

CHAPTER 300. PROCEDURES

SECTION 301. APPLICABILITY AND GENERAL PROVISIONS

301.1. Intent and Purpose

The intent and purpose of this section is to provide the procedures and general standards for review of development, development activity and other applications that are submitted to the County for review under this Code. All applications for development approval shall comply with these procedures and the applicable standards of this Code and as may be required by other Federal, State, or local regulation.

301.2. Effect of Overdue Taxes, Liens, and Fines

In addition to the development approval application information required by other parts of this Code, an applicant shall provide, with each development approval application, evidence that all property taxes and other obligations owed to the County related to the property are current. A development approval application that includes property for which there are overdue taxes or other financial obligations to the County shall not be reviewed or processed by the Development Services Branch, except in those cases where approval is a requirement to correct a violation.

301.3. Misrepresentation

If the Board of County Commissioners (BCC), Planning Commission (PC), or County Administrator or designee, makes a final determination that any existing or previously approved development, or portion thereof, was not adequately reviewed for compliance based upon lack of disclosure, or misrepresentation by the applicant, the development shall be subject to additional review for compliance with those regulations, as amended, that were avoided due to the failure to disclose or misrepresentation by the applicant. If such review causes other portions of the development to be redesigned, those areas shall also be reviewed for compliance with applicable provisions of this Code and the Comprehensive Plan in effect at the time the failure to disclose or misrepresentation was discovered.

SECTION 302. DEVELOPMENT APPROVALS REQUIRED

All development approvals required by this Code shall be obtained prior to the commencement of any development activity.

SECTION 303. COMMON PROCEDURES

303.1. **Development Manual**

A development manual for the guidance of persons preparing development approval applications shall be maintained by the Assistant County Administrator for Development Services. Unless otherwise provided in this Code, the development manual shall contain the application forms for all development approvals referenced in this Code and the detailed application procedures and content, including the following:

- A. Dates and deadlines for submitting applications.
- B. Required documents and information to accompany applications.
- C. Review time frames.
- D. Neighborhood notice.
- E. Neighborhood meetings.
- F. Public notice.
- G. Content review.
- H. Application review.
- I. Review of responses to content and compliance reviews.
- J. Such other requirements as may be needed to provide review in an objective, timely, and thorough manner.

It is intended that changes to the Development Manual be made in a collaborative manner with input from all appropriate stakeholders. However, this is not intended to limit the authority of the Assistant County Administrator for Development Services to make appropriate and necessary changes to the Development Manual so as to further the objectives of a responsive and responsible land development review program. All changes to the Development Manual will be identified in a prominent manner on the County website.

303.2. **Authority to File Development Applications**

Unless otherwise specified, an application may only be filed by the owner of the property or an agent of the owner who is specifically authorized by the owner to file such an application with the County.

303.3. **Authority to Access the Property**

The submission of a development approval application shall convey consent and authorization by the owner to County entry onto and inspection of premises, lot, or parcel for any purpose associated with the development request.

303.4. **Fees**

Fees shall be paid according to the fee schedule established by resolution(s) by the BCC.

303.5. **Preapplication Consultation**

A. The purpose of a preapplication consultation is to familiarize the applicant with the provisions of this Code applicable to the proposed development, and to inform the applicant about the development approval application, preparation, and submission. The owner/applicant shall request a preapplication consultation prior to submittal of a development approval application. The applicant shall provide the property identification number, physical address, and contact information, including name, telephone number, and e-mail address, if applicable, when requesting the preapplication consultation. The applicant should come to the consultation prepared to discuss the proposed development in enough detail so that staff can evaluate the proposal and provide helpful feedback to the applicant.

B. A preapplication consultation, with attendance by the owner/applicant, is required prior to the submission and acceptance of any development approval application for:

1. Zoning Amendment
2. Conditional Use
3. Special Exception
4. Preliminary Site Plans (PSPs)
5. Preliminary Development Plans (PDPs)
6. Minor Rural Subdivisions (MRSs)
7. Operating Permits

The requirement for a preapplication consultation may be waived by the County Administrator or designee.

C. The preapplication consultation is optional prior to submission of a development approval application that is not listed above.

303.6. **Application Submittal and Acceptance**

A. The owner/applicant shall submit a development approval application pursuant to the applicable submittal requirements contained within the Development Manual. A content-review consultation is mandatory for all development approval applications prior to acceptance.

B. A development approval application shall be accepted when it contains all required information and documents. Incomplete applications will not be

accepted for review and shall be returned to the applicant with a list of deficiencies.

C. Modifications to Submittal Requirements

1. Modifications to application or submittal requirements may be granted in writing by the County Administrator or designee, subject to meeting one (1) or more of the following criteria:

- a. The information or material that will be obtained from the application or submittal requirement(s) is not relevant to the specific request, or does not materially affect the ability to review compliance with substantive review standards of the this Code;
- b. The information or material that will be obtained from the application or submittal requirement is readily available from another source in the County's possession;
- c. The applicant has provided alternate information or material that achieves the same intent and purpose of the application or submittal requirement;
- d. Modification from the application requirement is required by State or Federal law; or
- e. The request for modification satisfies specific waiver or deviation criteria set forth elsewhere in this Code.

2. Process

- a. Notwithstanding the foregoing, where the final decision on a development approval application will be made by the Planning Commission (PC) or BCC, such bodies may require compliance with the application or submittal requirement if the applicable final decision maker determines that the information is required for their determination of the issue.

Final determinations shall be made in writing by the County Administrator or designee. Such determinations may be appealed pursuant to this Code.

