

**ORDINANCE NO. 1009**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON  
ADDING A NEW SUBCHAPTER, SUBCHAPTER 11, TO CHAPTER 20.50  
OF TITLE 20 OF THE SHORELINE MUNICIPAL CODE, TO ESTABLISH  
A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.**

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, Shoreline Municipal Code (SMC) Title 20, sets forth the City's Unified Development Code; and

WHEREAS, a transfer of development rights (TDR) program is a marketplace-based growth management and conservation tool available to the City to encourage the voluntary preservation of working agricultural and forest lands and open space while also promoting more compact infill development within urban areas, consistent with the innovative land use management techniques encouraged by RCW 36.70A.090; and

WHEREAS, Shoreline Comprehensive Plan Land Use Policy LU61 states that the City should support TDR programs throughout the City and development of a TDR program has been a long-standing goal of the City, with Land Use Policies LU3, LU87, and LU92 of the 2005 Comprehensive Plan reflecting this fact; and

WHEREAS, the City Council has previously discussed the TDR and King County LCLIP programs in 2014, 2019, 2020, and most recently at its March 4, 2024, regular meeting; and

WHEREAS, the Shoreline Planning Commission considered the TDR program and, subsequently the proposed amendments, at its October 20, 2022, April 6, 2023, and June 1, 2023, meetings; and

WHEREAS, the Shoreline Planning Commission held a public hearing on the proposed amendments on July 20, 2023, so as to receive public comment and testimony, and recommended approval of the proposed amendments as presented by Staff; and

WHEREAS, the City Council discussed the Shoreline Planning Commission's recommendation at its March 4, 2024, regular meeting and directed staff to return with further evaluation of the financial incentives available to the City from King County to encourage adoption of a TDR program; and

WHEREAS, financial incentives were presented to the City Council at its May 6, 2024, regular meeting where it was determined that a TDR revenue sharing program being offered by King County be utilized; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code on May 22, 2023; and

WHEREAS, the environmental impacts of the amendments resulted in the issuance of a Determination of Non-significance on June 15, 2023; and

WHEREAS, the City provided public notice of the amendments and the public hearing as provided in SMC 20.30.070; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation and has determined that the amendments to Title 20 are consistent with and implement the Shoreline Comprehensive Plan and serves the purpose of the Unified Development Code as set forth in SMC 20.10.020;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:**


**Section 1. Amendment – SMC Chapter 20.50.** A new subchapter, Subchapter 11 Transfer of Development Rights Program, is added to SMC Chapter 20.50 as set forth in Exhibit A.

**Section 2. Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this Ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.


**Section 3. Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

**Section 4. Publication and Effective Date – Retroactive Application.**  
A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

**PASSED BY THE CITY COUNCIL ON JUNE 24, 2024.**

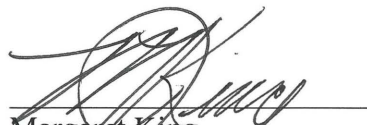
  
\_\_\_\_\_  
Mayor Christopher Roberts

**ATTEST:**



\_\_\_\_\_  
Jessica Simulcik Smith  
City Clerk

**APPROVED AS TO FORM:**



\_\_\_\_\_  
Margaret King  
City Attorney

Date of publication: June 27, 2024  
Effective date: July 2, 2024



## Subchapter 11

### Transfer of Development Rights Program (TDR)

20.50.800 Transfer of Development Rights Program (TDR).

#### A. Purpose.

A Transfer of Development Rights (TDR) Program is established: (A) as an incentive for protecting farms, forests, rural lands, and environmentally critical areas while encouraging greater development potential within specified areas of Shoreline; and (B) as a potential way to obtain infrastructure financing.

#### B. Definitions.

“Baseline development potential” means the maximum development intensity allowed in receiving areas without the use of a TDR credit for additional development.

“County” means the county government of King County.

“Development bonus” means the additional development value that a project using TDR may gain beyond baseline development potential. Types of development bonus are specified in this subchapter and may include additional development intensity or flexibility in certain requirements.

