

Ordinance No. 120494

Council Bill No. 113802

The City of Seattle  
Council Bill/Ordinance

AN ORDINANCE relating to transferable development rights, providing for administration of the City TDR Bank, and amending SMC Section 3.20.320.

8-15-01 Coulter

Wills

Watts

Steinbrech

8-20-01 Pa

CE

CF No. \_\_\_\_\_

Date Introduced:	<u>AUG 13 2001</u>	
Date 1st Referred:	To: <u>Neighborhoods, Sustainability &amp; Community Development</u>	Housing, Human Services, Education & Civil Rights Committee
Date Re - Referred:	To: <u>(Committee)</u>	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>8-20-01</u>	<u>8-0</u>	
Date Presented to Mayor:	Date Approved:	
<u>8-21-01</u>	<u>8/21/01</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
<u>8/30/01</u>	<u>3pp</u>	
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

Law Department

Law Dept. Review

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Conlin **CONLIN**  
Councilmember

## Committee Action:

01 Conlin yes  
Wills yes  
Watts yes  
Steinbrueck yes

8-20-01 Passed 8-0  
(Excused: Steinbrueck)

This file is complete and ready for presentation to Full Council. Committee: RC 8/15  
(Initial/Date)

*Law Department*

*Agenda  
approved  
and not loaded*

Law Dept. Review      OMP Review      City Clerk Review      Electronic Copy Loaded      Indexed

ORDINANCE

120494

AN ORDINANCE relating to transferable development rights, providing for administration of the City TDR Bank, and amending SMC Section 3.20.320.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

**Section 1.** Section 3.20.320 of the Seattle Municipal Code, which section was last amended by Ordinance 119484, is hereby further amended as follows:

**3.20.320 TDR Bank (~~created~~).**

A. General. The City may from time to time purchase and sell transferable development rights ("TDR") in accordance with the Land Use Code, Title 23, and the provisions of this section. TDR held by the City for potential sale, whether from land owned by the City or as a result of TDR purchases, are considered to be in the City's "TDR Bank". The TDR Bank is a program rather than a separate entity, fund or City department.

B. TDR Eligible for Purchase and Sale. Landmark TDR, housing TDR, and open space TDR, each as defined in SMC Chapter 23.84, are (~~Transferable development rights ("TDR") from landmark performing arts theaters as defined in Section 23.49.033 shall be~~)eligible for purchase (~~and sale~~) by the City's TDR Bank(~~established under Ordinance No. 114029, to the same extent as TDRs from low income housing or low and low moderate income housing~~), subject to the provisions of this section. Any TDR eligible for transfer under SMC Chapter 23.49 are eligible for sale by the TDR Bank.

C. Administration. The Office of Housing has general responsibility for the administration of the TDR Bank. The Housing Director is authorized to execute, deliver, and accept for and on behalf of the City, agreements, deeds and other instruments in order to carry out TDR Bank transactions authorized by ordinance.

D.~~(B.)~~ Housing TDR Purchases. The Housing Director may negotiate the purchase of housing TDR, subject to approval of each purchase by ordinance and subject to budget authority. The Office of Housing shall conduct a s(~~S~~)ubsidy review (~~shall be a precondition~~) prior to any purchase of housing TDR for (~~by~~) the TDR Bank, whether or not other public funds or subsidies are involved. (~~The price paid by the City for housing TDR shall not exceed the lesser of the financing gap as determined by the subsidy review process or the reduction in value of the property resulting from the transfer of TDRs and the burdens imposed, including both use restrictions and affirmative covenants regarding the preservation of the property, as a condition of the transfer.~~



1 ~~C. As an alternative to purchases, the TDR Bank may lease and/or option TDRs from landmark~~  
2 ~~performing arts theaters. In addition, the TDR Bank may purchase fewer than all development rights and~~  
3 ~~may accept a commitment for preservation of a landmark performing arts theater for less than forty (40)~~  
4 ~~years, but no less than ten (10) years, in order to permit commencement of a phased rehabilitation~~  
5 ~~program.~~

6 ~~D. In the event of a lease, option, or limited term commitment as described in subsection C~~  
7 ~~above, controls imposed on the landmark performing arts theater under Chapter 25.12 shall not lapse~~  
8 ~~automatically upon expiration of the relevant period, but the owner shall then have the right to petition~~  
9 ~~for removal of controls on the same basis as other landmark owners.~~

