

§ 411. Transfer of Development Rights.

[Ord. 85-2, 3/5/1985, § 410; as amended Ord. 92-8, 7/14/1992; by Ord. 97-6, 7/15/1997, § II; by Ord. 00-2, 1/11/2000, § I (1-4); by Ord. 2008-O-01, 1/8/2008; and by Ord. 2008-O-09, 5/27/2008]

To promote the preservation of land for use as open space, trails, scenic vistas, agriculture, nurseries, forests, wetlands, floodplains, riparian buffers, natural wildlife areas, environmentally sensitive areas, and historically significant sites; to manage residential and commercial growth through the Transfer of Development Rights (TDR) Program using the criteria established herein; to benefit landowners who will be able to accrue development rights for transfer or sale to other landowners in the Township in districts zoned Residential Agricultural (RA), and in other districts when approved by the Board of Supervisors after considering the recommendation of the Planning Commission and the Transferable Development Right Review Board; to establish guidelines to facilitate the transfers; and to benefit the community that will enjoy the open space:

A. General.

- (1)** Pursuant to the enabling legislation contained in Section 619.1 of the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. § 10619.1, there are hereby created, as a separate estate in land, transferable development rights ("TDRs"). TDRs are severable from the land itself and are separately conveyable from the estate in fee simple to which they are applicable.
- (2)** Transferable development rights shall be created and conveyed by a deed and conservation easement duly recorded in the office of the Recorder of Deeds of Bucks County, Pennsylvania, which deed and conservation easement shall be subject to the review and approval of the Board of Supervisors of Warrington Township.
- (3)** No transferable development rights created by this Section shall be transferable beyond the boundaries of Warrington Township.
- (4)** Transferable development rights, if and after approval, shall be deemed to run with the land.
- (5)** Warrington Township shall administer this provision consistent with the language and intent of this Chapter and with the Warrington Township Comprehensive Plan, as revised.

B. Administration of the TDR Program.

(1) TDR Sending Parcel Guidelines.

- (a) Petition Process.** To participate as a sending parcel in the Transferable Development Rights Program, a property owner of record must petition the Board of Supervisors. Landowners in the RA Zoning District may apply for transferable development rights as a matter of right. Landowners in other zoning districts may apply for transferable development rights as a matter of conditional use, pursuant to the procedures and general conditions expressed in § 2302 and express conditions of § 411. The signed petition shall be in the form of a letter, requesting that transferable development rights be created for their property. The petition shall be accompanied by the following:

- [1]** Plan of the property, prepared by a licensed surveyor, showing the total number of acres, all existing structures, easements and the salient natural features on the property;

- [2] Current title report, including copies of any liens;
- [3] Phase 1 environmental survey;
- [4] Deed of ownership;
- [5] Other documentation as requested by the Board of Supervisors; and
- [6] A fee, in an amount determined by the Board of Supervisors, as shown in the Fee Schedule.

(b) Review Process.

- [1] The Board of Supervisors, at its sole discretion, may refer the application to the Planning Commission for a recommendation. Prior to issuing a written recommendation, the Planning Commission shall review the petition and accompanying documents, the reports of Township consultants and staff, waiver requests, and other material deemed relevant to the petition.
- [2] A TDR Review Board is created pursuant to § 411B(2), as a subcommittee of the Planning Commission.
- [3] The Planning Commission shall, if authorized by this Section, forward all materials and its preliminary findings to the TDR Review Board. The TDR Review Board shall conduct a study as set forth herein and submit a written report to the Planning Commission and/or the Board of Supervisors for consideration.

(c) Criteria for Review of Transferable Development Right Applications. The preservation of the particular parcel of land shall:

- [1] Not conflict with and shall be consistent with the spirit, purpose and intent of the Warrington Township Comprehensive Plan and the Official Map.
- [2] Be in the best interest of the Township and promote the public welfare.
- [3] Be suitable for the property in question and be in harmony with the existing or intended zoning and character of the general vicinity.
- [4] Be in conformance with all applicable requirements of this Chapter.

(d) Additional Criteria.

