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SECTION 1: Definitions

Agricultural use means the use of land for common farm site activities, including but not limited to production for sale of plants and animals useful to man, including but not limited to harvesting, storage, grading (of produce), packaging, processing, processing that the wholesale and retail marketing or crops, plants, dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, llamas, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all such animals and other related commodities and the use and application of technologies and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

Development Rights means the rights permitted to a lot, parcel, or area of land under a zoning ordinance respecting permissible use, area, density, bulk or height of improvements. Development rights may be calculated and allocated in accordance with such factors as area, floor area, floor area ratios, density, height limitations, or any other criteria that will effectively quantify a value for the development right in a reasonable and uniform manner that will carry out the objectives of the Township's Voluntary TDR Program.

Farmstead means the principal residence of a farmer's household and the accessory uses of a farm.

Receiving Zone or District means one or more designated districts or areas of land to which development rights generated from one or more sending zones or districts may be transferred and in which increased development is permitted to occur by reason of the transfer, adopted pursuant to N.J.S.A. 40:55 D-1 et seq., within which development may be increased, and which is otherwise consistent with the provisions of N.J.S.A. 40:55D-145.

Residual Residential Lot means a parcel of land created in conjunction with a preservation parcel and complying with the minimum lot requirements of the AR District and the requirements of the Township's Voluntary TDR Program regarding creation of such lots.

Sending Zone or District means one or more designated districts or areas of land in which development rights are designated for use in one or more receiving areas and an area or areas designated in a master plan and zoning ordinance within which development may be restricted, adopted pursuant to N.J.S.A. 40:55D-1 et seq., within which development may be restricted and which is otherwise consistent with the provisions of N.J.S.A. 40-55D-144.

TDR Easement means an interest in land that is less than fee simple title that enables the owner to develop the land for any purpose as determined by the provisions of this Ordinance.

Transfer of Development Rights (TDR) means the process by which development rights from one or more sending areas are affixed to one or more receiving properties consistent with the program set forth in N.J.S.A. 40:55D-137 et seq.

TDR Credit means the development right that can be utilized in a receiving zone to achieve the bonus density, the number of TDR credits is determined based on the transfer ratio and the number of transferable development rights being conveyed from the sending zone to the receiving zone.

Public Areas means public parks, playgrounds, trails, paths and other recreational areas; other public open space; scenic and historic sites; and sites for schools and other public buildings and structures.

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SECTION II: Voluntary TDR Program

§1. Allocation and Transfer of Development Rights.

- A. The Voluntary TDR Program is intended as a method of preserving land within the A-100 zoning district by allowing landowners the voluntary option of transferring their right to develop to a receiving zone or district or any other area so designated in this Article and thereby restricting the subject property in perpetuity to agriculture use, farmland, conservation land open space or public areas, except as modified herein. This voluntary option will preserve land in locations where there is limited infrastructure while directing development to areas most suited for housing and other development within the Township.
- B. A parcel's eligibility for inclusion under the Voluntary TDR program is described in the allocation plan which is attached to this Article and made part of it by reference.
- C. The following minimum eligibility requirements shall be met in order for an applicant or developer to participate in the TDR program:
 - 1. A sending zone parcel shall be designed on the TDR Plan of the Township Master Plan, dated _____ and/or on the Acquisition/Preservation Plan developed in accordance with criteria established by ordinance, as it may be last amended or superseded. The TDR Plan shall be a sub-plan element of the Master Plan of the Township of Frankford and shall be amended or superseded pursuant to the provisions of the applicable law.
 - 2. A sending zone parcel must be at least 100 acres in size on the date that the ordinance is adopted, except as indicated on the parcel list and map attached herein.
 - 3. Sending zone parcels identified on the TDR Plan Map may be increased in size to support agricultural use of the property without eliminating the parcels' eligibility for credits. Additional credits for lands added which have not been enrolled prior to their addition to an existing lot may be obtained by following the credit allocation appeal process outlined in §3 below.
 - 4. Sending zone parcels which have not been enrolled within the TDR Program may be decreased in size to support the use of a portion of the property for local or regional public utilities including stormwater and power line easements and roads rights-of-way without eliminating the eligibility for credits of the remaining parcel ("remainder") so long as the remainder is enrolled in the TDR Program within 90 days of the date the utility use is approved by the Land Use Board. The number of credits assigned to the remainder shall be established by deducting from the total credits originally assigned to the entire parcel that number of credits assigned to the utility portion by following the credit allocation appeal process outlined in 203-53 below, provided that there shall be a minimum loss of one credit in only such situation. The term "local or regional public utility service" shall include only utility companies which enjoy the power of eminent domain.
 - 5. A parcel located within a sending zone shall not be subject to existing deed restrictions or other prohibitions on further development or subdivision, with the exception of those participating in the eight-year farmland preservation program or has

