

**PASCO COUNTY, FLORIDA  
DEMOLITION APPEAL HEARING PROCEDURES**

**1. Authority to Appoint Hearing Officers and Conduct Appeal Hearings**

Chapter 18, Section 18-174 of the Pasco County Code provides that appeals from demolition orders shall be conducted by a Hearing Officer. The Hearing Officer shall be a member in good standing of the Florida Bar and appointed by the Board of County Commissioners to hear and decide appeals from Orders of Demolition.

**2. Filing A Demolition Appeal**

Appeals of an order to demolish a structure may be filed by any owner or interested party (as defined in Chapter 18). A written request for an Appeal Hearing must be timely submitted, along with required information described on the appeal form, accompanied by payment of the required appeal fee of \$400, by the date specified on the Order to Demolish. The required Appeal Hearing Request form may be obtained by emailing [Democontact@pascocountyfl.net](mailto:Democontact@pascocountyfl.net).

**3. Notification to Petitioner of Date/Time/Location of Appeal Hearing**

At least twenty (20) days prior to the scheduled Appeal Hearing date, notice of the date/time/location of the hearing will be mailed via certified and regular mail to the Petitioner at the address indicated on the Appeal Hearing Request form. Notice of all appeal hearings will be provided to Pasco County for inclusion on the County's published schedule of public meetings and events. The Hearing Officer has the discretion to delay or continue any hearing for good cause. A written request for continuance must be delivered to the county Attorney's office, 8731 Citizens Drive, Suite 340, New Port Richey, FL 34654. Provide request to the county at least 24 hours prior to the start of the scheduled hearing and it must state the specific reasons for the request, unless the reason for the continuance arises during the course of the hearing.

**4. Demolition Appeal Hearing Guidelines**

**Generally:** The purpose for establishing these guidelines is to provide fundamental fairness to the parties at the hearing, including notice and an opportunity to be heard. Failure to adhere to these procedures *will not* invalidate any action of the Hearing Officer if given the totality of the circumstances fundamental fairness was observed.

**Administrative Support for Hearings:** The county shall provide a staff member to serve as recording secretary for appeals, and the recording secretary shall create and maintain a case file for each appeal and send all required notice(s). The case file shall contain all documents submitted related to the filing of the demolition appeal, an audio recording of the hearing, all documents and evidence submitted by any party to the Hearing Officer during hearings, and a copy of the Hearing Officer's order.

**Orders:** The Hearing Officer will generally render decisions by the close of each hearing. If written orders are not made at the Appeal Hearing, the Hearing Officer will enter written orders with the recording secretary within ten (10) business days of the hearing. Copies of written orders will be made available as soon as possible within normal county business hours, and copies of written orders will also be sent by the recording secretary to the Petitioner at the name and mailing address indicated on the original Appeal Hearing Written Request within three (3) business days of receipt of the orders by the county.

**Recording:** Audio recordings and limited written minutes will be recorded by a recording secretary provided by the county. Should any interested party or the county seek to appeal any decision made by the Hearing Officer, the interested party is responsible to make a recording of the proceedings. It is the county's intention to make all of its Appeal Hearing records, including the audio recording, available for public inspection, and to make copies of such records for any person for a fee. However, the county's recording may be inaudible, incomplete, or lost due to recording or storage failures and **therefore, persons wishing to further appeal the Hearing Officer's decision shall ensure that a verbatim record of the hearing proceedings is made which includes the testimony and evidence upon which any further appeal might be based (e.g., hire a court reporter). See Fla. R. App. P. 9.200 (requiring appellant to provide transcript by approved court reporter, civil court reporter, or approved transcriptionist, of proceedings for inclusion in record on appeal).**

**Oath Taken:** Witnesses called by either party or by the Hearing Officer who intend to testify at the hearing must declare that they will testify truthfully by taking an oath or affirmation in the following form: "Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?" The oath or affirmation will be administered prior to the presentation of testimony and will be administered en masse to those who wish to testify. Persons who have not been previously sworn during the proceeding must be sworn prior to testifying.

**Questioning By Hearing Officer and Ex Parte Communications with Hearing Officer:** At any time during the proceeding, the Hearing Officer may ask questions of the Petitioner, witnesses, and the county's witnesses. The time consumed by Hearing Officer's questions and answers to such questions shall not count against the time frames allowed herein (time allowed described below). The Hearing is open to the public and the general public may attend; however, the general public may not speak unless called as a witness. No person shall engage in ex parte communications with the Hearing Officer concerning any appeal that is pending or likely to come before the Hearing Officer. All communications with the Hearing Officer, except for communications concerning purely procedural matters by the recording secretary and/or county staff, shall be conducted when both parties to a matter are present or have been noticed to be present.

