

Section 246.

1. Intent

- a. It is the intent of these Transfer of Development Rights (TDR's) 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 EMU, ST, UR, and RMU requirements to encourage a more creative approach to development of land.

2. Authority

This section is enacted under the authority granted to 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 ST zone that may be permitted by the Planning Commission shall be six (6) dwelling units per acre.
- b. The maximum residential density utilizing transferred development rights in the EMU, RMU, and UR zones that may be permitted by the Planning Commission shall be twelve (12) 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 ST zone.

(b) No more than six (6) townhouses shall be permitted in one building block in the EMU, RMU, and UR zones.

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:

Zone	Detached	Semi-Detached/Duplex	Townhouse/Apartment
EMU	20%	80%	50%
ST	30%	70%	40%
RMU	20%	80%	50%
UR	20%	80%	50%

5. General Requirements

a. The minimum parcel size for using TDR's in the ST and UR zones shall be ten (10) acres.

b. All developments using TDR's shall be served by community facilities.

- c. In the ST and UR zones, the minimum common open space requirement in developments using TDR's shall be fifteen (15) percent of the gross site area, with passive amenities.
- d. In the EMU and RMU zones, the minimum common open space requirement in developments using TDR's shall be ten (10) percent of the gross site area, with passive amenities.
- e. The minimum and maximum number of parking spaces to be provided for each dwelling unit shall be consistent with Article XIV.

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. Development Right Density Sending Areas are areas in which landowners sell all or part of their by right permitted density as measured in acres encumbered from development per the formula depicted in Table 1, below. The transfer, or sale, of development right density shifts development demand, as measured in dwelling units, from the sending area to receiving area. Development Right Density 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 twenty-five (25) acres in areas zoned NAR if adjacent to a property on which an agricultural preservation easement already exists, or fifty (50) acres in areas zoned NAR, otherwise; and fifty (50) acres in areas zoned SAR. Acreage already encumbered as a Development Right Environmental Sending Area shall not also be eligible for inclusion as a Development Right Density Sending Area.

(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. [See Table 1]

(5) The sending density for TDR's in areas zoned SAR shall be one (1) unit per three (3) acres. [See Table 1]

Table 1. Development Right Density Sending Permitted Densities

Density Sending Area	Density Receiving Area	Sending Area Acres Protected	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR	EMU	5	1	10:1
NAR	RMU	5	1	10:1
NAR	ST	5	1	6:1
NAR	UR	5	1	12:1
SAR	EMU	3	1	10:1
SAR	RMU	3	1	10:1
SAR	ST	3	1	6:1
SAR	UR	3	1	12:1

(amended 8/21/2012)

b. Development Right Environmental Sending Areas are areas in which a landowners sells an easement on all or part of his land for the purpose of establishing a Buffer in the Critical Area or providing an off-site location for satisfying the requirements of the Forest Conservation Regulations. The sale of the easement(s) provides for more environmental protection in the more environmentally-sensitive, rural sending area in return for higher than by-right densities in the more urban receiving area. Tables 2-7, following, describe and quantify the respective environmental easement area-to-density conversion. Development Right Environmental 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 outside the Critical Area shall be twenty-five (25) acres in areas zoned NAR if adjacent to a property on which an agricultural preservation easement already exists, or fifty (50) acres in areas zoned NAR, otherwise; and fifty (50) acres in areas zoned SAR. Acreage already encumbered as a Development Right Density Sending Area shall not also be eligible for inclusion as a Development Right Environmental Sending Area.

(3) The sending density for Environmental TDR's in areas zoned NAR or SAR shall be two (2) dwelling units per one (1) acre of deed-restricted forest established in an approved forestry bank. Sites otherwise already protected are not eligible for such forest establishment. [See Table 2]

**Table 2. Development Right Environmental Sending Permitted Densities
Outside Priority Preservation Areas**

Environmental Sending Area	Density Receiving Area	Sending Area Acres Protected	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR, SAR	EMU	1	2	10:1
NAR, SAR	RMU	1	2	10:1
NAR, SAR	ST	1	2	6:1
NAR, SAR	UR	1	2	12:1

(4) The sending density for Environmental TDR's in areas zoned NAR or SAR and designated a Priority Preservation Area shall be four (4) dwelling units per one (1) acre of deed-restricted forest established in an approved forestry bank. Sites otherwise already protected are not eligible for such forest establishment. [See Table 3]

(amended 8/21/2012)

