

**Town of Cape Elizabeth
Zoning Ordinance**

SEC. 19-7-3. TRANSFER OF DEVELOPMENT RIGHTS

A. Applicability

The Planning Board may approve residential developments in the Residence A District that exceed the density standards of Sec. 19-6-1.E, Standards, due to the transfer of development rights, provided that the development conforms to all of the following criteria:

1. The development is consistent with the comprehensive plan;
2. The development conforms to the requirements set forth in Sec. 19-7-3.B, Standards;
3. The parcel proposed for development is not designated as a transfer zone under the provisions of Sec. 19-7-3.C, Transfer Zone;
4. Development rights equal to the increase in density will be transferred from a lot or lots within the Transfer Zone through conservation easements on land meeting the requirements of Sec. 19-7-3.D, Easement Reservation, that have been approved by the Planning Board and have received preliminary approval by the Town Council.
5. The proposed development will be a clustered development in accordance with Sec. 19-7-2, Open Space Zoning.

B. Standards

The Planning Board may approve residential developments utilizing transferred development rights that conform with the following requirements provided that the applicant has transferred the appropriate number of development rights to support the increased density from land located within a transfer zone in accordance with Sec. 19-7-3.D., Easement Reservation.

MINIMUM LOT AREA	
<i>(1) All residential uses involving transfers of development rights</i>	10 acres
MAXIMUM DENSITY OF A SUBDIVISION UTILIZING TRANSFER OF DEVELOPMENT RIGHTS	
<i>(1) Developments in the RA District connected to the</i>	1 unit per 20,000 sq. ft. of net residential area

	<i>public sewerage system</i>	
(2)	<i>Developments in the RA District served by on-site sewage disposal when the development rights are transferred from an abutting parcel</i>	1 unit per 40,000 sq. ft. of net residential area
(3)	<i>Developments in the RA District served by on-site sewage disposal when the development rights are transferred from a parcel in the same ownership as the development parcel</i>	1 unit per 40,000 sq. ft. of net residential area
(4)	<i>Developments in the RA District served by on-site sewage disposal when the development rights are transferred from a parcel located within two thousand feet of the perimeter of the development parcel</i>	1 unit per 50,000 sq. ft. of net residential area
(5)	<i>Developments in the RA District served by on-site sewage disposal when the development rights are transferred from a parcel located more than two thousand feet from the perimeter of the development parcel</i>	1 unit per 60,000 sq. ft. of net residential area

C. Transfer Zone

Development rights may be transferred from any parcel located within a transfer zone. The transfer zones shall be shown on the Transfer Zone Map which shall be part of the Ordinance. The Map shall designate parcels or tracts of land within the RA District that are appropriate for conservation by reason of one or more of the following attributes:

1. The land is used for agricultural purposes
2. The land is identified in the visual analysis as being of scenic value
3. The land has identified historic or archaeological significance
4. The land is used for forestry purposes and is within two hundred fifty (250) feet of public road.

D. Easement Reservation

The Planning Board may approve a development that exceeds the base density only if the applicant provides a conservation easement(s) on land located within a transfer zone. For each unit in the proposed development in excess of that allowed by the base RA density, a conservation easement shall be provided on at least sixty-four thousand (64,000) square feet of net residential area within a designated transfer zone. The conservation easement(s) shall be perpetual subject to the terms of Sec. 19-7-3.E, Easement Provisions.

E. Easement Provisions

The form and conditions of each easement shall be determined by the Planning Board, and approved by the Town Council. The easement shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the vote of approval of the development by the Planning Board and a copy provided to the Town Planner.