

Purchase of Development Rights Ordinance

Short Title.

This ordinance is to be known and may be cited as the “Purchase of Development Rights (“PDR”) Ordinance”.

Purpose

Pursuant to the authority granted by §§ 10.1-1700 et seq. of the Code of Virginia, a purchase of development rights (PDR) program is established, the purpose of which is to sever residential density from eligible areas through a voluntary process for permanently conserving agricultural and forestry uses of lands and preserving rural open spaces, historic and cultural landscapes, and natural and scenic resources. The PDR program is intended to supplement land use regulations, resource protection efforts and open space programs.

The purposes of this ordinance include, but are not limited to:

- (a) Promote the public health, safety, and general welfare of citizens of Prince William County by establishing procedures, methods, and standards for the purchase of development rights.
- (b) Provide an effective and predictable process for property owners of rural and agricultural land to preserve lands with a public benefit.
- (c) Establish a program enabling the County to acquire open-space easements voluntarily offered by property owners to serve as one means of assuring that Prince William County’s resources are protected and efficiently used.
- (d) Preserve open space and scenic views, including contributing to greenways and wildlife corridors.
- (e) Conserve rural character through preserving farmland and forested areas.
- (f) Protect lands, resources and structures of aesthetic, architectural, archaeological, and historic significance.
- (g) Conserve and protect water resources and environmentally sensitive lands, waters, and other natural resources.

- (h) Assist in shaping the character and direction of the development of the County.
- (i) Improve the quality of life for the citizens of Prince William County.
- (j) Promote recreation tourism through the preservation of scenic and historical resources.
- (k) Work cooperatively with the federal government, and/or non-profit organizations to locate funding, and leverage financial and other resources.
- (l) Work cooperatively with Marine Corps Base Quantico to support their encroachment control program for lands located near the Base.

Terms Defined

The Program Administrator shall use the following terms and definitions. In the event a term is not defined in this section, the Program Administrator must refer to other chapters of the Prince William County Code for guidance. If ambiguity remains, the Program Administrator must then rely upon the conventional, recognized meaning of the word or phrase (e.g., current edition, Merriam-Webster's Dictionary).

As used in this chapter, the term:

Batch means a grouping of contiguous parcels for purposes of making application for the sale of development rights.

Board means the Prince William Board of County Supervisors.

Committee means the Prince William County Purchase of Development Rights Committee designated by the Board of County Supervisors to oversee program implementation.

Open-space easement means a nonpossessory interest of a public body in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

County Executive means the County Executive of Prince William County or his/her designee.

County Attorney means the County Attorney of Prince William County or his/her designee.

Development rights means the number of lots into which a parcel could be divided and developed with a dwelling and all associated improvements and utilities under the County Code, excluding family subdivision lots. Each development right represents the right to build one single family dwelling unit on the property.

Director means the Director of the Planning Office or his/her designee.

Forced sale means a sale of a parcel with unused development rights in a manner prescribed by law that is conducted under a judgement, order, or the supervision of a court of competent jurisdiction, other than a sale arising from a partition action; a sale resulting bankruptcy from foreclosure under the laws of the Commonwealth of Virginia; or, a sale that is not the voluntary act of the owner but is compelled in order to satisfy a debt evidenced by a mortgage, judgment, or a tax lien deed of trust.

Lot shall mean a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit. The grant of an interest, for security or other purpose, in less than an entire lot, or the foreclosure or sale of such interest, shall not be deemed to create a lot.

Owner means the equitable owner of the fee simple title to a parcel of land or, with respect to a parcel not encumbered by a deed of trust or mortgage, the legal owner of such title. Where more than one person or entity is the legal and/or equitable owner, the term refers to all such persons or entities jointly.

Open space means any land which is provided or preserved for (i) park or recreational purposes; (ii) conservation of land or other natural resources; (iii) historic or scenic purposes; (iv) assisting in the shaping of the character, direction, and timing of community development; or (v) wetlands as defined in Code of Virginia § 28.2-1300.

Parcel see "Lot".

PDR program means the purchase of development rights program established by this chapter.

Program Administrator means the County Executive for Prince William County or his/her designee.

