From:	Steve Stuart
To:	Sue Marshall; Matt Cole; Glen Yung; Michelle Belkot; Wil Fuentes
Cc:	Oliver Orjiako; Jose Alvarez; Jeffrey Delapena; Kathleen Otto; Janean Parker; Claire Lust; David Toyer
Subject:	Re: City of Ridgefield FEIS Comments
Date:	Friday, October 2, 2026 9:51:19 AM
Attachments:	image001.png cor_logo_e1beab0f-515e-418d-98d1-ec63707bc21e.png

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Good morning Chair Marshall and County Council,

Thank you again for the opportunity to present testimony at your public hearing yesterday. I do want to follow up for the record on a question asked by Councilor Little regarding the City's commitment to developing and implementing a countywide TDR program.

The City of Ridgefield is committed to not annex any expansion areas brought into our UGA until a TDR program has been developed AND a transaction has been finalized and approved to send densities from identified long-term commercially significant ag properties to the expansion areas.

Please let me know if you have additional questions and again, thank you for your work.

Best,
Steve

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

Steve Stuart
City Manager | City Hall

(360) 857-5020
www.ridgefieldwa.us
230 Pioneer Street | PO BOX 608 | Ridgefield, WA 98642

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From: Steve Stuart
Sent: Thursday, 01 October 2026 14:23:41
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Subject: City of Ridgefield FEIS Comments

Good afternoon Chair Marshall and County Councilors,

Please see attached two documents for the record:

1. The City of Ridgefield's formal comments for the October 1, 2026, County Council Comp Plan Update Public Hearing
2. The City of Ridgefield's Letter of Intent regarding involvement in a countywide Transfer of Development Rights Program

We look forward to the opportunity to testify before you this afternoon/evening and appreciate all of your (and your staff's) work.

Best,
Steve

Steve Stuart
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THE CITY OF RIDGEFIELD
230 Pioneer Street | P.O. Box 608 | Ridgefield, WA 98642

Clark County Council
1300 Franklin Street
Vancouver, WA 98660

October 1, 2026

Chair Marshall and County Council:

Thank you for the opportunity to comment on the Clark County Comprehensive Plan Update FEIS, released on July 24, 2026. We appreciate all the work you and your staff have done to reach this point in the update process. As jurisdictional partners, we look forward to the continued coordination that is both required by the Growth Management and beneficial as we jointly reach toward adoption of updated plans for how our communities will grow over the next 20 years.

Housing and Job Capacity Needed

The City and County record contains extensive evidence detailing Ridgefield's work with our community toward a robust and unique vision which is consistent with both State law and the County's work. As part of that work, the City of Ridgefield has coordinated with County staff to assess land capacity and population/jobs allocations. That process resulted in clear evidence detailing a need for targeted expansion areas to provide necessary capacity for jobs and affordable housing – even after employing innovative methods to increase density in our existing Urban Growth Area (UGA).

Since 2021, the City has employed multiple zoning strategies aimed at increasing capacity for housing at different income levels inside our existing UGA:

- Allow accessory dwelling units, townhomes, duplexes, triplexes, and cottage housing by right in all low-density and medium-density residential zones.
- Allow upper story multifamily units in neighborhood commercial, downtown, and waterfront zones.
- Offer density bonuses for single family dwelling units under 1,600 SF, ADUs, cottages, duplexes and triplexes, and townhomes in new developments in low-density residential zones.
- On existing lots, allow duplexes to count as a half unit and triplexes to count as a third unit for density calculations.

- Allow two ADUs on residential lots.

However, these provisions alone have not – and will not - yield middle housing supply at the scale necessary to meet our requirement to serve different income bands. To meet those requirements, the City is going further in our Comprehensive Plan Update to expand methods which have been successful in creating opportunities for affordable housing, by adding strategically located mixed-use hubs within the UGA and assigning mixed-use zoning to limited property owner-initiated UGA expansion areas.

Without the expansion areas in Land Use Alternative 2, the County's plan "would not provide enough land with multifamily zoning to meet the housing income band targets" (pg. 112). Under the zoning assumptions incorporated into the Final EIS, the expansions to Ridgefield's UGA create needed capacity for 840 housing units affordable to households earning less than 80% AMI, integrated in mixed-use environments with parks, open space, and capacity for 370 new jobs. Although the County's VBLM identifies buildable lands capacity within the UGAs, the UGA expansions in the Preferred Alternative are necessary to address a shortfall in the amount of multifamily housing needed to meet required housing income band targets and address an employment capacity deficit.

