

## **Regional TDR Update Legislation Summary**

This document provides information on legislation to allow the transfer of development rights from Snohomish and Pierce counties into Seattle as part of the existing Transferable Development Rights (TDR) program. Under existing rules, development in parts of Downtown and South Lake Union may achieve extra floor area by providing certain public benefits such as purchasing development rights from farms and forests in King County. The proposed change would expand the geographic areas where TDR can come from to include Snohomish and Pierce counties. It would not expand the area in which extra floor area can be achieved or change the amount of extra floor area that could be achieved. The intent of the legislation is to support farm and forest preservation throughout the region and to ensure that development in Downtown and South Lake Union can continue to find TDR to purchase.

### **Background**

In 2013, the City adopted a rezone for the South Lake Union neighborhood that increased the amount of height and floor area allowed in new buildings. To achieve the extra floor area provided by the rezone, developers are required to provide public benefits including the purchase of TDR from regional farms and forest. The legislation implementing the rezone also modified the existing incentive zoning program in Downtown zones so that commercial developments in certain zones of Downtown would also have to purchase regional TDR. The transfer of development rights from farms and forests prevents them from being converted to housing and thus preserves these uses for the long-term. At the same time, King County agreed to allow Seattle to receive a portion of future property tax revenue on new development in Downtown and South Lake Union to pay for local infrastructure improvements provided that the City met certain goals for receiving regional TDR. Together, the TDR regulations and property tax revenue provisions were called the Landscape Conservation and Local Infrastructure Program (LCLIP). The goal of LCLIP was to support a pattern of development that reduces sprawl and minimizes regional infrastructure costs while also preserving local food production and paying for infrastructure in growing areas.

As initially conceived, the Regional TDR program was intended to allow developers to purchase TDR from King, Snohomish, and Pierce counties. This intent was codified in the city legislation, interlocal agreement with King County, and state authorizing legislation. However, at the time the legislation was developed, Snohomish and Pierce Counties were not ready to participate in Seattle's program, so the original legislation only authorized sales from King County. Since then, Pierce and Snohomish counties have developed TDR programs and are now ready to participate.

To date, the regional TDR program has been successful. The program has led to the preservation of about 1,500 acres of farmland and about 90,000 acres for forest land. Additionally, a substantial portion

of revenue generated from the sale of forest TDR will be used to purchase additional TDR from farmland. The City is on track to achieve its goal for receiving TDR in the next 2-4 years which will ensure that the City receives property tax revenue benefits for the full 25-year period. However, due to the success of the program, the King County TDR bank is running out of TDR to sell and is unlikely to be able to purchase new TDR fast enough to satisfy demand. If the bank runs out of TDR and TDR cannot be found from other sources, some downtown development projects could stall as they would not have an option for achieving their extra floor area.

Consequently, the City has received feedback from staff in all three counties, advocates for farm and forest preservation, and local developers that a change to allow TDR from Pierce and Snohomish Counties would be beneficial for the program.

### **Proposal**

The proposed legislation would expand the geographic area from which TDR can be transferred into Seattle. Currently, TDR must come from within King County. The proposed legislation would expand this area to allow transfers from Snohomish and Pierce Counties as well. This change would be accomplished by adopting the TDR terms and conditions contained in [chapter 365-198 of Washington Administrative Code](#). Under state law, TDR cannot be transferred between jurisdictions unless the jurisdiction receiving the TDR either adopts the terms and conditions in chapter 365-198 WAC or enters into an interlocal agreement. The TDR terms and conditions in the Washington Administrative Code establish basic requirements for TDR as follows:

1. Cities must establish clear rules about where TDR can be used and the amount of extra floor area received (which the City of Seattle has already been met).
2. Cities must notify Counties when TDR is proposed to be used.
3. Counties must establish clear procedures for tracking TDR transfers and ensuring deed restrictions are implemented and enforced (which the Counties have already met).
4. Counties must notify Cities on an annual basis about TDR usage and remaining supply.

The City of Seattle entered into an interlocal agreement with King County as part of the creation of the original program which allowed transfers from King County. Adopting the proposed legislation would authorize transfers from Pierce and Snohomish Counties without having to undertake additional interlocal agreements.

The proposal would not expand the area in which extra floor area can be achieved or change the amount of extra floor area that could be achieved. The Seattle Municipal Code already contains regulations about the amount of extra floor area that can be achieved and how it can be achieved. The code also contains different exchange ratios for each of the three counties, which would not change. An exchange ratio specifies the amount of extra floor area that can be achieved per development credit transferred. The

code has different exchange ratios for different counties to account for differences in land and credit prices.

The proposal would also not impact the amount of revenue received through the property tax program. According to the interlocal agreement with King County, the City of Seattle receives a percentage of property tax revenue on all new development in Downtown and South Lake Union. This percentage does not change based on the amount of TDR received, but the length of the benefit increases based on the amount of TDR received. Specifically, the revenue goes for 10 years if the City receive 200 credits, 15 years with 400 credits, 20 years with 600 credits and 25 years with 800 credits. The City has already met the 200 credit threshold and is expected to meet the 800 credit threshold within 2-4 years. TDR from Pierce and Snohomish counties count toward meeting these goals in the same way that TDR from King County does.

**Next Steps**

The Council's Land Use and Neighborhoods Committee will hold a public hearing on Regional TDR update legislation on September 22, 2021 and may vote on a recommendation to the Full Council on September 25, 2021.