

Part V Transfer of Development Rights

Section 246.

1. Intent

- a. It is the intent of these regulations to encourage the preservation of natural resources and facilitate orderly growth in the County.
- b. It is also the intent of these regulations to provide more attractive living environment than would be possible through a strict application of SR, DR and TR requirements to encourage a more creative approach to development of land.

2. Authority

This section is enacted under the authority granted the Board of County Commissioners of Cecil County by the General Assembly of Maryland as provided in Article 66B, Annotated Code of Maryland, Section 11.01 as amended.

3. Residential Density Provisions

- a. The maximum residential density utilizing transferred development rights in the SR zone that may be permitted by the Planning Commission shall be four (4) dwelling units per acre.
- b. The maximum residential density utilizing transferred development rights in the DR zone that may be permitted by the Planning Commission shall be twelve (12) dwelling units per acre.
- c. The maximum residential density utilizing transferred development rights in the TR zone that may be permitted by the Planning Commission shall be six (6) dwelling units per acre.

4. Permitted Dwelling types in a development using TDR's

- a. Subject to b below, the following dwelling types may be permitted when utilizing transferred development rights:
 1. Detached
 2. Semi-detached
 3. Duplex
 4. Townhouse provided that:
 - (a) No more than four (4) townhouses shall be permitted in one building block in the SR and TR zones.
 - (b) No more than six (6) townhouses shall be permitted in one building block in the DR zone.

5. Apartments provided:

- (a) Maximum building length is no more than one hundred feet in all zones.
- (b) No apartment shall be constructed closer to any property line than a distance equal to the height of the building.
- (c) No apartment building shall be constructed closer to any other building on the same lot than a distance equal to the height of the higher of the two buildings. The space between the buildings may be reduced to a distance equal to half the taller of the two buildings provided:
 - (1) The spacing is approved by the Emergency Services representative to the Technical Advisory Committee;
 - (2) The apartment buildings are oriented side to side or corner to corner;
 - (3) The reduction in the building spacing requirement will allow for additional useable open space to be provided on the site; and
 - (4) The apartment buildings are designed in clusters rather than strips.

b. The maximum percentage of dwelling types permitted in a development utilizing TDR's shall be as follows:

<u>Zone</u>	<u>Detached</u>	<u>Semi-Detached/Duplex</u>	<u>Townhouse/Apartment</u>
SR	no limit	30%	20%
DR	no limit	60%	40%
TR	no limit	30%	30%

5. General Requirements

- a. The minimum parcel size for using TDR's in the SR, DR, and TR zones shall be ten (10) acres.
- b. All developments using TDR's shall be served by community facilities.
- c. The minimum common open space requirement in developments using TDR's shall be thirty (30) percent of the gross site area, with passive amenities. This percentage may be reduced to fifteen (15) percent by the Planning Commission when the developer proposes to improve the open space with active recreational amenities in addition to the passive amenities.
- d. A minimum of two (2) off street parking spaces must be provided for each dwelling unit on the lot the dwelling occupies.

6. Lot Size, Lot Dimension, Lot Coverage, Height and Yard Requirements

- a. It is the intent of these regulations to permit flexibility in lot, yard, and setback requirements and to encourage innovative and creative design without endangering the health, safety and welfare of the residents in and near the development.
- b. The setback, lot size, lot dimensions, height and yard requirements in developments using TDR's shall be established for each individual project by the Planning Commission. In establishing these requirements the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.

7. Site design Standards

In addition to the design standards contained in Article IX, the TDR development shall comply with the following design standards:

- a. The proposal shall be designed with regard to the soils, topography, and natural features of the parcel.
- b. The proposal shall be designed to provide adequate pedestrian circulation.
- c. The proposal's roads shall be designed to provide a logical road network adequate for internal movement.
- d. The proposal shall be directly accessible from one (1) or more existing or planned arterial or collector roadways.