<u>De-Designation Appropriate</u>

For the County to appropriately and defensibly include the Ridgefield expansion areas in Land Use Alternative 2 which are currently zoned AG, the County first needed to complete a comprehensive countywide Agricultural Lands Study (ALS) in accordance with the requirements in WACs 365-190-050 and 365-190-040(10). That study was undertaken and completed by the County in November 2025.

a. The study applied state and local criteria to help identify those lands that are used or could be capable of being used for agricultural production, but the study itself **<u>did not</u>** include policy recommendations nor recommend changes to land designations.

b. The intent of the study was to allow the county to review whether certain properties should be designated or de-designated as part of the dynamic process of considering planning decisions when selecting a preferred alternative from the three land use alternatives identified in the Draft Environmental Impact Statement (DEIS).

The ALS allowed the County to consider site-specific information submitted by cities, landowners, and other interested parties, to legally determine that certain agricultural lands should be de-designated as they no longer meet the applicable criteria in WAC 365-190-050. For the County Council to reach this conclusion for Ridgefield expansion areas, we submit the following findings specific to each individual de-designation:

a. For both the Maul Property and North Industrial Urban Reserve Properties, designation as agricultural lands of long-term commercial significance is not appropriate due to changed circumstances including:

1. **(WAC 365-190-050(3)(a))** These properties are "already characterized by urban growth", defined in RCW 36.70A.030(49) as "land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth", which makes them inappropriate for comp plan designation as Agriculture.
    i. The "Maul" property is completely surrounded by the Ridgefield UGA, including parcels that have been annexed into the City limits and developed.
    ii. The "North Industrial Urban Reserve Properties" are characterized by urban growth by themselves, having been classified by the County with an "Urban Reserve" Comprehensive Plan Overlay since 1994. Under Clark County Code, this Comprehensive Plan Overlay is applied to lands "identified as being possible future additions to urban growth areas". The overlay is intended to "protect areas from premature land division and development that would preclude efficient transition to urban development". (CC Code Chapter 40.40.250.100) The Industrial Urban Reserve Overlay has remained without interruption on this property area since the overlay was first applied. In addition to the property area itself being characterized by urban growth, the area is bordered on the south, west, and east by the Ridgefield UGA and on the north by proximity to the Cowlitz Tribal Nation Initial Reservation. The UGA properties to the west have been annexed into the City limits and developed.
2. **(WAC 365-190-050(3)(b))** These properties are not "well suited to agricultural use based primarily on their … geographic characteristics", with changed circumstances requiring re-consideration of appropriate zoning.
    i. The "Maul" property is completely surrounded by the Ridgefield UGA.

ii. The "North Industrial Urban Reserve Properties" are surrounded by urbanization consistent with years-long development of the Discovery Corridor – a regional economic development vision first adopted in 1999, spanning a 12-mile corridor along I-5 from from Washington State University Vancouver to the Cowlitz Tribal Nation Initial Reservation.

b. **(WAC 365-190-050(3)(c))** These properties do not have "long-term commercial significance for agriculture"

1. The Maul property is surrounded completely by an urban growth area experiencing rapid urban growth resulting in land use settlement patterns and intensities that are not compatible with agricultural practices **(WAC 365-190-050(3)(c)(vii) and (viii))**. It is not farmed or enrolled in the current use tax assessment in RCW 84.34 **(WAC 365-190-050(3)(c)(iii))**. It is too small of an isolated area to itself sustain productive agricultural activities **(WAC 365-190-050(3)(c)(xi))**. The property is adjacent to available public services **(WAC 365-190-050(3)(c)(iv)**, including water and sewer.
2. The North Industrial Urban Reserve Properties are in an Urban Reserve overlay indicating the land will eventually transition to urban use, automatically giving the land a higher valuation for alternative uses. (**WAC 365-190-050(3)(c)(x))**. The overlay necessitates adjacent communities plan for the eventual future extension of public utilities to these areas. **(WAC 365-190-050(3)(c)(iv), (v), and (vii))**. The overlay artificially retains larger parcel sizes where parcels might otherwise be subdivided at rural densities to maintain their rural status. **(WAC 365-190-050(3)(vi))**. The Properties are surrounded by existing, adjacent urban development, and combined with future, zoned development, this forms an urban land use settlement pattern and intensity of land uses that will be incompatible with agricultural practices, including traffic, noise, etc. **(WAC 365-190-050(3)(c)(v), (vii), (viii), and (ix))**. The North Ridgefield area is adjacent to available existing urban services and utilities. **(WAC 365-190-050(3)(c)(iv))**

