

Each City may, and the County shall with respect to unincorporated land and incorporated land of any City opting not to participate, make provision for the creation or preservation of connected and sustainable greenways, forests and other open space upon the approval of any rezoning which increases the permissible density or intensity of development. The preservation plan shall, at a minimum, provide that:

(a) Property which is rezoned to a greater (residential) density or (nonresidential) intensity other than at the instance of the local government is declared specially benefitted by the additional entitlements, and the community is commensurately burdened by the loss of open space. Accordingly, the property of a successful applicant for an increase in density or intensity shall be specially assessed for the increment in property value provided by the community.[establish formula]

(b) The applicant may avoid or reduce the assessment pro tanto by a corresponding permanent transfer of density rights from other parts of the same property (clustering, which is allowable only in areas now zoned for a density of one unit per acre or less) ; or by purchasing existing development rights from one or more properties within Map A or within such other lands as may be identified by the County and a participating city, through a joint planning agreement, as greenways or public open space.. Such rights shall thereafter run with the rezoned property, and the local government may not thereafter reduce the allowable density below the purchased rights without just compensation.

(c) The assessment, or such portion as has not been avoided, shall be collected by the local government and held in a trust fund to be utilized solely for the acquisition of lands, or the development rights thereto, within Map A or within such other lands as may be identified by the County and a participating city, through a joint planning agreement, as greenways or public open space. The quantity of development rights (represented by the amount of the assessment, divided by the average acquisition cost of a development right by the trust over the preceding __ years) shall thereafter run with the rezoned property, and the local government may not thereafter reduce the allowable density below the purchased rights without just compensation.

(d) Any property which is rezoned so as to be subject to an assessment under this ordinance shall also, in consideration of its more efficient use of the public infrastructure and services, be subject to a credit of ____% against transportation impact fees otherwise due to the County and ____ % of the utility impact fees othewise due to the [public] utility , and may be allowed to pay assessments otherwise due in respect of greenways through financing by a TIF district, if:

(1) For residentially zoned or mixed use property, the constructed residential density is at least ____ units per acre or such other minimum density as may be established for a particular zone by Joint Planning Agreement; and

(2) For residentially zoned, mixed use and commercially zoned property, the nearest boundary of the property to a transit station or "full service" bus line [define] is not more than one-third mile, and the property is so designed as to provide one or more public pedestrian and handicap-accessible walkways protected by colonnade, canopy or other structure [standards], from the furthest boundary of the property to the point nearest a transit station or bus stop of a "full service" bus line. Such walkways, their canopies or colonnades shall be so constructed as to connect to the similar public walkways structures of adjacent properties and provide continuous shelter to and from the station or stop..

Note: Chapter 2007-204 also authorizes special assessment districts to be created against benefitted properties, for acquisition of open space, under conditions different from these provisions.

The point is (1) to create a market for farmers and others in Map A to sell their development rights and continue to use the land for agricultural, forestry or other sustainable use not requiring development; (2) to make conversion of rural land to low-density sprawl less profitable; (3) to incentivize compact, pedestrian-friendly mixed urban spaces which cost less per capita in public service; and (4) to capture the "windfall" increment of property value created by a rezoning, as a means of financing smart growth. No property owners lose what they have now.

Section 202.4. Minimum Standards for Environmental Protection.

The council, after consideration of such advice and comment as may be submitted by the governing bodies of municipalities within the county, shall establish minimum standards, procedures, requirements and regulations for the protection of the environment. Such minimum standards, procedures, requirements and regulations may include, but shall not be limited to, tree protection, aquifer protection, storm water management, waste water management, river and waterway protection, hazardous waste disposal, wetlands protection, beach and dune protection, environmental protection including air pollution, and the protection from destruction of the resources of the county belonging to the general public, and such other environmental standards as the council determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Volusia County. The council shall establish such minimum standards, procedures, requirements and regulations shall apply within all the incorporated and unincorporated areas of Volusia County. In the event of a conflict between any standard, procedure, requirement or regulation established by a county ordinance, the county ordinance shall prevail within the municipality to the extent of any conflict; provided, however, the governing body of each municipality may establish more restrictive standards, procedures, requirements or regulations within the municipality for the protection of the environment. (Res. No. 86-136, Amend. No. 3, 9-18-86)