

ATTACHMENT D
Revised November 18, 2009

**PROPOSED 2009 COMPREHENSIVE PLAN AMENDMENTS
 AND REVISIONS TO KITTITAS COUNTY CODE
 FOR
 A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM**

Section 1. Kittitas County Comprehensive Plan proposed amendments are as follows:

GPO 2.12a Kittitas County shall work with cities in collaborative efforts that result in transfers of development rights from the Rural Area, to encourage and promote the protection of Natural Resource Lands, Forest Lands and Agriculture Lands. This may be accomplished through development of interlocal agreements.

GPO 2.12b Reserved.

GPO 8.12 Conserve important natural resource lands with the implementation of a Transfer of Development Rights program, a market-based tool in which land owners volunteer to sell the right to develop their land to areas where greater density is more appropriate, permanently conserving specified natural resource lands.

GPO 8.14 In order to conserve important natural resource lands, the use of Transfer of Development Rights should be a priority use for calculation of density bonus for cluster residential developments located in rural lands.

Section 2. Kittitas County Code Chapter 15A.01, Table A at the end of the Title, proposed amendments are as follows:

	Step 1 Public Comment Period	Step 2 Open Record Hearing	Step 3 Decis ion	Step 4 Open Record Appeal	Step 5 Closed Record Appeal	Step 6 Judicial Appeal*
ADMINISTRATIVE						
Zoning Variance:	15 days	None	Staff BOA	None	None	Sup. Court
Zoning Administrative Conditional Uses ⁵ :	15 days	None	Staff BOA	None	None	Sup. Court
Short Plats:	15 days	None	Staff BCC	None	None	Sup. Court
Segregations/Lot Line Adjustments:	None	None	Staff BCC	None	None	Sup. Court
<u>Transfer Development Rights Site Certification:</u>	<u>None</u>	<u>None</u>	<u>Staff BCC</u>	<u>None</u>	<u>None</u>	<u>Sup. Court</u>

- Deleted:** GPO 2.12a Kittitas County shall consider the development and implementation of a Transfer of Development Rights program. Such a program will seek to implement planning tools that will encourage and promote the protection of Natural Resource Lands, Forest Lands and Agriculture Lands.¶
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Deleted:** Kittitas County may, as an element of GPO 2.12a, develop and implement a
- Deleted:** demonstration Transfer of Development Rights Program. Such a program may be limited in
- Deleted:** scope and overall availability. The purpose of such a demonstration program is to provide
- Deleted:** examples of how a Transfer of Development Rights program may work and provide corrections
- Deleted:** to any such program prior to full countywide implementation.
- Formatted:** Font: 10 pt, Bold
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Formatted:** Font: 10 pt
- Deleted:** Reserved
- Deleted:** Reserved

SEPA Actions: Appeals of threshold determinations:	15 days	None	Staff BOA/HE	None BCC	Sup. Court
SEPA Actions: The exercise of substantive SEPA authority and adequacy of an EIS1:	15 days	None	Staff BOA/BCC	None 2	Sup. Court
Independent administrative rulings:	None	None	Staff BOA/BCC	None 3	Sup. Court

QUASI-JUDICIAL

Zoning Conditional Uses:	15 days	BOA	BOA None	None	Sup. Court
Long Plats:	15 days	HE	BCC None	None	Sup. Court
Shorelines Substantial Development/Cnd. Use:	15 days	BOA	BOA None	None	Shorelines Board
Shorelines Setback Variance:	15 days	HE	BOA None	None	Shorelines Board
Site-Specific Rezone to Zoning Map (Including PUD)4:	30 days	HE	BCC None	None	Sup. Court
Development Agreement:	30 days	BCC	None None	None	Sup. Court

1 See KCC 15A.01.040 for clarification of roles and responsibilities.

2 Open record appeals of SEPA actions are heard by the hearing body making the decision on, or hearing the appeal of, the underlying application.

3 BOA for all actions associated with a project before them, all independent actions regarding KCC Title 17, Zoning; BCC for all actions associated with a project before them, and for independent actions regarding all county policies, codes, and standards not associated with KCC Title 17, Zoning.

4 Unless the rezone requires a comprehensive plan amendment which would then follow the comprehensive plan amendment process as outlined in KCC Title 15B.

5 In the event that a procedural appeal is filed pursuant to Chapter 15A.04 KCC, the BOA shall consider and issue a final decision on both the administrative appeal and the underlying project permit application under a single consolidated open record hearing. In such an event, the BOA's decision on the underlying application shall be quasi-judicial.

Legend:
 BCC - Board of County Commissioners
 BOA - Board of Adjustment
 HE - Hearing Examiner
 PC - Planning Commission
 Staff - County administration

NOTE: In the case of combined applications which require public hearings before the planning commission and the board of adjustment, a joint hearing shall be held, and the board of adjustment decision shall be final and the planning commission recommendation transmitted to the board of commissioners for decision.