Property ranking system means the formula or deliberations by which applications for the sale of development rights are ranked in order of priority of acquisition of such rights.

Wetlands means both vegetated and non-vegetated wetlands as defined in Code of Virginia § 28.2-1300.

Applicability and Administration

Section I.2 Applicability

The PDR program is available for areas designated as the Rural Area in the Prince William County Comprehensive Plan. Any open-space easement acquired pursuant to this program must be voluntarily offered by the owner.

Section I.3 Program Administrator established; power and duties

- (a) Power and duties. The Program Administrator administers the PDR program and has powers and responsibilities to:
- (i) Establish reasonable and standard procedures, processes, and forms consistent with this program for the administration and implementation of the PDR program.
 - (ii) Promote the PDR program, in cooperation with the Committee, by providing educational materials to the public and conducting informational meetings.
 - (iii) Investigate and pursue, in conjunction with County, State, federal, and other programs, additional public and private resources to fund the PDR program and maximize private participation.
 - (iv) Evaluate all applications to determine their eligibility and their ranking score. Rank applications based on their ranking score as determined by the property ranking system and make recommendations thereon to the Committee.

- (v) Negotiate with the owner relating to conservation easement terms.
- (vi) Provide staff support to the Committee.
- (vii) Maintain a master list of current open-space easements, potential lots, and priority farmland lots for the PDR program.
- (viii) For each open-space easement accepted into the PDR program, establish baseline data and assure that the terms and conditions of the open-space easement are monitored and complied with by coordinating a monitoring program with each easement holder.
- (ix) Review rankings of applications and make recommendations to the Board as to which open-space easements should be purchased as determined by the property ranking system, and other applicable information.

Section I.4 Purchase of development rights committee established; powers and duties.

(a) Establishment. The PDR Committee is hereby established, as follows:

- (i) The PDR Committee shall consist of five (5) members appointed by the Board and shall include one (1) member of the Planning Commission. Each member shall be a resident of Prince William County. The PDR Committee should be, but is not required to be, comprised of members who are knowledgeable in the fields of conservation, conservation biology, farming, forestry, planning, real estate, rural land appraisal, and may also include members of conservation easement holding agencies or other applicable organizations.
- (ii) The members of the PDR Committee shall serve at the pleasure of the Board. Each member shall serve two (2) year terms that begin on July 1st and expire on June 30th.
- (iii) Absences caused by illness or personal matters of importance are excusable. If a member has two unexcused absences, the secretary of this Committee shall notify the Board with a copy to the represented party.

- (iv) Vacancies in membership shall be filled by appointment by majority vote of the Board for an unexpired term only. The appointed member shall serve in the same position and capacity as the previous member.
 - (v) The members of the PDR Committee shall serve without pay, but the Board may, in its discretion, reimburse members for actual and necessary expenses incurred in the performance of his/her duties.
 - (vi) The PDR Committee shall elect a chair at its first meeting and henceforth at the beginning of each County fiscal year (July 1st). The secretary need not be a member of the PDR Committee.
 - (vii) The Program Administrator shall be an ex officio, non-voting member of the PDR Committee and shall serve as secretary thereto.
 - (viii) The PDR Committee shall establish bylaws for its meetings and shall use Roberts Rules of Order for small boards.
 - (ix) A quorum shall consist of three (3) members present and the PDR Committee shall operate on a "majority rule" basis.
- (b) Powers and Duties. The PDR has the following powers and duties under this ordinance:
- (i) Promote the program in cooperation with and under the guidance of the administrator, by providing educational materials to the public and conducting informational meetings.
 - (ii) Annually review the program's eligibility and ranking criteria and recommend to the administrator any changes needed to maintain the program's consistency with the Comprehensive Plan, or to improve the administration, implementation, and/or effectiveness of the program.

Section I.5 Appraisal review committee established; powers and duties

- (a) The appraisal review committee is hereby established, as provided herein:

- (i) The committee consists of three (3) members appointed by the Board of County Supervisors. The committee shall include one (1) real estate professional, the Prince William County Director of Finance or designee, and one member of the Prince William County Purchase of Development Rights Committee.
 - (ii) The members of the committee serve at the pleasure of the Board.
 - (iii) The members of the committee serve without pay, but the Board may, in its discretion, reimburse each member other than the County Director of Finance for expenses incurred in the performance of their duties.
 - (iv) The County Director of Finance or designee serves as the chair of the committee.
- (b) Power and duty. The Appraisal Review Committee has the power and duty to review appraisals to assure they are consistent with appropriate appraisal guidelines and practices and to make recommendations to the Board of County Supervisors.

