

BOARD OF SUPERVISORS
COUNTY OF STAFFORD
STAFFORD, VIRGINIA

ORDINANCE

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, Stafford County Administration Center, Stafford, Virginia, on the 24th day of February, 2015:

<u>MEMBERS:</u>	<u>VOTE:</u>
Gary F. Snellings, Chairman	No
Laura A. Sellers, Vice Chairman	Yes
Meg Bohmke	Yes
Jack R. Cavalier	Yes
Paul V. Milde III	Yes
Cord A. Sterling	Yes
Robert "Bob" Thomas, Jr.	Yes

On motion of Mr. Milde, seconded by Mr. Thomas, which carried by a vote of 6 to 1, the following was adopted:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 28-35, TABLE 3.1, "DISTRICT USES AND STANDARDS" AND TABLE 3.1(A), "STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS (TDR);" SEC. 28-355, "APPLICABILITY;" SEC. 28-356, "RIGHT TO TRANSFER DEVELOPMENT RIGHTS; GENERAL PROVISIONS;" SEC. 28-357, "SENDING PROPERTIES;" SEC. 28-358, "RECEIVING PROPERTIES;" AND SEC. 28-360, "TRANSFER OF DEVELOPMENT RIGHTS SENDING PROPERTY DEVELOPMENT LIMITATIONS"

WHEREAS, Virginia Code §§ 15.2-2316.1 and 15.2-2316.2 authorize the Board to adopt a Transfer of Development Rights (TDR) Ordinance and establish a TDR program; and

WHEREAS, at its meeting on February 18, 2013, the Board adopted Ordinance O13-21, which established administrative procedures for a TDR program; and

WHEREAS, the Board desires to amend the County Code to modify the TDR program provisions; and

WHEREAS, the Planning Commission conducted a public hearing on this Ordinance and provided its recommendations to the Board; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the public testimony, if any, received at the public hearing; and

WHEREAS, the Board finds that public necessity, convenience, general welfare, and good zoning practices require adoption of this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 24th day of February, 2015, that Stafford County Code Sec. 28-35, Table 3.1, "District Uses and Standards," and Table 3.1(a), "Standards for Transfer of Development Rights (TDR);" Sec. 28-355, "Applicability;" Sec. 28-356, "Right to transfer development rights; general provisions;" Sec. 28-357, "Sending properties;" Sec. 28-358, "Receiving properties;" and Sec. 28-360, "Transfer of development rights sending property development limitations," be and they hereby are amended and reordained as follows, all other portions remaining unchanged:

Sec. 28-35. – Table of uses and standards.

Table 3.1, District Uses and Standards, sets forth the uses and standards for each zoning district in Stafford County. No land or structure shall be used, occupied or developed except in accordance with the standards set forth therein.

Table 3.1. District Uses and Standards

B-3 Office.

(c) Requirements:

<i>(1)</i>	<i>Intensity:</i>	<i>Ratio</i>
	Maximum floor area ratio.....	0.65
	<u>Maximum floor area ratio with TDR.....</u>	<u>1.3</u>
	<u>Minimum open space ratio.....</u>	<u>0.30</u>
	<u>Minimum open space ratio with TDR.....</u>	<u>0.15</u>

Table 3.1(a) Standards for Transfer of Development Rights (~~TDRs~~) (TDR), sets forth the uses and standards for all development utilizing (~~TDRs~~) TDR for each zoning district in Stafford County that is permitted by article XX to serve as a receiving area.

No land or structure shall be used, occupied, or developed except in accordance with the standards set forth therein.

Table 3.1(a) Standards for Transfer of Development Rights (TDR's)(TDR)

A-1 Agricultural.

(d) *Requirements:*

(1) *Intensity:*

Maximum Density....~~5.0~~ 2.25 du/gross acre

B-3 Office.

(a) *Uses permitted by right:*

Apartment, commercial.

Bank and lending institution.

Clinic, medical and dental.

Dwelling, multifamily.

Farmers market (in accordance with subsection 38-39(v)).

Flex office.

General office use.

Low intensity commercial retail.

Medical/dental office.

Professional office.

Public facilities/utilities but not including generating facilities, substations, switching stations, and wastewater treatment facilities, which are permitted with a conditional use permit and not including propane and heating fuel distribution facilities.

Public works excluding wastewater treatment facilities.

Restaurant without drive-through.

School.

School, vocational.

(b) *Conditional use permit:*

Child care center.

Hospital.

Hotel/motel.

Laboratory research and testing facility.

Printing, publishing, engraving.

