

WAIVER REQUEST

Zoning Code Article 507

The specific purpose of waiver request is to establish an alternate means of granting relief from the requirements of the Code when so doing would be consistent with the purposes of the Code and will improve the quality of development, and it is not possible or practical to approve a Variance. Further to this end, it is the policy of the City to comply with the Federal Fair Housing Act and the Americans with Disabilities Act to provide reasonable accommodation to persons with disabilities seeking fair access to **housing through waiver of the application of the City's zoning regulations. The waiver section of the code authorizes the Hearing Officer to grant administrative relief from the Code's dimensional requirements, subject to specified limits, to achieve these objectives.**

The Hearing Officer may grant relief from the dimensional requirements specified in this Code as provided below.

- A. **Reasonable Accommodation.** Waiver of the type of development standard and in the amount necessary to comply with the reasonable accommodation provisions of Federal law based on a determination that the specific circumstances of the application warrant such an accommodation.
- B. **Setbacks.** Up to 10 percent of the required front, side, and rear yard setback standards.
- C. **Build-to Areas.** Up to 10 percent of the standards for building façade location.
- D. **Fences and Walls.** Up to one foot over the maximum height.
- E. **Lot Coverage.** Up to 10 percent of the maximum amount of lot coverage.
- F. **Height of Buildings and Structures.** Up to 10 percent of the maximum height, or three feet, whichever is less.
- G. **Landscaping.** Up to 10 percent of the required landscaping.
- H. **Transparency.** Up to 10 percent of the minimum required.
- I. **Other Standards.** Up to 10 percent of a minimum or maximum for other development standards except those listed in Subsection (J) below.
- J. **Exclusions.** Waivers cannot be granted for any of the following standards:
 - 1. Lot area, width, or depth;
 - 2. Maximum number of stories;
 - 3. Minimum number or dimensions of required parking spaces;
 - 4. Maximum residential density;
 - 5. Maximum floor area ratio (FAR); or
 - 6. Any initiation of an unapproved use, alteration, modification, or change to an existing structure.

Waiver Request Required Findings:

A decision to grant a Waiver shall be based on the following findings:

1. The Waiver is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including but not limited to topography, noise exposure, irregular property boundaries, or other unusual circumstance;
2. There are no alternatives to the requested waiver that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public;
3. The granting of the requested Waiver will not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Code;

In Residential Districts, the Hearing Officer must also make the following findings in addition to any other findings that this Article requires:

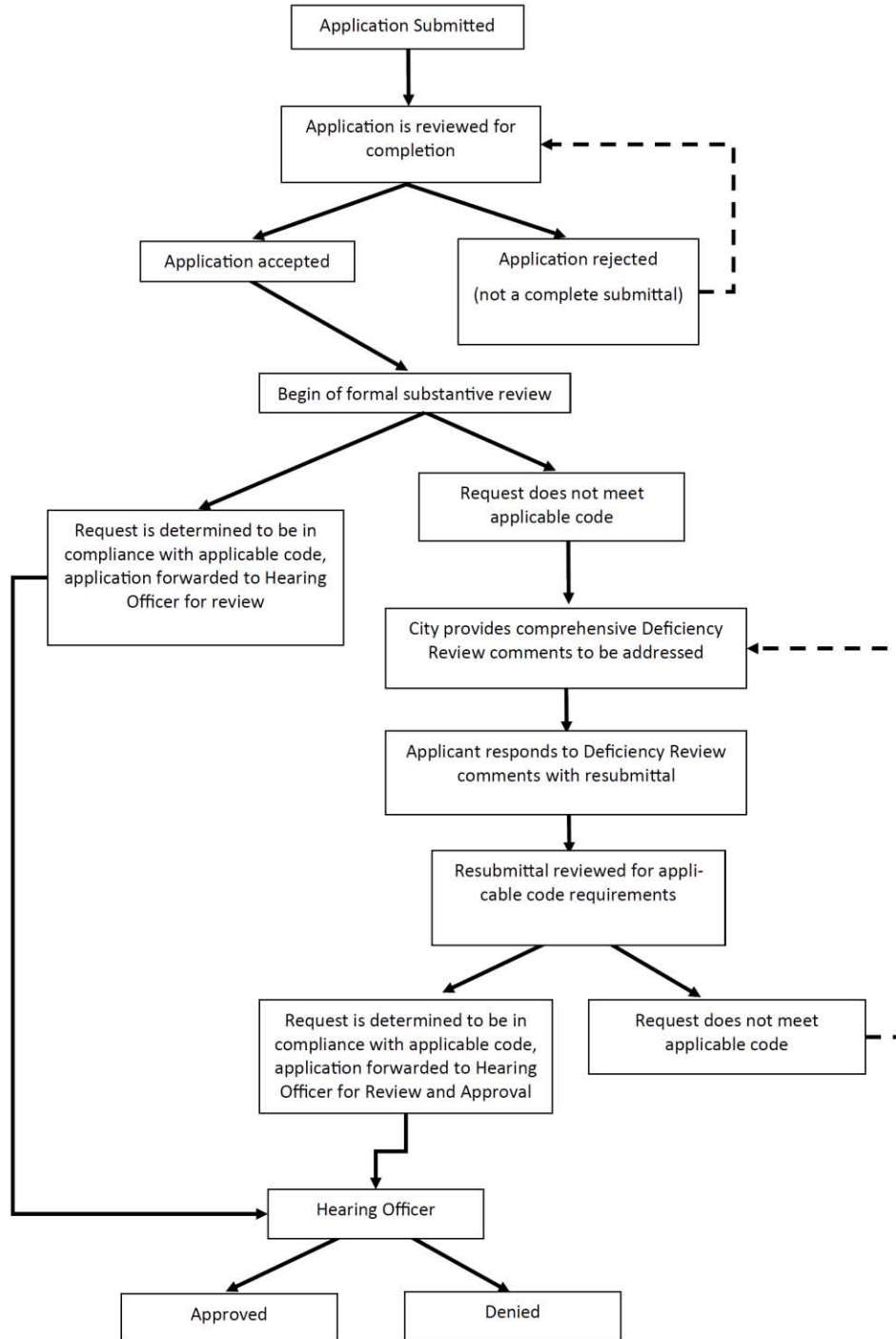
1. There are exceptional or extraordinary circumstances related to the design, Building Code compliance, or other code compliance that make it difficult or impossible to enlarge the house without a waiver, and the addition is of superior design quality and compatible with the existing neighborhood character;
2. The change is only intended to increase the habitability and function of the structure;
3. Granting the Waiver is desirable for the preservation of an existing architectural style or neighborhood character that would not otherwise be accomplished through the strict application of this Code; and
4. It can be demonstrated that the design of the proposed addition is of superior quality, compatible with the existing neighborhood character, effective in minimizing the perceived size of the dwelling, not overly intrusive to the privacy of neighboring dwellings and is in substantial compliance with the Residential District regulations.

