

Governor's Housing Task Force – Regulatory and Permitting Subtask

Brainstorming - State and Local Permitting and Regulatory Barriers

A meeting of the Regulatory and Permitting subtask of the Governor's Affordable Housing Task Force meeting was held via Zoom on Thursday, July 28 from 1 – 2:30 pm. The meeting was attended by members of the task force and over 70 members of the public. Public participants provided input through the available Q&A feature, Menti poll, and through public comment during the last 15 minutes of the meeting.

The chart below shows the results of a Menti poll (with participation from task force members and the public) ranking the top regulatory and permitting issues impeding the creation of housing. The ranking is based on both impact and opportunity for improvement. The ranked issues are those identified during the subtask brainstorming session.

Top Regulatory & Permitting Issues

Mentimeter



Top Ranked Regulatory & Permitting Issues & Challenges

DEQ Review of Subdivision Water and Wastewater Permitting. Issues are identified with both the process and timeline of permitting. The primary *process* issue is that the review is frequently duplicative of local review, while generally less thorough and less informed by local context. The timing of permit review is also an issue—not being completed within statutory deadlines. E.g. one member stated that the DEQ in Flathead county has not approved permits within 60 day timeline or on first submittal, despite qualified submittals; DEQ is requiring applicants to waive statutory deadlines.

Infrastructure Access - Access to water, sewer, and roads is a major barrier in creating housing. Urban development limited back lack of land with road access and water and sewer hookups. Rural development hampered by MDT restrictions on road access. Frequently subdivisions are restricted in size due to access limitations to state-owned road systems.

Permit Timing (Generally). Required permits (whether issued from the state or local jurisdictional authority) generally identified as taking too long. E.g. Bozeman's building-permit process is designed to take a minimum of eight weeks (and often takes far longer). Can we improve the timing, or can we move more of permitting into concurrent review. Submittal checklists - tied to permitting timelines.

DNRC Permitting of Wells. Permitting process can be unpredictable and costly. Issues are identified with both the timeline and issues related to exempt wells and combined appropriations. Commentors stated that permitting process take 18 months to years to complete. Combined appropriations of wells was raised as an issue, but some commented that the property rights and water right issues invoked too much complexity to be effectively addressed by the task force.

Local regulation and sublocal regulations / Local Development Codes. Local regs for setback, lot size and lot width requirements, exclusionary zoning, fire access, parking requirements, parkland dedication, and historic preservation requirements. Regulations may be overly prescriptive or add cost and make the review process overly complicated.

Sublocal regulations refers to covenants / HOA restrictions (CC&Rs). In many cases, old covenants no longer serve modern needs or are attached to a defunct HOA (e.g. "zombie covenants"). E.g. many older HOAs prohibit ADUs.

Permit review staffing (locally and statewide) shortages. Planning and regulatory departments statewide have persistent vacancies (due, in part, to high costs of living and uncompetitive wages). Departments do not have adequate staffing to review permit applications on a timely basis. As a result, permits are delayed. Agencies claim helplessness due to state budgets, union contracts, etc. Staffing shortages unlikely to go away on their own.

Federal regulations - Wetlands and Clean Water Act. Endangered Species Act. frequently cited issue related to home building, farming, creating buildings, diversion systems. What can the state do to take on state/local control. E.g. NEPA Assumption. Cooperative federalism. Montana is a partner and should be respected, e.g. in monitoring water.

Conditional use permit process. Many development items require conditional approval or design review approval. Conditional uses create uncertainty and risk, and may subject

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development proposals to rejection due to arbitrary or idiosyncratic preferences of local appointed board members.

Too many things require review and permitting. E.g. no “de minimus” exception for minimal electrical or plumbing work.

Local Treatment of Manufactured Housing – State-inspected Manufactured Homes often subjected to duplicative local reviews which add cost and extend processing timelines.