



# **Strafford Regional Planning Commission**

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*“Planning and action for sustainable development and an improved quality of life”.*

## **Fact Sheet**

### **Transfer of Development Rights**

#### **What is the purpose of transfer of development rights (TDR)?**

The purpose of transferring development rights is to protect and conserve valuable resources such as environmental, scenic, and agricultural lands as well as lands containing special interests such as historic, cultural and economic resources.

#### **What is the transfer of development rights?**

The transfer of development rights occurs when a municipality identifies an area within its boundaries, which it would like to see protected from development (the sending zone) and another area where the municipality desires more concentrated town center or downtown type development (the receiving zone). Landowners in the sending zone have a number of development rights, which can be sold. In return for selling their development rights, the landowner in the sending zone agrees to place a permanent conservation easement on his or her land. The purchaser of the development rights can add them to existing development rights within the receiving zone to enable development at a higher density than the zoning ordinance currently permits. Hence, the transfer of development rights does not exchange land ownership, but only exchanges development rights.

#### **What are incentives for the transfer of development rights?**

The landowner in the sending zone is able to sell their development rights, and thereby receive earnings from ownership of their land, without having to give up ownership. However, they are giving up the right to develop on their land. The developer or municipality buying the development rights are able to develop in a receiving zone with a greater density than is currently permitted. It is important to note that the density bonus in the receiving areas must be attractive enough for developers to want to purchase the development rights.

#### **What are the methods of transferring development rights?**

There are two methods of transferring development rights. The most common method is when a TDR program allows a landowner to sell the development rights to a developer who then uses those development rights to increase the density of houses on another piece of property at another location. The second method allows a local government to establish a TDR Bank to transfer development rights. In this method, developers, who wish to develop at a higher density than current zoning allows, would purchase development rights from the local government. The local government could then use these funds to purchase development rights of properties in areas that it wants to protect from concentrated development. The receiving area could not increase in density higher than some maximum set within the comprehensive land-use plan. The difference between the density with or without the transferable development rights would be the permitted “bonus” that the developer could

realize.

### **Advantages of TDR's?**

TDR programs have the advantage of using free market mechanisms to create the funding needed to protect valuable land. TDR provides a municipality with another approach to protect valuable land using an incentive based program.

### **Disadvantages of TDR's?**

There are few successful TDR programs in rural areas as they have been effective mostly in urban areas. Where considerable sprawl exists within the sending areas, it may be too late for a TDR program to be successful. Residents within the receiving areas may object to the higher density necessary for a TDR program. Also, many people find TDR programs complex and administratively challenging requiring the local government to make strong commitment to administering a potentially complicated program and educating its citizens and potential developers.

TDR programs must be combined with strong comprehensive planning and local controls in order to be successful.

### **Town Examples of TDR**

**Lee, NH:** Lee's TDR ordinance is designed to preserve farmland, open space, forests, watershed and other significant natural resources as well as the Town's rural character. The sending sites and receiving sites must be contiguous. The amount of density that can be transferred from a sending site is equal to the development rights allowed to that site under baseline zoning, a one-to-one transfer ratio. The amount of development allowed on the receiving site through TDR is the total density permitted on both the sending and receiving sites under the baseline zoning. The Planning Board has the right to decide transfer applications on a case-by-case basis taking into consideration the specific natural characteristics and resource values of the two sites.

**Townsend Township, MA:** Population 1,200, borders New Hampshire, 40 miles northwest of Boston. Its TDR program, adopted in 1991, is designed to preserve the banks of the Squannacook River, an aquifer recharge area and open space in general. Transferable development rights are assigned to the sending sites at the rate of 1.2 rights for each buildable lot, or a transfer rate of 1.2 to 1. Receiving site projects incorporating TDRs must be approved in conjunction with a subdivision plan and a rezoning to a zoning district that allows exemptions from density, minimum lot frontage and minimum lot area as long as a substantial portion of the site is preserved as open space.

### **TDR Successes**

**New Jersey Pinelands, NJ:** The New Jersey Pinelands is an environmentally unique and sensitive area that was targeted for protection through the New Jersey Pinelands Protection Act of 1979. This Act adopted in 1980, is the most ambitious TDR program in the country, encompassing one million acres of land and allowing transfers between 60 different municipalities. In 1997, *Saved By Development* stated that the program had preserved 12,000 acres. John Stokes, Assistant Director of The Pinelands Commission, recently reported that the total area preserved through severance increased to 15,768 acres as of the end of 1997. Mr. Stokes also reports that Pinelands Development Rights (PDCs) are now being used in association with waivers and variances and that the Pinelands

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Commission has identified six additional ways of potentially enhancing PDC use.

**Montgomery County, MD:** Montgomery County has the most successful TDR program in the country. Montgomery County, near Washington, D.C., established its TDR program in 1980. By the end of fiscal year 1997, the TDR program had protected 39,180 acres (out of a total sending area of 89,000 acres) under protective easement. Prior to 1980, the county lost an average of 3,500 acres of farmland per year to development. In the first decade following the establishment of the TDR program, the county lost a total of 3,000 acres to development, a drop of approximately 92 percent. In 1997, *Saved By Development* stated that the County had permanently preserved 29,000 acres of farmland using TDR. As reported by John Bredin in the November 1998 PAS Memo, the County has now preserved over 38,000 acres

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