

## I. **Transfer of Development Rights (TDR)**

### A. **Background:**

A transfer of development rights program is a method of redirecting development from one part of the town, a “sending area,” to other lands in a different part of the town, a “receiving area.” The Town of \_\_\_\_\_ has adopted Dane County’s Transfer of Development Rights Ordinance to facilitate the mutually agreed, voluntary transfer of development rights between landowners in the town.

### B. **Objectives:**

The Town of \_\_\_\_\_ uses its TDR program to:

- a) preserve farmland and rural character;
- b) redirect nonfarm development away from productive agricultural lands;
- c) encourage permanent protection of large blocks of contiguous farmland;
- d) encourage permanent protection of regionally significant natural resource, environmental and recreational lands;
- e) allow farmers reasonable compensation for their land;
- f) direct development to more suitable areas where development is more efficiently served;
- g) develop at higher densities, and to;
- h) encourage infill development.

### C. **Policies & Programs – Transfer of Development Rights**

#### 1. Allocation of Development Rights

Development rights are determined by the town density policy in Agricultural Preservation Districts. Development rights are transferred from a specific sending area parcel to a specific receiving area parcel. Any development rights transferred to a parcel in a receiving area, but not immediately used for the development planned in that receiving area parcel, remain with that receiving area parcel (that is, the development rights run with the land), and are subject to all other requirements related to development rights as set forth in the Dane County TDR Ordinance and the *Town of \_\_\_\_\_ Comprehensive Plan*.

#### 2. Sending Areas.

All lands within the Farmland Preservation Area are considered potential “sending areas.” Prior to application, landowners must provide a Density Study Report from the Dane County Department of Planning and Development showing that the proposed sending property has development potential remaining under the Agricultural Preservation density policies. Within potential sending areas, the town will consider petitions by landowners to rezone all or a portion of their property into the TDR-S overlay zoning district (s.10.304, Dane County Code),

provided at least one of the following criteria is met:

- a. Soils on the land are predominately classified as Groups I, II or III agricultural soils under the Dane County Land Evaluation and Site Assessment (LESA) system (see Map 5-?), OR;
- b. Reduction of potential nonfarm development would result in large blocks of contiguous, permanently protected farmland, natural resource land or other open space.

### 3. Receiving Areas.

All lands in the \_\_\_\_\_ planning area(s) are considered potential “receiving areas”. Within these areas, the town may consider petitions by landowners to rezone all or a portion of their property to an appropriate zoning district with a TDR-R overlay (s. 10.305, Dane County Code). The town board will recommend approval of petitions to the TDR-R overlay district, provided all of the following criteria are met:

- a. Proposed receiving areas are not within Ice Age Trail Corridor or Black Earth Creek Water Quality Corridors (see Map 5-?);
- b. Proposed receiving areas have minimal impact on Group I, II or III soils under the Dane County Land Evaluation and Site Assessment (LESA) system (see Map 5-?);
- c. Proposed receiving areas are not within the Village of \_\_\_\_\_ Urban Service Area (see Map 8-?), unless expressly permitted in an adopted intergovernmental agreement between the Town of \_\_\_\_\_ and the Village of \_\_\_\_\_;
- d. Proposed development would be clustered, and adjacent to existing nonfarm development;
- e. No more than one development site or lot is created in a receiving area for every one development right retired in a sending area;
- f. If within an Agricultural Preservation Area, lot size for proposed development does not exceed 5 acres, and;
- g. Proposed development meets all of the siting criteria for the appropriate planning area as identified in the *Town of \_\_\_\_\_ Comprehensive Plan*.

### 4. Implementing a Transfer.

Transfers from sending areas to receiving areas are accomplished by recording conservation easements and deed notices. Transfers are permitted only within the Town of \_\_\_\_\_.

- a. **Conservation Easements.** In order to transfer development rights from a sending area property in the TDR-S overlay district, the sending landowner must record a TDR Conservation Easement with the Dane County Register of

Deeds. Conservation easements must:

1. Meet all the requirements of ss.10.004(153) and 10.304(4)(b), Dane County Code;
2. Specify the number of development rights being sent from the property;
3. Specify the number of development rights (if any) remaining on the property, and;
4. Must include the Town of \_\_\_\_\_ and Dane County as co-holders of the easement.

b. **Deed Notices.** Landowners of both the sending area and receiving area properties must record deed notices with the Dane County Register of Deeds. Deed notices must:

1. Meet all of the requirements of ss. 10.004(110) and 10.305(5)(c), Dane County Code;
2. Track the number of rights transferred from each sending parcel;
3. Track the number of rights transferred to each receiving parcel;
4. Identify each sending and receiving parcel by legal description and parcel number, and;
5. Reference a recorded TDR easement on an appropriate TDR-S-zoned parcel.

5. Development Permits in Receiving Areas.

Before obtaining zoning, driveway or building permits for development in the TDR-R overlay zoning district, developers must present all of the following to the Town of \_\_\_\_\_ Board and to Dane County Zoning:

- a. Recorded deed notice documents on both the sending and receiving parcels as described in (2)b. above.
- b. A letter from the Town of \_\_\_\_\_ Plan Commission indicating that the TDR transaction is consistent with transfer policies, siting criteria and all other applicable policies of the *Town of \_\_\_\_\_ Comprehensive Plan*, and;
- c. A letter from the Dane County Planning Division indicating that the TDR transaction is consistent with the *Dane County Comprehensive Plan*.