

## CHAPTER E MONITORING OF DEVELOPMENT ORDERS (DOs) AND CONDITIONS OF APPROVAL

### Section 1 General

#### A. Purpose and Intent

The purpose of this Chapter is to establish procedures to ensure compliance with Development Orders (DOs) and Conditions of Approval in a timely manner, through a mandatory review process. The procedures create a system that ensures compliance with Conditions of Approval, timely commencement and completion of development, and revocation or modification of development approvals. The intent of monitoring DOs and Conditions of Approval (including buildout) is to preserve the availability of public facilities and services for proposed future development, require compliance with improved performance and site design standards, and ensure that DOs are implemented in a timely manner. The intent of monitoring Community Development District (CDD) and FLUA Ordinance conditions is to ensure that conditions imposed by the BCC are met in a timely manner and to provide a mechanism to address the violation **[Ord. 2020-001]**

#### B. Applicability

1. This Chapter shall apply to: **[Ord. 2020-001]**
  - a. All DOs with a time limitation for Conditions of Approval, or as a part of the development process as required by specific Articles of this Code; **[Ord. 2020-001]**
  - b. All DOs as required by the ULDC; **[Ord. 2020-001]**
  - c. All CDD Ordinances with Conditions of Approval; and, **[Ord. 2020-001]**
  - d. All FLUA Ordinances with Conditions of Approval. **[Ord. 2020-001]**
2. **Responsibilities**
  - a. The Applicant or owner shall communicate with the responsible Agency, and demonstrate completion of the applicable Conditions of Approval. **[Ord. 2020-001]**
  - b. Upon completion of the Conditions of Approval, PZB will allow issuance of the Building Permit or relevant event to occur. **[Ord. 2020-001]**
  - c. Projects not meeting the Conditions of Approval due dates or event action shall be subject to the provisions set forth in [Art. 2.E.3, Procedures for Compliance](#). **[Ord. 2020-001]**

#### C. Exemptions

1. Any DOs in whole or in part, that apply to lands that are owned by a unit of Local, State, and/or Federal Government, provided the DO is utilized for buildings or facilities that are owned by a government entity and support customary government operations and/or delivery of public services; **[Ord. 2020-001]**
2. Any DOs for a rezoning of a single lot to a residential zoning district for a Single Family residential use; and, **[Ord. 2020-001]**
3. A Rezoning to a Standard Zoning District, unless it has a COZ. **[Ord. 2020-001]**

### Section 2 Monitoring Elements

#### A. Commencement of Development

Approved DOs shall be monitored for commencement of development. Commencement of development shall consist of the following requirements: **[Ord. 2020-001]**

1. For development with a single building, the first inspection approval for the foundation of the structure; **[Ord. 2020-001]**
2. For development with multiple buildings, the first inspection approval for the first component of the primary structure; **[Ord. 2020-001]**
3. For residential development, the subdivision of land into parcels through the recordation of a plat; or, **[Ord. 2020-001]**
4. For Type 3 Excavation sites, extraction of minerals for commercial purposes. **[Ord. 2020-001]**

#### B. Commencement of Development is Not

1. Demolition of a structure; **[Ord. 2020-001]**
2. Deposit of refuse, solid, or liquid waste; or fill on the parcel, unless the DO is exclusively and specifically for such a use; or, **[Ord. 2020-001]**
3. Clearing of land. **[Ord. 2020-001]**

#### C. Time Limitations for Commencement

1. All DOs shall comply with a time limitation requirement for commencement as follows: **[Ord. 2020-001]**
  - a. The first phase of a DO shall commence within four years of the adoption date. Each subsequent phase shall commence within four years of commencement of the preceding phase. **[Ord. 2020-001]** **[Ord. 2021-006]**

- b. Standalone Variances shall be utilized within one year, unless stated otherwise by the Resolution or Result Letter. **[Ord. 2020-001] [Ord. 2021-006]**
2. Projects not meeting the time limitations for commencement shall be subject to the provisions set forth in [Art. 2.E.3, Procedures for Compliance](#). **[Ord. 2020-001]**

