

**ARTICLE 7**  
**ADMINISTRATION**

*MESA ZONING ORDINANCE*

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## Chapter 66 Planning Agency

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### 11-66-1: Purpose

This Chapter identifies the bodies, officials, and administrators with designated responsibilities under various parts and chapters of the [Zoning Ordinance](#). Subsequent chapters of this article provide detailed information regarding various procedures, applications, and permits including zoning, and [General Plan](#) text and map amendments, fees, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Ordinance as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan and [Zoning Ordinance](#).

### 11-66-2: Planning and Zoning Board

A. **Establishment and Organization of the Planning and Zoning Board.** The [Planning & Zoning Board](#) is established by [Section 406 of the Mesa City Charter](#) and [Section 2-1-1](#) of the [Mesa City Code](#). The Board's organization and duties are described in [Title 2 - Boards and Commissions](#), Chapter 1, Planning and Zoning Board, of the [Mesa City Code](#).

#### B. Meetings.

1. Meetings of the Board shall be open to the public and the minutes of its proceedings, showing the votes of each member and records of its examinations and other official actions shall be kept and filed in the [Planning Division](#) Office as a public record. The Secretary of the Board shall be the [Planning Director](#), or a member of the Planning Division staff as designated by the Planning Director.
2. At least 4 members shall be present to conduct a meeting. No matter shall be considered unless there are at least 4 members present who are eligible and qualified to vote on the matter.

3. The concurring vote of a majority of the Board members present shall be necessary to pass a motion.
  4. Elect a chair and vice-chair from among its members, annually.
  5. The Chair, or in the Chair's absence the Vice Chair, shall lead the meeting, maintain order, and be the final decision maker for all meeting management questions.
- C. **Authority and Duties of the Planning and Zoning Board.** The [Planning & Zoning Board](#) shall:
1. Recommend action to the [City Council](#) on requests for amendments to the [Zoning Map](#) and to the [Zoning Ordinance](#), on requests for [Council Use Permit](#), and amendments to the [General Plan](#), except for those cases referred to the [Planning Hearing Officer](#) or the [Planning Director](#) by this Ordinance.
  2. Hear and take action on [Special Use Permits](#) only when requested in conjunction with another request requiring action or recommendation by the Planning and Zoning Board, as authorized by this Sub-section C. Any Planning and Zoning Board approval of a [SUP](#) that requires the associated request to be approved by the City Council shall be conditioned upon Council approval of the associated request. In the event the City Council denies the associated request, the SUP shall also be considered denied.
  3. Hear and take action on requests for [Site Plan Reviews](#) and [Site Plan Modifications](#) when not otherwise conditioned for review and approval by [City Council](#), or the request does not involve the need to amend a condition of approval as stated in the adopting ordinance.
  4. Consider and decide preliminary plats as part of the platting procedures and requirements described in the [Subdivision Regulations, Title 9, Chapter 6](#), of the [Mesa City Code](#).
  5. Hear, make recommendations and/or decide matters relating to a [PC District](#), as specified in [Chapter 11](#) of this Ordinance, and the applicable [Community Plan](#) as adopted by [City Council](#) and including all approved amendments to the Community Plan.
  6. Review and make recommendations to the [City Council](#) regarding joint public/private projects in designated redevelopment areas.
  7. Hold public hearing and make recommendations to the [City Council](#) on proposed redevelopment plans or amendments to adopted plans.

8. Propose redevelopment actions to the council which are consistent with adopted plans and stated redevelopment goals.
9. Hear and make recommendations on other matters as directed by the [City Council](#).
10. The Board may adopt rules for the conduct of its business.

