

# Designation

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## Program History and Background

The mission of the Florida Greenways and Trails System is to create a network of greenways and trails throughout Florida, connecting one end of the state to the other, from Key West to Pensacola. The Florida

Greenways and Trails System has its roots in the Florida Canoe Trails System, the Florida Recreational Trails System, and Florida's public parks, forests, refuges, wildlife management areas and water management areas. The Florida Greenways and Trails Designation Program provides for the designation of public lands and waterways and private lands. The designated system currently consists of a combination of "grandfathered" designations, which were established prior to May 30, 1998, and recent designations established under the new program. For designation forms and a list of currently designated greenways and trails please visit our Designation website, [www.dep.state.fl.us/gwt/designation/](http://www.dep.state.fl.us/gwt/designation/).

### The purpose of the designation program is to:

- Further the purposes, goals, and objectives of the Florida Greenways and Trails System;
- Ensure an inclusive and interconnected system of greenways and trails;
- Encourage voluntary partnerships in conservation, development, management and coordination of the system's many pieces;
- Provide recognition for individual pieces of the system and those partners involved;
- Raise public awareness of the conservation and recreation benefits of the system.

### Designation Criteria:

1. A designated land or waterway must protect and/or enhance natural, recreational, cultural or historic resources; and
2. Provide linear open space, a hub or a site; or
3. Promote connectivity between or among conservation lands, communities, parks, other recreational facilities, cultural sites, or historic sites.

## Frequently Asked Questions

### *Q. Who can apply for designation?*

The application process can be initiated by any interested person, organization, government agency or coalition acting as the sponsor. The most important thing to remember is that **voluntary participation** by the landowner is required for designation. A written form, included in the application packet, expressing a willingness to proceed with designation, is required from all private and public landowners on whose land designation is proposed.

### *Q. What is the process for designation?*

1. The project sponsor submits an application for designation to the Office of Greenways and Trails (OGT). OGT will accept applications for designation throughout the year.
2. OGT staff will evaluate the application for completeness and to ensure designation criteria are satisfied and then develop a designation agreement through negotiation with the landowner(s).
3. OGT will transmit the application and proposed designation agreement to the Florida Greenways and Trails Council. The Council, which meets four times a year, will consider the application and the public will be invited to comment on the application. The Council will recommend approval or disapproval of the designation application to the Secretary of the Department of Environmental Protection.
4. The DEP Secretary will consider the recommendation of the Florida Greenways and Trails Council and public comments prior to making the final determination to approve a proposed designation agreement. Official designation into the Florida Greenways and Trails System will become effective through the signing of a designation agreement by the DEP Secretary, the landowner(s), land managers(s) and other parties, as appropriate.
5. DEP will monitor the designated components of the system by requiring reports to document that the natural, recreational, cultural or historic resources identified in the designation agreement are being maintained. Local, regional, state or federal agencies can certify that those resources identified in the designation agreement are being maintained by signing a Resource Certification.

### *Q. What are the primary incentives for designating a project into the statewide system?*

- Designation brings public recognition to local and regional greenway and trail projects.
- As resources allow, DEP may enter into management, patrol and protection agreements, and into leases if so stipulated in the designation agreement. DEP will also identify sources of funding for management and restoration needs.

- Designation into the Florida Greenways and Trails System gives private landowners liability protection (see "Frequently Asked Questions" for more information).
- Designation into the Florida Greenways and Trails System will give lands and waterways additional consideration in certain public land acquisition and grant programs, such as the Florida Communities Trust Land Acquisition Program, the Recreational Trails Grant Program, and the Florida Recreation Development Assistance Program.

*Q. If I designate my private land into the system, do I have to allow public access?*

No, designation into the greenways and trails system does not require that the landowner allow public access. The negotiated designation agreement would outline all of the terms of the designation. While some lands would be appropriate for public access, many private lands would be suitable as ecological connectors in the greenways and trails system.

*Q. How do I remove my lands from designation?*

At any time, a landowner has a statutory right to remove lands or waterways from designation by providing the Department with a written request that contains an adequate description of the lands being removed.

*Q. When my private land is designated as part of the statewide system of greenways and trails, am I expected to keep the land safe for entry or use by others?*

No, section 260.0125, Florida Statutes (2000), provides protection for landowners whose land is designated according to section 260.016(2)(d). You are not expected to keep designated land safe for entry or use by others, nor are you required to provide warnings of any hazardous conditions, structures, or activities on the designated land.

