

ARTICLE 1

TRANSFERABLE DEVELOPMENT RIGHTS

INTRODUCTION

Ownership of real estate is more than just ownership of a patch of dirt. Ownership comes with a bundle of rights, such as the right to occupy the surface of the land, the right to valuable things (such as oil and minerals) beneath the surface of the land, the right to plant trees and crops, the right to the airspace above the land, and the right to improve the land by adding roads and buildings such as houses and barns, and the right to sell or lease the land.

These various rights may be split, or “severed,” from the land and sold to others. In the American West, land often does not come with the rights to the minerals beneath it (“mineral rights”) or the water that lands on it or flows across it (“water rights”). In a city a building owner may sell the rights to the space above his building (“air rights”) to allow a larger building to be constructed above it. Similarly, “development rights” may be severed from undeveloped rural land and transferred to another owner separately from the land.

When a development right is severed from the land, a legal document is recorded with the county to protect the property and keep it rural. That legal document is defined in this Article.

A TDR can be sold and purchased. The seller can profit by selling this one of the many rights that are a part of his or her bundle of rights. The seller continues to own the land and can continue to live on it or farm it. The parts of the city from which property owners may sever their development rights and transfer them to other owners is called the “sending area.” The city’s sending area is defined in this article.

When a development right is purchased and applied according to the rules in this Article, the new owner receives an increase in development potential on his or her property, as regulated in Chapter 20, the City of Chattahoochee Hills Zoning Ordinance. The parts of the city in which a property owner may apply a transferred development right are called “receiving areas.” The receiving areas are defined in this Article and the rules for applying transferred development rights in the receiving areas are set forth in this Article as well as in Chapter 20, the City of Chattahoochee Hills Zoning Ordinance.

SECTION 1: PURPOSE

In the Comprehensive Land Use Plan for the City of Chattahoochee Hills, the City established a goal of retaining its rural and natural character. Consequently, the City desires to preserve land which defines the City as rural and natural such as farmland and forests. This Article enables a process by which such land is preserved through the transfer of Development Rights from one property to another to promote the conservation of natural, agricultural, environmental, historical and cultural resources in at least 60% of the of the City while encouraging a denser, walkable, financially-sustainable development pattern in the remaining 40% that does develop. The value of the

Transferred Development Rights allows non-developing landowners to share in the economic benefits of traditional neighborhood development without encouraging sprawl.

The use of Transferable Development Rights (TDR) is an important part of the City's strategy for the preservation of its rural character. The transferring of Development Rights is a method for permanently conserving and protecting land by increasing the development potential in one area (the receiving areas) in return for reducing development potential in another (the sending area). The transfer process should be guided by the characteristics of certain parcels or areas where preservation or development is more or less desired (because of physical or market realities).

The TDR Program is designed to achieve the following:

- A. **Increase Total Open Space.** The TDR Program provides a means of clustering development on a City-wide scale, increasing the amount of open space.
- B. **Increase Contiguous Open Space.** The TDR Program permits development to be concentrated on fewer properties, thereby providing more contiguous open space that is better wildlife habitat.
- C. **Reduce Infrastructure.** If each property in the City develops, this will maximize the miles of roads and infrastructure that must be maintained and serviced by the City. The increase of density on a property through the purchase of TDRs decreases the length of roads and infrastructure, while keeping the number of units the same. This results in a substantial reduction in the length of roads and infrastructure to be maintained and serviced per dwelling unit, thus decreasing the residents' tax burdens.
- D. **Preserve Scenic Resources.** Much of the City is currently forested. Roadways that are hemmed in by trees and tree canopy by their nature feel rural. Additionally, land in agriculture or meadow is important to the area's character because these are the only places with views that enable one to see the horizon and have a sense of space. While the nature of any specific undeveloped parcel visible from the road may change over time, the fact of its visibility (or potential visibility) makes it by definition, scenic, even if only in the potential, and therefore worthy of preservation. If development is located on these properties, it destroys the rural character because it is highly visible. TDRs provide a way in which this land may be protected through development by transferring the development potential to more suitable sites through the sale of TDRs.
- E. **Other Preservation Goals.** The city also has an interest in protecting agricultural activities, improving the connectivity of and access to preserved space, and cultivating outdoor recreational opportunities.

