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## **REAL ESTATE AND LAND USE ALERT**

### **Lapse and Expiration of Land Use Permits and Approvals**

#### **Preservation of Real Estate Development Rights**

By: Peter J. Feuerbach, Esquire  
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During this challenging time for real estate development, it is important to preserve the underlying land use permits, approvals and development rights even if construction is not active or on-going. It would be a shame if permits were to expire or lapse after all the time and cost to obtain them. This is true for larger projects as well as for single-family residential projects involving new construction, additions, or other alterations.

It is important to review each permit to determine when it expires; actions necessary to exercise the permit and keep it valid; and, procedures to obtain an extension, if necessary. This task is important for owners and applicants and their engineers and consultants.

I have listed below the common land use permits and approvals. Please contact me if you wish to discuss the provisions for their expiration, and for their extension, under State law. It is important to recognize each individual permit and project must be independently analyzed. In addition, it is important to recognize that local laws and regulations, as well as the permits themselves, may alter these deadlines and procedures. Because these deadlines and procedures often change due to amendments

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to the laws, regulations and policies, it is very important to confirm the current requirements in each case.

- Special Permits under the Zoning Act, G.L. c. 40A, §9.
- Variances under the Zoning Act, G.L. c. 40A, §10.
- Wetlands Order of Conditions under G.L. c. 131, §40.
- Subdivisions under G.L. c. 41, §81U.
- Septic Systems and Title 5 under 310 CMR 15.000.
- Comprehensive Permits for Affordable Housing Under Chapter 40B.
- Endangered Species under 312 CMR 10.00.
- Massachusetts Environmental Policy Act (MEPA) under 301 CMR 11.00.
- Chapter 91 Waterways License under 310 CMR 9.00.

*This communication is intended to provide general information about an area of law. It is not legal advice. You should consult with legal counsel for advice specific to your circumstances.*

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