*Q. Can I be held responsible for injuries to people or property that occur on my private land, which is designated as a greenway or trail?*

No, unless the injury was caused by a willful, deliberate or malicious act by you or your agent. Section 260.0125(1), F.S., limits your potential liability. You will not be presumed to extend any assurances that the designated land is safe for any purpose, you will not incur any duty or care toward those who enter your land, and you will not be responsible for any injuries to persons or property caused by a person who goes onto the designated land. These protections apply regardless of whether the person using the land is an invited guest or a trespasser.

*Q. Do the protections described above apply to my land, which is adjacent to the land designated as a greenway or trail?*

Yes, section 260.0125(1), F.S., applies to your adjacent land when it is accessed through the designated land.

*Q. Do these protections apply if I charge a fee for entering and using the land designated as a greenway or trail?*

No, the protections provided by section 260.0125(1), F.S., do not apply if there is a charge made or usually made for entering or using the land designated as a greenway or trail, or if any commercial or other activity which brings profit by patronage of the general public is conducted on any part of the designated land.

*Q. Are tax incentives, grants and other financial considerations specific to the development for management of designated greenways and trails considered a charge for use of or profit derived from patronage?*

No, incentives granted by any unit of government, including those incentives described above, are not considered a charge for use of or profit derived from patronage. If you accept these incentives you are still protected from liability by section 260.0125, F.S.

*Q. How will the public who uses the designated greenway or trail know that my adjacent land is private property?*

When you agree to make land available for use as a designated greenway or trail, the Department of Environmental Protection is responsible for posting notices along the boundary of the trail, which inform the public that the adjacent land is private upon which unauthorized entry is prohibited and constitutes trespassing.

*Q. Do I have any protection if someone does get injured on the designated land or adjacent land and that person attempts to hold me responsible?*

Yes, the designation agreement between yourself and the Department of Environmental Protection can have a provision providing that the Department will indemnify you for any injury or damage incurred by a third party arising out of the use of the designated greenway or trail and any injury or damage incurred by a third party on your lands adjacent to and accessed through the designated greenway or trail. In addition, you are covered by section 768.28(9) Florida Statutes, which prohibits those injured from holding you personally liable for that injury or from filing suit against you unless you acted "in bad faith or with malicious purposes, or in a manner exhibiting wanton and willful disregard of human rights, safety or property." If a complaint is filed against you personally and alleges that you acted in bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety or property, you

will be provided with counsel and a defense by the State of Florida so long as no credible evidence supports the allegation.

*Q. What if my property, designated or adjacent, is damaged by someone using the trail or greenway?*

The indemnification clause or the designation agreement can also provide for any damage to your property, including your adjacent land accessed through the designated greenway or trail, caused by an act or omission of a third person resulting from any use of the designated land.

## Applying for Designation

1. All responses on the application must be typed or legibly printed (see sample applications attached). If a particular item does not apply to the project, the proper response is "Not Applicable". Please do not leave a response area blank.
2. If additional space is needed for a response, check the box on the application form to indicate that additional sheet(s) are attached and identify the information contained within each additional sheet by noting the application item number to which it relates.
3. Please provide a management plan or a similar document, which describes the current management and use of the property being proposed for designation. If a management plan is not available, please provide a "Use Plan" which, at a minimum, describes the types and intensities of uses permitted on the property and the public safety regulations and methods of enforcement. If necessary, the Office of Greenways and Trails can provide an example of a "Use Plan".
4. The following items must be submitted in order for the application to be considered:

**Public Lands:**

Application for Designation (Public)

Owner Consent Form

Management Form

Management Plan or Use Plan

Accurate Map\*

**Private Lands:**

Application for Designation (Private)

Owner Consent Form

Management Form

Use Plan

Accurate Map\*

5. Do not fax any portion of the application or attachments to the Office of Greenways and Trails. No faxed items will be considered as part of the application.
6. In addition to the required materials, applicants may submit photographs of various sites and features within the project that show typical landscape characteristics, labeled with location and orientation and cross referenced to the location map.

7. Applications, together with supporting attachments and documentation, must be mailed or delivered to the following address:

Office of Greenways and Trails  
Department of Environmental Protection  
3900 Commonwealth Blvd., Mail Station 795  
Tallahassee, FL 32399-3000  
ATTN: Christine Small

\* An accurate location map of sufficient scale and detail to clearly delineate all project property boundaries in relation to other greenways and trails, county roadways, major topographic features (such as rivers, lakes and power lines), and local government boundaries (if any). The location map must state the length of trails and total project acreage and should indicate points of interest or special features. When the project provides for public access to existing or proposed trails, the location map must identify the trail alignment, public access points, trailheads and facilities to accommodate the proposed types of public uses over the extent of the trails. If GIS coverage is available, please provide the appropriate shape files to OGT, along with the application.