The TDR program may be utilized to preserve property in two ways. The standard TDR method is an open market of property owners negotiating transactions. An alternative, called Density Transfer Charge (DTC) is also available to property owners seeking additional density. Property owners utilizing DTCs pay into a city-controlled fund that is utilized to preserve property via the TDR market.

SECTION 2: DEFINITIONS

Words not defined herein shall be construed to have the meaning given by Merriam-Webster's Collegiate Dictionary, tenth edition or later edition. Terms defined in Chapter 20, the Zoning Ordinance, or Chapter 22, Subdivision and Land Development Ordinance shall apply to this Ordinance unless otherwise separately defined herein.

Base Area

The net area of a property from which development Rights may be severed and sent.

Conservation Easement

A legally binding agreement between a property owner and a governmental body or charitable organization qualified under O.C.G.A. § 44-10-2(2) that restricts the type and amount of development and use that may take place on a property

DTC (Density Transfer Charge)

An optional mechanism by which a Receiving Area property owner may increase density on a parcel by paying a standardized fee to the city. The city then uses the money to protect property by purchasing TDRs according to established priorities. The DTC option provides speed and convenience to property owners and allows the city to protect the properties it considers most important.

Land Trust

A non-profit corporation with its primary mission to preserve land

Receiving Area

Those properties which may receive Development Rights from a Sending Area.

Scenic Area

The area on a map adopted by the City Council that indicates property with potential scenic value. Protection of this property is more crucial to the fulfillment of the city's goal to remain deliberately rural.

Sending Area

Those properties from which Development Rights may be severed and transferred to a Receiving Area.

TDR (Transferable Development Right)

A TDR is a development right that has been severed from a sending area property according to the rules in this chapter. TDRs can be bought, sold, or exchanged; they can be held for conservation or investment purposes. When they are applied to a receiving area property they can increase the number of Density Units available to that property, up to the maximum density allowed by zoning.

SECTION 3: TYPICAL PROCESSES

3.1 *Typical Process (Sending Area Property)*

- The TDR seller (Sending Area owner) and the TDR buyer (Receiving area owner) negotiate the terms of the transaction
- Preliminary TDR Assessment (4.7)
- Prepare Survey and Other Documents (4.8?)
- Final TDR Assessment (4.8)
- Prepare and Execute Conservation Easement (6.1.B)
- Department issues certificate and serial numbers (4.8?)
- Prepare Deed of Transfer (if a buyer is ready) (6.1.A)
- Provide city with Attorney's opinion as to the sufficiency of the documents (6.1.c)
- Record Conservation Easement (6.1.B)
- Sign and Record Deed of Transfer (6.1.A)
- Record the Transaction (6.2)

3.2 *Typical Process (Receiving Area Property)*

- Determine TDRs required (5.3)
- Negotiate the terms of the transaction with the TDR seller(s) [Sending Area owner(s)]
- Sign and Record Deed of Transfer (6.1.A)
- Record the Transaction (6.2)
- Assign TDRs to Receiving Area Parcels and record with the city

SECTION 4: SENDING AREAS

4.1 *Allocation of Development Rights*

This section controls how TDRs are allocated to an owner of sending area property. The TDR is distinguished from the right to develop on a property in **Section 4.2, TDRs**. The allocation is prioritized to provide the greatest incentive to retain as open space the most desirable scenic properties. **Section 4.3 Eligibility**, spells out some types of property that are not eligible to sever and send TDRs. **Section 4.4, Determine the Base Property Area**, sets the land area of a property that is eligible to sever and send TDRs. **Section 4.5, Allocation to 1 Acre to 29 Acre Parcels**, addresses small parcels that have the potential only for minor subdivision or no subdivision, most of which already have homes on them so they have limited open space value. **Section 4.6, Allocation to Properties of 29+ Acres**, is the allocation to larger parcels that could become farmettes or hamlets and whose preservation is a higher priority. It also addresses the allocation to the highest priority scenic land and provides an incentive to sell TDRs. **Section 4.7, Reservation for Future Home Sites**, makes clear the number of TDRs to be deducted if the landowner intends to reserve additional sites for future dwellings.