- b. Timelines for Zoning and Site Plan Actions

Review procedures and timelines shall be in accordance with Chapter 125.022, Florida Statutes and as specified in the Development Manual.

303.7. **Application Review**

After acceptance, the application shall be routed to the appropriate review agencies. In reviewing applications, reviewing agencies shall take into consideration all the applicable factors identified in this Code when formulating a recommendation or taking action.

A. **Sufficient Application**

A development approval application shall be deemed sufficient if all required information and documents have been prepared in accordance with professionally accepted standards, the Comprehensive Plan, this Code, and all other applicable rules and regulations. The County Administrator or designee is authorized to take into consideration and request from an applicant any other information which is reasonable and relevant to the formulation of a recommendation or a decision on the matter being reviewed. No application for review shall be deemed sufficient until all required information is provided.

In formulating a recommendation, all of the applicable factors recited in this Code shall be taken into consideration. At any time during the course of review, the County Administrator or designee may provide an applicant with an opinion as to the likelihood of a recommendation of approval or denial by the staff with regard to an application being reviewed. However, such opinion shall be informal only and shall not be binding upon the PC or the BCC. When a development approval application has been deemed to be sufficient, staff review shall be completed, a final determination made, or where required, the development approval application shall be placed on the next available agenda of the appropriate review body. Table 303-5 outlines the development applications requiring public hearings and the bodies responsible for the conduct of those hearings.

B. **Deficient Application**

If a development approval application is determined to be deficient, the applicant shall be notified in writing with citations to the applicable regulation(s) and a specific request made for additional information that is required to continue or conclude review. The development approval application shall be deemed withdrawn unless the applicant responds, within the allotted timeframe, in one of the following ways:

1. The applicant provides all the information requested.
2. The applicant requests in writing that the application be processed in its present form. In this case, the applicant acknowledges that the application has been determined to be deficient and that the final determination on the application shall be based on the information submitted, and the applicant waives the right to supplement the application with additional information. The application shall then be processed in its present form.
3. The applicant requests, in writing, an extension of time to provide all the requested information. An extension of time may be granted by

the County Administrator or designee. For each application, any and all extensions of time shall not exceed 180 days.

TABLE 303-5

Required Public Hearings for Development Approval Applications

Application	PC	LPA	BCC
Development of Regional Impact (DRI)	X		X
DRI Substantial Amendment (NOPC)	X		X
DRI Non Substantial Amendment (NOPC)			X
DRI Development Order Amendment (no NOPC)			X
DRI Abandonment			X
DRI Recision			X
Zoning Amendment	X		X
MPUD Amendment	X		X
MPUD Substantial Amendment	X		X
Conditional Use	X		X
Special Exception	X		
Conditional Use and Special Exception Revocation			X
Operating Permits (Except Minor Land Excavation)	X		X
Zoning Variance	X		
Alternative Relief	X		
Alternative Standards as Specified in Section 407.5.C and D	X		
Wireless Facilities (Tier III)	X		X
Review of Staff Tier II Wireless Facility Determination			
Appeals of Administrative Determinations	X		
Appeals of Zoning Interpretations			X
Appeals of PC Decisions			X
Development Agreement		X	X

303.8. **Ex-Parte Communications**

The BCC and PC, in considering appeals, rezoning, special exceptions, conditional uses, variances, and any other quasi-judicial matter under applicable law, shall act in a quasi-judicial capacity. Pursuant to Section 286.0115, Florida Statutes, a person is not precluded from communicating directly with a member of the BCC or PC (local public official) by application of ex-parte communication prohibitions. However, each decision-making body may establish rules of procedure regarding ex-parte communication. In addition, subject to the standard of review requirements of this Code, local public officials may discuss with any person, the merits of any quasi-judicial action, may read written communications relating to the quasi-judicial action, may conduct investigations and site visits, and may receive expert opinions relating to the quasi-judicial action. Furthermore, pursuant to Section 286.0115(1), Florida Statutes, adherence to the following procedures shall remove any presumption of prejudice arising from ex-parte communications with the local public officials:

- A. The subject of the ex-parte communication and the identity of the person, group, or entity with which the communication took place is disclosed by the local public official and made a part of the record before final action on the matter.
- B. Written communications with the local public official relating to the quasi-judicial action are made a part of the record before final action on the matter.
- C. The existence of investigations, site visits, and expert opinions by the local public official relating to the quasi-judicial action are made a part of the record before final action on the matter.
- D. Disclosures made pursuant to A, B, and C above must be made before or during the public hearing at which a vote is taken on the quasi-judicial matter so that persons who have opinions contrary to those expressed in the ex-parte communication are given a reasonable opportunity to refute or respond to the communication.
- E. The disclosure requirements set forth in A through D above or a local public official's failure to comply with such requirements shall not:
 1. Be deemed an essential requirement of the law or this Code;
 2. Create any presumption of prejudice or be conclusive evidence of prejudice;
 3. Lessen the burden of proof for a party alleging that an ex-parte communication is prejudicial; or
 4. Affect the validity of the public hearing or quasi-judicial action, unless the nondisclosure and ex-parte communication are found by a court or body of competent jurisdiction to be prejudicial and a denial of due process.

SECTION 304. PUBLIC NOTICE REQUIREMENTS

The intent of public notice requirements is to increase the likelihood that citizens are well informed of development approval applications made and to advise them of the opportunity to speak at the public hearing. The applicant is responsible for complying with these public-notice requirements and the applicable statutory requirements.

304.1. **Types of Public Notice**

Forms of notice required for various public hearings may include a mailed notice, published notice provided via a newspaper of general circulation, and posted notice by signs located on the subject property. Neighborhood meetings and neighborhood notices provide additional notice to the public regarding certain types of development applications pursuant to Sections 305 and 306. The public notice requirements for development approval applications are indicated in Table 304-1.

