

RESOLUTION NO. 2012-36

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, ADOPTING THE TOWN OF FOUNTAIN HILLS SENATE BILL 1598 COMPLIANCE POLICY / PROCESS SUMMARY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The Town of Fountain Hills Senate Bill 1598 Compliance Policy / Process Summary (the "SB 1598 Compliance Policy/Process Summary") is hereby adopted in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this Resolution or any part of the SB 1598 Compliance Policy/Process Summary adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 3. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, December 20, 2012.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Kenneth W. Buchanan, Town Manager

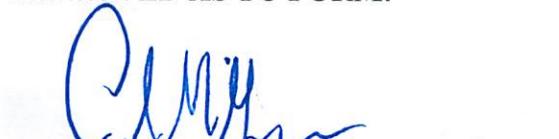

Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION NO. 2012-36

[SB 1598 Compliance Policy/Process Summary]

See following pages.



Senate Bill 1598

COMPLIANCE POLICY/ PROCESS SUMMARY

PURPOSE

In July 2011, the Arizona State Legislature approved Senate Bill 1598, commonly referred to as the "Regulatory Bill of Rights" bill. The Legislature 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 Town development review and application processing procedures into compliance with applicable State law.

APPLICABILITY

This law grants to regulated private parties a series of rights in their dealings with cities, counties and flood control districts, and notably changes municipal procedures regarding applications for *permits and licenses*, as defined by the statute, as well as the conduct of compliance inspections.

Senate Bill 1598 requires cities/towns to process each application type within a published timeframe. The Town has determined that each of the application types listed in the tables below will be subject to a specific time period in which staff will verify if the submittal is '*administratively complete*' and then an additional time period of days of staff time to '*substantively review the submittal*'. This assures the applicant that he/she will be notified as to whether or not their submittal is administratively complete and that then staff will substantively review and either approve, or deny an application. Only one set of staff review comments may be issued during the substantive review period, meaning the applicant's second submittal must address all comments satisfactorily. If the comments are not fully addressed, staff has two options – deny the application, requiring the applicant to restart the process (including payment of new fees) or negotiate in writing a third review and/or extend the overall timeframe not to exceed 25% of the overall time frame.

As required by law, this compliance review policy supersedes over any timeline as outlined in any Development Services or Administrative standard review times, and/or our Zoning Ordinance in the event of a conflict.

DEFINITIONS

administratively complete – an application that includes license or permit application form, the relevant checklist, any information specifically required by ordinance, code, or such additional information specified by the staff as may be required by Town code, rule, or compliance review policy, and fee.

substantive compliance – application meets the applicable municipal requirements and the license and/or permit is ready to be issued.

Permits and licenses are defined as "the whole or part of any municipal permit, certificate, approval, registration, charter or similar form of permission required by law" (A.R.S. §9-831(1))

REVIEW TIME FRAME REQUIREMENTS

- A. A.R.S. §9-835 requires the Town to have in place an overall timeframe during which the Town 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 the table provided below.
- B. Existing applicable license application review provisions shall comply with this policy by December 31, 2012.
- C. Any new applicable license application shall comply with this policy.
- D. This policy also provides the option for applicants to select the Town's Flexible Review Process, as provided in the attached Waiver of Claim to A.R.S. §9-831 et seq.

NOTICE OF COMPLETENESS/SUBSTANTIVE COMPLIANCE

The Town shall review applications for both *administrative completeness* and *substantive compliance*. The Town shall send notice to the applicant of the application's status within the mandatory timeframes. The notice shall cite a list of all deficiencies and reference the applicable regulation or policy, inform the applicant that the Town's mandatory timeframe is suspended pending receipt of requested corrections or any missing information and note that if the Town fails to provide notice to the applicant during the administrative review timeframe, the application is then deemed complete in accordance with A.R.S. §9-835(F).