4.2 *TDRs*

TDRs are not a right to develop on a property; they are a right to sever and send the development potential to another landowner. The City has a vested interest in seeing transfers occur because protecting some property while providing additional development potential for others not only

supports the community’s stated goal of remaining rural, it also reduces the burden on the taxpayer of municipal service delivery. Because there is no direct relationship to the right to develop, the TDR comes into existence only when they are severed and a conservation easement protecting the land as perpetual open space is recorded.

4.3 Eligibility

Landowners or representatives with the authority to transfer fee simple ownership of any parcel in the City of Chattahoochee Hills (except as noted below) may apply for a Transfer of Development Rights Certificate. Parcels not eligible are as follows:

1. Any property zoned as TN, VL, HM, or PC Districts.
2. Any parcel from which all Development Rights have previously been severed, sold or otherwise transferred;
3. Any parcel on which a conservation easement or other permanent deed restriction has been previously granted which effectively removes all development potential;
4. Any parcel fully developed based on its existing zoning, or as otherwise described in this ordinance

4.4 Determine the Base Area

A survey of the land from which a TDR will be sold shall be submitted by the landowner or ultimate purchaser of the TDR. The survey shall identify the total area of the parcel, and subtracting the following from the total area to determine the **Base Area**:

- A. **Road Right-Of-Way.** Deduct land in the ultimate right-of-way of any existing public rights-of-way.
- B. **Water Bodies.** Deduct land in a water body whose area is in excess of one quarter (1/4) acre, whether it is all on the property or not. For example, this ensures that land located under the Chattahoochee River does not count.
- C. **Conservation Land.** Deduct any land already under a permanent conservation easement or deed restriction that preserves the land as open space.

4.5 Allocation to 3 to 29 acre parcels

Any parcel from three to 29 acres is covered by this section. The TDRs that are available to these small parcels are based on the right to subdivide parcels into a maximum of three lots, with a three-acre minimum lot size. Accordingly, no TDRs are available for parcels that are less than three acres.

Table 1.1: Allocation of TDRs by Parcel Area and Existing Development Status		
Parcel Area (Acres)	Existing Development Status	
	One Existing or Future Dwelling Unit	No Existing or Future Dwelling Unit
At least 3, but less than 6	No TDRs	1 TDR
At least 6, but less than 9	1 TDR	2 TDRs
At least 9, but less than 20	2 TDRs	Number of acres less 3
At least 20, but less than 29	3 TDRs	Number of acres less 3

4.6 Allocation to properties of 29+ acres

One of the chief methods of fulfilling the vision in the city's Comprehensive Plan to "Keep it rural" is to permanently protect the land that is currently scenic land or has the potential to become scenic. In order to encourage preservation of scenic property and to balance the total number of TDRs in the City, property without scenic potential is valued at a lower rate than property with scenic potential.

A landowner owning more than 29 acres of land intending to sell development rights is given 0.8 development rights for acre of **Base Area** owned, plus an additional 0.4 development rights for every acre of land in the mapped **Scenic Area**. At the same time,

The City will calculate the development rights using the following calculation:

Calculate TDRs

1. Multiply the acres of **Base Area** by 0.8.
2. Multiply the acres of **Scenic Area** by 0.4
3. Add these figures
4. Subtract 3 TDRs per home or reserved home site located on the property, or 5 TDRs if the home or home site is in the Mapped Scenic Area to determine the base number of TDRs.
5. The total of this equation is equivalent to the number of TDRs available from the property.

4.7 Reservation for Future Home Sites

Any additional home sites reserved on the property will reduce the number of TDRs available by three (3) per home site, or five (5) per home site located in the Mapped Scenic Area.

