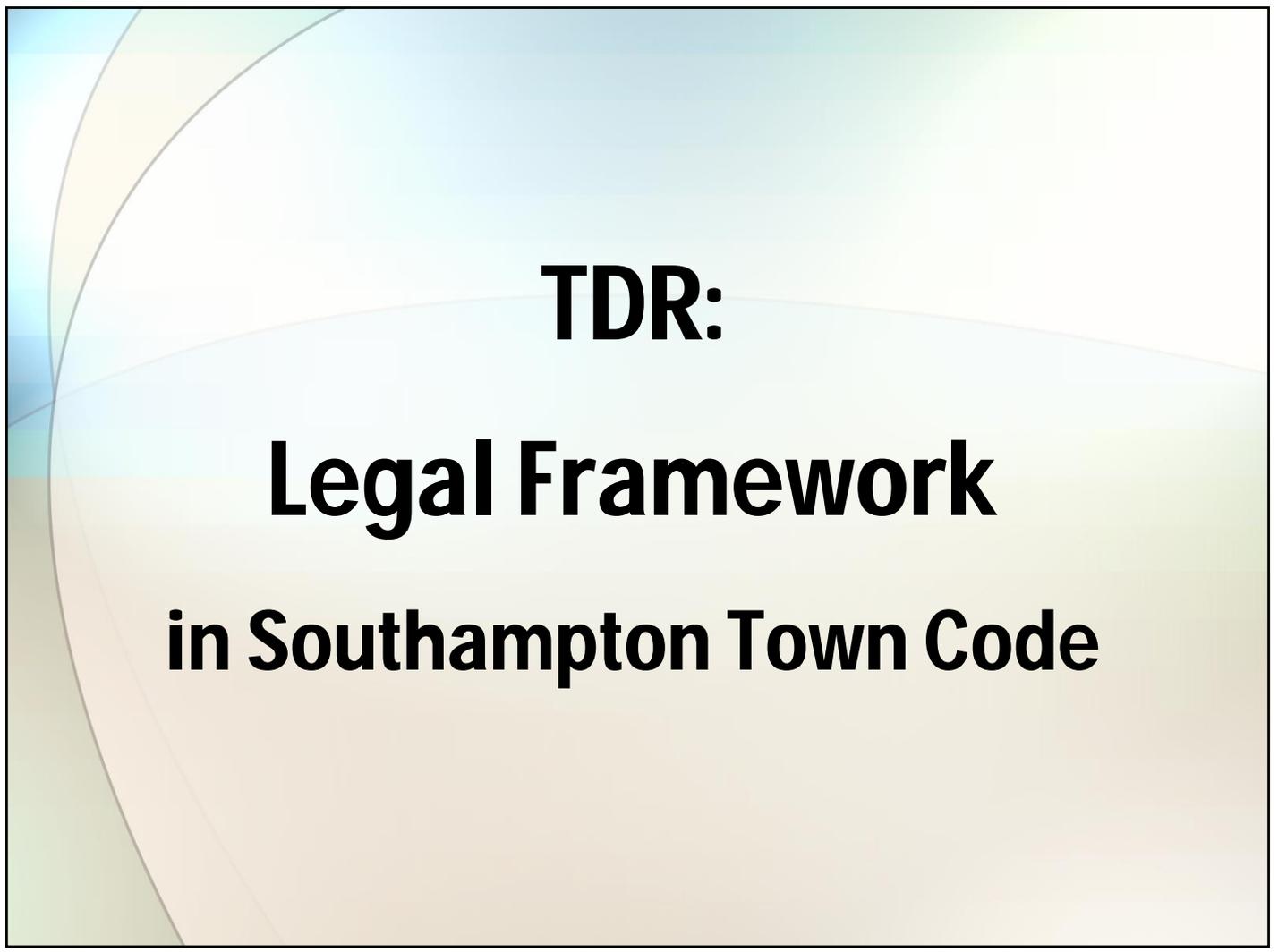




A Proposal to Revitalize the Town of Southampton

Transfer of Development Rights (TDR) Program



TDR:

