

§ 9.2.6 TRANSFER OF DEVELOPMENT RIGHTS REGULATIONS

(A) PURPOSES AND DEFINITIONS:

(1) This Section is adopted to further the land use goals of the Village of Los Ranchos as set forth in the 2010 Master Plan including, but not limited to, promoting economic development, preserving the agricultural character of the Village, preserving the scenic views of the Village and protecting and promoting commercial development on Fourth Street.

(2) This Section shall govern and control the allocation, transfer and use of transferable development rights within the Village of Los Ranchos.

(3) This Section authorizes the Village of Los Ranchos to create a TDR bank, where development rights may be purchased and conveyed by the local government, in order to stabilize the market in development rights and to regulate or control the development of property the local government wishes to protect. The Village may create its own TDR bank or may cooperate with a private entity in establishing such a TDR bank.

(4) Definitions:

(a) **Developed** means a lot with at least one existing dwelling unit or commercial structure.

(b) **Development Rights** means the right of the owner of a parcel of land, under land development regulations, to place that parcel and the structures thereon to a particular use or to develop that land and the structures thereon to a particular area, density, bulk or height.

(c) **Residential Sending Areas** means the following residential zones: A-1, A-2 and A-3.

(d) **Minimum Sending Lot Sizes** means the smallest lot size that qualifies as a sending site for TDRs. The minimum size refers to the area of the entire lot, not just a lot portion located within one of two or more sending site categories.

(e) **Net Sending Area** means the land area of a lot or lot portion after the following area deductions: (1) the area of land precluded from development by dedications and deed restrictions imposed prior to TDR deed restrictions, (2) for each existing dwelling unit, the net sending area shall be reduced by the minimum lot size allowed in the underlying zoning district.

(f) **Receiving Area** is an area designated by this Section as appropriate for development beyond its base development limits through the transfer of development rights from sending areas.

(g) **Sending Area** means an area designated by this Section as a sending area appropriate for the conveyance of transferable development rights from the area.

(h) **Transferable Development Rights (“TDRs”)** means the potential development that may be transferred from a sending area as designated by this Section and used at a designated receiving site to allow additional residential or non-residential development as determined by this Section. TDR



allocations and requirements are expressed in whole numbers, rounding up if .5 or higher.

(i) Transfer Development Right Threshold (“TDR Threshold”) is the existing underlying zoning in the Village.

(j) Transfer of Development Rights means the procedure described in this Section whereby the owner of a parcel in the sending district may convey development right to the owner of a parcel in the receiving district. The development rights conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing on that parcel. However, the receiving parcel is entitled to use the transferred development rights only after the instrument conveying those rights have been recorded with the Clerk of Bernalillo County, New Mexico.

(k) Receiving Parcel means a parcel of land in the receiving area that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights.

(l) Undeveloped means a lot with no existing dwelling units or commercial structures.

(m) Village means the Village of Los Ranchos de Albuquerque.

(B) ADOPTION OF SENDING AREA AND RECEIVING AREA MAP. The residential sending area and commercial receiving area map is attached to this Section. The sending areas and receiving areas shown on that map are hereby created, established and adopted.

(C) SENDING AREAS. Owners of land within any sending area are not required to transfer TDRs. The transfer of TDRs is an option that owners may voluntarily choose to use or not use.

(1) A-1 Zone

(a) Minimum Sending Lot Size:

- 1. Undeveloped:** No minimum lot size
- 2. Developed:** 2 acres

(2) A-2 Zone

(a) Minimum Sending Lot Size:

- 1. Undeveloped:** No minimum lot size
- 2. Developed:** 2 acres

(3) A-3 Zone

(a) Minimum Sending Lot Size:

- 1. Undeveloped:** No minimum lot size
- 2. Developed:** 3 acres

(D) RECEIVING AREAS.

(1) Receiving Area 1: C-1 Zone

(a) The Comprehensive Zoning Code designates a threshold density in this zone. No TDRs are required to achieve the threshold density. To exceed the threshold density, one TDR must be transferred to this area for each additional



three (3) dwelling units permitted in excess of the TDR threshold or baseline density.

(2) Receiving Area 2: Village Center Zone

(a) The Village Center Zone designates a threshold density in this zone. No TDRs are required to achieve the threshold density. To exceed the threshold density, one TDR must be transferred to this area for each additional ten (10) dwelling units permitted in excess of the TDR threshold.

(E) SENDING AREA PROCEDURES.