4.8 Preliminary Assessment of Available TDRs

- A. **Generally.** A landowner may seek a preliminary assessment of available TDRs by submitting the following documentation to the City Planner:
1. A site survey that identifies parcel lines, water bodies (as provided in Section 4.4.B.), total site area, and base area (calculated according to the standards of Section 4.4).
 2. Documentation of any conservation easements, deed restrictions, or TDRs already conveyed from the property.
 3. Identification of existing dwellings and reserved dwelling sites.
- B. **Preliminary Assessment.** The City Planner shall review the documents and applicable thoroughfare plans, and then issue a Preliminary Assessment which indicates the estimated number of TDRs that may be conveyed from the property, as follows:
1. The Director shall make a good faith effort to estimate the number of TDRs that may be conveyed from the property based on the materials provided by the landowner.
 2. The Preliminary Assessment shall include language that it is not final until final documentation, including a survey and base area calculation sealed by a land surveyor registered in the State of Georgia, is provided to the City that verifies the information in the Preliminary Assessment Letter.
 3. The city will work to issue Preliminary Assessments within one week of the submittal of the information by the landowner. The form of the Preliminary Assessment is provided below.

**City of Chattahoochee Hills
PRELIMINARY TDR ASSESSMENT**

Parcel Identification

Owner _____

Parcel Tax ID _____

Address _____

Preliminary TDR Assessment

Base Area

Total Parcel Area: _____

Subtract:

Right-of-Way: _____

Waterbodies (> 1/4 Ac.): _____

Conservation Land: _____

Base Area (Acres): _____

Small Parcels (less than 29 acres)

With Existing or Future Dwelling:	<input type="checkbox"/> Less than 6 acres	0 TDR
	<input type="checkbox"/> At least 6, but less than 9 acres	1 TDRs
	<input type="checkbox"/> At least 9, but less than 20 acres	2 TDRs
	<input type="checkbox"/> At least 20, but less than 29 acres	3 TDRs

No Existing or Future Dwelling:	<input type="checkbox"/> Less than 3 acres	0 TDR
	<input type="checkbox"/> At least 3, but less than 6 acres	1 TDR
	<input type="checkbox"/> At least 6, but less than 9 acres	2 TDRs
	<input type="checkbox"/> At least 9, but less than 29 acres	#Acres less 3

EST. TDRs AVAILABLE: _____

Prepared by _____

Date _____

NOTICE:

This preliminary assessment is based on the information provided by the applicant, which has not been verified. The estimated number of TDRs available is a good faith estimate, but is not binding upon the City until a final determination is made based on a sealed survey and formal title search.

Large Parcels (29 acres or more)

Base TDRs: Base Area x 0.8 _____

Scenic TDRs: Scenic Acres x 0.4 _____

SUBTOTAL: Base TDRs + Scenic TDRs _____

Less Dwelling -3 TDRs _____

Less Dwelling (Scenic Areas) -5 TDRs _____

EST. TDRs AVAILABLE (Subtotal - Dwelling): _____

4.9 Final Assessment of Available TDRs

- A. **Generally.** A landowner who wants to sell development rights shall apply for a final assessment of available TDRs, as follows:
1. A sealed site survey that identifies parcel lines, water bodies (as provided in Section 4.4.B.), total site area, and base area (calculated according to the standards of Section 4.4).
 2. Metes and bounds written legal description and plat prepared within 90 days of the date of application by a licensed surveyor;
 3. Documentation of any conservation easements, deed restrictions, or TDRs already conveyed from the property, certified complete by an attorney or title agency.
 4. Written description of the physical characteristics of the property;
 5. Site plan which illustrates existing or proposed dwellings, historic structures, easements or other encumbrances; and
 6. The processing fee as adopted by the City Council.
- B. **Calculation of Development Rights.** After the application of a qualifying conservation easement to the property, the Department shall assign serial numbers accordingly, and issue a transfer of Development Rights certificate. Development Rights shall be calculated according to Sections 4.4 – 4.7 of this article. The final number of TDRs will be calculated by rounding down to the nearest whole number.
- C. **Final TDR Assessment.** The City Planner shall review the documents and applicable thoroughfare plans, and then issue a final assessment which sets out the number of TDRs that may be conveyed from the property. The form for the Final TDR Assessment is provided below.

4.10 Creation of TDRs

After the Final TDR Assessment is complete and the Sending Area Property owner has executed a Conservation Easement as required in 6.1(b), the city shall assign serial numbers for each TDR severed on the sending area property and provide a TDR Certificate to the applicant. The Director shall keep a log of TDR Certificates and serial numbers in the City's TDR Registry.

