

## Chapter 20.41

### TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

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#### **20.41.010 Purpose.**

The purpose of this chapter is to create a process for certification and transfer of transferable development rights from designated sending areas within Kitsap County to designated receiving areas within Port Orchard that are zoned for multifamily residential development (apartment buildings). The transfer of development rights from one property within Kitsap County to another within Port Orchard is allowed in order to provide the following:

- (1) Flexibility and efficient use of land and building techniques;
- (2) Preservation of rural character, promotion of farming areas, and provision of long-term open space opportunities; and
- (3) A mechanism to work toward achieving policies outlined in the Kitsap County Countywide Planning Policies, Kitsap County Comprehensive Plan, the Port Orchard Comprehensive Plan and Port Orchard development regulations.

#### **20.41.020 Authority.**

The transfer of transferable development rights (“TDR”) system for Port Orchard is established. The base residential density of a sending site within Kitsap County may be transferred and credited to a receiving site within the City of Port Orchard in accordance with this chapter only when a TDR certificate is issued in accordance with the rules and procedures in this chapter and in Kitsap County Code Chapter 17.580.

#### **20.41.030 Applicability.**

This chapter supplements City and County land use regulations and other land protection efforts by establishing a TDR process, which may be employed at a landowner’s option to certify and transfer development rights from an eligible sending site in Kitsap County to an eligible receiving site in Port Orchard, and which may include transfer through an open market or TDR bank. This chapter regulates the following with respect to the transfer of development rights:

- (1) Provides a conversion formula to convert County development rights into City building height bonuses;

- (2) Provides a market-based TDR implementation system based on the issuance of TDR certificates by Kitsap County that may be freely sold or otherwise transferred for use in the City of Port Orchard; and
- (3) Requires the recording of conservation easements that restrict development on sending sites within Kitsap County.

**20.41.040 General Requirements.**

- (1) Development Rights. Residential development rights are considered to be interests in real property.
- (2) Transfer of Development Rights Permitted. The number of dwelling units allowed to be constructed on a sending parcel within Kitsap County under Kitsap County Code Section 17.580.050 may be transferred to a receiving parcel within the City of Port Orchard pursuant to the conversion provided in subsection 3 of this section. In approving a transfer of development rights to a receiving area within Port Orchard, the decision-maker (depending on permit type) must find that such a transfer is permitted under and consistent with the zoning applicable to the receiving property. A transfer of development rights is allowed only under the provisions in this chapter.
- (3) Transfer of Development Rights Conversion formula. Each development right (i.e., allowed dwelling unit) sent from a sending area in Kitsap County shall be worth a 1-story (10 foot) height bonus measuring two thousand (2,000) square feet on the receiving property within Port Orchard. To illustrate this conversion, if a mixed use storefront building (e.g., with retail on the ground floor and apartments on higher floors) in Port Orchard is proposed with a building footprint of twenty thousand (20,000) square feet at four (4) stories, but the zone allows for a height bonus pursuant to the TDR program to increase that height to five (5) stories, the purchase of ten (10) development rights from Kitsap County would allow one (1) additional 10-foot story measuring twenty thousand (20,000) square feet, thus increasing the allowed height of proposed building from four (4) to five (5) stories.