<u>Transfer of Development Rights</u>

In January 2026, the City proposed a Transfer of Development Rights program as an innovative zoning technique recognized under RCW 36.70A.177 to conserve agricultural lands of long-term commercial

significance. It has been recognized as an innovative tool for preserving farmland by the GMA (RCW 36.70A.177), Legislature, Courts, the Clark County Ag Commission, and our County Councilors. The City remains steadfast in our commitment to seeding a program that will work in Clark County, in partnership with the County Council. A draft Interlocal Agreement has been widely circulated as a starting point for locking in that commitment. While that bi-lateral agreement has not yet been deliberated on, the City is including a Letter of Intent for this record, confirming our commitment to assure a TDR program is in place prior to annexation of expansion areas in Land Use Alternative 2.

Thank you again for the opportunity to comment on the FEIS and we look forward to the next steps toward creating a positive vision for Clark County's future.

Sincerely,

Steve Stuart, Ridgefield City Manager

CC: Claire Lust, Ridgefield Community Development Director
Janean Parker, Ridgefield City Attorney
David Toyer, Toyer Strategic Advisors

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October 1, 2026

VIA EMAIL ONLY

Oliver Orjiako, Community Planning Director
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comp.plan@clark.wa.gov

Re: **Transfer of Development Rights Program – Response to Department of Commerce Comments on Submittal IDs 2026-S-14100 and 2026-S-14101 (Periodic Update to Clark County's Comprehensive Plan and Development Regulations)**

Dear Mr. Orjiako:

I. Introduction

Thanks for your assistance as we move toward the conclusion of this GMA update. On behalf of our several clients with affected properties, we write to urge Clark County (the "County") to adopt a Transfer of Development Rights ("TDR") program as part of its periodic update to the comprehensive plan and development regulations. In its comments on the County's draft plan, the Department of Commerce ("Commerce") recommended that the County separate the establishment of its TDR program from its urban growth area ("UGA") expansions.[1] This letter explains what a TDR program is, the key elements and steps involved in establishing one, the Washington laws that encourage and govern it, and how other Washington counties operate their programs. As shown below, Washington law does not require a TDR program to be kept separate from UGA expansion, and Clark County can adopt a program that both conserves resource lands and responds to each of Commerce's concerns. We also write in support of proposed Comprehensive Plan Policy 1.1.24 offered by Councilor Matt Little, which would commit the County to implementing a countywide TDR program beginning in 2027.

[1] Letter from Joshua Engelbrecht, AICP, Senior Planner, Wash. State Department of Commerce, to the Honorable Sue Marshall, Clark County, *Re: 2026-S-14100 and 2026-S-14101 60-day Notice of Intent to Adopt – Periodic Update to Clark County's Comprehensive Plan and Development Regulations* (draft, Sept. 9, 2026) ("Commerce Letter").

II. Discussion

A. TDR Program Overview

1. What is a Transfer of Development Rights Program?

A TDR program is a market-based approach that encourages the voluntary transfer of growth from areas a community wants to conserve for natural resource and open space purposes to urban areas where growth should be encouraged.[2] In doing so, a TDR program helps establish a balance between urban development and conservation. It is another method for allocating appropriate portions of developable and nondevelopable land, while addressing the community's need for natural resource properties and areas such as river and stream corridors and working farms and forests. Because participation is voluntary and driven by the market, a TDR program conserves land by rewarding landowners rather than restricting them; for example by designating specific properties for open space preservation. A TDR program has five elements: goals (for example, conserving open space and working lands and promoting development in areas appropriate for growth), geographic scales (city-only, county-only, interjurisdictional, or regional), public involvement (outreach and support), program elements, and politics.[3] The program elements are sending sites, receiving sites, development incentives, exchange rates, allocation rates, TDR administration, and TDR easements.

