

Chapter 20.37

TRANSFER OF DEVELOPMENT RIGHTS

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20.37.005 Definitions.

For purposes of this chapter the following definitions shall apply:

- (a) **TDR Overlay Zone.** A *TDR Overlay Zone* is that area depicted on the Official Zoning Map of the City that identifies the areas impacted by the Interlocal Agreement authorized in [§20.37.060 \(Interlocal Agreement for TDR Receiving Areas\)](#).
- (b) **TDR Receiving Area.** A *TDR Receiving Area* is that area to which development rights may be transferred from other locations, pursuant to the interlocal agreement authorized in [§20.37.060 \(Interlocal Agreement for TDR Receiving Areas\)](#).

20.37.010 Overview of Requirements for Transfer of Development Rights (TDR) Receiving Areas.

- (a) This chapter is adopted pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW, and any interlocal agreement between the City of Arlington and Snohomish County concerning the Transfer of Development Rights Program that may hereafter be adopted. Consistent with the goals and requirements of the GMA and Arlington Comprehensive Plan, the purpose of this chapter is to:
 - (1) Provide for urban development within portions of the Arlington Urban Growth Area that are zoned as TDR receiving areas pursuant to [§20.36.080 \(TDR Overlay Zone Established\)](#) and depicted on the City of Arlington's official zoning map.
 - (2) Help conserve valuable agricultural lands located in the Stillaguamish River Valley that are designated as "sending areas" on the Snohomish County Future Land Use Map, an element of the county's comprehensive plan.
 - (3) Help conserve agriculture and agricultural land through a variety of planning techniques, regulations, incentives, and acquisition methods, an objective identified in the Arlington Comprehensive Plan, Policy PL-19.10.
- (b) To further these objectives, approval of the urban development applications listed in [§20.37.020 \(Development Approvals Within TDR Overlay Zone Conditioned on Use of TDR Certificates\)](#) within the TDR Overlay Zone requires the transfer of development rights from designated sending areas. Subject to the requirements of this chapter, such transfers shall occur through the use of TDR certificates, issued pursuant to Snohomish County Code Section 30.35A.050, in connection with city of approval of urban developments within the TDR Overlay Zone.

20.37.020 Development Approvals Within TDR Overlay Zone Conditioned on Use of TDR Certificates.

- (a) Approval of the following urban development applications within the TDR Overlay Zone requires the use of TDR certificates by the applicant pursuant to the requirements of [§20.37.030 \(Presentation and Extinguishment of TDR Certificates\)](#) and [§20.37.040 \(Number of TDR Certificates Required for Development Approvals\)](#):
- (1) Preliminary approvals for residential short and long subdivisions within the TDR Overlay Zone shall include a condition requiring the applicant to provide TDR certificates issued by Snohomish County pursuant to SCC §30.35A.050 prior to final plat approval.
 - (2) Approval of land use permits for non-subdivision development, either residential or nonresidential, shall include a condition requiring the applicant to provide TDR certificates issued by Snohomish County pursuant to SCC §30.35A.050 prior to the issuance of building permits.
- (b) Permits for the following types of development or activities are hereby exempt from this chapter (use class refers to those established in [Table 20.40-1: Table of Permissible Uses](#)):
- (1) Educational, Cultural, Religious, Philanthropic, Social, Fraternal uses (Use Class 5.00)
 - (2) Emergency Services (Use Class 13.000)
 - (3) Miscellaneous Public and Semi-Public Facilities (Use Class 15.000) Utility Facility (Use Class 17.000)
 - (4) Cemetery and Crematorium (Use Class 21.000)
 - (5) Bus Station, Train Station (Use Class 24.000)
 - (6) Grading, excavation, or filling (Use Class 31.000)
 - (7) Land clearing, logging (Use Class 32.000)
 - (8) Uses permissible in sensitive areas as per Chapter 20.88 (Environmentally Critical Areas)
 - (9) Single family dwellings on existing lots

20.37.030 Presentation and Extinguishment of TDR Certificates.

- (a) TDR certificates required as condition to development approval pursuant to [§20.37.020 \(Development Approvals Within TDR Overlay Zone Conditioned on Use of TDR Certificates\)](#) shall be provided to the City, as follows:
- (1) For long and short residential subdivisions within a TDR Overlay Zone, the required number of TDR certificates specified in [§20.37.040 \(Number of TDR Certificates Required for Development Approvals\)](#) shall be provided at time of final plat submittal. The staff recommendation to the Council on the final plat shall state whether the required number of certificates have been provided.
 - (2) For long and short commercial subdivisions within a TDR Overlay Zone, the required number of TDR certificates specified in [§20.37.040 \(Number of TDR Certificates Required for Development Approvals\)](#) shall be provided at the time of building permit application.
 - (3) Except as provided in [§20.37.020\(b\)](#), for all other development applications, either residential or nonresidential, the required number of TDR certificates specified in [§20.37.040](#) shall be provided at the time of building permit application.
- (c) TDR certificates provided to the City pursuant to subsection (a) of this section shall be extinguished and deemed legally void by Snohomish County pursuant to the requirements of chapter 30.35A SCC presently in effect or as hereafter amended, and pursuant to any interlocal agreement between the City of Arlington and Snohomish County which may be hereafter adopted.

- (d) For residential subdivisions of land the following statement shall be placed on the face of the final plat: "Upon recordation of this plat, any future subdivision of land within this plat shall be subject to the rules and regulation of AMC Chapter 20.37."

20.37.040 Number of TDR Certificates Required for Development Approvals.

- (a) The number of TDR certificates required to be presented for development approvals pursuant to §[20.37.030 \(Presentation and Extinguishment of TDR Certificates\)](#) shall be as follows:

Type of Development Approval	Number of Required TDR Certificates
Residential Subdivisions (Single Family)	25% of the number of lots included in the preliminary plat
All other residential development (Multi-Family)	50% of the number of residential units included in the official site plan
All nonresidential development	1 TDR Certificate per 10,000 square feet of gross floor area

- (b) Fractions that result from the calculation required by this section shall be rounded up to the next whole number.

20.37.050 Development Standards and Application Requirements for TDR Overlay Zone.

- (a) Development within TDR Overlay Zone shall be subject to the development standards and regulations for the underlying zoning classification, in addition to all other applicable requirements of AMC Title 20. Compliance with the requirements for development approval imposed by this chapter shall not result in additional lots or units.
- (b) Applications for development approvals must be accompanied by a purchase and sale agreement, or copy thereof, indicating that the applicant owns or has agreed to purchase the number of TDR certificates required for development approval under §[20.37.020 \(Development Approvals Within TDR Overlay Zone Conditioned on Use of TDR Certificates\)](#).

20.37.060 Interlocal Agreement for TDR Receiving Areas.

- (a) Subject to approval by the City Council, the Mayor is authorized to negotiate and execute an Interlocal Agreement (ILA) with Snohomish County for the purpose of ensuring that the use of TDR certificates is required as a condition to development approvals within TDR Receiving Areas following annexation.
- (b) An Interlocal Agreement executed pursuant to subsection (a) of this section shall require the city to adopt development regulations that:
- (1) Require the use of TDR certificates issued by the County pursuant to SCC 30.35A.050 in order to obtain urban development approvals within TDR Receiving Areas following annexation; and
 - (2) Include requirements that are substantially consistent with the requirements of the Snohomish County Comprehensive Plan.