### **11-66-3: Board of Adjustment**

- A. **Establishment and Organization of the Board of Adjustment.** A [Board of Adjustment](#) is hereby established pursuant to [ARS § 9-462.06](#) and [Section 409 of the City Charter](#). The Board shall elect a chair and vice-chair, annually, who shall have power to administer oaths and to take evidence.
- B. **Meetings.**
  1. Meetings of the Board shall be open to the public and the minutes of its proceedings, showing the votes of each member and records of its examinations and other official actions, shall be kept and filed in the [Planning Division](#) as a public record. The Secretary of the Board shall be the [Zoning Administrator](#), or a member of the Planning Division staff as designated by the [Planning Director](#).
  2. No Variance, [Special Use Permit](#), [Substantial Conformance Improvement Permit](#), [Development Incentive Permit](#), or appeal of an interpretation of the [Zoning Ordinance](#) or other provision of the [City Code](#) shall be acted upon until a public hearing has been held.
  3. Not less than 4 members of the Board shall be present to conduct a hearing. No matter shall be considered unless there are at least 4 members present who are eligible and qualified to vote on the matter.
  4. The concurring vote of 4 members of the Board shall be necessary to reverse any order or decision of the [Zoning Administrator](#) or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation from the terms and conditions of this [Zoning Ordinance](#) or of the [City Code](#) within the jurisdiction of the Board as authorized by the [City Council](#).
  5. The Chair, or in the Chair's absence the Vice Chair, shall lead the meeting, maintain order, and be the final decision maker for all meeting management questions.

**C. Authority and Duties of the Board of Adjustment.**

1. The [Board of Adjustment](#) shall:
  - a. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by the [Zoning Administrator](#) in the enforcement of the [Zoning Ordinance](#).
  - b. Hear and decide appeals from the action of the [Zoning Administrator](#) in the granting or denying of variances, the issuance of [Special Use Permits](#), [Substantial Conformance Improvement Permits](#) (SCIPs) or [Development Incentive Permits](#) (DIPs), or in the interpretation of the provisions of this Ordinance.
  - c. Hear and decide all matters referred to the Board by the [Zoning Administrator](#).
  - d. Take any and all actions referred to the Board by the [City Council](#), or as specified by [ARS § 9-462.06](#), or [Section 409 of the City Charter](#).
2. The Board shall prescribe in connection with any [Special Use Permit](#), [Development Incentive Permit](#), [Substantial Conformance Improvement Permit](#), interpretation, or variance, such conditions as the Board may deem necessary in order to fully carry out the provisions and intent of this [Zoning Ordinance](#).
3. The [Board of Adjustment](#) shall not make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the [Zoning Ordinance](#); provided that the restriction in this paragraph shall not affect the authority to grant variances.
4. The [Board of Adjustment](#) may adopt rules for the conduct of its business.

**D. Appeals to the Board of Adjustment.**

1. Appeals to the Board shall be made in conformance with [ARS § 9-462.06](#).
2. Appeals to the Board may be submitted by an aggrieved person, as defined by [Chapter 87](#), or by officers, department or Board of the City affected by any decision of the [Zoning Administrator](#), when acting as a [Hearing Officer](#), within 30 days by filing with the [Zoning Administrator](#) a written notice of appeal specifying the grounds. No fee is required for this appeal. The [Zoning Administrator](#) shall transmit to the Board all the papers constituting the records upon which the action appealed from was taken.

3. The appeal stays all proceedings in the matter appealed from, unless the [Zoning Administrator](#) certifies to the Board that a stay would cause imminent peril to life or property, consistent with state law.
  4. The Board shall fix a reasonable time for the hearing of the appeal and give notice thereof to the parties in interest and the public by publication in a newspaper of general circulation at least 15 days prior to the public hearing and by posting the property which is the subject of the application, in conformance with [ARS § 9-462.04](#), at least 5 days prior to the hearing. It shall be the responsibility of the applicant to maintain the posting once erected until after the hearing.
- E. **Appeals to Superior Court.** Any person aggrieved by a decision of the [Board of Adjustment](#) or an officer or department of the [City of Mesa](#) affected by a decision of the Board may, at any time within 30 days after the Board has rendered its decision, file a complaint of special action in Superior Court to review the Board's decision in conformance with [ARS § 9-462.06](#). Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay, and on final hearing, may affirm or reverse in whole or in part, or modify the decision reviewed.

