

Literature Review for Streamlined Permitting --Interim Report--



Massachusetts Association of Regional Planning Agencies

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prepared by the staff of the Central Massachusetts Regional Planning Commission (CMRPC)

TABLE OF CONTENTS

INTRODUCTION.....	1
MASSACHUSETTS STUDIES	2
Permit Streamlining Legal Advisory Committee	2
Permitting to Compete: Streamlining Your Process	3
Permit Streamlining: An Action Agenda for Massachusetts Municipalities	4
CASE STUDIES.....	6
Needham, MA	6
Denver, CO	7
Lancaster County, PA	7
Indiana	8
San Carlos, CA	9
State of Oregon.....	9
Burien, WA	10
Clark County, WA.....	10
Expedited Permitting in Practice	11
CONCLUSION	12

I. Introduction -- Streamlined Permitting Literature Review

Regional planning agencies statewide are collaborating to evaluate local permitting processes in Massachusetts, as provided for in M.G.L. Section 30, Ch. 40B. The purpose of the evaluation is to gather information to be used to inform state, regional and local policymakers to make better decisions about permitting policy. In addition, the Massachusetts Association of Regional Planning Agencies (MARPA) will use information gathered including statewide local permitting survey results, over a dozen focus groups involving diverse stakeholders, and the research contained in this report to develop a best practices guide to local permitting. The resource guide will be distributed to municipalities to use as a tool to make permitting more predictable, consistent, and efficient without endangering the standard of review. This document is an interim report to disseminate information prior to the report's official release and will be included in the full document set for release November 1st, 2007.¹

Research for this Literature Review was conducted using three previous Massachusetts state-level commercial/industrial permit streamlining studies prepared by state agencies, think tanks, and other research organizations. Additionally, internet research was conducted to investigate streamlined permitting solutions that have been implemented successfully outside of Massachusetts.

The results, summarized in this review, show that the widespread issues with unpredictability and high levels of complexity in permitting processes are largely due to:

- Lack of incentives and technical/procedural know-how at the local level
- No single entity to walk a business through the quagmire of local and state permitting, licensing, and regulatory procedures
- Lengthy and unpredictable appeals process.

Several recommended solutions were common themes in both the Massachusetts evaluations and the case studies from outside the Commonwealth:

- Create easy public access to information on procedures and bylaws
- Allow early technical review of complex applications
- Create a position for a permit ombudsman to coordinate the entire process.

A logical next step to this Literature Review would be to interview the communities discussed herein to further document the status and results of the various recommendations. Knowing the long-term impacts of strategies under consideration at this time would be beneficial to promote and ease implementation.

¹ This work product is subject to change prior to the official release of the permitting resource guide on November 1st, 2007. If you have any comments or suggestions, please submit them to the author prior to that date.

II. Massachusetts Studies

A. *Report of Permit Streamlining Legal Advisory Committee* (April 1995)

Author: Permit Streamlining Advisory Committee

Source: Out of Print

This committee was established by the Secretaries of Environmental Affairs and Economic Affairs to assist the Commonwealth in streamlining the environmental and related real estate permitting process. The committee members were selected to ensure broad representation of both the business and environmental communities. This effort occurred simultaneously with other activities at the state level to streamline permitting. Its purpose was to create a predictable and timely course of action for permit applicants, eliminate redundancies and bottlenecks in the process, and create a “user-friendly” system -- a similar task as the one that the Commonwealth’s regional planning agencies are charged with at this time, although the focus now is on local, rather than statewide permitting.