TDR programs are recognized and encouraged in the Growth Management Act ("GMA"). The GMA states that: "A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights."[4] The use of the term "innovative" means that the four enumerated techniques are to be construed and implemented liberally, except where they are expressly prohibited. There are no statutory prohibitions on use of TDR programs as part of a larger GMA update, or on the designation of a new urban area within a UGA expansion as a receiving site for the transferred development rights.

Among the GMA's planning goals are to "[e]ncourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner," to "[r]educe the inappropriate conversion of undeveloped land into sprawling, low-density development," to "[m]aintain and enhance natural resource-based industries" and to "[r]etain open space and green space."[5] A TDR program advances all of these goals at once by directing development to urban areas, including new urban areas, while conserving natural resources and the farm, forest, and open space lands that support natural resource industries. Commerce's own guidance confirms that a TDR program "is appropriate wherever growth is occurring for which capacity is needed."[6] Clark County is planning for

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[2] Wash. State Department of Commerce, *Transfer of Development Rights*, https://www.commerce.wa.gov/growth-management/ecosystem-planning/tdr/.
[3] Wash. State Department of Commerce, *Advancing TDR LCLIP: Guidebook and Feasibility Studies* (presentation by Angela San Filippo, Ecosystem Program Manager, June 11, 2025), slide 22.
[4] RCW 36.70A.090.
[5] RCW 36.70A.020(1), (2), (8), (9).
[6] San Filippo, *supra* note 3, slide 19.

exactly this kind of growth in this GMA update, which makes a TDR program an appropriate and timely tool for the County.

2. TDR Program Elements

Each program element allows the County to tailor the program to local conditions. Sending sites are the areas designated for conservation. Important considerations in designating sending sites include whether the program will be internal to one local government or interjurisdictional, whether it will be inclusive or restrictive, whether it is financially reasonable, how important conservation contiguity is, what nexus exists between sending and receiving areas, and whether sending sites will be identified and designated geographically or, or selected later through the use of appropriate criteria.[7]

Receiving sites are the areas designated for urban development. Important considerations in designating receiving sites include whether the desired sites are designated as urban growth areas, whether additional capacity for urban growth is needed, whether zoning is compatible with urban development, whether there is political will, and whether receiving sites will be identified and designated geographically or selected later using specified criteria.[8] These considerations allow new urban growth areas where additional capacity for urban growth is needed to be designated as receiving sites.

Development incentives are the benefits a developer receives for a receiving site in exchange for buying TDRs, and they create the demand that makes the program feasible. Examples include increased development density (such as increased dwelling units, FAR, height, or square feet), reduced regulatory requirements, and access to programs that would otherwise be unavailable for the project.[9]

Exchange rates and allocation rates directly affect the value of TDRs and are critical to a successful program. The allocation rate is the number of TDRs each sending site can potentially sell, while the exchange rate is the number of added units or other credits available to a developer who purchases a TDR.[10] These rates must be carefully calibrated to make sure there are incentives for both buyers and sellers to participate. Exchange rates should follow market trends and a market study is therefore recommended.[11] Important considerations for allocation rates include whether allocation is zoning-based or formula-based, and whether it is calculated on gross acreage or buildable acreage.[12] For example, under a zoning-based allocation of one dwelling unit per 20 acres, 100 acres would yield five dwelling development rights, while under a formula-based allocation of one development right per five acres regardless of zoning, 100 acres would yield 20 dwelling development rights.[13] Potential

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[7] *Id.*, slide 27.
[8] *Id.*, slide 30.
[9] *Id.*, slide 33.
[10] Aken, J., Eckert, J., Fox, N., & Swenson, S. (2008, April). *Transfer of Development Rights (TDR) in Washington State: Overview, benefits, and challenges* (p. 9). The Cascade Land Conservancy.
[11] San Filippo, *supra* note 3, slide 35.
[12] *Id.*, slide 37.
[13] *Id.*, slide 38.

pitfalls in setting allocation rates include setting a precedent that is challenging in the market and gaining landowner acceptance.[14]

A TDR program may be administered through private market transactions, a TDR bank, or a density fee (in-lieu).[15] TDR easements serve as a security instrument and commonly restrict only development, while allowing resource uses to continue.[16]

The process to establish a TDR program begins by establishing goals and scope, followed by community outreach and a market analysis.[17] A draft recommendations report is then prepared by the County and released for public comment, followed by additional outreach and research; next, a final report and recommendations are issued for public comment, after which an updated report is prepared.[18] The updated report is presented, followed by public workshops and another round of public comment.[19] After taking public comment into account, the County then adopts the program, and the process concludes with a conservation workshop.[20] This process gives the County, landowners, and the public ample opportunity to shape a program that fits local conditions in Clark County.

