

monitoring information provided to and received from the appropriate funding agency/source. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the AHP. [Ord. 2009-040]

4. Enforcement

The County may enforce the requirements of the AHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, and tolling of the 15-year term (for-sale units) or the 30-year term (rental units) of the AHP, or the term required by the funding agency/source if more restrictive. [Ord. 2009-040]

5. Compatibility

The resulting development shall be compatible with surrounding residential land uses, as described herein. [Ord. 2009-040]

G. Annual Report

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the AHP. [Ord. 2009-040]

Section 3 Transfer of Development of Rights (TDRs) – Special Density Program

A. Purpose and Intent

The purpose of this Chapter is to provide for a TDR Program, including the establishment of a TDR Bank, to facilitate both the protection of environmentally sensitive lands, the preservation of agriculture on lands designated as AGR on the FLUA, and to promote orderly growth in PBC. This is accomplished by allowing development rights to be severed from environmentally sensitive lands and lands designated as AGR and transferred to sites where additional development can be accommodated. The TDR program is designed to redistribute population densities, or development potential, to encourage the most appropriate and efficient use of resources, services and facilities.

Further, it is the purpose and intent of this Chapter to provide an alternative to the development of environmentally sensitive lands and lands designated as AGR on the FLUA by establishing a mechanism to seek economic relief from the limitation of development imposed on these lands. TDR can mitigate inequities in the valuation of land by providing a means of compensating landowners whose property is restricted, by permitting the sale of development rights, and making landowners in more intensively developed areas pay for the right to develop beyond the existing density, by purchasing development rights. The TDR Program allows a Property Owner to achieve a density bonus by purchasing the increase in density from the PBC TDR Bank, or from a Property Owner with land in a designated sending area, without going through the land use amendment process. In order to increase density, the site must meet the requirements to become a designated receiving area and follow the procedures as described in this Chapter. After development rights have been transferred from the sending area to the receiving area, an appropriate conservation easement or an agricultural conservation easement shall be attached to the sending area and recorded in the public records of PBC, restricting future development potential. [Ord. 2005-002] [Ord. 2008-003]

B. Authority

The BCC has the authority to adopt this pursuant to [Art. VIII, § 1, Fla. Const.](#), [the PBC Charter](#), [F.S. § 125.01](#) et seq., and [F.S. § 163.3161](#) et seq.

C. Applicability

This Chapter shall apply to property in unincorporated PBC which is located within designated sending areas, as defined in [Art. 5.G.3.F, Sending Areas](#). Development rights may be transferred from sending areas pursuant to the procedures contained in this Chapter, to property which meets the qualifications to receive such density according to [Art. 5.G, Density Bonus Programs](#), and the standards contained herein. The use of TDR shall be allowed in all residential zoning districts within the U/S Tier and shall be approved pursuant to this Chapter. TDR units may be utilized for all housing types. Additionally, TDR units may be converted to CLF beds subject to the provisions of [Art. 4.B.1.C.1, Congregate Living Facility \(CLF\)](#), whereby the total approved density, including TDR units, is utilized when calculating permissible CLF occupants per [Art. 4.B.1.C.1.d.3\), Type 3 CLF](#).

D. Previous Approvals

All previously approved transfers of development rights, as long as they remain in force, shall remain valid and shall not be affected nor changed by subsequent revisions to the TDR Program.

E. Administration

1. General

Except as otherwise specified, the TDR Program shall be administered by the Executive Director of PZB or designee. [Ord. 2010-005]

2. Responsibilities

The Executive Director of PZB shall be responsible for:

- a. Establishing, administering and promoting PBCs TDR Program;
- b. Establishing and administering the TDR Bank;
- c. Ensuring the orderly and expeditious processing of TDR applications under this Chapter;
- d. Executing contracts for sale and purchase of TDR units being purchased from the County's TDR Bank, including related escrow or similar bonding agreements, and TDR deeds as part of the DRO approval process; [Ord. 2010-005]
- e. Ensuring the Contracts for Sale and Purchase of Development Rights are executed and all deeds and conservation easements are filed in the public records of PBC;
- f. Ensuring that the Property Appraisers Office is notified of all TDRs;
- g. Ensuring that the densities approved through the TDR Program are placed on the FLUA as notations following approval of the TDR receiving area; and, [Ord. 2008-003]
- h. Ensuring that the FLUA is amended by a staff initiated Site Specific Plan amendment to reflect an appropriate land use designation for land acquired by PBC whose units are placed in the TDR bank. [Ord. 2008-003]

F. Sending Areas

1. General

Sending areas represent those areas of PBC that are designated by the BCC to warrant protection. The owner of property in a designated sending area may transfer the development rights to a parcel of land in a designated receiving area, subject to the provisions of this Chapter.