Public facilities/utilities for generating facilities, substations, switching stations, and wastewater treatment facilities (except for the expansion or modification to a wastewater treatment facilities existing prior to October 17, 2006).

(c) *Requirements:*

(1) *Intensity:* Ratio

Maximum floor area ratio.....1.3

- Minimum open space ratio.....0.15
Maximum tract coverage for multifamily.....50%
- (2) Minimum yards: Feet
 Front.....25
 Side.....10
 Back.....20
- (3) Maximum building height (in feet).....90
- (4) Minimum gross tract area with TDRs 10 acres

Article XX. – Transfer of Development Rights

Sec. 28-355. - Applicability.

This article shall apply to the transfer of development rights from land in sending areas to land in receiving areas and/or to a transferee without relation to any particular property. Land utilizing transferred development rights may be subdivided or developed in receiving areas at the maximum density specified by County Code section 28-35, Table 3.1 and Table 3.1(a), above the base density for the applicable zoning district.

Sec. 28-356. - Right to transfer development rights; general provisions.

- (a) A development right shall only be transferred by means of the recordation of a TDR certificate and a covenant to which the county is a party, or a permanent conservation easement granted to a “qualified holder” as that term is defined in Virginia Code section 10.1-1009 that restricts further development of the sending property and joins all lien holders, who must execute any necessary releases in order for the transfer of development rights to take place.
- (1) The covenant or permanent conservation easement shall limit the future construction of residential dwelling units on a sending property to the total number of development rights established by the zoning ordinance provisions applicable to the property, minus: (i) all development rights severed and extinguished from the sending property by the TDR certificate and thereby transferred under this article; (ii) any development rights previously severed and extinguished or limited as a result of an earlier recorded covenant or conservation easement against the property; and (iii) the number of existing single-family detached dwelling units located on the sending property, if any, as of the date the TDR certificate has been issued and recorded by the director.

- (2) The county attorney shall review and approve any such covenants and permanent conservation easements, and related document(s) for form and legal sufficiency.
- (d) No development rights may be transferred from a sending property if those rights are materially restricted from development by covenant, easement, and/or deed restriction; provided, however, that for any sending property located within an area designated as Park on the Land Use Map in the comprehensive plan, no such restriction will be deemed to exist if it arose out of a subdivision approval or note on a subdivision plat requiring the provision of public water and sewer to the subdivision.
- (f) No transfer of development rights will be effective until the director has recorded the TDR certificate and its related covenant or permanent conservation easement in the land records of Stafford County, Virginia.

Sec. 28-357. - Sending properties.

- (b) In order for a property in a sending area to qualify as a sending property eligible for a transfer of development rights, such property shall be:
 - (1) Designated for agricultural, rural, or park land use(s), in the comprehensive plan;
 - (2) Located in areas designated as sending areas on the map entitled "Transfer of Development Rights Sending and Receiving Areas" in the comprehensive plan; and
 - ~~(3) Zoned A-1 (agricultural) or A-2 (rural residential); and either:~~
 - ~~a. A separate parcel in existence on the effective date of this article XX (Transfer of Development Rights) that is at least twenty (20) acres; or~~
 - ~~b. Contiguous parcels in existence and under common ownership on the effective date of this article XX (Transfer of Development Rights) comprising at least twenty (20) acres that are under the same ownership on the date of the application; or~~
 - ~~e. Contiguous parcels that:~~
 - ~~1. Comprise at least twenty (20) acres; and~~
 - ~~2. Exist and are under common ownership on the effective date of this article XX (Transfer of Development Rights); and~~
 - ~~3. Are under common ownership on the date of the application; provided that the owner(s) on the effective date of this article XX (Transfer of Development Rights)~~

~~are not required to be the same as the owner(s) on the date of the application. (For example, if one party (owner A) owns contiguous parcels comprising at least twenty (20) acres on the effective date of this article XX (Transfer of Development Rights), owner A can sell those parcels to a second party (owner B), who may then file a TDR application for those parcels.)~~

- (3) Zoned A-1, agricultural, or A-2, rural residential, and meet one of the following criteria:
- (i) A separate parcel in existence on the effective date of Ordinance O15-06, that is at least 20 acres;
 - (ii) Contiguous parcels in existence on the effective date of Ordinance O15-06, comprising at least 20 acres that are under the same ownership on the date of the application; or
 - (iii) A separate parcel in existence on the effective date of Ordinance O15-06 that is at least two acres and designated as Park on the Land Use Map in the comprehensive plan.

Sec. 28-358. - Receiving properties.

