

Title 18G

DEVELOPMENT REGULATIONS – CONSERVATION PROGRAMS

CHAPTERS:

18G.10 TRANSFER AND PURCHASE OF DEVELOPMENT RIGHTS.

Chapter 18G.10

TRANSFER AND PURCHASE OF DEVELOPMENT RIGHTS

Sections:

- 18G.10.010 Purpose.**
- 18G.10.015 Applicability.**
- 18G.10.020 TDR Sending Sites Criteria.**
- 18G.10.030 TDR Receiving Sites Criteria.**
- 18G.10.040 Calculations of Available Development Rights on Sending Sites.**
- 18G.10.050 Development Limitations on Sending Sites.**
- 18G.10.060 TDR Documentation of Restrictions.**
- 18G.10.070 TDR Sending Site Certification.**
- 18G.10.080 TDR Transfer Process.**
- 18G.10.090 Development Rights Bank – Purpose.**
- 18G.10.100 Development Rights Bank – Expenditure and Purchase Authorization.**
- 18G.10.110 Development Rights Bank – Administration of PDR Program.**
- 18G.10.120 Development Rights Bank – Administration of Bank.**
- 18G.10.130 Development Rights Bank – Sale of Density Credits.**
- 18G.10.140 Requirements for Transfers by the Development Rights Bank for Use in Incorporated Receiving Areas.**
- 18G.10.150 TDR Amenity Funding for Cities.**
- 18G.10.160 Restrictions on Expenditure of Development Rights Bank Funds for TDR Amenities.**
- 18G.10.170 Condemned Lands.**
- 18G.10.180 Exemption from Surplus Provisions.**
- 18G.10.190 Appendices.**
 - A. TDR Conversion Program.**

18G.10.010 Purpose.

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

(Ord. 2009-24s § 2 (part), 2009; Ord. 2007-91s § 1 (part), 2007)

18G.10.015 Applicability.

- A. The provisions of this Title apply throughout unincorporated Pierce County to any site where:
 - 1. A Comprehensive Plan Amendment is requested and approved pursuant to Chapter 19C.10 and the amendment increases the allowable density on the site;

2. An interlocal agreement or pre-annexation agreement with a city or town allowing the transfer of development rights is in place; or
3. Sites in the Urban Growth Area for which the base density is increased through the density incentive provisions described in 18A.35.020 C.1.b.

(Ord. 2009-24s § 2 (part), 2009)

18G.10.020 TDR Sending Sites Criteria.

- A. Sending sites must contain a public benefit such that the preservation of that benefit by transferring residential development rights, in the form of density credits, to another site is in the public interest. A sending site will be presumed to contain a public benefit if it meets at least one of the following criteria:
 1. Designation in the Pierce County Comprehensive Plan as Agricultural Resource Land (ARL) or Rural Sensitive Resource (RSR).
 - a. Lands designated as ARL in the Alderton-McMillin and Mid-County Community Plans are high priority sending sites.
 2. Designation in the Pierce County Comprehensive Plan as Forest Lands (FL).
 3. Land located in the Alderton-McMillin or Mid-County Community Plan areas zoned as rural residential zone (Rural Separator, Rural 10, Reserve 5, Rural 20, Rural 40, Rural Farm, or Rural Sensitive Resource), and meeting the definition in RCW 84.34.020 of open space land and is used for agricultural operations;
 4. Privately owned land that extends or is located in close proximity to and enhances public trail systems.
 5. Identification as habitat for federal listed endangered or threatened species in a written determination by the Washington State Department of Fish and Wildlife, or United States Fish and Wildlife Services, or a federally recognized tribe that the sending site is appropriate for preservation or acquisition.
 6. Recreational Conservation Lands.
 7. Lands designated as eligible sending sites in a TDR/PDR agreement with a city.
 8. Tribal lands that meet one of the above criteria.
 9. For purposes of the PDR – Development Rights Bank purchases, any property type eligible for Conservation Futures purchases shall be eligible for purchases by the Development Rights Bank. However, only Conservation Futures properties meeting criteria 1. through 8. above are eligible to transfer density credits to another site.
 10. Washington State Department of Natural Resources managed trust land that meets any criteria numbered 1. through 7. above.
- B. If a sending site consists of more than one lot, the lots must be contiguous. For purposes of this Chapter, lots divided by a street are considered contiguous if the lots would share a common lot line if the street was removed, although this provision may be waived.
- C. If a sending site has any outstanding code violations, the owner shall correct the violations, including any required abatement, restoration, or payment of civil penalties, before a TDR sending site may be certified. Provided, however, that a TDR sending site may be certified with outstanding code violations if the owner has made a good faith effort to resolve the violations and the proposal is in the public interest.
- D. For lots on which the entire lot or a portion of the lot has been logged in accordance with a Class II, III, or IV special forest practice as defined in RCW 76.09 within six years prior to application as a TDR sending site, the applicant must provide an affidavit of compliance with the reforestation requirements of the Forest Practices Act.

