



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

4/22/2025

Subject:

Legislative Intent and Permission to Advertise Amendments to Chapter 62, Article VII, Division 2, Section 62-2844, entitled Performance Security, to allow the Public Works Director 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.

Fiscal Impact:

Overall, positive impact due to less staff time to prepare and review associated agenda items.

Dept/Office:

Public Works

Requested Action:

It is requested that the Board of County Commissioners approve legislative intent and permission to advertise amendments to Chapter 62, Article VII, Division 2, Section 62-2844, entitled Performance Security.

Summary Explanation and Background:

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 Public Works Department to handle such requests, 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.

Clerk to the Board Instructions:

Return a copy of this approval to the County Attorney's Office and Public Works for further processing.



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

April 23, 2025

M E M O R A N D U M

TO: Marc Bernath, Public Works Director

RE: Item F.3., Legislative Intent and Permission to Advertise Amendments to Chapter 62, Article VII, Division 2, Section 62-2844, entitled Performance Security, to allow the Public Works Director to Release and Reduce Performance Security, as Appropriate, for the Construction of Improvements Associated with Subdivisions and Plats upon Issuance of a Certificate(s) of Completion

The Board of County Commissioners, in regular session on April 22, 2025, granted legislative intent and permission to advertise amendments to Chapter 62, Article VII, Division 2, Section 62-2844, entitled Performance Security, to allow you to release and reduce performance security, as appropriate, for the construction of improvements associated with subdivisions and plats, upon issuance of a Certificate(s) of Completion.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ds

cc: County Attorney

ORDINANCE NO. 2025 - _____

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 TO DELEGATE CERTAIN AUTHORITY TO THE PUBLIC WORKS DIRECTOR; 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 _____, 2025, has reviewed the proposed ordinance and made a recommendation; and

WHEREAS, the Local Planning Agency, on _____, 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~~ Public Works Director, 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 ____ day of _____, 2025.

ATTEST:

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

Rachel M. Sadoff, Clerk of Court

By: _____
Rob Feltner, Chairman

As approved by the Board on: _____