

CHAPTER 8

OFF-SITE IMPROVEMENT REGULATIONS

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9-8-1: PURPOSE AND INTENT:

The purpose of these regulations is to provide for the orderly growth and harmonious development of the City of Mesa; to insure that proper off-site facilities are constructed in conjunction with the development of unsubdivided land for commercial, industrial, and multiple-residential uses, and single residential uses not in a subdivision, where no subdivision of land is required; to provide for public dedication of such rights-of-way as streets or easements as are reasonably required by or related to the effect of the proposed use; to secure adequate provisions for water supply, drainage, sanitary sewerage, and other health requirements as part of the development. In its interpretation and application, the provisions of these regulations are intended to provide a common ground of understanding and equitable working relationship between public and private interests to the end that both independent and mutual objectives can be achieved in the development of land where no subdivision is required. (1095,4570)

9-8-2: DEFINITIONS:

COUNCIL: The City Council of the City of Mesa. (1095)

DEVELOPER: A developer shall be deemed to be the individual, firm, corporation, partnership, association, syndication, trust, or other legal entity that initiates the development of land for commercial, industrial, multifamily purposes or single residential uses not in a subdivision in accordance with the provisions of this Ordinance; and said developer need not be the owner of the property as defined by this Chapter. (1095,4570)

EASEMENT: A grant by the owner of the use of a strip of land by the public, a corporation, or persons for specific uses and purposes, and so designated. (1095)

EASEMENT, PUBLIC UTILITY (PUE): An easement for overhead and underground utility facilities provided for the use of the public, including water, storm drainage, sewage, electricity and communication, etc., owned and operated by any person, firm, corporation, municipal department, or board duly authorized by state or municipal regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments, or boards. (4570)

EASEMENT, PUBLIC UTILITY AND FACILITIES (PUFE): An easement for the installation of facilities, underground or overhead, furnished for the use of the public, including electricity, gas, steam, communication, water, storm drainage, sewage, sidewalks, landscaping, traffic control devices, street lights, flood control, etc., owned and operated by any person, firm, corporation, municipal department, or board duly authorized by state or municipal regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments or boards. (4570)

ENGINEERING PLANS: Plans, profiles, cross sections, and other required details for the construction of public improvements, prepared by a civil engineer registered in the State of Arizona in accordance with the approved preliminary plat and in compliance with City of Mesa standards of design and construction approved by the City Engineering Division. (1095,4570)

IRRIGATION FACILITIES: Includes canals, laterals, ditches, conduits, gates, pumps, and allied equipment necessary for the supply, delivery, and drainage of irrigation water and the construction, operation, and maintenance of such. (1095)

OWNER: The person or persons holding title by deed to land or holding title as vendees under land contract or holding any other title of record. (1095)

PUBLIC IMPROVEMENT STANDARDS: A set of regulations setting forth the details, specifications, and instructions to be followed in the planning, design, and construction of certain public improvements in the City of Mesa, formulated by the City Engineer, the County Health Department, and other City departments. (1095)

RIGHT-OF-WAY IMPROVEMENTS: Construction in the public right-of-way and public easements, including, but not limited to: Streets, alleys, medians, bicycle lanes, curbs and gutters, stormwater facilities, water and sewer lines and services, fire hydrants, gas lines and services, sidewalks, driveways, streetlights, traffic control devices, street name signs, landscaping, underground and overhead utilities as required by the City Engineer. Right-of-way improvements do not include right-of-way land dedications. (4570)

RIGHT-OF-WAY, PUBLIC: An area of land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved or dedicated to the City for public purposes including, but not limited to: Street, highway, alley, public utility, pedestrian walkway, bikeway, or drainage. Within public rights-of-way, the City of Mesa coordinates the locations of public or private improvements, underground or overhead; including electricity, gas, steam, communication, telecommunications, data transmission, cable TV, water, storm drainage, sewage, sidewalks, landscaping, traffic signals, streetlights, flood control, pedestrian, roadway purposes, etc. owned and operated by any person, firm, company, corporation, municipal department, or board duly authorized by federal, state or municipal regulations. (1095,4570)

STREET: Any street, avenue, boulevard, road, lane, parkway, place, viaduct, easement for access, or other way which is an existing state, county, or municipal roadway, or which is dedicated as such by the owner, or a street or way in a plat duly filed and recorded in the County Recorder's office. A street includes land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, curbs, gutters, sidewalks, parking areas, and landscape areas. (1095,4570)

ARTERIAL STREET: A general term including freeways, expressways, and major arterial streets and interstate, state, or county highways having regional continuity. (1095)