#### **11-66-4: Historic Preservation Board**

- A. **Establishment and Organization of the Historic Preservation Board.** [Historic Preservation Board](#) is established and organized as established in [Title 2 - Boards and Commissions, Chapter 23](#), Historic Preservation Board, in the [Mesa City Code](#). The duties of the Historic Preservation Board shall be in conformance with those established in Title 2 - Boards and Commissions, Chapter 23, Historic Preservation Board of the Mesa City Code.
- B. **Meetings.**
1. Meetings of the Board are open to the public and the minutes of its proceedings are kept and filed in the office of the [Historic Preservation Officer](#) as a public record. The Secretary of the Board is the Historic Preservation Officer or his/her designee.
  2. At least 4 members of the Board shall be present to conduct a meeting. No matter shall be considered unless there are at least 4 members present who are eligible and qualified to vote on the matter and an affirmative vote of a majority of the quorum present and voting shall be required to pass a motion.
  3. The Board shall meet at least 4 times per calendar year.

4. The Chair, or in the Chair's absence the Vice Chair, shall lead the meeting, maintain order, and be the final decision maker for all meeting management questions.
- C. **Authority and Duties of the Historic Preservation Board.** The [Historic Preservation Board](#) shall have the powers and duties described in [Title 2 - Boards and Commissions, Chapter 23](#), Historic Preservation Board, in the [Mesa City Code](#).
1. Hear and/or make recommendations on other matters as directed by the [City Council](#).
  2. The Board may adopt rules for the conduct of its business.

### 11-66-5: Planning Hearing Officer

- A. **Establishment of the Planning Hearing Officer.** The Planning [Hearing Officer](#) is hereby established in the Mesa [Planning Division](#). The [Planning Hearing Officer](#) shall be appointed by the [City Manager](#) on the basis of training and experience regarding the conduct of hearings, knowledge of the [General Plan](#) and knowledge of the [Zoning Ordinance](#).
- B. **Authority and duties of the Planning Hearing Officer.** The Planning [Hearing Officer](#) shall:
1. Recommend action to the [City Council](#) on requests for amendments to the [Zoning Map](#), on requests for [Council Use Permit](#), Subdivision Plat Approvals, Applications for Site Plan Review and [Site Plan Modifications](#), when such requests are determined by the [Planning Director](#) as appropriate to be heard by the Planning [Hearing Officer](#) pursuant to the [Planning Hearing Officer](#) guidelines.
  2. Hear and take action on requests for [Site Plan Reviews](#) and [Site Plan Modifications](#) when not otherwise conditioned for review and approval by [City Council](#), or the request does not involve the need to amend a condition of approval as stated in the adopting ordinance.
  3. Consider and decide preliminary plats as part of the platting procedures and requirements described in the [Subdivision Regulations, Title 9, Chapter 6](#), of the [Mesa City Code](#).
  4. Hear, make recommendations and/or decide matters relating to a [PC District](#), as specified in [Chapter 11](#) of this Ordinance, and the applicable [Community Plan](#) as adopted by [City Council](#) and including all approved amendments to the [Community Plan](#).
  5. Hear and make recommendations on other matters as directed by the [City Manager](#) or [City Council](#).



**11-66-6: Design Review Board**

- A. **Establishment and Organization of the Design Review Board.** The [Design Review Board](#) is established by [Title 2 - Boards and Commissions](#), Design Review Board of the [Mesa City Code](#).
1. **Qualification of Members:** The composition of the Board shall include: 2 licensed architects; 2 from other design professions (e.g.: architecture, landscape architecture, engineering, urban planning, interior design or similar design related profession); 1 contractor or developer; and 2 citizens selected at-large from the community.
  2. **Rules of Conduct:** The Board shall adopt rules for the conduct of its business. The Board may, in such rules, delegate certain responsibilities and/or tasks to be performed by a subcommittee or subcommittees of the Board.
- B. **Meetings.**
1. Meetings of the Board are open to the public and the minutes of its proceedings are kept and filed in the [Planning Division](#) office as a public record. The Secretary of the Board is the [Planning Director](#) or a member of the Planning Division staff designated by the Planning Director.
  2. At least 4 members of the Board shall be present to conduct a meeting and an affirmative vote of a majority of the quorum present and voting shall be required to pass a motion.
  3. The concurring vote of 4 of the Board members present is necessary to pass a motion to approve an appeal of a decision of the [Planning Director](#).
  4. The Chair, or in the Chair's absence the Vice Chair, shall lead the meeting, maintain order, and be the final decision maker for all meeting management questions.
  5. The Board shall meet as needed.
- C. **Authority and Duties of the Design Review Board.** In addition to the powers and duties established in [Title 2 - Boards and Commissions](#), Design Review Board of the [Mesa City Code](#), the [Design Review Board](#) shall:
1. Hear and decide:
    - a. Appeals of decisions of the [Planning Director](#) or staff as delegated by the [Planning Director](#) regarding the use of alternative materials or methods to satisfy Mesa's aesthetic and design-related development requirements and to ensure that any proposed alternatives are at least

