

PART 5.07.00 - TRANSFER OF DEVELOPMENT RIGHTS

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Sec. 5.07.01. - Generally

A. Intent

It is the policy of the County that landowners subject to development restrictions as the result of regulations protecting environmentally sensitive lands, agricultural resources, or historic sites, should be provided regulatory incentives to permanently restrict such lands from urbanization. While such regulations may be legally imposed where they further a legitimate public purpose and are reasonable, the transfer of development rights provides a vehicle to enable the private market to allocate economic benefits to landowners in the restricted areas, thereby enhancing the viability of businesses in the sending areas and avoiding potential legal disputes between the private landowners and the County. This Part establishes procedures for transferring densities from sending to receiving parcels. At the voluntary request of the landowners in the sending areas and the receiving areas, the County may increase densities in the receiving areas and correspondingly reduce densities in the sending areas.

B. Transfer Requirements

This Section is intended to be used for the protection of preservation or conservation areas, and historic landmarks which have been designated within sending areas by the Board of County Commissioners, preserving farmland for agricultural purposes, providing public waterfront access or farm worker housing. The transfer permits the transfer of densities or floor area between two (2) separately owned or commonly held properties, whether or not they are contiguous to each other. Provided that the standards as set forth below are met, all or part of the development potential of a property may be transferred to a property within a receiving area.

1. Development rights shall only be transferred from a property located in a designated sending area to a property located in a designated receiving area identified in Table 5.07-1 below.
2. The property from which the development rights are transferred shall be placed under a permanent conservation easement running in favor of Hillsborough County. If the properties are in common ownership, the owner shall sign the easements transferring said development rights. Should two (2) or more owners be involved, the owner(s) of the property to be restricted shall sign over the easement and proof of the sale of the development rights documents shall be recorded with the County Register of Deeds in the same manner that a sale of the fee simple would be recorded.
3. No property shall be left with less development rights than there are existing dwellings on said properties, or less than one (1) dwelling unit development right for any parcel which would otherwise be eligible for a dwelling unit. Those portions of said properties for which a permanent

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conservation easement is held by the County is to be held in common ownership or is to be deeded into public ownership.

C. Sending Areas

Severable Development Rights are hereby created in the Sending Areas designated below. Sending properties require that the landowner has recorded a conservation easement, or reserved rights-of-way, in accordance with the provisions of this Part.

D. Receiving Areas

No severable development rights shall be exercised in conjunction with the development of a subdivision of any parcel of land that is not located in a receiving area. A parcel of land which receives development rights pursuant to this Section shall be referred to as a "receiver site." The areas listed in Column "C" of Table 5.07-1 are hereby designated as receiving areas for purposes of transferring severable development rights.

Table 5.07-1

A Sending Area	B Percent of Development Potential Which May be Transferred ²	C Eligible Receiving Areas	D Increase in Development Potential on Receiving Site Over Underlying Zoning Designation
Environmentally Sensitive Areas may be transferred except as provided elsewhere. ³	100% ¹	TND (Greenfield) ⁴ TOD ⁵ Any receiving area designated in the Comprehensive Plan or a Community Plan, including town centers or economic development target areas designated as eligible TDR receiving areas	As permitted by the Comprehensive Plan
Farmland. The farmland shall contain a minimum of 25 acres. The farmland shall be located in the AM, A, AR, AS-0.4, AS-1 or AI zoning districts.	100% ¹		
Rural Reserve Zone within a TND District or Community Plan	100% ¹		
Any site within the Rural Area designated as a sending area in a Community Plan.	100% ¹		
Historic landmarks designated pursuant to Article III	100% ¹	Any property in the Urban Service Area with Public Water and Sewer available	50%

Footnotes for Table 5.07-1:

1. Except as limited by Section 5.07.01.B.3.

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2. "Development potential" means the density or floor area ratio permitted by the underlying zoning district and applicable policies of the Comprehensive Plan. Notwithstanding, for development rights transfer for historic sites, the development rights are based on the underlying adopted land use category of the historic landmark's sending parcel(s).

3. Environmentally Sensitive Areas include any of the following: (1) any land area approved for acquisition or transfer of a less than fee interest pursuant to the provisions of the Hillsborough County Environmental Lands Acquisition and Protection (ELAP) Program established by Ordinance No. Ord. 87-1, as amended, or (2) any land area approved for acquisition or transfer of a less than fee interest pursuant to the Land Conservation Act of 1972, Chapter 259, Florida Statutes.

4. "TND" refers to that portion of a Traditional Neighborhood Development District designated as a Neighborhood subarea, Commercial subarea or Core subarea.

5. "TOD" refers to a Transit-Oriented Development as defined by this Code.

(Ord. No. 02-13, § 2, 8-1-02)

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Sec. 5.07.02. - Procedures

A. Application For Permit

Transfer of Development Rights requests shall be reviewed in accordance with the general procedures and requirements for amendments to the official zoning atlas at Part 10.03.00.

B. Agreement Between Property Owners With Enforcement Running to the County

For development rights transfer in farmlands and environmentally sensitive areas, the applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed in such a way that for the area of application as a whole there will be conformity with applicable zoning regulations. Parties to enforcement of such agreement shall include Hillsborough County. No such agreement shall be accepted without approval of the Office of the County Attorney as to the legal sufficiency of the documents involved; and no such Transfer of Development Rights Permit shall be issued prior to such approval.

C. Findings Required to Support Issuance of Permit; Limitations on Effect of Permit

1. Upon written findings by the Board of County Commissioners that, in fact, the area of land covered by the application is compact, regular, and logical in relation to the form of development proposed, that the proposed development for the area as a whole conforms to the intent and requirements set forth above, and that the proposed agreement assures future protection of public interest and achievement of public objectives to the same or a higher degree than would application of the regulations to the individual properties, the Transfer of Development Rights Permit shall be issued, provided approval as to the legal sufficiency of the documents involved has been obtained from the Office of the County Attorney.

2. No such permit shall have the effect of diminishing the requirements or increasing the maximum allowances of this Code, as applied to the area of the application as a whole, but the Transfer of Development Rights Permit may allow specified changes in the effect of the regulations on specified individual lots or locations within the area of application, so long as the overall balance remains in accord with regulations generally applicable.

D. Recording Agreement

At time of issuance of the Transfer of Development Rights Permit, the agreement, including the amount of credits transferred and the legal description of the sending parcel(s) which shall be part

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of the conditions, shall be filed by the Administrator with the Clerk of the Circuit Court of Hillsborough County, the office of the Administrator, and the office of the Building Inspector. Notations shall be made by the Administrator on the Official Zoning Atlas for future guidance in administration and as a public record.

E. Changes in Development Pattern or Agreement

The pattern of development, and the agreement between the owners, shall not be changed except by the issuance of a new Transfer of Development Rights Permit in the manner herein established.

(Ord. No. 02-13, § 2, 8-1-02)