

City of Avondale

Senate Bill 1598 Compliance Review Policy

PURPOSE

The Arizona Legislature, in 2011, codified Arizona Revised Statutes Section 9-831 *et seq.* that applies to all Arizona municipalities and counties. The purpose of this policy is to bring the City's development review and application processing procedures into compliance with applicable State law.

APPLICABILITY

- A. This policy applies to the various City of Avondale application review procedure who's outcomes qualify as "licenses," defined in A.R.S. § 9-831 (2) as "the whole or part of any municipal permit, certification, approval, registration, charter or similar permission required by law."
- B. As required by A.R.S. § 9-831 *et seq.* this Compliance Review Policy supersedes over any timeline as outlined in our Development Services and Engineering standard review times, and/or our Zoning Ordinance in the event of a conflict.
- C. As required by A.R.S. § 9-833 inspections required for any regulated persons will be conducted only after proper identification, notifications, and documentation has been presented.

The procedures outlined below involve a variety of license application types. Some requirements are the same for all applications, and some application procedures have unique requirements. In addition, most procedures have detailed user guides prepared and provided by the Department. The procedures should be read carefully to ensure a complete application is prepared.

EXEMPTIONS – SHORT TERM EXEMPT LICENSES

A development review application or permit that is issued within 7 days of application and that expires within 21 days of issuance is exempt from the provisions of this policy.¹

REVIEW OPTIONS

Two choices are available;

- Compliance policy (A.R.S. § 9-831 *et seq.*)
- Flexible policy (Avondale's alternative to § 9-831 *et seq.*)

The City has consistently supported and practiced expeditious review of all applications, and will continue to do so under the time frames set forth in this Policy. The City will continue to engage in process improvement to review various applications in the most expeditious way

¹ The statutory provision, A.R.S. Section 9-835(H), providing this exemption is unclear, so this interpretation is intended to apply this exemption in the most narrow way that can be derived from the wording of the Section.

possible and will continue to work with customers to review their applications in a manner that provides the following:

- Flexibility when needed;
- Assures the public health and safety; and,
- Allows a customer complying with the City's development regulations to achieve their permitting and development goals in a timely manner.

To further this goal and to provide applicants with additional flexibility and choice, the applicant will have the option of waiving the requirements of A.R.S. § 9-831 *et seq.* This option must be chosen and the waiver signed by the applicant or authorized agent at the time of submittal. Choosing this option affords the applicant and the City more opportunity to work through and resolve issues that may arise during the review process.

APPLICATION FORM CONTENTS

City of Avondale development review applications shall include the following information as required by A.R.S. § 9-836:

- A. A list of all required steps in the application/approval process;
- B. Applicable time frames;
- C. Contact person (name and telephone. number) who can answer questions or provide assistance throughout the application process;
- D. Website address; and,
- E. Notice for opportunity to clarify ordinances/regulations, or "authorized substantive policy statements" as defined by A.R.S. Section 9-831.

REVIEW TIME FRAME REQUIREMENTS

- A. A.R.S. § 9-835 requires the City to have in place an overall timeframe during which the City will either grant or deny license applications. A.R.S. § 9-835(C) provides for flexibility in structuring the license process for certain types of "licensing." The time frame requirements for application review on applicable procedures are listed in Tables 1-3 provided below.
- B. Existing applicable license application review provisions shall comply with policy by December 31, 2012.
- C. Any new applicable license application shall comply with the law and this policy.

NOTICE OF COMPLETENESS

The City shall review applications for administrative completeness. The City shall send notice to the applicant of the application's status within the applicable administrative completeness review timeframe. The notice shall cite a list of all deficiencies, if any, and inform the applicant that the City's administrative completeness and overall timeframes are suspended pending receipt of requested corrections or any missing information.

The Department will accept all applications upon submittal and evaluate each application for administrative completeness. An application shall contain a planning, engineering, or building application form, the relevant checklist, any information specifically required by the Zoning Ordinance, Building Code, General Engineering Requirements Manual, or such additional information specified by the Project Manager as may be required by city code, rule, or compliance review policy, and applicable fee. An application must be made by the property owner or authorized agent.

An applicant will be notified in electronic or written format if the application is incomplete and will be provided with a list of the specific deficiencies. Upon resubmission of the required materials the Project Manager/Planner will notify the applicant whether the application is complete or remains incomplete.