4.11 What to do with TDRs

TDRs are an interest in real property. They may be held as an investment; they also may be sold to or exchanged with any person or entity capable of owning real property. The city may purchase TDRs from property owners in pursuit of its land preservation goals, but it is under no obligation to do so at any time or for any particular price. TDRs are assumed to reach their greatest financial value when applied to a receiving area property to increase its potential development density, as covered in Section 5, below and in Chapter 20, the Zoning Ordinance.

4.12 Appeal of Calculation

Any landowner or authorized representative aggrieved by a final decision of the Department related to the certification of transfer of Development Rights may appeal such final decision to the Planning Commission by filing, in writing, setting forth plainly and fully why the calculation is in error. Such appeal shall be filed no later than 30 days after the date of the department's final decision.

**City of Chattahoochee Hills
FINAL TDR ASSESSMENT**

Space above for recording information

Parcel Identification

Owner _____

Parcel Tax ID _____

Address _____

Attach Legal Description _____

Legal Description _____

Preliminary TDR Assessment

Base Area

Total Parcel Area: _____

Subtract:

Right-of-Way: _____

Waterbodies (> 1/4 Ac.): _____

Conservation Land: _____

Base Area (Acres): _____

Small Parcels (less than 29 acres)

With Existing or Future Dwelling:

- Less than 6 acres 0 TDR
- At least 6, but less than 9 acres 1 TDRs
- At least 9, but less than 20 acres 2 TDRs
- At least 20, but less than 29 acres 3 TDRs

No Existing or Future Dwelling

- Less than 3 acres 0 TDR
- At least 3, but less than 6 acres 1 TDR
- At least 6, but less than 9 acres 2 TDRs
- At least 9, but less than 29 acres #Acres less 3

EST. TDRs AVAILABLE: _____

Prepared by _____ Date _____

Documentation Provided (Attach)

Large Parcels (20 acres or more)

Base TDRs: Base Area x 0.8 _____

Scenic TDRs: Scenic Acres x 0.4 _____

SUBTOTAL: Base TDRs + Scenic TDRs _____

Less Dwelling -3 TDRs _____

Less Dwelling (Scenic Areas) -5 TDRs _____

EST. TDRs AVAILABLE (Subtotal - Dwelling): _____

Record of Transfers and Use

Transfers				Use			
Date	#Transferred	Transferred To	Book/Page	Date	Applied	Book/Page	City Planner

SECTION 5: RECEIVING OF TDRS

A landowner may purchase development rights to increase the development potential on a site, known as the **Receiving Site**. The purchase may be made between landowners or from any holder of TDRs not affixed to a receiving site. This Section governs the purchase of development rights and the development that can be built with the purchased development rights.

Density Transfer Charge Option: TDR Receiving Site owners shall have the option of gaining bonus density by paying a Density Transfer Charge (DTC) amount in lieu of each TDR that would otherwise be required. See Section 8.

5.1 *Eligible Properties*

Receiving Areas are those properties intended for mixed-use development; specifically any property in the HM, VL, or TN zoning districts or subdistricts not permanently protected as Open Space. Additional Receiving Areas may be designated through the amendment process as set forth in the City of Chattahoochee Hills' Zoning and the procedures and requirements set forth in O.C.G.A. § 36-66A-2.

5.2 *Development Potential with TDR*

When a developer purchases TDRs and applies them according to the process set forth in this article, the development potential of their property is increased by the number of TDRs purchased, up to the maximum density allowed in the district according to the zoning ordinance or the applicable conditions of zoning. One development right permits the development of a single Density Unit as described in Article 3 of Chapter 20, the Zoning Ordinance.

5.3 *Calculation Methods for Acquisition of Development Rights*

The following formulas shall be used to compute the number of TDR's that must be utilized to develop a Receiving Area:

The total number of proposed Density Units (as governed by Article 3 of Chapter 20, the Zoning Ordinance) in the Receiving Area (Hamlet, Village, or Town) minus the total gross acreage of the area to be developed = Total number of TDRs to be purchased from the Sending Areas

Example #1:

Suppose 3000 acres in a Town are to be developed at 4 units per acre. Therefore, 3000 acres x 4 units per acre = 12,000 units to be developed.

