



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

8/12/2025

Subject:

Approval, Re: An Ordinance of the Board of County Commissioners of Brevard County, Florida; amending Chapter 62, Article VII, Division 2, Section 62-2844, entitled "Performance Security".

Fiscal Impact:

Indeterminate. However, an overall positive impact is expected due to less staff time to prepare and review associated agenda items.

Dept/Office:

Public Works/Engineering

Requested Action:

It is requested that the Board of County Commissioners adopt the attached ordinance amendment to Chapter 62, Article VII, Division 2, Section 62-2844, entitled "Performance Security."

Summary Explanation and Background:

On April 22, 2025, the Board of County Commissioners approved legislative intent and permission to advertise an amendment to Section 62-2844, Brevard County Code of Ordinances, establishing an administrative process for the release and reduction of performance security, as appropriate, for the construction of improvements associated with subdivisions and plats upon issuance of a certificate of completion by staff.

The attached ordinance has been drafted to meet this direction.

Pursuant to Section 62-2844, Brevard County Code of Ordinances, the Board is responsible for releasing or reducing performance security (performance bond) for construction improvements associated with subdivisions and plats. Currently, upon recommendation from the County's Development Engineer and the Public Works Department, the Board is presented with the request through an agenda report and can reduce the bond amount correspondingly for improvements that have received a certificate of completion.

The proposed Code amendment will increase efficiency by allowing the County Manager, or designee, to handle such requests administratively, but while still requiring the same supporting information and approvals from other County departments and governmental units for such improvements, including utility installations, roads, and drainage systems. The proposed ordinance changes will help reduce the wait time that developers are subject to as it relates to the process associated with reducing or releasing their respective performance bonds once the necessary development approvals have been obtained. In some cases, the proposed ordinance amendment will help reduce such wait times by weeks. It is important to note that such requests have not been denied in recent years, are not required by statute, are not done by most other local jurisdictions, and are a binary administrative decision of whether the work is complete or not, which the

Public Works Department already certifies. Additionally, should a challenge or issue arise, staff will bring the matter to the Board for review and consideration.

The applicant is still required to post security for the maintenance of such improvements (maintenance bond) once the certificate of completion is issued.

On June 11, 2025, the Building and Construction Advisory Committee heard the request and unanimously recommended approval.

On June 16, 2025, the Local Planning Agency heard the request and voted 11:1 to recommend approval.

Clerk to the Board Instructions:

Upon approval by the Board, execution by the Chair, and attestation by the Clerk, file the ordinance with the Department of State as required by law within the 10-day deadline. Please return a copy of the executed ordinance with the Department of State's official acknowledgement of filing to the Public Works Department and the County Attorney's Office.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

August 13, 2025

Rachel Sadoff
County Clerk
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2025-15, which was filed in this office on August 13, 2025.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL/dp



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

August 13, 2025

M E M O R A N D U M

TO: Marc Bernath, Public Works Director

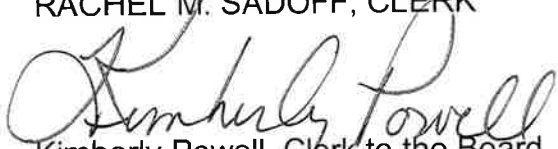
RE: Item H.5., Ordinance of the Board of County Commissioners of Brevard County, Florida, amending Chapter 62, Article VII, Division 2, Section 62-2844, Entitled "Performance Security"

The Board of County Commissioners, in regular session on August 12, 2025, adopted Ordinance No. 25-15, amending Chapter 62, Article VII, Division 2, Section 62-2844, entitled "Performance Security". Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/ns

Encl. (1)

ORDINANCE NO. 2025 - 15

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 62, ARTICLE VII, DIVISION 2, SECTION 62-2844, ENTITLED PERFORMANCE SECURITY; SPECIFICALLY AMENDING THE PROCESS FOR THE RELEASE OR REDUCTION OF PERFORMANCE SECURITY OF IMPROVEMENTS ALREADY ACCEPTED BY PUBLIC WORKS STAFF TO DELEGATE CERTAIN AUTHORITY TO THE COUNTY MANAGER OR DESIGNEE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, hereinafter the "Board", finds that there is a need to update the County's process for handling the release and reduction of performance security (performance bond) for the construction of improvements associated with subdivisions and plats; and

WHEREAS, currently, when an applicant is seeking to construct such improvements, the Board is tasked with releasing or reducing the amount of the performance security, as appropriate, once a certificate of completion is issued; and

WHEREAS, the Board finds that staff is capable of determining whether performance bonds are to be released or reduced, as appropriate, and that such a process modification will increase overall efficiency; and

WHEREAS, the Building and Construction Advisory Committee, on June 11, 2025, has reviewed the proposed ordinance and made a recommendation; and

WHEREAS, the Local Planning Agency, on June 16, 2025, has reviewed the proposed ordinance and made a recommendation.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strikethrough indicates deletions.~~

SECTION 1. Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference.

