

SB 1598
Municipal Regulation

Emphasis on Establishment of Time Frames

- Our emphasis is on required procedures for review of applications & issuance of licenses.
- SB1598 has other facets:
 - General Plan – Aggregate
 - Public Works Projects – Notice to Utilities
 - Inspections

What Is the Purpose?

- The stated purpose of the Regulatory Bill of Rights:
- To ensure fair and open regulation by municipalities.

SB 1598

- Requires Time Frames for All 'Licensing'
- Creates a 'Regulatory Bill of Rights'.
- Effective Dates
 - 7/20/2011(time frames for any new ordinance)
 - 12/31/2012 (existing ordinances)
 - 6/30/12 (inspections)

Licensing Defined

- "license includes the whole or part of any municipal permit, certificate, approval, registration, charter or similar form of permission required by law." §9-831.2; and

Municipal Licensing cont'd

- Also includes:
- The municipal process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. §9-831.3

Licensing Timing and Compliance

- For any NEW code or ordinance adopted which requires a license, a municipality must establish a timeframe for granting or denying the licenses. §9-835.A
- By 12/31/12 a municipality must have an established timeframe for granting or denying all required licenses. §9-835.B

Exception

- This section, §9-835, licensing, timeframes... does not apply to licenses:
 - Issued within 7 days after receipt of application.
 - Permits that expire within 21 days of issuance. §9-835.K

Licensing Timeframes

- Time Frames must establish overall time frame consisting of:
 - **Administrative completeness** review time frame; and
 - **Substantive review** time frame. §9-835.B
- Time frames **shall** prioritize establishment of timeframes for licenses with greatest impact on the public. §9-835.C
 - Which means....?

Establishing Timeframes

- Municipality shall consider:
 - Complexity of subject matter.
 - Resources of municipality.
 - Economic impact of delay on regulated community.
 - Impact on health and safety.
 - Using volunteers with subject matter expertise.
 - Use of 'general licenses for similar businesses.

Establishing Timeframes

- Increased cooperation between municipality and regulated community.
- Flexibility in structuring licensing process and personnel.
 - 1st amendment and adult businesses.
 - Master planned communities.
- Suspension of timeframes to accommodate public hearings, State or Federal licenses. §9-835.C

Modifying Timeframes

- An applicant and a municipality may agree to extend substantive and overall established timeframes. §9-835.H
- But not to exceed 25% of the overall timeframe. §9-835.H

Required Procedures

- Municipality shall issue a notice of administrative completeness, written or electronic, within its administrative completeness timeframe. §9-835.D
- If determined incomplete must list all specific deficiencies. §9-835.E
- All timeframes are suspended pending receipt of missing information. §9-835.E

Landmines

- If municipality does not issue notice of incompleteness or administrative completeness within required timeframe; application is deemed administratively complete. §9-835.F
- Municipality may only make one comprehensive request for additional material during substantive review unless agreed by the parties. §9-834.G

Landmines

- If the municipality fails to issue a notice granting/denying within prescribed timeframes:
 - Municipality must refund any fees paid and & excuse any fees not yet paid.
 - Refund must be made (from same fund) within 30 days of end of timeframe.
 - Municipality must continue to process application. §9-835.J

Denial of Application

- If a license is denied the written or electronic notice must list:
 - Justification for denial w/citations to ordinances.
 - Explanation of right to appeal, time for appeal, name and contact information of contact person for information on appeals. §9-835.I

Required Application Process

- Municipality shall provide, at the time of license application:
 - A "list" of all required steps.
 - Timeframes.
 - Name and telephone number of contact person.
 - Website address to allow communication.
 - Notice of opportunity for clarification of ordinance. §9-836.A

Miscellaneous Requirements

- Municipality shall publish or prominently place a directory
 - "Summarizing the subject matter of all currently applicable ordinances, codes and substantive policy statements."
 - All the summarized documents must be available for public inspection. §9-837

Important Dates

- 6/30/12 Inspections must be in compliance with required notices and procedures.
- 12/30/12 City must have established overall timeframes for all licensing (Completeness & Substantive Reviews).
- 7/1/15 General Plan to be adopted must include additional element re: aggregate resources. §9-461.C.1.g

Prohibited Acts

- Municipality can not base a licensing decision on a requirement or condition that is not specifically authorized by statute, rule, ordinance or code
 - Meaning what?

Awards of Fees & Expenses

- SB 1598 requires that a court award fees and expenses in certain actions brought against a municipality to review or challenge a decision or action taken by the municipality. ARS12-348

Award of Fees & Expenses Required

- An individual who prevails in such an action against a municipality SHALL have fees and expenses awarded.