Eligibility and Ranking Criteria

Section I.6 To be eligible for the program, a parcel must meet the following criteria:

- (a) The property must be no less than twenty (20) acres in area or be included in an assemblage in which the combined area of contiguous parcels is no less than twenty (20) acres in area.
- (b) The property or entire assemblage must be wholly located within the "Purchase of Development Rights" area identified in the Comprehensive Plan.
- (c) The property must be capable of being qualified for subdivision for residential uses without Board approval;
- (d) The proposed use of the property as permanent open space should comply with the policies set forth in Prince Williams County's Comprehensive Plan;
- (e) No uses or structures may be located upon the parcel other than those permitted by the deed of open-space easement; and

- (f) If any portion of the property being considered contains land that is currently reserved or set aside for open space, passive recreation or similar purposes pursuant to the provisions of a special use permit, variance, or any ordinance or regulation, that portion must be excluded from the evaluation process

Section I.7 Ranking Criteria

The Program Administrator prioritizes parcels for which open-space easement applications are submitted using a ranking system. The Program Administrator and the Committee approve the initial ranking system and any subsequent changes. The Program Administrator uses the ranking system to prioritize the acquisition of open-space easements.

Purchase of development rights procedure

Section I.8 Application submission. Applications to sell development rights must be on a form prescribed by the Program Administrator and must be signed by the landowner and submitted to the Program Administrator. An application fee in the amount established by the Board pursuant to resolution is required. The Program Administrator may require supporting documentation, including, but not limited to, deeds, surveys, mortgages, deeds of trust, liens, title reports, or other legal instruments, to be submitted with the application. A landowner may submit an application for each parcel or may submit a single application for more than one contiguous parcel. Applications for batched parcels must follow the same procedure and must be signed by all landowners. Applications must be received in, or in a location designated by, the County Executive's Office at the close of business on the last day of an open application period to be eligible for consideration during that open application period.

Section I.9 Evaluation process.

- (a) The Program Administrator shall review each application to determine whether the eligibility criteria set forth in this Chapter are met. In the event a parcel, or portion thereof, fails to meet the eligibility criteria set forth in this Chapter, such parcel, or portion thereof, shall not be considered for inclusion in the PDR program. In the event the ineligibility of a parcel or portion thereof, renders the

remaining property that is the subject of the application ineligible, none of the property shall be considered for inclusion, unless it can independently meet the minimum criteria.

- (b) The Program Administrator evaluates each application received and determines whether the application is complete. If the application is incomplete, the Program Administrator informs the owner of the information that must be submitted in order for the application to be deemed complete.
- (c) When the application is deemed complete, and the Program Administrator has determined that the parcel satisfies the eligibility criteria set forth in this Chapter, the Program Administrator applies the ranking system.
- (d) The Program Administrator evaluates each application using the criteria of the property ranking system and ascertains the necessary facts and information for ranking the priority of acquisition of the lands included in the application.
- (e) The Program Administrator notifies the applicants in writing of the evaluation of their properties. An applicant has sixty (60) days from the date of the Program Administrator's notice to appeal the evaluation of their property(s), to the Board of Equalization in accordance with Sec. 26-8.1. Within the sixty-day period, an applicant may request, in writing, a meeting with the Program Administrator to discuss the evaluation. The Program Administrator must hold the meeting within ten (10) business days after receiving the meeting request. The Program Administrator has sixty (60) days from the receipt of additional information to advise the applicant whether and how the evaluation is changed.

Section I.10 Evaluation by Program Administrator. The Program Administrator reviews the list of ranked parcels submitted and forwards to the Board its recommendations as to which open-space easements should be purchased.