**D. Phasing Limitations**

1. The maximum number of development phases is four unless otherwise indicated below: **[Ord. 2021-006]**
  - a. PUDs, TNDs, PIPDs in the GAO, residential uses in other PDDs, or other Standard Zoning Districts have no maximum number of phases. **[Ord. 2021-006]**
  - b. TMDs in the AGR, Exurban, and Rural Tiers shall have a maximum of two phases. **[Ord. 2021-006]**
  - c. The maximum number of phases and duration of each phase for a Type 3 Excavation shall be established by a Condition of Approval. **[Ord. 2021-006]**

**E. Time Limitations for Buildout**

The Buildout Period shall be determined by [Art. 12.C.1.B.3, Projected Buildout Period](#), and monitored for compliance. However, Conditions of Approval with a time-certain Project Buildout date may be provided an additional 90 days if a complete Building Permit application has been submitted to the Building Division prior to this deadline. **[Ord. 2020-001]**

**F. DOs with Conditions of Approval**

1. All DOs with Conditions of Approval that must be completed prior to a date, event, or action shall be monitored for compliance. **[Ord. 2020-001]**
2. All monitoring DOs shall comply with the provisions of [Art. 2.E.3, Procedures for Compliance](#). **[Ord. 2020-001]**

**G. Community Development District Ordinances with Conditions of Approval**

1. All Community Development District (CDD) Ordinances with Conditions of Approval that must be satisfied prior to a date or action shall be monitored for compliance. **[Ord. 2020-001]**
2. No Administrative Time Extensions may be applied to CDD Ordinances. **[Ord. 2020-001]**
3. In the event of a failure to comply with a CDD Ordinance Condition of Approval, the Planning Director, or designee, shall: **[Ord. 2020-001]**
  - a) Notify Applicant of potential violation and enforcement procedures as established in [Art. 10, Enforcement](#); or **[Ord. 2020-001]**
  - b) Prepare a Status Report per [Art. 2.E.3.C, Status Reports](#). **[Ord. 2020-001]**

**H. FLUA Ordinances with Conditions of Approval**

1. All FLUA Ordinances with Conditions of Approval that must be satisfied prior to a date or action shall be monitored for compliance. **[Ord. 2020-001]**
2. No Administrative Time Extensions may be applied to FLUA Ordinances. **[Ord. 2020-001]**
3. Failure to comply with a FLUA Ordinance Condition of Approval shall require the Planning Director, or designee, to bring the item before the BCC at the next regularly scheduled Planning or Zoning Public Hearing for consideration of non-compliance. **[Ord. 2020-001]**

**I. Notification Prior to a Due Date**

No later than 30 days prior to a due date for any of the above items, a letter shall be issued to the address of the owner of record as it appears in the official records of the PBC Property Appraiser's Office. **[Ord. 2020-001]**

### Section 3      Procedures for Compliance

#### A. General

An Applicant, not in compliance with this Chapter, may utilize and exhaust all procedures established in this Chapter in order to comply with the Conditions of Approval and commencement of development that must be satisfied prior to a date or action. [Ord. 2020-001]

#### B. Administrative Extension of Time

1. The Applicant may file for an Administrative Time Extension to the Executive Director, or designee. The Executive Director, or designee, may grant an extension of time to comply with a requirement and shall consider changed circumstances or mitigating factors that prevent compliance. [Ord. 2020-001]
2. An Administrative Time Extension may be applied to an expiring buildout condition due date. The application must be accompanied by a traffic study. [Ord. 2020-001]
4. The maximum duration of an Administrative Time Extension is as follows: [Ord. 2020-001]
  - a. **Commencement of Development Public Hearing DO**  
24 months, unless stated otherwise. [Ord. 2020-001]
  - b. **Commencement of Development Administrative DO**  
Each separate Administrative Time Extension shall not exceed 12 months. [Ord. 2020-001]
  - c. **Buildout Conditions**  
Extension will reflect the results of the traffic review. [Ord. 2020-001]
  - d. **Conditions of Approval Not Requiring the Posting of Performance Security**
    - 1) 12 months, unless stated otherwise in the Condition of Approval. [Ord. 2020-001]
    - 2) Subsequent applications may be filed; however, the total administrative extensions approved shall not exceed 24 months for the current DO. [Ord. 2020-001]
  - e. **Conditions of Approval Requiring the Posting of Performance Security**  
A one-time Administrative Time extension not to exceed six months shall be the maximum. [Ord. 2020-001]
5. When the Executive Director of PZB, or designee, approves an extension of time for completion of a time-certain requirement, the Property Owner may be required to guarantee the completion by furnishing a cash deposit, letter of credit, or surety bond. [Ord. 2020-001]
6. A time extension for a government-caused delay shall not exceed 24 months. [Ord. 2020-001]
  - a. It is the responsibility of the Property Owner to notify Staff in writing of the reason and cause of the delay. [Ord. 2020-001]
  - b. No application or fee will be required. [Ord. 2020-001]
  - c. If the delay prevents compliance with this Chapter, an additional extension may be granted. [Ord. 2020-001]