Legal Framework

in Southampton Town Code

Property is a “Bundle of Rights”

In which each "stick in the bundle“ represents an individual right:

- Right to sell the property (i.e. bank lien)
- Right to clear trees on the property (i.e. APOD)
- Right to use the property in a certain way
(i.e. zoning)
- Right to use the property in a certain way
(i.e. zoning)
- Right to discharge wastewater/sewage (SCDHS)
- Right to develop structures on the property (TDR)

DEFINITION: Development Right

“The legal interest and rights permitted to a lot, parcel, or area of land respecting permissible use, area, density, bulk or height of improvements executed thereon.”

Southampton Town Code

§330:217 Central Pine Barrens Overlay District

Transfer of Development Rights

Innovative and Complex Growth Management Tool

- **SENDING AREAS** are identified through the planning process as in need of preservation (e.g., agricultural land, drinking water supply protection areas).
- Under TDR program, landowners in sending areas are allowed to **SELL** the **RIGHT TO DEVELOP** their lands, and these lands are preserved in perpetuity.
- These development rights may be purchased by other landowners and **TRANSFERRED** to lands located in designated **RECEIVING AREAS**, which are appropriate for development due to existing infrastructure, etc.

DEFINITION: Transfer of Development Rights

“The process by which development rights or Pine Barrens credits are transferred from one lot, parcel or area of land in any sending district to another lot, parcel or area of land in one or more receiving districts.”

**Southampton Town Code
§330:217 Central Pine Barrens Overlay District**

DEFINITION: Sending Area

“One or more designated parcels, districts, or areas of land in which development rights or Pine Barrens credits are designated as able to be used in one or more receiving parcels, districts, or areas”

Southampton Town Code

§330:217 Central Pine Barrens Overlay District

**Environmentally sensitive areas of land
i.e. groundwater recharge zones,
farmlands & undeveloped open space**

DEFINITION: Receiving Area

“One or more designated parcels, districts or areas of land to which development rights or Pine Barrens credits... may be transferred and in which increased development is permitted to occur by reason of such transfer”

Southampton Town Code

§330:217 Central Pine Barrens Overlay District

Areas appropriate for development due to presence of roads, sewage, transit, existing development, & other infrastructure