**TABLE 304-1
Required Public Notice for Development Approval Applications**

Application	Mailed	Published	Posted
Development of Regional Impact (DRI)	X	X	X
DRI Substantial Amendment (NOPC)	X	X	X
DRI Non Substantial Amendment (NOPC)		X	X
DRI Development Order Amendment (no NOPC)		X	
DRI Abandonment	X	X	X
DRI Rescission	X	X	X
Zoning Amendment*	X	X	X
MPUD Substantial Amendment*	X	X	X
MPUD Non-Substantial Amendment**			X
Conditional Use*	X	X	X
Special Exception*	X	X	X
Minor Land Excavation*			
Zoning Variance	X		X
Alternative Relief	X		X
Alternative Standards as Specified in Section 407.5.C and D	X		X
Wireless Facilities (Tier II)	X		
Appeals (see Section 407.1)	X	X	X
Preliminary Site Plan and Substantial Modifications to	X		
Preliminary Development Plan and Substantial Modifications to	X		
Mass Grading and Substantial Modifications to	X		
Vested Rights	X		X

*See Sections 305 and 306 for Neighborhood Meeting and Neighborhood Notice Requirements

**Posted notice to occur within two (2) business days of the final written approval

304.2. **Public Notice**

A. **Timing**

Where Public Notice is required it shall occur at least thirteen (13) days prior to the hearing.

B. **Mailed**

Where a mailed notice is required, notice of the date, time, place, and purpose of the public hearings shall also be mailed to those who own property, including entities such as homeowners' associations, local governments, and the District School Board of Pasco County, within 500 feet of the property lines of the land for which the final determination is sought within the RES-3 (Residential 3 du/ga) and higher Future Land Use Classification and within 1,000 feet of the property lines of the land for which the final determination is sought within the AG (Agricultural), AG/R (Agricultural/Residential) and RES-1 (Residential – 1 du/ga) Future Land Use Classifications. In addition, notice shall also be mailed to neighborhoods organizations registered with the County whose members reside within 1,000 feet of the property lines of the land for which the final determination is sought, regardless of whether such organizations own property within such distance. Names and addresses of property owners shall be deemed those appearing on the latest ad valorem tax rolls of Pasco County and the adjacent County, as applicable. For property that is a part of or adjacent to a condominium or manufactured home community, individual owners shall be noticed if located within 500 feet of the project, and for property that is a common tract, appropriate notice shall only need to be sent to the association. The County Administrator or designee may require additional notice to other property owners and neighborhood organizations based upon project design and potential impacts. Where the proposal is internal to an MPUD, the public notice shall be from the boundary line of the proposed internal change, unless the applicant owns all the property to be noticed, then the public notice shall be sent to all property owners within 500 feet which might include properties internal and external to the MPUD. The County Administrator or designee may require additional notice to other property owners and neighborhood organizations based upon project design and potential impacts.

C. **Published**

In the form required by Sections 125.66 and 163.3184, Florida Statutes, as applicable, notice of the date, time, place, and purpose of the public hearing shall be published in a newspaper of general circulation in the County.

D. **Posted**

Where the matter being heard involves a specific parcel of land, a sign purchased through the County shall be erected on the property, providing notice of the date, time, place, and purpose of the public hearing, in such a

manner as to allow the public to view the same from one (1) or more streets. In the case of landlocked property, the sign shall be erected on the nearest street right-of-way and include notation indicating the general distance and direction to the property for which the approval is sought. In all cases, the number of signs to be used shall be left to the discretion of the County Administrator or designee provided that the numbers shall be reasonably calculated to adequately inform the public of the purpose of the public hearing. The applicant shall ensure that the signs are maintained on the land until completion of the final action on the development approval application. The applicant shall ensure the removal of the sign within ten (10) days after final action on the development approval application.

304.3. **Affidavit of Public Notice**

It is the responsibility of the applicant to file the affidavit attesting to notification and provide the supporting documentation no less than seven (7) days prior to the public hearing in the case of development approval applications to be heard before the BCC or PC.

SECTION 305. NEIGHBORHOOD MEETING

305.1. **Intent and Purpose**

The intent and purpose of a neighborhood meeting is to provide an opportunity for early citizen participation in an informal forum in conjunction with development approval applications, and to provide an applicant the opportunity to understand any impacts the neighborhood may experience. These meetings shall provide citizens and property owners with an opportunity to learn about applications that may affect them and to communicate with the applicant to resolve concerns at an early stage of the process. A neighborhood meeting is not intended to produce a complete consensus on all development approval applications, but to encourage applicants to be good neighbors and to allow for informed decision making. The neighborhood meeting shall be conducted after the application is accepted for review and at least thirty (30) days prior to the first scheduled public hearing.

At least one (1) neighborhood meeting shall be held and additional neighborhood meetings may be held but are not required. If an applicant fails to hold a required neighborhood meeting, the County shall not schedule that development approval application for consideration before the PC, Local Planning Agency (LPA), or the BCC, whichever occurs first. A neighborhood meeting is mandatory for the following development approval applications:

- A. Zoning Amendments within the four rural areas as depicted on Map 2-13 of the Comprehensive Plan, except when the County Administrator or designee determines that a neighborhood meeting is not required due to the nature of the development application or a lack of existing rural neighborhoods as defined in the Comprehensive Plan.
- B. Land Excavation and Minor Land Excavation
- C. Mining

- D. Construction and Demolition Debris Disposal Facilities
- E. Yard Trash Processing Facilities
- F. Sanitary Landfills
- G. Wireless Facilities (Tier 3)
- H. Helipad(s) and/or Airport Landing Facilities

A neighborhood meeting is optional for any development approval application that is not listed above. However, the County Administrator or designee reserves the right to require a neighborhood meeting for any development approval application in contentious matters where opposition is expected due to the nature and or location of the request.

