

IV. Models: Case Studies and Best Management Practices

Introduction and Next Steps

With tight deadlines and the proper Task Force focus on internal Department operations, we were unable to investigate the details of each specific program with an appropriate level of due diligence. Therefore, we can not, at this time, make meaningful recommendations that would apply to specific programs or departments within NJDEP.

However, our initial research indicates that there are a number of viable precedent initiatives underway in other states and municipalities that deserve further analysis. We recommend that a broad-based group, composed of a subset of Task Force members, review these initiatives, cull out those with the most applicability, review them with Department staff, and prepare specific recommendations.

Summary of Programs

In an effort to compare and contrast the existing NJDEP permitting process with other governmental entities, NJDEP staff gathered information on permit efficiency strategies used or suggested by other states, counties, local governments, and organizations. The objective was to find strategies that connected sustainability, planning objectives and governmental priorities to the permitting process, while also addressing the efficiency of the basic permit delivery process. The following is a concise summary of several programs used by various states, counties, or local governments.

A. Programs That Provide Guidance and Assistance to All Applicants:

1. Permit Identification Assistance (*Michigan and Washington*)

The Michigan Department of Environmental Quality (DEQ) has prepared a list of key questions to help identify what departmental permits, licenses, or approvals of a permit-like nature may be needed for a project. This list is divided up into the following sections: Construction Permits, Construction Permits (Land/Water Feature), Construction Permits (Sector Specific), Operational Permits, Chemical Addition Projects, Operational Permits (Sector Specific), Storage Tanks (Construction and Operation), Personal Licenses/Certifications, and Oil, Gas, and Mining. Each section has corresponding questions, with information on the DEQ Permit and Licensing Guidebook Section(s):-, web page or phone number for the program is provided if the answer is “yes”.

Washington State’s Governor’s Office of Regulatory Assistance has available on their website an interactive “Project Questionnaire”. This interactive questionnaire allows for potential developers to answer questions about a proposed project, and after the questionnaire is completed, a report is automatically generated to provide the user with information about the permits needed for “yes” answers.

By providing user-friendly questionnaires that provide developers with the tools to get the information regarding the permits needed for a project, Michigan and Washington have saved time and money for the developer and themselves. For the developer, more time is spent on applying for the proper permits than on determining which permits are needed, and for the state, more time is spent reviewing applications than on determining the permits needed for a project.

2. Intra-Departmental Coordination, Environmental Management Systems, Awards System (Colorado)

The Colorado Department of Public Health and Environment has a similar office to NJDEP's Office of Planning and Sustainable Communities. This office, called the Office of Environmental Integration & Sustainability, was created to centralize and enhance the Department's oversight of its environmental protection programs. Among the offices activities are:

- Promoting innovative efforts to develop and implement environmentally sustainable practices in Colorado
- Integrating sustainability and innovative concepts into department activities and regulatory programs
- Building partnerships to achieve improved compliance and encourage beyond compliance outcomes, and to foster environmental leadership among businesses, the public, and government entities.

Among the office's responsibilities is the creation of the Environmental Leadership Program, which provides recognition, benefits, and incentives to entities that voluntarily go beyond compliance and demonstrate a commitment to continual environmental protection. Incentives are based on the tier of award given and may include assignment of a single permit writer and inspector for sites, priority permitting for modifications, expedited technical assistance, reduced inspection frequency, etc.

B. Programs Based Upon Meeting Economic Development Objectives:

1. Pre-permitting Program (New York)

New York's Governor's Office of Regulatory Reform, as part of the "Build Now-NY" initiative, has developed the "Shovel Ready Certification" program. Having an economic development site certified as a "Shovel Ready Site" means that the local developer has worked proactively with the State to address all major permitting issues, prior to a business expressing interest in the location. This certification allows for construction to begin more quickly, thus providing valuable savings to the business and job opportunities for local residents.

2. Higher Fees for Expedited Permits (*North Carolina and Arizona*)

The North Carolina Department of Environmental Natural Resources (DENR) offers an “Express” application review for various permits at higher fees than routine application fees. Depending on the permit, developers can save from 30- 120 days by paying more for their permit review.

The Arizona Department of Environmental Quality (ADEQ) has established a system of reducing the time to obtain air quality permits by using outside contractors. The ADEQ selects an appropriate contractor after applicants have submitted their permit applications. Applicants pay more for the accelerated permit program, but it reduces the permit processing schedule from up to 18 months to 60 or 120 days depending on the type of permit.

C. Programs Providing Benefits to Sustainable Design / “Green” Projects:

1. Expedited Permits for Green Buildings (*San Diego County, California and Santa Monica, California*)

The County of San Diego has a Green Building Incentive Program designed to promote the use of resource efficient construction materials, water conservation and energy efficiency in new and remodeled residential and commercial buildings. The program offers incentives of reduced plan review turn around time and a 7.5% reduction in plan review and building permit fees for projects meeting program requirements.

The City of Santa Monica has long tried to encourage green building practices. Now, in addition to financial incentives for green building, the city has passed an ordinance that will allow expedited plan reviews for LEED registered projects. This expediting process may take weeks off of the approval process.

2. Fast-track Permits for Sustainability (*Massachusetts*)

Using the Special Projects Permitting and Oversight Fund at the Department of Environmental Protection, Massachusetts offers a Fast Track Permitting Program that now includes sustainable development principles. The authorization broadens the range of projects that are eligible for an alternative permit schedule or individual rule agreement and provides Mass DEP with additional authority to negotiate permit schedules and fees for projects that the Commissioner determines are of significant environmental interest to the Commonwealth or are consistent with sustainable development principles.