NOTE: In the case of application requiring combined legislative and quasi-judicial actions, a development agreement may provide for appropriate review and hearing body.

* Please review state revised and administrative code for appropriate judicial reviewing bodies.

Section 3. Kittitas County Code Chapter 16.09, Performance Based Cluster Platting, proposed amendments are as follows:

Chapter 16.09
PERFORMANCE BASED CLUSTER PLATTING

Sections

- 16.09.010 Purpose and Intent.
- 16.09.020 Uses Permitted.
- 16.09.030 Criteria.
- 16.09.040 Development Regulations.
- 16.09.060 Minimum Lot Size.
- 16.09.080 Process for Approval.
- 16.09.090 Public Benefit Rating System.
- 16.09.100 Definitions.

16.09.010 Purpose and Intent.

With the recognition of the value of retention of rural densities in rural lands, while protecting our critical areas, water resources and resource lands, and recognition that urban densities belong in urban designated lands, Kittitas County also recognizes the need for innovative planning tools to achieve these goals. Encouraged by the Growth Management Act (GMA), Kittitas County may provide for clustering, planned unit developments, density transfer, design guidelines, conservation easements and other innovative techniques that will accommodate appropriate rural and urban densities and uses at levels that are consistent with the preservation of rural character and that provide a public benefit.

To assist in the implementation of Kittitas County's policy to provide tools to foster appropriate densities, while making development economically feasible, benefits to the greater community through an effort to conserve natural resource lands, conserve water resources by minimizing the development of exempt wells by encouraging group water systems, to protect public health by reducing the number of septic drain fields, by concentrating urban densities in urban growth areas and by minimizing the impact of "Rural Sprawl" in rural lands, as designated in the Kittitas County Comprehensive Plan, Kittitas County finds that this "Performance Based Cluster Platting" technique would foster the development of urban and rural designated lands at appropriate densities, while protecting the environment and maintaining a high quality of life in Kittitas County.

Kittitas County shall conduct a yearly review of the Performance Based Cluster Platting chapter to review the effectiveness of the code in meeting the purpose and intent. (Ord. 2006-36, 2006; Ord. 2005-35, 2005)

16.09.020 Uses Permitted.

The permitted uses of the clustered area shall be those of the underlying zone. Those uses specifically identified for the recreation categories in KCC 16.09.090 can be found in KCC 17.14 performance based cluster plat uses. Other uses not specifically identified may apply if determined a similar use as provided in Title 15A. (Ord. 2006-36, 2006; Ord. 2005-35, 2005)

16.09.030 Criteria.

Public Benefit Rating System (PBRS) elements are items that are not already required by code. No points shall be awarded for land which is already protected through the Critical Areas Ordinance, Shoreline Program or other regulatory requirement. The calculation of open space shall not include these areas already protected through regulation and shall not include slopes over 33% or frequently flooded areas as defined in KCC 17A.02.140. When a public benefit is demonstrated then bonus density points will apply. An element that may have a high value in an urban designation may have a very low value in a rural designation. It is necessary, therefore, to have a separate set of criteria and outcomes depending on the land use designation. The density bonus is limited to use in the rural designations with a 100% bonus in the Rural -3, Agriculture -3, Rural -5 and Agriculture - 5 zones and 200% in the Agriculture 20 and the Forest and Range 20 zones. There is no limit to density bonus within the Urban Growth Areas.

Deleted: and the Urban Growth Nodes.

1. A minimum of forty percent (40%) the area within the project boundary must be set aside in open space prior to application of the Public Benefit Rating System contained in KCC 16.09.090 of this chapter.
2. The following minimums for open space allocation and minimum acreage for application for performance based cluster plat (PBCP) application by zone shall apply:

Formatted: Indent: Left: 0.25"

Formatted: Indent: Left: 0.25"

Formatted: Indent: Left: 0.25"

Formatted: Indent: Left: 0.5", Space Before: 0 pt, After: 0 pt, No bullets or numbering

Rural 3 and Ag 3 Zones.	Rural 5 and Ag 5 Zones.	Agriculture 20 and Forest and Range 20.
----------------------------	----------------------------	--

Minimum open space acreage.	9 acres	15 acres	30 acres
--------------------------------	---------	----------	----------

3. A minimum percentage of the density bonus must be achieved with the transfer of developments rights. The following percentage minimums by zone shall apply:

Formatted: Indent: Left: 0.25"

<u>Rural 3 and Ag 3 Zones.</u>	<u>Rural 5 and Ag 5 Zones.</u>	<u>Agriculture 20 and Forest and Range 20.</u>
------------------------------------	------------------------------------	--

<u>Minimum % of density bonus with TDRs.</u>	<u>50%</u>	<u>75%</u>	<u>100%</u>
--	------------	------------	-------------

