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“NEW TITLE and CHAPTER”

Title 18G

DEVELOPMENT REGULATIONS – CONSERVATION PROGRAMS

CHAPTERS:

18G.10 TRANSFER AND PURCHASE OF DEVELOPMENT RIGHTS.



1 "NEW CHAPTER"

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4 *Chapter 18G.10*

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6 *TRANSFER AND PURCHASE OF DEVELOPMENT RIGHTS*

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32
33 **18G.10.010 Purpose.**

34 A. The purpose of the transfer of development rights (TDR) and public purchase of
 35 development rights (PDR) programs established by this Chapter is to provide public
 36 benefits by permanently conserving resource and rural farm lands, recreational trails,
 37 open space and habitat areas through acquisition and extinguishment of the development
 38 rights on those lands which are designated as "sending sites." All other rights of
 39 ownership, including the right to continue operation of such businesses as farming,
 40 sports and recreation and other uses permitted within the zone remain with the owner of
 41 the underlying fee. Transfer through conversion of the acquired development rights to
 42 density credits redeemable on eligible sites, designated as "receiving sites", may be
 43 accomplished as set out herein and through procedures promulgated by the TDR
 44 Committee.



1 **18G.10.020 TDR Sending Sites Criteria.**

- 2 A. Sending sites must contain a public benefit such that the preservation of that benefit by
3 transferring residential development rights, in the form of density credits, to another site
4 is in the public interest. A sending site will be presumed to contain a public benefit if it
5 meets at least one of the following criteria:
- 6 1. Designation in the Pierce County Comprehensive Plan as Agricultural Resource
7 Land (ARL);
 - 8 a. Lands designated as ARL in the Alderton-McMillin and Mid-County
9 Community Plans are high priority sending sites.
 - 10 2. Designation in the Pierce County Comprehensive Plan as Forest Lands (FL);
 - 11 3. Land located in the Alderton-McMillin or Mid-County Community Plan areas zoned
12 as rural residential zone (Rural Separator, Rural 10, Reserve 5, Rural 20, Rural 40,
13 Rural Farm, or Rural Sensitive Resource), and meeting the definition in RCW
14 84.34.020 of open space land and is used for agricultural operations;
 - 15 4. Privately owned land that extends or is located in close proximity to and enhances
16 public trail systems;
 - 17 5. Identification as habitat for federal listed endangered or threatened species in a
18 written determination by the Washington State Department of Fish and Wildlife, or
19 United States Fish and Wildlife Services, or a federally recognized tribe that the
20 sending site is appropriate for preservation or acquisition.
 - 21 6. Recreational Conservation Lands.
 - 22 7. Lands designated as eligible sending sites in a TDR/PDR agreement with a city.
 - 23 8. Tribal lands that meet one of the above criteria.
 - 24 9. For purposes of the PDR - Development Rights Bank purchases, any property type
25 eligible for Conservation Futures purchases shall be eligible for purchases by the
26 Development Rights Bank. However, only Conservation Futures properties meeting
27 criteria 1. through 8. above are eligible to transfer density credits to another site.
- 28 B. If a sending site consists of more than one lot, the lots must be contiguous. For purposes
29 of this Chapter, lots divided by a street are considered contiguous if the lots would share
30 a common lot line if the street was removed, although this provision may be waived.
- 31 C. If a sending site has any outstanding code violations, the owner shall correct the
32 violations, including any required abatement, restoration, or payment of civil penalties,
33 before a TDR sending site may be certified. Provided, however, that a TDR sending site
34 may be certified with outstanding code violations if the owner has made a good faith
35 effort to resolve the violations and the proposal is in the public interest.
- 36 D. For lots on which the entire lot or a portion of the lot has been logged in accordance with
37 a Class II, III, or IV special forest practice as defined in RCW 76.09 within six years
38 prior to application as a TDR sending site, the applicant must provide an affidavit of
39 compliance with the reforestation requirements of the Forest Practices Act.
- 40 E. Publicly owned property shall not be eligible as a sending site unless the TDR
41 Committee determines that the publicly owned property is under imminent threat of
42 development, that the property is highly valued as conservation property, and that
43 acquiring the publicly-owned development rights would not materially diminish the
44 value of available private development rights.
- 45



