

CHAPTER 7-26
TRANSFER OF DEVELOPMENT RIGHTS
OVERLAY ZONE

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- 7-26-101. PURPOSE.

The goals of the Transfer of Development Rights Overlay Zone are:

- (1) To promote development in areas that more appropriately accommodate growth by providing the opportunity to increase density in those areas.
- (2) To encourage the preservation of public open space, wetland habitats, and upland habitats located in West Valley City which are designated in the West Valley City General Plan as important to preserve.
- (3) To establish a well maintained park and trail system.
- (4) To discourage development of environmentally sensitive lands with high water tables and/or wetland conditions by allowing the transfer of density from such property.
- (5) To prevent flooding by preserving land for storm water detention.

(Ord. No. 00-19 Enacted 04/25/2000; Ord. No. 01-53 Amended 11/20/2001; Ord. No. 07-01 Amended 01/02/2007)

7-26-102. DEFINITIONS.

- (1) "Base Zoning" means existing zoning without the addition of the overlay zone.
- (2) "Conservation Easement" means an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural state, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat, or other use or condition consistent with the protection of open land. Conservation easement(s) granted under this Ordinance shall be subject to The Land Conservation Easement Act, Sections 57-18-1 (et seq.), Utah Code Annotated, 1953 as amended.
- (3) "Development Approval" means final plat approval by the City Council for subdivisions and final approval by the Planning Commission for apartment developments.
- (4) "Development Credit" means a credit measured in residential units that denotes

the amount of density on sending site property which may be transferred. Development credits represent all the development potential on the site.

(5) "Development Credit Certificate" means the certificate issued by the Community and Economic Development Department at West Valley City that represents the total number of development credits recognized for and derived from the sending site that may be transferred.

(6) "Development Right" means the right held by a fee simple property owner to build on a legally established parcel of real property. This right is limited by applicable zoning ordinances.

(7) "Receiving Site (TDR-R)" means a parcel of real property denoted as a receiving site in the Transfer of Development Rights Overlay Zone which means any non TDR-S property west of 4800 West. A receiving site is the site to which development credits may be transferred.

(8) "Sending Site (TDR-S)" means a parcel of real property denoted as a sending site in the Transfer of Development Rights Overlay Zone, as shown on West Valley City's zoning map. A sending site is the site from which development credits may be transferred.

(9) "Transfer" means any action which results in the sale, exchange, or joint venturing of development credits.

(Ord. No. 00-19 Enacted 04/25/2000; Ord. No. 01-53 Amended 11/20/2001)

7-26-103. SENDING SITE ELIGIBILITY.

All properties located within the TDR-S overlay zone are eligible to transfer development credits.

(Ord. No. 00-19 Enacted 04/25/2000; Ord. No. 01-53 Amended 11/20/2001)

7-26-104. DEVELOPMENT CREDIT DETERMINATION.

(1) The total number of development credits available to a sending site parcel shall be determined as follows:

- (a) Two development credits per gross acre if the property remains private property with a conservation easement, and the property is located in the Transfer of Development Rights Overlay Zone South of the Riter Canal.
- (b) Three development credits per gross acre if the property is dedicated (including water rights) to West Valley City, and is located in the Transfer of Development Rights Overlay Zone South of the Riter Canal.
- (c) Three development credits per gross acre if the property remains private property with a conservation easement, and the property is located in the Transfer of Development Rights Overlay Zone North of the Riter Canal.
- (d) Four development credits per gross acre if the property is dedicated (including water rights) to West Valley City, and is located in the Transfer of Development Rights Overlay Zone North of the Riter Canal.

(2) This calculation will be made by the Community and Economic Development Department of West Valley City, and will be evidenced by a Development Credit Certificate. If the calculation results in a fraction it shall be rounded to the nearest whole number. Development Credit Certificates shall only be issued for whole development credits.

(3) As an alternative to development credits, an appraisal can be conducted to determine the value of property to be dedicated to the City.

(Ord. No. 00-19 Enacted 04/25/2000, Amended by Ord. No. 01-54 7/19/2001; Ord. No. 07-01 Amended 01/02/2007)

7-26-105. SENDING SITE PROCEDURE.

(1) TDR-S property owners may choose to develop their property under base zoning, or they may choose to sell, transfer, or joint venture their development rights.