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had its rights to sewer allocation purchased and/or retired.

6. No transferable development rights are available for lots or properties from which all of the development rights have already been sold or transferred; on which an easement or other restriction in a deed or other document has been granted to a farmland preservation program, with the exception of those participating in the eight-year farmland preservation program, any utility company, to any other program or agency, or to any person, partnership, corporation, or other legal entity; lots or properties which have been restricted from development by the terms or conditions of a development plan, subdivision approval, or other agreement that restricts the property from further development; land within the ultimate right-of-way of existing roads; and lots or properties or portions of lots or properties which have been designated and used to meet the open space or resource protection requirements of a subdivision or site plan.
7. A sending zone parcel or development right shall not be owned by a government, government agency, or other political subdivision, a public utility as defined in N.J.S.A. 48:2-13; or an interstate energy transmission company regulated by the Federal Energy Regulatory Commission.
8. The property which shall become the subject of the deed of easement, restriction and enrollment shall contain general reservation language for future rights-of-way and easement areas that may be needed for county and municipal infrastructure improvements, such as road and drainage improvements, which areas shall be exempted from

the restriction against future development required under this section.

9. Any site which develops or is approved for development for uses inconsistent with agricultural use and farmland, open space or public areas shall be deemed ineligible to participate in the program.
 10. The only criterion for participating in the receiving zone is that the parcel is located within the boundaries of a receiving zone as amended and as identified on the TDR Plan Map of the Frankford Township Master Plan.
 11. The locations within the Township of the sending and receiving zones are attached to this section and made a part of it by reference.
- D. The applicable base zoning in the sending area shall be a minimum 1 dwelling unit per 5 acres if the owner of a sending zone parcel chooses not to participate in the TDR program. The County shall not be permitted to sell development rights to receiving zone buyers, in accordance with N.J.S.A. 40:55D-160, from already preserved lands under the provisions of the "Agriculture Retention and Development Act" P.L. 1983, C.32 (C.4:1C-11 et al.).

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§2. Credit Allocation

- A. Pursuant to N.J.S.A 40:55D-137, a Transfer of Development Rights program must seek to transfer the development potential from areas where preservation is most appropriate to areas where growth can be better accommodated and maximized.
- B. Pursuant to N.J.S.A 40:55D-115, “development potential” is defined as “the maximum number of dwelling units or square feet of nonresidential floor area that could be constructed on a specified lot or in a specified zone under the Master Plan and land use regulations in effect on the date of the adoption of the development transfer ordinance and in accordance with recognized environmental constraints.”
- C. The Frankford Township TDR credit allocation formula seeks to closely estimate the number of dwelling units which could have been built on each eligible parcel given the base zoning density as set forth for the _____ District, which zoning is replaced by the adoption of this section and the environmental constraints present.
- D. The _____ District zoning includes density adjustment factors that limit development based on the presence of environmental constraints, which are defined as wetlands, wetlands buffers and slopes in excess of 25 percent. The standard source of information relating to wetlands, wetland buffers and steep slopes is the United States Geological Survey and the New Jersey Department of Environmental Protection.
- E. In order to allocate credits in a manner consistent with the pre-existing zoning but within the context of environmental constraints, the formula set forth below was developed and applied to the computerized mapping data generated for each parcel.

- F. All sending zone parcels are assigned a minimum of 1 full credit. Any allocation above 1 credit is rounded down to the nearest ¼ credit.
- G. Credit allocation formula:

	Acres with Environmental Constraints	Acres with no constraints
TDR Credits =	Divide by 0	Divide by 5

- H. All parcels eligible for participation in the Frankford TDR Program as set forth in the Master Plan have been identified and a computation of the TDR credits allocated pursuant to the credit allocation plan, which is incorporated within this section by reference.
- I. Upon the adoption of this section the Township Clerk shall file with the County Recording Office a copy of the allocation plan and Zoning Map showing graphically the location of the Township’s sending and receiving zones. A change in the credit allocation made by the allocation plan by appeal, assignment or transfer to be effective must similarly be recorded in the County Recording Office.