2. Eligible Sending Areas

- a. Lands designated RR-20 on the FLUA;
- b. Lands designated as priority acquisition sites by the Environmentally Sensitive Lands Acquisition Selection Committee (ESLASC) or the Conservation Land Acquisition Selection Committee (CLASC) that meet the criteria listed below:
 - 1) Rarity in PBC of native ecosystems present on the environmentally sensitive lands site;
 - 2) Diversity of the native ecosystems present on the environmentally sensitive lands site; or
 - 3) Presence of species listed as endangered, threatened, rare or of special concern by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Florida Committee on Rare and Endangered Plants and Animals, or the Florida Department of Agriculture.
- c. Lands designated AGR on the FLUA;
- d. Privately-owned lands designated CON on the FLUA; and,
- e. Other sites determined by the BCC to be worthy of protection, provided that the sites:
 - 1) Further the purpose of the TDR Program in keeping with the criteria listed above; or
 - 2) Further other PBC Goals, Objectives, and Policies. At such a time that the BCC determines that a parcel of land is environmentally sensitive, or preservation of the site is in the public interest, the parcel is eligible to become a sending area. The site shall be designated by Resolution of the BCC.

3. Overlap in Sending Areas

In such cases where a parcel of land is both a priority acquisition site and designated RR-20 or AGR on the FLUA, all provisions in this Chapter pertaining to the priority acquisition sites shall prevail.

4. Transfer Rate

The owner of land which is designated as a sending area may elect to transfer development rights as provided in this Chapter. Development rights may be transferred from sending areas according to the following schedule. For the purposes of this Subsection, acres means gross acreage.

- a. Development rights may be transferred from property designated RR-20 on the FLUA at the rate of one development right per five acres. The minimum land area eligible for the TDR as a sending area shall be ten acres.
- b. Development rights may be transferred from property designated AGR on the FLUA at the rate of one development right per one acre. The minimum land area eligible for the Transfer of Development Rights as a sending area shall be 20 acres unless the sending area parcel is located adjacent to other preserved properties, in which case the minimum land area shall be five acres.
- c. Development rights may be transferred from priority acquisitions sites (both residential and non-residential) located outside of the U/S Tier at a transfer rate of one development right per five acres. The minimum land area eligible for the TDR as a sending area shall be five acres.

- d. Development rights may be transferred from privately-owned lands designated CON on the FLUA at a rate of one development right per ten acres. The minimum land area eligible for the Transfer of Development Rights as a sending area shall be ten acres.
- e. Development rights may be transferred from all environmentally sensitive sites described in [Art. 5.G.3.F.2, Eligible Sending Areas](#), at a rate which equals the maximum density permitted by the Future Land Use designation for the property. The minimum land area eligible for the Transfer of Development Rights as a sending area shall be determined by the BCC, upon a recommendation from PZB and ERM.

5. Computation of Development Rights

The number of development rights assigned to a sending area parcel of land shall be determined by the Executive Director of PZB pursuant to [Art. 5.G.3.F.2, Eligible Sending Areas](#), and [Art. 5.G.2.J, TDR – Sending Area Procedure](#), as calculated below:

- a. All development rights shall be in whole numbers, no fractions shall be permitted. Any fractional residential unit that may occur during calculations shall be converted upward, if one-half or more of a whole unit, or downward, if less than one-half of a whole unit, to the nearest whole unit.
- b. The amount of development rights assigned to a sending area parcel shall be reduced by one dwelling unit for every conforming residential structure situated on the property at the time of approval.

6. Restriction on Future Use

Upon BCC or DRO approval of the TDR transfer, a conservation easement or agricultural conservation easement shall be recorded in the public records of PBC. The BCC or DRO shall determine which easement is appropriate for the sending area as part of the approval of the TDR transfer. Prior to recordation of the easement, a legally enforceable maintenance plan providing for perpetual maintenance of the sending area shall be established by the Property Owner and approved by ERM. No further development permit or Development Order for the designated receiving area shall be issued by PBC until the applicable easement is recorded in the public records of PBC. The easement shall restrict the use of the sending area in perpetuity. In particular, a conservation easement shall require that the sending area be maintained in its natural state while an agricultural conservation easement shall restrict the use of the sending area to Bona Fide Agriculture, fallow land, or uses permitted in the Conservation Water Resources Area (WRA) Future Land Use category; all other development rights of the subject property shall be considered transferred in perpetuity.