305.2. **Coordination and Notice**

Prior to scheduling the neighborhood meeting, the applicant shall coordinate with the County Administrator or designee.

The notice of the neighborhood meeting shall include the date, time, location, application name and number, and a description and the location of the project and be provided in the following forms:

A. **Mailing**

The applicant shall provide notification by mail according to this Code. The applicant shall mail these notices with proper postage a minimum of thirteen (13) days before the neighborhood meeting. For development applications within the AG (Agricultural), AG/R (Agricultural/Rural) and RES-1 (Residential - 1 du/ga) Future Land Use Classifications, the mailing shall be to all property owners within 1,000 feet of the project boundary. For development applications within the RES-3 (Residential - 3 du/ga) and higher Future Land Use Classifications, the mailing shall be to all property owners within 500 feet of the project boundary. In addition, notice shall also be mailed to neighborhoods organizations registered with the County whose members reside within 1,000 feet of the property lines of the land for which the final determination is sought, regardless of whether such organizations own property within such distance.

B. **Posting**

The applicant shall post a sign that is a minimum size of 24" X 36", a minimum of thirteen (13) days before the neighborhood meeting that meets the requirements of this Code, Section 304.

C. **Rescheduled Meetings**

New public notice consistent with all of the above shall be provided for any rescheduled neighborhood meeting.

305.3. **General Meeting Requirements**

A. **Meeting Time and Location**

The neighborhood meeting shall start between 6:00 p.m. and 7:00 p.m. on a weekday and between 9:00 a.m. and 5:00 p.m. on a weekend, or may be held at a time convenient for residents in the surrounding area. The meeting shall be held within the general area of the subject property.

B. **Meeting Elements**

At the neighborhood meeting, the applicant shall present the following, as applicable:

1. A general concept plan for the entire project. Such plan shall indicate the general location of residential areas, including density and unit types, open space, active or resource-based recreation areas, natural areas (including wetlands, buffers, and flood plains) nonresidential areas (including maximum square footage and maximum height), and proposed nonresidential uses.
2. A plan of vehicular, bicycle, and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, and access points to the external and internal thoroughfare network.
3. Drawings indicating the conceptual architectural theme or appearance and representative building types.

C. **Meeting Summary**

The applicant shall submit to the County, at least twenty-five (25) days prior to the first scheduled public hearing, a summary of the materials presented at the meeting, the issues raised by those in attendance, the suggestions and concerns of those in attendance, a copy of the sign-in sheet, a copy of the neighborhood meeting advertisement, and a copy of the mailed notices sent to property owners, along with the mailing list and proof of mailing.

SECTION 306. NEIGHBORHOOD NOTICE

306.1. **Intent and Purpose**

The intent and purpose of a neighborhood notice is to provide an opportunity for early citizen participation in conjunction with development approval applications. The neighborhood notice shall be provided at least thirty (30) days prior to the issuance of the final determination. Neighborhood notice may be provided prior to application submittal. If an applicant fails to provide the neighborhood notice, the County shall not hold the public hearing or, as applicable, not issue a final determination on the development approval application until the applicant provides the neighborhood notice and thirty (30) days have elapsed. A neighborhood notice is mandatory for the following development applications:

- A. Zoning Amendments outside the four (4) rural areas as depicted on Map 2-13 of the Comprehensive Plan or in circumstances where the County Administrator or designee determined a neighborhood meeting is not required.
- B. Conditional Use applications that do not require a neighborhood meeting.
- C. Special Exception applications that do not require a neighborhood meeting.
- D. Mass Grading
- E. PSPs
- F. PDPs (Residential or Nonresidential)
- G. Alternative Standards (other than those in 407.5.C and 407.5.D).

306.2. **General Requirements**

- A. Unless otherwise indicated in Table 304-1, a neighborhood notice shall be provided by the applicant by mail and posting in accordance with the mailing and posting requirements of Sections 304.2.B and D.

- B. Content of the Neighborhood Notice

The neighborhood notice shall contain the following as applicable:

- 1. A general description of the project, including size and/or number of units.
- 2. Date the application was accepted for review.
- 3. Availability to view the application at the County offices where the application was filed.
- 4. Ability to provide comments directed to the County Administrator or designee.

- C. Proof of the Neighborhood Notice

The applicant shall submit a copy of the mailed neighborhood notices sent to the property owners along with the mailing list and proof of mailing to the County Administrator or designee.

SECTION 307. CONTINUANCE PROCEDURES

Continuances for the consideration of any development approval application may be granted by the PC, LPA, or BCC at their discretion. The number of times an application may be continued is at the discretion of the PC, LPA, or BCC as applicable. Applicant-requested continuances shall be in writing and must be received by the County Administrator or designee no later than five (5) days prior to the scheduled meeting. For applicant-requested continuances, the applicant shall renote pursuant to this Code, including publication, if the matter is rescheduled to be heard sixty (60) days or more from the initial meeting date.

SECTION 308. POSTDECISION PROCEDURES

Final determinations shall be in writing. Approvals shall be rendered within ten (10) business days of the final determination action.

A denial determination shall itemize the specific code, provision, or Comprehensive Plan Goal, Objective, or Policy, and/or applicable law used as the basis for denial and shall be rendered within thirty (30) days of the final determination action.

