



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

May 10, 2017

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item IV.E., Ordinance Amending Chapter 62, Article VII - Subdivisions

The Board of County Commissioners, in regular session on May 9, 2017, adopted Ordinance No. 17-09, amending Chapter 62, Article VII, Subdivisions. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK**

Tammy Rowe, Deputy Clerk

Encl. (1)



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

May 11, 2017

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas, Administrative Assistant

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2017-09, which was filed in this office on May 10, 2017.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

**CLEAN COPY**

ORDINANCE No. 17- 09

**AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS", CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, ARTICLE VII – SUBDIVISIONS AND PLATS; PROVIDING FOR PRELIMINARY PLAT AND CONSTRUCTION PLAN APPROVAL ; PROVIDING FOR REVISED REVIEW TIME FRAMES; PROVIDING FOR A DEVELOPMENT REVIEW MEETING; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, AND PROVIDING FOR AREA ENCOMPASSED.**

**WHEREAS**, the Board of County Commissioners find that administrative procedures contained within Chapter 62 Article VII require updating to reflect current administrative policies and procedures; and

**WHEREAS**, the Board of County Commissioners finds that code requirements for Board Approval of preliminary plat and construction plans need to be adjusted to provide for administrative approval; and,

**WHEREAS**, the Board of County Commissioners finds that code requirements of a development review meeting, and revised timelines are needed to streamline the subdivision review process ; and,

**WHEREAS**, the Board of County Commissioners on January 24, 2017 approved legislative intent to amend the code; and

**WHEREAS**, the Building Construction and Advisory Committee on March 8, 2017 has reviewed the proposed ordinance and made recommendations; and

**WHEREAS**, the Local Planning Agency, on April 24, 2017 has reviewed the proposed ordinance and made recommendations; and

**WHEREAS**, the Board of County Commissioners has reviewed the recommendations of the Local Planning Agency and the Building Construction Advisory Committee and has considered the comments of interested citizens in public hearing; and

**WHEREAS**, the Board of County Commissioners has determined that the proposed amendments serve the public health, safety and welfare of the citizens of Brevard County.

**NOW, THEREFORE, BE IT ORDAINED**, by the Brevard County Board of County Commissioners, as follows:

**SECTION 1.** Section 62-2801, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2801.** - Definitions and rules of construction.

*Certified boundary survey* means a survey, sketch, map or other exhibit that meets the minimum technical standards for a boundary survey as set forth in Chapter 61G17-6, Florida Administrative Code pursuant to F.S. ch. 472. The field date of the boundary survey must be current and accurately depict the conditions on site at the date of the initial submittal.

SECTION 2. Section 62-2805(a)(2), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2805.** - Subdivision plan submission procedure

- (a) (2) *Construction plans and preliminary plat review:* The second stage is the construction plans and preliminary plat review. The applicant formally submits construction plans and preliminary plat for review and approval by the county reviewing agencies.

SECTION 3. Section 62-2807(b), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2807.** - Preapplication conference.

- (b) *Pre-application plans:* The applicant shall provide two copies of a subdivision sketch plan, or one electronic copy of the plan, along with the required exhibits and information, to the county prior to the pre-application conference.

SECTION 4. Section 62-2808 (a), Code of Ordinances of Brevard County, Florida, the title and subsection (a) are hereby amended as follows:

**Sec. 62-2808.** Application for construction plans and preliminary plat review and approval. Applications shall include all of the necessary information and engineering for construction, including but not limited to, the following requirements and standards of this article. Incomplete application packages will not be accepted for review.

- (a) *Submission:* All applicants shall make application for subdivision and new roadway construction review by furnishing to the county, two sets construction packages, including preliminary plat of the proposed subdivision, or one electronic copy. Such construction plans and preliminary plat shall be drawn at a scale of not smaller than one inch equals 100 feet. In the event the subdivision exceeds 100 acres in area, the applicant may submit a preliminary plat at a uniform scale of not smaller than one inch equals 200 feet.

SECTION 5. Section 62-2808(c) through (g), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2808.**

- (c) *Review:* The county shall provide agency review comments or approval within 10 working days of the receipt of a complete application for the initial submittal. Subsequent submittals will be reviewed within 5 working days. Instances where the proposed development plan contains a large acreage, number of units, may affect regional resources, or the intensity of the proposed use warrants, the county manager or designee may extend the aforementioned review period to a maximum of 30 calendar days. In those cases, the applicant shall be notified prior to the expiration of the original review period.
- (d) *Agency comments:* The county will provide the applicant the comments and recommendations of the agencies and advise the applicant of a date for a development review meeting with the applicant to review the agencies' comments and recommendations. The date of the meeting may be set for a time after the expiration of such 10 working day period. The meeting schedule will be posted at the beginning of each year, and may be amended by the county as needed with proposed meetings on average once every two weeks. To have a project placed on the development review meeting agenda, the complete submittal must be received by close of business prior to the deadline posted for the scheduled meeting. Staff comments will be presented to the applicant or their engineer prior to the meeting.
- (e) *Approval:* Upon satisfactory completion of such review and approval of the proposed construction plans and plat by the applicable agencies, the construction package shall be for approved based upon a consideration of the requirements of this article and other applicable policies, ordinances, articles, laws and regulations and the conditions which affect development within the vicinity of the tract.
- (f) *Filing fee:* The board reserves the right to establish from time to time by resolution a fee in an amount deemed necessary to reimburse the county, the cost incurred in reviewing and approving plans and plats.
- (g) *Time limit:* The applicant shall have 24 months from the date of formal submittal in which to obtain approval of the construction plans and preliminary plat by all the review agencies. If an applicant has not obtained approval within 24 months the application shall become null and void and the applicant must reapply under the provisions of this article.