The Development Services will accept all permit applications and Administration Department will accept all license applications upon submittal and evaluate each application for administrative completeness. A Development Services 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 staff as may be required by Town code, rule, or compliance review policy, and fee. An Administration Department application shall contain an application including all requested information, any additional information specified by staff as may be required by Town Code, rule or compliance review policy, and fee. An application must be made by the property owner or authorized agent.

An applicant will be notified in writing if the application is incomplete and will be provided with a list of the specific deficiencies. The administrative review time frame is suspended pending the Town's receipt of the missing information. Upon resubmission of the required materials the staff will notify the applicant whether the application is complete or remains incomplete. If an applicant fails to provide the missing information as requested by the Town prior to the end of the administrative review time frame, the Town will deny the application.

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

TIME FRAME SUSPENSIONS

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

- A. From the date of a notice to the applicant of specific deficiencies in an application, whether on review for completeness of application or substantive review, and the date that the Town 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 Town during a substantive review time period.

TIME FRAME EXTENSION PROCESS

- A. For substantive reviews of permit or license applications, the Town 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 re-submittal after the one comprehensive request is still not in compliance, based upon the applicable Town code, regulations, or policies, the application shall be denied. The Town shall give notice of denial by electronic or written format. The notice shall include citations of the pertinent regulations justifying an application denial and shall explain the applicant's rights to appeal.
- C. Upon receiving an application denial, the applicant may submit a new application to the Town.
- D. Under A.R.S. §9-835(H), by mutual electronic or written agreement, the Town 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 then the Town will deny pursuant to A.R.S. §9-834, 9-835(H), and 9-835(I).
- E. Upon first review, if the review authority (Development Review Team, Administrative staff, Commission, Board, or Town 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 106, Zoning Ordinance of the Town of Fountain Hills). Failure to provide additional information in the time specified will result in the application being denied as incomplete under the applicable Town provisions. No fees will be refunded for an application that is denied.

REFUNDS

If the Town does not send notice to an applicant regarding approval or denial within the overall time frame or any mutually agreed extension thereof, the Town 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. A.R.S. §9-835(J)

WORKING DAYS

Working days as stated in this document refer to Town of Fountain Hills working days excluding all observed holidays.

The Town is committed to meeting the SB 1598 deadlines in all cases. The Town will continue its long-standing practice of processing all applications as quickly as possible, subject to workload and resource constraints. Senate Bill 1598 is a complex law with several areas that are left open to interpretation. The provisions in the law affect each Town department differently. After a review of our processes for permits, licenses and other approvals, the Town believes that the following processes are subject to SB 1598:

COMPLIANCE REVIEW TIMEFRAMES			
DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
APPLICATION TYPE	TIMEFRAMES**		
	Administrative Completeness	Substantive review	OVERALL
Building Permit	90* Town working days	180* Town working days	270* Town working days
Site Plan/Design Review/Amendment			
Site Plan Extension			
Special Use Permit			
Wall Waiver			
Hillside Waiver			
Design Review Waiver			
Encroachment Permits			
Plan Reviews			
Electrical Connections			
Fence Walls			
Retaining Walls			
Revision of Existing Permits			
Home Occupations			
New Construction			
Civil Engineering; Plans & Reports			
Non-conforming uses			
Pools & Spas attached/stand alone			
Seasonal Sales			
Solar Photovoltaic permits			
Temporary and Permanent Sign permits			
Tenant Improvements			
Wireless Communication Uses (that do not require CUP)			
Landscape Plans			

*Approval or denial notice.

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

PUBLIC HEARINGS & TOWN COUNCIL APPROVAL PROCESS			
	TIMEFRAMES**		
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Conditional Use Permit	90* Town working days	180* Town working days	270* Town working Days
Special Use Permit			
Preliminary Plat			
Final Plat			
Minor Land Division			
Zoning Extension			

*Approval or denial notice.

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

BOARD OF ADJUSTMENT* APPROVAL PROCESS			
	TIMEFRAMES**		
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Variance Appeal	90* Town working days	180* Town working days	270* Town working days

*Approval or denial notice.