TDR Programs in Southampton Town Code Today

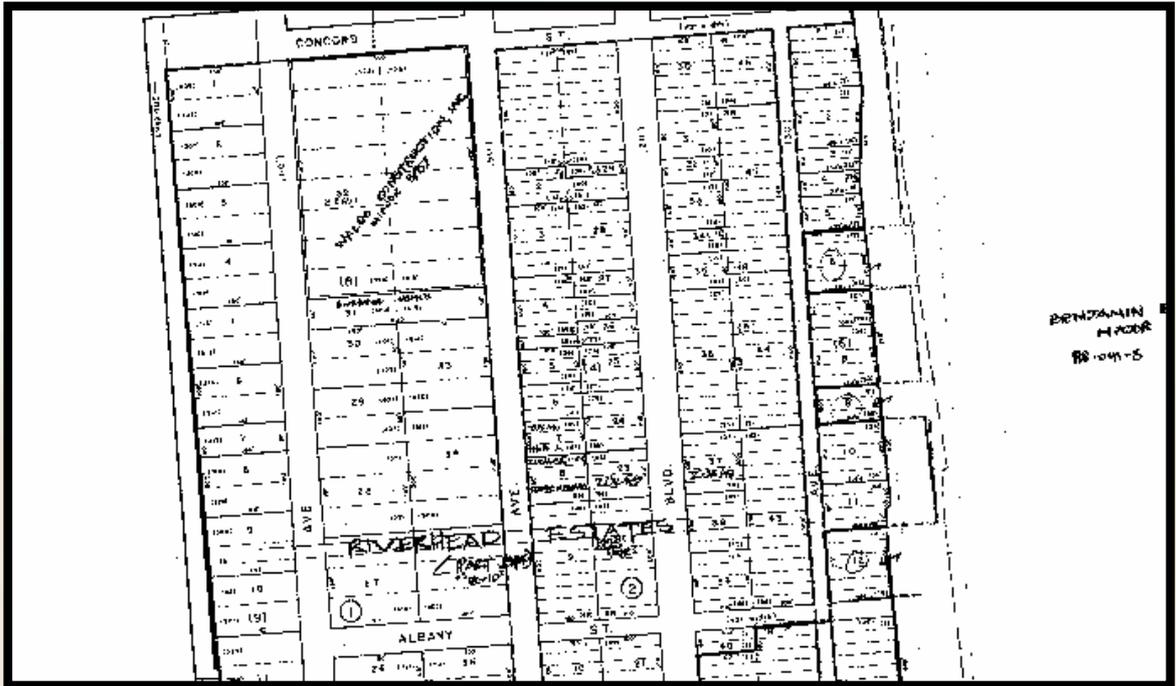
Sending Areas

- **Old Filed Maps & Special Old Filed Maps (1979)**
- **Purchase of Development Rights Prgm (1982)**
- **Central Pine Barrens Overlay District (1995)**
- **Agricultural Planned Development District
(Ch. 330-248, last rev. 2001)**

Receiving Areas

- **Old Filed Maps & Special Old Filed Maps (1979)**
- **Density Incentive, Carriage House, Workforce
Housing (Ch. 330-9, last rev. 2001)**
- **Planned Development Districts (PDD)
(Ch. 330-248, adopted 1995)**
- **Hamlet Office/Hamlet Commercial (HO/HC)**

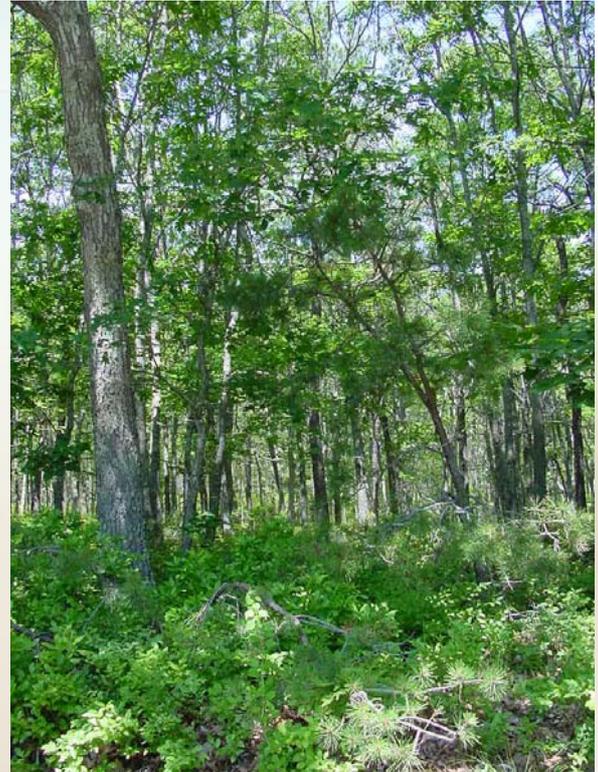
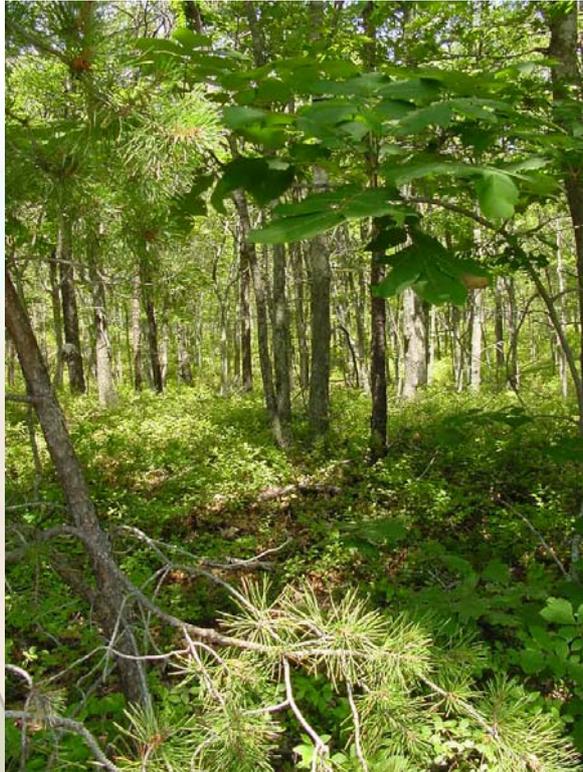
Old Filed Maps