10 ~~E. The Office of Housing is authorized to negotiate purchases, leases and/or options of TDRs~~  
11 ~~from landmark performing arts theaters, subject to Council approval by ordinance and appropriation of~~  
12 ~~funds. Priority consideration shall be given to TDRs from landmark performing arts theaters with low-~~  
13 ~~income housing that is to be preserved as part of the rehabilitation under a binding commitment from the~~  
14 ~~owner and all others with interests in the property. Landmark performing arts theaters with housing~~  
15 ~~shall not be eligible for TDR bank purchases if any on-site low or low to moderate housing is to be~~  
16 ~~eliminated, unless the owner enters into a voluntary agreement satisfactory to the Director of Housing~~  
17 ~~that guarantees replacement of any low income housing with low income housing, and any low to-~~  
18 ~~moderate income housing with low to moderate income housing, that will remain affordable to low or~~  
19 ~~low to moderate income tenants, as the case may be, or contributes an amount equal to the cost to~~  
20 ~~replace such low or low to moderate income housing with housing affordable to low or low to-~~  
21 ~~moderate income tenants, as the case may be, in addition to any agreement or contribution made in order~~  
22 ~~to qualify for housing bonus.))~~

23 E. Open Space TDR Purchases. The Housing Director or his or her designee shall consult  
24 with the Director of Neighborhoods, the Director of the Department of Design, Construction and Land  
Use, and the Superintendent of Parks and Recreation, or their respective designees, regarding any  
proposed purchase of open space TDR for the TDR Bank. Following a joint decision of all such officers  
in favor of acquiring open space TDR from a site, the Housing Director, or such other officer as the  
Mayor may designate, may negotiate an agreement for the purchase of open space TDR from that site,  
subject to approval by ordinance and to budget authority.

F. Landmark TDR Purchases. The Housing Director or his or her designee shall consult with  
the Director of Neighborhoods or his or her designee regarding any proposed purchase of Landmark  
TDR for the TDR Bank. The Director of Neighborhoods, or his or her designee, shall consult with the  
Landmarks Preservation Board regarding the proposed purchase. Following a joint decision by such  
Directors or their designees in favor of acquiring the Landmark TDR from a site, the Housing Director,  
or such other officer as the Mayor may designate, may negotiate the purchase of Landmark TDR from  
that site, subject to approval by ordinance and to budget authority.

G. Sale of TDR in General. The Housing Director or his or her designee may negotiate the  
sale of any TDR held in the TDR Bank, subject to approval of each sale by ordinance.





Fiscal Note Template

Each piece of legislation that is financial in nature requires a fiscal note. The fiscal note should be drafted by department staff and should identify operating, capital, revenue, and FTE impacts of the legislation. After preparation by departmental staff, the City Budget Office will review and make necessary revisions before transmittal to Council.

<b>Department:</b> Legislative Office of Housing	<b>Contact Person/Phone:</b> Traci Ratzliff 4-8153 / Rick Hooper 4-0338	<b>CBO Analyst/Phone:</b> Janet Credo 4-8687
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**Legislation Title:**

An Ordinance relating to transferable development rights, providing for administration of the City TDR Bank and amending SMC Section 3.20.320

**Summary of the Legislation:**

Makes numerous technical changes concerning the sale and purchase of TDR's by the City's TDR bank that are consistent with the program changes made by the passage of Ordinance 120443.

**Background (Include justification for the legislation and funding history, if applicable):**

Makes changes consistent with program changes made with passage of Ordinance 120443.

**Public Private Partnership Review Status:**

Is the project referenced in the legislation subject to P4 review? If yes, identify P4 review to date.

No

**Is the legislation subject to public hearing requirements? If yes, what public hearings have been held to date?**

No



**Fiscal Sustainability Issues (related to grant awards):**

***Estimated Expenditure Impacts:***

FUND (List # and/or Account)	2000	2001	2002
N/A			
<b>TOTAL</b>			

One-time \$ \_\_\_\_\_

On-going \$ \_\_\_\_\_

***Estimated Revenue Impacts:***

FUND (List # and/or Account)	2000	2001	2002
N/A			
<b>TOTAL</b>			

One-time \$ \_\_\_\_\_

On-going \$ \_\_\_\_\_

***Estimated FTE Impacts:***

FUND	2000	2001	2002
N/A			
<b>TOTAL</b>			

# Full Time \_\_\_\_\_ # Part Time \_\_\_\_\_ # TES \_\_\_\_\_

**Do positions sunset in the future? If yes, identify sunset date?**

N/A

**Other Issues (including long-term implications of the legislation):**

N/A





**Legislative Department  
Seattle City Council  
Memorandum**

**Date:** August 15, 2001  
**To:** Interested Councilmembers  
**From:** Traci Ratzliff, Central Staff  
**Subject:** TDR/Bonus related legislation