7. Existing Uses

Conforming residential dwelling units which existed prior to making application to transfer development rights shall be permitted to remain as legal conforming uses. All other existing uses on the sending area shall cease.

8. Remaining Land Area

If all of the development rights assigned to a sending area are not transferred off the site, the remaining land, if proposed for development, shall be developed in accordance with this Code and in a manner which is compatible with the surrounding area. This provision shall not apply to sending areas designated AGR on the FLUA; these parcels are required to transfer all development rights off the site. If the owner of land in a sending area only transfers a portion of the development rights available for the property, PBC, upon a recommendation from PZB and ERM, reserves the right to determine which portion of the land is subject to the applicable conservation easement. The intent is to link environmentally sensitive land, to link agricultural land, and to link open space areas, when feasible, and allow compatible development to occur on the remainder of such sites.

G. Transfer of Development Rights (TDRs) Bank

1. General

The purpose of this Chapter is to authorize the establishment of a TDR Bank. The TDR Bank is hereby created in order to, among other things, facilitate the Purchase and Transfer of Development Rights as hereinafter provided and maintain an inventory of those development rights purchased by PBC.

2. Establishment of Development Rights for the Bank

Development rights for the TDR Bank shall be generated from environmentally sensitive lands purchased by PBC, including the priority acquisition sites meeting the criteria in [Art. 5.G.3.F.2, Eligible Sending Areas](#), through August 30, 1999. Priority acquisition sites in the unincorporated area of PBC which are not purchased as part of the acquisition program shall maintain the opportunity to transfer development rights on the private market. The TDR Bank shall be maintained by the Executive Director of PZB and shall be reviewed in accordance with the FLUE of the Plan to determine the need for additional units.

Development rights in the TDR Bank generated under the TDR Program shall remain in the TDR Bank until sold by PBC, the TDR Bank is dissolved, or the units are otherwise disposed of.

3. Transfer Rate from the Purchase of Environmentally Sensitive Lands

a. Land Purchased inside the U/S Tier

The number of development rights within the bank shall equal the maximum density allowed by the FLU designation as established by the applicable PBC or municipal Comprehensive Plan.

b. Land Purchased Outside the U/S Tier

The number of development rights severed, or generated for the bank, shall equal the TDR transfer rate established in [Art. 5.G.3.F, Sending Areas](#).

4. The Application, Sale, and Value of Development Rights

PBC may sell development rights to Property Owners who meet the receiving area criteria pursuant to this Chapter.

a. A Property Owner seeking an increase in density must apply to become a receiving area and submit a draft Contract for Sale and Purchase of Development Rights. **[Ord. 2011-001]**

b. The value and price of a development right shall be set annually by the BCC. No TDR price or price reduction other than those included in this Section shall be permitted. The County shall utilize the median sales price data established by the Realtors Association of the Palm Beaches, using data for the month of March to set the price each year: **[Ord. 2011-001] [Ord. 2012-027]**

1) For Single Family units (Single Family, Zero Lot Line, and Townhouse) the price shall be ten percent of the median sales price of FRA Single Family existing homes data. **[Ord. 2011-001]**

2) For Multifamily units the price shall be ten percent of the median sales price of FRA existing condominiums data. **[Ord. 2011-001]**

c. For proposals including a mix of Single Family and Multifamily units the TDR units shall proportionally reflect the unit mix of the non-TDR units. **[Ord. 2011-001]**

d. Additional prices for TDR units shall be as follows: **[Ord. 2011-001]**

1) For TDR units located within an area that has a BCC accepted Neighborhood Plan, and the proposed density increase is identified within or supported by the Neighborhood Plan, the TDR price shall be 75 percent of full TDR price as established in [Art. 5.G.3.G.4.b.1](#)) and [2\)](#) above; **[Ord. 2011-001] [Ord. 2012-003]**

2) For TDR units located within a CCRT area the TDR price shall be 25 percent of full TDR price as established in [Art. 5.G.3.G.4.b.1](#)) and [2\)](#) above; **[Ord. 2011-001]**

3) Workforce Housing TDR units shall be five percent of full TDR price as established in [Art. 5.G.3.G.4.b.1](#)) and [2\)](#) above; and, **[Ord. 2011-001]**

4) Affordable Housing TDR units shall be one percent of full TDR price as established in [Art. 5.G.3.G.4.b.1](#)) and [2\)](#) above. The dollar difference between the TDR price and the Affordable Housing TDR price can be used as a price waiver to be counted as part of the local government contribution for housing funding application purposes. **[Ord. 2011-001]**

e. Applicants may request Workforce Housing TDR units at greater than the required percentage (34 percent), however in order to receive the Workforce Housing TDR price, those additional Workforce Housing TDR units (greater than 35 percent) must be priced for WHP Low-Income (60 to 80 percent of AMI) households only. **[Ord. 2011-001] [Ord. 2019-033]**

5. Revenue from the Sale of TDRs

The revenue generated from the sale of development rights from the TDR Bank shall be allocated to the Natural Areas Fund administered by ERM for acquisition and management of environmentally sensitive lands and wetlands.