COLLECTOR STREET: Provides the traffic movement within neighborhoods of the City and between major streets and local streets and for direct access to abutting property. (1095)

LOCAL STREET: Provides for direct access to residential, commercial, industrial, or other abutting land or for local traffic movements and connects to collector and/or major streets. (1095)

ALLEY: A public service way used to provide secondary vehicular access to properties otherwise abutting upon a street. (1095)

UTILITIES: Installations or facilities, underground or overhead, furnishing for the use of the public electricity, gas, steam, communication, water, drainage, sewage disposal, or flood control, owned and operated by any person, firm, corporation, City of Mesa department, or board duly authorized by state or City of Mesa regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments, or boards as sense requires. (1095)

9-8-3: STREET AND UTILITY IMPROVEMENT REQUIREMENTS:

- (A) Purpose. It is the purpose of this Section to establish in outline the minimum acceptable standards for improvement of public streets and utilities, and dedication of rights-of-way where required, to define the responsibility of the developer in the planning, constructing, and financing of public improvements and to establish procedures for review and approval of engineering plans. (1095,3105,4570)

All improvements required in streets, alleys, or easements which are required as a condition of site plan approval shall be the responsibility of the developer. (1095)

The City Engineer is authorized to develop and apply such engineering standards, specifications, and procedures for the design and construction of improvements as are consistent with the objectives of this section and necessary or appropriate to protect the public health, safety, and welfare. (4570)

- (B) Applicability. The standards and requirements of this Section shall apply to all commercial, industrial, and multiple-residential developments, and single residential developments where no subdivision of land is required, as follows: (3105,4570)

1. Any new construction on undeveloped or vacant parcels; or (3105)
2. Total removal and reconstruction of existing buildings and structures; or (3105)
3. A one hundred percent (100%) or more increase in the total aggregate area of existing building and structures. (3105,4570)
4. Buildings and structures existing at the time of annexation by the City. (4834)

- (C) Responsibility for Improvements -- New Development. All requirements required under Section 9-8-3(B)1 shall be the responsibility of the developer. (4570)

- (D) Responsibility for Improvements -- Existing Development. The requirements of Section 9-8-3(B)2 and 3 apply to parcels and shall be the responsibility of the developer as follows:

1. For parcels that have not previously provided R-O-W improvements in accordance with the standards at the time of development or annexation, or paid in-lieu fees for such improvements, the developer is responsible for all improvements. (4570,4834)

2. For parcels fronting on other than arterial streets, that have previously provided R-O-W improvements in accordance with the standards at the time of development or annexation, or paid in-lieu fees for such improvements, the developer is not responsible for additional improvement requirements. (4570,4834)
3. For parcels fronting on arterial streets, that have previously provided R-O-W improvements in accordance with the standards at the time of development or annexation, or paid in-lieu fees for such improvements, the developer is not responsible for arterial street widening improvements when such improvements are not identified on the City's currently adopted Transportation Plan. (4570,4834)
4. For parcels fronting on arterial streets, that have previously provided R-O-W improvements in accordance with the standards at the time of development or annexation, or paid in-lieu fees for such improvements, the developer is responsible for fifty percent (50%) of the costs of the arterial street widening requirements calculated in accordance with City policy as approved by the City Engineer when such street widening improvements are identified on the City's currently adopted Transportation Plan but are not a part of the City's five (5) year Capital Improvement Plan. (4570,4834)
5. For parcels fronting arterial streets, that have previously provided R-O-W improvements in accordance with the standards at the time of development or annexation, or paid in-lieu fees for such improvements, the developer is responsible for all of the costs of the arterial street widening requirements calculated in accordance with City policy as approved by the City Engineer when such street widening improvements are identified on the City's currently adopted Transportation Plan and are a part of the City's five (5) year Capital Improvement Plan. (4570,4834)

The developer's responsibility for right-of-way improvements as determined in this section may be fulfilled by constructing the required right-of-way improvements in accordance with all City requirements and standards or by paying an in-lieu payment in accordance with Section 9-8-4(C), as approved by the City Engineer. (4570)

(E) Engineering Plans. (1095,3105,4570)

1. It shall be the responsibility of the developer to have prepared by a civil engineer, registered in the State of Arizona, a complete set of engineering plans, satisfactory to the City Engineer, for construction of required improvements. Such plans shall be prepared and submitted to the City of Mesa Building Safety Director together with the on-site construction plans. (1095,4570)
2. Engineering plans shall be approved by the City Engineer prior to the issuance of a building permit by the City Building Safety Director. (1095,4570)