3. What are the applicable laws and regulations in Washington?

The following Washington statutes and rules govern TDR programs and their relationship to UGAs. Taken together, they encourage TDR and place no prohibition or restriction on its use in connection with UGA planning.

> RCW 36.70A.090 – Innovative techniques. A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights.
>
> RCW 36.70A.070 – Variety of rural densities. Subsection (5)(b) provides that the rural element shall permit rural development, forestry, and agriculture in rural areas, and shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.[21]

[14] *Id.*
[15] *Id.*, slide 39.
[16] *Id.*, slide 37.
[17] *Id.*, slide 26.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] RCW 36.70A.070(5)(b).

RCW 36.70A.060 – Forestry / agriculture in UGA. Subsection (5) provides that forestland and agricultural land located within urban growth areas shall not be designated by a county or city as forestland or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.[22]

RCW 36.70A.110 – Urban growth areas. Each county must designate UGAs that include areas and densities sufficient to permit the urban growth projected to occur over the succeeding twenty years, based on the population projection of the Office of Financial Management ("OFM"). A UGA determination may include a reasonable land market supply factor.[23]

WAC 365-196-310 – Urban growth areas. The combined UGA may not exceed the areas necessary to accommodate the growth management planning projections, plus a reasonable market factor.[24] It also provides that UGAs should not be expanded into designated agricultural, forest, or resource lands unless no other option is available, and that designated agricultural or forest resource lands may not be located inside a UGA unless a city or county has enacted a program authorizing the transfer or purchase of development rights.[25]

RCW 43.362 – Regional TDR Program. RCW 43.362 establishes the regional transfer of development rights program in central Puget Sound, including King, Pierce, Kitsap, and Snohomish counties and the cities and towns within these counties.[26] Under the regional program, the designation of receiving areas is limited to incorporated cities and towns.[27] Because Clark County is not among the listed counties, RCW 43.362 does not govern a Clark County TDR program, and its limitation on receiving areas does not apply here.

B. Relationship Between TDR Programs and UGA Boundary Expansion

The size of a UGA is governed by RCW 36.70A.110(2). A UGA must include areas and densities sufficient to accommodate the urban growth projected over the succeeding twenty years under OFM's population projection, and it may include a reasonable land market supply factor.[28] Commerce's rules also direct counties and cities to consider increasing capacity within existing urban areas before expanding a UGA.[29] A TDR program advances that goal: by designating urban receiving areas and offering density incentives, it increases the capacity of existing urban areas.

[22] RCW 36.70A.060(5).
[23] RCW 36.70A.110(2).
[24] WAC 365-196-310(1)(e).
[25] WAC 365-196-310(5)(e)(v).
[26] RCW 43.362.030.
[27] RCW 43.362.040(3).
[28] RCW 36.70A.110(2).
[29] WAC 365-196-310(5)(d)(iv).

The GMA connects TDR and UGAs directly, and in a way that makes a TDR program feasible for Clark County. The GMA statute RCW 36.70A.060(5) provides that agricultural or forest lands within UGAs shall not be designated as forestland or agricultural land of long-term commercial significance unless the county or city has enacted a TDR or Purchase of Development Rights ("PDR") program. WAC 365-196-310(5)(e)(v) states that "[u]rban growth areas should not be expanded into designated agricultural, forest or resource lands unless no other option is available," and requires counties and cities to review the natural resource lands designation before expanding. It further provides that "[d]esignated agricultural or forest resource lands may not be located inside the urban growth area unless a county or city has enacted a program authorizing transfer or purchase of development rights."[30]

C. Examples of TDR Programs in Washington

The primary objective of TDR programs under the GMA is to steer density away from rural "sending sites" and into designated "receiving sites," which are typically urban. King, Snohomish, and Kittitas counties each implement this objective differently, and their experience offers the County a proven set of models to draw from.