#### C. Status Reports

##### 1. General

An application for a Status Report may be requested by the Property Owner, or initiated by the Executive Director of PZB, or designee, if one of the following occurs: [Ord. 2020-001]

- a. A Property Owner fails to comply with a time limitation and has not requested a time extension. [Ord. 2020-001]
- b. The project received a Public Hearing approval and has exhausted all available administrative extensions. [Ord. 2020-001]

##### 2. Scheduling

- a. PZB shall advertise a Status Report public hearing for the Decision Making Bodies that approved the DO. [Ord. 2020-001]
- b. A Status Report may be requested by a Property Owner, but a request for a time extension may not be made prior to six months before commencement due date. [Ord. 2020-001]

##### 3. Staff Report and Recommendation

The PZB Director, or designee, shall prepare a Status Report for each application. The report shall incorporate the analysis and Conditions of Approval in question and a recommendation of approval, approval with conditions, or denial based on the applicable standards for the BCC to consider. [Ord. 2020-001]

#### 4. Status Report Submittal and Review Criteria

- a. The Property Owner/Applicant shall submit to the Monitoring Section the following:
  - 1) summary of the background and current status of the development including any documentation provided to Staff of efforts to comply with the requirement, or circumstances beyond the control and cause of the Property Owner, other than economic conditions, which have prevented compliance; **[Ord. 2020-001]**
  - 2) a description of any Code violations; **[Ord. 2020-001]**
  - 3) a description of any uncompleted condition or time-certain requirements. **[Ord. 2020-001]**
- b. Summary of items to be reviewed by Staff: **[Ord. 2020-001]**
  - 1) a review of previous extensions of time (for a Status Report prepared for non-compliance with a time-certain requirement); **[Ord. 2020-001]**
  - 2) evaluate and consider any changed circumstances and mitigating factors; and, **[Ord. 2020-001]**
  - 3) a determination of whether the Development Order is consistent with the Plan and is consistent with the Code. **[Ord. 2020-001]**

#### 5. Procedures

Consideration of all actions permitted by [Art. 2.E.3.B, Administrative Extension of Time](#), except a rezoning, shall occur in the following manner: **[Ord. 2020-001]**

##### a. Public Hearing

- 1) At least one public hearing shall be held by the ZC or by the BCC, as applicable. **[Ord. 2020-001]**
- 2) If the project involves a rezoning for ten acres or more, two public hearings shall be held by the BCC. **[Ord. 2020-001]**

##### b. Mail Notice

The owner of record shall be notified in writing of the Status Report and recommendation to the BCC or ZC. Written notice shall consist of a letter sent at least 14-calendar days prior to the hearing by certified mail; 30-calendar days for a rezoning, return receipt requested, to the last known address of the owner of record as it appears in the records of the PBC Property Appraiser's Office. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication in accordance with [F.S. § 125.66\(2\)\(a\)](#) shall be deemed sufficient notice, published at least ten days prior to the hearing. **[Ord. 2020-001]**

#### 6. Decision of the BCC or ZC

The BCC or ZC shall consider the factors enumerated in [Art. 2.E.3.C.4, Status Report Submittal and Review Criteria](#) above and the recommendation of Staff. After deliberation, the BCC or ZC shall take one or more of the following actions: **[Ord. 2020-001]**