(F) Dedication of Rights-of-Way. The dedication of rights-of-way in accordance with Section 9-6-2 and the table contained in this Section shall be made prior to the issuance of a building permit, or rights-of-way permit, or pursuant to the recording of a subdivision plat or land split document. (1095,3105,4570)

RIGHTS-OF-WAY DEDICATION TABLE

| Street Classification | Local | Collector | Major Collector | Local Industrial | Arterial |
|------------------------------|-----------------|------------------|------------------------|-------------------------|-------------------|
| R/W Dedication | 50' Full Street | 80' Full Street | 110' Full Street | 80' Full Street | *130' Full Street |
| | 25' Half Street | 40' Half Street | 55' Half Street | 40' Half Street | *65' Half Street |

* Footnote: Additional right-of-way width required at arterial-to-arterial intersections. See Section 11-13-2 (J). Refer to Sections 9-8-4 and 9-8-5 for modifications and appeals to these requirements.

(G) Construction and Inspection. (1095,3105,4570)

1. All improvements in the public right-of-way shall be constructed under the inspection and approval of the City Engineer. Construction shall not be commenced until a permit has been issued for such construction, and if work has been discontinued for any reason, it shall not be restarted prior to notifying the City Engineer. (1095,4570)
2. All underground utilities to be installed in streets and alleys shall be constructed prior to the surfacing of such streets and alleys. Service stubs for underground utilities shall be placed in such length and size as not to necessitate disturbance of street improvements when service connections are made. (1095)

(H) Required Right-of-Way Improvements. (1095,3105,4570)

1. Streets. All streets contiguous to the developing land shall be paved and concrete curbs and gutters installed to lines, grades, and dimensions approved by the City Engineer and in conformance with City standards. The streets shall be improved to the centerline thereof. When improvement of a major collector or arterial street is required, the City will pay for such extra width paving as may be deemed appropriate by the City. (1095)
2. Alleys. All alleys adjacent to the developing land shall be surfaced with granite or ABC to grades and dimensions approved by the City Engineer and in conformance with City standards, except that alleys to be used for primary vehicular access as defined under Section 9-5-1 of the City Code shall be improved as required by Section 9-5-1 of the City Code. Alleys to be used for delivery of goods and materials to commercial and industrial buildings shall be considered to be used for primary vehicular access. (1095)
3. Sidewalks. Concrete sidewalks shall be constructed along the entire length of the street adjacent to the land under development to a width and to lines and grades approved by the City Engineer and in conformance with City standards. (1095)
4. Water and Sewer Lines. Water and sewer lines shall be installed in all streets adjacent to the land under development to lines and grades and of such sizes as approved by the City Engineer and in conformance with City standards. Water and sewer service lines of sizes and at locations approved by the City Engineer and in conformance with City standards shall be installed prior to paving the streets and improving the alleys. Where it is necessary to extend a water or sewer main from an existing main of adequate size to the development, the developer will be required to pay the full cost of the line extension; however, and if so requested, the City will enter into a private line agreement with the developer requiring others to pay a share of the cost of the line extension at such time as they take service from the line extension if such service is taken during the term of the agreement. (1095)
5. Fire Hydrants. Fire hydrants shall be installed along adjacent streets at locations and to lines and grades approved by the City Engineer and in conformance with City standards. (1095)
6. Irrigation Lines and Ditches. All S.R.P. and R.W.C.D. irrigation ditches located in the streets, alleys, or public easements adjacent to the land being developed shall be piped or abandoned in accordance with plans and specifications prepared by the respective irrigation district and as approved by the City Engineer. All private irrigation ditches in the streets, alleys, or public easements adjacent to the land being developed shall be piped or abandoned to lines and grades as approved by the City Engineer and in conformance with City standards. (1095,4570)

7. Storm Drainage. (1095,1896)

- (a) The developer shall make provisions to retain within the boundaries of his development the runoff generated by development of the site in accordance with plans approved by the City Engineer and in conformance with City standards. The plans shall show the method, location, and capacity of retention to be provided. The plans shall also show the runoff calculations, surface, grades, and methods of draining the retention facility. A one hundred- (100-) year, two- (2-) hour storm will be used as a minimum basis for the design of drainage facilities. (1095,1896,2776)
- (b) In lieu of retaining runoff within the boundaries of the development, a common retention facility may be established for two (2) or more developments. This shall be done in accordance with plans approved by the City Engineer and in conformance with City standards. (1095,1896)
- (c) Retention facilities shall be of the type and size approved by the City Engineer. (Multiple, small retention areas shall not normally be acceptable.) (1896)
- (d) At the time of completion of development, the developer's engineer shall provide as-built certification to the City Engineer that the drainage and retention facilities were constructed in accordance with the approved plans and conform to City standards. Said certification shall be signed by the engineer and stamped with his professional seal. (1896)
- (e) Once constructed and approved by the City, the drainage and retention facilities may not be modified unless modification is approved by the City Engineer. (1896)