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§3. Credit Allocation Appeal Process

- A. Any landowner eligible for participation in a TDR program who is dissatisfied with their credit allocation may appeal their allocation in accordance with the procedures set forth below.
- B. Any appeal of a credit allocation must occur prior to the recording of a TDR easement. Once a property is restricted through the recording of the TDR easement, the opportunity for an allocation appeal is lost and the parcel's owner shall be irrefutably presumed to have elected to accept the allocation given as an appropriate measure of the development potential of the parcel.
- C. The parcel owner shall submit a properly completed notice of appeal and required application and review fees to the Land Use Board Secretary. The notice shall include the following information:
 - 1. Date of appeal
 - 2. Name(s) and mailing address(es) of all property owners.
 - 3. Copy of the latest deed to the property.
 - 4. Title report if so requested by the Administrative Officer if reason exists to believe that the property is the subject of a development restriction.
 - 5. Block and lot number(s) of the tract parcel(s).
 - 6. Acreage of parcel(s) pursuant to Tax Map or property survey.
 - 7. Number of credits assigned to the parcel pursuant to the Allocation Table and number requested by the applicant.
 - 8. Supporting documentation which fulfills the requirements of the appeal process.
- 9. Signature of applicant(s) and landowner(s), if different from applicant.
- 10. The appeal shall be publicly noticed in the same manner as notices for other applications for development in accordance with N.J.S.A. 40:55D-12.
- D. In order to appeal the allocation of credits, a conceptual subdivision plan conforming to the submission requirements of the Township's subdivision checklist and the _____ District yard and lot layout standards without variance and waiver shall be submitted. The plan shall be prepared by a professional engineer licensed to practice in the State of New Jersey. Percolation test results shall be submitted for 30% or the total proposed lots. The percolation tests shall be evenly spaced throughout the proposed subdivision. If an applicant is unclear as to where tests should be performed, the Land Use Board Engineer shall advise as to location. The Land Use Board Engineer shall review the percolation tests for the viability for on-lot effluent disposal. The Land Use Board shall determine the lot yield for the tract within the time of action required of a preliminary subdivision application pursuant to N.J.S.A. 40:55D-48.c, once a complete application has been submitted by the applicant. Each lot that the Land Use Board finds to be without variance and waiver and certified by the Land Use Board Engineer shall be assigned one credit and the total of all credits for the subject property recorded in the Allocation Table.
- E. The parcel owner shall receive an additional one time $\frac{1}{4}$ credit if the appeal process as described above results in showing that the Township credit allocation was off by 20% or more.
- F. Appeal of a Land Use Board decision in the determination of the allocation of credits shall be made to a court of competent jurisdiction as provided for by law.

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§ 4. TDR Creation, Transfer and Use

- A. A landowner seeking to enroll his land within the TDR program and thus create credits which may thereafter be transferred shall abide by the following procedures:
1. The landowner, on forms authorized by the Board and obtained from the Township Clerk, shall submit to the Administrative Officer:
 - a. The original and two (2) copies of a fully completed enrollment application.
 - b. Review fees.
 - c. The original and two (2) copies of the TDR easement.
 - d. Clear proof of title.
 2. The Administrative Officer shall, within 45 days of receipt, determine that the application:
 - a. Accurately specifies the number of TDR credits available to the parcel.
 - b. Covers a parcel of land eligible for inclusion within the TDR program.
 - c. Accurately sets forth the block and lot description of the parcel seeking enrollment.
 - d. Reserves sufficient credits for the existing and proposed uses on the site.
 - e. Contains all other information required by the enrollment form.
 3. The Administrative Officer, upon receipt, shall forward to the Board Attorney for review:
 - a. One copy of the enrollment application.
 - b. The original and one (1) copy of the TDR easement.
 - c. Clear proof of title.
 - d. A copy of each of the foregoing documents shall also be sent by the Administrative Officer to the Gloucester County Land Use Board so that the Board can determine the nature and extent of any areas which should be withheld from the easement for future infrastructure purposes. The County Land Use Board shall have 14 days from receipt of the same to advise the Administrative Officer and Board Attorney of its concerns and comments.
 4. The Board Attorney shall determine within 14 days of receipt that:
 - a. The TDR easement is in a proper legal form for recording in the County Clerk's office.
 - b. The applicant for enrollment holds legal title clear of any encumbrances to the parcel or that the holder of any lien, mortgage or other interest has agreed in writing to subordinate their interest in the parcel to the public interests set forth in the TDR easement.
 5. Upon determining the facts set forth above, the Board Attorney shall certify to these facts by:
 - a. Signing the TDR easement at a space provided.
 - b. Returning the original TDR easement to the Administrative Officer for processing.

