

# The Vermont Statutes Online

## Title 24 : Municipal And County Government

### Chapter 117 : Municipal And Regional Planning And Development

#### Subchapter 007 : Bylaws

(Cite as: 24 V.S.A. § 4423)

#### § 4423. Transfer of development rights

(a) In order to accomplish the purposes of 10 V.S.A. § 6301, bylaws may contain provisions for the transfer of development rights. The bylaws shall do all the following:

- (1) Specify one or more sending areas for which development rights may be acquired.
- (2) Specify one or more receiving areas in which those development rights may be used.
- (3) Define the amount of the density increase allowable in receiving areas, and the quantity of development rights necessary to obtain those increases.
- (4) Define "density increase" in terms of an allowable percentage decrease in lot size or increase in building bulk, lot coverage, or ratio of floor area to lot size, or any combination.

(5) Define "development rights," which at minimum shall include a conservation easement, created by deed for a specified period of not less than 30 years, granted to the municipality under 10 V.S.A. chapter 155, limiting land uses in the sending area solely to specified purposes, but including, at a minimum, agriculture and forestry.

(b) Upon approval by the appropriate municipal panel, a zoning permit may be granted for land development based in part upon a density increase, provided there is compliance with all the following:

- (1) The area subject to the application is a receiving area, and the density increase is allowed by the provisions relating to transfer of development rights.
- (2) The applicant has obtained development rights from a sending area that are sufficient under the regulations for the density increase sought.
- (3) The development rights are evidenced by a deed that recites that it is a conveyance under this subdivision and recites the number of acres affected in the sending area.
- (4) The sending area from which development rights have been severed has been surveyed and suitably monumented.

(c) The municipality shall maintain a map of areas from which development rights have been severed. Following issuance of a zoning permit under this section, the municipality shall effect all the following:

(1) Ensure that the instruments transferring the conservation easements and the development rights are recorded.

(2) Mark the development rights map showing the area from which development rights have been severed and indicating the book and page in the land records where the easement is recorded.

(d) Failure to record an instrument or mark a map does not invalidate a transfer of development rights. Development rights transferred under this section shall be valid notwithstanding any subsequent failure to file a notice of claim under the marketable record title act. (Added 2003, No. 115 (Adj. Sess.), § 95.)