The first step taken by this committee was the identification of bottlenecks and redundancies in permitting at the state level and the gathering of information on integrated permitting processes in selected other states. It then formed six subcommittees, one to address each of the following six specific areas:

- Uniform Permit Practices
- Wetlands, Waterways, & Coastal Zones
- Discharges to Ground & Surface Waters, Drinking Waters, and Massachusetts Water Resources Authority
- Air Quality, Solid Waste, Hazardous Waste, and Emissions
- Miscellaneous (MHD, EOT, MDC, Division of Fisheries & Wildlife, Department of Public Safety)
- Overview/Advisory Procedures (MEPA and MA Historical Commission)

The subcommittee’s recommendations were combined into a draft report along with input solicited from a wide group of business and environmental interests. Before the report was finalized, the appropriate state agencies reviewed the permit listings for completeness. The recommendations were as follows:

1. Uniform Permit Practices

- Develop and utilize master application and supplemental forms.
- Create a central coordinating agency.
- Hold pre-application conferences.
- Develop uniform time-frames for permit processing and decisions.
- Provide easy access to agency policies and directives.
- Develop and utilize master reporting forms with supplemental forms to be submitted on a single date for permits with annual reporting requirements.

2. Coordination with MEPA / MA Historical Commission (MHC) Review

- Enable permitting agencies to start their review during the MEPA and MHC processes, and proceed as far in the permitting process as feasible without precluding suggested alternatives that may come out of the MEPA/MHC review.

3. General Permit Mechanism and Elimination of Duplication

- Increase the use of general permitting mechanisms, emphasizing the enforcement of overall regulations and conditions, rather than focusing on the mechanics of issuing individual permits.
- Consolidate/transfer functions and application forms where more than one agency has responsibility for the same subject matter.

4. Develop Best Management Practices as guidance to applicants for all permits (This recommendation appeared to have been accomplished with the publication of *"Permit Streamlining: An Action Agenda for Massachusetts Municipalities,"* which was developed during the Celluci Administration (1997-2001).

B. *Permitting to Compete: Streamlining Your Process* (October 1995)

Author: Municipal Permit Streamlining Committee

Source: Out of Print

The purpose of this study was to assist city and town officials in reengineering local land use processes to increase efficiency without affecting substantive environmental standards. The Commonwealth worked with the Massachusetts Municipal Association (MMA) to convene this committee. It was chaired by the Executive Office of Environmental Affairs (EOEA), Massachusetts Office of Business Development (MOBD), and MMA and included representatives from many statewide organizations. This report incorporated many concepts contained in the Legal Advisory Committee's Final Report (April 1995). The Committee sought to formulate a process that was optional and voluntary for municipalities and to provide for coordination of local processes with uniform processes under consideration by state agencies. The recommendations were as follows:

1. Information Availability

- Publish and provide easy public access to all local ordinances, bylaws, procedures and policy guidelines or protocols in a central location that is well organized.
- Compile a permit guidebook with permits and processes involved in a land use development. Also provide a supplement with an inventory of vacant industrial buildings and sites.

2. Permit Assistance/Coordination

- Designate a Permits Manager to act as a liaison between municipal staff, local board members, and the general public. This person would be associated with a one-stop shop for all permit information and applications.

- Form a Technical Review Team (TRT) with technical staff from boards and departments with jurisdiction over land use permitting. The TRT would provide an early assessment of a proposed project and coordinate responsibilities and project concerns among permit-granting authorities.
- Make applicants aware of the option of placing public notices during the TRT review process to invite early public comments on the scope of review or project prior to the submission of the applications.

3. Integrated Application and Review Processes

- Create an integrated permit identification form to solicit sufficient information to flag the need for a permit application, or a master application form to make a determination on the permit.
- Provide uniform timelines, notifications, and appeals processes.
- Hold joint hearings and consolidated reviews.
- Classify or tier permits (requires legislation) to provide for a shorter and simpler review process for minor modifications.

4. Resource Development and Allocation

- Train Board members and staff in areas of expertise provided by professional associations across departments and boards.
- Regionalize boards and share staff among small communities in order to provide an adequate number of paid staff.
- Raise revenue to support cost of streamlined permitting by imposing a fee on the developer. The efficiencies obtained through streamlining would be expected to maximize existing resources, allowing the reallocation of those resources to new tasks.