(1) Sending Area Owner Options. In conjunction with the deed restrictions of an undeveloped sending site, a property owner may request to convey title to that land to the Village or to other entities authorized by the Village to accept title including private land trusts and non-profit organizations. The TDR Manager shall determine whether or not to accept title based on guidelines approved by the Village Board of Trustees. In developing these guidelines, the Village may elect to only allow the conveyance of title to a land trust, non-profit organization or other entity rather than the Village. Any landowners requesting to convey title shall demonstrate that the subject site meets environmental standards set forth in those guidelines.

(2) Sending Site Owner Applies for TDR Easement Approval and Recordation. Property owners who wish to transfer TDRs shall apply for approval and recordation of a TDR Easement by submitting to the TDR Manager an application, application fee, title report and signed but unrecorded TDR Easement using forms approved by Village. The TDR Easement shall specify the amount of future development to be retained, if any, and the uses allowed on the sending site following recordation. The TDR easement shall state that the grantee of the easement is the Village and/or a land trust or non-profit organization authorized by the Village. In all circumstances, the sending area site may be used for agricultural purposes, both commercial and non-commercial but no structures may be erected.

(3) TDR Manager Approves the Application and Records the TDR Easement. The TDR Manager shall review the application, title report and unrecorded TDR Easement. If satisfied that the information is complete, the TDR Manager shall approve the TDR Easement. The easement shall include the number of TDRs available for transfer and the serial numbers assigned to these TDRs. The TDR Manager shall record the completed and approved TDR Easement. The TDR Easement shall be recorded before recordation of a Deed of Transfer of Development Rights and before final development plan approval of the receiving site development that requires these TDRs.

(4) Deed of Transfer of Development Rights. In order to transfer TDRs, the sending site owner shall complete and record a Deed of Transfer of Development Rights using a form approved by the Village. This Deed shall not be recorded prior to recordation of the corresponding TDR Easement. The Deed shall identify the TDR Easement that created the TDRs, the number of rights conveyed by the Deed, the property to which these TDRs were originally attached and prior Deeds of Transfer of Development Rights, if any. A new Deed of Transfer of Development Rights shall be recorded each time TDRs are conveyed. TDRs may be conveyed to brokers, developers, investors or any other party before they are ultimately used at a TDR



receiving site. A TDR right shall not be conveyed to the receiving property until after the recorded Deed of Transfer of Development Rights has been received by the Village.

(F) RECEIVING AREA PROCEDURES.

(1) Receiving Area Designation. This Section designates TDR receiving areas and states the number of TDRs needed to exceed the TDR threshold. Other than the requirement to obtain TDRs to exceed this threshold, all other requirements and procedures of the Comprehensive Zoning Code shall control.

(2) Timing of TDR Acquisition. Landowners wishing to exceed threshold density must acquire TDRs to receive preliminary development plan approval.

(3) Sending Area Development Rights Extinguishment Procedures. Prior to final development plan approval of a receiving site project requiring TDRs, the developer of that project shall provide to the TDR Manager a signed, written confirmation that the development rights on the sending area property have been extinguished. This document shall indicate the number of TDRs being used, the recorded Deed of Transfer of the TDRs, and the receiving site project where these TDRs will be used. The document shall also state that the subject TDRs cannot be thereafter conveyed or used. If satisfied that all the information outlined above has been submitted and is complete, the TDR Manager shall record the confirmation document and notify the Village Planning and Zoning Department that the TDR requirements needed for final development plan approval of the receiving site project have been met.

(4) Deed Restrictions Requirements. Along with the confirmation document, a recorded deed that indicates the restrictions to the deed after the TDR transfer shall be submitted.

(G) REJECTION. The bases for rejecting a proposed development transfer are:

(1) The development rights released by the instrument vary significantly from the development rights that the sending parcel is supposed to be releasing pursuant to the transfer of development rights, or there is some other significant error in the instrument;

(2) The proposed receiving parcel is not in the receiving district; or

(3) The transfer would increase the density or intensity of development on the receiving parcel to a degree that is inconsistent with the Master Plan or is incompatible with the land uses on neighboring lots or parcels.

(H) CONVEYANCE OF RIGHTS. Any instrument purporting to convey a conservation easement or development right is void unless the Village of Los Ranchos has indicated its approval on the instrument of conveyance.

(I) AUTHORITY. The Village of Los Ranchos is authorized to enter into an agreement with a private, non-profit entity to effectuate the transfer of development rights. The non-profit entity may constitute the TDR bank and may purchase TDRs and hold such TDRs until a buyer is found for the development right. Rules and procedures that govern the relationship between such an entity and the Village of Los Ranchos shall be developed with the entity acting as the TDR bank at such time as such an entity is formed or an existing entity agrees to act as a TDR bank. The public purpose of such a private entity is to retire development rights regardless of whether a present market exists for receiving such development rights.

