

Santa Fe County Transferrable Development Rights (TDRs) FAQs

1. What are Transferrable Development Rights (TDRs)?

TDRs are the conveyance of development rights by deed, easement, or other legal instrument, authorized by the SLDC, to another parcel of land and the recording of that conveyance. In Santa Fe County, TDRs are used to protect agricultural, historic, and environmental resources, open space, and scenic areas, while accommodating the needs of development.

2. What is a TDR program?

The TDR Program is a voluntary, incentive-based, market-driven approach to preserving agricultural land, open space and other critical resources while encouraging development in designated County growth areas. This program permits owners of preservation land (sending area) to separate the development rights for the property and sell them for use elsewhere (in a receiving area).

3. Why is Santa Fe County initiating a TDR program?

The purpose of the TDR program is to promote the preservation of agriculture, rural open space, and character, scenic vistas, natural features, areas of special character or special historic, cultural or aesthetic interest or value, and environmental resources for the benefit of residents of Santa Fe County.

4. What properties can qualify to create TDRs (Sending Areas)?

TDRs can be created on any property in Santa Fe County which meets the sending site criteria, as outlined in SLDC, section 12.14.3.1. Development Rights may be sent from a property or area which qualifies as a 'sending site'. General standards for sending sites include:

- Areas that are designated as 'sending sites' through a Community District Overlay.
- Areas that are designated as an environmental and resource protection overlay, historic protection overlay or agricultural overlay.
- Areas that are considered sensitive environmental lands (e.g. riparian habitats, endangered or threatened species habitat, archeological sites).
- Areas identified as agricultural land.
- Lands preserving scenic vistas, natural features, and areas of special character.

5. Where can TDRs be used?

TDRs can be used on designated receiving sites within Santa Fe County. The following have been designated as receiving sites: Mixed Use (MU), Planned Development (PD), Industrial General (I), Industrial Light (IL), Commercial General (CG), Designated receiving areas, a district rezoned to a higher density

6. How are TDRs created?

In order to create a TDR, a property owner will be required to place a conservation easement on their property to identify the sending site area that is excluded from future development. The conservation easement preserves the land for its sending value. The area defined by the Conservation Easement will be surveyed and recorded on the plat.

7. Can TDRs be transferred from anywhere in the county to a receiving site?

Certified TDRs can be transferred from any qualified sending site to an individual for use on any qualified receiving site in Santa Fe County.

8. What are the benefits of buying TDRs?

TDRs can be purchased to increase the density of residential dwellings units on a site or to increase the intensity of non-residential development in a qualified receiving site. One TDR allows a developer in a receiving site to build 3 dwelling units in a Receiving Area, in addition to the base densities allowed in the zoning district. One TDR can also be converted to 5,000 sf of non-residential development. Height of the structure, setbacks, and percentage of non-residential mixed use may also be modified, please see SLDC Chapter 8 for specifics pertaining to non-residential zoning districts.

9. Can I sell my TDRs and not sell my land?

Yes. The TDR market allows qualifying landowners to receive financial compensation without having to sell or fully develop their land. The property owner who sells TDRs maintains ownership of the property.

10. Where are the regulations that govern the TDR program?

The Santa Fe County Transfer of Development Rights (TDR) Program was outlined in the 2010 and 2015 Sustainable Growth Management Plan (SGMP) and incorporated into the Sustainable Land Development Code (SLDC) procedures and regulations.

11. Can I sell my land after severing TDRs?

Yes.

12. How is the number of TDRs on a property calculated?

The number of TDRs on a piece of land is determined by the gross acreage of the sending site divided by the base density of the district. Any encumbered land, or land in existing easements is not counted in the gross acreage. The number of TDRs available will be rounded down to the nearest whole number, as the County does not certify partial TDRs.

13. What is the difference between TDR ‘Qualification’ and ‘Certification’?

Qualification-During the Qualification Phase of the TDR application process, property owners determine the number of transferable development rights on their property. This process includes a pre-application meeting with staff, a site evaluation, the TDR application and posting of the qualified TDRs on a County database to participate in the “TDR Exchange”. One of the key aspects of the qualification phase is that it allows a property owner to test the TDR market prior to severing their development rights in perpetuity.

Certification-During the Certification Phase of the TDR application process, property owners complete application checklist items in order to designate a sending site on their property and sever the development rights from that sending site. Once the Certification Phase is complete, a property owner will receive a Santa Fe County TDR certificate for the amount of TDRs that were certified.

14. Do I have to sell all of the Development Rights that my property has?

No. A property owner may determine the amount of TDRs to sell, up to the amount that the sending site has qualified for. The property owner will be able to develop based on the remaining number of development units allowed in the zoning district.

15. Can I build a residence on my property after I have created TDRs?

A property owner may build a residence on a property with TDRs if there are any remaining development rights outside of the Sending Site Area.

16. Is the TDR program voluntary?

Yes, TDR program is completely voluntary.

17. After TDRs have been severed, can they be reattached to the sending property?

No.

18. Where can I buy and/or sell TDRs?

This TDR Exchange will display both qualified and certified development rights for sale and provides a mechanism for prospective buyers of TDRs to identify the number of TDRs needed. Once TDRs are qualified a seller can post them to the TDR Exchange. Qualified TDRs need to go through the certification process before they can be sold. TDRs listed as 'certified' are immediately available for purchase.

19. Who determines the price of TDRs?

The price of TDRs is set by the private market, supply and demand. The TDR Exchange provides a market based mechanism for buyers and sellers to negotiate the price and sale of transferrable development rights.

20. Can local governments buy TDRs and bank them for resale to developers?

Yes. Some local governments set up TDR Banks. The SLDC permits the establishment of a Santa Fe County TDR Bank. A TDR bank may provide some assurance to receiving site developers that TDRs are available. A local government can also use funds generated through the sale of TDRs to purchase additional TDRs.