- equivalent to the City's development requirements or as previously approved by the [City Council](#).
- b. Requests to utilize architectural forms to screen a parking structure as provided in [Section 11-32-2\(F\)](#), Structured Parking.
  - c. Hear and decide requests for building height exceptions, pursuant to [Section 11-30-3](#).
  - d. Hear and decide requests for exterior building illumination, pursuant to [Section 11-30-5\(C\)](#).
2. Review and recommend proposed changes in design and development standards to the [City Council](#), including but not limited to design and development standards that relate to and reinforce the architectural qualities, landscape patterns and design character of sub-areas of the City.
  3. Review and make recommendations to the [City Council](#) regarding City staff implementation of design-related standards.
  4. Upon request, review and make recommendations to the [Zoning Administrator](#) on requests for exceptions or variances to height limits.
  5. Review and advise the [Planning Director](#) regarding development proposals involving the following:
    - a. Buildings 4 or more stories in height.
    - b. Multiple-residence projects that exceed the standard density in excess of 15 dwelling units per acre.
    - c. Mixed-use, commercial and/or industrial projects that have frontage on an arterial or collector street or that are part of an existing or planned development that has frontage on an arterial or collector street.
    - d. Mixed-use, commercial and/or industrial projects that have, or will have, greater than 20,000 square feet of gross floor area.
    - e. Modifications to existing commercial or industrial projects having frontage on an arterial street or that are part of an existing or planned development having frontage on an arterial street that involve:
      - i. A change in the distinguishing traits or primary features of the use of a building or land as evidenced by increased parking requirements, change in occupancy designation, change in outside storage, or other features.

- ii. The predominant primary architectural features or materials of existing buildings, such as changes to horizontal or vertical elements of exterior walls, building trim, roof shape or composition, detailing, building height or roof line, and parapets. Such review is limited to the specific architectural building features proposed for modification.
  - f. Parking garages.
6. Hear and make recommendations or decisions on matters as specified in an adopted [Community Plan](#) for a [PC District](#).
7. Review and decide Municipal projects of the [City of Mesa](#), including fire stations, libraries, parking lots with over 50 spaces, and any building or facility meeting the above height, size, or location criteria set forth in Item 5 of this sub-section, above. Projects not subject to Board review include streets, walls and fences, well sites, and road widening projects.
8. Hear and make recommendations on appeals to the following sections of this Ordinance
  - a. [11-5-5](#): Development Standards in the RM District,
  - b. [11-5-6](#): Supplemental Standards Applicable for All Residential Districts;
  - c. [11-6-4](#): Development Standards in the Commercial and Mixed Use Districts;
  - d. [11-6-5](#): Additional Standards for Districts with –U Character Designator; Standards and Criteria for Commercial Shopping Centers;
  - e. [11-7-3](#): Development Standards for Employment Districts;
  - f. [11-8-4](#): Development Standards for Downtown Residence Districts;
  - g. [11-8-5](#): Development Standards for Downtown Business Districts;
  - h. [11-8-6](#): Development Standards for Downtown Core Districts;
  - i. [11-8-7](#): Supplemental Standards for All Downtown Districts;
  - j. [11-10-3](#): Development Standards for Public and Semi-Public Districts.
9. Hear and decide appeals from the [Zoning Administrator](#) regarding Alternative Landscape Plans pursuant to [Section 11-33-7](#).
10. Hear and make recommendations on other matters as directed by the [City Council](#).