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6. Upon return of the original TDR easement signed by the Board Attorney, the Administrative Officer shall:
 - a. Assign serial numbers to each TDR credit sought to be created.
 - b. Sign the TDR easement form, certifying that the application procedures required by this chapter have been followed and that, upon proper recording of the TDR easement, the parcel will contain the number of transferable credits specified within the certification, provided that the TDR easement is recorded within 90 days for the date that the certification is signed. In unrecorded, the enrollment shall be null and void and the landowner must reapply.
 - c. Return the original and signed TDR easement to the Board Attorney for recording. The Township shall record the easement.
7. If the Administrative Officer or Board Attorney shall fail to act within the time periods specified, unless these time periods are extended by the applicant, the application shall be deemed approved.
8. After the TDR easement has been recorded, the landowner shall file proof of the recording with the Administrative Officer prior to the approval of any transfer of any credit created under the easement.
9. Upon receipt of proof that a TDR easement has been recorded, the Administrator Officer shall:
 - a. Record the fact of recordation upon the records of the Township. This record shall include the Clerk's assigned book and page of recording, if known.
 - b. Forward a copy of the recorded TDR easement to the Land Use Board for its information.
10. A landowner shall be responsible for all costs associated with the review of the enrollment application, including professional fees authorized by the ordinance.
11. The Administrative Officer shall act on all applications submitted in order in which they are submitted.
- B. A landowner against whose land a TDR easement has been recorded may assign any of the credits created through the use of the following procedures:
 1. The landowner, on forms authorized by the Land Use Board and obtained from the Township Clerk, shall submit to the Administrative Officer for review:
 - a. An original and two (2) copies of the application for assignment.
 - b. An original and two (2) copies of the proposed assignment.
 - c. Appropriate review fees.
 2. The Administrative Officer, within 45 shall determine that the application:
 - a. Contains all of the information required by the form.
 - b. Seeks to assign no more than the maximum number of credits available and not already assigned or extinguished.

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- c. Provides the recording information about the TDR easement.
 - d. Accurately reflects the information contained in it.
 - e. Reflects no material change in the title of the parcel has occurred since the TDR easement was recorded.
 3. If the Administrative Officer determines that the application and supporting documentation establishes the criteria as set forth above, the Administrative Officer shall sign the assignment, certifying that upon recording the assignment will transfer the number of credits contained within it to the party named, provided that if the assignment is not recorded within 90 days of the date that the certification is signed, unless this time period is extended by the applicant, the assignment shall be null and void.
 4. If the Administrative Officer shall fail to act within the time period provided, the application shall be deemed approved.
 5. Upon signing, the assessment shall be returned to the landowner for recording.
 6. The assignee of the credits shall, upon filing of the assignment, file proof of recording with the Administrative Officer prior to the approval of any credit use.
 7. Upon receipt of proof that the assignment has been recorded, the Administrative Officer shall:
 - a. Record the fact of recordation upon the records of the Township. The record shall include the Clerk's assigned book and page of recording, if known.
 - b. Forward a copy of the recorded assignment to the Land Use Board for its information.
 8. A landowner shall be responsible for all costs associated with the review of the assignment application, including professional fees authorized by the ordinance.
 9. The Administrative Officer shall act on all applications in the order in which they are received.
- C. At the time a final plan for the first section of an approved subdivision plan is signed by representatives of the Township or the signing of an approved plan by the Township Engineer of a final site plan which utilized or effects, in the opinion of the Board Attorney, the operation of the TDR program in the receiving area, the person or entity submitting the application for development cited shall record against the land to be developed a deed of dedication on forms approved by the Township of Frankford which dedicate the entire site for use in the TDR program. The residual credits existing on the land covered by the development shall be deemed created only upon the filing of the deed of dedication cited. Filing the deed of dedication shall entitle the landowner to use the credits created on the land affected by the application of development at the density or for the uses permitted by the TDR provisions of this section. Until the deed of dedication is recorded, the land is subject to the density and use restriction otherwise controlling within the district.
- D. An owner or developer of land located within the receiving zone may utilize credits held by a landowner of land located within a sending zone or his assigns to increase the number of units that may be developed by utilizing the following procedures:

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1. The owner/developer of land within the receiving zone must first obtain final approval for the development of a project within the receiving zone contingent and conditioned on the acquisition and extinguished of TR credits.
2. To meet the condition of approval, the owner/developer, at or prior to the signing of a subdivision plat or the issuance of the first building permit, whichever occurs first, on forms approved by the Land Use Board and obtained from the Township Clerk, shall submit to the Administrative Officer.
 - a. An original and two (2) copies of completed application for TDR credit use which indicates the source of credit to be used within the development.
 - b. An original and two (2) copies of a deed of credit transfer.
 - c. All appropriate fees for review.
3. The Administrative Officer shall, within 45 days of receipt, determine that the application:
 - a. Accurately specifies the number of TDR credits needed for the development of the parcel sought to be developed.
 - b. Demonstrates that the developer owns, by assignment or otherwise, all credits needed for the proposed development.
 - c. Accurately specifies by reference to assigned serial numbers or otherwise which credits are being used by the development.
 - d. Accurately provided such other information required by the application.
 - e. Demonstrates that the parcel from which the credits arise are subject to a recorded TDR easement.
4. If the Administrative Officer determines that the application and supporting documentation establishes the criteria set forth above, the Administrative Officer shall sign the deed of credit transfer, certifying that upon recording the deed of credit transfer will permanently transfer the number of credit transfer is not recorded within 90 days of the date that the certification is signed, unless this time period is extended by the applicant, the deed of credit transfer shall be null and void.
5. If the Administrative Officer shall fail to act within the time periods provided, the application shall be deemed approved.
6. Upon signing, the deed of credit transfer shall be returned to the Board Attorney for recording.
7. The owner or developer of the land using the credits shall, upon filing of the deed of credit transfer, file proof of recording with the Administrative Officer prior to the issuance of any building permit for development of the land upon which the credit is to be used.
8. Recording the deed of credit transfer shall extinguish the ability to use any credit transferred except upon the parcel to which the TDR credit had been transferred.
9. Upon receipt of proof that the deed of credit transfer has been recorded, the Administrative Officer shall:

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- a. Record the fact of recordation upon the records of the Township. The record shall include the Clerk's assigned book and page of recording, if known.
 - b. Forward a copy of the recorded deed of credit transfer to the Land Use Board for its information.
10. A landowner shall be responsible for all costs associated with the review of the assignment application, including professional fees later authorized by the ordinance.
11. The Administrative Officer shall act on all applications in the order in which they are received.
12. The purchaser of transfer credits shall be obligated to present credible evidence of the transfer to the Township Clerk or other designee within 30 days of the transaction. Each and every day in which the transaction record has not been so transmitted to the Township Clerk within the specified time limit shall constitute a separate violation of the provisions of this ordinance and enforceable by fine, imprisonment, and/or community service as otherwise provided herein. The Township Clerk shall so record the transaction in the Record of Transfer and annually in January provide a copy of the Record of Transfer to the Administrative Offices and the Tax Assessor's Office to be kept on file.
- E. Land included in the sending area shall be deed restricted to the following allowed uses:
1. Open space dedicated to a government or land trust; however, nothing shall be construed by this subsection to require the dedication of the land for public open space.
 2. Agricultural and farmland uses as defined in this Ordinance and all other activities and improvements as specifically permitted by the New Jersey Right to Farm Act.
 3. Permissible improvements allowed in conjunction with the principal use of subparagraph (1) hereinabove are as follows:
 - a. Playground and recreation equipment, athletic fields, nature and fitness trails with ancillary parking and restroom facilities.
 - b. Equipment and maintenance building.
 - c. Installation of utilities, headwalls and end walls, and stormwater management basins.
 - d. Widening of existing street rights-of-way by a government agency.
 - e. Installation of needed driveway and road access.
 4. Public areas as defined in this ordinance
 5. Permissible improvements allowed in conjunction with the principal use of subparagraph (2) hereinabove are as follows:
 - a. The location of any additional dwelling unit shall be specific in a zoning permit application. The location of the dwelling unit and its driveway shall not harm the economic viability of the subject land for agricultural production.
 - b. Other buildings or structures may be permitted to be constructed for agricultural purposes only. No conversions of

