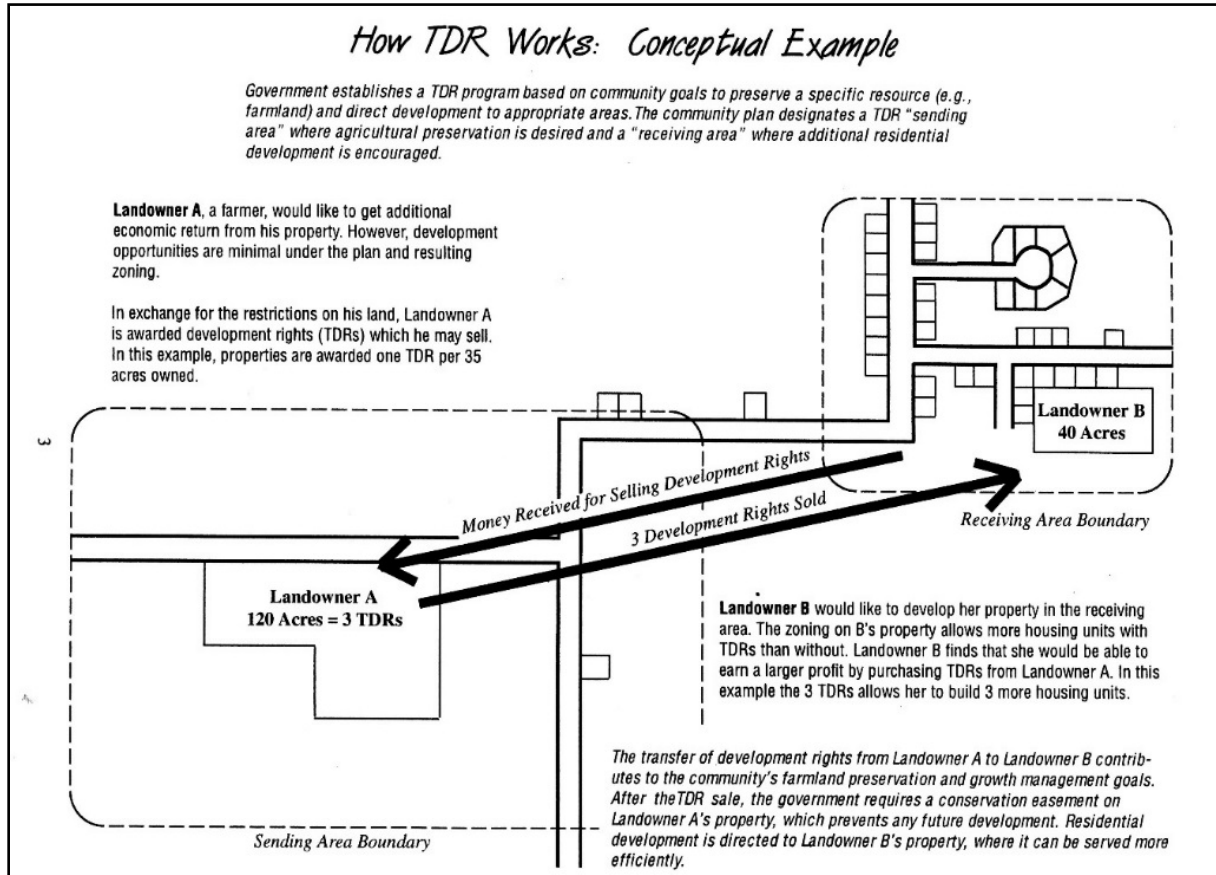


## Town of Deerfield Transfer of Development Right (TDR) Program

Another strategy to preserve land within the Agricultural Preservation District is a Transfer of Development Rights (TDR) program. In a TDR program, the Town would allow development rights to be transferred from “sending areas” where preservation is desired to “receiving areas” where additional development is acceptable. Instead of the government purchasing the development rights, private developers controlling land in receiving areas would have to acquire development rights from landowners in the “sending areas.” The developer would have to demonstrate that sufficient development rights will be purchased (and a deed restriction or conservation easement placed on the sending area property) before the Town approved any rezonings, plats, or conditional use permits. The graphic below shows how TDR can work.

In 2019, the Town of Deerfield pursued the development and establishment of a customized TDR program. As determined through this planning process, the Town’s new TDR policy includes the following guiding policies.

- Applicants under this provision will be required to have a pre-application meeting between the owner and town and county representatives to discuss the proposal prior to consideration by the Plan Commission or Town Board.
- Landowners proposing transfers under this policy shall be required to first obtain a density analysis from the Dane County Department of Planning and Development for both sending and receiving areas.
- The town may, at its sole discretion, deny any proposed transfer to less than 35 acres.
- Both the sending areas and receiving areas shall be located in the Town of Deerfield.
- Outside of the remaining total available splits within the Town today, based on the long-standing policy of 1 split per 35 acres, no new development splits will be created through the establishment of a TDR program in the Town.
  - On-site splits are still permitted outside of this Transfer of Development Rights policy.
- Following the transfer of development rights from the sending area, the sending property should be permanently protected from additional development through a deed restriction or conservation easement.
- Receiving areas = 1 split per each additional dwelling unit, minimum 40,000 square foot lot size
- Sending and receiving areas are not mapped or specified within the Town and may occur in any location, however any new receiving area development is limited to preserving the most productive agricultural land and in a manner that preserves the rural character of the Town using the following specific siting criteria (also see the Summary of the Town of Deerfield’s Residential Development Policy):
  - Preferably outside of any Group 1 or 2 soils (Map 2)
  - Outside of steep slopes greater than 12% grade (Map 3b)
  - Outside of any environmentally sensitive areas, except forest cover (Map 3a)
  - Cluster dwelling units together onto adjacent new lots
  - Require lot design and layout for Town Review
    - The receiving parcel must have adequate road access and a suitable building site that would not result in a “flag lot” with a long driveway bisecting agricultural land. The proposed building site must conform to the Town’s Development Siting Criteria within the Agricultural Preservation District.
  - Prior to the purchasing of development rights, at a minimum, a conceptual review of the proposed lot layout must be approved by the Town Plan Commission and Board for the receiving area.
- Appropriate documentation must accompany any transfer, including, at a minimum, a deed restriction and/or conservation easement on the sending parcel identifying a minimum 35 acres of land, or amount of land commensurate to the number of splits transferred, to be preserved exclusively for long-term agricultural use. Such documentation shall also indicate the number of splits remaining, if any, on the remaining lands of the sending property. Receiving parcels shall also be accompanied by a notice document indicating that the property received a split(s) from the sending property. All such documents must include appropriate legal descriptions of the properties involved and must be recorded with the Dane County Register of Deeds.
- There is no limit to the number of development rights that can be transferred by one owner in a given time period. However, the Plan Commission and Town Board may place other restrictions on the transaction, including but not limited to, a cap on the number of development rights transferred to one location.



**Transfer of Development Right Process**

The following is the recommended approach and process for executing a transfer of development rights in the Town of Deerfield as described above. This chart is expected to be used as a guiding document and does not represent every possible iteration of the process.