8. Streetlights. Streetlights shall be installed along all perimeter streets developed in conjunction with the development in accordance with a design approved by the Development Services Department. For developments with less than one hundred fifty feet (150') of street frontage, the City Engineer may waive the required streetlight installation. If installation is waived, prior to the issuance of a building permit, the developer shall pay to the City an amount, determined by the Development Services Department, for his arterial street frontage to pay for the future installation of streetlights by the City. All streetlights along other perimeter streets shall be installed by the developer in accordance with plans approved by the Development Services Department and in conformance with City standards. (1095,1647,1772,3766)

9. Traffic Control Devices. Traffic control devices shall be provided or existing control devices shall be modified in conjunction with the development in accordance with designs approved by the Development Services Department, where required in accordance with the Mesa Transportation Division. The Transportation Division may defer the installation of required traffic control devices. (4570)

When the installation of required traffic control devices is deferred, the owner/developer shall pay the City a payment in-lieu of causing the actual design, installation, and/or construction of the devices. This in-lieu payment shall be based upon a cost estimate prepared by a professionally registered civil engineer and approved by the City of Mesa. The in-lieu payment cost estimate shall include all design costs, labor and materials costs, plus twenty percent (20%) for future contingency costs. All in-lieu payments shall be remitted to the City of Mesa as a condition of and in conjunction with the issuance of any on-site construction permits and/or off-site rights-of-way permits associated with the development project. (4570)

10. Street Name Signs. Street name signs shall be placed in all street intersections. The developer shall install signposts meeting City standards at locations designated by the City Engineer. The signposts are to be in place prior to the completion of street paving. Prior to the issuance of a City permit for street paving, the developer shall pay to the City an amount, as determined by the City Engineer, per street name sign location for the fabrication and installation of sign units by the City. (1095,4570)
11. Survey Monuments. Survey monuments conforming to City standards shall be installed at all corners, angle-points, points of curves, and at all street intersections adjacent to the land under development and at such other locations as may be required by the City Engineer. After all improvements have been installed, a registered land surveyor or registered civil engineer shall check the locations of the monuments and mark the brass cap. (1095,4570)
- (I) Oversize of Required Public Improvements. The developer may be required to oversize certain public street and utility improvements for the purpose of ensuring that the City of Mesa's public improvement standards for transportation, utility service, and infrastructure are maintained. The City of Mesa may participate in the increased costs of oversize improvements when approved by the Development Services Manager. The City's commitment to participate in these increased costs may be formalized in a development agreement limited to those improvements specifically identified as oversize and executed by the developer and the Development Services Manager. (2907,3105,3766, 4570)

9-8-4: MODIFICATIONS: (1095,1656,3105, 4570,4606,4771,4777)

- (A) Where an individualized assessment reveals the existence of special conditions involving topography, land ownership, adjacent development, parcel configuration, or other factors relating to the impact the development will have on the City's need for off-site improvements associated with the proposed development, the City Manager or designee may reduce, defer, or approve alternatives to the requirements and specifications contained in this Chapter based upon a finding that such conditions or factors exist and that the requirements will substantially impair existing uses or the ability for development. (3105,3766,4606,4771)
- (B) Where an individualized assessment reveals the existence of extraordinary conditions involving topography, land ownership, adjacent development, parcel configuration, or other factors, relating to the impact the development will have on the City's need for the dedication of rights-of-way, the City Manager or designee may eliminate, reduce, defer or approve alternatives to the dedication of rights-of-way requirements contained in this chapter upon finding that such conditions or factors exist and that the requirements will substantially impair existing uses or the ability for development. (4570,4606,4771,4777)

