

# Innovative Zoning Techniques

## Transfer of Development Rights

The Green Valley Institute exists to help the Quinebaug-Shetucket National Heritage Corridor communities and citizens sustain their environment and quality of life while growing their economics.

We are a non-regulatory organization dedicated to:

- Improving the knowledge base from which land use and natural resource decisions are made,
- Building local capacity to protect and manage natural resources as our region grows.

The GVI was created through a formal partnership of the Quinebaug-Shetucket National Heritage Corridor and the University of Connecticut's College of Agriculture and Natural Resources, University of Massachusetts' Cooperative Extension System and other partners.



**QUINEBAUG-SHETUCKET HERITAGE CORRIDOR, INC.**  
Preserving the Last Green Valley



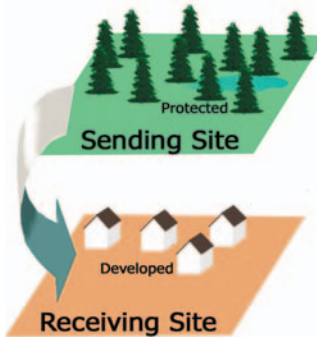
**University of Connecticut**  
College of Agriculture and Natural Resources



Innovative Zoning Techniques were identified as one of the top three areas of interest in the Green Valley Institute's most recent needs assessment survey. Communities in the Quinebaug Shetucket Heritage Corridor are interested in finding new ways to address community growth. Innovative zoning techniques can provide new solutions for focusing growth, protecting natural resources and retaining rural character.

**Transfer of Development Rights** or TDR is an innovative tool that can be used to protect open space, natural resources and farmland by directing development to village centers and downtowns. The specifics of how TDR programs work vary greatly, however the general premise is the same. Development rights are transferred from one property to another. In the process farmers and other landowners are paid to permanently protect their land and new development is encouraged in villages and other growth centers.

TDR programs identify sending and receiving zones. The sending zone usually consists of agricultural land, forest or other natural or historic resources that a community is interested in protecting.

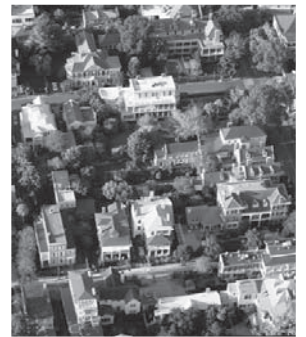


The receiving zone is designated in an existing village center or downtown or other area where infrastructure is already in place and development is desired. Sometimes the receiving zone is the site of a new village.



TDR programs allow developers to build with more intensity in receiving zones in exchange for land being permanently protected in a sending zone. Overlay districts (see GVI fact sheet #6) are often used to designate

both sending and receiving zones. The number of development rights in both districts is based on the underlying zoning. Density bonuses can be used to promote development in the receiving zones. Sometimes the base density is decreased before the TDR program is put in place to increase the incentive to participate in the program. TDR programs have been most successful where there is a strong market for development.<sup>1</sup>



Courtesy of Alex MacLean, Landslides



Courtesy of Shelley Poticha, Congress for the New Urbanism

TDR has now been used across the country. In some places TDR programs are conducted on a regional or countywide basis.

One example is San Luis Obispo County, California. In this program development rights are sold to the Land Conservancy of San Luis Obispo County who in turn sells them to receiving site owners for increased density. The Conservancy acts as a "TDR bank", which facilitates the buying and selling of development rights. A TDR bank offers more flexibility since a buyer and seller don't have to be available simultaneously<sup>2</sup>. In other programs development rights are bought and sold privately, directly from property to owner to property owner.



**Some New England towns** have town-wide TDR programs including Falmouth, Plymouth and Groton, MA. Northampton, MA has a TDR program that identifies the Farms, Forests and Rivers Overlay Districts as the sending zone. A special permit is required for any new development in these districts. The receiving zone is the Planned Village District where additional density is allowed as of right with the TDR program. Another New England town, Jericho, Vermont requires that sending sites must contain



25% prime agricultural land. There are two receiving zones which allow for village scale development with a 100% density bonus for participating in the TDR program. The base residential density in the village zone is 1 dwelling per acre and can be increased to 2 dwellings per acre with the TDR program.<sup>3</sup>

**In Connecticut** TDR is allowed under state statute (Chapter 124, Sections 8, 8-2f and 8-2e) however, it has not yet been widely used. The Town of Hebron, CT adopted TDR to transfer future development out of the Amston Lake District to protect the lake, groundwater and the neighborhood. The receiving area is a designated portion of the Sewer Service District<sup>4</sup>.

CT statutes also allow for the development of inter-municipal TDR programs. The statutes say that “two or more municipalities, with the approval of the legislative body, may execute an agreement providing for a system of development rights and transfer of development rights across boundaries of municipalities (Section 8-2e).”

**In Massachusetts** TDR is allowed by special permit, which allows development rights to be transferred between districts. These ordinances or by-laws include incentives such as increases in density or population, intensity of use or amount of floor space or percentage of lot coverage, that encourage the TDR in a manner that protects open space, preserves farmland, promotes housing for persons of low and moderate income or furthers other community interests. The online MA Smart Growth Toolkit has Model TDR Bylaws with two different approaches, the Preservation Approach and the Density Bonus Approach. For more information see [http://www.mass.gov/envir/smart\\_growth\\_toolkit/bylaws/TDR-Bylaw.pdf](http://www.mass.gov/envir/smart_growth_toolkit/bylaws/TDR-Bylaw.pdf).

**In the QSHC**, there may be an opportunity for a number of communities to join together to protect rural character and agricultural uses and either reinvigorate an old village center or downtown or direct growth to a new center by using TDR. The Citys’ of Newbury and Newburyport, MA have recently been working on an intercity TDR program that may prove to be a model for other multi-town TDR programs in New England.

Additional reading on TDR programs:

Kings County Washington:

<http://dnr.metrokc.gov/wlr/tdr/index.htm>

N.J., Office of Smart Growth

<http://www.nj.gov/dca/osg/resources/tdr/index.shtml>

Land Use Law Center Pace University

<http://www.law.pace.edu/landuse/btdr.html>

Saved by Development: Preserving Environmental Areas, Farmland and Historic Landmarks with Transfer of Development Rights, R. Pruetz. Arje Press, Burbank, CA. 1997

Footnotes

<sup>1</sup> Pruetz, R. (1997). Saved by Development: Preserving Environmental Areas, Farmland and Historic Landmarks with Transfer of Development Rights. Arje Press, Burbank, CA.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid

<sup>4</sup> Town of Hebron Zoning Regulations

## Additional Information:

**Green Valley Institute:** [www.theLastGreenValley.org/GVI](http://www.theLastGreenValley.org/GVI)

<http://www.mass.gov/legis/laws/mgl/40a-9.htm>

[http://www.mass.gov/envir/smart\\_growth\\_toolkit/pages/SG-bylaws.html](http://www.mass.gov/envir/smart_growth_toolkit/pages/SG-bylaws.html)

<http://www.cga.ct.gov/2005/pub/Chap124.htm>



A publication of the Green Valley Institute.  
Please contact us at 860-774-9600 to schedule  
a workshop on this topic.

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