11. The Board may adopt rules for the conduct of its business.

### 11-66-7: Zoning Administrator

- A. **Establishment of the Office of the Zoning Administrator.** The office of [Zoning Administrator](#) is hereby established in the Mesa [Development and Sustainability Department](#). The [Zoning Administrator](#) shall be designated by the Development and Sustainability Department Manager and serves under the direction of the [Planning Director](#).
- B. **Authority and Duties of the Zoning Administrator.** The [Zoning Administrator](#) is the city official established pursuant to [ARS § 9-462.05](#) and charged with responsibility for enforcement of the [Zoning Ordinance](#). In addition, the Zoning Administrator shall:
  1. Accomplish all administrative actions required by this Ordinance, including the giving of notice, scheduling of hearings, preparation of reports, and receiving and processing appeals.
  2. Interpret the [Zoning Ordinance](#) to the public, [City Departments](#) and other branches of government, subject to the supervision of the [Planning Director](#) and subject to general and specific policies established by the [City Council](#). In consultation with the Planning Director, the [Zoning Administrator](#) may determine which requests for interpretations may be decided through an administrative process, or reviewed and decided through a public hearing process as described in Item 6, below.
  3. Undertake preliminary discussions with, and provide advice to, applicants requesting assistance.
  4. Serve as a [Hearing Officer](#) and as a Secretary to the [Board of Adjustment](#), or delegate such duties to qualified parties subject to the concurrence of the [Planning Director](#).
  5. Make recommendations to the [Planning Director](#) on changes and improvements in Ordinance regulations and procedures.
  6. As a [Hearing Officer](#) conduct public hearings to:
    - a. Decide appeals that may be taken by any person or any officer, department or board of the City when there is an alleged error in any order, requirements or decision made by an administrative official in the enforcement of the provisions of this Ordinance and other sections of the [City Code](#) within the jurisdiction of the [Zoning Administrator](#) as authorized by the [City Council](#), and reverse or affirm in whole or in part, or modify the order or decision appealed.

- b. Interpret any provisions of this Ordinance and other sections of the [City Code](#) which may be in doubt, and which are within the jurisdiction of the [Zoning Administrator](#).
  - c. Grant [Special Use Permits](#) required by the [City Code](#) upon a finding that the use covered by the permit, the manner of conducting the same, and any use or building which is involved:
    - i. Will be in conformance with the intent of this [Zoning Ordinance](#);
    - ii. Will be consistent with specified plans and policies adopted by the [City Council](#), including the goals and objectives of the [General Plan](#);
    - iii. Will be compatible with and not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general.
  - d. Grant [Development Incentive Permits](#) and [Substantial Conformance Improvement Permit](#) as authorized by this Ordinance.
  - e. Authorize variances from the terms of this [Zoning Ordinance](#) or other sections of the [City Code](#) within the jurisdiction of the [Zoning Administrator](#) pursuant to the provisions of [ARS § 9-462.06](#).
  - f. Prescribe in connection with any [Special Use Permit](#), [Development Incentive Permit](#), [Substantial Conformance Improvement Permit](#), or any Variance such conditions as deemed necessary in order to fully carry out the provisions and intent of this Ordinance.
7. Determine the location of any district boundary shown on the [Zoning Map](#) adopted as part of this Ordinance when such location is in dispute.
  8. Decide appeals from [Section 9-1-1](#) of the [City Code](#) pertaining to dedication of rights-of-way, pursuant to [ARS § 9-500.12](#).
  9. Review, consider and decide Exceptions and Alternative Plans or Alternative Standards as authorized by this Ordinance, based strictly upon the limitations and criteria specified for that Exception, Alternative Standard or Alternative Plan.
  10. Review, consider and decide Zoning Permits, [Administrative Use Permits](#), and Temporary Use Permits as authorized by this Ordinance, based strictly upon the limitations and criteria specified for Zoning Permits, Administrative Use Permits, and [Temporary Use Permit](#).