16.09.080 Process for Approval.

1. Prior to submitting an application for a Performance Based Cluster Plat the applicant shall submit a request for a Pre-application Conference with the staff of Community Development Services. (CDS). CDS will schedule the pre-application conference and invite other county departments and outside agencies as appropriate to review and offer comments regarding the application and to assist the applicant in the appropriate process.
2. Submit preliminary Performance Based Cluster Plat map in conformance with requirements in K.C.C Title 16.12 Preliminary Plats and Title 12 Road Standards. Submit SEPA checklist in conformance with K.C.C. 15.04 SEPA Regulations, as required for a plat application.
3. Submit critical areas application consistent with K.C.C. Title 17A.C.
4. Performance Based Cluster Plats are to be processed as plats and are subject to a public hearing before the Hearing Examiner, as provided for in K.C.C. Title 15A. Project Permit Application Process.
5. Final Performance Based Cluster Plat approval must be in conformance with K.C.C. Title 16.20 Final Plats.
6. Prior to final plat approval, any features of the project incurred as a result of bonus density shall be fully constructed or bonded for.
7. Documentation shall be submitted by the applicant stating how the proposed development meets the intent of Chapter 16.09, and shall also demonstrate consistency with the bonus density awarded for such development prior to final approval.
8. Final plats meeting all requirements of this chapter shall be submitted to the Board of County Commissioners for approval within five years of the date of preliminary approval as required by RCW

Deleted: Planning Commission

58.17.140. An applicant who files a written request with the County at least thirty days before the expiration of this five year period shall be granted an extension of no more than four years for a total of nine years upon a showing that the applicant has attempted in good faith to submit the final plat within the initial five year period. (Ord. 2007-22, 2007; Ord. 2006-36, 2006; Ord. 2005-35, 2005)

16.09.090 Public Benefit Rating System.

Points accrued from each element will be calculated in a cumulative manner and applied as a total in accordance with the public benefit rating system chart below. This total shall be converted to a percentile on a one to one basis (ex. 80 points equals 80% bonus density) and multiplied against the underlying zone minimum lot size based density. Where more than one zone exists within a cluster plat boundary, the overall percentile shall be applied against the number of whole lots calculated within the individual zone acreage and within the overall limit for the zone per 16.09.030 of this code.

Example:

An application for an 80 acre cluster plat where 65 acres are zoned Forest and Range 20 and 15 acres are zoned Rural 3.

Total cumulative points for entire plat earned = 150. Converted to 150%.

Rural 3 zone density bonus limit = 100%

Forest and Range 20 zone density bonus limit = 200%.

Calculations:

1. 15 acres divided by 3 acre min. lot size = 5 whole lots.*
5 lots times 100% max. (within the 150% earned) for Rural 3 = 10 lots.
2. 65 acres divided by 20 acre min. lot size = 3 whole lots.
3. 3 lots times 150% earned (within the 200% max. allowed for Forest and Range) = 7 whole lots.
4. Total lots allowed for cluster plat = 17. A potential of up to 5 clusters (minimum 3 lots or building envelopes each) may be located where most appropriate within the 80 acre project boundary regardless of the zone in which each is placed.

* Whole lots are based on the minimum lot size for the zone and fractions thereof will not be rounded up to constitute a whole lot.

Public Benefit Ratings System Chart

Element	Urban Points	Rural Points <u>or Units</u>	Comments
Transportation			
Roadway Right of Way width exceeding County Road Standards by >20% to Accommodate Future Growth and Multi-Modal Transportation Needs.	25	0	Urban levels of activity will need to consider future needs as growth and population increase. There will be more opportunity for Multi-modal transportation options in the urban environment.
Incorporate appropriate easements and rights of way to allow for connectivity between developments for motorized, non-motorized and pedestrian travel. Facilitates grid system transportation network.	25	5	Establishment and facilitation of connectivity between developments for all modes of transportation will allow for efficient and orderly road development.

Deleted: 25

Provide for multi-modal access to publicly owned recreational lands. Preserve Historic Access to recreation areas.	25	25	Access to public recreation lands has diminished as a result of increased development. Incentives to preserve this access are vital to the public interest. Proposed access points to public lands shall be in conformance with requirements as identified by federal, state, and local agencies having jurisdiction over said public lands. Documentation demonstrating such shall be submitted as part of the project application.
--	----	----	--

Develop Design Standards for streetscape. i.e. separated sidewalks, street lighting, landscaping.	20	0	Urban streetscapes are an important element to the character of an urban community. As density in these urban areas increases, it is important to provide elements in street design that are effective in reducing the effects of hardscape and that are visually pleasing.
---	----	---	---

Open Space

Place minimum of 50% of site in open space for 25 yrs.	20	0	25 year period is sufficient to justify the development of passive uses. Allows for redevelopment in urban areas after 25 years.
--	----	---	--

Place 40% to 80% of site in open space for perpetuity.	10	40 to 80 dependent on % set aside. Points directly related to set aside percentage ie: 40% = 40 points.* See habitat connectivity for additional points associated with this category.	Significant long term benefit in rural areas. Minimizes options for redevelopment in urban areas.
--	----	--	---

Formatted: Highlight

Create urban redevelopment areas using open space	35	0	Allows for redevelopment in urban areas not currently served by urban services.
---	----	---	---

Wildlife Habitat

Connectivity of Wildlife Corridors	0	15 if done in conjunction with open space in perpetuity.	Development of open space is most effective if done with adjacent open space lands in mind. Development of wildlife corridors provides maximum
------------------------------------	---	--	--

benefit from open space creation. Proposed wildlife corridors shall be consistent with the requirements of the Washington State Department of Fish and Wildlife. Documentation demonstrating such shall be submitted as part of the project application.