- [1] One transferable development right (TDR) shall be deducted from the available number for each existing dwelling unit that will be retained as a residence on the property.
- [2] In the event that the petition to create transferable development rights involves a portion of a tax parcel or property, the survey plan described in Subsection [B\(1\)\(a\)\[1\]](#) shall clearly delineate the portion of the property that is the sending parcel.

(e) Final Determination and Creation of TDRs. After review of the TDR Review Board findings, and upon the recommendation of the Planning Commission, the Board of Supervisors shall have the power, at

its sole discretion, to determine the number of acres that will be preserved and the number of transferable development right certificates that will be created. Such determination shall be rendered at a public meeting of the Board of Supervisors. In approving transferable development rights, the Board of Supervisors shall make findings of fact consistent with the provisions of this Section.

[1] If approved, the Board of Supervisors will authorize the Township Solicitor to prepare any legal document that is appropriate to restrict the development rights of the property, including the issuance of TDR options (revocable TDRs) for the property.

[2] Property owners may elect to delay recording of the transferable development rights for a period up to six years. During the first three years after action by the Board of Supervisors to authorize transferable development rights, the petitioner-applicant shall allow Warrington Township to publicize the availability of transferable development rights associated with that property and be open to discussions with third parties who wish to purchase transferable development rights. During the second three-year period (years four to six), after action by the Board of Supervisors to authorize transferable development rights, the petitioner-applicant may elect to extinguish the transferable development rights, pursuant to Section 411B(1)(j). During this six-year period, the transferable development rights will be considered TDR options (revocable TDRs), with no rights to convey the options to a third party until after the recording of the deed(s), conservation easement(s) and any other associated documents in the office of the Bucks County Recorder of Deeds, Bucks County Administration Building, Doylestown, Pennsylvania. If the petitioner elects not to extinguish the TDR options, the recording of the documents shall occur within 30 days of expiration of the six-year period.

- (f)** TDR Certificates. The Township Manager is authorized to issue to the property owner one transferable development right certificate (or TDR option) for each development right created by the Board of Supervisors. The Township Manager shall ensure that the deeds and conservation easement, options and other documents, after all signatures are affixed and notarized, are recorded in the office of the Bucks County Recorder of Deeds.
- (g)** TDR Certificate Custodian. The original certificates, or options, shall be maintained by the Township Manager, or his designee, who will act as custodian for the certificates or options and will track the status of each certificate or option.
- (h)** Township Expense. The Township Finance Director shall prepare a schedule of the expenses incurred by the Township in the creation of the transferable development rights and, after approval by the Board of Supervisors, shall present the schedule to the landowner for review and signature attesting to same for payment by the landowner upon extinguishment of the transferable development rights, pursuant to Subsection B(1)(j) below.
- (i)** Advertise TDR Availability. The Township shall advertise the available transferable development rights as follows: by posting a register of transferable development rights on the Township website; by making copies of the transferable development right register available to individuals and companies in the business of developing residential or commercial properties; and by such other methods agreed to by the landowner and the Board of Supervisors.
- (j)** Extinguishment of the transferable development rights, in whole or in part, may be requested by the landowner during years four to six in the form of a letter to the Board of Supervisors if the transferable

development rights have not been recorded, sold or transferred; provided that the landowner, successor or assign shall reimburse the Township in full for the expenses incurred pursuant to Subsection B(1)(h) herein plus 6% interest per annum over the period from the date the transferable development rights were created to the date the petition for transferable development right extinguishment was granted by the Board of Supervisors.

(2) Transferable Development Rights Review Board.

(a) Creation. By passage of this Section, the Board of Supervisors hereby creates a Transferable Development Rights Review Board ("TDR Review Board"). The TDR Review Board shall consist of three members, appointed by the Board of Supervisors for terms of four years. Two TDR Review Board members shall be appointed from among current members of the Planning Commission and one member of the Board of Supervisors. The TDR Review Board shall act as an advisory subcommittee of the Planning Commission and shall abide by the same administrative rules and procedures as those in effect for the Planning Commission.