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

COMPLIANCE REVIEW TIMEFRAMES DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
	TIMEFRAMES		
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Sign Permits	10* Town working days	10* Town working days	20* Town working days
Animal License Tag Application			

*Approval or denial notice.

COMPLIANCE REVIEW TIMEFRAMES			
DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
	TIMEFRAMES**		
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Temporary Use Permit			
Administrative Use Permit			
	30* Town working days	30* Town working days	60* Town working days

*Approval or denial notice.

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

COMPLIANCE REVIEW TIMEFRAMES			
DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
	TIMEFRAMES**		
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Business License Applications			
Liquor License Application			
	20* Town working days	50* Town working days	70 Town working days

*Approval or denial notice.

**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 Town of Fountain Hills ("Town"). Applicant hereby agrees to waive any and all claims as established by A.R.S. §9-831 et seq., in exchange for which the Town agrees to process licensing under its flexible Application Process ("Process").

The Applicant or authorized agent, has submitted an application to the Town requesting that the Town 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 Town staff for advice without constraint of limited reviews or timeframe for approval imposed by the Town pursuant to requirements of A.R.S. §9-831 et seq. The Town's procedures under the regulatory-limits process imposed by A.R.S. §9-831 et seq. are compared to the Town'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 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 Town 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 Town 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 Town, 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:

Town of Fountain Hills, an Arizona Municipal Corporation:

By: _____
Development Services & Administration

This form has been approved by the Town 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
TOWN OF FOUNTAIN HILLS DS&A 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, goals which the Town of Fountain Hills Development Services & Administration Department shares. However, the implementation of these time frames may have unforeseen consequences.

A.R.S. §9-831 states the Town must determine whether a permit application is complete or not during the administrative completeness time frame. If the Town 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 & Administration (DS&A) 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&A 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&A offers applicants the opportunity to make permit applications according to either A.R.S. §9-831 process or the more flexible process Town of Fountain Hills DS&A customers are familiar with.

Under a **flexible application** process, applicants have multiple opportunities to alter or amend their application and to confer with Town 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. The following points outline some of the highlights of each process.

“A.R.S. §9-831”

- A limited number of opportunities to confer with staff and supply necessary information and materials. DS&A may request additional information only once after the application is deemed administratively complete.
- If Town 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 DS&A 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, DS&A 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. The timeframes listed are based upon historical information and Town practice, and are subject to change based upon a specific application or project requirements.

**(TABLE - 1) FLEXIBLE REVIEW TIMEFRAME REQUIREMENTS
FLEXIBLE COMPLIANCE REVIEW TIMEFRAMES**

DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
APPLICATION TYPE	TIMEFRAMES**		
	Administrative Completeness	Substantive review	OVERALL
Building Permit			
Site Plan/Design Review/Amendment	45* Town working days	90* Town working days	135* Town working days
Site Plan Extension			
Special Use Permit			
Wall Waiver			
Hillside Waiver			
Design Review Waiver			
Encroachment Permits			
Plan Reviews			
Electrical Connections			
Fence Walls			
Retaining Walls			
Revision of Existing Permits			
Home Occupations			
New Construction			
Civil Engineering; Plans & Reports			
Non-conforming uses			
Pools & Spas attached/stand alone			
Seasonal Sales			
Solar Photovoltaic permits			
Temporary and Permanent 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 & TOWN COUNCIL
APPROVAL PROCESS***

APPLICATION TYPE	TIMEFRAME		
	First Review	Second and Subsequent reviews	OVERALL
Conditional Use Permit	45* Town working days	90* Town working days	135* Town working days
Special Use Permit			
Zoning Text Amendment			
General Plan Text Amendment			
Preliminary Plat			
Final Plat			
Minor Land Division			
Zoning Change			
PAD Amendment			
Stipulation Amendment			
General Plan Land Use Map Amendment			

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

FLEXIBLE APPLICATION APPROVAL PROCESS*			
DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
TIMEFRAMES**			
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Temporary Use Permit			
Administrative Use Permit			
	20* Town working days	20* Town working days	40* Town working days