- E. Publicly owned property shall not be eligible as a sending site unless the TDR Committee determines that the publicly owned property is under imminent threat of development, that the property is highly valued as conservation property, and that acquiring the publicly-owned development rights would not materially diminish the value of available private development rights.

(Ord. 2007-91s § 1 (part), 2007)

18G.10.030 TDR Receiving Sites Criteria.

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

(Ord. 2007-91s § 1 (part), 2007)

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

- A. The number of residential development rights that an unincorporated sending site is eligible to sell under this program shall be determined by applying the sending site base density established in 18G.10.040 D. to the area of the sending site. Any portion of the sending site used for residential development or reserved for future residential development in the TDR/PDR conservation easement shall be subtracted from the calculation at base density.
- B. Any fractions of development rights that result from the calculations in 18G.10.050 A. shall be included in the final determination of total development rights available for sale.
- C. For purposes of calculating the number of development rights a sending site may sell, the area of a sending site shall be determined as follows:
 - 1. If the sending site is an entire lot, the square footage or acreage shall be determined by:
 - a. The Assessor-Treasurer's tax parcel records; or
 - b. A survey funded by the applicant that has been prepared and stamped by a surveyor licensed in the state of Washington.
- D. For the purposes of the TDR/PDR program, the following sending site base densities apply:
 - 1. Sending sites designated as Agricultural Resource Land (ARL) located within the Mid-County or Alderton-McMillin Community Plans and within 1,000 feet of a city's urban growth boundary shall have a base density of one unit per acre. If the sending site is bisected by the 1,000 foot urban growth boundary line, the sending site parcel shall have one development right per acre only for the portion of the site located within 1,000 feet of the urban growth boundary. The sending site shall have one development right per five acres for the area located outside of the 1,000 foot urban growth boundary.

