

AN ACT
RELATING TO MUNICIPALITIES AND COUNTIES; PROVIDING AUTHORITY FOR
TRANSFERS OF DEVELOPMENT RIGHTS.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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Section 1. A new section of Chapter 3, Article 18 NMSA 1978 is enacted to read:

"PURPOSE--TRANSFER OF DEVELOPMENT RIGHTS.--

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A. The purpose of this section is to:

- (1) clarify an application of existing authority;
- (2) provide guidelines for counties and municipalities to regulate transfers of development rights consistent with comprehensive plans;
- (3) encourage the conservation of ecological, agricultural and historical land; and
- (4) require public notification of transfers of development rights.

B. A municipality or county may, by ordinance, provide for voluntary transfer of all or partial development rights from one parcel of land to another parcel of land.

C. The ordinance shall identify on a zoning map areas from which development rights may be transferred and areas to which development rights may be transferred.

D. The ordinance shall provide for:

- (1) the voluntary transfer of a development right from one

- parcel of land to increase the intensity of development of another parcel of land;
- (2) joint powers agreements, if applicable, for administration of transfers of development rights across jurisdictional boundaries;
- (3) the method of transfer of development rights, including methods of determining the accounting for the rights transferred;
- (4) the reasonable rules to effect and control transfers and ensure compliance with the provisions of the ordinance; and
- (5) public notification to the areas to which development rights may be transferred.

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E. Transference of a development right shall be in writing and executed by the owner of the parcel from which the development right is being transferred and acknowledged by the transferor. A development right shall not be subject to condemnation.

F. As used in this section, "development right" means the rights permitted to a lot, parcel or area of land under a zoning ordinance or local law respecting permissible use, area, density or height of improvements executed thereon, and development rights may be calculated and allocated in accordance with density or height limitations or any criteria that will effectively quantify a development right in a reasonable and uniform manner.

G. Nothing in this section shall be construed to authorize a municipality or a county to impair existing property rights.”