Farmland



Groundwater Protection Areas



TDR Receiving Areas & Uses: Development in Appropriate Areas

**Create Diversity in Hamlets & Residential Areas
through Planned Development Districts (PDD),
Hamlet Office/Hamlet Commercial Zoning**



**Apartments Over
Stores**



**Mixed Uses & Hamlet
Densities**

TDR Receiving Areas & Uses: Development in Appropriate Areas

**Create Diversity in Hamlets & Residential Areas
through Density Incentive (330-9)**

**i.e. Community
Benefit Units**



Transfer of Development Rights Clearinghouse & Bank

“The establishment of a clearinghouse will allow the Town... to facilitate the purchase of development rights by private landowners. The Town will have the mechanism to purchase development rights using community preservation funds and then sell them to private developers, thereby recycling community preservation funds.”

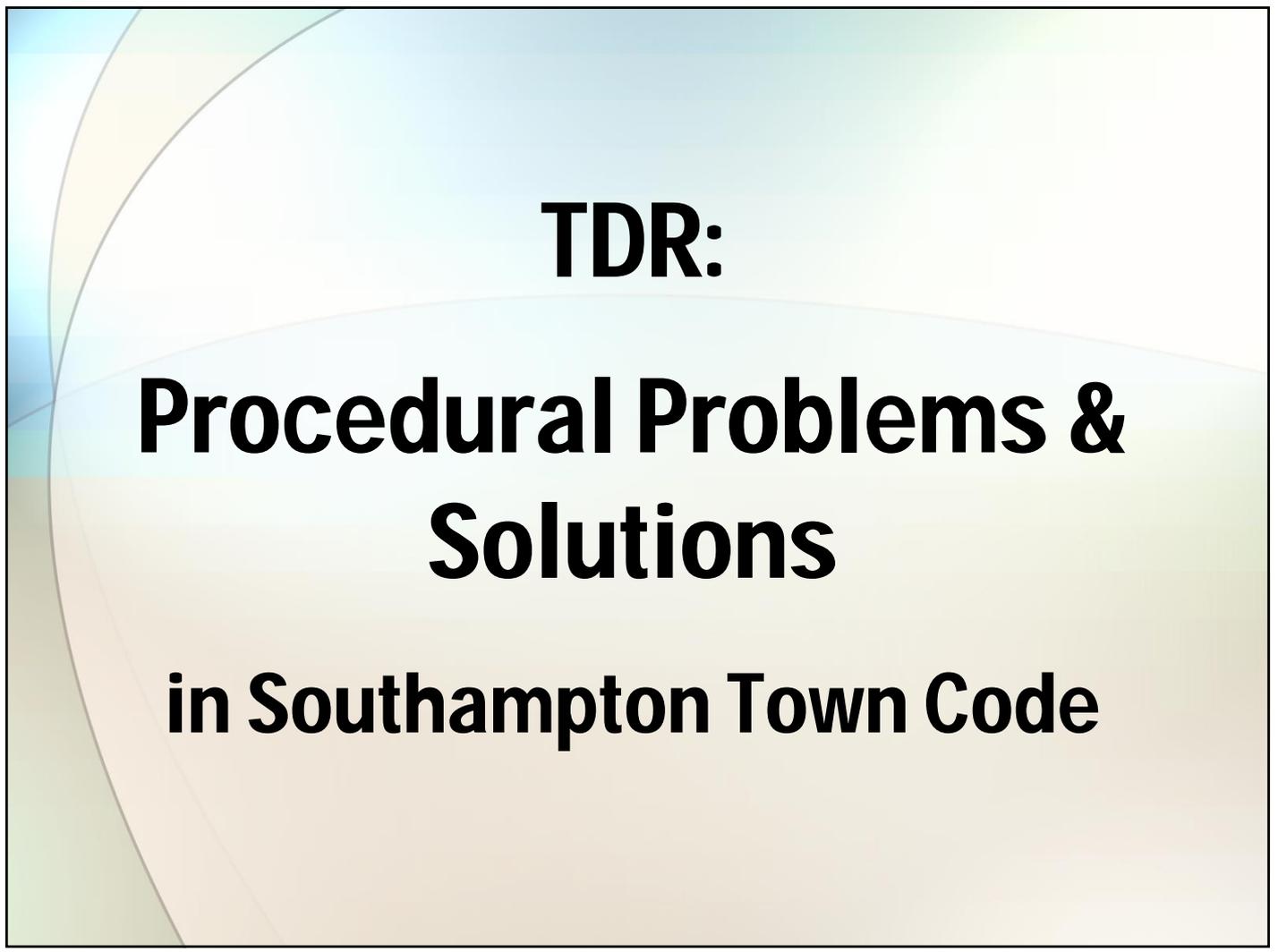
Southampton Town Code

§244. Transfer of Development Rights Procedures

Transfer of Development Rights Clearinghouse & Bank

- **Clearinghouse & Bank contributes to Implementation of the Comprehensive Plan by helping preserve farmland and other lands**
- **Community Preservation Funds can be used by Town to purchase TDR rights for Bank**
- **Land Management shall track these development rights**
- **Membership of this Clearinghouse consists of Town Board members**

Southampton Town Code § 244-6. Establishment of Development Rights Clearinghouse.



TDR:
**Procedural Problems &
Solutions**
in Southampton Town Code

Problem: TDR Procedures

