

## Innovation in Land Use Management Policy in Florida Cities

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### **Background**

Many Florida communities have faced challenges related to growth and development. Growth and development create opportunities for communities to expand their revenue bases, develop new programs, and enhance their regional political influence. However, growth and development also result in political challenges as they may threaten environmental resources and the quality of life in the community as well as alter the distribution of power and wealth within the community. Cities in Florida have confronted these new opportunities and challenges in varying ways.

It has been almost two decades since Florida's Growth Management Act (GMA) was enacted in 1985. While this legislation created a top-down approach to the implementation of growth management through a mandatory comprehensive planning process, it has left considerable room for policy innovation at the local level. Using data from a recent survey of city planners in Florida, this brief reports the frequency with which Florida cities use several innovative land use policy instruments. The policies examined here include urban service boundaries, transferable development rights, density bonuses, impact fees, and performance zoning.

### **Urban Service Boundary (USB)**

Local governments facing urban sprawl with high costs of public service provision and low densities sometimes employ an USB. The USB represents a planning tool different from traditional land-use regulations in that it adds a new dimension—the timing of development. Whereas traditional land use regulations specify what, where, and how land can be improved, the USB specifies when improvement can occur. Only land inside an USB can be converted to urban use before a specified date, but land outside an USB is preserved for non-urban use until after the same specified date. The imposition of an USB involves drawing a polygon around a city and prohibiting development outside it. Ultimately, an USB is a zoning tool that slows urban growth by banning development in designated areas on the urban fringe.

The goals of the USB are to provide public services in an efficient and economic manner, reduce uncertainty costs regarding future land use and land speculation, and preserve agricultural lands and open space. While an USB is easy to implement, it has great potential for misuse. It may be too stringent, needlessly restricting the size of the city causing an escalation in housing costs and an unwarranted increase in density.

### **Transfer of Development Rights (TDR)**

TDR allows the development rights of a parcel of land, as part of the right to convert, to be sold and used on

another parcel. Therefore, TDR makes it possible for there to be a free exchange of development rights without having to buy or sell land. TDR provides a mechanism by which a private developer or local government can purchase the development rights from within an area (the sending area) and transfer them to an area to be developed (the receiving area). The owner of the preserved site retains existing use rights while receiving compensation for the development value of the land. TDR is a useful technique to preserve environmentally sensitive areas, agricultural land, open space, and historic landmarks. In addition, it is a market-type transaction involving low costs to the public and provides compensation to landowners for the loss of the right to develop.

The most common TDR program allows the landowner to sell the development rights to a developer who then uses those development rights to increase the density of houses on another piece of property at another location. A second approach allows a local government to establish a TDR Bank to transfer rights. With this method, developers who wish to develop at higher density than current zoning allows would purchase development rights from the local government.

### **Density Bonuses (DB)**

DB programs, also known as incentive zoning, exempt developers from certain existing zoning restrictions in exchange for the provision of community goods, such as parks, open space areas, schools, and affordable housing. This technique is considered a market-based approach since the price at which the local government buys each community good reflects the amount of bonus provided to the developer. Developers have typically been enthusiastic supporters of DB because they allow them to build at higher densities, reducing land and site development costs and diffusing costs over a large number of housing units. In addition, density bonuses have proven politically and programmatically appealing to local officials. For these reasons, they are used frequently by fiscally stressed local governments as a means of satisfying citizens' desires for public goods.

### **Impact Fees (IF)**

IF are payments or dedications made by a developer for the right to proceed with a project requiring government approval. IF are generally regarded as a technique to manage rather than reduce growth because they make development rights more certain while they shift the burden of financing new infrastructure from existing owners to developers. IF are particularly popular in communities experiencing financial stress and strong growth pressures because property tax revenues are unable to keep pace with new infrastructure demands.

### **Performance Zoning (PZ)**

PZ permits more adaptation and variation in land use than conventional zoning. It attempts to improve the planning system by streamlining the development process, increasing certainty over development permissions and approvals, and reducing the costs of negotiating with local planners. In effect, developers are given quality control targets and relatively wide discretion in meeting those targets. As a result, developers can put development plans and packages together that conform more to the investor's market expectations than the views of the city's planning department. In some respects, this technique enhances the potential for development in the market because the developers have more control over the final outcome and decisions are handled administratively.

### **Land Use Management Survey**

A survey of land use planners and growth managers in all cities in Florida was conducted by the DeVoe Moore Center in early 2002. The survey gathered information on local growth management policy and regulations. The purpose of the survey was to enhance our understanding of how Florida cities deal with the dual pressures of competing for economic development and at the same time managing population growth. 311 of 404 cities responded to the survey resulting in a response rate of 77 percent. The frequency and percentage of cities that have adopted each of the five programs described above are reported below. In addition, frequencies are reported separately for cities in four population categories: under 2,000; between 2000 and 10,000; between 10,000 and 100,000; and over 100,000.

### **Land Use Management Techniques in Florida Cities**

In the case of impact fees, almost half of the cities that responded (47.2%) had adopted impact fees as a land use management technique. The second most frequently used program was density bonuses. Fifty-one cities (16.4%) used density bonuses. Urban service boundaries were found in 9.6 percent of the cities and performance zoning in 7.1 percent. Transfer of development rights including both voluntary and mandatory rights were employed by less than 10 percent of the respondent cities (6.4%). Large cities were more likely to employ each of these programs than smaller communities. For example, impact fees have been adopted by two-thirds of the cities with populations over 10,000, but are used by only one-third of the cities with populations less than 10,000.

These survey findings suggest that Florida cities have favored market-based growth management tools (i.e. impact fees and density bonuses) rather than regulatory growth controls like urban service boundaries. The strong popularity of impact fees is notable given that they are

regarded as a market-based growth management technique that is growth accommodating rather than growth restrictive.

The survey results also indicated that the adoption of impact fees on new development peaked in the later half of the 1980s. Over the last decade the number of services covered by impact fees has steadily grown, with many communities using fees for fire and emergency medical services, water supply, roads and transportation, and parks and recreation. The reliance on impact fees to pay for new development demonstrates the willingness of local jurisdictions to find adequate funding to manage growth.

<b>Land Use Management Technique</b>	<b>Frequency (N=311)</b>	<b>Percentage</b>
<b>1) Impact Fees</b>	<b>147</b>	<b>47.2</b>
City Pop. under 2,000	21	22
Between 2,000 and 10,000	38	45
Between 10,000 and 100,000	80	68
Over 100,000	8	67
<b>2) Density Bonuses</b>	<b>51</b>	<b>16.4</b>
City Pop. under 2,000	2	0.2
Between 2,000 and 10,000	13	15
Between 10,000 and 100,000	31	26
Over 100,000	5	42
<b>3) Urban Service Boundaries</b>	<b>30</b>	<b>9.6</b>
City Pop. under 2,000	4	0.4
Between 2,000 and 10,000	8	0.9
Between 10,000 and 100,000	16	14
Over 100,000	2	17
<b>4) Performance Zoning</b>	<b>22</b>	<b>7.1</b>
City Pop. under 2,000	1	0.1
Between 2,000 and 10,000	4	0.5
Between 10,000 and 100,000	15	13
Over 100,000	2	17
<b>5) Transfer of Development Rights</b>	<b>20</b>	<b>6.4</b>
City Pop. under 2,000	2	0.2
Between 2,000 and 10,000	1	0.1
Between 10,000 and 100,000	15	13
Over 100,000	2	17

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