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agricultural buildings to dwelling units shall be permitted.

- c. Subdivision of the land from which TDRs have been sold is permitted only if such subdivision of land shall not harm the economic viability of the land for agricultural production.

F. Landowners desiring to subdivide an existing single-family detached house or farmland on land proposed for transfer of credits shall meet the following requirements:

- 1. The applicant may simultaneously file an application for minor subdivision approval to create a lot for the existing residence or farmstead. The minor subdivision application shall not be subject to the creeping subdivision provisions of the definition of minor subdivision whereby any second subdivision of land subsequent to _____ involving the same tract shall be deemed a major subdivision.
- 2. The lot proposed for subdivision containing the existing single-family detached house or farmstead shall meet the minimum standards for lots within the _____ District, but shall not exceed two acres in area.
- 3. The newly created lot for the existing residence or farmstead shall be deed restricted from further subdivision.
- 4. One full credit shall be subtracted from the total credits to be transferred from the tract, and so recorded in the Record of Transfers.

G. Residual lots. For every 50 acres or more a property owner shall be permitted to retain or build a house without utilizing credits.

H. Agricultural uses not in keeping with the intent of this ordinance may be restricted or denied by the Township.

- I. Should the Township acquire ownership of the sending lands, the land may be used for recreation coincidental with municipal purposes that allow for possible municipal uses and continue to promote the conversation of open space and preservation of view sheds.

§5 Reassignment and disenrollment

A. It is understood that the TDR Program is voluntary. The Master Plan and Zoning Ordinance provide a reasonable balance between the number of credits which are allocated to the sending area(s) and the capacity of the acreage within the receiving area(s) to accommodate transferred credits; however, if a number of landowners/developers within the receiving area elect to subdivide their land without the use of credits, it is conceivable that more credits capable of being transferred will have been credited than available locations for their receipt. Recognizing the inherent unfairness which may be visited upon a property owner in the sending zone or his assignee should property be enrolled within the program without there being in existence an adequate area within the receiving zone to utilize the credits so created, this subsection has been created to provide relief.

B. Should a landowner or his assignee owning a parcel of land enrolled within a TDR program determine that they have an inability to utilize credits within the receiving zone, they may apply to the Land Use Board for reassignment of the credits to the parcel from which they originated or disenrollment of the procedures set forth below.

C. Procedures for reassignment and disenrollment.

- 1. An assignee seeking to reassign any of the credits which have previously been assigned by a landowner may seek to reassign the credits

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obtained, absent any bonus, back to the parcel from which they originated by using the following procedure:

- a. The assignee on forms authorized by the Land Use Board and obtained from the Township Clerk shall submit an original and two (2) copies of the application for reassignment, an original and two (2) copies of the reassignment document and appropriate review fees to the Administrative Officer for review.
- b. The Administrative Officer, within 15 days, shall determine that the application:
 1. Contains all of the information required by the form.
 2. Seeks to reassign all or a portion of the credits, absent any bonus, previously assigned to the assignee back to the parcel from which the credits came.
 3. Provides the recording information about the TDR easement and original assignment.
 4. Reflects that no material change in the title of the parcel has occurred since the TDR easement and assignment were recorded.
- c. If the Administrative Officer determines that the application and supporting documents are complete, this official shall schedule the matter for a hearing before the Land Use Board at its next regular or special meeting called for this purpose.
- d. The Land Use Board shall at the regular or special meeting during which the matter is considered, conduct a hearing on the application. If the Land Use Board determines, after considering all evidence submitted both in favor of and opposing the applications, that, through an inability to use the credits within the receiving zone or through other just cause, it is not feasible to expect that the credits will be usable within a reasonable time frame and both the assignee and the landowner agree to a reassignment of the credits, the Board shall grant the assignee the right to reassign the credits provided. Otherwise the application should be denied. Public Notice of the meeting shall not be required.
 1. The Land Use Board shall take action on the application within 95 days of its receipt by the Land Use Board Secretary. If the Land Use Board fails to act, the application shall be deemed approved.
 2. Should the Land Use Board approve the application, it will direct its Chairman and Secretary to certify to this fact on the original reassignment document which is to be delivered to the applicant for recording. The reassignment document is to be extended within 90 days for the date that the certification is filed, unless this time period is extended by the applicant. If unrecorded, the appeal of the reassignment shall be null and void and the assignee must reapply to obtain relief.