Wetland and riparian areas, setbacks, wetland, riparian areas and habitat enhancement and creation beyond requirements of CAO. 10 10

Provides for replacement of historic loss of wetlands, habitat, riparian and aquifer recharge areas.

Health and Safety

Connection to municipal water system. 50 0

Use of urban services.

Connection to Group A water system. 50 0

Minimize need for individual wells.

Deleted: 5

Connection to Group B water system. 0 0

Minimizes need for individual wells. Not consistent with urban levels of development.

Deleted: 25

Connection to Sewage Disposal System 50 0

Use of urban services.

Community septic system. 0 10

Minimizes individual drain fields and ensures maintenance of system.

Reclaimed water system. 50 50

Reduces use of domestic water supplies for irrigation and stream flows.

Recreation. For specific uses see KCC 17.14.

Development of passive recreational facilities: ie: bird watching, picnic areas. 5/10* higher number if available for general public use. 5/10* higher number if available for general public use.

Provides limited recreational use.

Deleted: €"

Formatted: Font: Bold

Formatted: Font: Bold

Field Code Changed

Formatted: Font: Bold

Formatted: Font: Bold

Development of active recreational facilities ie: trails, ball fields, tennis courts, outdoor riding arenas. 10/20* higher number if available for general 10/15* higher number if available for general public use.

Provides for increased opportunity for recreation.

Deleted: 20

public use.

Development of formal recreation facilities. ie: pool, clubhouse, golf course, indoor riding arenas.

10/25* higher number if available for general public use.

10/20* higher number if available for general public use.

Provides for increased opportunity for recreation

Deleted: 5

Conservation of Farm and Forest Land

Purchase of residential development rights pursuant to KCC 17.13.

0

Number of units is directly related to the number of residential development rights transferred pursuant to KCC 17.13.

Permanent conservation of rural farm and forest land through acquisition and extinguishment of the development rights on lands designated as "sending sites" pursuant to KCC 17.13.

16.09.100 Definitions.

- A. Cluster. A "cluster" consists of three or more buildable contiguous lots or building envelopes within the cluster boundary. Individual clusters need not be contiguous but must be within the project boundary.
- B. "Density bonus" is that percentage of increase over the underlying zoning in the number of residential lots based on the total acres of the proposal.
- C. Open space. For purposes of this chapter, "open space" shall mean land used for outdoor active, passive and formal recreational purposes, land used for resource protection (including related structures such as barns on agriculturally productive land), land which is a common area for use by the public and/or residents of a cluster development, which is reserved for parks, walking paths or other natural uses, but not to include critical areas where development would otherwise be restricted, or slopes over 33%, or frequently flooded areas, or dwellings or roadways surfaces, or building setbacks required by current codes, or areas otherwise encumbered by other federal, state, or local jurisdictions. In all cases, for purposes of this chapter, open space shall be of a functional nature and incorporate logical boundaries.
- D. Public Water System. A DOH approved water system that meets the requirements of WAC 246-290 or 246-291, or any water system that meets the definition of "Municipal water supplier" under RCW 90.03.015.
- E. Sewage Disposal System. A DOH or DOE approved sewage disposal system that meets the requirements of RCW 36.94 or RCW 90.46 or RCW 90.48.
- F. Parent Parcel. That land made up of one or more contiguous tax parcels that are developed under this section.
- G. Recreational passive uses shall include, but not be limited to, picnic areas, bird and wildlife viewing areas, pedestrian trails, etc.
- H. Recreational active uses shall include, but not be limited to, ball fields, tennis courts, wheeled vehicle trails, outdoor riding arenas, etc.
- I. Recreational formal uses shall include, but not be limited to, swimming pools, clubhouses, golf courses, indoor riding arenas, etc.

- J. Reserve Development Area is all of the land within the project boundary that is within one mile of an Urban Growth Area and could reasonably be considered for inclusion within an Urban Growth Area during the 20 year planning period.
- K. The "residual parcel" (also called "the open area") is that land which is remaining after the cluster subdivision lots and internal roads are deducted.

Section 4. Kittitas County Code Title 17, Table of Contents, proposed amendments are as follows:

.....

- 17.12 Zones Designated - Map
- 17.13 Transfer of Development Rights
- 17.14 Performance Based Cluster Plat Uses

Deleted: (reserved)

.....

Section 5. Kittitas County Code Definitions for Title 17 proposed amendments are as follows:

Chapter 17.08
DEFINITIONS*

Sections

.....