This program allows for flexibility and does not guarantee a specified reduction in the permit process, but rather the permit processing schedule is negotiated so that both the Department and developer get a schedule that is manageable for both parties.

3. Green Permit Program (Chicago, Illinois)

The Chicago Department of Buildings (DOB) has developed an expedited permit process for projects that incorporate innovative green building strategies.

Chicago has developed two building codes – a “standard” code and a “green” code. The decision to use the “green” code is made by the applicant, and is incentivized by several benefits, including a streamlined permit process timeline for their projects. Projects accepted into the Green Permit Program can receive permits in less than 30 business days or in as little as 15 business days. The number of green building elements included in the project plans and project complexity determines the length of the timeline: the more green building elements, the shorter the timeline to obtain a permit. Applicants that demonstrate an extraordinary level of green strategy implementation may have consultant code review fees waived. Criteria include LEED, Chicago Green Homes and/or options from a list entitled “**Green Menu Items**” (these include energy efficiency and renewable energy; green roofs; extra home affordability; TOD and “Difficult-to-Develop” areas.

D. Programs Providing Benefits to Projects that Meet State Priorities:

1. Streamline permitting for priority projects (Washington State)

The State of Washington, facing similar challenges to New Jersey (budget deficit, public demand for increased efficiency, high demand for natural resources protection and transportation improvements) formed a multi-party transportation permit streamlining project called “TPEAC”. Several state agencies partnered to form what are called MAP (“Multi-Agency Transportation Permitting Teams”) to bring decision makers together into a single venue to reduce costs and time while providing enhanced environmental outcomes for projects that are of high priority to the State.

E. Programs Providing Benefits to Projects that Include Affordable Housing:

1. “Green Tape Program” for Affordable Housing (Montgomery County, Maryland and San Diego, California)

Montgomery County, Maryland provides expedited review and process of applications for residential or mixed-use development that designates at least twenty percent of the total number of housing units as “affordable”. In addition, the Washington Suburban Sanitary Commission and the Maryland National Capital Park and Planning Commission have joined the green tape initiative and also expedite their review of these projects.

Through the Expedite Program, the City of San Diego also provides expedited permit processing for all eligible affordable housing as well as in-fill housing and sustainable building projects. As established by Council Policy 600-27, a more aggressive processing

timeline is achieved by providing mandatory initial review meetings for early staff feedback (a “deemed complete” submittal is required); significantly reducing project review cycles; funding the environmental initial study at initial review; and (at the applicant’s request), scheduling a public hearing immediately upon completion of the environmental document. The Expedite Program is an optional service available to applicants who desire expedited permit processing, and requires a supplemental fee in addition to any other standard applicable fee and/or deposit.

2. Housing and Smart Growth Zoning Initiatives (Connecticut, Massachusetts, proposed in New Jersey)

The Connecticut program, based on legislation passed in 2007, is a voluntary program to encourage towns to create Incentive Housing Zones, which are overlay zones permitting high density housing with a minimum set-aside of 20% affordable housing in designated zones. Connecticut provides an incentive payment for each unit constructed.

Massachusetts General Law Chapter 40R provides incentive payments to municipalities when "smart growth zoning districts" are adopted and, again, when building permits are issued. Municipalities must locate these smart growth zoning districts in an eligible location, defined as being near transit, concentrated development, and infrastructure. The State must make a preliminary determination regarding the district’s eligibility within sixty days of application submittal.

New Jersey Future has proposed a similar program for the State of New Jersey. Under the proposal from NJFuture, NJ municipalities would receive incentives for the creation of Smart Growth Housing Zones in the form of prioritized permit review, technical assistance, planning grants, and reimbursement for units zoned and a separate reimbursement for units actually built. The State would also provide financial assistance for the expected increase in schoolchildren. Like the Massachusetts example this program would require municipalities to protect environmental resources and adopt “green” development standards within the Smart Growth Housing Zone.

F. Programs Providing Benefits to Projects that Meet Planning Objectives:

1. Creation of Desired Development Zones to incentivize appropriate development (Austin, TX)

These smart growth incentives are only available within Desired Development Zones – defined as the “right development in the right places” - and include the following:

- Changed fees for zoning, subdivision and site plan applications within the DDZs.
- Revised Water and Wastewater Reimbursement policies for developers.
- Smart Growth Matrix – if a development project identified by the Smart Growth Matrix significantly advances the City’s goals, financial incentives may be available and some development fees may be waived.

- Primary Employer Incentives. These incentives guide large employers to build within the DDZ. They include fee waivers, extension of water and sewer infrastructure, and wastewater improvements.
- **SMART** Housing Incentives. **SMART** stands for Safe, Mixed-Income, Accessible, Reasonably-priced, Transit-Oriented Housing. Projects meeting these criteria may qualify for fee waivers and expedited review for new permits.

2. The New Jersey State Plan (*New Jersey*)

The State Plan Endorsement (PE) Process has recently been updated to better incorporate a *capacity-based planning approach to plan for a more sustainable future* (PE Guidelines page 2). The Plan Endorsement Process is designed to promote center-based planning, and when centers are proposed, the Department takes into account sewer service areas, current and proposed development, habitat, wetlands, streams, transportation infrastructure, water supply, among other factors, during the process. The Department works directly with petitioners (primarily municipalities) on their land-use ordinances, habitat protection, and sustainability planning to create greater consistency with the Department's policies, rules, regulations, and priorities. Since ordinances and land-use policies are measured for consistency with the Department's policies, rules, and regulations, it is most likely that prospective sites within centers will have been reviewed using a similar process as those required during the permitting process, thereby, creating an opportunity for the permitting process to be shortened.