12,000 units minus 3000 acres (based on the baseline density available with the acreage of the receiving area, using a baseline of one unit per acre as shown in Table 3.6.1 in the Zoning Ordinance) = 9,000 TDRs to be purchased from the Sending Areas

Example #2:

Suppose 30,000 square feet of retail uses are proposed to be developed in a Receiving Area on which no Density Units remain. According to Table 3.5.1 in the Zoning Ordinance, one Density Unit = 1,000 square feet of retail: $30,000/1,000 = 30$ TDRs to be purchased from the Sending Areas

5.4 Use of TDRs

TDRs may be used, at the developer's option, to increase the density of a proposed development as follows:

Plan to Use TDR. The developer shall indicate on the initial preliminary plan submissions their intent to use TDRs to achieve the proposed plan's density. Since the Hamlet, Village, and Town are large-scale developments that can have development build-out periods of 15 to 30 years, the need for TDRs may change in response to future demands that are not anticipated in the initial development proposal. Hamlet, Village, and Town plans may be modified as provided in this Section.

- A. The plan shall indicate the units built by right and those to be built with TDRs.
- B. **Source of TDRs.** The developer shall submit proof of ownership of TDRs
- C. **Application of TDRs.** TDRs are applied as follows:
 - 1. If the developer owns the TDRs, they are approved for use with the signing of the final plan for the first phase.
 - 2. The developer shall submit TDRs with each phase of development in proportion to the number of dwelling units in the total development to be constructed with transferred development rights.
 - 3. A fee shall be paid to the City for the administration of the TDR tracking system in accordance with the City's fee schedule.
- D. **Disposition of TDRs.** As TDRs are used in the manner provided in C., above, the City shall keep a record of their use. See Section 6.2 and 6.3.

SECTION 6 ADMINISTRATIVE PROCESS

6.1 Recording of Transfer of Development Rights Transactions (Sending Areas)

- A. **Deed of Transfer.** A deed of transfer shall be required to convey Development Rights from a sending parcel to a purchaser. The deed shall be valid only if it is signed by the owner or attorney-in-fact of the sending parcel, complies with all legal requirements for the transfer of real estate, contains provisions established by the Department and is recorded in the chain of title after the conservation easement is secured against the sending parcel.

A deed of transfer shall contain a metes and bounds written legal description and a plat prepared by a licensed surveyor, the names and addresses of the grantor and the grantee of the development rights, the serial numbers of the TDRs being conveyed along with a copy of the TDR certificate issued by the department and proof of the execution and recordation of a conservation easement on the sending parcel.

- B. Conservation Easement.** To convey the certified Development Rights on a Sending Area, a conservation easement between the owner of the Sending Area and an organization authorized by the laws of the State of Georgia to accept, hold and administer conservation easements, pursuant to O.C.G.A. § 44-10-1 – Georgia Uniform Conservation Easement Act – must be signed and recorded with the City Clerk, prior to the deed of transfer. Conservation easements established pursuant to this section may not be released or nullified by any party.

The Department may develop a model conservation easement form and require it be used to fulfill the requirements of this section.

In addition to the provisions of the Georgia Uniform Conservation Easement Act, each conservation easement shall contain:

- (1) A metes and bounds written legal description and plat prepared by a licensed surveyor;
- (2) Prohibitions against the use and development of the Sending Area property which are inconsistent with open space as defined in Article 2 of Chapter 20, the Zoning Ordinance; and
- (3) Assurances that prohibition will run with the land and bind the landowner and every successor in interest to include a statement that the easement shall survive any merger of the easement interest and the fee simple interest of the property

Nothing in the easement shall be construed to convey to the public a right of access or use of the property and that the owner of the property, his heirs, successors and assignees will retain exclusive right to such access or use subject to the terms of the easement. This should not be interpreted to preclude a grant of public access if the owner of the property chooses to grant it, subject to the terms of the easement.

Landowners interested in creating TDRs on their property should be careful to begin the process with the city before executing a conservation easement since property protected by conservation easement is not eligible to be a TDR sending area (see section 4.3).