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

FLEXIBLE APPLICATION APPROVAL PROCESS*			
DEVELOPMENT/ADMINISTRATIVE TEAM APPROVAL PROCESS			
TIMEFRAMES**			
APPLICATION TYPE	Administrative Completeness	Substantive review	OVERALL
Business License Applications			
Liquor License Application			
	10* Town working days	30* Town working days	40* Town working days

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

(TABLE 3) FLEXIBLE REVIEW TIMEFRAME REQUIREMENTS

FLEXIBLE APPLICATION APPROVAL PROCESS*			
TIMELINE			
APPLICATION TYPE	First Review	Second and Subsequent reviews	OVERALL
Variance Appeal	45* Town working days	90* Town working days	135* Town working days

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

SUMMARY OF REGULATORY BILL OF RIGHTS (SB1598)

General Plan

- Requires the general plan of each planning agency in a local government to include a land use element that includes sources of currently identified aggregates, policies to preserve currently identified aggregates sufficient for future development and policies to avoid incompatible land uses.
- States that this Act must not be construed to affect any permitted underground storage facility or limit any person's right to obtain a permit for an underground storage facility pursuant to statute.

General Plan – Adoption & Amendment

- Allows a person, after having participated in the public hearing process, to file a petition for special action in superior court to review the governing body's decision that does not comply with the mandatory land use requirement prescribed in this Act, within 30 days after the governing body has rendered its decision.
- Specifies that the court may affirm, reverse or remand to the governing body, in whole or in part, the decision reviewed for further action that is necessary to comply with the mandatory requirements prescribed in statute.

Public Works Project

- Requires a local government, in the design phase of a public works project, to provide notice and opportunity for comment to all utilities the Town or town believes may be impacted for the purposes of:
 - Eliminating or minimizing the need for relocation of aerial, surface and underground facilities of the impacted utilities and, if relocation is unavoidable, minimizing the relocation costs to the extent practicable relative to the cost of the public works project.
 - Minimizing subsequent reconstruction or modification of utility facilities after completion of the public works project.
- Clarifies that this Act does not alter the local government's duty to pay for the affected public service corporation's relocation costs pursuant to statute.

Regulatory Bill of Rights

- Establishes the regulatory bill of rights and states that to ensure fair and open regulation by local governments, a person:
 - Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against a local government in a court proceeding regarding a local government decision as provided in statute.
 - Is entitled to receive information and notice regarding inspections as provided in statute.
 - Is entitled to have a local government not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized as provided in statute.
 - May have a local government approve or deny the person's license application within a predetermined period of time as provided in statute.
 - Is entitled to receive written notice from a local government on denial of a license application that justifies the denial with references to the ordinance, code or authorized substantive policy statements on which the denial is based and that explains the applicant's right to appeal the denial as provided in statute.
 - Is entitled to receive information regarding the license application process at the time the person obtains an application for a license pursuant to statute.
 - May inspect all ordinances, codes and substantive policy statements of a local government, including a directory of documents, at the office of the local government as provided in statute.
 - Unless specifically authorized, may expect local governments to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the maximum extent practicable as provided in statute.

- May file a complaint with the Town council concerning an ordinance, code or substantive policy statement that fails to comply with this Act.
- Allows electronic notice to be given to a regulated person or entity.
- Permits a person to inspect all ordinances, codes and substantive policy statements of a local government on the local government's website.

