



Application for a Time Extension for an Approved Project or Development

This form is created subject to Senate Bill 360, and per Hernando County Resolution No. 2009-164

Deadline to file this application is prior to the current expiration date of approval or by December 31, 2009, 5:00 pm whichever date occurs first. Identify below by placing a checkmark in the specific box as to which this application for a time extension is being requested and provide the issued permit number or file number originally associated with the approval.

For boxes 1-4 below, please submit this Application for Time Extension to the Development Department. For boxes 5-10, please submit this Application for Time Extension to the Planning Department.

The project name is:

- 1 Building Permit, Permit #:
- 2 Zoning Permit, Zoning Permit #:
- 3 Variance Authorization, Variance Permit #:
- 4 Site Plan Approval (if no subdivision approval is required).
- 5 Class B or C Subdivision, File #:
- 6 Conditional Plat for a Class A Subdivision, File #:
- 7 Construction Plans for a Class A Subdivision File #:
- 8 Special Exception Use Permit, Permit #:
- 9 Master Plan Approval
- 10 Development of Regional Impact Development Order

- 11 Date the permit/application/agreement was approved.
- 12 Date the valid permit/application/agreement is set to expire (must be in the term September 1, 2008 and not later than January 1, 2012).
- 13 Requested new expiration date for the permit/approval/agreement. Maximum time extension is 2 years from the date the permit would have expired.

Please identify below the entity processing the original permit/application/agreement:

- 15 Hernando County Planning Department
- 16 Hernando County Development Department

Disclaimer/Hold Harmless:

This extension would be granted pursuant to Chapter 2009-96, Laws of Florida ("SB360"), and the Hernando County Board of County Commissioners' good faith interpretation of Senate Bill 360. By accepting the approved extension, the applicant (property owner/permit holder) acknowledges that there are portions of Senate Bill 360 that are ambiguous, and that there are contrary interpretations of Senate Bill 360. The applicant also acknowledges that the constitutionality of Senate Bill 360 has been challenged. Accordingly, by accepting this extension, the applicant agrees to hold Hernando County harmless in the event a court of competent jurisdiction determines that the extension granted by Hernando County were not legally granted, or in the event that the extension is subsequently revoked based upon the constitutional challenge to Senate Bill 360.

Acknowledgement:

I understand that any Development Order, permit or authorization determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action shall not be eligible for an extension. Any Development Order, permit or authorization that would delay or prevent compliance with a court order shall not be eligible for an extension.

I hereby certify that the subject permit/agreement is valid, current, and unexpired. I have attached a copy of the current permit.

- I am the owner.
- I am the legal representative of the owner and have provided a notarized Owner/Agent affidavit which is attached hereto.

Signature _____

Date _____

Printed Name: _____

Address: _____

City, State, Zip: _____

Daytime Phone: _____

Email: _____

Official Use Only	
<input type="checkbox"/> Time Extension Approved	_____ New Expiration Date
<input type="checkbox"/> Time Extension Denied	_____
_____ Official's Signature	
_____ Printed Name	
Date: _____	

Sworn and subscribed before me this _____ day of _____, 2009.

Notary: _____
Notary Public Signature

Applicant is personally known or provided the following identification:

(SEAL)

RESOLUTION NO. 2009- 164

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, IMPLEMENTING SECTION 14 OF SENATE BILL 360, AS ADOPTED BY THE 2009 FLORIDA LEGISLATURE AND SIGNED INTO LAW, PERTAINING TO EXTENDING CERTAIN “DEVELOPMENT ORDERS” WHICH ARE PRESENTLY VALID, CURRENT AND UNEXPIRED FOR A ONE TIME TWO-YEAR PERIOD; PROVIDING DEFINITIONS; PROVIDING FOR PROCESSES AND PROCEDURES; AUTHORIZING THE BOARD CHAIRMAN TO EXECUTE; AUTHORIZING STAFF TO IMPLEMENT; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUNSET ON DECEMBER 31, 2009.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA, AS FOLLOWS:

WHEREAS, the 2009 Florida Legislature adopted Senate Bill 360 and which Bill was signed into Law by Governor Charlie Crist, 2009-96 Laws of Florida (“Senate Bill 360”); and,

WHEREAS, Section 14 of Senate Bill 360 contained a provision which applies to certain “development orders” issued by local government; and,