- 17.08.050 Alteration.
- 17.08.055 Amendment.
- 17.08.060 Amenity funds.
- 17.08.061 Animal Boarding Facility.

Formatted: Space Before: 0 pt, After: 0 pt, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Deleted: 60

- 17.08.180 Conditional uses.
- 17.08.185 Conservation easement.
- 17.08.190 County arterial road.

Formatted: Space Before: 0 pt, After: 0 pt, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

- 17.08.198 Designated manufactured home.
- 17.08.199 Development right.
- 17.08.200 Dwelling.

.....

- 17.08.321 Infill.
- 17.08.322 Interlocal agreement.
- 17.08.323 Intervening Ownership.
- 17.08.329 Junk.

Deleted: 2

- 17.08.460 Public office building.
- 17.08.462 Receiving site.
- 17.08.465 Recreational vehicle.

.....

- 17.08.480 School, public or parochial.
- 17.08.485 Sending site.

.....

- 17.08.540 Trailer park, trailer camp, trailer court and mobile home park.
- 17.08.542 Transfer of Development Rights (TDR).
- 17.08.543 TDR certificate.

17.08.544 TDR certificate letter of intent.
17.08.545 TDR credit.
17.08.546 TDR program.
17.08.547 TDR sending site application.
17.08.550 Use.

.....

17.08.060 Amenity funds.

"Amenity funds" means cash payments to cities to help offset the costs of taking additional density.

Formatted: Font: Bold

Formatted: Font: Bold

17.08.185 Conservation easement.

"Conservation easement" means a legal agreement between a landlord and a land trust or government agency that permanently limits uses of the land in order to protect its nondevelopment values. It allows the landowner to continue to own and use the land, to sell it, or to pass it on to heirs. A conservation easement is placed on a sending site at the time development rights are sold from the property. The conservation easement typically prohibits any further development of the property but allows resource uses, such as farming and forestry, to continue.

Formatted: Font: Bold

Formatted: Font: Bold

17.08.199 Development right.

"Development right" means an interest in and the right under current law to use and subdivide a lot for any and all residential, commercial, and industrial purposes.

Formatted: Font: Bold

17.08.322 Interlocal agreement.

"Interlocal agreement" means a legal contract between two or more local jurisdictions (cities and counties) that specifies the condition under which TDR credits may be transferred (typically from an unincorporated county into an incorporated city). Interlocal agreements must be endorsed by the legislative bodies of both jurisdictions.

Formatted: Font: Bold

17.08.445 Performance based cluster plat uses.

Performance based cluster plat uses means those uses identified for use in calculation of points for recreation, open space and transfer of development rights as provided in Title 16.09.090 of the Kittitas County Subdivision Code, Public Benefit Rating System. These are applied to calculation of density bonus for a qualifying Performance Based Cluster Plat application.

Deleted: and

17.08.462 Receiving site.

"Receiving site" means those lots where the procurement of TDR credits facilitate a permissible change in the allowed intensity on the property pursuant to the TDR chapter and all other controlling policies and law.

Formatted: Font: Bold

17.08.485 Sending site.

"Sending site" means designated lot or lots from where landowners may sell their development rights in exchange for placing a conservation easement on the property.

Formatted: Font: Bold

17.08.542 Transfer of Development Rights (TDR).

"Transfer of Development Rights (TDR)" means the transfer of the right to develop or build from sending sites to receiving sites.

Formatted: Font: Bold

17.08.543 TDR certificate.

"TDR certificate" means a form of currency that displays how many TDR credits are available for sale and use.

Formatted: Font: Bold

Formatted: Font: Bold

17.08.544 TDR certificate letter of intent.

"TDR certificate letter of intent" means a document issued to a landowner upon an approved TDR sending site application. The letter contains a determination of the number of development rights calculated for the sending site and an agreement by the County to issue a corresponding number of TDR certificates in conversion for a conservation easement. The sending site owner may use the TDR certificate letter of intent to market development rights to potential purchasers, but the document has no value itself and cannot be transferred or used to obtain increased development rights within receiving areas.

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Times New Roman, Font color: Auto

Formatted: Font: Times New Roman, Font color: Auto

Formatted: Font: Times New Roman

Formatted: Font: Bold

17.08.545 TDR credit.

"TDR credit" is a term for the TDR commodity used in receiving sites. TDR credits reflect the number of units a seller has a right to build or sell on a sending site based on zoning. TDR credits may also reflect the number of TDR certificates required for a given development project.

17.08.546 TDR program.

"TDR program" means a market-based program that provides a public benefit by permanently conserving rural resource lands by establishing a means to transfer development rights from eligible sending sites to eligible receiving sites through a voluntary process that fairly compensates landowners while providing a public benefit for communities.

17.08.547 TDR sending site application.

"TDR sending site application" means an application that a sending site landowner must file in order to be eligible for consideration for designation as a TDR sending site.