Inspections

- Requires a local government inspector or regulator who enters any premises of a regulated person for the purpose of conducting an inspection to do the following:
 - Present photo identification upon entering the premises.
 - State the purpose of the inspection and the legal authority for conducting the inspection, upon initiation of the inspection.
 - Disclose any applicable inspection fees.
 - Afford an opportunity to have an authorized on-site representative of the regulated person accompany the local government inspector or regulator on the premises, except during confidential interviews.
 - Provide notice of the right to have:
 - Copies of any original documents taken by the local government during the inspection if the local government is permitted by law to take original documents.
 - A split or duplicate of any samples taken during the inspection if the split of any samples, where appropriate, would not prohibit an analysis from being conducted or render an analysis inconclusive.
 - Copies of any analysis performed on samples taken during the inspection.
- Inform each person whose conversation with the local government inspector or regulator during the inspection is tape recorded, that the conversation is being tape recorded.
- Inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.
- Directs a local government inspector or regulator, on initiation of, or two working days before, an inspection, except for a food and swimming pool inspection that has up to one working day after an inspection, of any premises of a regulated person, to provide the following in writing:
 - The rights provided to a regulated person as described in this Act.
 - The name and telephone number of a contact person available to answer questions regarding the inspection.
 - The due process rights relating to an appeal of a final decision of a local government based on the results of the inspection, including the name and telephone number of a person to contact within the local government and any appropriate municipality, county or state government ombudsman.
 - A note stating that the regulated person or on-site representative was not at the site or refused to sign the writing prescribed above, if applicable.
- Requires a local government to provide electronic access to inspection reports and all subsequent documents.
- Requires a local government inspector or regulator to obtain the signature of the regulated person or on-site representative of the regulated person indicating they have read and are notified of their rights prescribed in this Act and the due process rights afforded to them relating to an appeal of a final decision of a local government.
- Provides that the local government must maintain a copy of the signature with the inspection report and must leave a copy with the regulated person or on-site representative of the regulated person.
- Directs a local government that conducts an inspection to give a copy of the inspection report to the regulated person or the on-site representative either at the time of inspection, within 30 working days after the inspection or as otherwise required by federal law.
- States that the inspection report must contain deficiencies identified during an inspection.
- Allows the local government to provide the regulated person an opportunity to correct the deficiencies unless the local government determines that the deficiencies are:
 - Committed intentionally.
 - Not correctable within a reasonable period of time as determined by the local government.
 - Evidence of a pattern of noncompliance.
 - A risk to any person, the public health, safety or welfare or the environment.

- Stipulates that the regulated person must notify the local government when the deficiencies have been corrected if the local government allows them an opportunity to correct the deficiencies.
- Directs the local government to determine if the regulated person is in substantial compliance and notify the regulated person whether or not they are in compliance within 30 days of receipt of notification that the deficiencies have been corrected.
- Mandates that a local government must determine if the regulated person is in substantial compliance with the corrected deficiencies, unless the determination is not possible due to conditions of normal operations at the premises.
- Permits the local government to take any enforcement action authorized by law for the deficiencies if the local government determines the deficiencies have not been corrected within a reasonable amount of time or the regulated person fails to correct the deficiencies and specifies that a local government's decision is not an appealable action.
- Requires a local government to provide a regulated person with an update on the status of any local government action resulting from an inspection of the regulated person at least once every month after the commencement of the inspection.
- Clarifies that a local government is not required to provide an update after the regulated person is notified that no local government action will result from the inspection or after the completion of local government action resulting from the inspection.
- Specifies that this Act does not authorize an inspection or any other act that is not otherwise permitted by law, but only applies to inspections necessary for the issuance of a license or to determine compliance with licensure requirements.
- States that this Act does not apply:
 - To criminal investigations and undercover investigations that are generally or specifically authorized by law.
 - If the inspector or regulator has reasonable suspicion to believe that the regulated person may be engaged in criminal activity.
 - To inspections by a county board of health or a local health department pursuant to statute.
- Stipulates that the gathering of evidence in violation of this Act shall not be a basis to exclude the evidence in a civil or administrative proceeding, if the penalty sought is the denial, suspension or revocation of the regulated person's license or a civil penalty of more than \$1,000.
- Prescribes that the failure of a local government, board or commission employee to comply with this section constitutes cause for disciplinary action or dismissal and shall be considered by the judge and administrative law judge as grounds for reduction of any fine or civil penalty.
- Allows a local government to adopt rules or ordinances to implement this Act and specifies that this Act must not be used to exclude evidence in a criminal proceeding and does not apply to a local government inspection that is requested by the regulated person.

