



1           **WHEREAS**, SB 1752 further provides that the local government may continue to  
2 require the owner/holder to maintain and secure the property in a safe and sanitary  
3 condition in compliance with applicable laws and ordinances; and

4           **WHEREAS**, SB 1752 states that the extension provided by SB 1752 is in  
5 addition to the 2-year permit extension provided under section 14 of Chapter 2009-96,  
6 Laws of Florida, (last years Senate Bill 360);

7           **WHEREAS**, due to the broad and imprecise language in SB 1752, there is a need  
8 to provide clarity and effectuate the intent of SB 1752 within the City of Gainesville, by  
9 establishing administrative procedures and fees to properly administer and document the  
10 requests for the extensions granted under SB 1752; and

11           **WHEREAS**, in order to carry out the administrative procedures and process the  
12 requests made in accordance with this ordinance under SB 1752, it is necessary to  
13 authorize the Director of Planning and Development Services Department, or his  
14 designee, to draft and execute the appropriate documents to implement SB 1752 and grant  
15 the extensions identified herein; and

16           **WHEREAS**, at least 10 days notice has been given once by publication in a  
17 newspaper of general circulation notifying the public of this proposed ordinance and of a  
18 public hearing to be held in the City Commission Auditorium, City Hall, City of  
19 Gainesville; and

20           **WHEREAS**, the Public Hearings were held pursuant to the published notice  
21 described at which hearings the parties in interest and all others had an opportunity to be  
22 and were, in fact, heard.

1                   **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION**  
2                   **OF THE CITY OF GAINESVILLE, FLORIDA:**

3                   **Section 1. Purpose.** The purpose of this Ordinance is to enable the City of  
4                   Gainesville to timely and efficiently process and properly document extensions granted  
5                   pursuant to SB 1752. The City will not take any action on any application, will not  
6                   recognize any request for or issue any extension of a development order or permit  
7                   pursuant to SB 1752, except as provided in this Ordinance.

8                   **Section 2. Definitions.** For purposes of this ordinance, the following terms shall have  
9                   the meanings indicated below. If a specific type of development order or permit is not  
10                  expressly included in the definitions herein, it is excluded from and not eligible for a SB  
11                  1752 extension by the City.

12               (a)        “*Building Permit*” means any permit issued by the building official, as provided  
13               for in the current edition of the Florida Building Code as adopted by Florida Law,  
14               authorizing performance of construction or alteration of a building or structure; together  
15               with its associated site construction, electrical, gas, mechanical and plumbing permits  
16               issued for the same building or structure. The term Building Permit does not include site  
17               construction, electrical, gas, mechanical or plumbing permits issued for projects that do  
18               not have a current valid building permit for the same building or structure.

19               (b)        “*Development Order*” means any order granting or granting with conditions an  
20               application for a Development Permit.

21               (c)        “*Development Permit*” includes final plat, Planned Development (PD) zoning  
22               ordinance (and, to the extent necessary to effectuate the extension of the PD zoning  
23               ordinance, its companion Planned Use Development land use ordinance), special

1 exception, variance, special use permit, final development plan, tree removal permits,  
2 driveway permits, and certificates of appropriateness.

3 (d) “*Holder*” means the natural person or legal entity in whose name the  
4 Development Order or Building Permit was issued, or his/her/its legally documented  
5 heirs, transferees, successors or assigns, including but not limited to successors by virtue  
6 of foreclosure or bankruptcy.

7 **Section 3. Authorizations.** The Planning and Development Services Department  
8 Director, or designee, is authorized to:

9 (a) promulgate form(s) for requests for Building Permit extensions and Development  
10 Order extensions under this ordinance pursuant to SB 1752;

11 (b) accept and process requests for extensions properly made in accordance with this  
12 ordinance pursuant to SB 1752;

13 (c) execute the appropriate documents to implement the extension upon written  
14 request made in accordance with this ordinance pursuant to SB 1752; and

15 (d) impose the following administrative processing fee for each extension requested,  
16 plus recording costs, if any, in order to process the request:

17 (1) For Development Orders: \$48.75 per development project (regardless of  
18 the number of Development Orders associated with the project). For projects  
19 within the Enterprise Zone, the fee shall be \$24.38.

20 (2) For Building Permits: \$48.75 per development project (regardless of the  
21 number of associated site construction, mechanical, gas, electrical, or plumbing  
22 permits).