SECTION 6. Section 62-2809(a) through (c), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2809. - Construction permits.**

- (a) *Approval of construction permit:* An applicant must obtain a single construction permit from the county for the construction of all subdivision improvements. After approval of the construction plans, an applicant may apply for a construction permit by providing the following information to the county:
  - (1) The applicant must furnish copies of all regulatory permits including but not limited to St. Johns River Water Management District, Florida Department of Environmental Protection,

(with the exception of the Army Corp of Engineers, Florida Fish and Wildlife Commission and U. S. Fish and Wildlife) required for the site.

- (2) The general contractor must furnish copies of all licenses including but not limited to the following: general contractor's license, business tax receipt from Brevard County, municipality or other county in which his primary office is located within the State of Florida. The contractor must also furnish a copy of his workman's compensation insurance and liability insurance.
  - (3) The reviewed and approved final engineering plans and preliminary plat. All construction plans and specifications must be signed and sealed by a professional civil engineer who is registered in the state.
  - (4) Engineer of record's certification of engineering inspection fees and payment of said fees.
  - (5) A pre-construction conference will be scheduled by the county with the developer, project engineer, prime contractor and inspection staff. (The conference may be waived by the county if the project is a continuation of an existing site under construction where the same engineer, contractor and testing laboratory are being utilized.)
- (b) *The construction permit must be posted by the applicant in a conspicuous place in the open at the construction site.*
- (1) Construction before final plat recordation: The applicant shall submit the final construction plans and specifications as required in section 62-2808 of this article for subdivision improvements. A certificate of ownership shall accompany such plans and specifications. The improvements covered under this permit shall be completed prior to final plat and certificate of completion may be issued at the time of final plat recordation for private roads or if a maintenance bond is posted for public roads, or
  - (2) Construction after final plat recordation: The applicant shall submit the final construction plans and specifications as required in section 62-2808 of this article for subdivision improvements. The plans and specifications shall be submitted and the applicant shall provide security required in section 62-2844 for the performance of such construction. The construction permit shall be for all improvements which are to be constructed after final plat approval.
- (c) *Time limit of construction permit and revocation.* A construction permit shall be valid for a period of 36 months from the date of approval of the final engineering plans and preliminary plat. Additional construction permits may be administratively approved for 12-month periods subject to the following criteria:
- (1) The applicant shall submit a set of plans, for county review and approval, that provide for the remaining unconstructed infrastructure improvements to be designated and installed pursuant to the most up to date construction standards; and
  - (2) The applicant posts an up to date performance security based on the latest construction cost pursuant to section 62-2844; and
  - (3) The applicant pays additional inspection fees based on the latest construction cost; and
  - (4) The final plat has been recorded within 36 months of the approval of the final engineering plans and preliminary plat.

SECTION 7. Section 62-2810, Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2810.** - Engineering revision.

If an engineering revision is required to an approved engineering plan, the applicant must submit the revised engineering plans with the appropriate fees and documentation to the county for a 10 working day review by the appropriate agencies.

Upon approval by staff, the revised sheets will be forwarded to the county for distribution to the applicant and affected agencies.

SECTION 8. Section 62-2841(l), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

**Sec. 62-2841.** - Application for final plat review and approval.

(l) *Time limit.* The final plat shall be recorded prior to the 36 months expiration date of the final engineering and preliminary plat approval. Unless otherwise stipulated below, failure to record the final plat within this time limitation shall mean the final engineering and preliminary plat, construction permit, and final plat are null and void.

- (1) The final plat for a minor subdivision which does not require final engineering and preliminary plat approval shall be recorded within 24 months from the date of application submittal.
- (2) At a minimum, the first final plat phase of a multiple phase final engineering plan and preliminary plat shall be recorded within 36 months of the approval date of the final engineering and preliminary plat. Each subsequent phase that is not recorded within the initial 36 months shall be recorded in intervals not greater than 12 months from the previous phase's recording date. Failure to record any subsequent phase within said 12-month timeframe shall null and void the final engineering and preliminary plat, construction permit, and final plat of the remaining unrecorded phase(s) of the final engineering plan and preliminary plat. Extensions of construction permits shall comply with the stipulations of section 62-2809(c).

**SECTION 9. CONFLICTING PROVISIONS.** In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other federal, state or county law, rule, code or regulation, the more restrictive shall apply.

**SECTION 10. SEVERABILITY.** If any provision of this ordinance or the application thereof to any persons or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision of application, and to this end the provisions of this ordinance are declared severable.

**SECTION 11. 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 take effect upon adoption and filing as required by law.

**SECTION 12. INCLUSION IN CODE.** It is the intention of the Board of County Commissioners 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 other such appropriate word or phrase in order to accomplish such intentions.

**SECTION 13. AREA ENCOMPASSED.** This ordinance shall take effect in the unincorporated area of Brevard County, Florida.

DONE, ORDERED AND ADOPTED, in regular session, this 9 day of MAY, 2017.

Attest:

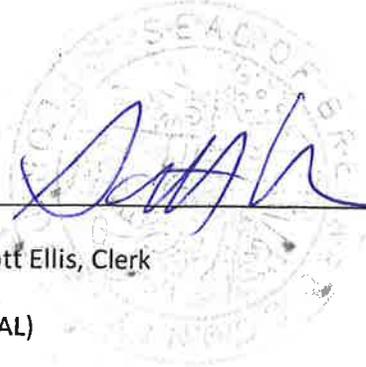
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



\_\_\_\_\_

Scott Ellis, Clerk

(SEAL)



\_\_\_\_\_

Chairman

As approved by the Board on May 9, 2017.

Reviewed for legal form and content by: \_\_\_\_\_