- (C) With the approval of, or amendment to, a rezoning to PC District, the City Council may approve modifications to the requirements and specifications required by this Chapter if the City Engineer or City Traffic Engineer recommends approval of the modification. The City Engineer or City Traffic Engineer, in consultation with the Planning Director, may recommend the elimination, reduction, or approval of alternatives to the requirements and specification required by this Chapter. If the City Engineer or City Traffic Engineer recommends approval of such a modification, the recommendation, which may be subject to conditions or stipulations, shall be forwarded to the City Council with the PC district. City Council may approve the modification as recommended. The City Engineer's or City Traffic Engineer's recommendation shall be based upon a finding that the modification:
1. Is consistent with the intent of these regulations; (4771)
 2. Will result in an equivalent level of service for health, safety and welfare to the General public; (4771)
 3. Will result in improvements that are adequate and meet the City's needs; (4771)
 4. Furthers the purposes of the PC District; and (4771)
 5. Is not contrary to the public interest. (4771)
- (D) To ensure compliance with any elimination, modification, deferral, or alternative, the City Manager or designee may require certain provisions such as protective covenants, bonds, and development agreements. Such provisions may be recorded against the property being developed. (3105,3766,4570,4771,4777)
1. When the deferral of certain right-of-way improvement requirements is authorized by the City Manager or designee for a specific development project, the owner and/or developer shall remit to the City of Mesa a payment in lieu of causing the actual design, installation, and/or construction of said required public improvements. This in-lieu payment shall be based upon a cost estimate prepared by a professionally registered civil engineer and approved by the City of Mesa. The in-lieu payment cost estimate shall include all design costs, labor and materials costs, plus twenty percent (20%) for future contingency costs. All in-lieu payments shall be remitted to the City of Mesa as a condition of and in conjunction with the issuance of any on-site construction permits and/or off-site rights-of-way permits associated with the development project. (3882,4570,4771)
 2. The obligation to construct right-of-way improvements or make an in-lieu payment prior to the issuance of permits, including the determination of the amount of the in-lieu payment required, may be deferred to a future date if the developer provides financial assurances acceptable to the City Engineer and the City Attorney, the developer and City enter into a development agreement that provides adequate financial assurance for the future construction of the improvements and/or the future payment of an in-lieu amount, and the City Manager or designee finds that such deferral meets all of the following criteria:
 - (a) The development is non-residential; and (4777)
 - (b) The property is zoned as a commercial or industrial district; and (4777)
 - (c) The deferred right-of-way improvements are not included in this City's Capital Improvement Plan for construction within five (5) years of the deferral; and (4777)
 - (d) The deferral is in the best interest of the City of Mesa. (4777)

9-8-5: APPEALS:

- (A) Discretionary decisions of the Development Services Manager may be appealed to the Hearing Office, who shall be appointed by the City Manager, when such decisions involve one (1) or more of the following: (3105,3766)
1. Any requirement that exceeds or is in addition to the minimum development requirements as defined in this Chapter. (3105)
 2. Any requirement not specified in the Mesa City Code or other legislative act of the City of Mesa. (3105)
 3. Any requirement resulting from a discretionary act of an administrative official of the City of Mesa. (3105)
- (B) Appeals to the Hearing Officer may be submitted by the developer or owner of the property proposed for development which is affected by a discretionary decision of the Development Services Manager. The appeal shall be submitted within thirty (30) days of such decision by filing with the Development Services Manager a notice of appeal on a form provided therefor. No fee is required for this appeal. The Development Services Manager shall transmit to the Hearing Officer all the papers constituting the records upon which the decision appealed from was taken. (3105,3766)
- (C) The Hearing Officer shall schedule a time for the appeal to be heard, which shall be no later than thirty (30) days from receipt of the appeal. The appellant shall be given at least ten (10) days' prior notice of the date and time set for the hearing. The Hearing Officer shall decide the appeal within five (5) working days from the date the appeal hearing concludes. (3105)
- (D) For determination of the appeal, it shall be the responsibility of the City to establish that there is a nexus between the requirement and a legitimate governmental interest and that the requirement is roughly proportional to the impact of the proposed use, improvement, or development. If more than a single parcel is involved, this requirement applies to the entire property that is subject to the approval. (3105)
- (E) If the appeal is upheld, the Hearing Officer shall modify or delete the requirement. If the appeal is denied, the appellant may at any time within thirty (30) days of the decision of the Hearing Officer file a complaint for a trial de novo in the Superior Court on the facts and the law regarding the issues of the requirement. (3105)

9-8-6: PENALTIES:

- (A) It is unlawful to develop land contrary to or in violation of any provisions of this Chapter or of any provision designated as a condition of approval either by the plan review process or through an amendment, variance, or appeal by an office, board, commission, or the City Council as established by this Chapter. (3105)
- (B) Any person, firm, or corporation violating any provision of this Chapter and any amendments to it shall be guilty of a Class 1 misdemeanor, punishable by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment in the City jail for a period not to exceed six (6) months, or by both such fine and imprisonment; and each day of violation continued shall be a separate offense, punishable as described. (3105)

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