
Chapter 20.46 – Transfer of Development Rights

Sections:

- 20.46.010 – Purpose
- 20.46.020 – Applicability
- 20.46.030 – General Requirements
- 20.46.040 – Procedures
- 20.46.050 – Findings

20.46.010 – Purpose

This Chapter provides procedures for the transfer of development rights from a property to one or more other properties.

20.46.020 – Applicability

The provisions of this Chapter shall apply within all zoning districts.

20.46.030 – General Requirements

- A. Location.** The donor and receiver sites shall be located within the same Statistical Area as identified in the Land Use Element of the General Plan.
- B. Floor area for a donor site.** The maximum gross floor area allowed on a donor site shall be reduced by the amount of the transfer of development intensity to the receiver site.
- C. Residential uses.** When the transfer of development rights involves residential units, the transfer shall be on a unit for unit basis.

20.46.040 – Procedures

The following procedure shall be used for the transfer of development rights.

- A. Application.** The applicant shall submit an application to the Department that identifies the quantity of entitlement (e.g., floor area, hotel rooms, theater seats, etc.) to be relocated and the sending and receiving sites. If the requested transfer includes the conversion of nonresidential uses, the application shall also identify the quantity of entitlement, by use category, before and after the transfer.
- B. Traffic analysis.** The Traffic Engineer shall perform a traffic analysis to determine the total number of PM peak hour trips that would be generated by development allowed with and without the transfer. Trip generation rates shall be based on standard trip generation values in the current version of ITE's "Trip Generation," unless the Traffic Engineer determines that other rates are more valid for the uses involved in the transfer.

- C. Detailed traffic analysis.** Depending on the location of the sending and receiving sites, the Traffic Engineer may determine that a more detailed traffic analysis is required to determine whether adverse traffic impacts will result from the transfer. This analysis shall demonstrate whether allowed development, with and without the transfer, would either cause or make worse an unsatisfactory level of service at any primary intersections for which there is no feasible mitigation. This analysis shall be consistent with the definitions and procedures contained in Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code, except that “unsatisfactory level of service” shall be as specified in the General Plan.
- D. Land use intensity analysis.** If the transfer request involves the conversion of uses, the Director shall perform a land use intensity analysis to determine the floor area that could be developed with and without the transfer. For purposes of this analysis, theater use shall be allocated 15 square feet per seat. Hotel use shall be allocated the number of square feet per room at which it is included in the General Plan. When the General Plan does not specify intensity for hotel rooms, it shall be as determined by the Director.
- E. Council to consider.** Applications for transfer of development rights shall be considered by the Commission with a recommendation to the Council. The Council may approve a transfer of development rights only if it makes all of the findings in Section 20.46.050, below.
- F. Legal assurances.** A covenant or other legally binding agreement approved by the City Attorney shall be recorded against the donor site assuring that all of the requirements of the transfer of development rights will be met by the current and future property owners.

20.46.050 – Findings

When approving a transfer of development intensity the Council shall make all of the following findings:

- A. The reduced density/intensity on the donor site provides benefits to the City, for example:
- a. The provision of extraordinary open space, public view corridor(s), increased parking, or other amenities;
 - b. Preservation of an historic building or property, or natural resources;
 - c. Improvement of the area’s scale and development character;
 - d. Reduction of local vehicle trips and traffic congestion; and
 - e. More efficient use of land.
- B. The transfer of development rights will not result in any adverse traffic impacts and would not result in greater intensity than development allowed without the transfer and the proposed uses and physical improvements would not lend themselves to conversion to higher traffic generating uses;
- C. The increased development potential transferred to the receiver site will be compatible and in scale with surrounding development and will not create abrupt changes in scale or character; and

- D. The receiver site is physically suitable for the development proposed taking into consideration adjacent circulation patterns, protection of significant public views and open space, and site characteristics, including any slopes, submerged areas, and sensitive resources.

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