



RESOLUTION NO. 2021-12

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION APPROVING PLANNING CASE #PLN20-011; Update to the pricing methodology for a TDR sold from the Countywide Transferrable Development Rights (TDR) Bank requiring a Development Code Amendment to Section 3506.D.2.a.ii of the Land Use and Development Code. (Applicant: Summit County Planning Department);

WHEREAS, on September 14, 2010, the Summit County Board of County Commissioners adopted Resolution 2010-64, approving the establishment of a Countywide TDR Bank with separate accounts for each Summit County basin; and

WHEREAS, the Countywide TDR Bank was conceived as a mechanism to further implement the goals and policies enshrined in the TDR regulations set forth in the Land Use and Development Code (Code), as well as the various master plan policies supporting and implementing the TDR program, including without limitation the preservation of open space in the County, the protection of backcountry and rural areas, and the avoidance of development on land with development constraints such as steep slopes and wetlands; and

WHEREAS, the Countywide TDR Bank and the current formula by which the price for TDRs from the Countywide Bank would be calculated were included in the Code via an amendment to the Code adopted July 24, 2012 by Resolution 2012-48; and

WHEREAS, currently, Section 3506(D)(2)(a)(ii) of the Code sets forth the methodology by which the price of a TDR from the Countywide TDR bank is calculated; and

WHEREAS, the methodology set forth in Section 3506(D)(2)(a)(ii) does not accurately reflect the costs of the TDR program and is out of line with the methodology used to calculate the price of TDR from a different but related TDR bank, the Joint Upper Blue TDR Bank; and

WHEREAS, the Joint Upper Blue TDR Bank is governed by an IGA between the County and the Town of Breckenridge, and the price of a TDR from the Joint Upper Blue TDR Bank is determined by a formula mutually agreed upon by the Town and the County; and

WHEREAS, in 2018 the Town and the County updated their pricing methodology for the price of a TDR from the Joint Upper Blue TDR Bank in order to more closely reflect the cost of purchasing 20 acres of vacant backcountry land in the Upper Blue Basin; and

WHEREAS, the Summit County Planning Department has applied to the Board of County Commissioners to update the methodology used to calculate the price of a TDR sold from the Countywide TDR Bank to align the methodology with that applicable to the Joint Upper Blue TDR Bank in order to avoid having TDRs with different values available in the Upper Blue Basin; and

WHEREAS, in addition to updating the methodology, the Planning Department recommends removing the specific methodology for the calculation of TDR prices from the Countywide TDR Bank from the Development Code in order to ensure the methodology utilized remains consistently up-to-date and

relates logically both to the actual costs of the TDR program and the other TDR banks operating in the program; and

WHEREAS, the new methodology used to value a development right from the Countywide TDR Bank is attached as an exhibit to the Resolution; and

WHEREAS, the Countywide Planning Commission has reviewed and recommended that the Board of County Commissioners approve the Code Amendments at a public hearing on December 7, 2020; and

WHEREAS, it is reasonable and necessary to update the methodology and remove it from the Code in order to better serve and protect the public health, safety, and welfare; and

WHEREAS, the Board of County Commissioners has reviewed the application at a public hearing held on February 9, 2021, and considered the evidence and testimony presented at the meeting; and

WHEREAS, the Board of County Commissioners finds as follows:

1. The proposed revisions meet the purpose and intent of the Summit County Land Use and Development Code, which is to protect, promote and enhance the public health and safety; to provide for planned and orderly development in Summit County in a manner consistent with constitutional rights of property owners; and to balance the needs of a changing population with legitimate environmental concerns. The purpose and intent section of the Development Code outlines a number of objectives, which are met by this Code Amendment including:
 - i. Providing a comprehensive regulatory system for the development and use of land in Summit County.
 - ii. Preserving and enhancing Summit County's unique mountain character and protecting its natural environment.
2. The proposed revision gives consideration to the goals and policies in the Summit County Countywide Comprehensive Plan and any applicable basin and subbasin master plan because, without limitation, the proposed amendments will ensure visual resources are protected, the economic vitality of Summit County is advanced by more closely aligning the price of a TDR with the cost to purchase 20 acres of backcountry land, and lands with open space and recreation value are protected through the more efficient functioning of the TDR program.
3. Pursuant to the County land use statutes at C.R.S. 30-28-101 et seq. and the Local Government Land Use Control Enabling Act at C.R.S. 29-20-101 et seq., the County has broad authority to regulate the use of land and to protect areas of historical importance. All of the proposed amendments are in conformance with applicable State Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SUMMIT, STATE OF COLORADO, THAT PLN20-011; An update to the pricing methodology for a TDR sold from the Countywide Transferrable Development Rights (TDR) Bank requiring a Development Code Amendment to Section 3506.D.2.a.ii of the Land Use and Development Code, is hereby approved.