SECTION 309. CONSTRUCTION AND INSPECTION OF IMPROVEMENTS

309.1. **General**

A Florida State registered professional engineer (Engineer) shall be employed to design, inspect, certify, and complete all required improvements associated with the development project, such as clearing, grubbing, earthwork, storm drainage, water, sewer, reuse facilities, embankment, subgrade, base, curbing, asphalt pavement, sidewalks, multiuse trails, lighting, landscaping, signalization, signing, pavement marking, and all other required improvements.

309.2. **Inspection of Improvements**

Prior to the installation of required improvements, the Engineer shall prepare and/or review all necessary shop drawings, material submittals, means, and methods for the installation of the required improvements. The Engineer shall perform all necessary inspections and reviews as he deems necessary to provide certification of completeness and compliance with the approved plans and specifications. The Engineer shall verify that the required testing per the *Pasco County Engineering Services Department Testing Specifications for Construction of Roads, Storm Drainage, and Utilities* shall be provided. The selected Engineer shall certify that all required tests have been performed and that the results of those tests indicate that the tests meet or exceed minimum standards. All failed tests shall be retested with new results shown, using a numbering system which links the tests to the original test. The Engineer shall provide all signed and sealed test reports, including a location map depicting test number locations on a graphical project layout; i.e., master grading plan.

- A. The Engineer shall notify the Project Management Division of the following key activity startups a minimum of five (5) working days in advance:
1. Clearing, grubbing, and tree protection and National Pollutant Discharge Elimination System requirements.
 2. Subgrade stabilization.
 3. Base placement.
 4. Paving.
 5. Final inspection.
- B. In order for the County to participate in a final inspection, the Engineer shall provide a signed and sealed certification of completion and three (3) signed and sealed sets of record drawings along with one (1) disc containing .pdf and .dwg format files. Record drawings shall be signed and sealed by both the Engineer and surveyor on each page and shall accurately depict all conditions "as built."

The acceptable completion of the project shall be subject to the following:

1. Reinspection and completion of punch list items, if any, and payment of reinspection fee to the County.
2. All test reports, signed and sealed with certification of Engineer described above.
3. Utility acceptance.

SECTION 310. PERFORMANCE SECURITY

310.1. **Generally**

Where the BCC allows the posting of performance security to guarantee the installation of improvements, including public streets, drainage, landscaping, utilities, sidewalks and bikeways or private streets, drainage, and landscaping in lieu of actual installation prior to final plat approval, the developer shall provide with the application for final plat approval evidence of security adequate to assure the installation of all required improvements.

310.2. **Required Improvements Agreement**

In connection with the approval of any final subdivision plat where the developer intends to install the required improvements after such approval, a Required Improvements Agreement, in substantial conformance with the model agreement set forth by the County shall be executed.

All Required Improvements Agreements shall be recorded with the approved final subdivision plat.

310.3. **Type of Performance Security**

The type of Performance Security may take any of the following forms subject to the criteria set out below:

- A. Surety Bond to guarantee performance;
- B. Letter of Credit;
- C. Escrow Agreement;
- D. Cash to be held by the Clerk of the Circuit Court; or
- E. A government entity may submit an agreement for the certification, restriction, and assurance of funds for the project.

310.4. **Conformance**

The Performance Security document shall strictly conform to the corresponding exhibit in the Engineering Services Department, *A Procedural Guide for the Preparation of Assurances of Completion and Maintenance* (as may be subsequently amended). Nothing in this section shall prevent the Performance Security document from containing other terms or provisions, so long as any other terms or provisions do not contradict the terms of the exhibits or the intent of this Code.

310.5. **Letter of Credit**

In the event a Letter of Credit is furnished, the following shall apply:

- A. The institution issuing the guarantee document shall be a bank or savings association, unless otherwise approved by the County Administrator or designee and the County Attorney or designee.
- B. The institution shall be: (1) organized and existing under the laws of the State or (2) organized under the laws of the United States and have a principal place of business in the State and (3) have a branch office which is authorized under the laws of the State or of the United States to receive deposits in the State.
- C. The Letter of Credit must provide for draws to be made on it at an office within 100 miles from the County.
- D. The Letter of Credit must be signed by the President or Vice President of the institution, authorized to execute said instruments.
- E. The institution of the Letter of Credit must have and maintain an average financial condition ranking of thirty-five (35) or more from two (2) nationally

recognized financial rating services, compiled quarterly by the Florida Department of Financial Services, unless otherwise approved by the County Administrator or designee and the County Attorney or designee.

- F. The expiration date of the Letter of Credit shall be automatically extended without amendment for one (1) year from the expiration date, unless otherwise authorized in writing by the County Administrator or designee. If the Letter of Credit is not automatically extended for such additional one (1) year period, at least sixty (60) days prior to the expiration date then in effect, the bank or savings association shall notify the County Administrator or designee by registered or certified U.S. Mail, postage prepaid, return receipt requested. This notification shall be sent to The County Engineer, 8731 Citizens Drive, Suite 320, New Port Richey, Florida 34654, or any other address specified in writing by the County Administrator or designee.
- G. The Letter of Credit shall have a provision which allows the County Administrator or designee to collect the funds upon notice that the Letter of Credit will not be automatically extended if the purpose for which the Letter of Credit was issued still exists, unless a substitute Letter of Credit meeting the requirements of this section is provided.

