



Legislation Details (With Text)

File #: 090228. **Version:** 1 **Name:** DEVELOPMENT ORDER AND BUILDING PERMIT EXTENSIONS (B)
Type: Ordinance **Status:** Adopted
File created: 9/17/2009 **In control:** City Attorney
On agenda: **Final action:** 9/17/2009
Title: SB 360 DEVELOPMENT ORDER AND BUILDING PERMIT EXTENSIONS (B)

Ordinance No. 0-09-54
 An Ordinance of the City of Gainesville, Florida, establishing administrative procedures, fees, requirements and limitations to carry out the development order and building permit extensions authorized by Senate Bill 360, now known as Chapter Law No. 2009-96; providing a severability clause; and providing an immediate effective date.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 090228_SB360 Ordinance_20090903.pdf, 2. 090228_ordinance_20090917.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|-----------------|--------------------------------------|--------|
| 9/17/2009 | 1 | City Commission | Adopted on Final Reading (Ordinance) | Pass |
| 9/3/2009 | 0 | City Commission | Adopted on First Reading (Ordinance) | Pass |
| 7/28/2009 | 0 | City Commission | Approved as Amended | Pass |

SB 360 DEVELOPMENT ORDER AND BUILDING PERMIT EXTENSIONS (B)

Ordinance No. 0-09-54

An Ordinance of the City of Gainesville, Florida, establishing administrative procedures, fees, requirements and limitations to carry out the development order and building permit extensions authorized by Senate Bill 360, now known as Chapter Law No. 2009-96; providing a severability clause; and providing an immediate effective date.

The City Commission adopt the proposed ordinance.

On June 1, 2009, the Governor signed Senate Bill 360 entitled the "Community Renewal Act" ("SB360") into law. Among other things, SB360 provides for a two-year extension of City issued development orders and building permits that have an expiration date of September 1, 2008 through January 1, 2012, if the holder requests the extension on or before December 31, 2009.

Due to the broad and imprecise language of SB360, there is much debate throughout the state regarding the interpretation of many provisions within SB360, including the permit extension language. In addition, a lawsuit has been filed in Leon County, Florida, by a coalition of local governments challenging the constitutionality of SB360.

Given the differences of opinion and uncertain outcome of the litigation, City staff presented draft procedures and fees for the administration of the extensions at a Special Meeting City Commission Meeting held on July 28, 2009, and recommended that the City Commission adopt same by ordinance. The City Commission approved the recommendation authorizing the City Attorney to draft and the Clerk of the Commission to advertise an ordinance.

Since that meeting, City staff has received and considered comments from the public on the draft procedures and fees. In addition, on August 12, 2009, City staff met with a representative of the building and business community and the mutually agreeable revisions were incorporated into this ordinance. A request was made to include GRU Utility Construction Permits, Preliminary Development Plans and Design Plats in the list of Development Orders that are eligible for extension. However, City staff does not support including those in the Ordinance for the following reasons. First, GRU Utility Construction Permits are issued by the City under the authority of FDEP pursuant to Chapter 403, Florida Statutes. As such, they are not contemplated within the language of SB360 (e.g., FDEP or WMD permits issued under Chapter 373, and local building permits and development orders).

In addition, City staff has now received the DEP staff interpretation of SB360. DEP staff has opined that SB360 "applies exclusively to certain permits issued under Part IV of Chapter 373, F.S." and "does not apply to any other part of Chapter 373 or any other law governing DEP or WMD programs."

Second, with respect to design plats and preliminary development plan approval, these are preliminary approvals and as such, they are subject to further review before receiving final approval. Staff is concerned that if extended for two years, the data and analysis supporting the preliminary approval may become stale and certainly not within the recent memory or recollection of the citizens, staff, Board and/or Commission charged with final review. Staff believes that SB360 was intended to provide relief to projects that had secured final approvals and were ready to proceed to construction, but for the lagging economy, real estate market or lack of financing available for construction.

This ordinance authorizes the Planning and Development Services Department to administer the extensions, defines development order and building permit for purpose of the extensions, establishes fees, sets forth the procedures and requirements for obtaining an extension, the limitations on approved extensions and addresses the effect of subsequent invalidation of SB360.