##### a. Grant a Time Extension

- 1) To commence development, utilize a Conditional Use, or record a plat for a period not to exceed 36 months from the date of BCC or ZC approval. **[Ord. 2020-001]**
  - 2) To comply with a Condition of Approval for a period not to exceed 24 months from the date of the BCC or ZC approval with the exception of time-certain Project Buildout date condition(s) as mandated by the Traffic Performance Standards. A Project Buildout date condition may receive approval of a time extension up to the Buildout Period assumed in the traffic study. **[Ord. 2020-001]**
- b. Adopt a Resolution which will rezone the property to an appropriate zoning district; **[Ord. 2020-001]**
  - c. Adopt a Resolution which will revoke or amend the approval for all or a portion of the Conditional Use, Special Exception, or Development Order Amendment; **[Ord. 2020-001]**
  - d. Adopt a Resolution which will impose additional or modified conditions, voluntary commitments, or permit the Property Owner to initiate an application to add or modify conditions or voluntary commitments, as directed by the BCC or ZC. New or modified conditions or voluntary commitments shall include bringing the development into conformity with current codes and regulations; **[Ord. 2020-001]**
  - e. Direct Staff to cite the Property Owner for violating the provisions of this Code; **[Ord. 2020-001]**
  - f. Adopt a Resolution to amend or revoke the Development Order or Map Amendment for the undeveloped or unplatted portion of the project; **[Ord. 2020-001]**

- g. Exempt from further review of any DO which rezoned property to a district which does not exceed the density or intensity permitted by the future land use designation, provided there is no Concurrency Reservation or exemption for the property. This exemption may be applied to any advertised Status Report after adoption of this amendment; and/or, **[Ord. 2020-001]**
- h. Deny or revoke a Building Permit; issue a stop work order; deny or revoke a Certificate of Occupancy (CO) on any building or structure; revoke any concurrency; deny or revoke any permit, license, or approval for any developer, owner, lessee, or user of the subject property. **[Ord. 2020-001]**

**D. Decision of the DRO**

A Property Owner may submit an application for a time extension to the DRO for any Condition of Approval imposed by the DRO. The DRO must receive the application prior to the compliance deadline stated in the Condition of Approval. **[Ord. 2020-001]**

- 1. The DRO shall consider changed circumstances or mitigating factors. **[Ord. 2020-001]**
- 2. The DRO may take the following action: **[Ord. 2020-001]**
  - a. Grant a time extension not to exceed 12 months; **[Ord. 2020-001]**
  - b. Revoke the approval of DO; **[Ord. 2020-001]**
  - c. Amend or delete the Condition of Approval; or, **[Ord. 2020-001]**
  - d. Direct Code Enforcement Staff to seek enforcement procedures. **[Ord. 2020-001]**

**E. Failure to Use Variance**

If a Property Owner fails to utilize a Variance within the timeframes as provided, the Variance shall become invalid. **[Ord. 2020-001]**

**Section 4 Non-Compliance**

**A. General**

If the procedures for compliance are exhausted and a Property Owner continues to violate a Condition of Approval, suspension of all development activity authorized by a DO shall occur. Once the matter is compliant, development activity may resume. **[Ord. 2020-001]**

**B. Suspension of Development Orders**

Suspension of DOs may occur upon failure to comply with one or more time limitations or failure to comply with a Condition of Approval. **[Ord. 2020-001]**

**1. Expiration of Time Periods**

Upon expiration of any time period established by this Chapter or failure to comply with, or continued violation of a Condition of Approval, no new DOs affecting the property shall be issued by PBC, and no action to vest the DO shall be permitted, until a final determination is made by the Executive Director, or BCC or ZB pursuant to [Art. 2.E.3, Procedures for Compliance](#). This suspension of development rights shall not preclude the Property Owner from filing a new application for the subject property to amend or supersede an existing Development Order, or the BCC or ZC from approving this application. **[Ord. 2020-001]**

**2. Effect of Suspension**

The suspension of development rights shall have the following effect on new applications and Code Enforcement actions: **[Ord. 2020-001]**

- a. If a Property Owner files a new application, no new DOs shall be issued until the completion of the Zoning process to resolve the non-compliance, except the DO which approves the application. **[Ord. 2020-001]**
- b. If the Property Owner is referred to Code Enforcement for violating the provisions of the DO, no new DOs shall be issued until the alleged violation has been ruled upon by the Code Enforcement Special Master, and any enforcement action is completed, or penalty is satisfied. This shall not, however, preclude compliance with the specific condition cited in the Status Report after the BCC or ZC has directed the Code Enforcement Division to cite the Property Owner for non-compliance with that condition. **[Ord. 2020-001]**