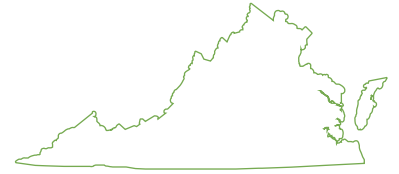


# Transfer of Development Rights



WILL PARSON/CHESAPEAKE BAY PROGRAM

**T**ransfer of development rights (TDR) programs create market incentives to shift development from designated “sending areas” to “receiving areas” where increased development is preferred. They compensate landowners who sell development rights in the sending areas and offer incentives to developers to build in receiving areas. Incentives typically include things like density bonuses, reduced parking requirements, or regulatory flexibility.

TDR programs are a growth management tool that combines planning and zoning to address community priorities. Most operate at the local level, but there are a few regional examples like the New Jersey Pinelands. While TDR programs can advance many community priorities, they mostly are used to balance natural resource protection goals with goals for growth and development.

When used to protect farmland, TDR programs are like [Purchase of Development Rights \(PDR\) programs](#) except that instead of using public funds, they leverage the private marketplace. Both are voluntary, pay landowners to limit development on some or all of their land, and use conservation easements to protect the land. Some allow developers to make monetary payments in lieu of transfers. In these cases, the government entity buys the conservation easement, often in partnership with a state or local PDR

program and/or a local land trust. Some purchase and retire development rights to stimulate the market and/or reduce overall building potential while others establish TDR banks to buy and hold development rights, then sell them to developers.

## Virginia Program Description

### PURPOSE

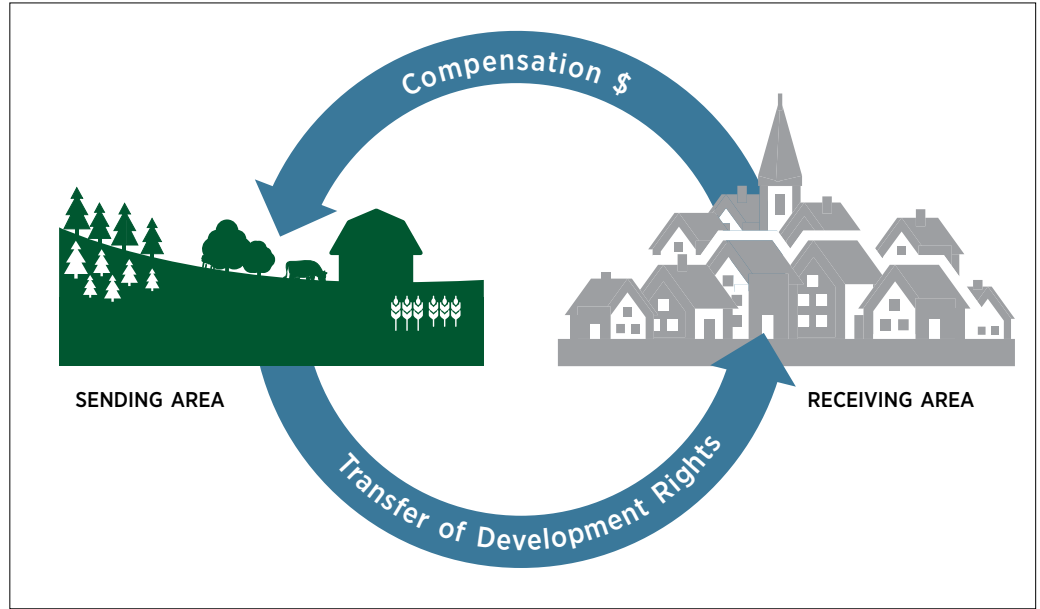
[Virginia’s TDR Law](#) allows local governments to create TDR ordinances to conserve and promote public health, safety, and general welfare. The ordinances establish procedures, methods, and standards for the transfer of development rights within a jurisdiction. Enacted in 2006, the statewide enabling legislation was first directed at local zoning ordinances and then amended in 2007 to allow TDRs across county-city boundaries as long as the local government entity and circuit court approved it.

### HOW IT WORKS

Local governments are required to give notice and hold a public hearing before adopting or amending a TDR ordinance. Ordinances must identify sending and receiving areas with a map or other description, indicate the minimum acreage and reduction in density of the sending property, and assess the infrastructure in the receiving

area to ensure its ability to accept higher densities. The locality also must establish systems to monitor the severance, ownership, and assignment of the development rights.

The landowner in a sending area may use the rights to build at a higher density in the receiving area or sell their rights to a developer to use in the receiving area. Once established, sending area restrictions are binding to both current and future landowners, protecting the land in perpetuity.



### CONSIDERATIONS

TDR has not been widely used in Virginia, but a few local governments have adopted ordinances, including Arlington, Frederick, and Stafford Counties. Because of its reliance on zoning, it can be difficult to build public support to pass a TDR ordinance. Still, with careful planning, ongoing administration, and clear regulations, TDR can be an effective way to leverage the private marketplace to protect farmland while also accommodating a community's goals for thoughtful growth. Ultimately, the success of a TDR program depends on strong demand for development rights in the areas that receive them.

### To Learn More

- › [“A Model Transfer of Development Rights Ordinance for Virginia Localities”](#)
- › [American Farmland Trust: “Transfer of Development Rights”](#)
- › [American Planning Association: “Is Your Community TDR-Ready?”](#)
- › [American Planning Association: “Quick Notes: TDR”](#)