

PERMITTING PROCEDURES FOR CHAPTER 43D
PRIORITY DEVELOPMENT SITES

I. Program Establishment

Purpose.

These rules and regulations outline the standards and procedures for the projects to be located within the Priority Development Site(s) as designated by the Town of Raynham Town Meeting and the State of Massachusetts Interagency Permitting Board under the M.G.L. Chapter 43D Expedited Permitting program. The Board of Selectmen as the governing board of the Town of Raynham is charged with establishing procedures to determine all the permits, reviews and predevelopment reviews required for a project; establishing a procedure for determining if all the materials required for the review of the project have been completed and establishing a procedure to allow for all local permitting decisions for PDS projects to be issued within 180-calendar-days of submission of a completed application per 400 CMR 2.00 Expedited Permitting; establishing, as needed, a Priority Development Committee and a point of contact to act as a liaison in the review and permitting process.

II. Definitions

DALA: The Division of Administrative Law Appeals (DALA)

Design Review Committee (DRC): The Design Review Committee increases the communication and cooperation between departments and boards with permit granting and approval responsibilities. Members shall include, but may not be limited to, the Board of Selectmen representative, Health Agent, Conservation Agent, Building Commissioner, Fire Department representative, Town Planner and any Town consultant. This committee shall not include a member of the Zoning Board of Appeals.

A developer meets with the Design Review Committee *prior to* the submittal of permit applications in order to:

- Identify necessary permits for a project
- Identify critical issues and/or problems

Interagency Permitting Board: The Interagency Permitting Board was created by M.G.L. Ch. 43D to oversee the implementation of the Expedited Permitting program. The Board reviews and approves or denies municipal Priority Development Site (PDS) proposals and administers the Technical Assistance grants. The Board also monitors the development of Priority Development Sites as provided for in Chapter 43D and investigates ways in which to expedite priority development site projects. The members of the Board are comprised of

the State Permit Ombudsman, who serves as the chair, the Secretary of Economic Development, the Secretary of Transportation, the Secretary of Environmental Affairs, the Secretary of Public Safety, the Director of the Department of Housing and Community Development, the Director of the Department of Business and Technology, the Director of the Department Workforce Development, the Director of the Department of Consumer Affairs and Business Regulation, the Chair of the Commonwealth Development Coordinating Council, and the Executive Director of the Massachusetts Development Finance Agency, or their designees.

Parties to the Proceedings: Parties to the proceedings are any person or persons who provided testimony or submitted written comments on record during a Public Hearing held by the individual Issuing Authorities for the project.

Permits Coordinator: The Town Planner serves as the Permits Coordinator for the Town of Raynham Priority Development Sites. The Permits Coordinator serves as:

- Liaison between municipal staff, local board members, and the general public
- "One stop shop" for all permits information and applications and makes available the requirements for each permit.
- The coordinator of joint scoping sessions, consolidated hearings, and/or Priority Development Committee meetings
- To continue to review processes, identify methods to further streamline the permitting process, perhaps including a computerized permit tracking

Issuing Authority: The Issuing Authority is the local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or is otherwise involved in land use development including redevelopment of existing buildings and structures.

Permit: A permit is a formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use, development or redevelopment of land, buildings, or structures required by any Issuing Authority including but not limited to those under statutory authorities contained in Sections 81A to 81J, inclusive, of Chapter 40A, and Sections 81X to 81GG, inclusive, of Chapter 41, Sections 40 and 40A of Chapter 131, Sections 26 to 32, inclusive.

III. Applications and Completeness Review

Fees:

A non-refundable application fee of \$400.00 shall accompany an application package submitted to the Permits Coordinator to defray the costs of processing the applications and carrying out the duties as required by the Expedited Permitting Law, M.G.L. Ch. 43D.

Prior to Application Submittal:

- A. A developer shall contact the Permits Coordinator for preliminary information on the permitting process for projects to be located within a Priority Development Site and to receive the Permitting Guide that includes a comprehensive packet of permit applications. The Permits Coordinator shall also coordinate a pre-application meeting between the developer and the Design Review Committee.
- B. A developer shall meet with the DRC for a preliminary discussion to identify applicable permits for a project, as well as relevant Town bylaws, zoning bylaws, rules and regulations or specific permit requirements that may apply to the proposed project and may be relevant to application preparation.
- C. An applicant shall not submit a final application package to the Town for thirty days. During this time a follow-up meeting with the DRC may be requested by the developer prior to submitting an application to review a preliminary application package for any additional items that may be needed by Issuing Authorities for their project review and decision.