If the Waiver requested is to provide reasonable accommodation pursuant to State or federal law, the Hearing Officer must also make the following findings in addition to any other findings that this Article requires:

5. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;
6. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or federal law;
7. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
8. That denial of the requested Waiver would impose a substantial burden on religious exercise or would conflict with any State or federal statute requiring reasonable accommodation to provide access to housing.

****Refer to Zoning Code Article 507 for complete code language.****

ADMINISTRATIVE AND SUBSTANTIVE REVIEW PROCES



WAIVER REQUEST APPLICATION

SECTION I: PROPERTY OWNER(S)

Name: _____

Mailing Address: _____

Phone: _____ Email: _____

***If more than one owner, attach additional sheet with names, addresses and signatures as requested below.**

SECTION II: APPLICANT INFORMATION & PRIMARY CONTACT INFORMATION

Applicant Name: _____

Affiliation with Project: _____

Mailing Address: _____

Phone: _____ Fax: _____

SECTION III: PROPERTY

Property Address: _____

General Location/Assessor's Parcel Number: _____

Existing Zoning: _____

General Plan Classification: _____

Legal Description (Section, Township & Range): _____

SECTION IV: REQUEST

Related application/permit: _____

Describe the request: _____

From what section of the Zoning Ordinance are you seeking relief? _____

What kind of relief are you seeking? _____

SECTION V: SUBMITTAL REQUIREMENTS

Please provide the following (attach additional sheets):

Applicant
Checklist

- Project narrative (scope of work proposed)
- Plans showing the alternative requirements and the proposed development if the waiver is granted
- A written statement responding on how the request meets the applicable Required Findings listed under Zoning Code, Article 407, Sec. 507.05 (refer to guideline section of the application for applicable required findings)
- Prop 207 Waiver
- Fees: \$100/hour; \$100 due upon submittal, additional fees collected after review if required

I hereby certify that the above information is correct, and that I am authorized to file an application on said property, being either the owner or authorized agent to file on behalf of the owner. Anyone applying without authorization from the property owner(s) shall be subject to penalty under all applicable laws. I have read this Waiver Request Application and understand that if my application is not complete in all respects it will not be processed until such time as it is complete.

Signature of Applicant	Print Name	Date
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Signature of Property Owner	Print Name	Date
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***If more than one owner, attach additional sheet with names, addresses and signatures**

OFFICE USE ONLY		
Case #:	Fees:	Receipt #:
Date of Submittal:		Accepted by:

REGULATORY BILL OF RIGHTS

This past legislative session (Fiftieth Legislature, First Regular Session), the Arizona Legislature passed **Senate Bill 1598**. This “Regulatory Bill of Rights” went into effect on **July 20, 2011 (with full implementation on December 31, 2012)**. The rights afforded private regulated parties under the new law are provided below.