H. TDR Receiving Areas

Development rights shall only be transferred to those parcels which meet the qualifications for designation as receiving areas.

1. Eligible Receiving Areas

- a. PDDs and TDDs. The total density of the project, including the TDR units, shall be utilized for calculating the minimum PDD or TDD acreage threshold; and
- b. Residential Subdivisions which are not within a PDD or TDD.

2. Qualify as a Receiving Area

- a. Be located within the U/S Tier; **[Ord. 2004-040] [Ord. 2008-003]**
- b. Be compatible with surrounding land uses and consistent with the Plan;
- c. Meet all concurrency requirements;
- d. Meet all requirements as outlined in this Code; and,
- e. Be compatible with adjacent environmentally sensitive lands.

3. Compatibility with Adjacent Environmentally Sensitive Lands

A receiving area shall not degrade adjacent environmentally sensitive lands. Receiving areas, therefore, shall reduce the intensity/density of that portion of the development which is contiguous to any regionally significant natural resource as defined by the Treasure Coast Regional Planning Council, environmentally sensitive land as defined by the ESLASC or CLASC, or sites designated as preserve areas according to [Art. 14.C, Vegetation Preservation and Protection](#), so that the development is compatible with, and does not negatively impact the environmentally sensitive area, by providing a buffer zone of native vegetation according to the following Table.

Table 5.G.3.H – Required Buffer Zone

Density of Adjacent Pod/Development Area	Required Buffer Zone of Native Vegetation
Net Density Less Than or Equal to 3 Units per Acre	50-foot buffer
Net Density Greater Than 3 and Less Than or Equal to 5 Units per Acre	100-foot buffer
Net Density Greater Than 5 Units per Acre	200-foot buffer

4. Applicability – TDR Increased Buffer and Setbacks for LR-1, LR-2, and LR-3 PDD

The perimeter buffer and building setbacks for a TDR receiving area in a PDD with an LR-1, LR-2, or LR-3 FLU designation shall be upgraded where ZLL, TH, MFD, or SFD using RS PDRs are located within 125 feet of any SFD with a lot size of 14,000 square feet or greater, or any vacant parcels with an LR-1, LR-2, or LR-3 FLU designation. **[Ord. 2008-037]**

a. Increased Buffer Widths

Where applicable, the perimeter buffer shall be increased by 15 feet for projects having ZLL or SFD units, and 20 feet for TH and MFD units. **[Ord. 2008-037]**

b. Upgraded Landscaping

Where an increased buffer width is required, an additional native palm or tree shall be provided for each 30 linear feet, with a maximum spacing of 90 feet between clusters. **[Ord. 2005-002] [Ord. 2008-037]**

c. Increased Setbacks

Where applicable, when a development has a more intense housing classification, an additional ten-foot rear setback shall be required. For the purposes of this Section, housing classification shall be ordered from least intense to most intense, as indicated in [Table 5.G.3.H, Housing Classification](#). **[Ord. 2005-002] [Ord. 2008-037]**

Table 5.G.3.H – Housing Classification

Intensity by Group	Housing Type
1 – Low	Single Family residential (RT PDRs); or Zero Lot Line homes.
2 – Medium	Single Family residential (RS PDRs); Mobile Homes; Townhouses; or, Multifamily.
3 – High	Type 2 or 3 Congregate Living Facilities.
[Ord. 2005-002] [Ord. 2008-037]	

5. Prohibitions

Under no circumstances shall a receiving area contain a sending area as defined in [Art. 5.G.3.F.2, Eligible Sending Areas](#). This shall not apply if the project is providing all of the units at prices attainable by persons making between 30 to 120 percent of AMI. The County shall establish the actual prices for each unit and each unit shall be deed restricted consistent with [Art. 5.G.2.F, Affordability Requirements](#). [Ord. 2008-003]