“Development right” means the right of a property owner to build one residential unit on a sending area parcel. Development rights may be converted to TDR credits and sold to developers to gain development bonus in a receiving area.

“Exchange rates” specify how much development bonus a receiving area project may gain in return for the acquisition of one TDR certificate. Exchange rates are expressed as a ratio in terms of the quantity of development bonus per TDR certificate.

“Sending areas” are those lands prioritized by counties for conservation established by their respective countywide TDR programs.

“TDR” means transfer of development rights, a voluntary, market-based real estate tool that encourages growth in areas where it's desired while conserving those lands where growth is not desired. TDR is recognized and encouraged as an innovative land use technique under the Growth Management Act (RCW 36.70.090).

“TDR certificate” is the proof of ownership of development rights, taking the form of a recorded document issued by a county, showing the number of development rights the holder has acquired and may use in a receiving area project. A TDR certificate may represent multiple TDR credits.

“TDR credit” is a tradable commodity representing one development right from a county sending area as certified by a county.

“TDR Manager” means the city employee assigned by the Planning and Community Development Director to accomplish the duties specified as city responsibilities in this subchapter.

“TDR receiving areas” are those geographies within the city as established in this subchapter where TDR may be used to gain development bonus.

**C. Applicability.**

The TDR Program applies to development in receiving areas and the administration of TDR transactions under this subchapter. This subchapter establishes requirements for applying TDR certificates to new construction in receiving areas and the extent of increased development allowed within them.

**D. Location of sending areas.**

Sending areas under this program shall be within unincorporated counties, provided that such areas have been designated by the counties as agricultural or forest lands of long-term commercial significance or as rural lands that otherwise meet the sending area criteria as established in the counties’ respective TDR program rules and regulations.

**E. Sending area development limitations.**

The City will accept the transfer of development credits from eligible sending areas; provided that the credits are transferred in accordance with the requirements of this subchapter.

1. To transfer development credits, the sending area must be encumbered by a conservation easement or other similar encumbrance approved by the County in which the sending area is located.
2. All conservation easements used to achieve development bonuses encumber real property pursuant to this subchapter must be conveyed in a manner consistent with RCW 64.04.130. The grantee of the conservation easement must be the County or a third party with the express right to enforce the terms of the conservation easement.

**F. Sending area TDR certification.**

For sending areas situated in unincorporated King County, the TDR certificate must be issued pursuant to King County Code 21A.37.070 or any amendment thereof.