1. **Buyers and sellers have difficulty connecting.**
There is no central repository of information about who wants to buy and sell TDR.
2. **Landowners in sending areas have difficulty separating development rights from their properties.** Three totally different procedures for taking rights off of sending parcels are located in three different sections of Town Code
3. **Landowners in receiving areas have difficulty finding development rights to use on their properties** - Development rights are very difficult to find in many school districts

TDR Procedures

Problem: Buyers and sellers have difficulty connecting. There is no central repository of information about who wants to buy and sell TDR.

Solution: Town can act as a Clearinghouse for information about TDR

Solution: TDR Registry

Database of buyers and sellers of development rights, updated monthly

- Posted on Town website
- Copies available in Town Hall

Land-owner name	Sf or # TDR avail.	Map Name & Num.	School Dist	Address	Phone	SCTM	NOTES
INTERESTED IN BUYING CREDITS							
John Black	4	NA	Sagaponack	Montauk Highway	287-5000	900-111-1-11.1	
INTERESTED IN SELLING CREDITS							

Solution: TDR Handbook

“User’s Guide to the Southampton TDR Program”

Explains the program in layman’s terms incl.:

- **What lands are eligible for TDR**
- **What TDR Certificates are, and how to obtain them**
- **Legal documents required in the TDR process**
- **How to sell TDR**
- **How and where to redeem TDR**

Problem: TDR Procedures

Problem: Landowners in sending areas have difficulty separating development rights from their properties.

