



What Is Transfer of Development Rights?

Transfer of development rights (TDR) programs use market forces to simultaneously encourage conservation in high-value natural, agricultural, and open space areas while encouraging growth in developed and developing sections of a community. Successful TDR programs have been in place throughout the United States since 1980 and have protected tens of thousands of acres of farmland and open space.

Description

In a TDR program, a community identifies an area within its boundaries that it would like to see protected from development. This area is called the sending zone. The community identifies another area where it desires more dense, urban-style development. This area is called the receiving zone. Landowners in the sending zone are allocated a certain number of development credits based on the amount of land they own. These development credits can then be sold to developers, speculators, or the community itself for whatever amount the market will bear. In return for selling their development credits, the landowner in the sending zone agrees to place a permanent conservation easement on his or her land. Meanwhile, the purchaser of the development credits can apply them to develop on property within the receiving zone at a higher density than would otherwise be allowed by local zoning ordinances.

Considerations

TDR programs have the advantage of using free-market mechanisms to create the funding needed to protect valuable farmland, natural areas, and other open space. Unlike purchase of development rights programs, TDR programs encourage development in areas where growth is desired. To assure the success of such programs, development credits must be priced to encourage both landowners and developers to participate. Because TDR programs can become complex, they require the local unit of government to make a strong commitment to administering the program and educating citizens and potential developers about how the program works. In addition, TDR programs must be combined with strong comprehensive planning and local controls in order to be successful at preserving open space.

Where It Is Working

Montgomery County, Maryland, near fast-growing Washington, D.C., established its TDR program in 1980. Out of a total sending area of 89,000 acres, more than 39,000 acres had been placed under protective easement through the program by the end of fiscal year 1997. Prior to 1980, the county lost an average of 3,500 acres of farmland *per year* to development. In the first *ten years* following the establishment of the TDR program, the county lost a total of 3,000 acres to development—a drop of approximately 92 percent.

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The New Jersey Pinelands, an environmentally unique and sensitive area of about one million acres, was targeted for protection through the New Jersey Pinelands Protection Act of 1979. The Pinelands Commission, the regional land use authority, established a TDR program in 1980 that had protected 5,300 acres by 1991.

In 1997, the Minnesota legislature passed enabling legislation to explicitly allow local units of government to develop and utilize TDR programs. The Green Corridor Project developed Minnesota's first formal transfer of development rights program in Chisago County, which adopted a TDR ordinance in 2000. Recently, the Chisago County Board of Commissioners received its first application from a landowner for a transfer of development credits.