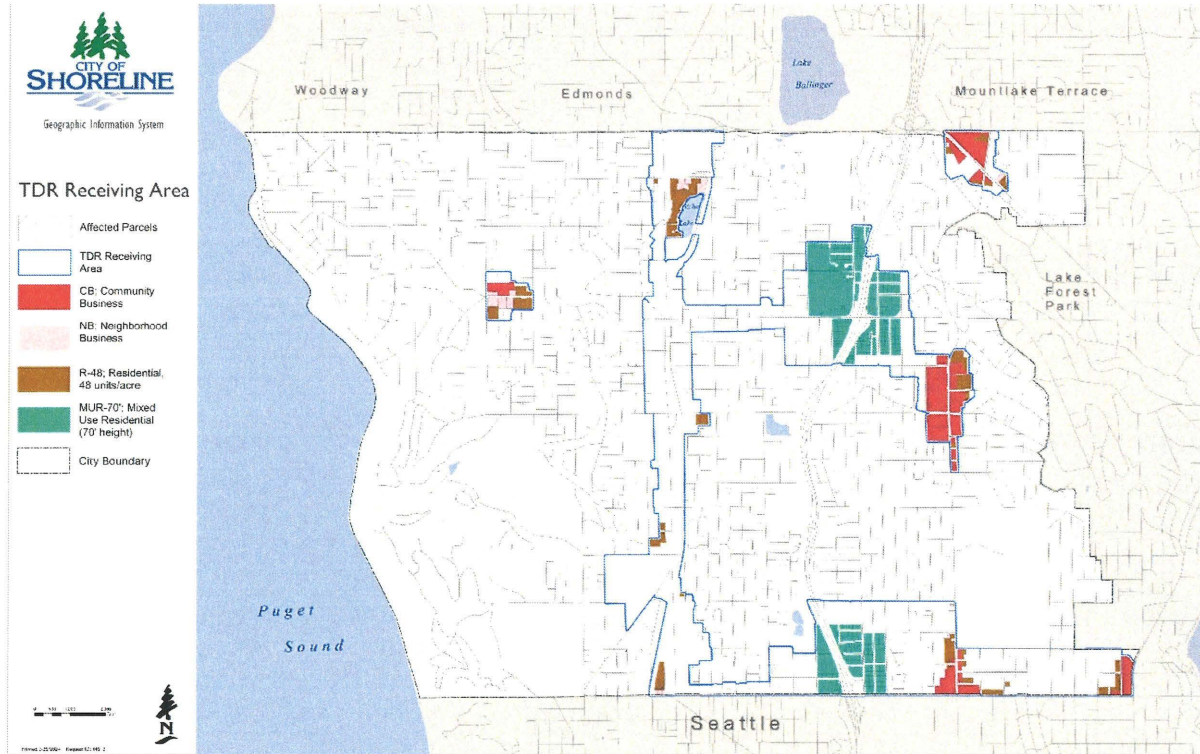
For sending areas situated in unincorporated Snohomish County, the TDR certificate must be issued pursuant to Snohomish County Code 30.35A.050 or any amendment thereof.



For sending areas situated in unincorporated Pierce County, the TDR certificate must be issued pursuant to Pierce County Code 18G.10.110 or any amendment thereof.

**G. Location of receiving areas.**

The City’s receiving areas for development credits under this subchapter are areas within the TDR Receiving Areas as shown below:



Within the TDR receiving areas shown on the map, the following zones are established as TDR receiving areas:

- NB – Neighborhood Business (NB)
- CB – Community Business (CB)
- MUR-45’ – Mixed-Use Residential (45’ height)
- MUR-70’ – Mixed-Use Residential (70’ height)
- R-48 – Residential, 48 units/acre

**H. Receiving area baselines and exchange ratios.**

In the receiving areas shown in SMC 20.50.800(G), bonus development shall be awarded as follows:

Exchange Rates Table

Zone	Baseline Height	Max Height	Bonus	Pierce	King	Sno Co.	Type
R-48	35'	70'	Height	1 credit = 1,100 sqft 1 credit = 2,900 sqft	1 credit = 7,000 sqft 1 credit = 3,100 sqft	1 credit = 2,900 sqft 1 credit = 2,900 sqft	Farm Non-Farm
NB	50'	70'	Height	1 credit = 1,100 sqft 1 credit = 2,900 sqft	1 credit = 7,000 sqft 1 credit = 3,100 sqft	1 credit = 2,900 sqft 1 credit = 2,900 sqft	Farm Non-Farm
CB	60'	70'	Height	1 credit = 1,100 sqft 1 credit = 2,900 sqft	1 credit = 7,000 sqft 1 credit = 3,100 sqft	1 credit = 2,900 sqft 1 credit = 2,900 sqft	Farm Non-Farm
MUR-45'	45'	45'	Parking Reduction	1 credit = .48 spaces 1 credit = .87 spaces	1 credit = 1.75 spaces 1 credit = .92 spaces	1 credit = .87 spaces 1 credit = .87 spaces	Farm Non-Farm
MUR-70'	70'	70'	Parking Reduction	1 credit = .41 spaces 1 credit = .67 spaces	1 credit = 1.25 spaces 1 credit = .7 spaces	1 credit = .67 spaces 1 credit = .67 spaces	Farm Non-Farm
MUR-70'	70'	140'	Height	1 credit = 3,100 sqft 1 credit = 8,200 sqft	1 credit = 19,700 sqft 1 credit = 8,900 sqft	1 credit = 8,200 sqft 1 credit = 8,200 sqft	Farm Non-Farm