**Table 3. Development Right Environmental Sending Permitted Densities
Within Priority Preservation Areas**

Environmental Sending Area	Density Receiving Area	Sending Area Acres Protected	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR	EMU	1	4	10:1
NAR	RMU	1	4	10:1
NAR	ST	1	4	6:1
NAR	UR	1	4	12:1

(5) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be four (4) dwelling units per one hundred (100) linear feet of three hundred (300) feet deep deed-restricted, riparian, forested Buffer established in an approved forestry bank, in accordance with Section 196. Only sites outside the Critical Area and zoned EMU, RMU, LDR, ST and UR shall be eligible receiving areas. [See Table 4]

**Table 4. Critical Area Development Right Environmental Sending Permitted Densities
300' Buffers**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 300' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	4	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	4	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	4	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	4	12:1

(6) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be two (2) dwelling units per one hundred (100) linear feet of three hundred (300) feet deep deed-restricted, riparian, forested Buffer established to comply with Forest Conservation Regulation requirements in an approved forestry bank, in accordance with Section 196. Only sites outside the Critical Area and zoned EMU, RMU, ST, and UR shall be eligible receiving areas. [See Table 5]

**Table 5. Critical Area Development Right Environmental Sending Permitted Densities
300' Buffers Also Satisfying Forest Conservation Regulations Requirements**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 300' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	2	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	2	12:1

(7) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be two (2) dwelling units per one hundred (100) linear feet of two hundred (200) feet deep, deed-restricted, riparian, forested Buffer established in an approved forestry bank, in accordance with Section 196. Sites otherwise already protected are not eligible for such Buffer establishment, and only sites outside the Critical Area and zoned EMU, RMU, ST, and UR shall be eligible receiving areas. [See Table 5]

**Table 6. Critical Area Development Right Environmental Sending Permitted Densities
200' Buffers**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 200' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	2	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	2	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	2	12:1

(8) The sending density for Environmental TDR's in the Critical Area in areas zoned NAR or SAR and LDA or RCA shall be one (1) dwelling units per one hundred (100) linear feet of two hundred (200) feet deep, deed-restricted, riparian, forested Buffer established to comply with Forest Conservation Regulation requirements in an approved forestry bank, in accordance with Section 196. Sites otherwise already protected are not eligible for such Buffer establishment, and only sites outside the Critical Area and zoned EMU, RMU, ST, and UR shall be eligible receiving areas. [See Table 7]

**Table 7. Critical Area Development Right Environmental Sending Permitted Densities
200' Buffers Also Satisfying Forest Conservation Regulations Requirements**

Environmental Sending Area within Critical Area	Density Receiving Area outside Critical Area	Sending Area 200' Buffer Established	Additional Receiving Area Dwelling Units	Receiving Area Maximum Density
NAR or SAR and LDA, RCA	EMU	100 linear feet	1	10:1
NAR or SAR and LDA, RCA	RMU	100 linear feet	1	10:1
NAR or SAR and LDA, RCA	ST	100 linear feet	1	6:1
NAR or SAR and LDA, RCA	UR	100 linear feet	1	12:1

c. Development Right Density Transfer Receiving Areas shall meet the following criteria:

(1) Only those areas zoned EMU, ST, UR, and RMU shall serve as receiving areas.

(2) The minimum parcel size for receiving parcels shall be ten (10) acres, except in the EMU and RMU zones.

(3) Receiving area parcels shall be currently served with water and sewer facilities, or be in an area 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.

(4) The density for receiving areas in the ST zone shall not exceed six (6) units per acre.

(5) The density for receiving areas in the EMU, RMU, and UR zones shall not exceed twelve (12) units per acre.

d. Development Right Environmental Transfer Receiving Areas shall meet the following criteria:

(1) Only those areas zoned EMU, ST, UR, and RMU shall serve as receiving areas.

(2) The minimum parcel size for receiving parcels shall be ten (10) acres, except in the EMU and RMU zones.

(3) Receiving area parcels shall be currently served with water and sewer facilities, or be in an area 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.

(4) The density for receiving areas in the ST zone shall not exceed six (6) units per acre.

(5) The density for receiving areas in the EMU, RMU, and UR zones shall not exceed twelve (12) units per acre.

e. 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.

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

g. 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.

h. 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 among the sending area parcel owner, the County, and the receiving area developer.

i. 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.

j. 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.

k. 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.

l. 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, unless those rights are sold to the County. The Office of Planning and Zoning shall be notified of future transfer of the development rights between purchaser and seller, unless those rights are transferred through the County.

m. 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 affected as long as the concept plats remain valid.