1           **Section 4. Procedures to request extension.**

2           (a)     Any Holder of a Building Permit or Development Order with an expiration date of  
3           September 1, 2008 through January 1, 2012, may apply for a SB 1752 extension on the  
4           application form(s) provided by the Planning and Development Services Department. In  
5           order to be processed, a completed application with payment of fee, must be received by  
6           the Planning and Development Services Department on or before 8 a.m. on January 3,  
7           2011.

8           (b)     Upon submission of a completed application and payment of the administrative  
9           fee, the Planning and Development Services Department Director, or designee, shall  
10          process the application and send a written acknowledgement to the Holder. In the event  
11          the Holder is not the same person/entity as shown on the face of the Development Order  
12          or Building Permit, the Holder shall provide all legal documentation necessary for the  
13          Planning and Development Services Department Director, or designee, to verify that the  
14          Holder is eligible to apply for the extension.

15          (c)     The written acknowledgement shall state whether the application is approved or  
16          denied and, if denied, shall state the grounds for denial. Grounds for denial shall include,  
17          but not be limited to:

- 18                 (1)     Submittal of incomplete application or failure to pay the prescribed  
19                 administrative fee;
- 20                 (2)     Failure to adhere to the requirements of this ordinance or SB 1752;
- 21                 (3)     The Building Permit or Development Order is determined to be in  
22                 significant noncompliance with the conditions of the Building Permit or  
23                 Development Order, as established through the issuance of a warning letter or

1 notice of violation, the initiation of formal enforcement, or other equivalent action  
2 by the authorizing body, prior to the date of the application for extension.

3 (4) If granting an extension to the Building Permit or Development Order  
4 would delay or prevent compliance with a court order.

5 **Section 5. Requirements and limitations on extension.**

6 (a) A Building Permit or Development Order extended under this ordinance shall  
7 continue to be governed by the laws in effect at the time the Building Permit or  
8 Development Order was issued, except when it can be demonstrated that the laws in  
9 effect at the time the Building Permit or Development Order was issued would create an  
10 immediate threat to the public safety or health. This provision applies to any  
11 modification of the plans, terms, and conditions of the permit which lessens the  
12 environmental impact, except that any such modification does not extend the time limit  
13 beyond 2 additional years.

14 (b) The Holder of an extended Building Permit or Development Order shall  
15 throughout the term of the extension maintain and secure the property in a safe and  
16 sanitary condition in compliance with all applicable laws and ordinances.

17 (c) The Holder of an extended Building Permit or Development Order shall,  
18 throughout the term of the extension, have a continuing obligation to notify the Planning  
19 and Development Services Department of any change in status of Holder as it relates to  
20 the extension such as, but not limited to, change of entity name, transfer of property,  
21 death or foreclosure.

22 (d) Except as provided in (e) below, if Holder is eligible for an extension of a  
23 Building Permit or Development Order under this ordinance pursuant to SB 1752, the SB

1 1752 extension shall be the exclusive extension available to the Holder and shall operate  
2 in lieu of, and not in addition to, any other extension that may be available under the  
3 terms and conditions of the Development Order, Building Permit or City Code of  
4 Ordinances. By way of example, if a Holder of a PD development order that expired on  
5 September 2, 2009 and which order provides that it may be extended for one year upon  
6 request of owner/developer, the Holder is eligible for and receives a SB 1752 extension  
7 under this ordinance, the PD development order will expire on September 1, 2011. The  
8 Holder cannot request the one-year extension as provided in the PD Development Order.  
9 This Ordinance shall supersede and control over any ordinance or City Code of Ordinance  
10 provision that permits or allows an extension of time for a Development Order or  
11 Building Permit.

12 (e) Notwithstanding (d) above, as stated in SB 1752, an SB 1752 extension is in  
13 addition to the extension provided by the 2009 Senate Bill 360 (Section 14 of Chapter  
14 2009-96, Laws of Florida). By way of example, a Holder of a PD development order that  
15 expired on September 2, 2009, who received a Senate Bill 360 extension and now has an  
16 expiration date of September 1, 2011, the Holder is eligible to receive a SB 1752  
17 extension and extend the expiration date to August 31, 2013. Alternatively, using the  
18 same example, if the Holder of the PD development order that expired on September 2,  
19 2009, who did not apply for and receive a SB 360 extension, that Holder could now apply  
20 for an SB 1752 extension to extend the expiration date to September 1, 2011.

