



## MEMORANDUM

**TO:** Planning Policy Commission  
**FROM:** Minnie Dhaliwal, CPD Director  
**RE:** Title 18 Update – Transfer of Development Rights  
**DATE:** June 23, 2022

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### Background

Through mutual agreement, development rights (TDRs) can be sold between public agencies, between private entities, or between public agencies and private entities as long as the properties are appropriately designated as sending and receiving sites. TDRs can also be banked to preserve land now, and later the TDRs can be used to increase density in appropriate locations with future development, such as with the Lakeside Development Agreement.

TDRs provide the City with a tool to protect land and sites potentially without the City having to purchase the land to protect it by sending the development rights to another property or a TDR bank; however, their use on a receiving site is often discretionary and relies on the calculation that without the use of TDRs a property's full capacity cannot be achieved.

The Council Ad Hoc Committee's Title 18 Update Desired Goals and Outcome document identifies the following priority relevant to this topic.

#### **Goal 1:** *Protect Forested Hillside*s

##### **Desired Outcomes:**

- a. Where development occurs, hillsides retain their verdant, attractive character.
- b. While allowing development, grading and building form respond to the natural topography, trucking is minimized.
- c. Development rights are respected as well as the nature of the land. New construction occurs in areas planned and most suited for new construction.
- d. Ecological integrity of landscape is maintained to greatest extent possible.

A table of substantive changes is included in Attachment A, below.

### Previous Meetings

- November 4, 2021 – Planning Policy Commission & Development Commission: Zoning and Development ([Agenda](#) / [Minutes](#) / [Video](#) )

## Things to Consider: Policy Discussion

Are the proposed changes adequately address the goals and outcomes identified by Council?

## Timeline

- July 14, 2022 – Public Hearing: Title 18 – Zoning and Development: Affordable Housing, Transfer of Development Rights, Landmarks, and Parking.
- July 28, 2022 – PPC Deliberation: Title 18 – Zoning and Development: Affordable Housing, Transfer of Development Rights, Landmarks, and Parking
- October 2022 – Public Hearings: Consolidated Draft Title 18 Update

## Attachments

- A. Summary of Substantive Changes
- B. Summary of Comments and Responses

## A. Summary of Substantial Changes

The following summarizes the substantive changes made to develop the proposed 18.806 Transfer of Development Rights. The changes are based on the gaps analysis, previous discussions with the Planning Policy and Development Commissions, a staff evaluation of existing code, and feedback from the City attorney's office.

CHANGE	REASON
1. Hillsides have been incorporated into the draft, using slopes from 20%-39% as a threshold and mirroring many of the TDR thresholds for critical areas.	This added qualifier directly addresses Outcome 1, Protect forested hillsides. As TDRs precede Terrain Management, 18.810 (Bucket 6), the proposal for hillsides may need to be revised once that chapter is drafted.
2. 8.10.450, Density calculation in critical areas was moved to this chapter	Existing TDR code for sites with critical areas relied on 18.10.450, Density calculation in critical areas was moved to this chapter, which was eliminated in the rewrite of 18.802. Relevant portions of 18.10.450 have been incorporated into this chapter to preserve tools necessary for the current form/process of TDRs.
3. Changed Level of Review for both sending and receiving sites from Levels 1 and 3, respectively, to Level 6.	Because the TDR map is adopted in code, changing the map with designation of receiving and sending sites would require a Land Use Code amendment, so both require public hearings which are a Level 6 review.
4. Added 18.806.060.B TDR Bank approved activities.	Done to codify the role of the TDR bank.
5. Added 18.806.060 TDR bank expenditure and purchase authorization to make clear how costs are determined, data needed for the exchange of funds, and timing of payment.	This language did not previously exist but was needed.

## B. Summary of Public Comments

Date	Commentor Name	Topic	Comment	Response Notes
11/4/2021	David Kappler	Transfer of Development Rights	The Transfer of Development Rights program has been critical to making many of the most successful projects in the city to be viable. Believes there are other properties in Issaquah that would best be sending sites and not developed. The code needs provisions for a property owner to identify their site as a sending site due to environmental issues that may have not yet been mapped by the city.	Proposed 18.806.030 Designation of sending and receiving sites contains designation and process for property owners to designate new sending sites. This exists in the current code, as well.
11/4/2021	Susan Neville	Transfer of Development Rights	<ol style="list-style-type: none"> <li>1. Does Issaquah currently have TDRs in a bank and for sale?</li> <li>2. What kind of additional incentives can the TDR code include to encourage development on the Valley Floor?</li> <li>3. Based on the current zoning language, what language needs to be updated to ensure more protection of hillsides?</li> <li>4. What will the criteria be for adding or deleting receiving/sending sites on the current map?</li> <li>5. How do property owners become aware of TDR's?</li> <li>6. Are TDRs encouraged during the permit process by planning administration when a property owner is trying to build on a difficult lot?</li> </ol>	<ol style="list-style-type: none"> <li>1. Yes, the city currently has TDRs in a bank that may be sold.</li> <li>2. Current incentives include an increase in density, height, commercial square footage, and/or impervious surface. Additional incentives would need to be researched.</li> <li>3. Language has been added to encourage more protection of hillsides. Additional requirements are being drafted in the Terrain Management chapter.</li> <li>4. Criteria exist in section 18.806.030 for the addition of sending/receiving sites on the map. Removal of a sending/receiving site needs to be codified but would require a Level 6 review as this would be an amendment to the Land Use Code.</li> <li>5. The assumption is either through code, the website or word of mouth.</li> <li>6. TDRs are sometimes mentioned to developers who want to develop more on their property, if the</li> </ol>

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				property is designated a receiving site.
11/4/2021	Tia B. Heim	Transfer of Development Rights	The City should consider maximizing the use of TDRs by including all the UV/RET zoned properties in the Highlands as receiving sites for TDRs.	Receiving sites were removed from the Urban Village-Retail zone during development of the Replacement Regulations. This was a policy decision made by council and would need to be revisited at a later date.