Section I.11 Invitation to sell. After the Program Administrator ranks the properties proposed for open-space easements, the Program Administrator selects the initial pool of parcels to be considered for acquisition of easements and assigns a value to be considered for acquisition of each selected easement. In accordance with the action, the Program Administrator invites the owner of each selected parcel to sell to the

County an open-space easement on that parcel for the amount determined by the Program Administrator and subject to the terms and conditions of a proposed deed of easement. The invitation to sell must be in writing and must include the proposed purchase price, the proposed deed of easement, and the date by which the written offer must be received by the Program Administrator in order to be accepted. The invitation may contain a firm offer to be returned by the owner if the owner desires to sell an open-space easement.

Section I.12 Evaluation by Board of County Supervisors. The Board shall review the list of ranked parcels submitted by the Program Administrator and the offers returned by the owners desiring to sell an open-space easement and identify, by resolution, which open-space easements should be purchased and their priority of purchase. Nothing in this chapter shall obligate the Board to purchase an open-space easement on any property that is deemed eligible for purchase.

Section I.13 Acceptance. The Program Administrator must accept the offers to sell open-space easements based upon the priority for purchase approved by the Board.

Section I.14 Offers not made; offers not accepted; invitation to other owners. If an owner whose offer is accepted elects not to sell the developments rights, then the Program Administrator may accept the offer to sell from the owner(s) of the next highest prioritized parcel(s) remaining on the list, subject to Board approval.

Section I.15 Reapplication. An owner of a parcel not selected by the Board for purchase of development rights may reapply in any future open application period.

Program Non-exclusivity

Section I.16 This chapter shall not be construed in any way as a limitation upon the County's authority to acquire land for public purposes.

Open-space Easements, Inspection, and Enforcement

Section I.17 For each open-space easement accepted into the program, the Program Administrator shall develop a program to:

- (a) Establish baseline data for each open-space easement and assure that the terms and conditions of the easement are monitored and complied with including provisions related to public access and/or amenities such as trails to connect open spaces.
- (b) Conduct periodic inspections of each open-space easement site to assure compliance with the terms of the easement.
- (c) Coordinate this effort with the land development process for approving subdivisions and building permits.
- (d) Assist landowners in determining whether proposed uses or activities are consistent with easement restrictions on particular properties.
- (e) Coordinate inspection and enforcement efforts where an easement is held jointly by the County and another organization.
- (f) Coordinate the inspection program with, and seek the assistance of, the soil and water conservation district where applicable.

Section I.18 In the event enforcement action is necessary, the Program Administrator works with the County Attorney to take appropriate action to assure compliance with the terms of the easement with the provisions of this Chapter.

Restriction on buy-back; extinguishments and exchange of easements

Section I.19 Restriction on buy-back. The owner does not have the option to reacquire any property rights relinquished under the open-space easement, except as provided in this section. The deed of easement may allow an exchange of easements as follows:

- (a) Petition to Board. Upon the expiration of 25 years from the date on which an open-space easement was recorded, the owner or successor in interest to the property which is subject to the easement may petition the Board for the extinguishment of such easement in exchange for the conveyance to the County of an open-space easement on a different parcel of property meeting all of the eligibility requirements as set forth in Section 5.01.
- (b) Requirements. No such extinguishment and exchange of easement may be authorized, unless a majority of the Board finds that:

- (i) The extinguishment and exchange is determined to be essential to the orderly development and growth of the County;
 - (ii) The extinguishment and exchange is in accordance with the Comprehensive Plan for the County in effect at the time of the extinguishment and exchange;
 - (iii) The extinguishment and exchange does not adversely affect the County's interests in accomplishing the purposes of this ordinance;
 - (iv) There is substituted other real property which is (a) of at least equal fair market value and at least equal acreage; (b) of greater value as permanent open-space land than the land upon which the easement is extinguished, (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land upon which the easement is extinguished and (d) is in accordance with the Virginia Open-Space Land Act, (Virginia Code §10.1-1700 et seq.).
- (c) Expenses. The petitioner must bear the expenses and fees in connection with the exchange, including, but not limited to purchase of the substituted easement, site assessments, surveys, closing costs, recording fees and taxes, title search, and title insurance, if required.

PDR Areas

-  PDR Area
-  Rural Area Boundary
-  County Registered Historic Site
-  Open Space Corridor
-  Park (County)
-  Protected Open Space

