

Chapter 11.12. TRANSFERABLE DEVELOPMENT CREDIT PROGRAM

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11.12.010. Definitions.

As used in DCC 11.12, the following words and phrases shall mean as set forth in DCC 11.12.010.

“Certificate of TDC Purchase” means a certificate that documents the purchase of TDCs by a person or entity other than the County.

“Restrictive Covenant” means a legal instrument which places restrictions on future development on a lot or parcel of land in a sending area.

“High Priority Deer Migration Corridor Area” means the area mapped in 2000 by the Oregon Department of Fish and Wildlife which shows the area of priority protection for migrating mule deer within a larger migration corridor acknowledged under statewide planning Goal 5. A copy of this map is on file with the Community Development Department.

“Net developable acre” means the acreage in a tract of land in a receiving area calculated by subtracting the acreage reserved for collector road right-of-way and community parks and open space from the gross acreage of a subject tract.

“Title Company Report” means a report showing the condition of title before a TDC transaction is completed, verifying title to and encumbrances on the property

“Receiving area” means the area designated by the County where transferable

development credits are required in order to purchase and develop a tract of land.

“Sending Area” means the area designated by the County in which transferable development credits may be sold in exchange for a permanent restrictive covenant.

“Transferable Development Credit Contract” means an agreement between a property owner, TDC purchaser, and the County that the TDC purchaser will pay an agreed upon sum of money to the county, whereby the county will assign a TDC to the subject property in the sending area and pass through the agreed upon sum of money to the property owner(s).

“Transferable Development Credit” (TDC) means the credit given for a restrictive covenant placed on a specified real property that disallows the placement of a septic system.

(Ord. 2004-007 § 1, 2004; Ord. 2002-010 § 1, 2002)

11.12.020. TDC transactions.

- A. Sale of TDCs from the Sending Area. The following procedures shall be followed when a property owner desires to sell TDCs from an eligible lot or parcel in the Sending Area to Deschutes County or other TDC purchaser:
 - 1. The property owner or purchaser of the TDC shall request verification from the County that the subject property is eligible for a TDC.
 - 2. The County shall send written verification to the seller or TDC purchaser confirming the number of TDCs the subject property is eligible for based on the criteria in DCC 11.12.030. Verification may be in the form of a letter, TDC Contract and/or Restrictive Covenant.
 - 3. Upon mutual agreement of a sale between the property owner and TDC purchaser, the following transactions shall occur:

- a. A TDC Report shall be ordered from a title company verifying title to and encumbrances on the property. This report shall be maintained by the County.
 - b. If the purchaser is other than the County, a TDC Contract will be entered into between the property owner, purchaser and County. This contract will state the sum of money agreed upon between the TDC purchaser and the property owner. Such sum of money shall be placed on deposit with the County by the purchaser.
 - c. The County will prepare a Restrictive Covenant that prohibits the placement of a septic system on the subject property. This Restrictive covenant shall be signed by the County and the property owner. The County shall record the Restrictive Covenant and, at the time of recording, shall initiate the transfer of funds to the property owner. A Certificate of TDC Purchase will be issued to the TDC purchaser, if other than the County, to serve as proof of TDC ownership.
- B. Transfer of TDCs to the Receiving Area. Prior to tentative plat approval in the Receiving Area, the required number of TDCs must be available for transfer to a tract or lot meeting the following criteria within the receiving area:
- 1. The tract or lot shall be located within the La Pine Neighborhood Planning Area in the La Pine Urban Unincorporated Community and be zoned Residential General or Residential Center. The TDC receiving area is identified on a map prepared and maintained by the Community Development Department.
 - 2. TDCs shall be transferred to a lot or tract based on the net developable acres at a rate approved by Board of County Commissioner Resolution.
 - 3. The Board may by Resolution adjust the number of TDCs required per acre or alter the factors for which TDCs are required in the receiving area.

- C. TDC Transaction Records. The Community Development Department shall maintain a record when TDCs are:
 - 1. Verified on eligible lots;
 - 2. Sold from eligible lots, including ownership of the TDC and
 - 3. TDC Number and legal description of the parcel transferred to the sending area.
- D. Non-Residential Uses. Where permitted under DCC 18.61.050, non-residential uses in the receiving area do not require TDCs.
- E. Right to Develop. If an owner of a lot or parcel of land eligible for a TDC chooses not to participate in the TDC program, the owner shall not be restricted from developing said lot or parcel in accordance with the applicable zoning standards in DCC Title 18, and any other applicable regulations, rules or standards. (Ord. 2004-007 § 1, 2004; Ord. 2002-010 § 1, 2002)

11.12.030. TDC sending area eligibility criteria.

- A. A lot or parcel that meets the following criteria is eligible to receive a Transferable Development Credit. The lot or parcel shall:
 - 1. Be located within the TDC “sending area” identified on a map prepared and maintained by the Community Development Department;
 - 2. Be no greater than two acres in area;
 - 3. Be capable of being served by an on-site sewage disposal system that meets current Oregon Department of Environmental Quality standards, as demonstrated by a satisfactory feasibility evaluation for an on-site sewage disposal system or when the lot or parcel is shown as being eligible for such system on the TDC sending area map; and
 - 4. Not be developed with an existing sewage disposal system, or if developed with an existing sewage

disposal system, the landowner shall disable said system, or

5. Have received prior approval for a site evaluation or an installed septic system that has expired or is no longer valid.

B. TDCs shall be assigned to an eligible lot or parcel that meets the criteria in DCC 11.12.030(A), as follows:

1. An eligible lot or parcel shall receive one TDC.
2. An eligible lot or parcel located in the High Priority Deer Migration Corridor Area shall receive an additional one-half TDC.
3. The Board of County Commissioners may by Resolution revise the number of TDCs assigned or the factors for which TDCs are assigned to eligible lots or parcels in the sending area.

(Ord. 2004-007 § 1, 2004; Ord. 2002-010 § 1, 2002)

11.12.040. TDC Advisory Committee.

A. Purpose. The TDC Advisory Committee is an advisory committee whose purpose is to assist staff in implementing the TDC program and to recommend to staff the means to accomplish the goals of Regional Problem Solving insofar as the transfer of development credits from the sending area to the receiving area are concerned.

B. Duties. The committee will advise staff in evaluating the TDC program for record keeping accuracy, determine if program goals are being met, consider whether any changes to the TDC allocation criteria in the sending area or TDC requirements in the receiving area are advisable, or if any other revisions to the program are warranted. The committee may assist the County in determining which TDC options to exercise.

C. Committee member terms. Committee members will be selected by staff based on the knowledge and expertise that each member may contribute to the

development of the TDC Program. One-half the initial members shall serve for one year and one-half shall serve for two years. Thereafter, members shall serve two-year terms. Members may be requested to serve additional terms. Staff shall report the membership of the TDC Advisory Committee to the Board of County Commissioners on an annual basis.

D. Committee members. The TDC Advisory Committee may include a representative from each of the following organizations, agencies or professions:

1. The International Society of Appraisers or an Oregon State Certified Appraiser;
2. A firm established for the purpose of real estate development or the representation of development interests;
3. An individual with recognized expertise in hydrology or ground water;
4. An individual with recognized expertise in big game wildlife management;
5. The Community Solutions Team for Central Oregon;
6. An individual who resides in the designated sending area;
7. A member of the La Pine Community Action Team;
8. The Deschutes County Community Development Department Director or designee as an ex officio member.
9. Staff may select additional members as it deems appropriate.
10. The Deschutes County Community Development Department Director or designee as an ex officio member.

(Ord. 2003-033 § 1, 2003; Ord. 2002-010 § 1, 2002)