Three pieces of legislation regarding the TDR/Bonus programs will be considered **THIS MONDAY, August 20th at Full Council**. These three pieces of legislation are as follows:

**1) CB 113802 -TDR bank administration ordinance – Sponsored by Councilmember Conlin**

This legislation:

- Adds open space TDR to the list of TDR that can be purchased and sold by the TDR bank, consistent with the changes made to the TDR program in Ordinance 120443.
- Expands scope of landmark TDR eligible for purchase and sale by the TDR bank, previously only landmark performing arts TDR were eligible, now all eligible landmark TDR qualify for purchase and sale by the TDR bank.
- Directs the Office of Housing to consult with the Department of Design, Construction and Land Use, Department of Neighborhoods, and Department of Parks and Recreation regarding proposed purchase of open space or landmark TDR.

**2) Resolution 30382 -TDR bank administration options and review of TDR/bonus programs – Sponsored by Councilmember Steinbrueck**

This legislation directs the Executive to do the following:

- Develop long- and short- term goals and outcomes for the TDR bank, report by 11/30/01.
- Develop and analyze options regarding the administration of the TDR bank and whether it should be administered by a City Department or a nonprofit entity, report by 12/30/01.
- Develop options for approving TDR bank transactions and whether a City department or other entity is given authority to approve such transactions or whether some transactions would still require Council approval, report by 12/30/01.
- Develop options for funding the TDR bank including identifying possible sources other than City funding, report by 12/30/01.
- Beginning March 31, 2004 and every 2 years after, submit an evaluation report regarding the performance of the TDR/Bonus programs including outcomes of the



program, economic and market conditions related to the TDR/Bonus program, supply and demand for available TDR.

**3) Resolution 30383 - Housing and Child Care Bonus Programs – Sponsored by Councilmember Wills**

This legislation directs the Executive to do the following:

- Make biannual recommendations to the Council regarding adjustments to: the amounts of housing and child care for each income group that should be provided per square foot of bonus floor; and to the cash contribution amounts for housing and child care which are consistent with the Council's intent to bring these amounts closer to full mitigation costs. Such proposed increases would be in addition to the annual increases that the Executive is authorized to make under Ordinance 120443 and would be based on new data available.
- Implement the housing bonus cash contribution program in ways that promote development of affordable "high performance" housing that is energy and water efficient. The Executive is directed to adopt principles and guidelines that will encourage and educate affordable housing developers to develop such housing. The Executive shall utilize existing guidelines (as listed in the resolution) in development of these principles and guidelines. A report on the progress of adopting such principles and guidelines shall be provided by September 1, 2002.
- Affirms that the housing bonus cash contribution program shall be used to produce housing for households with incomes up to 30%, 50% and 80% of median income in the proportions as outlined in Ordinance 120443.

Please review the attached legislation and let me know if you have any questions about such legislation. My phone is 4-8153.

Attachments



ORDINANCE \_\_\_\_\_

AN ORDINANCE relating to transferable development rights, providing for administration of the City TDR Bank, and amending SMC Section 3.20.320.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

**Section 1.** Section 3.20.320 of the Seattle Municipal Code, which section was last amended by Ordinance 119484, is hereby further amended as follows:

**3.20.320 TDR Bank ((reated)).**

A. General. The City may from time to time purchase and sell transferable development rights ("TDR") in accordance with the Land Use Code, Title 23, and the provisions of this section. TDR held by the City for potential sale, whether from land owned by the City or as a result of TDR purchases, are considered to be in the City's "TDR Bank". The TDR Bank is a program rather than a separate entity, fund or City department.

B. TDR Eligible for Purchase and Sale. Landmark TDR, housing TDR, and open space TDR, each as defined in SMC Chapter 23.84, are ((Transferable development rights ("TDR") from landmark performing arts theaters as defined in Section 23.49.033 shall be)) eligible for purchase ((and sale)) by the City's TDR Bank((established under Ordinance No. 114029, to the same extent as TDRs from low income housing or low and low-moderate income housing)), subject to the provisions of this section. Any TDR eligible for transfer under SMC Chapter 23.49 are eligible for sale by the TDR Bank.