Local Governments – Prohibited Acts

- Prohibits a local government from doing the following:
 - Basing a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or code.
 - Adopt an ordinance or code under a specific grant of authority that exceeds the subject matter areas listed in the specific grant of authority.
 - Adopt an ordinance or code under a general grant of authority to supplement a more specific grant of authority.
- Clarifies that a general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.
- States that a local government must avoid duplication of other laws that do not enhance regulatory clarity and must avoid dual permitting to the maximum extent practicable, unless specifically authorized.
- Specifies that this Act does not prohibit local government flexibility to issue licenses or adopt ordinances or codes.

Licensing – Time Frames

- Requires a local government to have in place an overall time frame during which the local government will either grant or deny each type of license that it issues for any new ordinance or code requiring a license.

- Prescribes that the time frame for each type of license must separately state the administrative completeness review time frame and the substantive review time frame.
- Stipulates that, on or before December 31, 2012, a local government that issues required licenses under existing ordinances or codes must have an overall time frame – including the administrative completeness review and substantive review time frames – in place during which the local government will either grant or deny each type of license that it issues.
- States that a local government shall prioritize the establishment of time frames for such licenses that have the greatest impact on the public.
- Requires a local government to consider all of the following when establishing time frames:
 - The complexity of the licensing subject matter.
 - The resources of the local government.
 - The economic impact of delay on the regulated community.
 - The impact of the licensing decision on public health and safety.
 - The possible use of volunteers with expertise in the subject matter area.
 - The possible increased use of general licenses for similar types of licensed businesses or facilities.
 - The possible increased cooperation between the local government and the regulated community.
 - Increased local government flexibility in structuring the licensing process and personnel.
- Requires a local government, when establishing time frames, to consider increased municipal flexibility in structuring the licensing process and personnel including:
 - Adult businesses and other licenses that are related to the First Amendment.
 - Master planned communities.
 - Suspension of the substantive and overall time frames for purposes including public hearings or state or federal licenses.
- Provides that a local government must issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame and specifies that the local government must include a comprehensive list of the specific deficiencies in the written notice provide pursuant to this Act if it is determined that an application for a license is not administratively complete.
- Clarifies that the administrative completeness review time frame and the overall time frame are suspended from the date the notice of deficiencies is issued until the date the local government receives the missing information from the applicant.
- Stipulates that an application is deemed administratively complete if a local government does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame and specifically states that an application is not complete until all requested information has been received by the local government.
- Allows a local government to make one comprehensive written request for additional information during the substantive review time frame.
- Allows each department to issue a written or electronic notice of administrative completeness or deficiencies based on the applicant's submission of missing information or a request for additional information if the permit sought requires approval of more than one department of the local government.
- Permits a local government to issue an additional written or electronic notice of administrative completeness or deficiencies based on the applicant's submission of missing information.
- Authorizes a local government and applicant to mutually agree in writing to allow the local government to submit supplemental requests for additional information.
- Specifies that the substantive review and the overall time frames are suspended from the date the request for additional information is issued until the date the local government receives the additional information from the applicant.
- Allows for the extension of the substantive review and overall time frames by mutual written agreement by a local government and an applicant for a license and specifies that this extension must not exceed 25% of the overall time frame.
- Requires a local government to issue a written notice granting or denying a license to an applicant, unless the local government and applicant have mutually agreed for an extension of the substantive review and overall time frames.
- Prescribes the following information to be included in a written notice if a local government denies an application for a license:
 - Justification for the denial with references to the statutes, ordinances, codes or substantive policy statements on which the denial is based.

- An explanation of the applicant's right to appeal the denial, including the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of a local government contact person who can answer questions regarding the appeals process.
- Specifies that this Act does not apply to licenses issued within seven working days after receipt of the initial application or permit that expire within 21 working days after issuance.
- Requires a local government, when a person obtains an application for a license, to provide the website address and any other information, if applicable, to allow the regulated person to use electronic communication with the local government.