Upon Application Submittal:

Determine completeness of the application(s)

- A. The application package shall be submitted to the Permits Coordinator, who shall send notice to the Board of Selectmen that an application package has been submitted.
- B. The submittal of an application packet begins a twenty (20) business day period to determine the completeness of the applications, which shall be done in the following manner:
 1. Upon submittal, the Permits Coordinator shall coordinate a meeting of the Design Review Committee.
 2. The members of the DRC, as representatives of the pertinent Issuing Authorities, shall review the application and forward to the Permits Coordinator a notice of completeness within fifteen (15) business days.
 3. If the application is deemed incomplete, a detailed listing of items necessary to complete the application shall be forwarded to the Permits Coordinator.

4. The Permits Coordinator shall send notice to the Board of Selectmen as to the completeness of an application package.
- C. The Permits Coordinator, acting for the Board of Selectmen, shall notify the applicant and the Interagency Permitting Board by certified mail of completeness. If the applicant is not notified by certified mail as to the completeness of the applications within twenty (20) business days, then the application is deemed to be complete.
1. If complete, the 180-calendar-day review period commences the day after notice is mailed or, if the applicant is not notified, then the day after the twentieth (20th) business day.
 2. If deemed incomplete, the Permit Coordinator shall notify the applicant in writing by certified mail and shall:
 - i. Include an explanation as to why the application is incomplete, and request information necessary to complete the application
 - ii. Notify the applicant that a resubmission of an application package begins a new 20-business-day completeness review period.
 - iii. Send notice by certified mail to the Interagency Permitting Board.

Application Review

- A. Once deemed complete, the Issuing Authorities must complete the local permitting processes within 180-calendar-days after the certified notice of completeness is sent.
- B. The 180-calendar-day review period may be extended, if a previously unidentified permit or review has been determined necessary within the first 150-calendar-days.
1. Send immediate notice to the applicant by certified mail;
 2. Extension for maximum of 30-calendar-days;
 3. If a public hearing is required, then required action date shall be not later than thirty (30) days from the later of the close of the hearing or comment period which shall be scheduled to commence as quickly as publication allows.
- C. The 180-calendar-day review may be suspended when an Issuing Authority determines:

1. Pending judicial proceedings affect the ability of the Issuing Authority or applicant to proceed with the application.
2. Enforcement proceedings that could result in revocation of an existing permit for that facility or activity or denial of the application have been commenced.
3. When reason for extension is no longer applicable, notify the applicant, by certified mail & complete decision within the time period specified beginning the day after the notice to resume is issued by the Design Review Committee.

D. Automatic grant of approval:

1. An application shall receive an automatic grant of approval when an Issuing Authority fails to take final action within the 180-calendar days.
2. An automatic grant of approval shall be only for the permit before the Issuing Authority that failed to make a decision within the required timeframe, not a blanket approval for the entire application.
3. An automatic grant of approval shall not occur:
 - Where there has been a timely determination that the application is incomplete,
 - If the Issuing Authority determines that the application has been so modified that it cannot make a decision, or
 - If the Issuing Authority determines that the application contains false or misleading information.
 - i) The IPB and the applicant shall be notified by certified mail.
 - ii) Notice shall be forwarded to the Permits Coordinator who shall then forward notice to the Board of Selectmen
 - iii) The applicant may appeal this determination to the Land Court.
 - iv) Pending the court ruling, the 180-calendar-day review period shall be suspended.
 - v) If the appeal is decided in favor of applicant, the 180-calendar-day review shall resume
 - vi) If the appeal is decided in favor of the Town of Raynham, the 180-calendar-day review process is waived.

IV. Project Review and Decision

The local permitting process must be completed within 180-calendar-days after the certified notice of completeness is sent, or the 20-day-completeness review period has expired and the applications are deemed to be complete. This period may be waived or extended for good cause upon written request of the

applicant with the consent of the Board of Selectmen and the Issuing Authority, or upon written request of an Issuing Authority with the consent of the applicant.

The 180-calendar-day review period may be extended by the Board of Selectmen and an Issuing Authority, if a previously unidentified permit or review or information has been determined necessary within the first 150-calendar-days of the process. When a Board of Selectmen determines that a previously unidentified permit is necessary, the Board of Selectmen must send immediate notice of such additional requirements to the applicant by certified mail and copy the Interagency Permitting Board. The Board of Selectmen may exercise the extension for a maximum of 30-calendar-days. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than thirty (30) days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

The 180-calendar-day review period may be extended when an Issuing Authority determines that:

- 1) action by another federal, state or municipal government agency not subject to this act is required before the Issuing Authority may act;
- 2) pending judicial proceedings affect the ability of the Issuing Authority or applicant to proceed with the application; or
- 3) enforcement proceedings that could result in revocation of an existing permit for that facility or activity or denial of the application have been commenced. In those circumstances, the Issuing Authority shall provide written notification to the Secretary and the Interagency Permitting Board by certified mail.