2. ARL sending sites in the Mid-County Community Plan area that were designated urban or Rural Separator prior to the ARL designation shall have the same amount of development rights to transfer as allowed under the previous zoning/designation. For example, an ARL parcel zoned/designated as Moderate Density Single-Family prior to the effective date of Ordinance No. 2004-87s shall have a density right of six units per acre.
 3. Sending sites designated as Agricultural Resource Land (ARL) located within the Mid-County or Alderton-McMillin Community Plans that do not meet the criteria of 18G.10.060 D.1. or 2. shall have a base density of one dwelling unit per five acres. Each site shall have at least one saleable development right irrespective of whether that right could be used on site.
 4. All other sending sites shall be consistent with the base density established in the applicable density and dimensions table for the underlying zone in Title 18A – Zoning.
- E. A sending site may sell one development right for every legal lot created on or before the effective date of this Chapter, if that number is greater than the number of development rights determined under subsection A. of this Section.
 - F. Development rights from one sending site may be converted to density credits and transferred to more than one receiving site and one receiving site may accept density credits from more than one sending site.
 - G. The determination of the number of residential development rights a sending site has available shall be valid for transfer purposes only, shall be documented as density credits in a TDR certificate and shall be considered a final determination, not to be revised due to changes to the sending site's zoning.
 - H. No density credits may be allowed from land encumbered by a conservation easement.
 - I. Notwithstanding any other provision of this Chapter, the TDR Committee may increase the number of density credits derived from each development right acquired, provided that such conversion rate shall be generally applicable to all sites in a zone, planning area or other designated geographical area and follow the rules promulgated by the TDR Committee. Such increase shall, in the judgment of the Committee, be necessary to the effective and efficient operation of the TDR/PDR program. The decision of the TDR Committee shall be reviewed by the County Council, which may recommend modifications through an adopted resolution issued within 30 days of receipt of the Committee's decision. Any Council modifications shall be based upon the calculations described in this Section.
 - J. The development right calculations in A. through I. above extend only to the TDR/PDR program and do not change the sending site parcel's existing zone as described in Title 18A – Zoning.
 - K. When necessary, the TDR Committee may consider development constraints and existing conditions when determining the available development rights.
- (Ord. 2009-24s § 2 (part), 2009; Ord. 2007-91s § 1 (part), 2007)

18G.10.050 Development Limitations on Sending Sites.

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

- B. Only those nonresidential uses directly related to the conservation values of the property and supportive of the criteria under which the sending site qualified are allowed on a sending site. Uses described in Chapter 18A.33 under the Resource Use Type and Resource Accessory Uses are generally permitted. In addition, private parks and other sports and recreational uses such as golf, softball and soccer shall be allowed on sites not otherwise restricted by zoning, current use assessment status, or other property restrictions.
- C. Any reserved dwelling units (development rights) that may be developed in the future shall be identified in the terms of the TDR/PDR conservation easement. All development rights not explicitly reserved in the TDR/PDR conservation easement shall be extinguished through the TDR/PDR conservation easement.

(Ord. 2007-91s § 1 (part), 2007)

18G.10.060 TDR Documentation of Restrictions.

- A. After a transfer, deed restrictions documenting the development rights conveyance shall be recorded with Pierce County and notice placed on the title of the sending parcel indicating that a development rights transfer has occurred and a TDR/PDR conservation easement placed on the property. Pierce County shall establish and maintain an internal tracking system that identifies all certified transfers and TDR/PDR conservation easements.
- B. A TDR/PDR conservation easement granted to and accepted by the County or other appropriate land management agency shall be required for the sending site. The TDR/PDR conservation easement shall include the legal description of the conservation area and be documented by a map. The TDR/PDR conservation easement shall identify limitations on future residential and nonresidential development consistent with this Chapter as follows:
 - 1. Pierce County shall record a TDR/PDR conservation easement on the entire sending site to indicate the development limitations on the sending site;
 - 2. For a sending site zoned ARL or other rural property conducting farm activities, the TDR/PDR conservation easement shall permit agricultural uses, allowing for agricultural related infrastructure to promote the conserved farm's continuing agricultural viability. No more than one home is allowed per ARL sending site, although the TDR Committee may allow one additional dwelling unit in addition to the allowed home if the dwelling unit is to be used to provide housing for farm laborers. The TDR/PDR conservation easement shall permit agricultural uses as provided in the ARL zone;
 - 3. For a sending site located within the FL zone, the sending site shall be a minimum of 80 acres. The conserved forest land shall be restricted to forest management activities and shall include a forest stewardship plan approved by the County or an organization authorized by the County to approve a forest management plan. The forest stewardship plan shall not impose standards that exceed Title 222 WAC;
 - 4. For a sending site qualifying as habitat for a federal listed endangered or threatened species, the TDR/PDR conservation easement shall protect habitat and allow for restoration, maintenance or enhancement of native vegetation, while allowing farming and forestry activity if the parcel is used for timber harvests or agricultural uses; or

5. For a sending site qualified as Recreational Conservation Lands, which shall include private parks and other sports and recreational uses such as golf, softball and soccer, the TDR/PDR conservation easement shall permit such uses compatible with open space values.