I. TDR Density Bonus Limitations

1. WHP 34-Percent Requirement

In accordance with FLUE Policy 2.4-a.5 of the Plan, 34 percent of all TDR density bonus units shall be provided as WHP units. These units shall be constructed on site; comply with the affordability range requirements of this Chapter; and, [Art. 5.G.1.A.1.3.h, Design Standards](#). The project shall only be eligible to apply for the following WHP incentives: [Art. 5.G.1.B.2.f.1\), Traffic Performance Standards Mitigation](#); [Art. 5.G.1.B.2.f.2\), Expedited Review](#); and, [Art. 5.G.1.B.2.f.3\), Flexibility in Property Development Regulations](#). [Ord. 2008-003] [Ord. 2011-001] [Ord. 2019-033]

2. AHP 100-Percent Requirement

When using the voluntary AHP, all TDR density bonus units shall be provided as AHP units. These AHP units shall be constructed on site; comply with the affordability range requirements of [Table 5.G.2.B, Affordable Housing Program](#) and [Art. 5.G.2.F, Affordability Requirements](#); and, [Art. 5.G.2.C, Design Requirements](#). The project shall only be eligible to apply for the following AHP incentives: [Art. 5.G.2.D.2, Traffic Performance Standards Mitigation](#); [Art. 5.G.2.D.3, Expedited Review](#); and, [Art. 5.G.2.D.4, Density Bonus Development Options](#). [Ord. 2009-040]

3. WHP and AHP Units

Consideration may be given to developments requesting both WHP and AHP units within the proposal. In this instance, the Planning Director or designee will determine which program's (WHP or AHP) density bonus criteria will be utilized based on the programmatic requirements imposed by a governmental agency providing affordable housing funding or another entity with programmatic requirements (e.g., Habitat for Humanity or a Community Land Trust). [Ord. 2009-040]

4. Permitted Density Ranges

The maximum number of development rights which may be transferred to the receiving parcel shall be determined in accordance with [Art. 5.G.3.H, TDR Receiving Areas](#), [Art. 5.G.3.K, TDR – Receiving Area Procedure](#), and the following: [Ord. 2008-003]

a. Standard Density Bonus

Approved receiving areas may receive a bonus density as follows: [Ord. 2008-003] [Ord. 2008-037]

- 1) Receiving areas in the U/S Tier west of Florida's Turnpike: up to two dwelling units per acre; [Ord. 2008-003]
- 2) Receiving areas in the U/S Tier east of Florida's Turnpike, but not in a Revitalization and Redevelopment and Infill Overlay: up to three dwelling units per acre; [Ord. 2008-003] [Ord. 2009-040]
- 3) Receiving areas in a Revitalization Redevelopment and Infill Overlay: up to four du/acre; or, [Ord. 2008-003] [Ord. 2009-040]
- 4) The bonus density may be less than the total bonus density indicated in paragraphs 1), 2), and 3) above when an additional WHP or AHP density bonus has also been utilized. (See paragraph d. below). [Ord. 2009-040]

b. Additional Density Bonus

Receiving areas meeting one or both of the following criteria shall be eligible for an additional one du/acre density bonus above the aforementioned density bonus ranges. [Ord. 2008-003] [Ord. 2008-037]

- 1) Receiving areas within 1/4 mile radius of a public park, (excluding golf courses), community commercial facility or mass transit facility within the U/S Tier; and [Ord. 2008-003] [Ord. 2009-040]
- 2) Receiving areas within one-fourth mile radius of a regional commercial facility or a major industrial facility within the U/S Tier. [Ord. 2008-003]

In order to be eligible for the additional one du/acre density bonus, at least 25 percent of the receiving area must be located within the required radius. The density bonus shall apply to the entire receiving area. [Ord. 2008-003]

c. LR-1, 2, and 3 FLU Density Limitation

To mitigate any potential adverse impacts in low-density residential neighborhoods (as determined by residential FLU designation), the maximum TDR density bonus in the LR-1, LR-2, and LR-3 FLU

designations shall not exceed 100 percent of the standard or maximum density, exclusive of any other density bonus allowed on the subject site. Exceptions shall be permitted for any project that is located in the URA or entirely surrounded by one or more of the following: **[Ord. 2008-037]**

- 1) Parcels with an MR-5 or higher FLU designation; **[Ord. 2008-037]**
- 2) Parcels with a non-residential FLU designation or use; **[Ord. 2008-037]**
- 3) Open space 100 feet in width or greater; or, **[Ord. 2008-037]**
- 4) A major street. **[Ord. 2008-037]**