C. **Permit Streamlining: An Action Agenda for Massachusetts Municipalities** (1997-2001)

Author: Department of Housing and Community Development

Source: <http://www.mass.gov/dhcd/publications/streaml2.pdf>

The purpose of this handbook was to respond to communities seeking assistance in making their permitting processes faster and more efficient. It appears to have been developed in response to the recommendation from the Permit Streamlining Legal Advisory Committee to compile best practices for streamlined permitting. Below are the best practices that were included in this report based on input from Massachusetts communities that had already implemented measures to streamline their process:

1. Thoroughly assess and document the current permitting approach

- Assemble all staff members that are involved in the permitting process.
- Develop an inventory of all permits issued by the community along with key information, such as name of permit, regulation of statute governing it, issuing department, and maximum time for review and issue.
- Identify staffing levels and “point people” within issuing departments and their location within Town Hall.

2. Establish permit coordinators, consolidate departments, have inter-community staff review complex proposals or integrate departments, and create a technical review committee.
 - The Town of Lunenburg had indicated that their process included having all of their reviewing boards, commissions, and departments act as reviewing teams whenever possible. When development plans were submitted to the Planning Board, copies were sent to the Board of Health, Conservation Commission, Building Official, Fire, Highway, and Police Departments, as appropriate.
 - The Town of North Andover had established a Technical Review Committee that assisted permit applicants in identifying the appropriate bylaws, requirements, and rules & regulations. This committee also assisted the Town's regulatory boards in identifying the important issues regarding the proposed project.
3. Prepare a guidebook and process flow chart for distribution to applicants
 - Excerpts from Mashpee and Yarmouth guidebooks and a process flowchart from Yarmouth were included in this guide as model examples.
4. Implement a computerized permit tracking system
 - Create a permit tracking team comprised of those who will be users of the system.
 - Choose a consultant who is able to present pros and cons of various software and hardware packages and who is able to provide training.
 - Develop the appropriate complete detailed specifications that reflect the experience of the staff tracking team.
 - Provide sufficient training for all staff that will use the system.
5. Divide permit applications into two or more categories based on complexity
 - Fast-track uncomplicated requests providing more time to staff and allowing for a greater level of scrutiny on more complex applications. There were no examples provided from communities on this best practice.

III. Case Studies

Massachusetts is not the only state that has embarked on an effort to improve its permitting process. Summarized below are a number of case studies involving communities in Massachusetts, California, Colorado, Washington, and Oregon that recognized the need to streamline their permitting process. The Denver case study described below includes additional examples of permitting changes that have been made by other communities across the country.

A. [Needham, MA -- Permit Streamlining Study](#) (July 2003)

Author: Systems Consulting Group

Source: http://www.aia.org/static/state_local_resources/buildingpermit/Needham-Mass.pdf

Important to Note: This is a mature community, where two-thirds of the residential permits approved in 2000 and 2001 were issued for additions and alterations. Only 11 non-residential permits were approved in 2000, and 7 in 2001.

A major element of this study was the use of VATS (Value Added Transition System), which is software that was used to measure productivity and show the town how time, resources, and costs could be minimized. VATS was used to analyze residential and commercial permitting process.

Below are some of the key recommendations:

- Facilitating more efficient, thoughtful interaction between the Town and its customers.
- Enhancing the quality and quantity of information on permitting provided to customers by the Town's Web site and other means.
- Increasing staffing in the Planning Board and Building Department.
- Locating the Planning Board, Board of Health and Zoning Board of Appeals in the same physical location as the other core permitting agencies.
- Purchasing and implementing a new integrated permitting application software package.
- Decentralizing access to the Town's Computer-assisted Mass Appraisal (CAMA) system and integrating its use with the permitting application system.
- Enhancing the Board of Selectmen oversight of the permitting agencies for which they have direct authority and responsibility.
- Formalizing all adverse actions or changes in permit requirements or certificate of occupancy.
- Establishing performance standards for the Town's permitting agencies, tied to performance reviews and the budgetary process.
- Implementing an annual survey of all of the previous year's permitting customers.
- Reviewing all of the Town's by-laws and regulations regarding permitting.
- Formalizing the practice of having a voluntary pre-conference with the Building Department's staff, and other agencies where appropriate, for all projects with an estimated value greater than \$100,000 or as an applicant or the staff may request.