C. Administration. The Office of Housing has general responsibility for the administration of the TDR Bank. The Housing Director is authorized to execute, deliver, and accept for and on behalf of the City, agreements, deeds and other instruments in order to carry out TDR Bank transactions authorized by ordinance.

D. ~~(B-)~~ Housing TDR Purchases. The Housing Director may negotiate the purchase of housing TDR, subject to approval of each purchase by ordinance and subject to budget authority. The Office of Housing shall conduct a s((S)ubsidy review ((shall be a precondition)) prior to any purchase of housing TDR for ((by)) the TDR Bank, whether or not other public funds or subsidies are involved. ((The price paid by the City for housing TDR shall not exceed the lesser of the financing gap as determined by the subsidy review process or the reduction in value of the property resulting from the transfer of TDRs and the burdens imposed, including both use restrictions and affirmative covenants regarding the preservation of the property, as a condition of the transfer.



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3 ~~may accept a commitment for preservation of a landmark performing arts theater for less than forty (40)~~  
4 ~~years, but no less than ten (10) years, in order to permit commencement of a phased rehabilitation~~  
5 ~~program.~~

6 ~~D. In the event of a lease, option, or limited term commitment as described in subsection C~~  
7 ~~above, controls imposed on the landmark performing arts theater under Chapter 25.12 shall not lapse~~  
8 ~~automatically upon expiration of the relevant period, but the owner shall then have the right to petition~~  
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17 ~~that guarantees replacement of any low income housing with low income housing, and any low to~~  
18 ~~moderate income housing with low to moderate income housing, that will remain affordable to low or~~  
19 ~~low to moderate income tenants, as the case may be, or contributes an amount equal to the cost to~~  
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23 E. Open Space TDR Purchases. The Housing Director or his or her designee shall consult  
24 with the Director of Neighborhoods, the Director of the Department of Design, Construction and Land  
Use, and the Superintendent of Parks and Recreation, or their respective designees, regarding any  
proposed purchase of open space TDR for the TDR Bank. Following a joint decision of all such officers  
in favor of acquiring open space TDR from a site, the Housing Director, or such other officer as the  
Mayor may designate, may negotiate an agreement for the purchase of open space TDR from that site,  
subject to approval by ordinance and to budget authority.

F. Landmark TDR Purchases. The Housing Director or his or her designee shall consult with  
the Director of Neighborhoods or his or her designee regarding any proposed purchase of Landmark  
TDR for the TDR Bank. The Director of Neighborhoods, or his or her designee, shall consult with the  
Landmarks Preservation Board regarding the proposed purchase. Following a joint decision by such  
Directors or their designees in favor of acquiring the open space TDR from a site, the Housing Director,  
or such other officer as the Mayor may designate, may negotiate the purchase of Landmark TDR from  
that site, subject to approval by ordinance and to budget authority.

G. Sale of TDR in General. The Housing Director or his or her designee may negotiate the  
sale of any TDR held in the TDR Bank, subject to approval of each sale by ordinance.





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**STATE OF WASHINGTON – KING COUNTY**

–SS.

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135827  
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

**Affidavit of Publication**

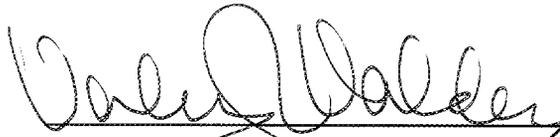
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

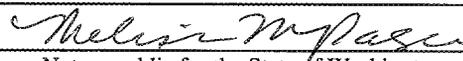
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120494 ORD.IN FULL

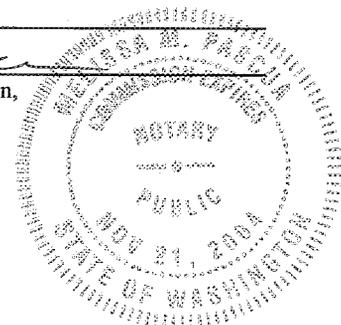
was published on

09/10/01

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
09/10/01

  
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication



# State of Washington, King County

## City of Seattle

### ORDINANCE 120494

AN ORDINANCE relating to transferable development rights, providing for administration of the City TDR Bank, and amending SMC Section 3.20.320.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.20.320 of the Seattle Municipal Code, which section was last

amended by Ordinance 119484, is hereby further amended as follows:

3.20.320 TDR Bank ((created)).

A. General. The City may from time to time purchase and sell transferable development rights ("TDR") in accordance with the Land Use Code, Title 23, and the provisions of this section. TDR held by the City for potential sale, whether from land owned by the City or as a result of TDR purchases, are considered to be in the City's "TDR Bank". The TDR Bank is a program rather than a separate entity, fund or City department.