1 **18G.10.030 TDR Receiving Sites Criteria.**

- 2 A. Eligible receiving sites shall be:
- 3 1. Cities and towns.
- 4 a. All city and town receiving sites shall be designated pursuant to an agreement
- 5 with the County;
- 6 2. Unincorporated sites for which an amendment to the Comprehensive Plan has been
- 7 requested pursuant to Chapter 19C.10 which would result in increased residential
- 8 density opportunities ; or
- 9 3. Sites in the Urban Growth Area for which the base density is increased through the
- 10 density incentive provisions described in 18A.35.020 C.1.
- 11

12 **18G.10.040 Calculations of Available Development Rights on Sending Sites.**

- 13 A. The number of residential development rights that an unincorporated sending site is
- 14 eligible to sell under this program shall be determined by applying the sending site base
- 15 density established in 18G.10.040 D. to the area of the sending site. Any portion of the
- 16 sending site used for residential development or reserved for future residential
- 17 development in the TDR/PDR conservation easement shall be subtracted from the
- 18 calculation at base density.
- 19 B. Any fractions of development rights that result from the calculations in 18G.10.050 A.
- 20 shall be included in the final determination of total development rights available for sale.
- 21 C. For purposes of calculating the number of development rights a sending site may sell,
- 22 the area of a sending site shall be determined as follows:
- 23 1. If the sending site is an entire lot, the square footage or acreage shall be determined
- 24 by:
- 25 a. The Assessor-Treasurer's tax parcel records; or
- 26 b. A survey funded by the applicant that has been prepared and stamped by a
- 27 surveyor licensed in the state of Washington.
- 28 D. For the purposes of the TDR/PDR program, the following sending site base densities
- 29 apply:
- 30 1. Sending sites designated as Agricultural Resource Land (ARL) located within the
- 31 Mid-County or Alderton-McMillin Community Plans and within 1,000 feet of a
- 32 city's urban growth boundary shall have a base density of one unit per acre. If the
- 33 sending site is bisected by the 1,000 foot urban growth boundary line, the sending
- 34 site parcel shall have one development right per acre only for the portion of the site
- 35 located within 1,000 feet of the urban growth boundary. The sending site shall have
- 36 one development right per five acres for the area located outside of the 1,000 foot
- 37 urban growth boundary.
- 38 2. ARL sending sites in the Mid-County Community Plan area that were designated
- 39 urban or Rural Separator prior to the ARL designation shall have the same amount of
- 40 development rights to transfer as allowed under the previous zoning/designation.
- 41 For example, an ARL parcel zoned/designated as Moderate Density Single-Family
- 42 prior to the effective date of Ordinance No. 2004-87s shall have a density right of six
- 43 units per acre.
- 44 3. Sending sites designated as Agricultural Resource Land (ARL) located within the
- 45 Mid-County or Alderton-McMillin Community Plans that do not meet the criteria of
- 46 18G.10.060 D.1. or 2. shall have a base density of one dwelling unit per five acres.



1 Each site shall have at least one saleable development right irrespective of whether
2 that right could be used on site.

3 4 All other sending sites shall be consistent with the base density established in the
4 applicable density and dimensions table for the underlying zone in Title 18A –
5 Zoning.

6 E. A sending site may sell one development right for every legal lot created on or before
7 the effective date of this Chapter, if that number is greater than the number of
8 development rights determined under subsection A. of this Section.

9 F. Development rights from one sending site may be converted to density credits and
10 transferred to more than one receiving site and one receiving site may accept density
11 credits from more than one sending site.

12 G. The determination of the number of residential development rights a sending site has
13 available shall be valid for transfer purposes only, shall be documented as density credits
14 in a TDR certificate and shall be considered a final determination, not to be revised due
15 to changes to the sending site's zoning.