- C. Sufficiency of Documents.** Prior to the recordation of the deed of transfer and the conservation easement, parties to the transaction must obtain an opinion from a licensed Georgia attorney that the deed and easement have been executed by all necessary parties and is perpetual and binding on the property owner and every successor in interest. A copy of this document shall be provided to the City.
- D. Re-issuance of TDR Certificates.** In the event of the transfer of fewer than all of a landowner's development rights, the landowner must return the original TDR certificate to the Department upon the recordation of the conservation easement and deed of transfer. The landowner must provide a copy of the deed of transfer that contains the serial numbers of the Development Rights transferred.

Within 95 days of the receipt of the complete TDR certificate, the Department shall reissue a certificate to the landowner reflecting the remaining TDRs and the corresponding serial numbers.

6.2 *City Tracking of TDRs, Ownership, and application to property*

- A. **Tracking TDR Ownership.** When TDRs are transferred, the buyer or receiver of the TDRs shall register the deed with the city and the change in ownership shall be recorded in the City's TDR Registry.
- B. **TDR Application to Receiving Area Property.** When a TDR is affixed to a receiving area property, the Director shall enter the information into the City's TDR Registry, including the TDR serial number(s), the Parcel IDs of the affected Receiving Area properties, and the new total number of Density Units assigned to each affected Receiving Area Parcel.

6.3 *Recordation of Transfer of Development Rights Transactions (Receiving Areas)*

- A **Deed of Transfer.** The deed of transfer shall be recorded with the City, which shall keep a record of the transaction in the City's TDR Registry.
- B **Plat Requirements.** The following information shall be recorded on the face of any plat for property which receives Development Rights under the provisions of this article:
 - i. A statement that the Development Rights used in the plat have been transferred in accordance with the deed of transfer, prescribed in Section 6.1.a of this Article.
 - ii. The serial numbers of the TDRs conveyed along with a copy of the TDR certificate issued by the Department.

6.4 *Approval of Transfer of Development Rights and Appeal Process.*

A transfer of Development Rights shall be allowed by right. If the property and process meets the requirements of this article, the Director shall approve the transfer. Approval of a development right does not confer to the receiving property an automatic approval to develop. All development projects are subject to the review and approval procedures in the Zoning Ordinance and Subdivision Regulations.

6.5 *Appeal of Transfer Decision*

Any appeal or other legal challenge to the Director's final decision regarding a transfer of Development Rights shall be pursued by petition to the City Council by filing, in writing, setting forth plainly and fully why the decision is in error. Such appeal shall be filed no later than 30 days after the date of the department's final decision. Upon appeal there is a presumption of correctness of the Director's decision which must be overcome by the appealing party.

SECTION 7: LEGAL STATUS OF TDRS

Pursuant to O.C.G.A. § 36-66A-1, development rights made transferable pursuant to this article shall be interests in real property and shall be considered as such for purposes of conveyancing and taxation. Once a deed of transferable development rights created pursuant to section 6.1 of this article has been sold, conveyed, or otherwise transferred by the owner of the parcel from which the development rights were derived, the transfer of development rights shall vest in the grantee and become freely alienable. For the purposes of ad valorem real property taxation, the value of a transferable development right shall be deemed appurtenant to the sending property until the transferable development right is registered as a distinct interest in real property with the appropriate tax assessor or the transferable development right is used at a receiving property and becomes appurtenant thereto.

The City of Chattahoochee Hills or any person, company, institution other legal entity may purchase development rights and hold them for conservation purposes or for resale

SECTION 8: DENSITY TRANSFER CHARGES

The Density Transfer Charge option is offered as a simpler, more targeted form of the TDR program. DTCs provide benefit to the city by allowing the city to target properties most important for protection. It can also provide funds that can be leveraged with grants and other programs to protect a larger number of properties. The development process also is more streamlined and transparent since the DTC option eliminates the need to research and negotiate terms for TDRs.

8.1 Density Transfer Charge Option:

TDR Receiving Site owners shall have the option of gaining bonus density by paying a Density Transfer Charge (DTC) amount in lieu of each TDR that would otherwise be required.

