



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE DIRECTIVE

No. 2023-4

To: State Department Directors and Autonomous Agency Heads
From: Governor Gretchen Whitmer
Date: August 3, 2023
Re: Expediting Permit Applications & Adding Accountability Measures

Permitting delays can increase costs and cause uncertainty for communities and businesses. Effective permitting should balance competing economic, environmental, and public interest objectives, ensure that essential metrics are met, and help projects get done with full confidence. In today's economy, to meet the needs of the residents and businesses of our state, efficient and transparent permitting is essential. That's why my administration has been focused on making sure state government runs a strong permitting process without hampering our state's robust economic growth or negatively impacting our health, communities, or natural resources.

Last year we took a giant step forward. I signed Executive Directive 2022-6 to increase interagency cooperation and streamline the state permitting process for infrastructure projects of \$50 million or more. This year I proposed, and the legislature approved, \$6.6 million in funding to build a strong program that increases staff capacity and modernizes systems to help reduce permit wait times, increase transparency for interested parties, and improve the overall permitting process. Investing in these changes will make the process more efficient and eliminate barriers to licensing, jobs, and new economic development while still protecting Michigan's important natural resources.

But even with these measures, we must do more. Efficient permitting benefits all Michiganders. To rebuild Michigan's infrastructure and provide high speed internet, clean water, affordable housing and safe roads, we must move swiftly. To meet the goals of our MI Healthy Climate Plan, we must deploy clean energy in an efficient and timely way. And to continue to create good jobs in Michigan, we must create an environment of certainty for businesses.

Those applying for a permit with the state must know how long the process will take and that when the state commits to a deadline, it will meet it. We must review our permitting process to make it faster and clearer. We should look for ways to refund permit application fees when we miss deadlines. This will boost accountability from the state and boost confidence for individuals and organizations seeking a permit with the state. With a more streamlined permitting process and financial consequences for missed deadlines, we can ensure more projects of all kinds—housing, community revitalization, manufacturing, clean energy, and water protection—get done on time and at cost.

Acting under sections 1 and 8 of article 5 of the Michigan Constitution of 1963, I direct all state departments and agencies as follows:

1. Each state department or agency that issues permits must compile a report listing the permits it issues and submit it to the Executive Office of the Governor within ninety (90) days of this directive. The report should include:
 - (a) A description of each type of permit issued, including its term, and the statutory, regulatory, or other basis for the department or agency's issuance;
 - (b) Any legal authority governing the length of time within which the department or agency must process applications for each type of permit;
 - (c) The application fee charged by the department or agency for each type of permit, and any legal authority governing that fee, including statutes and regulations. Any legal authority that seemingly restricts the department's ability to refund an application fee should be marked with an asterisk (*) in the report;
 - (d) Any additional fees charged by the department or agency for operations necessary to facilitate the application, including for professional assessments;
 - (e) The department or agency's analysis and recommendation of the appropriate length of time required to promptly process a completed application for each type of permit;
 - (f) Any additional information necessary to determine the appropriate time to review permit applications, including, for example, the involvement of other government entities or regulatory bodies, an applicable public meeting or public comment period, etc.; and

- (g) Any permits that, in the view of the department or agency, are unnecessary or obsolete, along with the department or agency's reasoning.
- 2. Following receipt of the required reports, the Executive Office of the Governor will establish recommended times for the efficient processing of applications for each type of permit. The times will be provided to the departments and agencies to make publicly available and, where relevant, incorporate the updated information into the tools and processes established under ED 2022-6.
- 3. Any department or agency, after having received a completed application that exceeds the recommended application processing time as established under Section 2, will waive or refund the full application fee to the extent permitted by law. The waiver or refund will have no bearing on the disposition of the underlying application. This directive will apply to applications received on or after the Executive Office of the Governor has established recommended times for the efficient processing of the application type under Section 2 of this directive.
- 4. The Department of Treasury shall review its procedures and technology to determine ways it can assist departments and agencies with refunding permit application fees as described in Section 3. Treasury shall provide a report on its ability to process refunds, in the most expedited manner possible, to the Executive Office of the Governor within ninety (90) days of this directive.
- 5. Definitions: For the purpose of this directive, the following definitions apply:
 - (a) "Application fee" means a fee paid to a state department or agency in exchange for consideration of a completed application. It does not include any other fees (e.g., fees paid for professional assessments carried out by the state).
 - (b) "Completed Application" means the applicant has properly and timely submitted all information and materials necessary for the department or agency to make a final decision. Departments and agencies must review their public-facing materials to ensure that they have made clear what is required for a permit application to be deemed complete.
 - (c) "Permit" means any permit, license, certification, or other discretionary approval issued by a state department or agency upon application except:

- i. A permit or license issued for recreational purposes by the Department of Natural Resources;
- ii. A permit or license issued by the Michigan Public Service Commission;
- iii. A permit or license issued by the Department of Insurance and Financial Services;
- iv. Cemetery, healthcare facility, cannabis, liquor, gaming, commercial, fire safety, professional and occupational licenses issued by the Department of Licensing and Regulatory Affairs, the Cannabis Regulatory Agency, or the Michigan Gaming Control Board;
- v. A permit or license issued by the Michigan Commission on Law Enforcement Standards; and
- vi. Any permit, license, or certification that is considered issued or renewed as of the date a fee is paid without further action by the department or agency.

6. Enforceability

- (a) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the State of Michigan, its departments, agencies, or entities, or its officers, employees, or agents, or any other person.
- (b) The provisions of this directive are severable and if any provision, or portion thereof, is held unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity does not affect the remaining provisions, which remain in force.
- (c) State departments and agencies must take all necessary steps to implement this directive, including through the allocation of available funding and other resources in a manner consistent with applicable law.

This directive is effective immediately.

Thank you for your cooperation in its implementation.



Gretchen Whitmer
Governor