WHEREAS, the Hernando County Board of County Commissioners (“BOCC”) desires to establish appropriate definitions, processes and procedures relating to implementing Section 14 of Senate Bill 360.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

Section 1. The BOCC hereby makes the following Findings and Conclusions:

A. Definitions. For purposes of this Resolution, the BOCC defines the following terms:

i. ***Development Order***. The term “Development Order” shall include the following, exclusively:

a. Development orders described in Section 23-260 of the Hernando County Code of Ordinances issued prior to the effective date of Senate Bill 360, and which are presently valid, current and unexpired:

- (1) Approval for any Class B or Class C subdivision;
- (2) Conditional plat approval for any Class A subdivision;

- (3) Construction plans for any Class A subdivision;
 - (4) Site plan approval (if no subdivision approval is required);
 - (5) Development orders for developments of regional impact (DRIs);
- b. Building permits (pursuant to Chapter 8 of the Hernando County Code of Ordinances) which have been issued by County prior to the effective date of Senate Bill 360, and which are presently valid, current and unexpired;
 - c. Variances and zoning permits (pursuant to Appendix A, Article V, § 2 & 3 of the Hernando County Code of Ordinances) which have been approved/issued prior to the effective date of Senate Bill 360, and which are presently valid, current and unexpired;
 - d. Special exception use permits (pursuant to Appendix A, Article V, § 8 of the Hernando County Code of Ordinances) which have been approved/issued prior to the effective date of Senate Bill 360, and which are presently valid, current and unexpired; and,
 - e. Master plans (pursuant to Appendix A, Article VIII of the Hernando County Code of Ordinances) which have been approved by the BOCC prior to the effective date of Senate Bill 360, and which master plan approvals are presently valid, current and unexpired; however, excluding those master plans which have an expiration or termination date fixed under a corresponding ‘development agreement’;

Any permit or development related authorization not specifically listed above is excluded from the definition of “Development Order” for purposes of this Resolution.

- ii. ***Conditional use permit.*** The BOCC incorporates by reference the definition for “conditional use permit” that is used in the County’s Zoning Code, Appendix A, Article 1, Section 3, ¶ 33, to wit:

“Conditional Use: A conditional use is intended to be utilized as a special permit which temporarily allows uses not otherwise permitted by this ordinance. A conditional use is not a matter of right. It is a discretionary approval by the Commission.” (emphasis added)

Accordingly, by its temporary and conditional nature – and the fact that this term it is not expressly mentioned in Fla. Stat. § 380.031(4) – the BOCC finds and determines that “conditional use permits” (issued pursuant to Appendix A, Article V, § 4 of the Hernando County Code of Ordinances) are not deemed a ‘Development Order’ for purposes herein.

iii. ***Development agreement.*** The BOCC further defines the term “development agreement” [*which is not defined in the Hernando County Code of Ordinances*] to refer to any bilateral agreement, duly executed by the County and the property owner/property developer and voluntarily entered into, which sets forth the conditions upon which property may be developed and which assigns or modifies the rights and obligations of the parties, and which may or may not provide for time lines. Development agreements are not deemed a ‘Development Order’ for purposes of this Resolution.

B. **Duration.** Extensions of time granted pursuant to Section 14 of Senate Bill 360 and implemented through this Resolution shall be for one two (2) year period, running from the date the subject Development Order “would have” expired, regardless of the current expiration date if different, and regardless of when the extension was requested or approved.

C. **Development Orders/Permits in Noncompliance; Court Orders.** Any Development Order, permit or authorization determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action shall not be eligible for an extension. Any Development Order, permit or authorization that would delay or prevent compliance with a court order shall not be eligible for an extension.

D. **Prerequisites.** At the time of filing any application for an extension of time under this Resolution, the subject Development Order shall be valid, current and unexpired. Further, the subject Development Order shall have a present expiration date (prior to granting of any extension) no earlier than September 1, 2008 and no later than January 1, 2012. The property owner/permit holder must meet both conditions as a pre-requisite for consideration of any application for an extension of time hereunder.

E. **Application.** As a prerequisite for any extension hereunder, the property owner must complete an application – on such form(s) furnished by the County – and submit the completed and signed application to the Hernando County Development Department for site plans, building permits, variances, and zoning permits, and to the Hernando County Planning Department for DRIs, subdivisions, special exception uses, and master plans.