**Order of Presentation and Time Limits:** During hearings all parties will have an opportunity to present evidence and argument, to conduct cross-examination, and submit rebuttal evidence, subject to the following time limitations. Should the Hearing Officer decide to grant additional time or other consideration to one party, the other party should also be provided the same consideration or time.

- County representative presents county's case first.
- Petitioner and their authorized representatives present their case.
- Cross examination is allowed, first by one representative of Pasco County, and then by one representative of the Petitioner. Any appropriate witness may respond to cross-examination.
- Rebuttal is allowed, first by the County and then by the Petitioner.

**Record and Evidence:** Any records submitted as evidence to the Hearing Officer by any party during the course of the Hearing will become part of the evidence file, marked with appropriate exhibit numbers and entered into the case file by the recording secretary. All evidence and

records of the proceedings are considered Public Record under Florida Statutes and will be opened and available for inspection and copying upon request by the public. The Petitioner may bring any record evidence and/or witnesses deemed relevant, such as a contractor, engineer, or legal advisor, to help present their case. The county may also be represented by legal counsel, and will also submit evidence during the presentation of its case.

The Hearing Officer may exclude irrelevant, immaterial or unduly repetitious evidence, but all other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs will be admissible, whether or not the evidence would be admissible in civil court. The Hearing Officer may ask questions and elicit testimony from witnesses. The Hearing Officer may conduct a site visit, and may consider his/her own observations as evidence. Site visits by the Hearing Officer shall be conducted in the presence of both parties, or at a time when both parties have been given notice of the time and location of the site visit. Any part of the evidence may be received in written form, and may be provided to the Hearing Officer in advance of the hearing as long as the opposing party is also provided a copy. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but will not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties will be given an opportunity to compare the copy with the original.

The evidence may include, but will not be limited to the following:

- Written explanations from staff
- Written chronology of events prepared by staff
- Affidavits from technical experts and staff
- Building Official's Demolition Determination and supporting documents
- Fire Department Inspection comments or opinions
- Historic Potential Review comments or opinions
- Consulting Engineer's Report and Statement of Credentials
- Building Official's Review and opinion regarding proposed plans to repair/reconstruct/rehab the property
- Notice of Demolition/Order To Demolish
- Appeal Hearing Request form and supporting documentation submitted with form
- Property Appraiser's Records, Tax Collector's Records, Sheriff's Office Records
- Property Information Report
- Official Records Recording of Notice of Intent to Demolish
- Information concerning floodplain management regulations pertaining to property
- Photographs, slides, transparencies, video tapes, plats
- Hearing Officer's own observations during site visit
- Testimony from witnesses

## **5. Hearing Schedules**

Hearings will be scheduled and conducted as needed, but generally will occur monthly. Petitioners shall appear at the scheduled date, time, and location, ready to present their cases. Cases in which the county and Petitioner have reached a stipulated agreement prior to the hearing will be taken up first by the Hearing Officer, and contested hearings will be heard thereafter in the order in which the Hearing Officer prefers to hear them.

If more appeals are filed than can reasonably be conducted on one hearing date, a second hearing date may be set in the same month based on the availability of the Hearing Officer.

Hearings will be conducted at the place and time set forth in the Notice of Appeal Hearing. **If the Petitioner fails to appear or to appear on time for a scheduled Appeal Hearing, the Hearing Officer may still proceed with the case, hear testimony and admit evidence, and render a decision and final order regarding the appeal at that time.**

#### **6. Minimum Requirements To Enter Into A Stipulated Agreement**

Should a Petitioner wish to repair a property that has been Ordered to Demolish, the appeal process allows for negotiation of a stipulated agreement between the property owner and the county to repair the property. Stipulated agreements must be negotiated prior to the Appeal Hearing. A stipulated agreement becomes the basis for a conditional approval of the appeal and conditional stay of the demolition if approved by the Hearing Officer at an Appeal Hearing. Stipulated agreements must outline specific time frames to obtain permits, conduct work and successfully pass required final inspections. Failure to complete requirements by deadlines outlined in the agreement will result in automatic termination of the agreement, revocation of the stay and demolition of the structure(s) without further notice or hearing to Petitioner. Although agreements will govern conditions and requirements that apply specifically to a unique property, all property owners preparing to negotiate a stipulated agreement with the Building Official should have, at a minimum: (1) provided at the time of appeal the documents required by section 18-174(a)(3) of the Pasco County Code; (2) contacted the Building Official to determine the Building Official needs additional information or additional access to the structure in order to make a determination concerning a stipulated agreement for repair; and (3) provided the additional information and/or access requested at least 10 business days prior to the scheduled hearing.