(b) Purpose. The TDR Review Board shall exercise due diligence and flexibility in the conduct of its duties as set forth herein and thereby encourage the preservation of land in Warrington Township by evaluating petitions for the creation (sending parcel) and application (receiving parcel) of transferable development rights in RA-zoned properties, and in other zoning districts as approved by the Board of Supervisors, and uses of transferable development rights, including the guidelines set forth below. In addition, the TDR Board shall conduct an annual survey of properties protected by the conservation easements created under this program and report its findings to the Board of Supervisors.

(c) Duties of the TDR Review Board. The TDR Review Board shall prepare its recommendations and findings in writing with supporting materials as appropriate for consideration by the Planning Commission and the Board of Supervisors, in accordance with the following guidelines:

[1] RA — Receiving District. The TDR Review Board shall review the merits of allowing parcels in the Residential Agricultural (RA) District to be a receiving parcel for transferable development rights as appropriate. In reaching a recommendation for designating the RA parcel as a receiving parcel, the TDR Review Board shall consider but not be limited to the following factors:

[a] Type of zoning in place for contiguous parcels;

[b] Loss of significant natural resources on the RA receiving parcel to be developed as set forth in the legislative intent of this Section;

[c] Consistency of the RA receiving parcel development with the Warrington Township Comprehensive Plan;

[d] Location of roads and other land features that act as a buffer between the designated RA receiving parcel and adjacent RA parcels;

[e] Likely impact of development pressures on adjacent RA parcels;

[f] Availability of public water and sewer services; and

[g] Such other planning considerations that are in harmony with current zoning, ordinances and the Warrington Township Comprehensive Plan.

[2] Floodplain transferable development rights. The TDR Review Board may recommend the creation of transferable development rights for existing residential parcels lying within the five-hundred-year floodplain, limited to properties on Philadelphia Avenue, Warrington Avenue and the west side of Brinkworth Avenue, which are acquired and dedicated as open space/park to Warrington Township. If preserved, such action will generate one development right for each dwelling unit plus one development right for each 8,500 square feet, or portion thereof, that is restored to its natural state and dedicated to the Township.

[3] Substandard Parcel Consolidation transferable development rights. The TDR Review Board may recommend the creation of transferable development rights for substandard residential parcels (i.e., parcels that do not conform to current zoning requirements) which, after consolidation with other substandard parcels, result in one or more standard conforming parcel(s). Such consolidation will qualify for one transferable development right. In the event that the consolidation leads to more than one conforming parcel, each additional conforming parcel will qualify for one transferable development right.

[4] Historic Preservation Transferable Development Rights. The TDR Review Board may recommend the creation of transferable development rights for preservation of historic parcels or buildings. Such preservation will generate a minimum of two development rights, unless more development rights are justified based on the size of the parcel and/or the natural resources that are present. Qualifying buildings or sites shall be those structures and parcels recognized as historic by the Board of Supervisors, upon the recommendation of the Warrington Township Historic Commission.

[5] Natural Resource Credits. The TDR Review Board may recommend the granting of natural resource credits, as applied in § 411C herein, based upon the nature of the resource and the impediments to development created by the resource. The natural resource credit shall not exceed 25% of "net TDR" value, as defined in § 411C(2). In its deliberations, the TDR Review Board shall consider but not be limited to the following factors:

[a] The type, number, magnitude and interrelationships of the natural resources that will be preserved (e.g., waterway feeding into grasslands or wildlife habitat areas);

[b] The visibility and accessibility of the preserved resources to the general public;

[c] The compatibility or harmony of the natural resources proposed for preservation with regard to adjacent properties having natural resources that are preserved, under conservation or adjacent to open space and parklands of the Township; and

[d] Such other considerations that are in keeping with the purpose and intent of this Section and which enhance the health and well-being of the general public.

C. Development Rights Created After September 2007.

(1) Each development right shall carry the right to build one dwelling unit in accordance with Subsection G(6)(a), Standards for Single-Family Detached Residential Development Using Transferable

Development Rights, or other equivalent development criteria as established in Subsection G(6)(b), Standards for Use of Transferable Development Rights in Nonresidential Zoning Districts, if approved by the Board of Supervisors in accordance with the provisions of this Section.