Section 6. Kittitas County Code Chapter 17.13, Transfer of Development Rights, proposed amendments are as follows:

Chapter 17.13

TRANSFER OF DEVELOPMENT RIGHTS

Sections

- 17.13.010 Purpose.
- 17.13.020 TDR Sending Sites.
- 17.13.030 TDR Receiving Sites.
- 17.13.040 Calculations of Available Development Rights on Sending Sites.
- 17.13.050 Sending Site Development Limitations.
- 17.13.060 TDR Documentation of Restrictions.
- 17.13.070 TDR Sending Site Certification and TDR Committee Review Process.
- 17.13.080 TDR Transfer Process.
- 17.13.090 TDR Amenity Funding for Cities.
- 17.13.100 Condemned Lands.

17.13.010 Purpose.

The purpose of the transfer of development rights (TDR) is to provide public benefits by permanently conserving rural farm and forest land through acquisition and extinguishment of the development rights on those lands designated as "sending sites." All other rights of ownership, including the right to continue operation of such businesses as farming, timber harvesting, 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.

Formatted: Font: Bold

Formatted: Font: Times New Roman, Font color: Auto

Formatted: Font: Times New Roman, Font color: Auto

Formatted: Font: Times New Roman

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Times New Roman, Font color: Auto

Formatted: Font: Times New Roman

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Font: Times New Roman, Font color: Auto

Formatted: Font: Times New Roman

Formatted: Font: Bold

Deleted: (reserved)

17.13.020 TDR Sending Sites.

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. Farm and Agricultural Land
 - a. Is in 20-acre agricultural zoning (Commercial Agriculture, Ag-20, Forest & Range);
 - b. Is a minimum of 20 acres in size;
 - c. Is located within the boundary of the Agricultural Production District shown on the Kittitas County Comprehensive Plan Land Use Map.
 - d. Qualifies for Open Space (“current use”) taxation under RCW 84.34; and
 - e. Has value above that associated with resource value (“higher and better use”).
2. Forest Land
 - a. Is in 80-acre Commercial Forest zoning or 20-acre Forest & Range zoning;
 - b. Is a minimum of 20 acres in size;
 - c. Is not publicly owned;
 - d. Qualifies for Designated Forest Land (“current use”) taxation under RCW 84.33; and
 - e. Has value above that associated with resource value (“higher and better use”).
3. Frequently Flooded Area as defined in KCC 17A.02.140.
4. Lands designated as eligible sending sites in a TDR agreement with a city.
5. 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.
6. Development rights acquired from eligible sending sites may be converted to density credits which may be transferred to eligible receiving sits 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 conservation easement.
7. Publicly owned property shall not be eligible to become a sending site.

17.13.030 TDR Receiving Sites.

1. Eligible receiving sites shall be those sites as listed below. For eligible receiving sites, the transfer and exchange of TDR density credits shall occur consistent with KCC 17.13.080.
 - a. Cities where new growth is or will be encouraged under the Growth Management Act and Countywide Planning Policies. All city receiving sites shall be designated pursuant to an agreement with the County.
 - b. Sites within Urban Growth Areas, with a density greater than six dwelling units (du) per acre, where new growth is or will be encouraged under the Growth Management Act and Countywide Planning Policies.
 - c. Unincorporated sites outside of Urban Growth Areas for which an amendment to the official zoning map or rezone to a zoning classification allowing greater than one dwelling unit (du) per twenty acres and associated map amendment to the Comprehensive Plan has been requested pursuant to Kittitas County Code.
 - d. Unincorporated sites for which a Performance Based Cluster Plat has been requested pursuant to KCC 16.09.
 - e. Areas previously identified as Urban Growth Nodes (UGN) and that may be known in the future as LAMIRDS.
 - f. Unincorporated sites for which a Planned Unit Development (PUD) designation amendment to the zoning map has been requested pursuant to Kittitas County Code, when such amendment results in an increase in density.
 - g. Unincorporated sites for which a Master Planned Resort (MPR) designation and associated amendments to the Zoning Map and Comprehensive Plan has been requested pursuant to Kittitas County Code.

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

2. The provisions of this chapter shall only apply to receiving site development proposals that vest after the effective date of this chapter. For purposes of vesting and this chapter, site development proposals include both legislative and quasi-judicial land use decisions associated with the eligible receiving sites outlined in KCC 17.13.030.1.
3. The provisions of this chapter shall not apply to land divisions associated with the County “one-time split” provision pursuant to KCC 17.29.040.