When an application is determined to be complete, and the notice of administrative completeness has been issued, the substantive review timeframe begins and the application will be scheduled for review by the Development Review Team or scheduled for a public hearing as required by the applicable code provision or ordinance.

TIME FRAME SUSPENSIONS

Overall time frames listed in Table 2 below are suspended for the following time periods:

- A. From the date of issuance of the notice to the applicant of specific deficiencies in an application, whether on review for administrative completeness or substantive review, to the date that the City receives the missing information from the applicant.
- B. Time for completion of certain purposes, such as; public hearings, state, or federal licenses.
- C. During agreed upon supplemental information requests from the City during a substantive review timeframe.

TIME FRAME EXTENSION PROCESS

- A. During substantive reviews of license applications, the statute provides that the City shall request no more than one comprehensive request for additional materials and corrections. Said request will provide notice of possible denial of the application and any basis for that denial, in the event the request is not fully complied with.
- B. If a re-submittal after the one comprehensive request is still not in compliance, based upon the applicable statutes, City code, ordinances, regulations, or substantive policy

statements, the application shall be denied. The City shall give notice of denial by electronic or written format. The notice shall include citations of the pertinent provisions justifying an application denial and shall explain the applicant's rights to appeal, including the number of working days in which the applicant must file a protest challenging the denial and the name and telephone number of a municipal contact person who can answer questions regarding the appeal's process.

- C. Upon receiving an application denial, the applicant may submit a new application to the City.
- D. Under ARS § 9-835(H), by mutual electronic or written agreement, the City and applicant may extend the substantive review time frame and the overall time frame. The extensions shall not exceed 25% of the overall time frame. Should agreement not be reached, the City may deny pursuant to A.R.S. § 9-834 and 9-835(I).
- E. Upon first review, if the review department or body (Project Planner, Development Review Team, Commission, Board, or City Council) determines additional information is required to adequately evaluate an application, any such additional information shall be submitted by the applicant not later than six (6) to twelve (12) months from notification of the applicant (IBC 107.3.2, Zoning Ordinance 105 E). Failure to provide additional information in the time specified will result in the application being denied as incomplete under the applicable City provisions. No fees shall be refunded for an application that is denied.

REFUNDS

Pursuant to A.R.S. Section 9-835(J), if the City does not send notice to an applicant regarding approval or denial within the overall time frame or any mutually agreed extension thereof, the City shall refund the application fees within 30 days of the expiration of the overall time frame or any mutually agreed extension thereof and waive any additional fees for the application.

WORKING DAYS

Working days as stated in this document refer to City of Avondale working days excluding all observed holidays.

(TABLE - 1) REVIEW TIMEFRAME REQUIREMENTS

COMPLIANCE REVIEW TIMEFRAMES			
DEVELOPMENT TEAM APPROVAL PROCESS			
APPLICATION TYPE	TIMEFRAMES**		
	Administrative Completeness	Substantive review	OVERALL
Business License	1 st : 8 days 2 nd : 8 days 16* City working days	1 st : 12days 2 nd : 8 days 20* City working days	36*** City working days
Design Review Waiver			
Site Plan/Design Review			
Electrical Connections			
Revision of Existing Permits			
Home Occupations			
New Construction			
Civil Engineering; Plans & Reports			
Non-conforming uses			
Seasonal Sales			
Temporary and Permanent Sign permits			
Tenant Improvements			
Wireless Communication Uses (that do not require CUP)			
Landscape Plans			

**Timeframe suspended from notice to return of requested documentation.

***City working days timeframe is suspended from overall timeframe for all public hearings under A.R.S. § 9-835(C)(8)(c).

(TABLE – 2) REVIEW TIMEFRAME REQUIREMENTS

PUBLIC HEARINGS & CITY COUNCIL APPROVAL PROCESS			
APPLICATION TYPE	TIMEFRAMES**		
	Administrative Completeness	Substantive review	OVERALL
Conditional Use Permit	1 st : 8 days 2 nd : 8 days 16* City working days	1 st : 12 days 2 nd : 8 days 20* City working days	36*** City working Days Timeframe is suspended from overall timeframe for all public hearings under A.R.S. § 9-835 (8) (C)
Preliminary Plat			
Final Plat			
Minor Land Division			
City Center Site Plan			

*Approval or denial notice.

**Timeframe suspended from notice to return of requested documentation.

***City working days timeframe is suspended from overall timeframe for all public hearings under A.R.S. § 9-835(C)(8)(c).

