

REGULATIONS MASTER COPY

Phase II Report: 12-15-22

Recommendation 3A:

Streamline DEQ Review

Streamline the DEQ review process while maintaining protections for public and environmental health by:

1. Reduce the quantity of projects requiring DEQ review, when review is not necessary to protect human health, the environment, or future owners of the property.
2. Increase authority of and training opportunities for contracted counties.
3. Improve consistency and quality of review and submittals across Montana.
4. Support DEQ efforts to update Administrative Rules and Circulars.
5. Expand DEQ local review contracting for water and sewer expansions beyond 50 connections.

Specific recommendations are provided in Appendix A.

RATIONALE:

Some counties and municipalities contract with DEQ to review subdivision applications, and others participate by doing site visits. Local reviewers are required to be certified by DEQ, after at least one year of reviewing applications under a trained, certified reviewer and passing a comprehensive test on the rules, serving as local extensions to the DEQ across Montana.

BARRIERS ADDRESSED:

Increasing the review authority of local jurisdictions can reduce duplicities and help expedite the review DEQ timeline without compromising consumer protections or environmental and public health outcomes.

KEY STRATEGIES:

1. Draft and introduce a bill to make the indicated changes to MCA.
2. DEQ to review and implement administrative changes.

DISSENTING OPINIONS:

Tbd.

SUPPORTING GRAPHICS:

Recommendation 3B:

Update Coal Trust Multifamily Loan program criteria to target assistance to jurisdictions with zoning ordinances that are optimized for affordability.

RATIONALE:

The 2019 Legislature passed HB 16, creating the Coal Trust Multifamily Loan program “to assist low-income and moderate-income persons with meeting their basic housing needs.” MCA 17-6-30(6). The Legislature ordered the Board of Housing to develop rulemaking to administer the program, which include criteria [located in Mont. Admin. R. 8.111.807] to consider when reviewing applications. To ensure these criteria further the Legislature’s express goal of helping Montanans “with meeting their basic housing needs,” these limited funds should be targeted to projects located in jurisdictions that have proactively removed barriers to affordability in their zoning ordinances.

BARRIERS ADDRESSED:

Overly restrictive zoning regulations make housing more expensive. Recommendation 3B incentivizes jurisdictions to revise their zoning ordinances to allow more Montanans to meet their basic housing needs.

KEY STRATEGIES:

1. Department of Commerce shall amend Mont. Admin. R. 8.111.807 to ensure Coal Trust Multifamily Loan awards are targeted to jurisdictions with zoning ordinances that are optimized for affordability.

DISSENTING OPINIONS:

Tbd

SUPPORTING GRAPHICS:

Recommendation 3C:

Update occupational licensing rules for professions involved in housing production.

RATIONALE:

Difficulty in hiring engineers, architects, etc, has contributed to slower timelines for housing construction. Occupational licensing boards across the US are increasingly moving towards universal licensing and use of 'equivalent standards' to address this problem.

BARRIERS ADDRESSED:

Overly restrictive licensure rules and timelines that limit the housing construction workforce without meaningfully contributing to quality and safety.

KEY STRATEGIES:

1. Direct the Department of Labor to examine and make necessary amendments to occupational licensing rules for professions involved in housing construction.

DISSENTING OPINIONS:

Tbd

SUPPORTING GRAPHICS:

Recommendation 3D:

Make affordability-optimizing updates to the State Building Code in concert with the Department of Labor and the Building Codes Council

RATIONALE:

New housing construction (and rehabilitation) must comply with the state building code and any local amendments. The Department of Labor, through its Building Codes Council, makes updates to the code on a three year cycle, but it can also adopt changes in the interim period. The administration, in consultation with the State Fire Marshall, should ensure the building code's requirements do not unnecessarily increase construction costs or impose inefficient design standards.

BARRIERS ADDRESSED:

Unnecessary design requirements in the State Building Code can make housing construction more expensive and inefficient.

KEY STRATEGIES:

1. Increase the # of floors and units a building can contain without requiring a second stairwell. The limit, determined in consultation with the State Fire Marshall, should be set to the maximum possible without compromising fire safety. Single stairwell apartment buildings are less expensive to build, allow for a wider variety of floor plans, and are more energy efficient.

DISSENTING OPINIONS:

Tbd.

Recommendation 3E:

Create an inventory of underutilized state-owned land that may be appropriate for affordable housing construction. Identify the regulatory (state and local) challenges associated with those parcels.

RATIONALE:

BARRIERS ADDRESSED:

Lack of well-located land can be a barrier to housing production in some Montana cities.

KEY STRATEGIES:

1. Increase the # of floors and units a building can contain without requiring a second stairwell. The limit, determined in consultation with the State Fire Marshall, should be set to the maximum possible without compromising fire safety. Single stairwell apartment buildings are less expensive to build, allow for a wider variety of floor plans, and are more energy efficient.

DISSENTING OPINIONS:

Tbd.

Appendix A or Supporting Graphics?

Recommendation: Streamline DEQ Review

Streamline the DEQ review process while maintaining protections for public and environmental health by:

Objective	Rule or Statute Update Needed	Recommendation
(1) Reduce quantity of projects requiring DEQ review.	Deletions within: 76-4-102 (23) & 76-4-103, MCA	Increase number of mobile homes exempt from Sanitation Act on parcels > 20 acres.
	Add language within: 76-4-114, MCA & ARM 17.36.116	Allow contracted counties to finalize their reviews and issue the approval statements with additional training and certification. Eliminates required 10-day review at DEQ. Maintain auditing process for quality assurance.
(2) Increase authority of and training opportunities for contracted cities and counties.	None	Allow contracted counties to review and approve Municipal Facility Exemptions (MFEs) in accordance with DEQ policy.
	Amend 75-6- 121(1)(b), MCA	Increase the 50-connection maximum on delegated review of public water and sewer construction.
	None	DEQ to provide more regular and thorough training to contracted county reviewers.
(3) Improve consistency and quality of review & submittals across the state.	None	DEQ to partner with contracted counties and cities to provide training for developers and consultants. Develop more user-friendly guides and manuals for applicants.
	None	DEQ to offer competitive pay to retain qualified and skilled reviewers.
	None	DEQ to offer competitive pay to retain qualified and skilled reviewers.
(4) Support DEQ efforts to update Administrative Rules and Circulars.	Changes within: ARM 17.36.355	Simplify review criteria for existing wells to eliminate unnecessary waivers from current well construction requirements.
	None	DEQ to prioritize re-writing the Non-Degradation manual into a Circular. Use existing Housing Task Force members for support.