SECTION 2. Chapter 62, Article VII, Division 2, Section 62-2844(b), Brevard County Code, entitled "Performance security", is hereby amended as follows:

(b) *Release or reduction of performance security*: No security shall be released until a certificate of completion has been posted under this article. The ~~board~~ County Manager or Designee upon the recommendation of the county development engineer, and upon recommendation from other interested County departments~~the public works department~~, may release or reduce the amount of required security upon the completion and acceptance by the appropriate governmental units of all utility installations for the subdivision or the completion and approval of all the roads and drainage systems. The amount of the reduction of the security shall be relative to the amount of the cost of the utilities or roads and drainage which constitutes the entire subdivision improvement cost estimate used for posting security under this article. Upon the release or reduction of the security after completion of the improvement(s), the applicant shall be required to post security for the maintenance of such improvement.

SECTION 3. Conflicting Provisions. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 5. Area Encompassed. This Ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 6. Effective Date. A certified copy of this Ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall become effective upon filing as provided by law.

SECTION 7. Inclusion in Code. It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.


DONE, ORDERED, AND ADOPTED, in regular session, this 12th day of August, 2025.

ATTEST:



Rachel M. Sadoff, Clerk of Court

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**

By: 

Rob Feltner, Chairman

As approved by the Board on: August 12th, 2025



BOARD OF COUNTY COMMISSIONERS

Business Impact Estimate

This form must be uploaded into Granicus to be included in the agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the County's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

Amendments are being proposed to Chapter 62, Article VII, Division 2, Section 62-2844, entitled Performance Security, to allow the County Manager, or designee, to release or reduce performance security, as appropriate, for the construction of improvements associated with subdivisions and plats upon issuance of a certificate(s) of completion.

Pursuant to Section 125.66, Florida Statutes, a business impact estimate is **not** required if any of the following statements apply. Check all that apply and include this page in the agenda packet for the proposed ordinance under consideration.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
 - c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or

d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of Section 125.66, *Florida Statutes*, and in the absence of an exemption listed above, the County hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

The proposed amendments to Section 62-2844, Brevard County Code, will serve a public purpose by increasing County efficiency and reducing costs associated with processing these requests, while also providing a more streamlined procedure for development projects. Specifically, the proposed ordinance will reduce the time period developers must wait to have their performance bonds released. In most cases, this will result in a quicker process and could help shorten the processing time by weeks by removing the need for Public Works staff to draft agendas and present them to the Board at a regularly scheduled meeting.

In recent years, a request to release or reduce the performance security has never been denied, is not required by statute, is not done by most other local jurisdictions, and is a binary administrative decision based on whether the work is complete or not, which the Public Works Department already certifies.

Staff will still retain the authority to bring any such matters to the Board for consideration if any concerns arise with such a request.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the County:

No direct economic impact is expected.

Estimated impact: Economic impact is indeterminable; however, additional time savings are expected to provide incremental cost savings to the development community.

3. Estimate of direct compliance costs that businesses may reasonably incur if enacted:

No direct compliance costs for businesses are reasonably expected.

Estimated compliance costs: N/A

4. Any new charge or fee imposed on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:

No new charges or fees will be imposed by the proposed ordinance.

New charges or fees imposed: N/A

5. Estimate of the County's regulatory costs, including estimated revenues from any new charges or fees that will be imposed on businesses to cover such costs:

No increase in County regulatory costs is expected.

Estimated regulatory costs: N/A

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

These changes are anticipated to have a positive impact on all businesses permitting and constructing new development within Brevard County for work requiring a performance security under the Brevard County Code.

7. Additional information that the Board of County Commissioners determines useful:

Currently, upon recommendation from the County's Development Engineer and the Public Works Department, the Board is presented with the request to release or reduce performance security through an agenda report and can reduce the bond amount correspondingly for improvements that have received a certificate of completion.

The proposed Code amendments will increase efficiency by allowing County staff to handle such requests administratively, while still requiring the same supporting information and approvals from other County departments and governmental units for such improvements, including utility installations, roads, and drainage systems.

The applicant is still required to post security for the maintenance of such improvements (maintenance bond) once the certificate of completion is issued.

Board Meeting Date

8-12-25

Item Number: Ord. H.S.

Motion By: KD

Second By: KA

Nay By: _____

Commissioner	DISTRICT	AYE	NAY
Commissioner Delaney	1	✓	
Vice Chair Goodson	2	✓	
Commissioner Adkinson	3	✓	
Commissioner Altman	5	✓	
Chairman Feltner	4	✓	