**20.41.050 Sending Areas.**

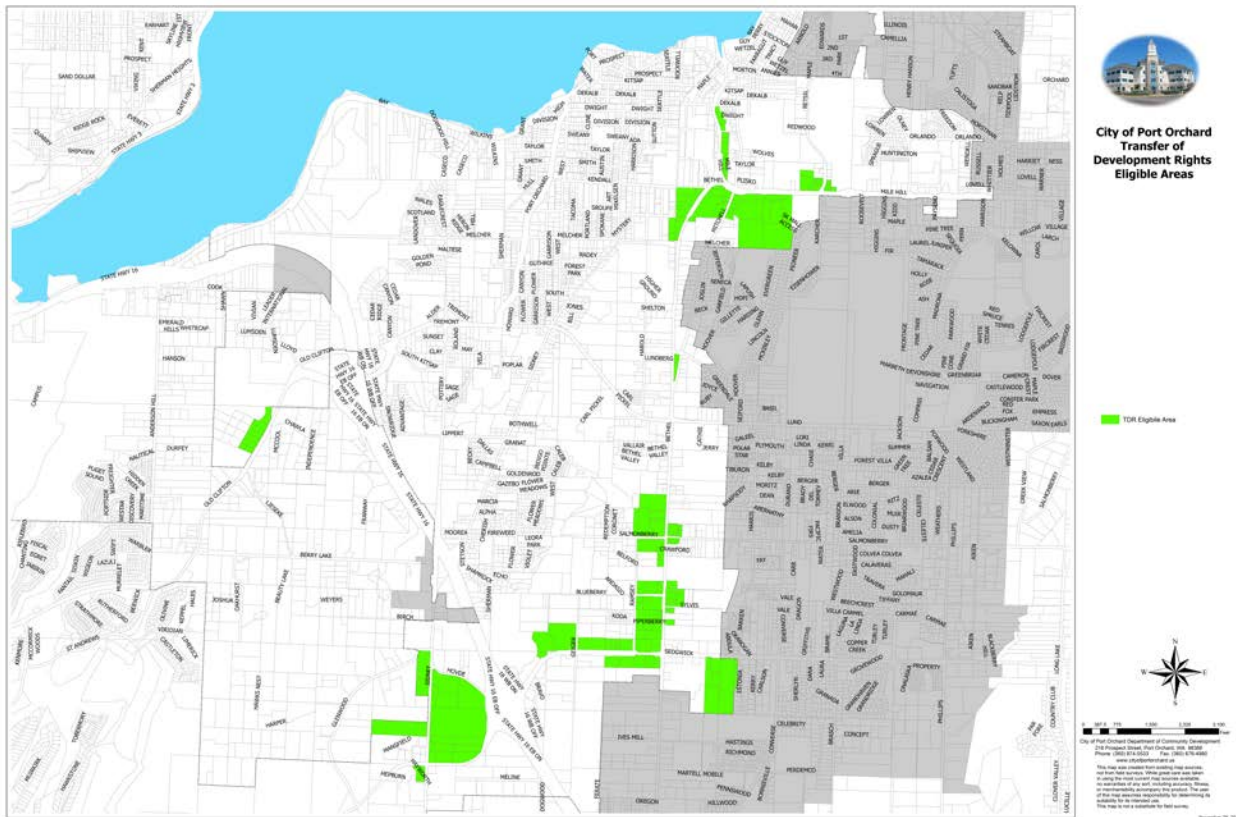
- 1. The City of Port Orchard will rely on Kitsap County sending area designations in place as of [ADOPTION DATE OF THIS ORDINANCE] and additionally shall only accept development rights transferred from properties located in zip codes 98366, 98367, 98312, and 98359, in accordance with Kitsap County Code Chapter 17.580.
- 2. Land already encumbered by a conservation easement shall not be eligible as a TDR sending site.
- 3. Any land below ordinary high water of any fresh or saltwater body shall not be eligible as a TDR sending site.
- 4. Development rights allocated to eligible sending sites may be converted to TDR certificates 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 TDR conservation easement imposed under Kitsap County Code Section 17.580.100.

**20.41.060 Sending Site Calculations.**

The City of Port Orchard shall rely on Kitsap County calculations of development rights eligible for transfer from a sending site pursuant to Kitsap County Code Chapter 17.580.

**20.41.070 Receiving Areas.**

The following map shows eligible TDR receiving areas in which height bonuses allowing buildings to be constructed up to 8 stories not to exceed 88 feet may be constructed. The 8 story / 88 foot height limit allowed for properties shown on the map supersedes the height limits in POMC chapters 20.34 and 20.35.



**20.41.080 Use of Transferred Development Rights.**

Once development rights have been obtained in accordance with Kitsap County Code Chapter 17.580, the County will issue certificate(s) certifying the number of rights purchased and the location from which the rights are being sent. Applicants seeking to use the issued Kitsap County certificate(s) shall submit the certificate(s) with their development permit application for a project to be constructed on an eligible suitably zoned property within Port Orchard. Prior to permit issuance for a project that has been approved pursuant to a TDR height bonus, the certificate shall be conveyed to the City of Port Orchard and extinguished in exchange for the approved height bonus.