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- e. The assignee, upon recording the reassignment document, shall file proof of the recording with the Administrative Officer. Until such proof is filed, reassignment of the credits shall be ineffective.
- f. Upon receipt of proof that a TDR easement has been recorded, the Administrative Officer shall:
 1. Record the fact of the reassessment upon the records of the Township. This record shall include the Clerk's assigned book and page of recording if known.
 2. Forward a copy of the recorded reassignment document to the Land Use Board for its information.
2. A landowner to disenroll his land from involvement with the TDR program is to follow the following procedures:
 - a. The landowner, on forms authorized by the Board and obtained from the Township Clerk, shall submit to the Administrative Officer:
 1. The original and two (2) copies of a fully completed disenrollment application.
 2. Review fees
 3. The original and two (2) copies of the disenrollment document designed to terminate the restrictions imposed upon the landowner's property.
 4. Clear proof of title.
 5. Proof that none of the credits created for the property by enrollment have been used by another property owner or developer through the filing of a deed of credit transfer or assigned to a third party who does not consent to the disenrollment application.
 - b. The Administrative Officer shall, within 45 days of receipt, determine that the application is complete.
 - c. Upon determination that the application is complete, the Administrative Officer shall schedule a public hearing before the Land Use Board on notice to the public. At this hearing, the Land Use Board shall determine whether a hardship exists to the landowner through an inability to utilize his credits within the receiving zone or for other good and sufficient reasons the public's interest would be served by allowing relief from the restrictions imposed under the TDR program. In reaching this conclusion, the Land Use Board shall take into consideration all evidence both submitted in favor of and in opposition to the relief required, in accordance with the procedures normally available for development applications before the Board. After this review, the Board shall reduce its findings to a written resolution recommending to the Township Committee whether to grant or deny the application proposed. If the Board fails to act within 90 days of the date the application is submitted, unless this time

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- period is extended by the applicant, the application shall be deemed approved.
- d. If the application is approved, the record before the Board, including its findings, shall be submitted to the Township Committee and to the applicant. The Township Committee shall review the proceedings before the Land Use Board and determine whether good cause exists for the relief specified. If they agree that the relief should be granted, they shall direct the Mayor and Township Clerk to execute the disenrollment document. Upon execution by the Mayor and Clerk, approval to disenroll shall be denied and the applicant shall be required to reapply if relief is to be obtained.
 - e. Upon receipt of proof of recording of the disenrollment document, the Administrative Officer shall:
 - 1. Record the fact that the disenrollment document has been recorded on the Township records, including the Clerk's assigned book and page of recording, if known.
 - 2. Forward a copy of the recorded disenrollment document to the Land Use Board for its information.
 - f. The assignee and/or landowner seeking either reassignment or disenrollment shall be responsible for all costs associated with the review of the reassignment or disenrollment, including professional fees authorized by this chapter.
 - g. The assignee and/or landowner may extend the time limits for administrative action by the Administrative Officer or by the Board. This right to extend shall not apply to any time period set forth in this chapter for recording of a document.