(Ord. 2007-91s § 1 (part), 2007)

18G.10.070 TDR Sending Site Certification.

- A. The TDR Administrator shall be responsible for determining an application is complete and consistent with this Chapter. The TDR Administrator shall base decisions on the materials provided by the landowner in the TDR sending site application along with other information provided by Planning and Land Services, as appropriate.
- B. Responsibility for preparing a completed sending site application rests exclusively with the applicant. Application forms shall be available from the Department of Planning and Land Services.
- C. Following review and approval of the sending site application, the TDR Administrator shall issue a TDR certificate in conversion for the proposed sending site TDR/PDR conservation easement.
- D. Sending site landowners may obtain TDR certificates which can be transferred pursuant to PCC 18G.10.080 and used by receiving area landowners. The process for obtaining the TDR certificates is as follows:
 1. Following an application for TDR certificates by the sending site owner, the TDR Administrator shall have 30 calendar days to issue a TDR certificate of intent. The certificate shall contain a determination of the number of development rights calculated for the sending site pursuant to PCC18G.10.040 and an agreement by the Department to issue a corresponding number of TDR certificates in conversion for a sending site conservation easement granted to the County by the sending site owner pursuant to PCC 18G.10.060. The sending site owner may use the TDR certificate letter of intent to market sending site development rights to potential purchasers, but the certificate letter of intent shall have no value and cannot be transferred or used to obtain increased development rights within receiving areas.
 2. As provided by the TDR certificate letter of intent, Pierce County shall issue serially numbered TDR certificates to the sending site owner upon acceptance of a TDR/PDR conservation easement; provided, however, that the TDR Administrator shall have 30 calendar days from the date the conservation easement is offered by the sending site owner in which to conduct, at its discretion, a review of the sending site permit file and/or a site inspection.

(Ord. 2009-24s § 2 (part), 2009; Ord. 2007-91s § 1 (part), 2007)

18G.10.080 TDR Transfer Process.

- A. A TDR transaction transferring density credits from unincorporated Pierce County to a city shall be reviewed and transferred using the city's development application review process. The transfer shall be subject to a TDR agreement between Pierce County and the city. The County and any city located within the County may also establish by agreement general procedures for facilitating and completing TDR transactions transferring density credits from unincorporated Pierce County to any such city.

- B. If a landowner obtained an approved amendment to the Comprehensive Plan pursuant to Chapter 19C.10, and the amendment resulted in increased allowable density on the site, the landowners shall obtain density credits pursuant to this Chapter. Required density credits for an Urban Growth Area amendment, which has a Map Amendment component, shall be based only on the Map Amendment component. The required number of density credits shall be based on the Conversion Table (18G.10.190 – Appendix A). No permits for building or development shall be issued until the requirement is satisfied.
1. The tender of density credits is not a precondition for the Comprehensive Plan amendment to be approved. The density credits are required before the County issues permits for any development on the TDR receiving site. For approved amendments that result in the expansion of the urban growth area and are being proposed for annexation, the County and impacted city shall enter into an annexation agreement that requires the transfer of density credits prior to the issuance of any permits by the city. The developer must submit the density credits or other proof of the transaction with the Planning and Land Services Department at the time of building permit application and prior to recording binding site plans, shorts plats, large lots, or final plats.
 2. The ordinance granting each Comprehensive Plan Amendment resulting in an increase in residential density shall condition the approval upon the applicant's compliance with the density credit requirement.
 3. The requirements of this Chapter shall not apply to any development proposal that was submitted for consideration prior to the effective date of this Chapter.
- C. The Conversion Table shall be used to determine the number of density credits required before development occurs on a receiving site unless the applicant seeks to vary from the density credits required by the Conversion Table because of infrastructure improvements as described below in 2. and 3. When the applicant requests to vary from the Conversion Table (18G.10.190 – Appendix A) because of infrastructure improvements, the TDR Committee shall consider the request.
1. The application for density credits shall describe the infrastructure improvement, the party who will be making the improvements, the cost of the improvement, the estimated time of completion, and proximity of the infrastructure improvements to the application site and a request to raise or lower the required density credits beyond the established conversion rate.
 2. The TDR Committee may raise the amount of required density credits beyond the established conversion rate if the County or state has made, or is planning to make, significant infrastructure improvements near the receiving site, or
 3. The TDR Committee may lower the required density credits below the established conversion rate if the receiving site landowner has made or is required to make significant infrastructure improvements near the receiving area.
- D. The required density credits may be acquired by:
1. Purchasing density credits from certified sending sites; or
 2. Purchasing density credits from the Development Rights Bank; or if insufficient credits are available in the Bank, then also by:
 3. Providing funds to the Development Rights Bank adequate to cover the costs of procuring the required density credits.