(2) TDR-S fee property owners must request a Development Credit Certificate from the West Valley City Community and Economic Development Director to become eligible for the transfer program. The Development Credit Certificate can state the number of development credits available for sale, transfer or joint venture and/or the dollar value of property for sale, transfer or joint venture.

(3) If dedicated, TDR-S fee property owners must certify to the City that they are in compliance with all statutes, rules, and regulations pertaining to the wetlands on their property. Any noncompliance with applicable regulations shall remain the responsibility of the property owner and the City reserves the right to reject dedication based on noncompliance.

(4) Upon receipt of a Development Credit Certificate a TDR-S property owner is eligible to negotiate the sale, transfer, or joint venture of the development credits or property value owned.

(5) A development credit or property may only be sold, conveyed, or otherwise transferred for the purpose of increasing density on a receiving site on the records of the West Valley City Community and Economic Development Department by the owner(s) or their legal representative. The sale, conveyance, or transfer shall occur upon surrender of the development certificate which authorizes the West Valley City Community and Economic Development Director, or designee to transfer the Development Credit Certificate to the stated transferee by reissuing the Development Credit Certificate in the transferee's name, and recording the re-issue certificate in the real property records of Salt Lake County.

(6) With each transfer or sale, a conservation easement, or deed restriction shall be recorded covering the entire site, or if only a portion of the available development credits, or property are sold then the easement shall cover a proportional amount of the site to be determined by the West Valley City Community and Economic Development Department Director or a designee. Purchases should be aggregated to yield parcels greater than an acre, so the need to record conservation easements for very small properties is discouraged.

(7) When all available development credits on a sending site have been purchased, no uses other than those enumerated in the conservation easement are allowed. Any mitigation activities being conducted by agreement between the property owner and any agency shall remain the responsibility of the sending site property owner except upon agreement by the City.

(8) The final transfer of development credits will be completed upon development approval on a receiving site.

(9) TDR-S property owners shall notify any lien or mortgage holders of the sale of the development credits, and such notification shall be demonstrated by written approval submitted to the City.

(10) TDR-S property owners shall be responsible for notification of the county tax assessor regarding possible changes in property value.

(11) A petition to rezone an area not designated as a TDR-S zone may be considered by the Planning Commission and City Council under the procedures set forth in Chapter 7-5.

(Ord. No. 01-53 Added 11/20/2001; Ord. No. 07-01 Amended 01/02/2007)

7-26-106. RECEIVING SITE ELIGIBILITY.

Any non TDR-S property recommended to have residential use or mixed use in the West Valley City General Plan, located west of 4800 West, is a receiving site. All non-profit organizations, governmental agencies and/or properties located within the TDR-R overlay zone are eligible to purchase development credits. Receiving sites shall only be located within the TDR-R overlay.

(Ord. No. 00-19 Enacted 04/25/2000; Ord. No. 01-53 Amended 11/20/2001)

7-26-107 RECEIVING SITE PROCEDURES.

(1) All regulations governing zoning, subdividing, and approval processes remain as currently adopted. If any development within the TDR overlay requests a density greater than 3.5 units per gross acre, the increased density shall be realized through development credits or property from the sending site except as provided in paragraph 2 below. Any development requesting the higher densities shall bring evidence of development credits or property from the sending site in the form of options to purchase, ownership, or joint ventures at the time of development approval. Proof of purchase or ownership of development credits or property from the sending site must be provided prior to site plan/conditional use final approval or plat recordation.

(2) Areas zoned for densities greater than 3.5 units per acre as indicated in Table 1 below at the time of the original passage of this Ordinance on April 25, 2000 may develop at that density without purchasing development credits. If these properties desire to increase their densities beyond the existing base density allowed in the zone, then development credits or property from the sending area shall be required as described below.

Current Zoning Designation	Base Density (units/gross acre)
R-1-8, RB	4.5
R-1-7	5.0
R-1-6	6.0
R-1-4, R-2	8.5
R-4, RM	10.0
Any Other	3.5

The number of development credits required shall be determined from the following formula:

$$(\text{Proposed density} - \text{base density}) \times \text{total project area} = \text{number of development credits required}$$

As an alternative to purchasing to development credits, an appraisal can be conducted to determine the value of the receiving site property at the base density and the value of the property with the proposed increase in density. The applicant shall provide property from the sending area or a cash payment in lieu of development credits that equals at least 50% of the value increase from the proposed increase in density. Cash payments made in lieu of development credits shall be used by the City for land acquisition within the sending site or storm water management and open space improvements within the sending site.