16 H. No density credits may be allowed from land encumbered by a conservation easement.

17 I. Notwithstanding any other provision of this Chapter, the TDR Committee may increase
18 the number of density credits derived from each development right acquired, provided
19 that such conversion rate shall be generally applicable to all sites in a zone, planning
20 area or other designated geographical area and follow the rules promulgated by the TDR
21 Committee. Such increase shall, in the judgment of the Committee, be necessary to the
22 effective and efficient operation of the TDR/PDR program. The decision of the TDR
23 Committee shall be reviewed by the County Council, which may recommend
24 modifications through an adopted resolution issued within 30 days of receipt of the
25 Committee's decision. Any Council modifications shall be based upon the calculations
26 described in this section.

27 J. The development right calculations in A. through I. above extend only to the TDR/PDR
28 program and do not change the sending site parcel's existing zone as described in Title
29 18A – Zoning.

30 K. The TDR Committee may consider development constraints and existing conditions
31 when determining the available development rights.

32
33 **18G.10.050 Development Limitations on Sending Sites.**

34 A. When only a portion of a site's development rights have been converted and
35 extinguished, a sending site may subsequently develop the remaining residential
36 dwelling units, if any, on the remaining buildable portion of the parcel(s) or be
37 subdivided consistent with the base density provisions for the applicable zone in the
38 Title 18A density and dimension tables and other Pierce County development
39 regulations.

40 B. Only those nonresidential uses directly related to the conservation values of the property
41 and supportive of the criteria under which the sending site qualified are allowed on a
42 sending site. Uses described in Title 18A.33 under the Resource Use Type and
43 Resource Accessory Uses are generally permitted. In addition, private parks and other
44 sports and recreational uses such as golf, softball and soccer shall be allowed on sites not
45 otherwise restricted by zoning, current use assessment status, or other property
46 restrictions.



1 C. Any reserved dwelling units (development rights) that may be developed in the future
2 shall be identified in the terms of the TDR/PDR conservation easement. All
3 development rights not explicitly reserved in the TDR/PDR conservation easement shall
4 be extinguished through the TDR/PDR conservation easement.

5
6 **18G.10.060 TDR Documentation of Restrictions.**

7 A. After a transfer, deed restrictions documenting the development rights conveyance shall
8 be recorded with Pierce County and notice placed on the title of the sending parcel
9 indicating that a development rights transfer has occurred and a TDR/PDR conservation
10 easement placed on the property. Pierce County shall establish and maintain an internal
11 tracking system that identifies all certified transfers and TDR/PDR conservation
12 easements.

13 B. A TDR/PDR conservation easement granted to and accepted by the County or other
14 appropriate land management agency shall be required for the sending site. The
15 TDR/PDR conservation easement shall include the legal description of the conservation
16 area and be documented by a map. The TDR/PDR conservation easement shall identify
17 limitations on future residential and nonresidential development consistent with this
18 Chapter as follows:

- 19 1. Pierce County shall record a TDR/PDR conservation easement on the entire sending
20 site to indicate the development limitations on the sending site;
 - 21 2. For a sending site zoned ARL or other rural property conducting farm activities, the
22 TDR/PDR conservation easement shall permit agricultural uses, allowing for
23 agricultural related infrastructure to promote the conserved farm's continuing
24 agricultural viability. No more than one home is allowed per ARL sending site,
25 although the TDR Committee may allow one additional dwelling unit in addition to
26 the allowed home if the dwelling unit is to be used to provide housing for farm
27 laborers. The TDR/PDR conservation easement shall permit agricultural uses as
28 provided in the ARL zone.
 - 29 3. For a sending site located within the FL zone, the sending site shall be a minimum of
30 80 acres. The conserved forest land shall be restricted to forest management
31 activities and shall include a forest stewardship plan approved by the County or an
32 organization authorized by the County to approve a forest management plan. The
33 forest stewardship plan shall not impose standards that exceed Title 222 WAC; or
 - 34 4. For a sending site qualifying as habitat for a federal listed endangered or threatened
35 species, the TDR/PDR conservation easement shall protect habitat and allow for
36 restoration, maintenance or enhancement of native vegetation, while allowing
37 farming and forestry activity if the parcel is used for timber harvests or agricultural
38 uses.
 - 39 5. For a sending site qualified as Recreational Conservation Lands, which shall include
40 private parks and other sports and recreational uses such as golf, softball and soccer,
41 the TDR/PDR conservation easement shall permit such uses compatible with open
42 space values.
- 43