(2) Eligibility Criteria — RA District Sending Parcel(s). Any parcel zoned Residential Agricultural (RA) or parcels in other zoning districts approved under § 411B(1) that are five acres or larger as of February 18, 1997, are eligible to create transferable development rights (TDRs), using the following calculation:

- (a) Gross acreage from plan or deed AC
- (b) Subtract exclusions/ineligible land AC
 [See § 411C(3)]
- (c) Equals net acreage AC

Using the table below, multiply the net acreage by the dwelling units per acre to calculate the net TDRs.

Zoning District	DU/Acre
RA	0.65
R-1 (see note)	1.1
R-1-C (see note)	1.0
R-2, R2-I (see note)	2.0
R-3 (see note)	1.9

NOTE: In these zoning districts, transferable development rights may be created only by action of the TDR Review Board and the Board of Supervisors, pursuant to § 411B(1).

- (d) Net acres AC x DU/AC = Net TDRs
- (e) Incentive Bonus. Multiply net TDRs by the percentage factor below:
 - RA Districts = 15%
 - Other districts = 10%
- Equals incentive bonus TDRs Bonus TDRs
- (f) Other Credits. Apply natural resource, historic, or other credits that are authorized by action of the

Board of Supervisors, pursuant to § 411B(2).

Natural resource/historic/other credit

TDRs

(g) Total TDRs. Add (d) + (e) + (f)

TDRs

(Round up to next whole number)

(3) Sending Parcel Exclusions. Land not eligible for the creation of transferable development rights (TDRs):

(a) Land from which all of the development rights have already been transferred.

(b) Land on which an existing easement of 10% or more of the square footage of the parcel precludes development; or which has restrictions imposed by the Agricultural Land Easement Program or the Open Space Program of Bucks County; or by any utility company, program or agency; or to any person, partnership, corporation, or other legal entity.

(c) Land which has been restricted from development by the terms or conditions of a development plan, subdivision approval, or other agreement that restricts the property from further development, including parcels which have been designated and used to meet the open space or resource protection requirements of a subdivision or land development plan;

(d) Land within the legal right-of-way of existing roads;

(e) Land that contains wetlands, floodplains, and lands known to be contaminated, unless proven not contaminated by an environmental analysis. The environmental analysis shall be subject to the review of the Township Engineer. NOTE: Woodlands, steep slopes, and riparian buffer are deemed eligible land for transferable development right creation.

(f) Land not zoned Residential Agricultural (RA) and RA parcels less than five acres, except as recommended by the TDR Review Board and approved by the Board of Supervisors pursuant to § 411B.

(g) Land reserved by effect of the Official Township Map and dedicated to future public use, except as recommended by the TDR Review Board and approved by the Board of Supervisors.

D. Development Rights Created for the R-1-C District. Development rights created by Ordinance 2002-O-03 on March 12, 2002, by the adoption of the R-1-C Zoning District shall be used only in accordance with the terms expressed in the adopting ordinance. Parcels zoned R-1-C are eligible to generate (send) transferable development rights pursuant to § 411C(3)(f) if authorized by the Board of Supervisors; provided, however, that such new transferable development rights may only be applied to receiving parcels that are not in the R-1-C Zoning District.

E. Development Rights Created for the Klein Property. Development rights created for Parcel TMP 50-10-15, originally owned by Richard Urwiler, and then owned by Steven and Carol W. Klein, now owned by Warrington Township and used by the nonprofit agency known as the "Special Equestrians," shall be used

only in accordance with the terms expressed in the Stipulation and Agreement signed February 18, 1997, and Ordinances 1997-O-6, dated July 15, 1997, and 1998-O-15, dated August 11, 1998.

F. (Reserved)

G. Development Rights Created for Warrington Investments, Inc, (Stauffer, Kelman and Friedenberg), and the Urwiler Group (Urwiler, Poley, Poolin, and Illg). Development rights created for Tax Parcels 50-10-6, 50-10-42, and 50-8-5 through -55, inclusive, 50-4-137, 50-4-164, 50-4-153, 50-4-167, 50-10-15, and 50-10-13, shall be used only in accordance with the terms expressed in the Stipulation and Agreement signed February 18, 1997, as implemented by Ordinance 1997-O-6, as amended by Ordinance 2000-O-2, and as expressed herein.

