contrary to the public interest.

- (7) In order to qualify for this optional incentive, the amount of the proposed land transfer will be dependent on the size of a proposed GNOD as follows:

The developer shall convey at least one contiguous acre of **Developable Upland** to the City for up to twenty acres of **Developable upland** in a proposed GNOD (the Parcel). For a GNOD larger than twenty acres, the size of the Parcel shall increase in the proportion of one acre of **Developable Upland** per each additional twenty acres of **Developable Upland** in the proposed GNOD.

The City Council, at its sole discretion and following a recommendation by the Planning Board, may accept multiple parcels of not less than one acre each, if the City Council determines it is in the best interest of the City.

- (8) Any property acquired by the City pursuant to this section shall be primarily utilized for below-market rate housing. The City Council shall designate the appropriate method for procurement, development, form of ownership, disposition and administration of individual parcels of land acquired pursuant to this section.
- (9) Any land conveyed under this section shall be conveyed to the City may be conveyed as a condition subsequent to final Planning Board approval(s) and execution of the site review agreement, but in any event shall be conveyed prior to the issuance of a building permit for any project.
- (10) If land is conveyed under this section, there shall be no further requirement to meet any specific percentage of workforce housing units in a GNOD as provided in Section 10.5B73.10, unless a building is proposed over 400 linear feet in length, in which case the Bonus Incentive Requirements of Section 10.5B73.10 shall apply.

#### **10.686.40 Transfer of Development Rights Acquired through Land Transfer**

- (1) Land may be conveyed in conjunction with, or separately from a proposed **development (GNOD conveyance)**. In the event that a GNOD conveyance exceeds the amount required in order to support a proposed **development**, or when land is conveyed separately from any proposed development, the developer or its assigns will receive future credit for a future project or projects in accordance with the standards set forth below.
- (2) Following any acceptance of real property by the City Council and successful transfer of fee ownership with warranted title, if there is any excess acreage above what is necessary for a proposed GNOD **development**, the Director of Planning and Sustainability shall notify the Planning Board and the transferor of land of the amount of Land Credit the

developer shall receive, which shall be memorialized in a Proposed Development Incentive Agreement (PDIA), as defined below.

- (3) Contemporaneous with any GNOD conveyance, the City and the developer shall enter into a PDIA, which shall specify the amount of land conveyed to the City, the amount if any used for a pending development, and the amount of excess land that may be credited toward a future project in accordance with the GNOD. Any excess land credit may only be used within the GNOD but may be sold or transferred without limitation for GNOD purposes. A sale or transfer of excess credits pursuant to this section is only valid upon written notice of the transfer to the Director of Planning and Sustainability.
- (4) The maximum term of any PDIA shall not exceed fifteen (15) years, following which the rights to any unused incentive shall automatically expire and become null and void.
- (5) Entering into a PDIA under this section shall not be deemed to supersede or waive any of the other provisions of the GNOD or Article 5B or other applicable provisions of this Ordinance, nor shall any approval be considered to represent the granting of land use approval or vesting for any future **development**.
- (6) Future use of the excess land credit to support a future project shall require administrative approval of the Director of Planning and Sustainability, who shall certify to the Planning Board both the amount of land credit used as a part of a **development** and the remaining land credit pursuant to the PDIA.
- (7) Excess land credits may be used in full or partial fulfillment of the requirements of a future **development** set forth in section 10.686.20.

### **Developable Upland**

Net land area of property suitable for, or used for, **development**, excluding any: public rights of way or street rights of way platted as a part of the **development**; wetlands; and, wetland buffers.

### **10.5B41.80**

New number 4:

In the GNOD, the minimum **community space coverage** shall be equal to 10% of the total site area of the **development site**.

Effective upon passage.