1 **18G.10.070 TDR Sending Site Certification and TDR Committee Review Process.**

- 2 A. The TDR Committee, chaired by the TDR Administrator, shall be responsible for
3 determining and prioritizing which properties are eligible to be considered a sending
4 site. The TDR Committee shall base its decision on the materials provided by the
5 landowner in the TDR sending site application.
- 6 B. Responsibility for preparing a completed sending site application rests exclusively with
7 the applicant. The TDR Committee shall prepare and adopt administrative rules
8 defining the required content of a TDR application. Application forms shall be available
9 from the Department of Planning and Land Services.
- 10 C. Following the TDR Committee review and approval of the sending site application the
11 TDR Committee shall issue a TDR certificate in conversion for the proposed sending
12 site TDR/PDR conservation easement.
- 13 D. Sending site landowners may obtain TDR certificates which can be transferred pursuant
14 to PCC 18G.10.080 and used by receiving area landowners. The process for obtaining
15 the TDR certificates is as follows:
- 16 1. Following an application for TDR certificates by the sending site owner, the TDR
17 Administrator shall have 30 calendar days to issue a TDR certificate of intent. The
18 certificate shall contain a determination of the number of development rights
19 calculated for the sending site pursuant to PCC 18G.10.040 and an agreement by the
20 Department to issue a corresponding number of TDR certificates in conversion for a
21 sending site conservation easement granted to the County by the sending site owner
22 pursuant to PCC 18G.10.060. The sending site owner may use the TDR certificate
23 letter of intent to market sending site development rights to potential purchasers, but
24 the certificate letter of intent shall have no value and cannot be transferred or used to
25 obtain increased development rights within receiving areas.
 - 26 2. As provided by the TDR certificate letter of intent, Pierce County shall issue serially
27 numbered TDR certificates to the sending site owner upon acceptance of a
28 TDR/PDR conservation easement; provided, however, that the TDR Administrator
29 shall have 30 calendar days from the date the conservation easement is offered by
30 the sending site owner in which to conduct, at its discretion, a review of the sending
31 site permit file and/or a site inspection.

32
33 **18G.10.080 TDR Transfer Process.**

- 34 A. A TDR transaction transferring density credits from unincorporated Pierce County to a
35 city shall be reviewed and transferred using the city's development application review
36 process. The transfer shall be subject to a TDR agreement between Pierce County and
37 the city. The County and any city located within the County may also establish by
38 agreement general procedures for facilitating and completing TDR transactions
39 transferring density credits from unincorporated Pierce County to any such city.
- 40 B. Density credits shall be required for approved amendments to the Comprehensive Plan,
41 requested pursuant to PCC 19C.10 which increase the allowable densities on a site.
42 Required density credits for an Urban Growth Area amendment, which has a Map
43 Amendment component, shall be based only on the Map Amendment component.
44 Based on the Conversion Table (18G.10.190 – Appendix A), the TDR Committee shall
45 determine a fair and reasonable number of density credits the developer shall be required
46 to purchase, which shall be a function of the additional number of units obtained in the
47 Comprehensive Plan amendment. No permits for development of the additional units



1 shall be issued until the requirement is satisfied. The TDR Committee shall make the
2 determination of credits required after the Comprehensive Plan Amendment has been
3 approved by the Pierce County Council. The TDR Committee may raise the amount of
4 required density credits beyond the established conversion rate if the County or state has
5 made or is planning to make significant infrastructure improvements near the receiving
6 site or lower the required density credits below the established conversion rate if the
7 receiving site landowner has made or is required to make significant infrastructure
8 improvements near the receiving area.

- 9 1. The tender of density credits is not a precondition for the Comprehensive Plan
10 amendment to be approved. The density credits are required before the County
11 issues permits for any development of the additional units in the Comprehensive
12 Plan amendment. The developer must submit the density credits or other proof of
13 the transaction with the Planning and Land Services Department when applying for
14 any development permit.
- 15 2. The ordinance granting each Comprehensive Plan Amendment resulting in an
16 increase in residential density should condition the approval upon the applicant's
17 compliance with the density credit requirement to be imposed by the TDR
18 Committee.
- 19 3. The requirements of this Chapter shall not apply to any development proposal that
20 was submitted for consideration prior to the effective date of this Chapter.