F. **Time to File Application.** The time for filing an Application for an extension of time hereunder shall be *prior to*: the present expiration date of the eligible Development Order (provided otherwise valid and current in all aspects), or December 31, 2009, 5 P.M., whichever date occurs first.

G. **Review by County Staff.** Upon receipt of a completed and signed Application, county staff shall promptly review said application and notify the property owner within ten (10) working days of whether the Application for an extension of time has been approved, approved with conditions, or denied.

H. Appeal of Staff's Determination. A property owner/permit holder whose application was conditioned or denied by county staff, may appeal such decision to the BOCC by filing a written request for appeal with the County Department that the Application was filed with, within thirty (30) days of the date of staff's written decision. Requests for appeals received after 30 days shall not be considered and such right of appeal shall be deemed to have been waived and/or forfeited by the affected property owner/permit holder. No other person (besides the property owner/permit holder) shall have any right of appeal under this provision.

I. Remainder of Development to Remain in Full Force; Continuation of Bond/Security Interest/Surety. In connection with any extension approved pursuant to this Resolution, the property owner/permit holder **shall comply with all other conditions** of the Development Order being extended (which are not time related) and if any bond, security interest or surety has been posted or provided to the County, then such bond, security interest or surety shall continue in full force and effect, without interruption, for the duration of the extension period.

J. Governing Rules. A Development Order extended under this Resolution that specifically authorizes construction to commence (*i.e.* a building permit or site construction) shall continue to be governed by the rules in effect at the time the Development Order was issued. All other Development Orders shall be governed by the rules in effect at the time the subsequent permit or authorization is applied for unless a different provision is provided elsewhere within the County's land development regulations or code of ordinances.

K. Interpretation; Severability. This Resolution is based on the BOCC's interpretation of Section 14, Senate Bill 360, as adopted by the 2009 Florida Legislature. It is declared to be the intent of the BOCC that if any section, subsection, clause, sentence, phrase, or provision of this Resolution is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this Resolution.

L. Disclaimer; Hold Harmless. At the time of adoption of the Resolution, several local governments have filed a joint lawsuit challenging the constitutionality of Senate Bill 360 and which action seeks to have this law overturned. All persons seeking an extension of their Development Order pursuant to the Senate Bill 360 and this Resolution shall be required to sign and return a disclaimer containing, essentially, the following language:

“This extension is granted pursuant to Chapter 2009-96, Laws of Florida ("SB 360"), and the Hernando County Board of County Commissioners' good faith interpretation of Senate Bill 360. By accepting this extension, the applicant (property owner/permit holder) acknowledges that there are portions of Senate Bill 360 that are ambiguous, and that there are contrary interpretations of Senate Bill 360. The applicant also acknowledges that the constitutionality of Senate Bill 360 has been challenged. Accordingly, by accepting this extension, the applicant agrees to hold the Hernando County Board of County Commissioners harmless in the event a court of competent jurisdiction determines that the extension(s) granted by Hernando County were not legally granted, or in the event that the extension(s) are subsequently revoked based on the constitutional challenge to SB 360.”

- Section 2.** The BOCC hereby adopts this Resolution and authorizes its Chairman to execute same.
- Section 3.** Staff is authorized to implement this Resolution in accordance with the foregoing.
- Section 4.** This Resolution shall take effect immediately upon its adoption.
- Section 5.** **This Resolution shall sunset on December 31, 2009, at 5:00 p.m.** Any application for an extension of time not made as of this date and time shall not be considered by the County and the authority for granting any relief hereunder shall be considered null and void.

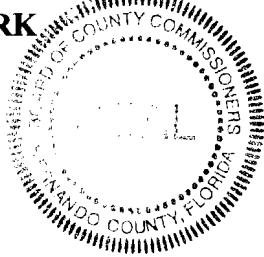
ADOPTED IN REGULAR SESSION THIS 28th DAY OF JULY, 2009.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: *Jenine E. Nimer, Deputy Clerk*
**KAREN NICOLAI
CLERK**

By: *David D. Russell, Jr.*
**DAVID D. RUSSELL, JR.
CHAIRMAN**

(SEAL)



Approved for Form and
Legal Sufficiency

By: *Geoffrey T. Kirk* 7/16/09
**Geoffrey T. Kirk
Assistant County Attorney**