(1) (Reserved)

(2) Transferable development rights shall be created and conveyed by a deed and conservation easement duly recorded in the office of the Recorder of Deeds of Bucks County, Pennsylvania, which deed and conservation easement shall be subject to the review and approval of the Board of Supervisors of Warrington Township.

(3) (Reserved)

(4) (Reserved)

(5) (Reserved)

(6) The transferable development rights created in accordance with this § 411 [Nolan tract - 34 transferable development rights; Urwiler tract - 26 transferable development rights; Poley tract - three transferable development rights; Poolin tract - 26 transferable development rights; and Illg tract - 102 transferable development rights] may be transferred to any property located in the R-A Residential Agricultural District, R-1 Low Density Residential District, R-2 Medium Density Residential District, R-3 Single Family Residential District, R-2I Residential Infill District, CR/O Corridor Residential/Office District, OI Office Industrial District, PI-1 Planned Industrial District, PI-2 Planned Industrial District, C-1 Commercial District, C-2-Commercial District and/or CBD Central Business District. The standards for the use of transferable development rights in the above-referenced districts are as set forth hereinafter:

(a) Standards for Single-Family Detached Residential Development Using transferable development rights.

[1] In the RA District, transferable development rights may be utilized for the development of single-family detached dwellings when authorized by the Board of Supervisors pursuant to a conditional use procedure. In the R-1, R-2, R-3 and R-2I Districts, transferable development rights may be utilized only for the development of single-family detached dwellings. A single-family detached residential development utilizing transferable development rights shall be known as a "subdivision with transferable development rights."

[2] Density, Area and Dimensional Criteria for a Subdivision with transferable development rights. The density, area and dimensional criteria applicable to the subdivision with transferable development rights in the RA, R-1, R-2, R-3, R-2I and R-1-C Districts shall be as follows:

[a] R-A District.

- i.** Maximum density: 1.3 dwelling units per acre of gross buildable site area, as defined in § 304.
- ii.** Minimum lot size: 15,000 square feet.
- iii.** Minimum lot width: 90 feet at the building setback line.
- iv.** Minimum front yard setback: 35 feet.
- v.** Minimum side yard setback: five feet, provided that the aggregate of the two side yards shall be not less than 25 feet.
- vi.** Minimum rear yard setback: 30 feet; provided, however, that patios and decks shall be permitted to encroach into the minimum rear yard to within 15 feet of the rear property line and shall not be considered part of the building for purposes of calculating building coverage.
- vii.** Minimum number of off-street parking spaces: two.
- viii.** Maximum building coverage: 25%.
- ix.** Maximum lot impervious surface ratio: 35%.
- x.** Maximum building height: 35 feet.
- xi.** Minimum buffer yard: § 2307 of this Chapter shall not apply. In lieu thereof, where the boundary of the tract proposed for development is within 200 feet of a single-family detached dwelling occupied as of February 18, 1997, a ten-foot-wide easement with buffer plantings in accordance with the requirements of the Warrington Township Subdivision and Land Development Ordinance [Chapter [22](#)] or a solid fence shall be provided along the portion of the common boundary line which lies within 200 feet of the existing dwelling. The area of the required easement shall be included in the calculation of the minimum lot area.
- xii.** Open Space. For all residential uses permitted in this district, minimum open space requirements shall be as follows:
 - One to 300 dwelling units: six acres per 100 dwelling units.
 - Over 300 dwelling units: 18 acres plus one acre per 100 families over 300.
- xiii.** No transferable development rights may be transferred to any lot which is less than five acres as of February 18, 1997.

[b] R-1 District.

- i.** Maximum density: 1.6 dwelling units per acre of gross buildable site area per § 304 herein.
- ii.** Minimum lot size: 12,600 square feet.
- iii.** Minimum lot width: 90 feet at the building setback line.