- (a) In order for a property in a receiving area to qualify as a receiving property eligible for a transfer of development rights to said property, such property shall be:
- (1) Located in one of the following zoning districts: A-1, agricultural; R-1, suburban residential; PD-1, planned development-1; PD-2, planned development-2; PTND-planned traditional neighborhood development; ~~or~~ UD, urban development; or B-3, office;
 - (2) Located in areas designated as receiving areas on the map entitled, "Transfer of Development Rights Sending and Receiving Areas," in the comprehensive plan;
 - (3) Located within the ~~U.S.A.~~ Urban Services Area (USA) by the comprehensive plan;
 - (4) Designated as part of a ~~UDA~~ Redevelopment Area (RDA) by the comprehensive plan; and
 - (5) Included in an assessment of the infrastructure in the receiving area that identifies the ability of the area to accept increases in density and its plans to provide necessary utility services within any designated receiving area.
- (c) A receiving property may accept development rights from one or more sending properties, but the density allowed on the receiving property may not exceed the maximum applicable density specified in County Code Section 28-35, Table 3.1 and Table 3.1(a).

- (g) Architectural treatment shall be designed so that all building facades of the same building (whether front, side, or rear) will consist of similar architectural treatment in terms of materials, quality, appearance, and detail pursuant to the Neighborhood Development Standards Plan element of the comprehensive plan.

Sec. 28-360. - Transfer of development rights sending property development limitations.

- (c) The limitations in this section shall, when development rights are severed from a sending property, be included in a covenant or permanent conservation easement applicable to the sending property which shall be recorded in the land records of Stafford County, Virginia. The county attorney shall review and approve the covenant or permanent conservation easement as to form and legal sufficiency. A plat shall accompany and be recorded with the deed delineating and describing the location of the portion of the property to be conserved.
- (d) Unless otherwise specified in this article XX, or unless expressly provided in the related covenant or permanent conservation easement, the severance of development rights from a sending property shall not deprive the owner of such sending property of the right to use that portion of the property from which development rights have been severed for any: (i) agricultural uses; and (ii) forestal uses with reforestation plans; provided that such uses were permitted by right on the sending property prior to the transfer of such development rights. Any buildings or structures that exist on a sending property at the time development rights are severed shall be allowed to remain to support any such existing agricultural and forestal uses. New buildings and structures comprising up to a cumulative total of six thousand (6,000) square feet shall be allowed to be constructed on a sending property to support any such existing agricultural and forestal uses. Any building constructed as a lawful nonconforming use under the provisions of this article XX shall not count against the allowance of up to six thousand (6,000) cumulative square feet for new buildings on any such sending property.
- (e) Unless otherwise specified in this article XX, or unless expressly provided in the related covenant or permanent conservation easement, the severance of development rights from a sending property shall not deprive the owner of such sending property of the right to use that portion of the property from which development rights have been severed for parks, campgrounds and related camping facilities, provided that such uses were permitted by right on the sending property prior to the transfer of such development rights. Any buildings or structures that exist on a sending property at the time development rights are severed shall be allowed to remain to support any such existing park, campground, and related camping facilities.

New buildings and structures comprising up to a cumulative total of 2,000 square feet shall be allowed to be constructed on a sending property to support any such existing park, campground, and related camping facilities. No new buildings and structures shall be allowed on sending properties less than 20 acres in size. Any building constructed as a lawful nonconforming use under the provisions of this article XX shall not count against the allowance of up to 2,000 cumulative square feet for new buildings on any such sending property. For purposes of this section, the term “campgrounds” does not include any use by travel trailers, motor homes, and similar vehicular type structures.

- (f) For sending properties designated as Park on the Land Use Map in the comprehensive plan, the severance of development rights shall not deprive the owner of the use of that property from which development rights were severed for Park purposes or agricultural purposes, providing that agricultural uses were permitted by-right on the sending property prior to the transfer of such development rights. Agricultural uses shall be conducted pursuant to applicable Best Management Practices, and only on parcels 20 acres or more in size, or groups of parcels 20 acres or more in size and under common ownership. For the purpose of this section, agricultural uses shall not include forestry. No other residual uses, buildings or structures shall be permitted on that portion of the property from which the development rights were severed, except non-commercial campgrounds. For the purpose of this section, the term “non-commercial campgrounds” shall not include any use by travel trailers, motor homes, and similar vehicular type structures.

; and

BE IT FURTHER ORDAINED that this ordinance shall become effective 60 days from the date of adoption.

A Copy, teste:

Anthony J. Romanello, ICMA-CM
County Administrator

AJR:JAH:kb