21 C. The required density credits may be acquired by:

- 22 1. Purchasing density credits from certified sending sites; or
- 23 2. Purchasing density credits from the Development Rights Bank; provided; if the TDR
24 Committee determines insufficient credits are available in the Bank, then also by:
- 25 3. Providing funds to the Development Rights Bank adequate to cover the costs of
26 procuring the required density credits.

27 D. For transactions described in 18G.10.080 B. and 18G.10.080 C. in circumstances in
28 which funds are to be paid to the Development Rights Bank to cover the costs of
29 procuring the required density credits, the required payment shall be based upon the
30 determination of density credits required. The TDR Committee shall set the payment in
31 accordance with a process adhering to the rules promulgated by the TDR Committee.

32 E. All development using density credits must be in accordance with all other applicable
33 laws and regulations.

34 F. The TDR Committee may waive or modify the density credit requirements if it is
35 determined by the Prosecuting Attorney that strict application of the requirement in a
36 specific situation would result in an unconstitutional taking of property or a violation of
37 the property owner's right to substantive due process. Modifications made under this
38 provision shall be no greater than necessary to avoid the taking or substantive due
39 process violation. The TDR Committee shall provide written documentation supporting
40 each application of the provision.

41 G. The TDR Committee may establish a program for the voluntary acquisition and use of
42 density credits by promulgating rules and procedures therefore. If such program entails
43 the amendment of other chapters of the Pierce County Code, the Committee may prepare
44 such proposal for County Council consideration or may request the assistance of the
45 Department of Planning and Land Services.

46 H. The TDR Committee shall monitor program activities and results to determine if
47 changes in the regulations are needed to provide for more efficient operation, to meet



1 program goals, and/or to correct unintended consequences, including but not limited to
2 the consideration of adjustments to address commercial uses, transfer and purchase of
3 development rights for historic preservation sites, and the encouragement of urban
4 agriculture.

- 5 I. Development rights acquired from certified sending sites are converted to density credits
6 which may be transferred to eligible receiving sites through the TDR transfer process.
7 After completion of the conveyance of a sending site's development rights, the property
8 shall be maintained in a condition that is consistent with the criteria in this Chapter
9 under which the sending site was qualified by means of a TDR/PDR conservation
10 easement.
- 11 J. In situations where the property owner of a receiving site is unable to realize the
12 maximum density credits purchased through this program because of development
13 constraints, the unused density credits may be returned to the Bank and the owner
14 reimbursed based on the price paid.

15
16 **18G.10.090 Development Rights Bank - Purpose.**

- 17 A. The Development Rights Bank is an account and recordkeeping tool for the TDR
18 program that tracks the purchase of development rights, the encumbrance of properties
19 with a TDR/PDR conservation easement, the conversion of purchased development
20 rights to density credits, and the banking of credits and selling them.
- 21 B. The TDR Administrator administers all purchases of development rights through the
22 PDR program, except that development rights may be accepted from eligible sending
23 sites acquired through donation or purchased with other funds.

24
25 **18G.10.100 Development Rights Bank - Expenditure and Purchase Authorization.**

- 26 A. The acquisition of development rights by the Development Rights Bank as calculated in
27 18G.10.040 from a certified sending site shall be valued at prices not to exceed fair
28 market value. Density credits shall be sold by the Bank at prices determined by the TDR
29 Administrator in consultation with the TDR Committee. Fair market value is to be
30 determined by the TDR Committee's market judgment, which may be supported by an
31 appraisal. The Development Rights Bank may accept donations of development rights
32 from qualified sending sites.
- 33 B. In acquiring development rights from Recreational Conservation Lands the Committee
34 shall give priority to sites meeting the following criteria in descending order:
 - 35 1. Sites threatened by imminent development;
 - 36 2. Sites where development will have a negative impact on infrastructure, services or
37 environment of adjacent neighborhoods or communities; and
 - 38 3. Development of the site will significantly reduce the inventory of Recreational
39 Conservation Lands in the surrounding areas.
- 40 C. Upon the acquisition of development rights from a certified sending site, a TDR/PDR
41 conservation easement shall be placed on the property pursuant to the terms in
42 18G.10.060.
- 43 D. Funds from the Development Rights Bank may be used to facilitate the TDR program.
44 These expenditures may include, but are not limited to, amenity funding to incorporated
45 cities pursuant to an enacted TDR agreement, establishing and maintaining internet web
46 pages, marketing, procuring title reports and appraisals, and reimbursing the government