- E. For transactions described in 18G.10.080 C.2. and 18G.10.080 C.3. in circumstances in which funds are to be paid to the Development Rights Bank to cover the costs of procuring the required density credits, the required payment shall be based upon the determination of density credits required. The TDR Administrator, in consultation with the TDR Committee, shall set the payment in accordance with a process adhering to the rules promulgated by the TDR Committee.
- F. All development using density credits must be in accordance with all other applicable laws and regulations.
- G. The TDR Administrator, in consultation with the TDR Committee, may waive or modify the density credit requirements if it is determined by the Prosecuting Attorney that strict application of the requirement in a specific situation would result in an unconstitutional taking of property or a violation of the property owner's right to substantive due process. Modifications made under this provision shall be no greater than necessary to avoid the taking or substantive due process violation. The TDR Committee shall provide written documentation supporting each application of the provision.
- H. The TDR Administrator, in conjunction with the Committee, shall monitor program activities and results to determine if changes in the regulations are needed to provide for more efficient operation, to meet program goals, and/or to correct unintended consequences, including but not limited to the consideration of adjustments to address commercial uses, transfer and purchase of development rights for historic preservation sites, and the encouragement of urban agriculture.
- I. Development rights acquired from certified sending sites are converted to density credits which may be transferred to eligible receiving sites through the TDR transfer process. After completion of the conveyance of a sending site's development rights, the property shall be maintained in a condition that is consistent with the criteria in this Chapter under which the sending site was qualified by means of a TDR/PDR conservation easement.

(Ord. 2009-24s § 2 (part), 2009; Ord. 2007-91s § 1 (part), 2007)

18G.10.090 Development Rights Bank – Purpose.

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

(Ord. 2007-91s § 1 (part), 2007)

18G.10.100 Development Rights Bank – Expenditure and Purchase Authorization.

- A. The acquisition of development rights by the Development Rights Bank as calculated in 18G.10.040 from a certified sending site shall be valued at prices not to exceed fair market value.
- B. The Development Rights Bank may accept donations of development rights from qualified sending sites.
- C. In acquiring development rights from Recreational Conservation Lands, prioritization shall be given to sites meeting the following criteria in descending order:
 - 1. Sites threatened by imminent development;

2. Sites where development will have a negative impact on infrastructure, services or environment of adjacent neighborhoods or communities; and
 3. Development of the site will significantly reduce the inventory of Recreational Conservation Lands in the surrounding areas.
- D. Upon the acquisition of development rights from a certified sending site, a TDR/PDR conservation easement shall be placed on the property pursuant to the terms in 18G.10.060.
- E. Funds from the Development Rights Bank may be used to facilitate the TDR program. These expenditures may include, but are not limited to, amenity funding to incorporated cities pursuant to an enacted TDR agreement, establishing and maintaining internet web pages, marketing, procuring title reports and appraisals, and reimbursing the government agency or other organization for administering the Development Rights Bank fund and executing development rights purchases and sales.
- F. All development rights acquired from qualified sending sites with County funds shall be banked and available for sale through the TDR program. The development rights shall not be banked if matching funding sources bar such use of development rights.
- G. All proceeds from the sale of density credits from the Development Rights Bank shall be available for acquisition of additional development rights, to administer and promote the TDR program and Development Rights Bank pursuant to the process identified in this Chapter, or to retire debt issued for purchases of development rights.
- H. Funds from the Development Rights Bank shall not be used to purchase any development rights within a participating city without first considering the recommendation of the Urban Subcommittee of the TDR Committee relative to the transaction. Further, any such purchase in a participating city shall not be pursued if the city timely objects, after sufficient notice, through official action of its governing body; provided the terms of this subsection may be altered by the terms of the participatory agreement between the city and the County.
- I. All purchases of development rights by the Bank shall conform to Chapter 2.110 PCC. (Ord. 2009-24s § 2 (part), 2009; Ord. 2007-91s § 1 (part), 2007)

