

Chapter A282
TRANSFER OF DEVELOPMENT RIGHTS

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§A282-1. Purpose

The purpose of this chapter is to establish a County Transfer of Development Rights program that will create a bank to purchase and sell development rights. It is the purpose of this chapter to provide another method to assist landowners wishing to retain their properties in agricultural use and assist landowners wishing to realize higher densities in the growth area.

§A282-2. Funding

The Transfer of Development Rights program shall initially receive its funding from a dedicated portion of the County's video lottery terminal proceeds. Subsequent funding may come from either funds received from the sale of purchased development rights or from general budgetary allocations.

§282-3. Standards

Parcels shall meet the following criteria in order to qualify as a sending parcel to sell development rights:

- A. The property shall have a minimum acreage of 50 acres.
- B. The property shall be located in either the Northern Agricultural Residential (NAR) zoning district or the Southern Agricultural Residential (SAR) zoning district.
- C. At least 50% of the soils shall be classified as USDA Class I, II, and III soils.
- D. If the property is wooded, at least 50% of the soils shall be classified as Woodland Group 1 or 2 soils.
 1. If the reason the property could not meet the above criteria was because of floodplain or wetland soils, those areas could be excluded as a percentage of the land; or
 2. If there is an insufficient percentage of USDA I, II, or III soils and there is an insufficient percentage of Woodland Group 1 and 2 soils alone, the land would qualify if the two exceed 60%.
- E. Parcels proposing to sell development rights to protect environmentally sensitive areas or to establish riparian buffers in the Chesapeake Bay Critical Area shall be located in the Northern Agricultural Residential (NAR) zoning district and Southern Agricultural Residential (SAR) zoning

district and in the case of Chesapeake Bay Critical Area riparian buffers have either a Limited Development Area (LDA) or Resource Conservation Area (RCA) encumbrance.

- F. Parcels shall meet the following criteria in order to qualify as a receiving area to use development rights:
1. The property shall have a minimum acreage of ten acres.
 2. The property shall be located in the Employment Mixed Use (EMU), Residential Mixed Use (RMU), Suburban Transition (ST), or Urbanized Residential (UR) zoning districts.
 3. The property shall be currently served with water and sewer facilities, or be planned to be served 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.

§A282-4. Procedure

Property owners desiring to sell their development rights to the County shall send a written statement, signed by the owner(s) of the property, expressing their wish to sell development rights. Upon receipt of the written statement, the County shall verify that the property meets the eligibility requirements as contained in §A282-3. Once the property has been determined as meeting the minimum requirements to sell development rights, the following shall occur:

- A. The County shall notify the landowner(s) of the number of development rights that can be sold based on the acreage of the parcel and the zoning district in which it is situated.
- B. The notice shall contain an offer for the value equal to the number of development rights contemplated to be sold. This value shall be based on each bundle of development rights. The fair market value will be established by two separate appraisals to determine the value of each bundle of development rights. The cost of the appraisals will be borne by the landowner(s).
- C. The County shall notify the landowner(s) that the payment for the development rights will be made through an Installment Purchase Agreement (IPA) spread over a 25 year period.
- D. A transfer of development rights conservation easement and a deed of transfer of development rights shall be executed between the landowner(s) and the County. The transfer of development rights conservation easement and the deed of transfer of development rights shall be recorded in the office of the Clerk of the Court for Cecil County.
- E. If a landowner(s) sells development rights to the County, no further subdivision can occur on the sending parcel unless the acreage is withheld prior to the calculation of development rights.

Property owners desiring to purchase development rights from the County shall send a written statement, signed by the property owner and developer, expressing their wish to purchase development rights, the number of rights desired to be obtained, and the property on which the rights are to be used. Upon receipt of the written statement, the County shall verify that the property meets the eligibility requirements as contained in §A282-3. Once the property has been determined as meeting the minimum requirements to receive development rights, the following shall occur:

- A. The County shall notify the landowner(s) and developer of the value of the development rights desired to be purchased. This value shall be based on 120% of the fair market value of each bundle of development rights established by two separate appraisals. The cost of the appraisals will be borne by the landowner(s)/developer.
- B. A deed of transfer of development rights shall be executed between the County and the receiving landowner(s) and developer. The deed shall be recorded in the office of the Clerk of the Circuit Court for Cecil County prior to the recordation of the plat for the subdivision on the receiving parcel.
- C. The record plat will not be signed by the Director of Planning and Zoning until the recordation of the deed occurs.

§282-5. Bank

The purpose of the Transfer of Development Rights bank is to create an inventory of development rights available for sale to qualifying receiving area parcels and to create a market for the sale of development rights from qualifying sending area parcels. Although initially funded by VLT funds and/or general budgetary outlays, the goal is to ultimately have a self perpetuating funding source based on the sale of development rights to qualifying receiving parcels.

The bank will maintain an inventory of the number of development rights purchased, the parcels from which the rights were obtained, the cost of acquisition, the number of development rights sold, the parcels to which they were transferred, and the price for which they were sold. The bank shall maintain a ledger of the funds encumbered in the acquisitions, funds received through sale, and available funds to perpetuate the program.

§282-6. Annual Report

At the conclusion of each fiscal year, the Office of Planning & Zoning shall present to the Board of County Commissioners a report on the activities of the Transfer of Development Rights bank for the just concluded fiscal year.