



# NEW JERSEY HIGHLANDS COALITION

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## **Transfer of Development Rights in the Highlands Region**

### A Guide for Landowners and Municipalities

#### **What is a transfer of development rights (TDR) program and how will the Highlands Council and the TDR bank work?**

TDR is becoming an increasingly popular land use tool to preserve lands containing sensitive resources. The program provides for the transfer of development rights from lands identified for preservation, called “sending zones,” to “receiving zones”; areas more appropriate for increased growth due to infrastructure capacity, ecological integrity, and a viable real estate market. Landowners in sending zones receive compensation for their developmental potential that becomes restricted from development (through a deed restriction or conservation easement). Payment comes from developers who purchase credits representing the developmental potential in sending zones. The credits entitle TDR purchasers to build in a receiving area at a greater densities in areas specified by the municipality and approved by the Council. The Highlands Council is not authorized to mandate receiving zones—receiving zones approved to accept TDR credits are strictly voluntary. However, financial and other incentives are offered to municipalities that establish Council approved receiving areas that have existing infrastructure and the capacity for growth in a manner consistent with the Regional Master Plan. The Highlands Council has conducted a preliminary analysis to identify potential receiving areas (Pages 353-355, RMP).

#### **Highlands Development Credit Certificates:**

Highlands Development Credit (HDC) Certificates represent the development potential from a Sending Zone that has been restricted with conservation easements or deed restrictions. A HDC can be transferred from the holder to a developer wishing to use credits for use in a Receiving Zone. All transactions are recorded by the Highlands Development Credit Bank.

NOTE: A HDC Certificate will not be issued until an easement restricting future development of the parcel in question has been recorded on the parcel deed.

The Highlands Council will establish a landowner assistance program to provide technical assistance and guidance on land preservation options and the Highlands TDR Program to owners of land which should be not be developed in order to protect water and environmentally-sensitive resources.

The Highlands Development Credit Bank, the administrator and official recording agency of the Highlands TDR Program, will serve to provide information pertaining to the Highlands TDR Program. The Highlands Development Credit Bank may purchase HDCs to further objectives of the Highlands Act and the RMP or alleviate unique and extenuating financial circumstances displayed by a HDC Holder.



Sale and Use of HDCs:

**Before the HDC may be sold, transferred, or encumbered,** a landowner must obtain a HDC Certificate from the Highlands Development Credit Bank which demonstrates that the land has been deed restricted and the development rights are available for sale or collateral.

**Prior to sale, transfer, or conveyance of HDCs,** the Holder of an HDC Certificate must apply to the Highlands Development Credit Bank for the re-issuance of an HDC Certificate in the name of the grantee.

**Prior to use of HDCs as collateral or other security,** the HDC Holder shall notify the Executive Director of the Highlands Development Credit Bank of Name and Address of Lender and date, amount, and terms of loan/obligation. The landowner must first deed restrict the potential TDR property in perpetuity before the development potential can be sold or used as collateral.

**If a government agency or non-governmental organization proposes to acquire conservation/agricultural easements to restrict future land use in TDR Sending Zone and requests a HDC Certificate,** the Highlands Development Credit Bank's Executive Director shall obtain a HDC Certificate from the Highlands Council and issue a HDC Certificate to the agency or organization when the easement(s) are recorded. The Highlands Council only determines a landowner's allocation of credits; they are not responsible for issuing credits or handling the transaction.

**When HDCs are used in conjunction with a Receiving Zone development project,** the HDC Certificate Holder shall notify the Highlands Development Credit Bank within ten (10) days of municipal approval and apply for a Certificate of Redemption.

**If only a portion of HDCs authorized in a HDC Certificate are redeemed,** the Highlands Development Credit Bank shall issue a new HDC Certificate for the HDCs not used.