1. King County TDR Program

King County's TDR program is codified at chapter 21A.37 of the King County Code. Its purpose is to transfer residential density from eligible sending sites to eligible receiving sites through a voluntary process that permanently preserves lands providing a public benefit. The program encourages increased density "especially inside cities."[31] Sending sites include agricultural and forest production district lands, qualifying rural area lands, designated trail and open space sites, habitat for listed species, urban separators, and certain urban lands.[32] Before issuing TDR certificates, King County records a perpetual conservation easement on the sending site.[33] The landowner may sell the certificates to a private developer or to the County's TDR bank.[34] Receiving sites include unincorporated urban sites, rural towns, certain RA-2.5 rural parcels receiving rights from rural forest focus areas, and cities where growth is encouraged.[35] Development rights bought from the TDR bank may be used only in cities, the Snoqualmie Pass Rural Town, or the urban unincorporated area.[36] King County's program demonstrates how TDR permanently conserves resource lands while directing growth to urban areas.

[30] WAC 365-196-310(5)(e)(v).
[31] King County Code ("KCC") 21A.37.010.A.
[32] KCC 21A.37.020.A.2.
[33] KCC 21A.37.060.A–B.
[34] KCC 21A.37.080.A.1; 21A.37.100; 21A.37.110.A.
[35] KCC 21A.37.030.A.
[36] KCC 21A.37.100.

2. Snohomish County TDR Program

Snohomish County's TDR program is codified at chapter 30.35A of the Snohomish County Code. It establishes "a voluntary and incentive-based process, based on free market principles," to conserve natural resource and open space lands.[37] All lands designated as commercial or local farmland or forest land are sending areas. Qualifying rural lands may opt in to becoming sending areas if they are redesignated and rezoned to a resource designation.[38] Before issuing TDR certificates, the County records a perpetual conservation easement that prohibits subdivision, boundary line adjustments, and new dwelling units on the sending site.[39] Certificates are generally sold in private transactions and may be resold until applied to a receiving site. The County may also buy, hold, and sell development rights.[40] The County provides for participation in the regional TDR program under RCW 43.362 and for use of certificates in cities through interlocal agreements or terms incorporated from WAC 365-198.[41] In unincorporated Snohomish County, receiving areas include Urban Center and Mixed Use Corridor zones; rural rezones that increase allowable lots or dwellings; legislative amendments and county-initiated rezones that increase allowable lots or dwellings; and comprehensive plan amendments that increase allowable lots or dwellings.[42]

Snohomish County's policies address UGA expansion directly, and they are the most instructive model for Clark County. All UGA expansions that add residential capacity are designated TDR receiving areas.[43] The Countywide Planning Policies list TDR from designated agricultural or forest sending areas as one condition that may support a UGA expansion, provided the expansion area is not itself designated resource land.[44] Any such expansion must still be supported by a land capacity analysis and may not exceed the 20-year population forecast by more than 15 percent.[45] Snohomish County thus links TDR and UGA expansion while limiting UGA sizing tied to the demonstrated need to accommodate urban growth.

3. Kittitas County TDR Program

Kittitas County's TDR program is codified at chapter 17.13 of the Kittitas County Code. Sending sites include qualifying farm and forest land, critical areas and frequently flooded areas, and lands designated in a TDR agreement with a city.[46] After approving a sending site application, Kittitas County issues a certificate letter of intent stating the number of available density credits; the sending owner may use the letter to market the credits for up to five years.[47] The certificates issue once the

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[37] Snohomish County Code ("SCC") 30.35A.010(1).
[38] SCC 30.35A.025(1)–(2).
[39] SCC 30.35A.050(4); 30.35A.060(3).
[40] SCC 30.35A.020(1); 30.35A.070; 30.35A.130; Snohomish County Planning & Development Services, *Assistance Bulletin #69: Transfer of Development Rights* (Oct. 2013).
[41] SCC 30.35A.010(1); 30.35A.080(1); 30.35A.125.
[42] SCC 30.35A.080(2)–(6).
[43] Snohomish County Comprehensive Plan, General Policy Plan, Policy LU-1.A.15.
[44] Snohomish County Countywide Planning Policies DP-2(e)(8).
[45] *Id.* DP-2(a)–(b).
[46] Kittitas County Code ("KTCC") 17.13.020(1)–(4).
[47] KTCC 17.13.070(4)(a)–(b).