310.6. **Surety Bond**

In the event a Surety Bond is furnished, the following shall apply:

- A. The surety company shall have a currently valid Certificate of Authority issued by the Florida Department of Financial Services, Division of Insurance Agents, and Agency Services, authorizing it to write Surety Bonds in the State.
- B. The surety company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under the U.S.C. § 9304-9308 of Title 31.
- C. The surety company shall be in full compliance with the provisions of the Florida Insurance Code.
- D. The surety company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the Surety Bond is issued.
- E. If the bond amount exceeds \$5,000.00, the surety company shall also comply with the following provisions:

The surety company shall have at least the following rating in the latest issue of Best's Key Rating Guide:

Bond Amount	Policy Holder's Rating	Required Financial Rating
\$5,000 to \$1,000,000	A	Class IV
\$1,000,000 to \$2,500,000	A	Class V
\$2,500,000 to \$5,000,000	A	Class VI
\$5,000,000 to \$10,000,000	A	Class VII
\$10,000,000 to \$25,000,000	A	Class VIII
\$25,000,000 to \$50,000,000	A	Class IX
\$50,000,000 to \$75,000,000	A	Class X

310.7. **Effective Period**

The Performance Security shall remain in effect until required improvements are accepted or in the case of private improvements, approved by Pasco County. Required improvements secured by a Performance Security shall be completed within one (1) year of the date of recording of the final plat, unless extended by the BCC.

310.8. **Approval**

A Performance Security provided under this section shall be subject to approval by the BCC.

310.9. **Default**

Where an approved Performance Security has been provided and the required improvements have not been installed according to the terms of the Performance Security instrument or the Required Improvements Agreement the County may, upon ten (10) days written notice to the parties to the instrument, declare the Performance Security to be in default and exercise the County's rights thereunder. Upon default, no further County permits or approval shall be granted for the project until adequate progress toward completion of the remaining, required improvements is shown as determined by the BCC. The BCC shall receive payment in full if the improvements are not completed or an extension has not been granted prior to the expiration of the Performance Security.

310.10. **Default in Subdivisions with Private Improvements**

Where an approved Performance Security has been provided and the required improvements have not been installed according to the terms of the Performance Security instrument, the County may, upon ten (10) days written notice to the parties of the instrument, declare the Performance Security to be in default and exercise the County's rights thereunder. Upon default, no further County permits or approval shall be granted for the project until adequate progress toward completion of the remaining required improvements is shown as determined by the BCC. The County shall have the right, based upon easements granted with the approval, to enter private property to complete the work to the standards approved on the construction

drawings and receive payment in full for the work completed. The County may establish a municipal service benefit unit or special assessment program to complete the required improvements should any short fall be projected to occur.

310.11. **Form, Amount**

Such Performance Security shall comply with all statutory requirements and shall be satisfactory to the County as to form and manner of execution. The amount of such security shall be based upon an estimate by the engineer and surveyor of record, and be subject to the approval of the County Administrator or designee.

The Performance Security shall be equal to the maximum cost, adjusted for inflation during the maximum effective period of the security for the uncompleted portion of the required improvements; provided, however, such amount shall be 125 percent of the current construction costs of such improvements for subdivisions with public improvements and/or 3 private improvements.

310.12. **Partial Release of Security**

A developer, at his option, may apply for a partial release of a portion of the monetary amount provided for in such a document upon a demonstration that a corresponding, specifically-described portion, or phase of approved improvements has been totally completed in the manner specified in this Code. The BCC, at its discretion, may elect to release the portion requested upon the issuance of a Certificate of Completion as to the completed portion or phase provided; however, that it shall be the policy of the BCC not to accept a request for release of a Performance Security for a unit or phase which is not complete, including drainage facilities.

310.13. **Time Limit on the Document**

A. Unless otherwise approved by the PC or BCC, the applicant agrees to complete construction of all improvements required as a condition of platting within one (1) year from the date that the plat is approved by the BCC. If the applicant fails to complete construction of the improvements within such time period, the County may exercise any of the following nonexclusive remedies:

1. Call the Performance Security;
2. Revoke the final Certificate of Capacity or concurrency exemption issued for the platted entitlements;
3. Vacate the plat if no lots have been transferred to Bona Fide Purchasers; or
4. Immediately cease the issuance of Building Permits and/or Certificates of Occupancy within the plat.

The applicant's signature of the acknowledgement form shall be considered an application for, and consent to, County vacation of the plat pursuant to Section 177.101, Florida Statutes, in the event of a default pursuant to this section. Until such time that construction of such improvements is complete, the applicant agrees to include the following disclosure in all sales literature and sales documents for lots within the plat.

- B. For the purposes of this condition, the term "complete" shall mean that:
 - 1. The improvements have been completed in accordance with the standards set forth in this Code and in accordance with approved plans and specifications;
 - 2. A Certificate of Completion has been issued by the County Administrator or designee and other appropriate departments of the County; and
 - 3. The Performance Guarantee has been released by the BCC.

- C. The developer shall provide a Performance Security in accordance with this Code, which shall be valid and in effect until:
 - 1. The improvements have been completed in accordance with standards set forth in this Code and with approved plans and specifications;
 - 2. A Certificate of Completion has been issued by the County Administrator or designee and other appropriate departments of the County; and
 - 3. The guarantee has been released by the BCC.
 - 4. The Performance Security tendered to the BCC shall be valid for a minimum of eighteen (18) months, but may be longer. In the event the improvements are not completed within one (1) year of the effective date of the Performance Security, the developer shall be in default.

The BCC may extend the period for installation at their discretion for good cause.

310.14. **Completion of Improvements**

Upon completion of the approved improvements, the developer shall:

- A. Provide to the County Administrator or designee a certification from an engineer duly registered in the State, that the improvements have been constructed and completed in conformity to the approved plans and specifications;

- B. Provide to the County Administrator or his designee all certified signed and sealed test reports per the most current *"Pasco County Engineering Services Department Testing Specifications for Construction of Roads, Storm Drainage and Utilities"*;
- C. Provide to the County Administrator or designee County-acceptable record drawings; and
- D. Apply for, in writing, along with the certification, the release of the Performance Security to the County Administrator or designee.