18G.10.110 Development Rights Bank – Administration of the PDR Program.

- A. The TDR Administrator shall administer the PDR program.
- B. All land listed in 18G.10.020 A. is eligible for the PDR program.
- C. The amount of development rights a lot has available to sell to the Development Rights Bank shall be determined pursuant to 18G.10.040.
- D. For the purposes of purchasing the development rights off of farmland and other eligible sending sites, the value of the development rights shall be the difference between the value of the land minus the residual value of the land. For purposes of the PDR program only, the value shall be determined by an appraisal furnished by the TDR Administrator and made available for the land owner's review.
- E. The PDR transaction process for agricultural and other lands shall be as follows:
 1. Upon receiving PDR applications, the TDR Administrator shall rank the applications according to the ranking criteria to be developed and promulgated by the TDR Committee;
 2. The TDR Administrator shall meet individually with the owners of highly ranked farmland or other lands to discuss the terms of the TDR/PDR conservation easement and the purchase and sale agreement;
 3. The TDR Administrator shall order an appraisal and discuss the appraised value with the owner;

4. Upon the release of funds for acquisition, a TDR/PDR conservation easement shall be placed on the property pursuant to 18G.10.060.
 - F. Pierce County shall be responsible for monitoring and enforcing the terms of the TDR/PDR conservation easement.
 - G. All development rights purchased through the PDR program may be converted to density credits, banked and available for sale through the TDR program. The density credits shall not be banked if matching funding sources bar the banking of development rights.
 - H. The TDR Committee may periodically adjust the conversion rate, subject to PCC 2.101.020, to reflect prevailing market conditions and effect a viable TDR market. The Committee shall avoid, to the extent practicable, disparities between the price of density credits available for purchase from the Bank and prevailing market prices for density credits which a developer may purchase on the private market.
- (Ord. 2009-24s § 2 (part), 2009; Ord. 2007-91s § 1 (part), 2007)

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

- A. Pierce County shall administer the Development Rights Bank fund and execute purchases of development rights and TDR/PDR conservation easements and sales of density credits in a timely manner consistent with policy set by the TDR Committee. These responsibilities include, but are not limited to:
 1. Managing the Development Rights Bank fund;
 2. Authorizing and monitoring expenditures;
 3. Keeping records of the dates, amounts, and locations of development rights purchases and density credit sales, and TDR/PDR conservation easement purchases;
 4. Executing development rights purchases, density credit sales, and TDR/PDR conservation easements;
 5. Working with stakeholders to develop additional receiving sites in cities; and
 6. Providing periodic summary reports of Development Rights Bank activity for TDR Committee, Pierce County Executive and Pierce County Council consideration.
 - B. The TDR Administrator shall be responsible for managing the TDR program, the Development Rights Bank and the PDR program with the advice and direction of the TDR Committee.
- (Ord. 2007-91s § 1 (part), 2007)

18G.10.130 Development Rights Bank – Sale of Density Credits.