#### 21 **Section 6. Effect of invalidation of SB 360.**

22 (a) In recognition of the on-going litigation over SB 360, this section addresses the  
23 effect of subsequent invalidation of SB 360 on those Development Orders and Building

1 Permits that receive both an SB 360 extension under Ordinance No. 090228 and an SB  
2 1752 extension under this ordinance.

3 (b) For Development Orders or Building Permits that receive both SB 360 and SB  
4 1752 extensions, in the event of the invalidation of the SB 360 extension and absent the  
5 granting of extraordinary hardship exception as provided in Ordinance No. 090228, any  
6 Senate Bill 1752 extension granted pursuant to this ordinance shall “fall back” and take  
7 the place of the invalidated SB 360 extension.

8 **Section 7. Effect of invalidation of SB 1752.**

9 (a) In the event all of SB 1752 or the provisions thereof relating to extensions of  
10 building permits or development orders are invalidated by a court of law or by future act  
11 of the legislature, any extensions granted under this ordinance shall likewise be deemed  
12 to be invalid and of no further force or effect as of the date of the court order or  
13 legislative action, unless an exception based on extraordinary hardship is granted  
14 pursuant to (b) below. A timely appeal of such court order shall stay the invalidation of  
15 any extension filed until final decision by the appellate court.

16 (b) Pursuant to the procedures in (c) through (e) below, the City Commission may  
17 authorize exceptions to the invalidation of the extension imposed by (a) above when the  
18 Commission finds, based upon substantial competent evidence presented to the  
19 Commission that invalidation of the extension would impose an extraordinary hardship  
20 on the Holder. Extraordinary hardship may be demonstrated by, but is not limited to:

- 21 (1) The extent to which the Holder has, prior to the date of invalidation, made  
22 a substantial expenditure of money or resources in reliance upon the extension  
23 directly associated with the construction, operation or erection of the



1 development, such as commencing construction, installing utility infrastructure or  
2 any other significant improvements.

3 (2) Whether the Holder, prior to the date of invalidation, has made contractual  
4 commitments to third parties in reliance upon the extension to construct, operate  
5 or erect development.

6 (3) Whether the Holder, prior to the date of invalidation, has in reliance upon  
7 the extensions incurred financial obligations to a lending institution which, despite  
8 a thorough review of alternative solutions, the Holder cannot meet unless the  
9 extension remains in full force and effect.

10 (4) Whether the invalidation of the extension will expose the Holder to  
11 substantial monetary liability to third persons; or would leave the Holder  
12 completely unable, after a thorough review of alternative solutions, to earn a  
13 reasonable investment backed expectation on the real property that is affected by  
14 invalidation of the extension.

15 (c) A request for an exception to invalidation of an extension based upon  
16 extraordinary hardship shall be filed by the Holder with the City Manager, or designee,  
17 including a fee of \$350.00, to cover processing and advertising costs, and shall include a  
18 recitation of the specific facts that are alleged to support the request, and shall contain  
19 such other information as the City Commission shall prescribe as necessary to be fully  
20 informed with respect to the request.

21 (d) A public hearing on the request shall be held by the City Commission after receipt  
22 of a properly filed request.

1 (e) At the conclusion of the public hearing and after reviewing the evidence and  
2 testimony placed on the record, the City Commission shall act upon the request and either  
3 to approve or deny the request made by the Holder.

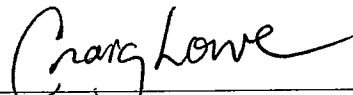
4 **Section 8.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
5 or the application hereof to any person or circumstance is held invalid or unconstitutional,  
6 such finding shall not affect the other provisions or applications of the ordinance which  
7 can be given effect without the valid or unconstitutional provisions or application, and to  
8 this end the provisions of this ordinance are declared severable.

9 **Section 9.** This ordinance shall become effective immediately upon final adoption.


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11 **PASSED AND ADOPTED** this 16th day of September, 2010.

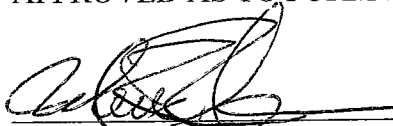
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By:   
CRAIG LOWE  
MAYOR

19 ATTEST:

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23 Kurt Lannon, Clerk of the Commission

APPROVED AS TO FORM AND LEGALITY

  
24  
25  
26 Marion J. Radson, City Attorney

SEP 16 2010

26 This ordinance passed on first reading this 2nd day of September, 2010.

27  
28 This ordinance passed on second reading this 16<sup>th</sup> day of September, 2010.