DTC Rates. The DTC rate shall be adopted annually by the city as a part of its fee schedule. The rate initially shall be determined by a mass appraisal of the city by an appraiser hired by the city who specializes in Conservation Easements. The appraisal shall be based on the per-acre value of development rights within the city. In subsequent years, when enough transfers have taken place, DTC rates shall be approved by the City Council based on a representative sample of recent arms-length TDR transactions.

8.2 Use of DTC Funds:

The City shall use DTC proceeds exclusively for the preservation of TDR Sending Sites, TDR program administration (not to exceed 5% of DTC receipts), or, upon separate approval by the City Council, management of the city's open-space network. The City may combine DTC proceeds with funding from other sources in order to acquire TDR Sending Sites and TDR Sending Site easements.

8.3 DTC Application to Receiving Area Property.

When a DTC is applied to a receiving area development, the city shall assign a serial number to each DTC unit. As the development is platted, the DTCs are assigned to individual properties and the

Director shall enter the information into the City's TDR Registry, including the DTC serial number(s), the Parcel IDs of the affected Receiving Area properties, and the new total number of Density Units assigned to each affected Receiving Area Parcel.

8.4 DTC Liquidation.

DTCs may be paid at the time of rezoning or may be paid at the time of issuance of building permits at the rate of 125% of the pro rata share of the original DTC value.

If the DTCs are paid with building permits, the charge per Density Unit used in the building permit shall be based on the change in density due to the rezoning divided by the number of Density Units of the rezoned property. The charge per Density Unit shall be calculated by the following method: $1.25 \times \text{DTC rate} \times (\text{total Density Units of the rezoned property} - \text{number of acres of rezoned property}) / \text{total Density Units of the rezoned property}$. This charge shall be paid at the time a building permit is issued

Example:

Suppose the owner of 1000 acres applied for a rezoning to VL (Village). The minimum residential density in a VL district is 2 units per acre, meaning they could develop 2000 units in the village. The number of DTCs assessed would be $2000 \text{ (units)} - 1000 \text{ (original acres)} = 1000 \text{ DTCs}$. If the established rate per DTC were \$4000.00, the total assessed would be \$4,000,000.

If the property owner were to opt to have the DTCs paid at the time of permitting, the amount charged per dwelling unit would be $1.25 \times \$4,000 \text{ per DTC} \times (2000 \text{ total units} - 1000 \text{ acres}) / 2000 \text{ total units} = \$2,000 \text{ per unit}$.

The property owner could also purchase the required number of TDR's on the open market, which in this case would be 1000 TDRs.

SECTION 9: LAND TRUST

The City Council may approve a Memorandum of Understanding (MOU) between the City and Land Trust. This MOU would describe the roles and responsibilities of the City and the Land Trust in preserving rural land in the City. The MOU would authorize the Land Trust to utilize funds collected from DTCs to purchase TDR's or to purchase land Fee Simple, remove the Development Rights to create TDR's and subsequently sell or lease the land. The MOU would outline the Development and the methods that would govern the Land Trust use of city funds to protect land by conservation easements.

The MOU shall require an accounting of all funds provided to the Land Trust from Density Transfer Charges and the number and location of acres preserved. The MOU shall also require that any income earned through conservation activities funded by DTCs shall be subject to the same restrictions as money collected directly from DTCs.

The Land Trust is obligated to monitor and protect the land covered by Conservation Easements it owns in perpetuity. The MOU may authorize the Land Trust to utilize some nominal portion of the DTC funding to cover the costs of annual monitoring and reporting of the property on which the Conservation Easement is established and the cost of Legal Services to seek corrective actions in court in the event that the covenants of the Conservation Easement are violated and the land owner does not take corrective action.

A Conservation Committee comprised of two residents of the City, two members of the Board of the Land Trust and the Executive Director of the Land Trust must approve all real estate transactions such as the purchase of a Conservation Easement. The two resident members for the Conservation Committee are nominated by the Mayor and approved by City Council. The other members of the Conservation Committee are recommended by the Executive Director, if any, and approved by the Board Chair of the Land Trust.

Members of the Conservation Committee serve three-year terms and may be appointed for one additional three-year term. Terms of membership on the Committee are staggered to provide continuity from year to year. The Executive Director of the Land Trust is a permanent member of the Conservation Committee.