- d. A development's WHP or AHP density bonus increase will be given consideration when assigning the number of TDR units recommended to the development. Other factors to be considered include: the location of the proposed development and its relationship to the study area; the housing type(s) proposed; if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and within one-half mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities. **[Ord. 2009-040]**

J. TDR – Sending Area Procedure

1. Sending Parcel Application

The Property Owner of lands which are designated sending areas as defined under [Art. 5.G.2.F.2, Eligible Sending Areas](#), must make application to PZB for an administrative determination in order to be formally designated as a sending area. The purpose of this administrative determination is to ascertain the exact number of development rights the Property Owner is entitled to. The application shall include, at a minimum:

- a. Proof of ownership;
- b. A legal description of the property; and,
- c. Contract, or option, for the purchase and sale of development rights (unless requesting a TDR Certificate, as outlined in [Art. 5.G.3.J.6, Development Rights Certificates](#)). The application shall be submitted to the Executive Director of PZB. Applications for a sending area designation may be accepted for review and processing at any time.

2. Review Process

a. Environmentally Sensitive Lands and Lands Designated RR-20 or CON on the FLUA

Prior to the first scheduled DRO meeting to consider the TDR application, the Executive Director of PZB shall review the sending area application and make a determination regarding the number of units associated with the parcel. As part of review of the application, the Executive Director of PZB shall notify ERM of the application and request that a site check be conducted.

ERM shall complete a site check to ensure that the site has not been altered and the site meets the criteria provided in [Art. 5.G.3.F.2, Eligible Sending Areas](#). ERM shall complete a written recommendation to the Executive Director of PZB regarding the site.

b. Land Designated AGR on the FLUA

Prior to the first scheduled DRO meeting to consider the TDR application, the Executive Director of PZB shall review the sending area application and make a determination regarding the number of units associated with the parcel. As part of review of the application, the Executive Director of PZB shall complete a site check to ensure that the site is suitable for Bona Fide Agriculture or other open space purposes consistent with the AGR provisions in the Plan.

Sending area applications which are not submitted in conjunction with a receiving area application shall be reviewed and acted upon within 25 days.

3. Written Determination

The Property Owner shall receive a written determination from the Executive Director of PZB indicating how many development rights can be transferred from the property. The number of development rights for the site shall be documented and be kept on file in the PZB Department.

The written document shall be valid for a period of 12 months. If any modifications or alterations are made to the property during the 12-month period, the Property Owner shall not be permitted to participate in the TDR Program.

4. Easement Agreement/Restriction

Prior to site plan certification, the applicable conservation plan easement, in a form and content acceptable to the County Attorney shall be recorded in the public records of PBC. The easement shall restrict future use of the land consistent with the requirements in [Art. 5.G.3.F.6, Restriction on Future Use](#). Prior to recordation of the easement, a legally enforceable Maintenance Plan providing for perpetual maintenance of the sending area shall be established by the Property Owner and approved by ERM.

5. Re-Submittal of Application

The owner of a sending parcel may re-apply until all development rights have been severed from the property.

6. Development Rights Certificates

Environmentally sensitive lands and lands designated as CON or RR-20 on the FLUA must be deeded to, and accepted by PBC, subject to the discretion of the BCC, before the Certificate can be issued. Environmentally sensitive lands and lands designated as CON or RR-20 on the FLUA deeded to, and accepted by PBC, shall be managed by PBC or its designee. AGR lands shall be managed by the Property Owner in perpetuity as provided in the Maintenance Plan.

a. Eligibility

Development Rights Certificates shall only be issued to Property Owners of ESL or RR-20 land that deed without compensation environmentally sensitive land to PBC or Property Owners of AGR land that record an agricultural conservation easement, and follow the procedures in this Chapter. The Development Rights Certificate shall require that restrictions be placed on the sending area prior to the sale of those development rights. A minimum transfer of five acres is required.

b. Issuance of the Certificate

Upon completion of the application process, and recordation of the deed transferring ownership of the property to PBC, or recordation of the agricultural conservation easement and approval by RM of a legally enforceable maintenance plan providing for perpetual maintenance of the sending area, the Property Owner shall be issued a Development Rights Certificate. The Certificate shall indicate the exact number of development rights which can be sold, transferred, or traded, by the holder of such Certificate. The Certificate shall remain in effect until applied to a TDR receiving area in accordance with provisions of this Chapter.

c. Unused Certificates

A Property Owner of AGR land, with an agricultural conservation easement recorded, may reassociate development rights to the original sending parcel provided that no development rights have been sold. A written request to reassociate the development rights shall be submitted to the Executive Director of PZB along with proof of ownership and a legal description of the property. Prior to approval of a request to the reassociate development rights, the Applicant must petition and receive BCC approval to release the easement recorded against the sending area parcel.