Three totally different procedures for taking rights off of sending parcels are located in three different sections of Town Code

SOLUTION: Revise TDR Procedures

Consolidate TDR Procedures into Chapter 244 (TDR Procedures) & Streamline:

-Make easier to understand, faster & less costly

-Provide uniformity, clarity, & flexibility

Solution: Revise TDR Procedures

§ 244: Transfer of Development Rights Procedures

- Streamline procedures

§ 330-7: Transfer of Permitted Res. Devel. Rts

- Eliminate redundant and outdated § 330-7

§ 330-55 & 60: OFM & Special OFM TDR Procedures

- Amend procedures to mirror those in Chapter 244

Solution: TDR Certificates

Problem:

- Landowners in sending areas have difficulty separating development rights from their properties,
- TDR are rarely available to be purchased by landowners in receiving areas

Solution: Town can encourage landowners to get “TDR Certificates” which are freely transferrable, like currency or stock certificates

SOLUTION: Letter of Interpretation

Owner of parcel submits "Letter of Interpretation" application and the following documents to Dept of Land Management: Survey; Deed; Owner's endorsement, if needed



Planning staff determine the number of development rights to be allocated based on the survey, underlying zoning, and any applicable yield factors in Town Code or subtraction factors i.e. wetlands



Letter of Interpretation (LOI) issued to landowner - it does not bind the Town legally in any way. LOI valid for 1 year from date of issuance.



Landowner may or may not choose to proceed with next step of process - APPLICATION FOR TDR CERTIFICATE

SOLUTION: TDR Certificate

Landowner submits TDR Certificate application and includes the following:

- Letter of Interpretation (LOI)
- Title Certification
- Conservation Easement
- Owners Endorsement (if necessary)
- NYS Form 584 and CPF Form
- Application Fee if required



Town attorney reviews and approves legal documents



Landowner files conservation easement and NYS tax forms with Suffolk County Clerk & gives filing receipt to TDR Bank Manager



Landowner receives TDR Certificate, which can be sold & conveyed on the private market.

TDR Certificate: Front



**Southampton Town
Transfer of Development
Rights (TDR) CERTIFICATE**

This certifies that: _____ hereby own(s)

_____ **SOUTHAMPTON TOWN TDRs**

And that a deed restriction concerning that property identified as district _____, section _____, block _____, and lot _____, situated in the Town of Southampton, County of Suffolk, is recorded in Liber _____ at Page _____ at the Suffolk County Clerk's Office

THIS CERTIFICATE ENTITLES THE OWNER TO A LAND USE DENSITY OR INTENSITY INCREASE AS PROVIDED IN THE TOWN CODE OF THE TOWN OF SOUTHAMPTON AND PURSUANT TO TOWN BOARD AND PLANNING BOARD REVIEW AND APPROVAL

_____ Signature	_____ Date
_____ Signature	_____ Date

TDR Certificate: Back

SALE, CONVEYANCE OR TRANSFER OF SOUTHAMPTON TOWN TDR CERTIFICATES

Within ten (10) business days the person selling, conveying, transferring or pledging a Southampton Town TDR Certificate, or any interest therein, shall deliver to the Southampton Town TDR Bank this Certificate representing the TDRs sold, conveyed, transferred, or pledged. Upon receipt by the TDR Bank, a Certificate will be issued in the name of the person(s) who have secured an interest in the development rights. A new Certificate will be issued to the grantor if he/she has retained any interest in the TDRs represented by this Certificate.

Grantee (Buyer)

Name: _____
Address: _____
City/State/ Zip Code: _____
Signature: _____

Grantor (Seller)

Name: _____
Address: _____
City/State/ Zip Code: _____
Signature: _____

Number of TDRs Sold, Conveyed or Transferred: _____
Date of Transaction: _____
Interest Secured: _____
Consideration: _____

Attach written evidence of the transaction
(e.g., Contract of Sale, Bill of Sale)

TOWN OF SOUTHAMPTON TOWN TDR CERTIFICATES PLEDGED AS SECURITY

When Southampton Town TDR Certificates are pledged as security for loans, the lending institution shall return this certificate to the Southampton Town TDR Bank properly completed, within ten (10) business days. Upon receipt by the TDR Bank, a revised Southampton Town TDR Certificate reflecting the encumbrance will be re-issued.

