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# FURTHER TOLLING OF DEVELOPMENT ORDERS AND PERMITS AS A RESULT OF EXTENSION OF STATE OF EMERGENCY

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Florida Governor Ron DeSantis issued Executive Order No. 21-45 on February 26, 2021, further extending the state of emergency originally declared by Executive Order No. 20-52 for another sixty (60) days until April 27, 2021. A copy of Executive Order No. 21-45 can be reviewed here.

Section 252.363 of the Florida Statutes provides that the declaration of a state of emergency by the Governor for a "natural emergency" tolls the period remaining to exercise rights under permits and other authorizations for the duration of the declaration of a state of emergency and for an additional six (6) months after the expiration of the state of emergency. The tolling and extension provisions apply to the expiration of:

1. development orders issued by a local government;
2. building permits;
3. Florida Department of Environmental Protection or water management district permits; and
4. build-out dates for developments of regional impact (DRI), including any extension of a build-out date that was previously granted pursuant to Section 380.06(19)(c), Florida Statutes.

Initially there was a question as to whether the declaration of a state of emergency as a result of the pandemic qualified as a "natural emergency" which is defined by Section 252.34, Florida Statutes, as "an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake." The Florida Department of Professional Regulation clarified that the pandemic qualifies as a "natural emergency," and the Florida Supreme Court ruled on June 25, 2020 that the pandemic is a "natural emergency" within the meaning of Section 252.34, Florida Statutes.

As a result of the interpretation of the pandemic as a "natural emergency", the time period to exercise rights under permits and other authorizations described above is tolled for the duration of the emergency declaration and for an additional six (6) months. The holder of the permit or other authorization must notify the issuing authority of their intent to exercise the tolling and extension granted by the Section 252.363, Florida Statutes. The notice must be in writing, must identify the specific permit or other authorization qualifying for extension, and must be submitted within ninety (90) days after the end of the emergency declaration.

The original state of emergency was initially declared by the Governor on March 9, 2020, and now runs through April 27, 2021, a total of 414 days. As a result, the holders of permits or authorizations may seek an extension of 414 days plus six (6) months, which time period may be extended if the state of emergency is further extended. Because the declaration of the state of emergency is scheduled to expire on April 27, 2021, permit holders must notify the issuing authority of their intent to toll and extend their permits or other authorizations between April 27 and July 26, 2021. These dates, however, are subject to change if the Governor further extends the declaration of a state of emergency. Unless the state of emergency is further extended, permits holders have the potential to extend the permits for over 19 months (the length of the state of emergency plus six months).

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