7. Limitations

The amount of development rights assigned to a sending area parcel, or indicated on a certificate, shall be reduced by one for every conforming residential structure situated on the property at the time of application.

K. TDR – Receiving Area Procedure

1. General

Receiving areas shall be approved concurrent with issuance of a Development Order for a PDD, TDD, or a residential subdivision. The following procedures shall be followed in order to become a receiving area to obtain the density bonus. **[Ord. 2005-002] [Ord. 2010-005]**

2. Pre-Application Conference

Prior to submittal of an application requesting a receiving area density bonus, the Applicant must attend a pre-application conference with the appropriate PZB staff, pursuant to [Art. 2.A.5, Pre-Application Conference \(PAC\) or Pre-Application Appointment \(PAA\)](#), to review the proposed development, and the requirements and procedures of the TDR Program.

3. Review Process

The review process for TDR applications is based upon the density and type of residential development proposed.

- a. The transfer of two units per acre or less to a residential subdivision is reviewed by the DRO and shall be subject to the provisions of [Art. 2.C, Administrative Processes](#), except as provided below. Parcels which meet the minimum acreage thresholds for a PDDs or TDD shall not utilize this Chapter option;
- b. The transfer of more than two units per acre to a residential subdivision is reviewed as a Class A conditional use and shall be subject to the provisions of [Art. 2.B, Public Hearing Processes](#), except as provided below. Parcels which meet the minimum acreage thresholds for a PDDs or TDD are allowed to utilize the option contained in this paragraph, provided the parcel meets the PDDs PDRs contained in [Art. 3.E, Planned Development Districts \(PDDs\)](#), or contained in [Art. 3.F, Traditional Development Districts \(TDDs\)](#);
- c. The transfer of any density to a planned development is reviewed as a Conditional Use and shall be subject to the provisions of [Art. 3.E, Planned Development Districts \(PDDs\)](#). A general

application by a Property Owner for receiving area status and a density bonus shall be accepted for review and processing; and, [Ord. 2005-002] [Ord. 2010-005] [Ord. 2017-007]

- d. BCC approval is required for any project that is requesting a combined density increase/transfer through the WHP and TDR programs that exceeds two units per acre. [Ord. 2005-041]

4. Contents of Application

In conjunction with the general application for a Rezoning, Development Order Amendment, or Development Review Officer approval, an Applicant for receiving area status and a density bonus must submit a supplemental TDR Application. The application shall: [Ord. 2011-001]

- a. be submitted in a form established by the Zoning Director of PZB; [Ord. 2011-001]
- b. submit a Preliminary Plan; and, [Ord. 2011-001]
- c. submit Preliminary Architectural Elevations for TDR applications that exceed DRO thresholds prior to certification of the application for public hearing pursuant to [Art. 5.C.1.B, Threshold](#). Elevations shall not be required for Single Family dwellings or Multifamily dwellings less than 16 units as they are exempt from the provisions of [Art. 5.C, Design Standards](#). However, the Applicant shall ensure these units are architecturally compatible with the other units in the development by using consistent colors, materials, layouts, etc. [Ord. 2011-001]

5. Standards

In addition to fulfilling the requirements of [Art. 5.G.3.H, TDR Receiving Areas](#), to qualify as a receiving area and be eligible for an increase in density, all applications requesting receiving area designation shall comply with these standards:

- a. The Transfer of Development Rights is by deed, and the deed shall be recorded before Final Site Plan approval;
- b. The transfer is to a parcel of land which meets all the requirements of this Code and within which the transferred densities have been included and amended;
- c. The proposed development meets all concurrency requirements at the level of impact calculated to include the TDR density;
- d. If the transfer is between two private parties, at the time the transfer is approved, the sending area from which the transfer will occur shall be subject to a conservation easement and shall be identified on the Zoning Map. Pending recording of the conservation easement, no Development Order approvals shall be issued for the sending area or receiving area; [Ord. 2010-022]
- e. If the transfer of rights is from the PBC TDR Bank, all rights have been accounted for and there are enough development rights in the bank to cover the project;
- f. The proposed development and density are compatible with the surrounding area and land use; and,
- g. The proposed development and density do not negatively impact adjacent environmentally sensitive lands.