8. Administrative Procedures

a. Sending Areas shall meet the following criteria:

- (1) Only those zoning districts designated as Northern Agricultural Residential (NAR) and Southern Agricultural Residential (SAR) shall serve as sending areas.
- (2) The minimum parcel size for a sending parcel shall be fifty (50) acres.
- (3) Soils on sending parcels shall meet the following minimum criteria:
 - (a) At least 50% of the soils shall be classified as USDA Class I, II or III soils; or
 - (b) If the land is wooded, 50% of the land is classified as Woodland Group 1 or 2; or
 - (c) If the reason the land could not meet the above criteria was because of floodplain or wetland soils, those areas could be excluded as a percentage of land; or
 - (d) If there is an insufficient percentage of USDA I, II, or III soils alone and there is an insufficient percentage of Woodland Group 1 and 2 soils alone, the land would qualify if the two exceed 60%

- (4) The sending density for TDR's in areas zoned NAR shall be one (1) unit per five (5) acres.
- (5) The sending density for TDR's in areas zoned SAR shall be one (1) unit per three (3) acres.

b. Receiving Areas shall meet the following criteria:

- (1) Only those areas zoned Suburban Residential (SR, Development Residential (DR) and Town Residential (TR) shall serve as receiving areas.
- (2) The minimum parcel size for receiving parcels shall be ten (10) acres.
- (3) Receiving area parcels shall be currently served with water and sewer facilities, or be in an area planned to be served by the County in the next ten (10) years, or be serviced by a developer financed approved shared facility. The current Master Water and Sewer Plan for the County shall be used for this determination.
- (4) The density for receiving areas in the SR zone shall not exceed four (4) units per acre.
- (5) The density for receiving areas in the DR zone shall not exceed twelve (12) units per acre.
- (6) The density for receiving areas in the TR zone shall not exceed six (6) units per acre.

c. A concept plat shall be presented to the County's Technical Advisory Committee (TAC). The concept plat shall clearly state that TDR's are being used in the proposal and identify the sending parcel. The soils description shall be submitted along with a statement indicating the number of TDR's being utilized.

d. The Planning Commission will review the concept plat for conformance with this section and the subdivision regulations and approve or disapprove the plat.

e. A preliminary plat shall be submitted to the TAC for review and to the Planning Commission for approval or disapproval. The preliminary plat shall include the number of TDR's being utilized and identify the sending parcel.

f. A final plat shall be presented to the Planning Commission for approval or disapproval. Prior to the Planning Commission's review, a Transfer of Development Rights Conservation Easement shall be executed between the sending area parcel owner and the County and a Deed of Transfer of Development Rights shall be executed between the sending area parcel owner and the receiving area developer.

g. If the final plat is approved by the Planning Commission, the Transfer of Development Rights Conservation Easement and Deed of Transfer of Development rights shall be recorded in the Office of the Clerk of the Court for

Cecil County. The record plats shall not be signed by the Director of Planning and Zoning until the recordation of these documents occurs.

- h. If a property owner sells a development right on a sending parcel, no further subdivision can occur on the sending parcel, unless the acreage is withheld prior to the calculation of development rights.
 - i. The Cecil County Office of Planning and Zoning shall send a certificate of availability of development rights to property owners that qualify as a sending area upon request.
 - j. If a landowner who is eligible to sell development rights sells those rights, the landowner shall notify the Office of Planning and Zoning of the transaction and the number of development rights sold. The Office of Planning and Zoning shall be notified of future transfer of the development rights from purchaser to seller.
 - k. Development rights may be used by developments in incorporated municipalities provided the Towns adopt mechanisms to utilize these rights within the Towns.
9. Development proposals in the NAR and SAR zoning districts that have received concept plat approval prior to the adoption of this Transfer of Development Rights ordinance shall not have their approved density effected as long as the concept plats remain valid.

Section 247. Reserved

(Approved 8/14/06, Effective 1/1/07)