§6. Building Regulation Plan

- A. The use of development credits shall occur as indicated on an approved plan for the receiving area lots that have been specified for development. Receiving Area lots have "by-right" densities as established in the TDR Real Estate Market Analysis as base zoning that may be exercised as part of the TDR development process.
- B. Each of the permitted housing types shall be equal to the following development credits for units transferred from the sending zone(s):
 - 1 Single Family detached = 1 credit
 - 1.8 Duplex or Twin unit = 1 credit
 - 2.8 Townhouse = 1 credit
 - 3.0 Apartment/Flat = 1 credit
- C. The number of credits to be transferred shall be determined pursuant to a conceptual subdivision plan on the land so designated for transfer pursuant to the appeal process.
- D. The TDR development option may be exercised only for parcels located within receiving zones or districts. Applicants exercising the TDR development option shall submit an application that includes land within both the sending and receiving zones or districts in accordance with their respective requirements. Application for the

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receiving zone development may only be made after the layout for that portion of the receiving districts intended for importation of credits from the sending zone(s) has received preliminary subdivision approval from the Land Use Board. The applicant shall have secured through an equity interest all necessary credits for increasing the permitted density in the receiving area(s) prior to final action being taken by the Land Use Board.

- E.** Prior to any approval of a receiving area development plan, the Land Use Board shall find the following facts and conclusions:
1. That departures by the proposed development from zoning regulations otherwise applicable to the subject properties conform to the zoning ordinance standards pursuant to N.J.S.A. 40:55D-65c;
 2. That the proposals for the maintenance and conservation of common open space are reliable and the amount, location and purpose of the common open space are adequate;
 3. That provisions through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;
 4. That the proposed development will not have an unreasonably adverse impact upon the area in which it is proposed to be established;
 5. In the case of a proposed development which contemplates construction over a

period of years, that the terms and conditions intended to protect the interests of the public and the residents, occupants and owners of the proposed development in the total completions of the development are adequate;

6. That the proposed development will have adequate public water and public sanitary sewer capacity for the intensity of development requested.
- F.** The Land Use Board shall act upon an application for a development within the receiving area in the same time and manner as for a preliminary major subdivision application pursuant to N.J.S.A. 40:55D-48. No action shall be taken upon the development application unless a complete submission has been made in accordance with the applicable checklist.
- G.** Affordable Housing requirements.
1. For permitted nonresidential uses, a minimum of one (1) affordable unit is required for every 25 new jobs created subject to all applicable affordable housing requirements as contained in Section _____.
 2. For permitted residential uses, a minimum of ___% of the total dwelling units shall be affordable subject to all applicable housing requirements as contained in Section _____.

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Block(s)	Lot(s)	# Lots	Acreage	Constrained Land¹	Developable Acres	Build Out²	Residual Units³	TDR Transfer Credits
3; 29; 30; 32	4; 1 & 11; 1; 9	5	485.23	204.23	281	56	5.6	50.6
43; 44; 46	4; 10 & 10.02; 2	4	464.29	284.29	180	36	3.6	32.4
19; 25; 26	26; 10.01 & 16; 3 & 22	5	363.06	142.06	221	44	4.4	39.8
42	18	1	121.72	24.34	97	19	1.9	17.5
29	16 & 16.02	2	145.80	56.80	89	18	1.8	16.0
44	4 & 5	2	172.01	84.01	88	18	1.8	15.8
68	7	1	124.64	39.64	85	17	1.7	15.3
26	15 - 17	3	134.95	56.95	78	16	1.6	14.0
9; 10; 12; 7	11; 1; 2.01; 3	4	117.83	55.83	62	12	1.2	11.2
46; 47	4.05; 2, 2.01,6 & 12.02	5	142.9	88.90	54	11	1.1	9.7
68	14	1	142	92.00	50	10	1.0	9.0
48	18	1	107.78	58.78	49	10	1.0	8.8
38	4	1	126.77	87.77	39	8	0.8	7.0
41; 42	8; 2	2	133.46	95.46	38	8	0.8	6.8
68	2	1	125.27	88.27	37	7	0.7	6.7
32	17	1	101.00	67.00	34	7	0.7	6.1
66	12	1	127.14	100.14	27	5	0.5	4.9
TOTAL		40	3,135.85		1,312.00	301.88	30.19	271.69

¹ Constrained lands are defined as wetlands New Jersey Department of Environmental Protection, wetlands buffers and steep slopes in excess of 25 percent as documented by the U.S. Geological Survey.

² Calculated as 1 unit per 5 acres of developable land.

³ Calculated as 1 unit per 50 acres of developable land.

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