**I. Receiving area process.**

1. Developers who intend to exceed baseline development potential in a TDR receiving area shall acknowledge in development-related application materials that they will be required to submit the prescribed number of TDR credits at the time the developer submits the building permit application. Preliminary application approval, where applicable, will indicate the estimated number of TDR credits required prior to final approval. Applicants are not required to own or control TDR credits at the time of submitting the application and TDR credits do not impact a project’s ability to vest in current regulations. Applicants shall submit the prescribed number of TDR credits prior to the City’s issuance of building permits.

- a. Developer communicates intent to exceed baseline development potential and acknowledges need to furnish TDR credits in pre-application process.



- b. Developer estimates the number of TDR credits needed as part of the building permit application based on exchange ratios established under section H.
- c. City confirms the exact number of TDR credits needed prior to final building permit approval. For calculation purposes, development bonus must translate to whole numbers of TDR credits. If the desired increment of development bonus would result in a fractional number of TDR credits, the project must round up to the next whole number of TDR credits.
- d. Applicant submits prescribed number of TDR credits to city prior to issuance of building permit.

2. Developers may obtain TDR certificates directly from a sending area landowner, from TDR banks, or from any other intermediary provided the certificates are issued by and in accordance with the requirements of their respective county's TDR program.

3. Final building permit Certificate of Occupancy shall not be granted until the TDR Manager has provided written documentation of compliance with TDR requirements. The serial numbers of all TDR credits shall be recorded on the building permit for all projects using TDR.

4. Following receipt of TDR certificates for a receiving area project, the city shall extinguish the certificates and return them to the county of their origin confirming that they have been applied to a receiving area project.

#### **J. TDR Manager responsibilities.**

1. The county shall maintain a TDR registry documenting the ownership history of all TDR certificates by serial number from the time they are granted to the sending area owner to their retirement in a receiving area development. The city shall document all TDR credit use in construction projects within the city, extinguish those credits upon use in projects, and return them to the TDR program administrator in the county of their origin.

2. Once the first TDR transaction has been accomplished, the county shall provide an annual report to Washington State Department of Commerce detailing the following information:

- Number of TDR transactions completed.
- Number of TDR credits transferred into the city.
- Total number of new residential units in the city.
- Number of additional residential units allowed due to TDR credit transfers.
- Amount of additional building height allowed due to TDR credit transfers.



- Amount of parking spaces reduced due to TDR credit transfers.
  - Amount of revenues received from King County.
3. The city should check at least annually with each participating county whether the TDR ratio has changed. If the ratio has changed, the city should propose any amendments, based on recommendations from each county, needed to make this subchapter consistent with the current County/City TDR ratios.
  4. Modification of Receiving Site Incentives. The city is authorized to revise the exchange rate table to address changing economic conditions. The exchange rate table, SMC 20.50.800(H) shall not be revised more than once in a calendar year. The city shall base revisions on the following criteria as analyzed by a qualified, third-party expert:
    - a. The expected marginal value of the development bonus;
    - b. The prevailing cost of per square foot commercial or residential development and pro forma analyses of typical project costs in receiving areas;
    - c. Changes in sending area TDR credit pricing as reported by counties;
    - d. The city's progress towards meeting TDR placement targets, if any; and
    - e. Consistency with the conservation principles and purpose and intent of this chapter.
  2. The modified exchange rate table shall be used for calculation of receiving area development bonus. Within 14 days of adopting a revised exchange rate table, the director shall update publicly available program information.
  3. If a developer or private property owner requests revisions to the exchange rate table, the burden of preparing the economic analysis shall be on the developer or private property owner and the analysis shall be performed by a qualified third-party expert jointly selected by the city and the requestor.
  4. If changes in the market suggest that forms of development bonus different from or supplemental to those in the exchange rate table are appropriate to include in the program, the city may recommend such modifications to council and incorporate alternative options in the third-party analysis and table revisions subject to council approval.