(TABLE 3) REVIEW TIMEFRAME REQUIREMENTS

BOARD OF ADJUSTMENT APPROVAL PROCESS			
	TIMEFRAMES**		
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Variance Appeal	1 st : 8 days 2 nd : 8 days 16* City working days	1 st : 12 days 2 nd : 8 days 20* City working days	36*** City working days

*Approval or denial letter.

**Timeframe suspended from notice to return of requested documentation.

***City working days timeframe is suspended from overall timeframe for all public hearings under A.R.S. § 9-835(C)(8)(c).

WAIVER OF CLAIM
TO
A.R.S. § 9-831 ET SEQ.

This agreement ("Agreement") is entered into between _____, as the applicant ("Applicant") seeking a license, permit, approval registration or approval ("License") related to the use development of _____ ("Property") Case No _____ as required by the City of Avondale ("City"). Applicant hereby agrees to waive any and all claims as established by A.R.S. §9-831 et seq., in exchange for which the City agrees to process licensing under its flexible Application Process ("Process").

The Applicant or authorized agent, has submitted an application to the City requesting that the City approve or permit a development plan, plat, contemplated use, development or action described in Exhibit A. Applicant is aware that under the Process, he/she may be afforded multiple opportunities to alter or amend application and to confer with city staff for advice without constraint of limited reviews or timeframe for approval imposed by the City pursuant to requirements of A.R.S. §9-831 et seq. The City's procedures under the regulatory-limits process imposed by A.R.S. §9-831 et seq. are compared to the City's alternative application process in Exhibit B. Applicant acknowledges prior receipt and review of Exhibit B. Applicant desires to be afforded an opportunity to adjust plans based on its own changing development circumstances over time or based upon suggestions by staff. Applicant believes and acknowledges that these benefits outweigh any rights or remedies that may be obtained under A.R.S. §9-831 et seq.

By signing this Agreement, Applicant waives any right or claim that may arise under A.R.S. §9-831 et seq., including any claim that an application must be deemed complete or that fees must be returned by the City pursuant to the requirements of A.R.S. §9-831 et seq.

This Agreement is entered into in Arizona and will be interpreted under the laws of the State of Arizona. The Applicant has agreed to the form of this Agreement provided and approved by the City Attorney. The Applicant has had the opportunity to consult with an attorney of the Applicants choice prior to entering this Agreement and enters it fully understanding that the Applicant is waiving the rights and remedies provided under as set forth herein.

The Applicant warrants and represents that the person or persons listed herein as the Applicant is/are the owner in fee title of any Property identified in Exhibit A. The Applicant further agrees to indemnify and hold the City, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon any failure to comply with A.R.S. §9-831 et seq.

Dated this _____ day of _____, 20__

Applicant _____
(Name of individual, Corporation, Partnership, or LLC, as applicable)

Applicant _____
(Name of individual, Corporation, Partnership, or LLC, as applicable)

By: _____
(Signature of Applicant or Authorized Representative, if applicable)

By: _____
(Signature of Applicant or Authorized Representative, if applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona

County of _____

On this _____ day of _____, 20__, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above/attached document.

Notary Public

My commission expires:

City of Avondale, an Arizona Municipal Corporation:

By: _____
Development Services & Engineering Department

This form has been approved by the City Attorney.

EXHIBIT A

CASE NO. _____

Address or Description of Property:

License sought: (Insert brief description of approval, permit or authority sought. Alternatively a proposed plat, development plan or other documentation describing the approval sought may be attached and identified as EXHIBIT A)

EXHIBIT B

CASE NO. _____

A.R.S. § 9-831 REQUIREMENTS AND
CITY OF AVONDALE DS&E FLEXIBLE OPTION PROPOSAL

A.R.S. § 9-831 requires municipalities to establish and adhere to time frames in a broad range of permitting processes. Under the law cities must create an overall permitting time frame for each process consisting of an “administrative completeness” time frame and a “substantive review” time frame. The aim of this statute was to create faster, more uniform, and more transparent processes. However, the implementation of these time frames may have unforeseen consequences.

A.R.S. § 9-831 states the city must determine whether a permit application is complete or not during the administrative completeness time frame. If the city fails to make this determination within established time limits, the permit is deemed complete regardless of deficiencies. Similarly during the substantive review period an application must be denied or approved within the established time frame or the permit fee will be refunded.