- A. The price of density credits sold by the Development Rights Bank shall be set by the TDR Committee. Such price shall presumptively be the same as the price paid for the corresponding development right from which the particular credit was derived. However, the Committee may adjust such price based on consideration of such factors as the committee believes relevant, including the prevailing market rates for development rights and the effect such density credit price may have on the development rights market.
- B. Density credits are not real estate and the sale of such credits under this Chapter are exempt from the requirements of Chapter 2.110 PCC.
- C. Density credits can only be sold in whole increments.
- D. All offers to purchase density credits from the bank shall be in writing, shall include a certification that the credits will be used only inside an identified, eligible receiving area, shall include the number of density credits to be purchased, location of the receiving site and the sale's required date of completion.

- E. Density credits shall be sold for cash through escrow.
- F. Density credits may be optioned. The option shall include a minimum of a 10 percent down payment. An option shall not be granted for longer than two years.
- G. Payment for purchase of density credits from the Development Rights Bank shall be in full at the time the credits are transferred unless otherwise authorized by the TDR Committee.

(Ord. 2007-91s § 1 (part), 2007)

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

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

(Ord. 2007-91s § 1 (part), 2007)

18G.10.150 TDR Amenity Funding for Cities.

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

(Ord. 2007-91s § 1 (part), 2007)

18G.10.160 Restrictions on Expenditure of Development Rights Bank Funds for TDR Amenities.

- A. Expenditures by the County for amenities to facilitate TDR sales shall be authorized by the TDR agreements. Amenity funding shall not exceed the value of the increased densities it is intended to offset, nor shall amenity funding be available if the sending and receiving sites are each located within the same city.

- B. The County shall not expend funds on TDR amenities in a city before execution of an agreement.
- C. TDR amenities may include the acquisition, design or construction of public art, cultural and community facilities, parks, open space, trails, roads, parking, landscaping, sidewalks, other streetscape improvements, transit-related improvements or other improvements or such other amenities that may be agreed to in the TDR agreement.
- D. Public transportation amenities shall enhance the transportation system. These amenities may include capital improvements such as passenger and layover facilities, if the improvements are within a designated receiving area or within 1,500 feet of a receiving site. These amenities may also include programs that reduce the use of single occupant vehicles, including transit pass programs.
- E. Road fund amenities shall enhance the transportation system. These amenities may include capital improvements, such as streets, sidewalks, street landscaping, bicycle lanes, if these improvements are within a designated receiving area site or within five hundred feet of a receiving site.
- F. All amenity funding provided by Pierce County to cities to facilitate the transfer of development rights shall be consistent with federal, state, and local laws.
- G. The timing and amounts of funds for amenities paid by Pierce County to each participating city shall be determined by agreement.
- H. A city that receives amenity funds from the County is responsible for using the funds for the purpose and according to the terms of the governing agreement.
- I. To facilitate timely implementation of capital improvements or programs at the lowest possible cost, Pierce County may make amenity payments as authorized in an agreement to a city before completion of the required improvements, as applicable.
- J. Pierce County is not responsible for maintenance, operating, and replacement costs associated with amenity capital improvements inside cities unless expressly agreed to in the agreement.

(Ord. 2007-91s § 1 (part), 2007)

18G.10.170 Condemned Lands.

All condemnation actions on sending sites encumbered by a TDR/PDR conservation easement in favor of Pierce County or its assigns shall be mitigated. Mitigation value shall equal the value of the development rights at the time the property was encumbered with a TDR/PDR conservation easement, plus 8 percent annual interest, irrespective of whether the development rights purchased on the property have been extinguished, banked or sold to a private party. (Ord. 2007-91s § 1 (part), 2007)

18G.10.180 Exemption from Surplus Provisions.

The transfer of development rights from the Development Rights Bank may be completed consistent with Pierce County's needs and in accordance with the criteria of this Chapter. The transfers are exempt from Pierce County real and personal property surplus provisions. (Ord. 2007-91s § 1 (part), 2007)

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 PCC 18G.10.080:

Development rights required per gross acre = (FD – PD) / 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

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

(Ord. 2007-91s § 1 (part), 2007)