Licenses – Refunds

- Establishes the following requirements relating to the refund of fees to an applicant if a local government does not issue to the applicant the written notice granting or denying a license within the overall time frame or the mutually agreed upon time frame extension:
 - The local government must refund to the applicant all fees charged for reviewing and acting on the application for the license and shall excuse payment of any fees that have not yet been paid.
 - The local government must not require an applicant to submit an application for a refund pursuant to this Act.
 - The refund must be made within 30 days after the expiration of the overall time frame or the time frame extension.
 - The local government must continue to process the application.
 - The local government must issue the refund from the fund in which the application fees were originally deposited.
- Clarifies that the provisions of this Act do not apply to a license issued within seven days after receipt of an initial application.
- Requires a local government to include the following information at the time the applicant obtains an application for a license:
 - A list of all the steps the applicant is required to take in order to obtain the license.
 - The applicable licensing time frames.
 - The name and telephone number of a local government contact person who can answer questions or provide assistance throughout the application process.
 - The website address and any other information, if applicable, to allow the regulated person to use electronic communication with the municipality.
 - Notice that an applicant may receive a clarification from the local government of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement as provided in statute.

Directory of Documents

- Directs a local government to publish, or prominently place on their website, a directory summarizing the subject matter of all currently applicable ordinances, codes and substantive policy statements at least annually and further requires the local government to keep copies of this directory and all substantive policy statements at one location.
- Mandates that the directory, ordinances, codes, substantive policy statements and any materials incorporated by reference in the documents be open to public inspection at the office of the local government.

Governing Body – Complaints

- Allows the governing body to receive complaints concerning ordinances, codes, substantive policy statements or local government practices and review such that are alleged to violate this Act and hold public hearings regarding the allegations.
- Permits the governing body to recommend actions to alleviate the aspects of the ordinances, codes, substantive policy statements or local government practices that are alleged to violate this Act.

Clarification of Interpretation

- Declares that a person may request a local government to clarify its interpretation or application of a statute, ordinance, code or authorized substantive policy statement affecting the procurement of a license by providing the local government with a written request that states:
- The name and address of the person requesting the clarification.
 - The statute, ordinance, code or authorized substantive policy statement or part of the statute, ordinance, code or authorized substantive policy statement that requires clarification.
 - Any facts relevant to the requested ruling.
 - The person's proposed interpretation of the applicable statute, ordinance, code or authorized substantive policy statement or part of the statute, ordinance, code or authorized substantive policy statement that requires clarification.
 - Whether, to the best knowledge of the person, the issues or related issues are being considered by the local government in connection with an existing license or license application.
- Allows the local government, on receipt of a request that complies with the provisions of this Act, to meet with the person to discuss the written request.
- Requires the local government to respond within 30 days of the receipt of the written request with a written explanation of its interpretation or application as raised in the written request and to provide the requestor with an opportunity to meet and discuss the local government's written explanation.
- Allows a local government to modify a written explanation on written notice to the person if required by a change in the law that was applicable at the time the clarification or interpretation was issued, including changes caused by legislation, administrative rules formally adopted by the governing body or a court decision.

Miscellaneous

- Exempts the following from the provisions of this Act:
 - An ordinance, code, regulation or substantive policy statement that relates only to the internal management of a local government and that does not directly and substantially affect the procedural or substantive rights of duties of any segment of the public.
 - An ordinance, code, regulation or substantive policy statement that relates only to the physical servicing, maintenance or care of a local government owned or operated facilities or property.
 - An ordinance, regulation or substantive policy statement that relates to inmates or committed youth, a correctional or detention facility under the jurisdiction of the municipality or a patient admitted to an institution or treatment center pursuant to court order.
 - An ordinance, code, regulation or substantive policy statement that relates to a local government contract.
 - Specifies that a *county flood control district* is subject to the provisions of this Act.
 - Contains delayed effective dates.
 - Makes technical and conforming changes.