When the reason for the extension is no longer applicable, the Issuing Authority shall immediately notify the applicant, the Secretary of the Executive Office of Economic Development, and the IPB by certified mail, as well as the Board of Selectmen and shall complete its decision within the time period specified in this section, beginning the day after the notice to resume is issued by the Board of Selectmen.

If the Board of Selectmen, in consultation with the Issuing Authority, has determined that substantial modifications to the project since the application render the Issuing Authority incapable of making a decision on an application, an extension of the 180-calendar-day review period may be granted by the IPB for demonstrated good cause at the written request of the Issuing Authority. The Issuing Authority shall provide terms for the extension including the number of additional days requested. Within ten business days of receipt of the request,

the IPB, or permitting ombudsman if designated by the board, shall respond to the Issuing Authority with an extension determination.

If the applicant makes a substantial modification to a project for the purpose of public benefit, the Issuing Authority may request an extension from the IPB, and if granted, shall make every reasonable effort to expedite the processing of that permit application.

V. Permit Modifications

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 permitting process. An Issuing Authority shall inform an applicant within 20-business-days of receipt of a request whether the modification is approved, denied, determined to be substantial or requires additional information for the Issuing Authority to issue a decision. If additional information is required, the Issuing Authority shall inform an applicant by certified mail within 20-business-days after receipt of the required additional information whether the modification is approved or denied or that further additional information is required by the Issuing Authority in order to render a decision.

VI. Automatic Grant of Approval

Failure by any Issuing Authority to take final action on a permit within the 180-calendar-day review period, or properly extended review period, shall be considered a grant of the relief requested of that authority.

- A. Within fourteen (14) days after the date of expiration of the time period, the applicant shall file an affidavit with the town clerk.
- B. The affidavit shall include:
 1. the application,
 2. the facts giving rise to the grant, and
 3. state that notice of the grant has been mailed, by certified mail, to all parties to the proceedings as defined in Section II and all persons entitled to notice of hearing in connection with the application as defined in Section II and to the Board of Selectmen.

An Issuing Authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter.

The automatic grant of approval shall not occur when it is determined that:

- A. The application packet is not complete and the applicant does not provide the requested information within 90 calendar days.
 - 1. The Permits Coordinator shall forward notice to the Board of Selectmen
 - 2. The Permits Coordinator shall notify the IPB and the Applicant by certified mail of the discontinuance of the permit process;

- B. The Permits Coordinator, in consultation with the Issuing Authority, has determined that substantial modifications to the project since the application render the Issuing Authority incapable of making a decision on an application;
 - 1. Notice shall be forwarded to the Board of Selectmen

- C. The Permits Coordinator has determined that a final application contains false or misleading information.
 - 1. The Permits Coordinator shall forward notice to the Board of Selectmen
 - 2. The Permits Coordinator must submit a statement of findings to the IPB by certified mail and copy the applicant by certified mail.
 - 3. Such a finding may be appealed in Land Court on a motion of the applicant. Pending a court's ruling, the 180-calendar-day review period shall be suspended.
 - 4. If a court rules in favor of the appellant, the 180-calendar-day review period shall resume. If the court rules in favor of the Board of Selectmen, the 180-day review process shall be waived.

VI. Appeals

Appeals of an Issuing Authority decision or from an automatic grant of approval shall be filed within 20-calendar-days after the last individual permitting decision has been rendered or within 20-calendar-days after the conclusion of the 180-day period, whichever is later. The 180-day period shall be increased by the number of days in any extension granted under this chapter.

The applicant or any person aggrieved by a final decision of any Issuing Authority, or by the failure of that authority to take final action concerning the application within the time specified, whether or not previously a party to the

proceeding, or any governmental officer, board, or agency, may appeal to the Division of Administrative Law Appeal, (DALA) by bringing an action within 20-calendar-days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. This section shall not apply to appeals pursuant to Chapter 131, Sections 40 and 40A which shall continue to be appealed in accordance with said Chapter 131, Chapter 30A and applicable regulations.

The DALA shall render a final written decision within 90 days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the Superior Court or to the Land Court in accordance with Chapter 185, Section 3A, by bringing action within twenty (20) days after a written decision was or should have been rendered.

VII. Permit Transfers and Renewals

Permits shall not transfer automatically to successors in title, **unless the permit expressly allows the transfer without the approval of the Issuing Authority. Issuing authorities may develop procedures for simplified permit renewals and annual reporting requirements.** If the procedures are not developed, renewals of permits shall be governed by the procedures and timelines specified in this chapter.

Permits issued pursuant to Chapter 43D shall expire 5 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall prevent expiration of all permits on that site. No permit issued under this chapter shall be affected by changes in the law subsequent to the issuance of such permits. Nothing in this section shall limit the effectiveness of legal, non-conforming uses and vested rights per G.L. Ch. 40A, s. 6.