EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT

EXPEDITED LOCAL PERMITTING

SUMMARY OF STATUTE

Passed 8/2/06

• Town mtg approval req.

• Site(s) specific

SECTION 5 OF CHAPTER 205 OF THE ACTS OF 2006

430

SECTION 1. LOCAL OPT-IN PROVISION

SECTION 2. DEFINITIONS

(a) Priority Development sites must be:

- i. Commercially or industrially zoned;
- ii. Eligible for the construction of a bldg of 50,000 sq ft or more;
- iii. Designated by the board.

SECTION 3. ELIGIBILITY & TECHNICAL ASSISTANCE GRANTS

(a) To designate a priority development site, the local governing body must file an application with the board including:

- i. A detailed description of the property;
- ii. Written good faith commitment to comply with 43D;
- iii. Written permission of the owner;
- iv. A request for a technical assistance grant, if necessary.

(b) Requests for technical assistance must include a detailed description of how the grant will be used to implement the requirements of MGL Ch43D and may be used for such things as professional staffing assistance, local government reorganization, and consulting services. The grant shall not exceed $150,000. The Board shall review and determine eligibility for technical assistance monies within 60 days. In special circumstances, communities may be eligible for additional technical assistance if a specific need can be demonstrated and if approved by the Board and the Secretary of Economic Development.

SECTION 4. MUNICIPAL RESPONSIBILITIES

Once approved by the Board and awarded a technical assistance grant (if necessary), municipalities must fulfill the following within 120 days:

(a) appoint a single municipal point of contact for streamlined permitting;
(b) amend local rules, regulations, bylaws etc. to comply with 180 day permit timeline;
(c) determine and make available the requirements for each permit;
(d) establish a procedure for identifying necessary permits for a project;
(e) establish a procedure for determining completeness of the required submissions.

SECTION 5. REVIEW PERIODS

(a) Priority Development Site reviews must take place within 180 days beginning the day after notification of completeness. If submissions are not complete, the governing body has 20 days to inform the applicant.
(b) Resubmission of an application and/or materials shall commence a new 30 day review period;
(c) If an issuing authority determines that additional materials are required, it shall notify the applicant immediately and shall complete action on the previously unidentified permit within 30 days if no hearing or public notice is required. If public notice or hearing is require, the issuing authority shall complete action on the permit 30 days from the close of the hearing or comment period.

SECTION 6. ADVISORY REVIEWS & FEES

The governing body:

(a) may establish an informal procedure to allow permit applicants to obtain advisory reviews by a technical team. The procedure for obtaining advisory reviews may not exceed 30 days and shall not constitute final action on the permit review. Invocation of the advisory review process shall toll the 180 review period for priority development sites.

(b) may establish additional fees to be assessed on priority development site permit applications to be used by the municipality for implementing chapter 43D.

SECTION 7. AUTOMATIC GRANT OF APPROVAL

Failure of an issuing authority to take action within 180 days shall be deemed approved. If a permit is deemed approved under this section, the applicant has 14 days to file an affidavit with the city or town clerk.

SECTION 8. EXCEPTIONS TO AUTOMATIC GRANT OF APPROVAL

An automatic grant of approval may not apply if:

(a) Governing authority determines that an application is not complete in accordance with this chapter;

(b) The governing body determines that an application contains false or misleading information;

(c) The governing body determines that substantial changes to the project affect the information required to process the applications since the original submission.

SECTION 9. 180 DAY PERIOD EXTENSIONS

The 180 day time period may be waived or extended for good cause upon mutual agreement between the governing body and the applicant. The 180 day review period may be extended for up to 30 days if an additional permit is required in accordance with section 5(c) if the previously unidentified permit is discovered within 150 days after notice of completeness. The 180 day time period may be extended if:

(1) action by another federal, state or municipal government agency is required before the issuing authority may act;

(2) judicial proceedings affect the ability of the issuing authority to proceed;

(3) enforcement proceedings that could result in revocation of an existing permit have commenced;

When the reason for extension is no longer applicable, the issuing authority shall immediately notify the applicant and shall complete its decision with 180 days beginning the day after the notice is issued. Lack of time is not an adequate basis for a municipality to deny a permit.