- iv.** Minimum front yard setback: 35 feet.
- v.** Minimum side yard setback: five feet, provided that the aggregate of the two side yards shall be not less than 25 feet.
- vi.** Minimum rear yard setback: 30 feet; provided, however, that patios and decks shall be permitted to encroach into the minimum rear yard to within 15 feet of the rear property line and shall not be considered part of the building for purposes of calculating building coverage.
- vii.** Minimum number of off-street parking spaces: two.
- viii.** Maximum building coverage: 25%.
- ix.** Maximum lot impervious surface ratio: 35%.
- x.** Maximum building height: 35 feet.
- xi.** Minimum buffer yard: § 2307 of this Chapter shall not apply. In lieu thereof, where the boundary of the tract proposed for development is within 200 feet of a single-family detached dwelling occupied as of February 18, 1997, a ten-foot-wide easement with buffer plantings in accordance with the requirements of the Warrington Township Subdivision and Land Development Ordinance [Chapter [22](#)] or a solid fence shall be provided along the portion of the common boundary line which lies within 200 feet of the exiting dwelling. The area of the required easement shall be included in the calculation of the minimum lot area.
- xii.** (Reserved)
- xiii.** Open Space. For all residential uses permitted in this district, minimum open space requirements shall be as follows:
 - One to 300 dwelling units: six acres per 100 dwelling units.
 - Over 300 dwelling units: 18 acres plus one acre per 100 families over 300.
- xiv.** No transferable development rights may be transferred to any lot which is less than five acres as of February 18, 1997.

[c] R-2 District.

- i.** Maximum density: three dwelling units per acre of gross buildable site area per § 304 herein.
- ii.** Minimum lot size: 8,500 square feet.
- iii.** Minimum lot width: 85 feet at the building setback line.
- iv.** Minimum front yard setback: 35 feet.

- v. Minimum side yard setback: five feet, provided that the aggregate of the two side yards shall be not less than 25 feet.
- vi. Minimum rear yard setback: 30 feet; provided, however, that patios and decks shall be permitted to encroach into the minimum rear yard to within 15 feet of the rear property line and shall not be considered part of the building for purposes of calculating building coverage.
- vii. Minimum number of off-street parking spaces: two.
- viii. Maximum building coverage: 25%.
- ix. Maximum lot impervious surface ratio: 50%.
- x. Maximum building height: 35 feet.
- xi. Minimum buffer yard: § 2307 of this Chapter shall not apply. In lieu thereof, where the boundary of the tract proposed for development is within 200 feet of a single-family detached dwelling occupied as of February 18, 1997, a ten-foot-wide easement with buffer plantings in accordance with the requirements of the Warrington Township Subdivision and Land Development Ordinance [Chapter [22](#)] or a solid fence shall be provided along the portion of the common boundary line which lies within 200 feet of the existing dwelling. The area of the required easement shall be included in the calculation of the minimum lot area.
- xii. Open Space. For all residential uses permitted in this district, minimum open space requirements shall be as follows:

- One to 300 dwelling units: six acres per 100 dwelling units.
- Over 300 dwelling units: 18 acres plus one acre per 100 families over 300.

- xiii. No transferable development rights may be transferred to any lot which is less than five acres as of February 18, 1997.

[d] R-3 District.

- i. Maximum density: three dwelling units per acre of gross buildable site area per § 304 herein.
- ii. Minimum lot size: 8,500 square feet.
- iii. Minimum lot width: 85 feet at the building setback line.
- iv. Minimum front yard setback: 35 feet.
- v. Minimum side yard setback: five feet, provided that the aggregate of the two side yards shall be not less than 25 feet.

vi. Minimum rear yard setback: 30 feet; provided, however, that patios and decks shall be permitted to encroach into the minimum rear yard to within 15 feet of the rear property line and shall not be considered part of the building for purposes of calculating building coverage.

vii. Minimum number of off-street parking spaces: two.

viii. Maximum building coverage: 25%.

ix. Maximum lot impervious surface ratio: 50%.

x. Maximum building height: 35 feet.