sending property owner grants a TDR easement, which is recorded as a permanent limitation on title.[48] Transfers into a city are processed through the city's development review and are subject to a TDR agreement between the County and the city.[49] Receiving sites include cities, UGA sites with densities greater than six dwelling units per acre, Limited Areas of More Intensive Rural Development ("LAMIRD"), planned unit developments and long plats that increase density, and all parcels designated Rural Land.[50] One credit yields three additional units in a UGA, two in a planned unit development, and one in rural development.[51]

Chapter 17.13 does not address UGA expansion. In June 2026, Kittitas County adopted a six-month emergency moratorium on new TDR applications.[52] On August 4, 2026, the Board extended the moratorium for one year to consider revisions to the program. The extension followed Commerce's recommendation that Kittitas County amend or rescind its program because its implementation guidelines were ambiguous and misapplication could encourage growth in rural areas rather than directing it toward cities and UGAs.[53] Kittitas County's experience underscores that a program should direct growth toward UGAs, as the program proposed for Clark County can be designed to do, rather than toward rural areas.

D. Department of Commerce's Comment on Clark County's Draft Plan

In its comments on the County's draft comprehensive plan and development regulations, Commerce stated that TDR programs are not intended to be used to expand UGA boundaries and recommended that the County separate the establishment of its TDR program from components of UGA expansion.[54] Commerce failed to cite any legal authority for that conclusion. At the same time, Commerce acknowledged that "the stated goal of resource land preservation is aligned with RCW 43.362.005," and recognized the value of TDR programs in ensuring that designated resource lands already within a UGA do not face development pressure.[55]

Nothing in the GMA or its implementing rules bars a jurisdiction from linking a TDR program to UGA expansion. The GMA encourages TDR as an innovative land use technique without restricting where it may be used.[56] Snohomish County has adopted policies that expressly tie the two together; its Countywide Planning Policies list TDR from designated agricultural or forest sending areas as one of the conditions that may support a UGA expansion.[57] RCW 43.362, which governs a regional program for King, Pierce, Kitsap, and Snohomish counties, does not apply to Clark County. Finally,

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[48] KTCC 17.13.015(8); 17.13.060(1); 17.13.070(4)(c)–(d).
[49] KTCC 17.13.080(1).
[50] KTCC 17.13.030(1).
[51] KTCC 17.13.080(5).
[52] Kittitas County Board of County Commissioners, Resolution No. [2026-101] (June 8, 2026).
[53] Kittitas County Board of County Commissioners, Resolution No. 2026-133 (Aug. 4, 2026); see Wash. State Dep't of Commerce, comment letter on Kittitas County's 60-day notice of intent to amend development regulations (May 22, 2026).
[54] Commerce Letter, cmt. 4.
[55] *Id.*
[56] RCW 36.70A.090.
[57] Snohomish County Countywide Planning Policies DP-2(e)(8).

Commerce's comment is a recommendation, not a finding of noncompliance, and a comprehensive plan is presumed valid upon adoption.[58]

The County can also address the practical concerns underlying Commerce's comment through the program's design. First, Clark County's UGA size is established by the land need for urban growth, not by the need for a conservation benefit. Clark County's UGA is being based on OFM's 20-year population projection and will not exceed the land needed to accommodate that growth plus a reasonable market supply factor.[59] Following the Snohomish County model, Clark County's program can make TDR a qualifying condition for expansion, while requiring that any expansion be supported by a land capacity analysis and OFM-based need.

Second, Washington law prioritizes growth within existing urban areas.[60] Although RCW 43.362 does not govern Clark County, under the regional program receiving areas are limited to incorporated cities and towns.[61] Finally, Clark County can separately adopt the TDR program, protecting the program from invalidation if the current UGA expansion is successfully challenged before the Growth Management Hearings Board.[62]

In sum, Washington law does not prevent a TDR program from being used in support of a UGA expansion. Under the Snohomish County model, TDR may serve as one method for directing urban development to expanding urban areas, when the expansion is justified by the conventional land capacity analysis and OFM-based need. A program built on that model answers the concerns Commerce identified while providing the conservation benefits Commerce itself recognizes.