310.15. **Release of the Performance Security**

Upon receipt of a Certification of Completion and Application for Release, the County Administrator or designee shall provide a recommendation to the BCC within sixty (60) days as to whether a release should be given, and if the County Administrator or designee is satisfied that everything has been completed in conformance with this Code. The BCC may then release the Performance Security, with or without conditions based upon the circumstances.

310.16. **Tests Required**

In all cases involving Performance Security governed by this section, laboratory test reports shall be submitted to the County Administrator or designee as he deems necessary, to verify completion or construction of improvements in accordance with the requirements or standards. Such tests shall be made by an approved testing laboratory and certified by a Florida registered engineer at the expense of the developer verifying testing completion and that testing of the construction of improvements are in accordance with the requirements and standards of Pasco County.

SECTION 311. DEFECT SECURITY

- 311.1. Prior to the issuance of a Certificate of Completion, the developer shall post security, in an amount equal to fifteen (15) percent of the actual costs of all required improvements, for the purpose of correcting any construction, design or material defects, or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such security shall be subject to the approval of the County Attorney. The effective period for such security shall be thirty-six (36) months following the issuance of a Certificate of Completion. Substitution of principal, sureties, or other parties shall be subject to the approval of the BCC upon recommendation of the County Attorney. Upon default, the BCC may exercise its rights under the Defect Security Instrument and Defect Security Agreement upon ten (10) days written notice to the parties of the instrument.

311.2. Streets; roads; or any other improvements dedicated to the public, as indicated on a plat approved by the County as appropriate under this Code; and intended for County maintenance, shall require completion of a defect security period warranting the improvements to be free from defects and an initial defect security document valid for the entire initial warranty period plus six (6) months; streets, roads, or any other improvements shall not be accepted by the BCC for County maintenance until completion of the warranty period and all other requirements of this section.

311.3. **Defect Security Agreement**

In connection with the approval of any final subdivision plat where the developer intends that the required improvements are to be accepted by the County, a Defect Security Agreement, covering the warranty period of the improvements, in substantial conformance with the model agreement set forth by the County shall be executed.

All Defect Security Agreements shall be recorded with the approved final subdivision plat.

311.4. For streets, roads, and any other improvements dedicated to or approved by the County as appropriate under this Code and intended for County maintenance, the developer shall, upon application for release of the required Performance Security Guaranteeing of a Completion of Improvements document as required in this Code, Section 310, if applicable, provide one (1) of the following documents for the purpose of guaranteeing the workmanship, materials, and maintenance of improvements during any warranty period (defect security document):

- A. A Surety Bond guaranteeing freedom for defects;
- B. Letter of Credit;
- C. Escrow Agreement;
- D. Cash to be held by the Clerk of the Circuit Court; or
- E. A government entity may submit an agreement for the certification, restriction, and assurance of funds for the project.

Any Defect Security document shall be subject to the fee schedule in the Engineering Services Department, *A Procedural Guide for the Preparation of Assurances of Completion and Maintenance* (as may be subsequently amended).

The scope of the area contemplated in the Defect Security document, and subsequently accepted and maintained by the County, shall be indicated as dedicated areas on a County approved plat, or if a plat is not applicable, some other document acceptable to the County Attorney.

In no case shall a Defect Security document be accepted before the commencement of the maintenance period as provided in this section.

311.5. **Defect Security**

The Defect Security document shall strictly conform to the corresponding exhibit in the Engineering Services Department, *A Procedural Guide for the Preparation of Assurances of Completion and Maintenance* (as may be subsequently amended).

In the event of a Letter of Credit is furnished, the following shall apply:

- A. The institution issuing the guarantee document shall be a bank or savings association, unless otherwise approved by the County Administrator or designee and the County Attorney or designee.
- B. The institution shall be:
 - 1. Organized and existing under the Laws of the State; or
 - 2. Organized under the Laws of the United States and have its principal place of business in the State, and
 - 3. Have a branch office which is authorized under the Laws of the State or of the United States to receive deposits in the State.
- C. The Letter of Credit must provide for draws to be made on it at an office within 100 miles from the County.
- D. The Letter of Credit must be signed by the President or Vice President of the institution authorized to execute said instruments.
- E. The institution of the Letter of Credit must have and maintain an average financial condition ranking of thirty-five (35) or more from two (2) nationally recognized financial rating services, compiled quarterly by the Florida Department of Financial Services, unless otherwise approved by the County Administrator or designee and the County Attorney's Office.

311.6. In the event a Surety Bond is furnished, the following shall apply:

- A. The surety company shall have a currently valid Certificate of Authority issued by the Florida Department of Financial Services, Division of Insurance Agents, and Agency Services, authorizing it to write Surety Bonds in the State.
- B. The surety company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under 31 U.S.C. § 9304-9308.
- C. The surety company shall be in full compliance with the provisions of the Florida Insurance Code.