6. Contract for Sale and Purchase of Development Rights

A Contract for Sale and Purchase of Development Rights is required. A deed of TDR shall also be required as part of the approval of a TDR transfer. The contract shall be executed prior to Final DRO approval of a TDR receiving area. 100 percent of the funds must be received by PBC prior to subdivision approval or issuance of first Building Permit, whichever occurs first. The deed must be recorded before issuance of the first Building Permit for a project designated as a receiving area. This paragraph shall not apply to Building Permits for sales models or temporary real estate sales and management offices permitted pursuant to this Code. [Ord. 2009-040] [Ord. 2011-001]

L. Notification to Property Appraiser's Office

Upon recordation of the deed of transfer, the Executive Director of PZB shall notify, within 20 days, the Property Appraiser's Office in writing that development rights have been transferred from the sending area or TDR Bank to the receiving area in perpetuity.

M. County-Initiated Land Use Amendment

Following recording of the deed, the Planning Division, upon direction from the BCC, shall initiate a Site Specific Plan Amendment to designate the property with a CON designation or place a notation which reflects the use of the property as an Agricultural Reserve Preservation Area (AGR/P). Densities obtained through the TDR Program shall be placed on the FLUA as notations following approval of the TDR receiving area.

N. Overall Accounting System for TDR Density

PZB shall maintain an overall accounting system for monitoring density availability and density transfers in the TDR Program. The accounting system shall include both private development rights and development rights in PBC's TDR Bank.

Density needed for the TDR Program may be derived from different sources including, but not limited to:

1. Density Reduction

Approved Site Specific Plan Amendments since 1990 which resulted in a density reduction; and,

2. PUD Unused Density

At such a time that the TDR Program, any subsequent density bonus programs, or amendments to the Plan requesting an increase in density, deplete the number of units available from previous amendments, PZB shall begin to monitor the PUD units which have been approved through the zoning process, but which have remained unused. The later units may at that time be considered as a source for density for the TDR Program.

CHAPTER H MASS TRANSIT STANDARDS

Section 1 General

A. Authority

The Executive Director of Palm Tran shall be responsible for implementing, applying, interpreting, and modifying the standards of this Chapter. **[Ord. 2008-003]**

B. Purpose and Intent

The purpose and intent of this Chapter is to ensure adequate, and consistent mass transit infrastructure/facilities are available to accommodate development concurrent with their associated impacts. The specific objectives of this Chapter are as follows: **[Ord. 2008-003]**

- 1. Establish Mass Transit infrastructure/facilities standards for unincorporated PBC. **[Ord. 2008-003]**
- 2. Provide Mass Transit infrastructure/facilities in accordance with the objectives of the Transportation Element of the Plan. **[Ord. 2008-003]**
- 3. Ensure that necessary Mass Transit infrastructure/facilities will be provided concurrently with development. **[Ord. 2008-003]**

Section 2 Applicability and Standards

The standards of this Chapter shall apply to all residential and non-residential development or redevelopment in unincorporated PBC, as follows: **[Ord. 2008-003]**

A. Modifications to Previous Approvals

Modifications to previous approvals shall comply with this Chapter for un-built projects without an approved DRO plan, or to the greatest extent possible in the affected area without the loss of density, intensity or parking, for unbuilt projects with a DRO approved plan, built projects that have constructed less than 80 percent of approved density or intensity, structural renovations in excess of 75 percent or more of the current Improvement Value of the structure, and parking lot alternations or additions. **[Ord. 2008-003] [Ord. 2013-001]**

B. Thresholds and Standards

For the purposes of this Chapter, non-residential development shall be defined as all commercial, civic/public, recreation, and industrial uses that are open to the public. Unmanned or minimal commuter generating facilities, such as Commercial Communication Towers or Electric Transmission Substation, or as determined by Palm Tran shall be excluded from this definition. Where applicable, the requirements of this Chapter shall be approved by Palm Tran and shown on all Preliminary Development Plans, Preliminary Subdivision Plans, Preliminary Site Plans, Final Master Plans, Final Subdivision Plans and Final Site Plans, prior to DRO certification or approval. Palm Tran Transit Design Manual provides an understanding of transit operating criteria and, access requirements (www.pbcgov.com/palmtran/library). Section 810 of the ADA and ABA Accessibility Guidelines provides curbside ADA requirements for Transportation Facilities (www.access-board.gov/ada-aba/final.htm). FDOT Transit Facilities Guidelines provides more detail requirements for the location transit infrastructure (www.dot.state.fl.us/transit/Pages/TRANSIT%20Facilities%20GUIDELINES.PDF). **[Ord. 2008-003] [Ord. 2017-007]**