

# **TDR**

## **Buckingham Township, Bucks County**

### **ARTICLE 34**

#### **ADMINISTRATION AND TRANSFER OF DEVELOPMENT RIGHTS**

##### **Section 3406 Transfer of Development Rights (TDR)**

**[Amended by Ordinance 95-10, December 13,1995]**

A. Transferable development rights are available to owners of lots of 25 acres or more within the Agricultural AG-1 District and Agricultural-2 AG-2 District. In order to be eligible, the property must be enrolled in the Township's Agricultural Security District, pursuant to Pennsylvania Act 43.

B. Number of transferable development rights available to owners of eligible lots is determined by the following formula:

Base site area of tract, as determined by the calculations in Article 31 of this Ordinance, multiplied by 0.85 = Total TDRs available for the lot or tract of land.

For each dwelling unit located on the lot, subtract one TDR from the total number calculated + one additional TDR for future use.

C. No transferable development rights are available for the following properties:

1. lots or properties from which all of the development rights have already been sold or transferred;
2. lots or properties on which an easement or other restriction in a deed or other document has been granted to the Farmland Preservation Program of Bucks County, any utility company, to any other program or agency, or to any person, partnership, corporation, or other legal entity;
3. lots or properties which have 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;
4. land within the ultimate right-of-way of existing roads;
5. lots or properties or portions of lots or properties which have been designated and used to meet the open space or resource protection requirements of a subdivision or land development plan.

- D. The development rights may be issued and transferred or sold to a person, corporation, partnership, or other legal entity so designated by the landowner pursuant to the following:
1. The submission to the Township Zoning Officer of an agreement of sale for said rights, duly executed by the parties.
  2. The applicant shall submit for Township approval a restrictive covenant which would run with the land. The restrictive covenant shall be subject to the approval of the Township Solicitor and the Board of Supervisors and shall restrict the land from which TDRs have been sold so as to comply with the following:
    - a. The location of any additional dwelling unit shall be specified in the zoning permit application. The location of the dwelling unit and its driveway shall not harm the economic viability of the subject land for agricultural production.
    - b. Other buildings or structures may be permitted to be constructed for agricultural purposes only. No conversions of agricultural buildings to dwelling units shall be permitted.
    - c. Subdivision of the land from which TDRs have been sold is permitted only if such subdivision of land shall not harm the economic viability of the land for agricultural production.
    - d. Land from which TDRs have been sold may be used only for the following purposes:
      - i. Agriculture - Production of crops, livestock, and livestock products, and field crops, fruits, vegetable crops.
      - ii. Nursery - Horticultural specialties, nursery stock, shrubs, trees, and flowers.
      - iii. Accessory retail sales of agricultural products in accordance with the requirements of the Township Zoning Ordinance for Agricultural Retail use.
      - iv. Preservation of natural landscape by leaving land and resources undisturbed in forest, field, wetland, or other natural and unaltered state.
    - e. No zoning permits shall be issued for other uses; and no land development approval shall be granted for other uses.
    - f. Where the total available TDRs from a tax parcel are not sold, the regulations of subsection 5. shall be complied with and shall be reflected in the recorded covenant.
  3. The development rights shall not be transferred and become usable until the restrictive covenant has been approved by the Township and has been recorded with the Bucks County Recorder of Deeds.

4. The land from which development rights have been sold shall not be used to meet the open space requirements or minimum lot area or yard requirements for any other use nor may it be used for any other purpose that would support or serve development, including but not limited to fields for land application of sewage, sewage lagoons, stormwater management facilities, utilities, or other uses.  
[Amended by Ordinance 95-01 enacted April 12,1995]
5. If the agreement of sale of development rights would entail less than an entire tax parcel, the following additional regulations shall apply:
  - a. The portion of the tax parcel involved in the proposed sale of development rights shall be described by metes and bounds and must be shown on a plot plan.
  - b. Where a portion of the total available TDRs are sold from a lot or property, the future sale of additional TDRs from that property shall occur so that the land from which TDRs are sold is contiguous, to the greatest extent possible, to the lands from which TDRs were previously sold.
  - c. Where a portion of the total available TDRs from a lot or property are sold, the landowner proposing to transfer TDRs shall provide with his application for the TDRs a resource inventory plan of the property which shall indicate the location of arable land, wetlands, floodplains, steep slopes greater than 25 percent (to the extent that these slopes are required to be protected under the terms of this ordinance), and forests.

The applicant may use data available at the Township Building or at the Bucks County Planning Commission to determine the location of floodplains, wetlands, and forests. The purpose of the resource inventory plan is to determine that a fair proportion of the land to be preserved through the sale of TDRs is buildable under the terms of this Zoning Ordinance. The land from which TDRs are sold shall have a ratio of resource-restricted land to land area which is equal to or less than the ratio of resource-restricted land to total lot area of the entire property, so that the following standard is met:

Total lot area A acres

Total lot area with resource restrictions (floodplains, wetlands, forests, and steep slopes) B acres  
 $\% \text{ of lot with resource restrictions} = B/A$  of area from which TDRs are sold which can have resource restrictions  $\leq B/A$

- d. Where a portion of the total available TDRs from a lot or property are sold and the owner of the lot intends to develop the remaining portion of the lot, the remaining development potential shall be calculated on the basis of the number of dwelling units which could have been constructed on the lot

or property without the sale of TDRs. When the applicant intends to develop the lands remaining after the sale of TDRs from a portion of a tax parcel, the applicant shall provide to the township a sketch plan which indicates the number of dwelling units which could be developed on the property under the terms of this Zoning Ordinance so that the remaining development potential can be determined. The number of TDRs sold shall be subtracted from the total development potential of the property to determine the number of dwelling units which could be built on the lands remaining, in accordance with the following example:

Available TDRs for entire tax parcel as calculated in this section 100  
TDRs  
TDRs proposed to be sold 50  
Development yield of entire tax parcel as demonstrated by a sketch plan 65  
dwelling units  
Total remaining development 15 dwelling units potential which can be  
built on the tax parcel on the lands from which TDRs have not been sold  
(difference between total yield and TDRs sold and transferred)

- E. Voluntary Use of Development Rights - Uses meeting the requirements of this Ordinance and other ordinances of the Township shall be approved up to the maximum density or impervious surface ratio as permitted for uses without the purchase of development rights.

Nothing in this Ordinance shall require a landowner to purchase development rights.

- F. Transfer and Recording - Development rights shall be recorded in the Bucks County Recorder of Deeds Office in accordance with their regulations. All transfers and recording shall be conveyed and recorded in full compliance with Section 619.1, Transferable Development Rights, of the Pennsylvania Municipalities Planning Code.
- G. Transferable development rights may be used only in the districts and for the uses designated by the Buckingham Township Zoning ordinance as being eligible to receive and use transferable development rights. No transferable development rights may be used in zoning districts unless specifically permitted by the Buckingham Township Zoning ordinance, nor may any transferable development rights be used to increase the density of any use unless specifically permitted by the Buckingham Township Zoning ordinance. (Amended February 14, 2001]
- H. No final plan approval shall be granted until the applicant has presented to the township an agreement of sale or other documentation to demonstrate to the satisfaction of the township that the necessary TDRs have been acquired to support the proposed development.