E. Proposed Comprehensive Plan Policy 1.1.24

County Councilor Matt Little has proposed the following amendment to the County's comprehensive plan policy 1.1.24:

> "Clark County and participating jurisdictions shall work cooperatively to implement a countywide transfer of development rights (TDR) program starting in 2027. This program shall work with the community to establish sending areas that preserve farmlands, forests, historical areas, and open spaces. The program shall also work with the community to establish receiving areas that encourage appropriate development projects and affordable housing opportunities. Preference is given to a program where the County serves as the TDR bank and assesses land and development values using current market valuation to assign TDR credits based on a pre-determined price per credit (e.g. $25,000 per TDR credit). Payments into the TDR bank may be allowed outside of receiving areas as a mitigation tool. This program shall begin with a community roundtable discussion hosted by the County to hear from various jurisdictions and stakeholder groups their visions for a successful TDR program."

[58] RCW 36.70A.320(1).
[59] RCW 36.70A.110(2); WAC 365-196-310(1)(e).
[60] WAC 365-196-310(5)(d)(iv).
[61] RCW 43.362.040(3).
[62] RCW 36.70A.300, .302.

Adopting Policy 1.1.24 would respond directly to Commerce's comment. The policy establishes the TDR program as a stand-alone countywide commitment with its own public process, while preserving the County's ability to designate appropriate receiving areas as the program is developed. Its sending areas advance the GMA goals of maintaining natural resource-based industries, retaining open space, and preserving historic lands and sites,[63] while its receiving areas advance the GMA housing goal.[64] A County TDR bank that assigns credits using current market valuation, supplemented by in-lieu payments from development outside receiving areas, reflects recognized methods of TDR administration used in King and Snohomish counties. Beginning with a County-hosted community roundtable reflects Commerce's recommended process for establishing a TDR program and advances the GMA's goal of encouraging citizen involvement in planning.[65] Once implemented, the program would also satisfy the conditions in RCW 36.70A.060(5) and WAC 365-196-310(5)(e)(v) for retaining designated agricultural or forest resource lands within a UGA.

We strongly support proposed Policy 1.1.24 and urge the County to adopt it as part of the periodic update. The policy tracks the program elements described in Section II.A. above, and it would give the County an adopted commitment to implement a TDR program on a defined schedule. It is consistent with the GMA's direction that a comprehensive plan provides for innovative land use management techniques, including the transfer of development rights. [66]

III. Conclusion

TDR programs are recognized and encouraged under the GMA, although UGA expansion must still satisfy the sizing requirements of RCW 36.70A.110, which are based on OFM's 20-year projections plus a reasonable market factor. An expansion into designated agricultural or forest land also requires the resource land review in WAC 365-196-310.

The GMA also does not require TDR programs to be kept fully separate from UGA expansion decisions, and Commerce's statement is a policy recommendation rather than a requirement of Washington law. Various counties have selected different approaches in their TDR regulations. Snohomish County designates residential UGA expansions as TDR receiving areas and lists TDR as one condition that may support an expansion. King County's TDR code does not address UGA expansion, and its Countywide Planning Policies allow need-based expansion only where no reasonable measure would avoid it. Kittitas County's Code also does not address UGA expansion, though it allows UGAs to be receiving areas.

Proposed Policy 1.1.24 provides a sound framework for a Clark County TDR program. It calls for a countywide program developed cooperatively with the community; conserves farmlands, forests, historical areas, and opens spaces; encourages appropriate development and affordable housing in receiving areas; and would establish a County TDR bank that assigns credits using current market valuation. We support its adoption.

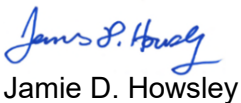
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[63] RCW 36.70A.020 (8), (9), (13).
[64] RCW 36.70.020 (4).
[65] San Filippo, *supra* note 3, slide 26; RCW 36.70A.020(11).
[66] RCW 36.70A.090.

For these reasons, we respectfully urge Clark County to adopt a TDR program as part of this GMA update, and to adopt proposed Policy 1.1.24, because resource conservation should proceed in tandem with urban growth to ensure balanced conservation and new urban development. Thank you for your consideration.

Very truly yours,

JORDAN RAMIS PC



Jamie D. Howsley
Admitted in Oregon and Washington