(3) Any residential development approval process, using development credits, shall follow the standard procedures as prescribed in the zoning ordinances except that all conditional use applicants shall simultaneously submit an additional set of site plans with elevations.

(4) All development using development credits within a receiving site shall use the following criteria in order to ensure a quality development:

- (a) Materials: Development with up to five units per acre shall incorporate a minimum of 50 percent of each structure's exterior as masonry (brick, stucco, stone and fiber cement siding). Development with over five units per acre shall have 100 percent of each structure's exterior as masonry. Roof materials shall be constructed of laminated architectural shingles or may be constructed of tile or other materials approved by the Planning Commission.
- (b) Design: For single-family dwellings, development with up to five units per acre shall incorporate at least four of the following criteria:
 - (i) a minimum of two 2-inch caliper trees per lot frontage;
 - (ii) streetscape enhancements such as, but not limited to, landscaped medians, roundabouts, eight foot or greater width park strips;
 - (iii) subdivision entrance feature;
 - (iv) specialty/pedestrian scale lighting along sidewalks, streets, and trails;
 - (v) front porches with at least 60 square feet;
 - (vi) common front yard maintenance;
 - (vii) three or more housing types for every 10 acres, this may include varying lot sizes and densities within the development.

- (viii) a minimum of 1,450 square feet of finished floor area for a rambler and 1,650 square feet of finished floor area for a multi-level home.
 - (ix) A minimum of 220 points earned for rambler plans and a minimum of 240 points earned for all other types of plans from Table 1 of Section 7-14-105(3)(l).
- (c) Single family detached development with over five units per acre shall incorporate five or more of the above criteria.
- (d) For multi-family development, projects with up to ten units per acre shall incorporate at least four of the following criteria:
- (i) at least one more amenity than the number required in Section 7-14-313;
 - (ii) buffering (architecturally interesting walls, intense landscaping, greater setbacks, compatible building heights/mass, etc.) to adjacent uses that exceeds the minimum standards of the applicable zone;
 - (iii) project entrance feature;
 - (iv) specialty/pedestrian scale lighting along sidewalks, streets, and trails;
 - (v) building upgrades that exceed the building relief, window, building design and/or roof treatments from the multi-family residential design standards in Chapter 7-14;
 - (vi) interior trails and exterior trail connections;
 - (vii) three or more housing types for every 100 units; having varied architecture with a central, somewhat consistent theme;
 - (viii) a minimum of one 2-inch caliper tree per unit;
 - (ix) deeded ownership;
 - (x) parking lot landscaping of at least 20 square feet per parking space;
 - (xi) gated community with 24-hour security;
 - (xii) one car garages for all units;
 - (xiii) two car garages for at least 50 percent of the units;
 - (xiv) "smart" home technology.

Development with over ten units per acre shall incorporate at least six of the above criteria.

- (e) Open Space: Development with up to five units per acre, shall provide at least 15 percent of the gross project area as landscaped open space. Development with over five units per acre, and less than ten units per acre, shall provide at least 20 percent of the gross project site as landscaped open space. Development with over ten units per acre shall provide at least 25 percent of the gross project area as landscaped open space.

- (5) The above-listed requirements of Section 7-26-107 may be superseded by a

development agreement incorporating other appropriate criteria as determined by the City.

(6) No development shall exceed 15 units per acre unless an increase is requested by the applicant, recommended by the Planning Commission, and approved by the City Council.

(7) A petition to rezone an area not included in the TDR-R zone may be considered by the Planning Commission and the City Council under the procedures set forth in Chapter 7-5. The reasons for an addition to the TDR-R zone must be compelling and must include a minimum area of four acres.

(8) No development approval will be final until a sending site conservation easement is recorded for the number of development credits used to achieve the higher density for the project.

(Ord. No. 00-19 Enacted 04/25/2000; Ord. No. 01-53 Amended 11/20/2001; Ord. No. 02-43 Amended 07/16/2002; Ord. No. 07-01 Amended 1/2/2007)