

## SECTION 10.680 – GATEWAY NEIGHBORHOOD OVERLAY DISTRICT

### 10.681 Purpose

This overlay district is created for the purpose of creating housing opportunities in suburban neighborhoods. This overlay shall allow for higher density housing in order to create neighborhoods where residents can live and work.

### 10.682 Applicability

#### 10.682.10

The provisions of this ordinance shall apply to all land within the **Gateway Neighborhood Overlay District** (GNOD) as defined in Section 10.613.70.

#### 10.682.20

The requirements of the underlying zoning district shall apply with respect to any non-residential use within the overlay district. The requirements of this section shall apply to any residential use or mixed use which includes residential uses within the overlay district.

### 10.683 Standards

#### 10.683.10

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

- (1) No more than 80 **dwelling units** per **building** shall be allowed without a conditional use permit as provided in Sections 10.686.20 or 10.686.30.
- (2) Maximum **building height** for any **apartment building** or **mixed use building** shall not exceed 5 stories or 68 feet without a conditional use permit as provided for in Section 10.686.20 or 10.686.30.
- (3) Front, side, and rear **building setback** from **lot line** shall be a minimum of 10 feet.
- (4) Maximum **building coverage** shall not exceed 75%.
- (5) Minimum **open space coverage** shall be 10%.
- (6) The requirements of Sections 10.5B22.20, .30 and .40, 10.5B25, 10.5B33, and 10.5B71 shall not apply to land within the GNOD. Additionally, for a development site within the GNOD, no conditional use permit shall be required pursuant to Section 10.5B41.10.

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

The provisions of this Article shall take precedence over all other provisions of the Zoning Ordinance that conflict with this Article.

### 10.684 Allowed Uses

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

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

### 10.685 Parking

In the GNOD, the provisions of Section 10.1112.62 shall apply, except that a conditional use permit to allow required **off-street parking** spaces on separate lots, whether in common ownership or separate ownership, shall not be required. The provisions of Section 10.1113 shall not apply to the GNOD.

### 10.686 Density Bonus Incentives

In order to encourage the development of multifamily housing with incentives including public realm improvements, streamlined parking requirements and increased heights, the following incentives are offered for buildings with residential and mixed use with residential in the GNOD.

#### 10.686.10 Public Realm Improvements

In order to be eligible to construct more than four stories or 24 **dwelling units per building**, **public realm** improvements, as described in Section 10.5B73.20, must be provided. All **public realm** improvements shall be reviewed by the Planning Board as a part of site plan approval, and the Planning Board shall 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**

In addition to compliance with Section 10.686.10, the Planning Board may grant a conditional use permit to construct more than five stories or more than 80 **dwelling units** per building. Such conditional use permit shall be subject to one of, or a combination of, the following:

- (1) Workforce Housing may be provided in accordance with Section 10.5B73.10.
- (2) A full or partial payment in lieu of workforce housing may be provided. The fee shall be established annually by the Fee Committee and the City Council in the fee schedule.

### **10.686.30 Land Transfer 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 requirements of Section 10.686.20. 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.

- (1) In lieu of meeting the requirements of Section 10.686.20, 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) 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.
- (4) 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.

- (5) 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.
- (6) For the first 20 acres of **Developable Upland** under this section as a part of a single project, the Developer shall convey at least 1 acre of **Developable Upland** to the City. For each 10 acres of **Developable Upland** over 20 acres to be developed under this section, the Developer shall convey at least one-half acre of additional **Developable Upland** to the City.
- (7) 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.
- (8) 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.
- (9) For purposes of clarity, if land is conveyed under this section, there shall be no further requirement to meet any specific percentage of workforce housing units as provided in Section 10.5B73.10

#### **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. In the event that a conveyance under this section 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) If following any acceptance of real property by the City Council and successful transfer of fee ownership with warranted title, and if there is any excess acreage above what is necessary for an active project, 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 Prospective Development Agreement, if appropriate, as defined below.

- (3) Contemporaneous with the conveyance of land, the City and the developer shall enter into a Prospective Development Incentive Agreement (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 this Article. Any excess land credit may only be used within the GNOD but may be sold or transferred without limitation. A sale or transfer of excess credits pursuant to this section is only valid upon written notice 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 become null and void.
- (5) By entering into a PDIA under this section shall not be deemed to supersede or waive any of the other provisions of this Article or Article 5B or other applicable provisions of this Ordinance, nor shall any approval be considered to represent the granting of land use approval 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 replacement of the requirements set forth in section 10.686.20.

### **Developable Upland**

Gross land area of property, less any public rights of way and any wetland or wetland buffer.

### **10.5B40.80**

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.