ADOPTED THIS 9TH DAY OF FEBRUARY 2021.

COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS



Sabah Lawrence
Sabah Lawrence, Chair

ATTEST:

Kathleen Neel
Kathleen Neel, Clerk & Recorder

Exhibit A

Methodology to value a Development Right Sold from the Countywide Transferrable Development Rights (TDR) Bank:

Ten Mile and Snake Account:

Section 1. On January 1 of each year, commencing in 2021, the sales price of TDRs sold from the Snake River or Ten Mile Accounts within the Countywide TDR bank shall be determined by calculating the median sales price of all vacant Backcountry zoned property sales within the Snake River and Ten Mile Basins since August 14, 2007, the date Backcountry zoning was adopted in those Basins. This median sales price shall include all private transactions as well as transactions where Summit County and/or other governmental organization has been the purchasing party. The median sales price shall be calculated using all sales from August 14, 2007 through June 30 of the previous year (i.e., to calculate the TDR price in January 2021, all sales through June 30, 2020 shall be used). The Summit County Planning Director shall make the required calculation, based on sales data provided by the County open space program and by the Summit County Assessor's Office. Not later than thirty (30) days after the TDR sales price is adjusted each year as provided in this section, Summit County shall cause to be published a public notice setting forth the amount of the adjusted TDR sales price. Such notice shall be published one time in a newspaper of general circulation in Summit County; provided, however, that the failure of the County to cause such notice to be published shall not affect the validity of the adjustment to the TDR sales price as made by the Summit County Planning Director pursuant to this section.

Upper Blue Account:

Section 1. On January 1 of each year, commencing in 2021, the sale price of TDRs sold from the Upper Blue Account within the Countywide TDR bank shall be determined by calculating the median sales price of all vacant Backcountry zoned property sales within the Upper Blue Basin since January 1, 2000, the year the TDR program was established in the Upper Blue Basin. This median sales price shall include all private transactions as well as transactions where Summit County and/ the Town of Breckenridge has been the purchasing party. The median sales price shall be calculated using all sales from January 1, 2000 through June 30 of the previous year (i.e., to calculate the TDR price in January 2021, all sales through June 30, 2020 shall be used). The methodology is intended to be identical to the formula determined via joint resolution between Summit County and Town of Breckenridge to value a TDR from the Joint Upper Blue TDR Account, however, each methodology will be updated by the process established for each Bank. The Summit County Planning Director shall make the required calculation, based on sales data provided by the County open space program and by the Summit County Assessor's Office. Not later than thirty (30) days after the TDR sales price is adjusted each year as provided in this section, Summit County shall cause to be published a public notice setting forth the amount of the adjusted TDR sales price. Such notice shall be published one time in a newspaper of general circulation in Summit County; provided, however, that the failure of the County or Town to cause such notice to be published shall not affect the validity of the adjustment to the TDR sales price as made by the Summit County Planning Director pursuant to this section.

Applicable to Snake, Tenmile, and the Upper Blue TDR Accounts:

Section 2. At the time of each TDR purchase, an administrative application fee shall be paid by the applicant to the Summit County Planning Department. The base administrative fee shall be initially established in the amount of \$2,905.00 for any transaction comprising one TDR or a fraction of a TDR. For each transaction involving more than one TDR, an additional incremental fee of \$360.00 shall be paid by the applicant for each additional TDR or portion of a TDR purchased by the applicant. The fee established

in this Section shall increase each subsequent calendar year based on the percentage increase in the current hourly staff rate published annually in the Summit County Planning Department Development Review Fee Schedule.

Section 3. The provisions of this Exhibit are reasonable and necessary to defray the cost of providing the respective services and such fees and charges will promote the public health, safety and welfare.