- D. The surety company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the Surety Bond is issued.
- E. If the bond amount exceeds \$5,000.00, the surety company shall also comply with the following provisions:

The surety company shall have at least the following rating in the latest issue of Best's Key Rating Guide:

Bond Amount	Policy Holder's Rating	Required Financial Rating
\$5,000 to \$1,000,000	A	Class IV
\$1,000,000 to \$2,500,000	A	Class V
\$2,500,000 to \$5,000,000	A	Class VI
\$5,000,000 to \$10,000,000	A	Class VII
\$10,000,000 to \$25,000,000	A	Class VIII
\$25,000,000 to \$50,000,000	A	Class IX
\$50,000,000 to \$75,000,000	A	Class X

- 311.7. The monetary amount of the Defect Security shall be based on the cost estimate of an engineer duly registered in the State, which has been submitted to and accepted by the County Engineering Services Department using the engineer's own estimate amounts or an estimate established by multiplying the actual unit quantity by the unit costs contained in the Engineering Services Department, *A Procedural Guide for the Preparation of Assurances of Completion and Maintenance* (as subsequently amended), whichever is greater. However, if a developer has a history of having had claims made against posted Performance or Defect guarantees, or a history of noncompliance with the design standards set forth in this Code, the BCC may require an additional ten (10) percent to the amount required in this section.
- 311.8. The developer shall be responsible for maintaining the dedicated improvements during the warranty period. In the event the developer does not maintain the dedicated improvements during the warranty period, the County Administrator or designee shall notify the developer in writing of the areas that require maintenance. The developer shall have sixty (60) days from receipt of the notice to perform the required repairs to the satisfaction of the County Administrator or designee, or be in default of the Defect Security document, unless a longer time is agreed upon between the developer and the County Administrator or designee. The developer shall also be responsible for requesting, in writing, a final inspection from the Project Management Division not before ninety (90) days prior to the termination of the initial Defect Security period. Upon receipt of the request for final inspection, the Project Management Division shall notify the developer in writing providing a list of deficiencies of items to be remedied by the developer before the expiration of the Defect Security period. In the event the developer does not remedy the deficiencies before the expiration of the maintenance period, the developer shall be in default of the Defect Security document.

- 311.9. The BCC may grant an extension of the initial Defect Security period, for a one (1) year term per each extension, provided a Defect Security document is provided by the developer and valid for the entirety plus six (6) months of that extension period. Any extension period Defect Security document shall be subject to the fee schedule in the Engineering Services Department, *A Procedural Guide for the Preparation of Assurances of Completion and Maintenance* (as subsequently amended). In granting an extension, the BCC may consider, but is not limited to, a lesser term, availability of materials, labor, and timeliness of compliance by the County with this section.
- 311.10. Upon remedy to the satisfaction of the County Administrator or designee of all deficiencies listed pursuant to this section, or if no items, but in any case no sooner than the completion of the initial Defect Security period, the County Administrator or designee shall, within sixty (60) days, recommend to the BCC the release of the Defect Security document and acceptance of the indicated streets, roads, and other improvements, if any, by the BCC for County maintenance.
- 311.11. Nothing in this Code shall prevent the BCC from being able to, on its own initiative, release the Defect Security document and accept the streets, roads, or any other improvements for maintenance at any time.

SECTION 312. ACCEPTANCE OF IMPROVEMENTS

- 312.1. Any street, road, or other improvement intended for dedication to the public must be indicated with specificity acceptable to the BCC and formally accepted by the BCC through a plat or other acceptable means. Streets, roads, or other improvements, which are not built to County specifications, private roads; streets; or other improvements; and roads, streets, or other improvements for which an offer of dedication has been made, but where the offer has not been officially accepted by the BCC; shall not be deemed part of the County road system; shall not be the responsibility of the BCC; and shall not be maintained by the County, unless such maintenance is voluntarily assumed by the County pursuant to this Code. The duty and responsibility to maintain such streets and roads or any other improvements shall be that of the developer, his successors in interest, or any entity established to ensure maintenance and the said entity must be acceptable to the County. This section shall not conflict or prevent any road from becoming a County right-of-way pursuant to Section 95.361, Florida Statutes. Emergency repairs by the County on any street, road, or other improvements shall not be deemed a voluntary assumption by the County pursuant to Section 177.081, Florida Statutes, or be deemed to create an obligation upon the County to perform any act of construction or maintenance within such dedicated areas.
- 312.2. Approval of a plat or construction plan by the County as appropriate under this Code shall not be deemed to constitute acceptance for maintenance of streets, roads, and any other areas or improvements shown on the plat, unless such maintenance is voluntarily, specifically, and officially assumed by the BCC. Streets, roads, and any other areas or improvements shall become County maintained only upon an official, voluntary, affirmative act by the BCC specifically assuming maintenance of such improvements pursuant to this Code.

- 312.3. Streets, roads, and any other areas or improvements shall become County maintained only upon an official, voluntary, affirmative act by the BCC specifically assuming maintenance of such improvements. This section shall not conflict or prevent any road from becoming a County right-of-way pursuant to Section 95.361, Florida Statutes. Nothing in this Code shall be construed as creating an obligation of the County for maintenance of any sidewalks, regardless of dedication to the public or voluntary acceptance of maintenance of the rights-of-way that any sidewalk may be within.
- 312.4. Approval of any plat, as appropriate under this Code, shall not be deemed to constitute acceptance of streets, roads, or any other improvements or areas indicated in such plat for County maintenance. Streets, roads, or any other improvements or areas dedicated to the County through a plat or any other means shall not be County maintained, unless accepted in accordance with this section.
- 312.5. Until the acceptance of improvements for County maintenance in accordance with this section, the developer, or his successors in interest, shall have the duty and responsibility for any and all routine and periodic maintenance of any and all streets, roads, or any other improvements made by the developer, dedicated and/or approved or otherwise, including permanent-reference monuments and permanent-control points as required by Chapter 177, Florida Statutes.
- 312.6. Streets, roads, or any other improvements shall be eligible for acceptance by the BCC for County maintenance only if such improvements are built to County specifications. Improvements which are not constructed to County specifications must be built to County specifications prior to becoming eligible for acceptance by the County for County maintenance.