17.13.040 Calculations of Available Development Rights on Sending Sites.

1. 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 dictated by the underlying zoning as established in Title 17, Zoning, 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 conservation easement shall be subtracted from the calculation at base density.
2. Any fractions of development rights that result from the calculations in KCC 17.13.040 1.. shall not be included in the final determination of total development rights available for sale.
3. 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:
 - a. If the sending site is an entire lot, the acreage shall be determined by:
 - i. Kittitas County Assessor records; or
 - ii. A survey funded by the applicant that has been prepared and stamped by a surveyor licensed in the State of Washington.
 - b. If the sending site consists of multiple lots, the acreage in sum shall be determined through the means outlined in KCC 17.13.040 3.a.i.
4. Development rights from one sending site may be converted and transferred to more than one receiving site and one receiving site may accept density credits from more than one sending site.
5. The determination of the number of residential development rights a sending site has available shall be valid for transfer purposes only, shall be documented in a TDR certificate, and shall be considered a final determination, not to be revised due to changes to the sending site’s zoning.
6. No density credits may be allowed from land already encumbered by a conservation easement, unless such land was encumbered by a TDR demonstration project.
7. The development right determinations and applications in 1. through 7. above extend only to the TDR program and do not change the sending site parcel’s existing zone designation.

17.13.050 Sending Site Development Limitations.

1. When only a portion of a site’s development rights have been conveyed and extinguished, a sending site may subsequently accommodate 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 pursuant to Kittitas County Code and other Kittitas County development regulations.
2. 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.
3. The TDR conservation easement by its terms may reserve dwelling units that may be developed in the future consistent with the easement. All development rights not explicitly reserved in the TDR conservation easement shall be extinguished through the TDR conservation easement.

17.13.060 TDR Documentation of Restrictions.

1. After a transfer, deed restrictions documenting the development rights conveyance shall be recorded by the County and notice placed on the title of the sending parcel. The County shall establish and maintain an internal tracking system that identifies all certified transfers.
2. After a transfer, a TDR conservation easement granted by an appropriate land management nonprofit or quasi-governmental organization such as the Conservation District, shall be required for the sending site.
3. A TDR conservation easement permanently encumbers a sending site, excepting extraordinary circumstances and a determination of public benefit. The associated process for opting out of a TDR conservation easement for those qualifying shall include a finding by the BOCC of the following:
 - a. Demonstration of a hardship beyond the land owner’s control; and
 - b. Purchase equivalent transfers of development rights; and

Deleted: The TDR conservation easement shall follow parameters of the model easement in Exhibit E to this Chapter.

Formatted: Highlight

Formatted: Font color: Custom
Color(0,112,192))

Formatted: Font color: Custom
Color(0,112,192))

Formatted: Font color: Custom
Color(0,112,192))

Formatted: Font color: Custom
Color(0,112,192))

Formatted: Font color: Custom
Color(0,112,192))

Formatted: Font color: Custom
Color(0,112,192))

Formatted: Font color: Custom
Color(0,112,192))

c. Adoption of a resolution by the Board of County Commissioners finding that there is an equivalent or better public benefit to exchange the previously held easement for the easement described above in KCC 17.13.060(3)(b).

Formatted: Font color: Custom Color(0,112,192))

4. The County will be responsible for identifying and securing an appropriate land management nonprofit or quasi-governmental organization to grant, manage, and steward TDR conservation easements.

Formatted: Font color: Custom Color(0,112,192))

Formatted: Font color: Custom Color(0,112,192))

17.13.070 TDR Sending Site Certification.

1. The Community Development Services Director (CDS Director) shall be responsible for determining whether properties are eligible to be considered a sending site. The CDS Director shall base its decision on the materials provided by the landowner in a TDR sending site application and a satisfaction of the sending site requirements outlined in KCC 17.13.020.

2. Responsibility for preparing a completed sending site application rests exclusively with the applicant. The fees for such application shall be as established annually by the board of county commissioners under separate action. Fees shall be payable to the Kittitas County treasurer and shall not be returnable in any case.

Formatted: Font: Times New Roman

3. Following the CDS Director's review and approval of a properly filed sending site application, the County shall issue a TDR certificate in conversion for the proposed sending site TDR conservation easement.

4. Sending site landowners may obtain TDR certificates which can be transferred pursuant to KCC 17.13.080 and used by receiving area landowners. The process for obtaining the TDR certificates is as follows:

a. Following an application for TDR certificates by the sending site owner, the County shall 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 KCC 17.13.040 and an agreement by the County to issue a corresponding number of TDR certificates in conversion for a sending site conservation easement granted to an appropriate land management nonprofit or quasi-governmental organization by the sending site owner pursuant to KCC 17.13.060. 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.

b. As provided by the TDR certificate letter of intent, the County shall issue serially numbered TDR certificates to the sending site owner upon acceptance of a TDR conservation easement; provided, however, that the County shall have 28 days from the date of 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.

c. A TDR conservation easement will not encumber a sending site until such time as a TDR certificate or certificates have been transferred pursuant to 17B.080.

17.13.080 TDR Transfer Process and Exchange Rate.

Formatted: Highlight

1. TDR transaction transferring density credits from within unincorporated Kittitas County to within an incorporated city shall be reviewed and transferred using the city's development application review process. The transfer shall be subject to a TDR agreement between Kittitas 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 Kittitas County to any such city.