A.R.S. § 9-832: REGULATORY BILL OF RIGHTS

TO ENSURE FAIR AND OPEN REGULATION BY CITIES, A PERSON:

- IS ELIGIBLE FOR REIMBURSEMENT OF FEES AND OTHER EXPENSES IF THE PERSON PREVAILS BY ADJUDICATION ON THE MERITS AGAINST A CITY IN A COURT PROCEEDING REGARDING A CITY DECISION AS PROVIDED IN A.R.S. § 12-348.
- IS ENTITLED TO RECEIVE INFORMATION AND NOTICE REGARDING INSPECTIONS AS PROVIDED IN A.R.S. § 9-833 (EFFECTIVE JUNE 30, 2012).
- IS ENTITLED TO HAVE A CITY NOT BASE A LICENSING DECISION IN WHOLE OR IN PART ON LICENSING CONDITIONS OR REQUIREMENTS THAT ARE NOT SPECIFICALLY AUTHORIZED AS PROVIDED IN A.R.S. § 9-834.
- MAY HAVE A CITY APPROVE OR DENY **THE PERSON’S LICENSE APPLICATION WITHIN A** PREDETERMINED PERIOD OF TIME AS PROVIDED IN A.R.S. § 9-835 (EFFECTIVE DECEMBER 31, 2012).
- IS ENTITLED TO RECEIVE WRITTEN OR ELECTRONIC NOTICE FROM A CITY ON DENIAL OF A LICENSE APPLICATION (EFFECTIVE DECEMBER 31, 2012).
 - THAT JUSTIFIES THE DENIAL WITH REFERENCES TO THE STATUTE, ORDINANCE, REGULATION, DELEGATION AGREEMENT OR AUTHORIZED SUBSTANTIVE POLICY STATEMENT ON WHICH THE DENIAL IS BASED AS PROVIDED IN A.R.S. § 9-835.
 - **THAT EXPLAINS THE APPLICANT’S** RIGHT TO APPEAL THE DENIAL AS PROVIDED IN A.R.S. § 9-835.
- IS ENTITLED TO RECEIVE INFORMATION REGARDING THE LICENSE APPLICATION PROCESS AT THE TIME THE PERSON OBTAINS AN APPLICATION FOR A LICENSE AS PROVIDED IN A.R.S. § 9-836.
- MAY INSPECT ALL ORDINANCES, REGULATIONS, AND SUBSTANTIVE POLICY STATEMENTS OF A CITY, INCLUDING A DIRECTORY OF DOCUMENTS, AT THE OFFICES OF THE CITY AS PROVIDED IN A.R.S. § 9-837.
- UNLESS SPECIFICALLY AUTHORIZED, MAY EXPECT CITIES 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 A.R.S. § 9-834.
- MAY FILE A COMPLAINT WITH THE CITY COUNCIL CONCERNING AN ORDINANCE, REGULATION OR SUBSTANTIVE POLICY STATEMENT THAT FAILS TO COMPLY WITH A.R.S. § 9-832.

PLANNING & ZONING DIVISION

Pursuant to ARS 9-835, the City establishes overall permitting time frames during which the City will either grant or deny each type of permit (license) that it issues. The time frame includes an administrative completeness review period to accept or reject the application, and a substantive review period to provide a technical review of the request. The City shall approve or deny the request within the overall time frame listed below, however, should the City extend the review period for additional submittal(s), said extension's shall not exceed 25% of the overall time frame.

Please note: These are projected time frames only and may change due to workload and staffing considerations

Application Type	Administrative Completeness Review	Substantive Review	Total Time Frame
Addressing Request	10 days	20 days	30 days
Administrative Design Review Application	10 days	30 days	40 days
Temporary Use Permit Application	10 days	20 days	30 days
Minor Land Division Application	10 days	10 days	20 days
Sign Permit Application	5 days	10 days	15 days
Lot Split / Lot line Adjustment Application	10 days	20 days	30 days
Temporary Sign Permit Application	5 days	5 days	10 days

Days are considered business days

PLANNING & ZONING DIVISION

Application Type	Administrative Completeness Review	Substantive Review	Total Time Frame
Variance Application	10 days	20 days	30 days
Conditional Use Permit Application	10 days	35 days	45 days
Zone Change Application	10 days	60 days	70 days
Zoning Text Amendment Application	10 days	10 days	20 days
Zoning Permit (Clearance) Application	10 days	10 days	20 days
Annexation Application	10 days	10 days	20 days
Development Review Permit Application (MAJOR)	10 days	35 days	45 days
Development Review Permit Application (MINOR)	10 days	20 days	30 days
Major/Minor General Plan Amendment Application	10 days	60 days	70 days
Comprehensive Sign Plan Application	10 days	25 days	35 days
Planned Area Development Application	30 days	60 days	90 days

Days are considered business days

PLANNING & ZONING DIVISION

Preliminary Plat Application	10 days	60 days	70 days
Preliminary Plat Extension Application	10 days	20 days	30 days
Final Plat Application	10 days	60 days	70 days
Final Plat Amendment/Abandonment Application	10 days	30 days	40 days

Days are considered business days

*The City may request additional information or corrections to the application in lieu of denying the request. In this event, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date that the municipality receives the additional information from the applicant.