Owner (Borrower)

Name: _____
Address: _____
City/State Zip Code: _____
Signature: _____

Lending Institution

Name: _____
Address: _____
City/State Zip Code: _____
Signature: _____
Title: _____
Amount of loan: _____
Term of Loan: _____
Number of Southampton Town TDRs pledged as collateral: _____

Attach written evidence of the transaction.

(Note: When Southampton Town TDRs are released as security, the TDR Bank will again reissue a Southampton Town TDR Certificate upon notification by the owner and the lender.)

REDEMPTION OF SOUTHAMPTON TOWN TDR CERTIFICATES

When Southampton Town TDR Certificates are redeemed in association with a development project approved by a municipal approving agency, the person redeeming the Southampton Town TDR Certificate shall return this Certificate to the Southampton Town TDR Bank within ten (10) business days of their redemption.

Owner (Person Redeeming)

Name: _____
Address: _____
City/State Zip Code: _____
Signature: _____

School District in which TDRs Redeemed: _____

Suffolk County Tax Map of parcel where TDRs redeemed: 900 - _____ - _____

Number of Southampton TDRs Redeemed: _____

Date municipal development approval was issued: _____ (date)

Municipal Official issuing development approval:

Name: _____
Title: _____
Signature: _____

Process for Private Market TDR Sales

Owner of Southampton Town TDR (individual, LLC, etc.) sells their TDR Certificate



Buyer brings TDR Certificate to TDR Bank Manager, with written evidence of the sale (i.e. bill of sale)



TDR Bank Manager fills out Transfer/Sale/Conveyance Form on the back of the TDR Certificate with info including:

- Buyer & Seller name and contact info
- Number of TDR to be transferred/sold/conveyed
- Date of transaction and amount paid



Old TDR Certificate is stamped "Cancelled", filed in TDR Bank files, new TDR Certificate is issued to Buyer

Solution: Town TDR Bank

Problem: Landowners in receiving areas have difficulty finding development rights to purchase

Solution: “Central Bank” for TDRs

**Bank buys from people who want to sell,
Resells TDR to private market through
sealed-bid auction process**

Pursuant to Southampton Town Code § 140 Community
Preservation Fund

**Can utilize a portion of TDR in Bank for sewage or
zoning density for needed Community Benefit
Units**

TDR Bank: Buying Development Rights

TDR Bank issues public notice of intent to purchase X# development rights in Y School District or OFM (legal notice, website, etc.)



Interested landowners submit surveys and documentation to Town. Town determined # of TDR through Letter of Interpretation process



Town orders an appraisal of property, to determine value of development rights



Town makes offer to landowner



If landowner accepts offer, development rights are purchased and held by Town in TDR Bank

TDR Bank: Selling Development Rights on Private Market

Sealed Bid Auction

TDR Bank issues public notice of intent to sell X# development rights in Y School District or OFM (legal notice, website, advertisements, etc.)

Town sets upset price & deadline for submission of sealed bids for TDR



Interested landowners submit sealed bids to TDR Bank. Bidders ranked according to \$\$ amount of bid offered.



TDR go to top bidders, until supply of TDR offered for sale has been exhausted.



Buyers submit payment & receive TDR Certificates

Take-Home Message

Southampton Town Code already provides legal framework for many valuable ways to use Transfer of Development Rights

BUT: In practice, current procedures make it very difficult for applicants to use TDR program

Solutions: Overview

Solution #1: TDR Registry & Handbook

Solution #2: Revise Town Code to allow procedures to encourage landowners to get “TDR Certificates” which are freely transferable, like currency.

- § 244: TDR Procedures – add LOI and Certificate process
- § 330-7: Eliminate
- § 330-55 & 60: OFM & Special OFM TDR Procedures - Amend to mirror Ch. 244

Solution #3: Central Bank for TDRs

- Buys from people who want to sell
- Resells TDR to private market through sealed-bid auction process

Take-Home Message

By amending TDR procedures, Town Board can revitalize Southampton's TDR Program and

**Create a powerful tool
to encourage better development**