1 agency or other organization for administering the Development Rights Bank fund and
2 executing development rights purchases and sales.

- 3 E. All development rights acquired from qualified sending sites with County funds shall be
4 banked and available for sale through the TDR program. The development rights shall
5 not be banked if matching funding sources bar such use of development rights.
- 6 F. All proceeds from the sale of density credits from the Development Rights Bank shall be
7 available for acquisition of additional development rights, to administer and promote the
8 TDR program and Development Rights Bank pursuant to the process identified in this
9 Chapter, or to retire debt issued for purchases of development rights.
- 10 G. Funds from the Development Rights Bank shall not be used to purchase any
11 development rights within a participating city without first considering the
12 recommendation of the Urban Subcommittee of the TDR Committee relative to the
13 transaction. Further, any such purchase in a participating city shall not be pursued if the
14 city timely objects, after sufficient notice, through official action of its governing body;
15 provided the terms of this subsection may be altered by the terms of the participatory
16 agreement between the city and the County.
- 17 H. All purchases of development rights by the Bank shall conform to Chapter 2.110 PCC.

18
19 **18G.10.110 Development Rights Bank - Administration of the PDR Program.**

- 20 A. The TDR Administrator, in consultation with the TDR Committee, shall administer the
21 PDR program.
- 22 B. All land listed in 18G.10.020 A. is eligible for the PDR program.
- 23 C. The amount of development rights a lot has available to sell to the Development Rights
24 Bank shall be determined pursuant to 18G.10.040.
- 25 D. For the purposes of purchasing the development rights off of farmland and other eligible
26 sending sites, the value of the development rights shall be the difference between the
27 value of the land minus the residual value of the land. For purposes of the PDR program
28 only, the value shall be determined by an appraisal furnished by the TDR Administrator
29 and made available for the land owner's review.
- 30 E. The PDR transaction process for agricultural and other lands shall be as follows:
 - 31 1. Upon receiving PDR applications, the TDR Administrator shall rank the applications
32 according to the ranking criteria to be developed and promulgated by the TDR
33 Committee;
 - 34 2. The TDR Administrator shall meet individually with the owners of highly ranked
35 farmland or other lands to discuss the terms of the TDR/PDR conservation easement
36 and the purchase and sale agreement;
 - 37 3. The TDR Administrator shall order an appraisal and discuss the appraised value with
38 the owner;
 - 39 4. Upon the release of funds for acquisition, a TDR/PDR conservation easement shall
40 be placed on the property pursuant to 18G.10.060.
- 41 F. Pierce County shall be responsible for monitoring and enforcing the terms of the
42 TDR/PDR conservation easement.
- 43 G. All development rights purchased through the PDR program shall be converted to
44 density credits, banked and available for sale through the TDR program. The density
45 credits shall not be banked if matching funding sources bar the banking of development
46 rights.



1 H. Unless the Council has established a conversion rate, the TDR Committee shall develop
2 and use a conversion rate to establish the relationship between development rights and
3 density credits. The TDR Committee may periodically adjust the conversion rate,
4 subject to PCC 2.101.020, to reflect prevailing market conditions and effect a viable
5 TDR market. The Committee shall avoid, to the extent practicable, disparities between
6 the price of density credits available for purchase from the Bank and prevailing market
7 prices for density credits which a developer may purchase on the private market.
8