B. Denver's Development Review Process: Can it Be Fixed? Sept 2003

Author: AIA (American Institute of Architects)

Source:

http://www.aia.org/static/state_local_resources/buildingpermit/Denver%20STOPP%20Report.pdf

Important to Note: AIA created a task force to streamline permitting in Denver (AIA claims to be one of the City's most important and frequent customers). Two departments currently handle the development permitting process: Public Works and Community Planning & Development. This study was limited to the design community -- architects and engineers. One of the problems identified was an overload of poorly organized information on the City's website.

Below is a summary of some of the key recommendations listed in the Executive Summary.

- Limit field inspection to the verification of construction compliance to approved drawings to avoid problem of inspectors re-interpreting codes and overruling staff reviewers.
- Establish submittal requirements at each stage that are reflective of, and parallel to, the way projects are actually developed.
- Provide current, accurate, well-organized permitting information on the town website.
- Require periodic sign-offs so that agreements stick, regardless of whether new staff reviewers get involved.
- Create one central inter-agency authority to facilitate the planning and construction process from earliest design stages to a building's occupancy. This entity should have the power to enforce solutions to conflicting agency requirements.
- Create an information office or officer than can answer questions about the material, processes and agency interrelationships.
- Publish a clear and concise manual that describes a standardized, straightforward permitting process with an introduction, table of contents and process charts.
- Review agency standards and regulations to determine their objectives and the problems that they're meant to solve.

C. Lancaster County Permitting Initiative (Summer 2003)

Author: Lancaster County Planning Division

Source:

http://www.co.lancaster.pa.us/planning/lib/planning/economic/pdfs/lancaster_county_permitting_initiative.pdf

Important to Note: The existence of strong county government in Pennsylvania adds another level of complexity to the permitting process. It was agreed that all regulatory agencies, authorities, and units of government must agree to participate in a concurrent review. The project's impact on the local and/or regional economy would likely have an effect on the decision to consider the project worthy of an expedited review.

Streamlining permitting is defined in this example as processing permit applications on an accelerated schedule, as long as the projects meet qualifying criteria and are located on land appropriately zoned for development. The goal is to decrease the period from application submittal to the rendering of a decision on whether to accept or deny it. It was concluded that the expedited permitting process should be a rare occurrence reserved for significant economic development projects that meet the criteria listed below:

- The proposed use must be industrial.
- The location of the proposed industry must be on a property within an adopted or draft Urban Growth Boundary (UGB).
- The property must be within existing or planned public sewer and public water service areas.
- The property must either be zoned for industrial uses or identified as appropriate for industrial uses on the municipal Future Land Use Map contained within an adopted comprehensive plan.
- If the project is a redevelopment project (new construction on a vacant lot or a rehabilitated conversion of an existing industrial structure) in Lancaster City or a borough any of the above eligibility criteria which are not met, may be waived.
- The identity of the end user must be disclosed.

D. Indiana's Site Selection Program for Economic Development (Date unknown)

Author: Indiana Economic Development Corporation

Source: <http://www.in.gov/iedc/pdfs/ShovelReadyOne-Pag718EC8.pdf>

"To be Shovel Ready-certified, a site must have undergone an environmental assessment and have been qualified for expedited permitting with state regulatory agencies to allow quick investment and expansion." The Indiana Economic Development Corporation administers the Shovel Ready program and utilizes a special expediting team to certify sites. This team is comprised of representatives from the Indiana Economic Development Corporation, Governor's Office, Indiana Department of Natural Resources, Indiana Department of Environmental Management, Indiana Department of Transportation, Indiana State Department of Health, Indiana State Department of Agriculture and the Indiana State Department of Homeland Security. Shovel-ready sites are generally defined as sites that have the essential infrastructure, the necessary zoning and site characteristics that will allow construction to get under way quickly and without subsequent delays.

