

Section 173 of Chapter 240 of the Acts of 2010

Permit Extension Act

Permit Extension Act

- (b) “Notwithstanding any general or special law to the contrary, an approval in effect or in existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the permit.”

Tolling Period

- August 15, 2008 to August 15, 2010



Approval

- Any permit, certificate, order, license, certification, determination, exemption, variance, waiver, building permit or other approval from any municipal, regional or state governmental entity concerning the use or development of real property.

Approval – cont.

- The definition of “approval” is very broad.
- There is no definitive list that identifies every single approval that is affected by the Permit Extension Act.
- The question to ask is whether the approval “concerns the use or development of real property”.

Examples of Approvals

- Building Permits
- Special Permits
- Variances
- Subdivision Approvals
- Site Plan Approvals
- Earth Removal Permits
- MEPA Certificates
- Others

Limited Statutory Exceptions

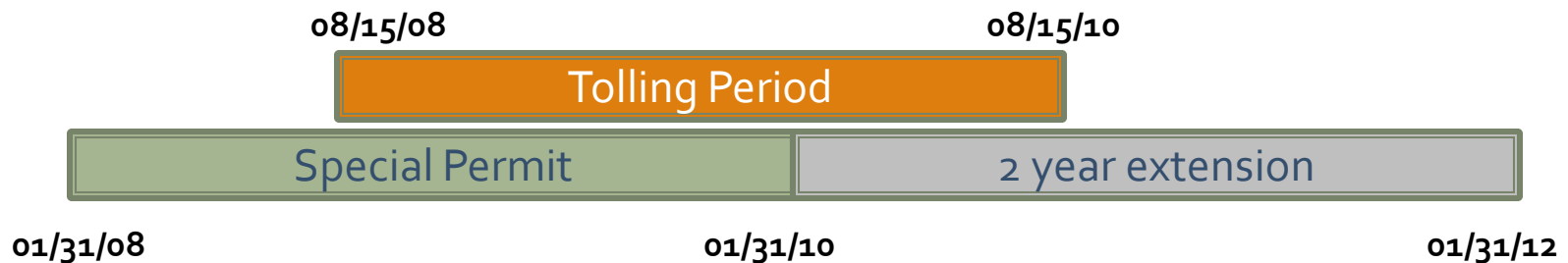
- Approvals issued by the Federal Government.
- Approvals issued by an agency of the Commonwealth pursuant to federal law.
- Comprehensive permits issued under M.G.L. ch. 40B s. 20 – 23.
- Hunting, fishing and aquaculture permits issued by the Dept. of Fisheries & Wildlife.
- Enforcement orders.

Practical Effect

- Any local, regional or state approval concerning the use or development of real property is automatically extended for an additional two years from its original expiration date, so long as the approval was in effect between 08/15/08 and 08/15/10.

Example # 1

- A special permit issued on January 31, 2008 expires on January 31, 2010. Under the Permit Extension Act, it now expires on January 31, 2012.



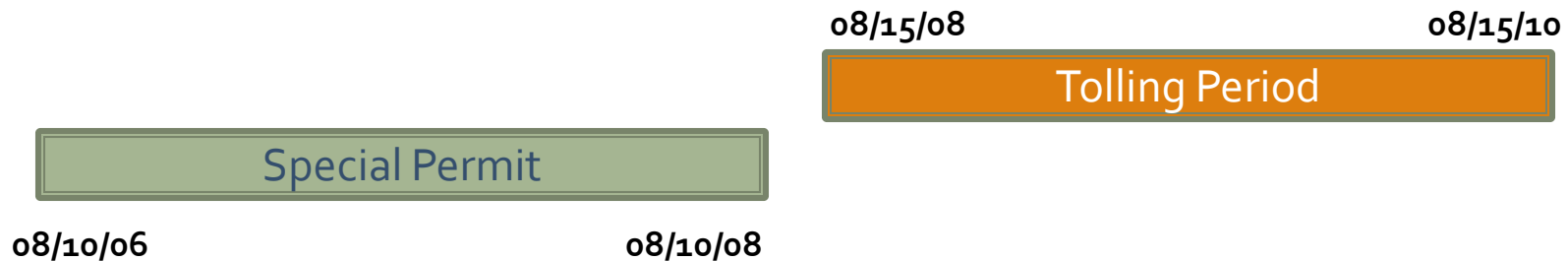
Example # 2

- A special permit issued on July 30, 2010 expires on July 30, 2012. Under the Permit Extension Act, it now expires on July 30, 2014.



Example # 3

- A special permit issued on August 10, 2006 expires on August 10, 2008. The Permit Extension Act does not apply.



Example # 4

- A special permit issued on August 20, 2010 expires on August 20, 2012. The Permit Extension Act does not apply.

08/15/08

08/15/10



08/20/10

08/20/12

Automatic Extension

- The approval is extended by operation of law and does not require action by the approval holder or the governmental entity.

Conditions

- Any conditions imposed on the approval by the governmental entity also continue for the additional two year period.
- The governmental entity may impose additional conditions on the approval only if it has an underlying valid reason, but may not do so merely because the approval is extended.

Final Approval

- The Permit Extension Act applies to approvals in existence or in effect during the tolling period.
- Submitting an application is not enough. You must have a final approval.

Revocation & Modification

- The Permit Extension Act does not affect a governmental entity's authority to revoke or modify an approval for a valid reason.

Questions