9 **18G.10.120 Development Rights Bank – Administration of Bank.**

- 10 A. Pierce County shall administer the Development Rights Bank fund and execute
11 purchases of development rights and TDR/PDR conservation easements and sales of
12 density credits in a timely manner consistent with policy set by the TDR Committee.
13 These responsibilities include, but are not limited to:
14 1. Managing the Development Rights Bank fund;
15 2. Authorizing and monitoring expenditures;
16 3. Keeping records of the dates, amounts, and locations of development rights
17 purchases and density credit sales, and TDR/PDR conservation easement purchases;
18 4. Executing development rights purchases, density credit sales, and TDR/PDR
19 conservation easements;
20 5. Working with stakeholders to develop additional receiving sites in cities; and
21 6. Providing periodic summary reports of Development Rights Bank activity for TDR
22 Committee, Pierce County Executive and Pierce County Council consideration.
23 B. The TDR Administrator shall be responsible for managing the TDR program, the
24 Development Rights Bank and the PDR program with the advice and direction of the
25 TDR Committee.
26

27 **18G.10.130 Development Rights Bank - Sale of Density Credits.**

- 28 A. The price of density credits sold by the Development Rights Bank shall be set by the
29 TDR Committee. Such price shall presumptively be the same as the price paid for the
30 corresponding development right from which the particular credit was derived.
31 However, the Committee may adjust such price based on consideration of such factors
32 as the committee believes relevant, including the prevailing market rates for
33 development rights and the effect such density credit price may have on the development
34 rights market.
35 B. Density credits are not real estate and the sale of such credits under this Chapter are
36 exempt from the requirements of Chapter 2.110 PCC.
37 C. Density credits can only be sold in whole increments.
38 D. All offers to purchase density credits from the bank shall be in writing, shall include a
39 certification that the credits will be used only inside an identified, eligible receiving area,
40 shall include the number of density credits to be purchased, location of the receiving site
41 and the sale's required date of completion.
42 E. Density credits shall be sold for cash through escrow.
43 F. Density credits may be optioned. The option shall include a minimum of a 10 percent
44 down payment. An option shall not be granted for longer than two years.
45 G. Payment for purchase of density credits from the Development Rights Bank shall be in
46 full at the time the credits are transferred unless otherwise authorized by the TDR
47 Committee.



1
2 **18G.10.140 Requirements for Transfers by the Development Rights Bank for Use in**
3 **Incorporated Receiving Areas.**

- 4 A. For density credits to be used in incorporated receiving site areas, the County and the
5 affected city must first have executed a TDR agreement approved by the County
6 Council.
- 7 B. At a minimum, each TDR agreement shall describe the legislation that the receiving
8 jurisdiction adopted or will adopt to allow the use of density credits, shall identify
9 receiving area(s), shall require documentation of restrictions pursuant to 18G.10.060,
10 and shall develop a TDR Urban Committee. If the city is to receive any amenity funds
11 pursuant to 18G.10.150 of this Chapter, the agreement shall set forth the amount of
12 funding and the conditions precedent before the County releases amenity funding to the
13 city. The TDR agreement may also indicate that a priority should be given by the
14 County to acquiring development rights from sending sites in specified geographic areas
15 within the County.
- 16 C. A TDR conversion of development rights purchased from a sending site and transferred
17 to an incorporated receiving site area may express the amount of additional density
18 credits in terms of any combination of units, floor area, height, or other applicable
19 development standards that may be modified by the city to provide incentives for the
20 developer to purchase density credits.
- 21 D. Density credits may not be utilized in a participating city without first considering the
22 recommendation of the Urban Committee relative to the transaction. Further, any such
23 transfer into a participating city shall not be allowed if the city timely objects, after
24 sufficient notice, through official action of its governing body; provided, the terms of
25 this subsection may be altered by the terms of the participatory agreement between the
26 city and County.

27
28 **18G.10.150 TDR Amenity Funding for Cities.**

- 29 A. TDR amenity funding may be available from Pierce County to cities as an incentive to
30 enter into and utilize the TDR program.
- 31 B. TDR amenity funding shall be described in the TDR agreement between the County and
32 the city. Amenity funding may differ between cities based upon the unique needs of the
33 County and city.