xi. Minimum buffer yard: § 2307 of this Chapter shall not apply. In lieu thereof, where the boundary of the tract proposed for development is within 200 feet of a single-family detached dwelling occupied as of February 18, 1997, a ten-foot-wide easement with buffer plantings in accordance with the requirements of the Warrington Township Subdivision and Land Development Ordinance [Chapter [22](#)] or a solid fence shall be provided along the portion of the common boundary line which lies within 200 feet of the existing dwelling. The area of the required easement shall be included in the calculation of the minimum lot area.

xii. Open Space. For all residential uses permitted in this district, minimum open space requirements shall be as follows:

- One to 300 dwelling units: six acres per 100 dwelling units.
- Over 300 dwelling units: 18 acres plus one acre per 100 families over 300.

xiii. No transferable development rights may be transferred to any lot which is less than five acres as of February 18, 1997.

[e] R-2I District. The density, area and dimensional criteria for a subdivision with transferable development rights in the R-2I District shall be identical to those which apply to the R-2 District, as set forth in § 411G(6)(a)[2][c] of this Part.

[f] R-1-C District. The density, area and dimensional criteria for a subdivision with transferable development rights in the R-1-C District shall be identical to those expressed in § 722.

(b) Standards for Use of transferable development rights in Nonresidential Zoning Districts.

[1] General Standards. In order to facilitate and encourage the use of the transferable development rights in the PI-1, PI-2, OI, IU, I-U-A, I-U-A1, I-U-B, CR/O, CBD, C-1 and C-2 Zoning Districts, development criteria otherwise applicable to development in those districts shall be modified for developments utilizing transferable development rights according to the criteria set forth hereinbelow. These criteria shall apply in lieu of the criteria set forth in regulations governing development in each of the enumerated districts.

[a] Alternative Dimensional Criteria. Minimum setbacks, building separations, isolation distances and buffer yard requirements shall be modified according to the following table:

Maximum Dimensional Reduction Applied to Setbacks, Separations, Gross Site Area, Isolation, and Buffers. One transferable development right shall be used for each type of reduction applied to a subdivision or land development plan.

Acres	Maximum
0.99 acres or less	45% maximum
1.0 acre to 2.00 acres	40% maximum
3.0 acres to 9.99 acres	35% maximum
10.0 acres or more	30% maximum

[b] There shall be no dimensional setback or buffer yard required from adjacent residential uses if the residential use is nonconforming.

[c] A minimum ten-foot separation between parking areas and buildings shall be maintained for all nonresidential sites.

[d] A minimum fifteen-foot-wide planted buffer yard along the ultimate right-of-way of all streets on which the proposed development has frontage (including sidewalks, where required) shall be provided.

[e] A minimum distance of 20 feet between buildings where more than one building is proposed in a land development.

[f] A minimum building setback of 50 feet.

[g] The number of parking spaces required by the provisions of this Chapter with respect to any nonresidential use may be reduced by 20% of the minimum requirement for nonresidential developments utilizing transferable development rights where such reduction is supported by a traffic study prepared by a qualified traffic engineer. The Board of Supervisors may, in its discretion, approve a greater reduction where the Board is satisfied that the parking proposed by the applicant will be adequate for the proposed use.

[h] Within any required buffer yard, the buffer plantings for proposed developments utilizing transferable development rights shall be increased by a factor of 1 1/2 times the planting otherwise required for such use under the provisions of the Warrington Township Subdivision and Land Development Ordinance [Chapter [22](#)].

[i] The following sections allow a transferable development right to be used for additional impervious surface coverage, inclusive of building coverage. For example, in the PI-1 District:

- i. One TDR might be used for up to 10,000 square feet of pavements, provided that the total impervious surfaces do not exceed 85%; or
 - ii. One TDR might be used for up to 6,000 square feet of pavements, provided that the total impervious surfaces do not exceed 85%, and 4,000 square feet of building coverage, provided that the total building coverage does not exceed 45%; or
 - iii. One TDR might be used for up to 8,000 square feet of pavements, provided that the total impervious surfaces do not exceed 85%, and 2,000 square feet of building coverage, provided that the total building coverage does not exceed 45%, or any combination of impervious coverage and building coverage within the limits established.
- [2] In the PI-1 Planned Industrial District, transferable development rights shall be available for the use with respect to all uses permitted under § 1202. Each transferable development right allows for an additional ten-thousand-square-foot increase in impervious surface coverage up to a maximum impervious coverage of 85%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%.
- [3] In the PI-2 Planned Industrial District, transferable development rights shall be available for the use with respect to all uses permitted under § 1302. Each transferable development right allows for an additional ten-thousand-square-foot increase in impervious surface coverage up to a maximum impervious coverage of 85%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%.
- [4] In the OI Professional Office and Light Industrial District, transferable development rights shall be available for use with respect to all uses permitted under § 1402 of this Chapter. Each transferable development right allows for an additional ten-thousand-square-foot increase in impervious surface coverage, up to a maximum impervious surface coverage of 80%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%.
- [5] In the CR/O Corridor Residential/Office District, transferable development rights shall be available for use with respect to all uses permitted under § 1502, Subsections 1 and 2, of this Chapter. For uses permitted under § 1502, Subsection 1, each transferable development right allows for an additional ten-thousand-square-foot increase in impervious surface coverage up to a maximum of 85%, including 4,000 square feet of building coverage above the otherwise allowable floor area ratio. For uses permitted under § 1502, Subsection 2, each transferable development right allows one additional dwelling unit up to maximum of 10 dwelling units per acre, or a ten-thousand-square-foot increase in impervious coverage up to a maximum impervious coverage of 60%.
- [6] In the CBD Central Business District, transferable development rights shall be available for the use with respect to all uses permitted under § 1602. For uses permitted under § 1602, Subsections 1 through 12, 14, and 15, and § 1603, each transferable development right allows for an additional ten-thousand-square-foot increase in impervious coverage up to a maximum impervious coverage of 85%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%. For uses permitted under § 1602, Subsection 13 (Age-Restricted Residential Uses as permitted in the IU-B District § 902C), each transferable development right allows one additional dwelling unit, up to a maximum density of 10 dwelling units per acre, and an additional ten-thousand-square-foot increase in impervious coverage up to a maximum impervious coverage of

85%, including 4,000 square feet of building coverage up to a maximum building coverage of 45% and additional equivalent floor area ratio up to 80%.

[7] In the C-1 Commercial District, transferable development rights shall be permitted to be utilized with respect to all uses permitted under § 1002 of this Chapter. For any of the uses permitted under § 1002, each transferable development right allows for an additional ten-thousand-square-foot increase in impervious coverage, up to a maximum of 85%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%.

[8] In the C-2 Commercial District, transferable development rights may be utilized for all uses permitted under § 1102 of this Chapter. Each transferable development right allows for an additional ten-thousand-square-foot increase in impervious surface coverage, up to a maximum impervious coverage of 85%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%.

[9] In the IU, I-U-A, I-U-A-1, and I-U-B Institutional Use Districts, transferable development rights shall be available for use with respect to all uses permitted under § 902 of this Chapter. For uses permitted under § 902, each transferable development right allows for an additional ten-thousand-square-foot increase in impervious surface coverage, up to a maximum impervious coverage of 80%, including 4,000 square feet of building coverage up to a maximum building coverage of 45%.

H. The RA District may receive transferable development rights transferred from Tax Map Parcel No. 50-10-13 and from the RA, RA-2, RA-3 or RA-4 District. In addition to the above, any transferable development rights created pursuant to § 411C may be transferred to the RA District.

I. If it is determined that open space land as represented on a subdivision or land development plan is not suitable with regard to the size, shape, location, access or provisions for maintenance, the Township may, at the discretion of the Board of Supervisors, require that open space be provided through payment of a fee in lieu of land and/or facilities. This fee shall be based upon the fair market value of the acreage that would otherwise be dedicated pursuant to this Section, as stated in the adopted fee schedule. Such payment shall be made to the Warrington Township Parks and Recreation Board, to be used for the acquisition, development, or improvement of open space land that will be available and accessible to, and that will benefit the residents of the development. This option is available in all zoning districts within the Township, in which open space is required.