Goals of this Program:

- Help local communities prepare sites for development by pre-permitting a site as much as possible
- Certify sites to help companies more easily navigate the selection and permitting process
- Generate a list of remaining permits necessary for a specific site
- Help fast-track the remaining state, federal and local business/ industry specific permits
- Provide marketing assistance through the IEDC site selection database

E. City of San Carlos, Permit Streamlining Process (1997)

Author: unknown

Source:

http://www.aia.org/static/state_local_resources/buildingpermit/San%20Carlos%20California.pdf

Important to Note: Most of the solutions listed below have been implemented, however there is no detail about the results, only a statement that the “Processing times for many applications have been significantly reduced.”

Recommended solutions included:

- Create a Quick Response Team made up of members of the Planning, Public Works, Fire and Community Development departments to meet with a prospective customer and their design and construction teams to cooperatively develop all permits and plans.
- Establish a project manager for large to medium-sized businesses, which provides one key contact person.
- Improve brochures, forms, and other handouts.
- Change policies and ordinances to reduce levels of review and processing time.
- Increase staffing for permit processing and building inspections, and train staff to improve efficiency and customer service quality.
- Enhance office space at municipal offices by providing comfortable meeting rooms for permit application review, purchasing a high volume copier, adding fax machines to Building Inspection and Planning areas, and installing sit-down counters with computer terminals.
- Purchase permit tracking software.

F. Oregon One Stop Permitting (1999)

Author: unknown

Source:

http://www.aia.org/static/state_local_resources/buildingpermit/Oregon%20One%20Stop%20Permitting%20.pdf

Important to Note: There is strong local control in Oregon, and there had been no standardized statewide permitting process. Oregon has a statewide uniform building code. The State Building Codes Division regulates and oversees local building programs and has authority to coordinate statewide change. According to the literature, the business community felt that streamlined permitting was necessary to get the economy back on track.

Key efforts implemented:

- In 1999, the state legislature created a state-managed service center in Portland due to the fact that 50% of the state’s construction activity occurred in that tri-county area. The Service Center assists contractors, developers, and local governments in coordinating aspects of the permitting process. The Service Center has succeeded in establishing standardized printed permit forms, permit application processes, fee methodologies, consistent code applications, and a local dispute resolution service for industry and building departments.

- In addition, the Oregon Department of Consumer & Business Services has legislative authority to seek funding to initiate a statewide electronic permitting system, beginning with a pilot in the tri-county Portland area to:
 - apply for and purchase building permits
 - request inspections
 - submit plans
 - process licensing & compliance activities

G. Burien, Washington -- City of Burien Permit Streamlining Project (2003)

Author: Berryman & Henigar, Inc.

Source: http://www.aia.org/static/state_local_resources/buildingpermit/Permitstudy_Burien.pdf

The first step of this project was to form a focus group of developers, builders, architects, engineers, and surveyors to compile a list of issues and concerns about the permitting process. The recommendations from the focus group effort included:

- Provide zoning code interpretations to applicants at permit counter and on website. Also, mail them to frequent applicants.
- Develop pre-application meeting minutes and distribute to review team and applicant outlining clear expectations for follow-up actions.
- Purchase new permit tracking software. (Burien purchased *City View*.)
- Shorten critical areas of the review process.
- Increase experience of municipal staff and use consultants for roadway and stormwater reviews.
- Increase management oversight of process for timeliness.
- Review the APA self-study course available on CD: "Managers Planning Guide to Improving the Development Review System."

H. Changing the Culture of 'No' (Dec 2004)

Author: Richard H. Carson

Source: http://www.citygateassociates.com/art/Changing_the_Culture_of_No.pdf

Important to note: The 2000 Census showed that Clark County was the fastest growing county in Washington. Today it has a population of 534,191 and is adding about 28 people every day. The county's Community Development Department employs 150 staff members who are responsible for long-range planning, code enforcement, and land-use, engineering, and building plan review for roughly \$500 million a year in new development.

In January 1999, the Board of County Commissioners and the County Administrator informed the new Director of the Clark County Community Development Department that his immediate priority was to "change the culture" of the department due to the high volume of complaints about the department being inefficient, indifferent, and unresponsive to the needs of its customers. The new Director immediately ordered a performance audit and the final report was released in December 2000 with 44 recommendations. Listed below are some of the actions taken in response to this report.