B. TDR Eligible for Purchase and Sale. Landmark TDR, housing TDR, and open space TDR, each as defined in SMC Chapter 23.84, are ((Transferable development rights ("TDR") from landmark performing arts theaters as defined in Section 23.45.033 shall be)) eligible for purchase ((and sale)) by the City's TDR Bank (established under Ordinance No. 114020, to the same extent as TDRs from low income housing or low and low-moderate income housing), subject to the provisions of this section. Any TDR eligible for transfer under SMC Chapter 23.49 are eligible for sale by the TDR Bank.

C. Administration. The Office of Housing has general responsibility for the administration of the TDR Bank. The Housing Director is authorized to execute, deliver, and accept for and on behalf of the City, agreements, deeds and other instruments in order to carry out TDR Bank transactions authorized by ordinance.

D. ((B-)) Housing TDR Purchases. The Housing Director may negotiate the purchase of housing TDR, subject to approval of each purchase by ordinance and subject to budget authority. The Office of Housing shall conduct a ((subsidy review ((shall be a precondition)) prior to any purchase of housing TDR for ((by)) the TDR Bank, whether or not other public funds or subsidies are involved. ((The price paid by the City for housing TDR shall not exceed the lesser of the financing gap as determined by the subsidy review process or the reduction in value of the property resulting from the transfer of TDRs and the burdens imposed, including both use restrictions and affirmative covenants regarding the preservation of the property as a condition of the transfer.

C. As an alternative to purchase, the TDR Bank may lease and/or option TDRs from landmark performing arts theaters. In addition, the TDR Bank may purchase fewer than all development rights and may accept a commitment for preservation of a landmark performing arts theater for less than forty (40) years, but no less than ten (10) years, in order to permit commencement of a phased rehabilitation program.

D. In the event of a lease, option, or limited term commitment as described in subsection C above, controls imposed on the landmark performing arts theater under Chapter 23.12 shall not lapse automatically upon expiration of the relevant period, but the owner shall then have the right to petition for removal of control on the same basis as other landmark owners.

E. The Office of Housing is authorized to negotiate purchases, leases and/or options of TDRs from landmark performing arts theaters, subject to Council approval by ordinance and appropriation of funds. Priority consideration shall be given to TDRs from landmark performing arts theaters with low income housing that is to be preserved as part of the rehabilitation under a binding commitment from the owner and all others with interests in the property. Landmark performing arts theaters with housing shall not be eligible for TDR bank purchases if any on-site low or low to moderate housing is to be eliminated, unless the owner enters into a voluntary agreement satisfactory to the Director of Housing that guarantees replacement of any low income housing with low income housing, and any low to moderate income housing with low to moderate income housing, that will remain affordable to low- or low to moderate income tenants, as the case may be, or contributes an amount equal to the cost to replace such low- or low to moderate income housing with housing affordable to low- or low to moderate income tenants, as the case may be, in addition to any agreement or contribution made in order to qualify for housing bonus.)

F. Open Space TDR Purchases. The Housing Director or his or her designee shall consult with the Director of Neighborhoods, the Director of the Department of Design, Construction and Land Use, and the Superintendent of Parks and Recreation, or their respective designees, regarding any proposed purchase of open space TDR for the TDR Bank. Following a joint decision of all such officers in favor of acquiring open space TDR from a site, the Housing Director or such other officer as the Mayor may designate, may negotiate an agreement for the purchase of open space TDR from that site, subject to approval by ordinance and to budget authority.

F. Landmark TDR Purchases. The Housing Director or his or her designee shall consult with the Director of Neighborhoods or his or her designee regarding any proposed purchase of Landmark TDR for the TDR Bank. The Director of Neighborhoods, or his or her designee, shall consult with the Landmarks Preservation Board regarding the proposed purchase. Following a joint decision by such Directors or their designees in favor of acquiring the Landmark TDR from a site, the Housing Director, or such other officer as the Mayor may designate, may negotiate the purchase of Landmark TDR from that site, subject to approval by ordinance and to budget authority.

G. Sale of TDR in General. The Housing Director or his or her designee may negotiate the sale of any TDR held in the TDR Bank, subject to approval of each sale by ordinance.

Section 2. The provisions of this ordinance are declared to be separate and severable. The

invalidity of any particular provision shall not affect the validity of the remaining provisions.