A.R.S. § 9-831 offers applicants very limited opportunities to supplement their application with additional material after submission. Moreover, changes to a permit application are limited to responses to a Development Services & Engineering (DS&E) request. Development changes proposed by the applicant do not appear to be allowed. Upon proper denial, during either review period, applicants must reapply with new plans and pay another permit/submittal fee.

DS&E is committed to customer service and recognizes that applicants may not wish to be locked into formulaic standards which do not provide an adequate opportunity to submit additional requested materials and desired plan changes. Thus, DS&E offers applicants the opportunity to make permit applications according to either the A.R.S. § 9-831 process or the more flexible process City of Avondale DS&E customers are familiar with.

Under a *flexible application* process, applicants have multiple opportunities to alter or amend their application and to confer with city staff for advice. This allows the applicant to adjust plans based on their own changing development circumstances over time or on suggestions by staff. Additionally, applicants may alter their permit applications as necessary during the process.

Applicants are encouraged to carefully consider which application process best meets their needs. Staff can explain the process in more detail upon request as well as provide you a copy of A.R.S. § 9-831 et seq. The following points outline some of the highlights of each process.

“A.R.S. § 9-831 et seq.”

- A limited number of opportunities to confer with staff and supply necessary information and materials. The City may request additional information only once after the application is deemed administratively complete.
- If the City fails to meet established timeline for review, an application may be deemed complete although lacking essential materials. If an application is not timely approved or denied fees are refunded to the applicant.
- During review period applicant loses opportunity to propose alterations to support permit approval or changes in circumstances during development.
- If permit is properly denied after City’s one-time request for more information, applicant must reapply and pay new fee.
- Denials must be explained and the applicable code provisions identified.
- Applicant may request code clarification.

“Flexible Application Process”

- Multiple application conferences available before submittal and during process.
- During review period applicant may propose changes to support permit approval and substantial and multiple changes may be made without reapplication.
- No refund for a review period longer than the established timeline. However, City meets or exceeds established permit review period in >98% of applications. Complex applications or substantial changes may take longer.
- Denials will be explained and the applicable code provisions identified.
- Applicant may request code clarification.
- Review timeframes listed below in Tables 1-3.

**(TABLE - 1) FLEXIBLE REVIEW TIMEFRAME REQUIREMENTS
FLEXIBLE APPLICATION APPROVAL PROCESS***

FLEXIBLE APPLICATION APPROVAL PROCESS*			
	TIMEFRAMES²		
APPLICATION TYPE	First Review	Second and Subsequent reviews	OVERALL
Business License	12 City working days	8 City working days	44 City working days**
Design Review Waiver			
Site Plan/Design Review			
Electrical Connections			
Revision of Existing Permits			
Home Occupations			
New Construction			
Civil Engineering; Plans & Reports			
Seasonal Sales			
Sign permits			
Tenant Improvements			
Wireless Communication Uses (that do not require CUP)			
Landscape Plans			

*Must sign waiver to qualify
**Maximum 5 (five) total reviews

**(TABLE - 2) FLEXIBLE REVIEW TIMEFRAME REQUIREMENTS
PUBLIC HEARINGS & CITY COUNCIL
APPROVAL PROCESS***

PUBLIC HEARINGS & CITY COUNCIL APPROVAL PROCESS*			
	TIMEFRAMES³		
APPLICATION TYPE	First Review	Second and Subsequent reviews	OVERALL
Conditional Use Permit	12 City working days	8 City working days	44 City working days**
Preliminary Plat			
Final Plat			
Minor Land Division			
City Center Site Plan			

*Must sign waiver to qualify
**Maximum 5 (five) total reviews

² Timeframes are estimates based upon existing and historical applications. Under this City process, the actual timeframes may vary.

³ Timeframes are estimates based upon existing and historical applications. Under this City process, the actual timeframes may vary.

**(TABLE 3) FLEXIBLE REVIEW TIMEFRAME REQUIREMENTS
FLEXIBLE APPLICATION APPROVAL PROCESS***

TIMELINE⁴			
APPLICATION TYPE	First Review	Second and Subsequent reviews	OVERALL
Variance Appeal	12 City working days	8 City working days	44 City working days**

*Must sign waiver to qualify
**Maximum 5 (five) total reviews

⁴ Timeframes are estimates based upon existing and historical applications. Under this City process, the actual timeframes may vary.