- Phone logs were kept and a target was set to achieve a 24-hour callback rate of 95%.
- To combat the problem of lost files, a document control system was implemented and nonpublic areas of building were closed off so all documents would come over the counter and could be tracked. Documents were digitized so that they could be linked through the computerized permitting system.
- A full-time ombudsman was hired to serve as a customer advocate, with the same authority as division managers and the ability to move permits whenever they got stuck in the process.
- Project updates were posted on the Clark County Community Development Department's website to eliminate phone calls regarding status of permit applications.
- The ability for online financial transactions for basic permits was established.
- Invitations were made to bankers, title company officers, real estate brokers, contractors, developers, land use attorneys, and others to provide the staff with a better understanding of the needs of the private sector.

In April 2001 a five-year strategic plan was implemented, which incorporated these and other recommendations. As a result, the public complaints dropped dramatically, though the statistics were not included in this article.

I. **Expedited Permitting – In Practice** (Date Unknown)

Author: Washington Area Housing Partnership

Source: <http://www.wahpdc.org/expermitting.html>

This article provides examples of other applications of expedited permitting. It is being used as a tool to increase the development of affordable housing units in places like Santa Fe, New Mexico and Pinellas County Florida and in Maryland to help residents and business owners rebuild after a devastating hurricane.

Expedited permitting, along with several other incentives, was made available by the Board of County Commissioners in Pinellas County to developers of affordable housing units for sale or rent to eligible residents. A 2-week turnaround is the desired goal for the processing of a site plan. A pre-application meeting is required between the applicant and the city site plan review staff. In addition, a development review administrator was established as a central contact person to assist the applicant in streamlining the review.

In Santa Fe, fast-track approval was implemented for new housing units in the development review and permitting processes. "Developers must have a proven track record for successful completion of projects and evidence of satisfying the city's performance criteria."

In Anne Arundel County in 2003, a special permitting process was established to assist the residents and business owners trying to rebuild after Hurricane Isabel. There were over 1400 homes and businesses affected by this storm. The rules that were established allowed same day turnaround for building permits to repair minor structural damage.

IV. Conclusion

All of the case studies included in this review described a state or municipality that had recognized a need to revamp their land use permitting process because it had become a protracted, unpredictable, confusing process for all involved. The process had created an environment of distrust between the business community, citizens, and the municipality, ultimately threatening opportunities for economic development. The same root causes were identified:

- Poor communication and a lack of coordination between permitting agencies and between these agencies and project proponents
- A lack of easy public access to clearly documented, well-organized, current information on local ordinances, bylaws and procedures that are part of the permitting process.

Myriad similar recommended solutions were generated by the studies, including:

- Establish a central contact position as a conduit for the flow of information and the appropriate forms between the applicant and the permitting agencies and between the agencies.
- Create easy public access to current local ordinances, bylaws, and procedures in a well-organized manual or guide, and post all information on a well-maintained website.
- Establish a technical review team comprised of representatives from all of the permitting agencies that meet together with applicants early in the process. This allows the different agencies to review the application concurrently, identifying and communicating issues early in the process to each other and to the applicant.
- Purchase and implement a permit tracking system

In all of the reviewed studies, it was concluded that streamlining the permitting process would save both the municipalities and applicants time and money, build goodwill with its citizens and business owners, and ultimately encourage economic development that would be appropriate and beneficial to its host community.

In the cases outside Massachusetts, many of the recommendations were implemented successfully. Within Massachusetts, very little has changed in the permitting process in the last twenty years. This may be due in part to the perceived expense of expediting the overall permitting process, which would likely involve expanding and retraining municipal staff. In addition, there may have been pressure from environmental groups that were concerned that streamlining permitting would reduce environmental protection to an unacceptable level. However, since the completion of the last Massachusetts streamlined permitting study over 7 years ago, the Commonwealth has lost population (particularly in the coveted 18-34 year-old segment) and the economy has languished. Perhaps state and local officials are now ready to make the necessary and proper changes to truly streamline the permitting process in this state.

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