This section also provides extension for referral of permits to the Cape Cod Commission and Martha's Vineyard Commission in compliance with Chapter 716 of the Acts of 1989 and Chapter 831 of the Acts of 1977 respectively.

SECTION 10. CONSOLIDATED AND STREAMLINED APPEALS

(a) Appeals of issuing authority decisions or automatic grants of approval must be filed within 20 days of the last permit issued or within 20 days of the 180 day expiration, which ever is later.

(b) All appeals must be consolidated and filed within the Division of Administrative Law Appeals (DALA) within 20 days. The consolidated appeal does not apply to wetlands.

(c) DALA shall amend their rules or regulations to meet the requirements of this chapter.

(d) DALA shall render appeals decisions within 90 days and aggrieved parties may further appeal to the Land Court within 20 days of the DALA decision.

SECTION 11. TRANSFERS, RENEWALS, PERMIT MODIFICATION REQUESTS, EXPIRATION

(a) Permits shall not transfer automatically unless the permit expressly allows transfer without local approval.

(b) Issuing authorities may develop procedures for simplified renewals; otherwise renewals shall be governed by this chapter.

(c) Issuing authorities shall make every reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permit process. An issuing authority shall inform the applicant within 20 business days if the request for modification is approved, denied, determined to be substantial, or additional information is required. If the modification is determined to be substantial, the original time frames set forth in section 5 shall apply.

(d) Permits issued in accordance with this chapter shall expire 5 years from the date of issuance.

SECTION 12. INCENTIVES

Priority development sites are eligible for:

(a) priority consideration for PWED and CDAG funding;

(b) priority consideration for other quasi-public financing;

(c) brownfields remediation assistance;

(d) enhanced online marketing;
(e) technical assistance from MassDevelopment or the regional planning council.

SECTION 13. TECHNICAL ASSISTANCE GRANTS

(a) Technical assistance grants are intended to be a one time grant for communities adopting Chapter 43D;
(b) Municipalities may be eligible for a second technical assistance grant, for an amount to be less than the first grant award, if that community has successfully permitted one priority development site.

SECTION 14. MEPA and historic reviews shall take place concurrently within 120 days.

SECTION 15. Nothing in this chapter shall be construed to alter the jurisdictional authority of issuing authorities.

SECTION 16. The Secretary of Economic Development shall issue rules and regulations for this chapter.

APPROPRIATIONS:

Technical Assistance Grants*	$3.0MM
MassDevelopment Permitting Team	$500K
Mass Permitting Ombudsman	$500K
RPA Technical Assistance Centers	$1.85MM ← $200K → MAPC to model streamline permit
Div of Administrative Law Appeals	$250K
Marketing & Online Inventory (MAED)	$500K
Total	$6.6MM

**Up to $150,000 per grant; funds approximately 20 municipalities.*

ADDITIONAL NOTES:

The legislation references a Board (Interagency Permitting Board), as established in Section 5 of Chapter 205 of the Acts of 2006. The Board consists of the Secretaries of Economic Development, Business & Technology, Transportation, Environmental Affairs, and Public Safety, the Chair of the Economic Development Coordinating Council, and the Executive Director of MassDevelopment, or designees. The Board will meet no less than 8 times per year at the discretion of the Secretary of Economic Development and shall be charged with monitoring priority development sites and expediting projects on priority development sites wherever possible. The Board shall also implement the Chapter 43D municipal grant program.

To view the text of this law, please visit the Massachusetts General Court website at http://mass.gov/legis/laws/seslaw06/sl060205.htm. The law is currently known as *Chapter 205 of the Acts of 2006* and the 43D portion of the bill is found in Section 11 of this document.

- AT RISK DEVELOPMENT ALLOWED WHILE APPEAL
- HAND COURT REVIEW OVER 25 UNITS OR 25K LF
- FORUM SHOPPING ALLOWED