34
35 **18G.10.160 Restrictions on Expenditure of Development Rights Bank Funds for TDR**
36 **Amenities.**

- 37 A. Expenditures by the County for amenities to facilitate TDR sales shall be authorized by
38 the TDR agreements. Amenity funding shall not exceed the value of the increased
39 densities it is intended to offset, nor shall amenity funding be available if the sending
40 and receiving sites are each located within the same city.
- 41 B. The County shall not expend funds on TDR amenities in a city before execution of an
42 agreement.
- 43 C. TDR amenities may include the acquisition, design or construction of public art, cultural
44 and community facilities, parks, open space, trails, roads, parking, landscaping,
45 sidewalks, other streetscape improvements, transit-related improvements or other
46 improvements or such other amenities that may be agreed to in the TDR agreement.



- 1 D. Public transportation amenities shall enhance the transportation system. These amenities
2 may include capital improvements such as passenger and layover facilities, if the
3 improvements are within a designated receiving area or within 1,500 feet of a receiving
4 site. These amenities may also include programs that reduce the use of single occupant
5 vehicles, including transit pass programs.
- 6 E. Road fund amenities shall enhance the transportation system. These amenities may
7 include capital improvements, such as streets, sidewalks, street landscaping, bicycle
8 lanes, if these improvements are within a designated receiving area site or within five
9 hundred feet of a receiving site.
- 10 F. All amenity funding provided by Pierce County to cities to facilitate the transfer of
11 development rights shall be consistent with federal, state, and local laws.
- 12 G. The timing and amounts of funds for amenities paid by Pierce County to each
13 participating city shall be determined by agreement.
- 14 H. A city that receives amenity funds from the County is responsible for using the funds for
15 the purpose and according to the terms of the governing agreement.
- 16 I. To facilitate timely implementation of capital improvements or programs at the lowest
17 possible cost, Pierce County may make amenity payments as authorized in an agreement
18 to a city before completion of the required improvements, as applicable.
- 19 J. Pierce County is not responsible for maintenance, operating, and replacement costs
20 associated with amenity capital improvements inside cities unless expressly agreed to in
21 the agreement.
- 22

23 **18G.10.170 Condemned Lands.**

24 All condemnation actions on sending sites encumbered by a TDR/PDR conservation
25 easement in favor of Pierce County or its assigns shall be mitigated. Mitigation value shall equal
26 the value of the development rights at the time the property was encumbered with a TDR/PDR
27 conservation easement, plus 8 percent annual interest, irrespective of whether the development
28 rights purchased on the property have been extinguished, banked or sold to a private party.

29

30 **18G.10.180 Exemption from Surplus Provisions.**

31 The transfer of development rights from the Development Rights Bank may be completed
32 consistent with Pierce County's needs and in accordance with the criteria of this Chapter. The
33 transfers are exempt from Pierce County real and personal property surplus provisions.

34



18G.10.190 – Appendices

Appendix A
TDR Conversion Table

Transfer of Development Rights Program: TDR Conversion Table	
Final density on receiving site (units/acre)	TDR conversion rate (per acre)
1	1.0
2	1.5
3	1.9
4	2.2
5	2.6
6	3.0
7	3.3
8	3.5
9	3.8
10	4.0
11	4.3
12	4.5
13	4.8
14	5.0
15	5.3
16	5.6
17	5.8
18	6.1
19	6.4
20	6.7
21	6.9
22	7.2
23	7.5
24	7.7
25	8.0

Note: This table is simplified to show whole numbers. The full table with fractional densities is incorporated herein by reference and may be found at the Department of Planning and Land Services.

Formula to determine the number of development rights required under 18G.10.080:

$$\text{Development rights required per gross acre} = (\text{FD} - \text{PD}) / \text{TDR conversion rate}$$

FD = final density on site after the comprehensive plan is approved

PD = previous density allowed on site before the comprehensive plan is approved, maximum allowed in Density and Dimension tables of Title 18A of the Pierce County Code using gross acreage



1
2
3
4
5
6
7
8

Example: A landowner on a 1 acre site with a maximum density of 4 units/acre is approved for a Comprehensive Plan amendment allowing 14 units/acre.

Development rights required = $(14 - 4) / 5 = 2$ **development rights per acre**
14=FD; 4=PD; 5=conversion rate which is taken from chart above