2. Density credits shall be required for approved amendments to the Comprehensive Plan associated with receiving sites detailed in KCC 17.13.030 1.a – 1.g. Applications may be submitted without the purchase of density credits, but no final plat approval or permits, if no land division is involved, for development associated with a TDR requirement shall be issued until the density credit requirement is satisfied.

Deleted: i

Formatted: Underline, Highlight

Formatted: Highlight

a. The tender of density credits is not a precondition for any amendment to the Comprehensive Plan, Zoning Map or proposed development to be approved. The density credits are required before the County issues final plat approval or permits, if no land division is involved, for any development of the additional units in the Comprehensive Plan amendment. The developer must submit the density credits when applying for the permit.

b. The ordinance granting each Comprehensive Plan Amendment should condition the approval upon the applicant's compliance with the requirement of development credits.

3. The required density credits may be acquired by:

- a. Purchasing density credits from certified sending sites;
 - b. Transferring density credits from certified sending sites owned by a receiving site owner; or
 - c. Purchasing previously purchased, unexecuted TDR credits from another buyer.
4. All development using density credits must be in accordance with all other applicable laws and regulations.
 5. The County 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 County shall provide written documentation supporting each application of the provision.
 6. For receiving sites listed in KCC 17.13.030, the exchange rate shall be as follows:

Formatted: Highlight

Formatted: Not Highlight

<u>Receiving Sites</u>	<u>Exchange Rate</u>
<u>Urban Growth Areas</u>	<u>1 TDR Credit = 2 Additional Units</u>
<u>Planned Unit Developments</u>	<u>1 TDR Credit Per 20 Acres of Receiving Site Area</u>
<u>Master Planned Resorts</u>	<u>1 TDR Credit Per 20 Acres of Receiving Site Area</u>
<u>Rural Rezones</u>	<u>1 TDR Credit Per 20 Acres of Receiving Site Area</u>

17.13.090 TDR Amenity Funding for Cities.

1. TDR amenity funding may be authorized from Kittitas County to cities as an incentive to enter into and utilize the TDR program.
2. 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.

17.13.100 Condemned Lands.

All condemnation actions on sending sites encumbered by a TDR conservation easement in favor of Kittitas 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 conservation easement, plus eight percent annual interest, irrespective of whether the development rights purchased on the property have been extinguished, banked or sold to a private party.

Section 7. Kittitas County Code Title 17.14, Performance Based Cluster Plat Uses, proposed amendments are as follows:

Chapter 17.14
PERFORMANCE BASED CLUSTER PLAT USES

Sections

- 17.14.010 Purpose and intent.
- 17.14.020 Uses permitted – On-site.
- 17.14.020 Uses permitted – Off-site

17.14.010 Purpose and intent.

The purpose and intent of this Chapter, is to identify uses that qualify for calculation of points for density bonus under Title 16.09.090 Public Benefit Rating System. (Ord. 2005-35, 2005)

Deleted: the performance based cluster plat uses

17.14.020 Uses permitted – On-site.

All uses identified in this section shall apply to the underlying zoning for use as qualifying points under Title 16.09.090 Public Benefit Rating System. For purposes of identification of uses related to passive, active and formal recreation, the following uses are permitted:

- A. Passive Recreation
 1. Conservation set-aside for bird watching and picnic areas;

2. Parks and playgrounds, non-motorized trails;
3. Uses customarily incidental to any of the uses set forth in this section; and
4. Any use not listed which is nearly identical to a permitted use, as judged by the administrative official, may be permitted. In such cases, all adjacent property owners shall be given official notification for an opportunity to appeal such decisions within ten working days of notification pursuant to Title 15A of this code, Project Permit Application Process.

B. Active Recreation

1. Ball fields;
2. Tennis courts;
3. Motorized and non-motorized trails;
4. Outdoor riding arenas;
5. Uses customarily incidental to any of the uses set forth in this section; and
6. Any use not listed which is nearly identical to a permitted use, as judged by the administrative official, may be permitted. In such cases, all adjacent property owners shall be given official notification for an opportunity to appeal such decisions within ten working days of notification pursuant to Title 15A of this code, Project Permit Application Process.

C. Formal Recreation

1. Swimming pools;
2. Club houses and golf courses (public and private);
3. Indoor riding arenas;
4. Uses customarily incidental to any of the uses set forth in this section; and
5. Any use not listed which is nearly identical to a permitted use, as judged by the administrative official, may be permitted. In such cases, all adjacent property owners shall be given official notification for an opportunity to appeal such decisions within ten working days of notification pursuant to Title 15A of this code, Project Permit Application Process

17.14.030 Uses permitted – Off-site.

All uses identified in this section shall apply to the underlying zoning for use as qualifying points under Title 16.09.090 Public Benefit Rating System. For purposes of identification of uses related to transfer of development rights, the following uses are permitted

- A. Farm and Agricultural Land, pursuant to Section 17.13.020.1.
- B. Forest Land, pursuant to Section 17.13.020.2.

Formatted: Font: Bold

Formatted: Font: Bold