- C. **Limits to Authority and Duties.** The [Zoning Administrator](#) shall not make any changes in the uses permitted in any zoning classification or zoning district, or make any change in the terms of the [Zoning Ordinance](#); provided that the restriction in this paragraph shall not affect the authority to grant variances.
- D. **Appeals to the Zoning Administrator.**
1. Appeals to the [Zoning Administrator](#) may be taken by any person aggrieved, or by officers, department, or board of the City affected by any decision of any administrative official, by filing with the Zoning Administrator within the time period prescribed by this Ordinance, a notice of appeal on a form provided therefore.
  2. The appeal stays all proceedings in the matter appealed unless the officer from whom the appeal is taken certifies to the [Zoning Administrator](#) that a stay would cause imminent peril to life or property.
  3. The [Zoning Administrator](#) shall fix a reasonable time for the hearing of the appeal and shall give notice thereof to the parties in interest and the public by publication in a newspaper of general circulation at least 15 days prior to the public hearing and by posting notice of the public hearing on the site that is the subject of the application, in conformance with [ARS § 9-462.04](#), at least 5 days prior to the hearing. It shall not be the responsibility of the Applicant or to maintain the posting once erected until after the hearing.
  4. The [Zoning Administrator](#) may refer any matter on which he is authorized to rule directly to the [Board of Adjustment](#).
  5. Appeals based on a decision made by the [Zoning Administrator](#), acting in an administrative capacity, such as those involving interpretations of the [Zoning Ordinance](#), shall be referred directly to the [Board of Adjustment](#).

Any person aggrieved by a decision of the [Zoning Administrator](#) may appeal this decision to the [Board of Adjustment](#) within a period of 30 days from the time that the decision is made in the manner specified in [Section 11-67-11](#), and [Chapter 77](#).

#### **11-66-8: Downtown Development Committee**

- (A) The [Downtown Development Committee](#). The Downtown Development Committee has been decommissioned by deletion of Section 2-20-1 of the [Mesa City Code](#) pursuant to Ordinance 4960, dated December 7, 2009.
- (B) Modifications: All decided applications for which a condition of approval requires a future revision or modification of that decision to be reviewed by the Downtown Development Committee for either recommendation or decision shall instead be reviewed by the [Planning & Zoning Board](#) or [Design Review Board](#), as determined by the [Planning Director](#). The determination shall be based on the type of modification or revision requested.

## Chapter 67 Common Procedures

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Sections:

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11-67-11	<a href="#">Revocation of Permits Approved Through a Public Hearing Process</a>
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### 11-67-1: Purpose

This chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in the [Zoning Ordinance](#), unless superseded by specific requirement of this Ordinance or State law.

### 11-67-2: Application Forms, Supporting Materials and Fees

- A. **Applicants.** The following persons may file applications:
1. The owner of the subject property; or
  2. An agent representing the owner, duly authorized to do so in writing by the owner.
- B. **Application Forms.** Applications shall be filed in the office of the [Planning Division](#) on a form provided by the city and shall be accompanied by the required fee.
1. *Application Forms.* The [Zoning Administrator](#) shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Ordinance.
  2. *Supporting Materials.* The [Zoning Administrator](#) may require the submission of supporting materials as part of the application, including but not limited to, statements, photographs, plans, drawings, renderings, models, material samples

and other items necessary to describe existing conditions and the proposed project. Unless otherwise specified, all renderings shall depict the proposed structure, landscaping, other improvements, and surrounding land uses as they would appear after project completion.

3. *Availability of Materials.* All material submitted in support of a specific application becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time, upon reasonable request and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the [Planning Division](#) offices. Unless barred by law, copies of such materials shall be made available at a reasonable cost to be established by the City.
- C. **Pre-application Conference Required.** Before filing any applications described by paragraphs E through H, below, the applicant shall submit a preliminary description of the proposal, accompanied by a fee specified by the adopted fee schedule, for review and comment by [Planning Division](#) staff. This preliminary description shall include, at minimum, a site plan and project narrative; both of sufficient scope and detail so as to allow a basic review of location, land area, land use, land use intensity, traffic generation and adjacent streets, stormwater drainage, utility service, and previous case history. The [Planning Director](#) or a [Planning Division](#) staff member designated by the [Planning Director](#) shall return comments to the applicant based on this preliminary review in writing, and orally at a subsequent conference between the applicant, [Planning Division](#) staff, and staff members of other City departments submitting comments. The need for the conference and fee may be waived by the [Planning Director](#) if it is determined sufficient information already exists regarding the request and case site.
- D. **Payment, Waiver and Refund of Application Fees.**
1. *Schedule of Fees.* The City shall establish fees for all application types. Payment of the fee is required in order for an application to be complete. No application shall be processed without payment of the applicable fee unless a fee waiver or deferral has been approved by the [Development and Sustainability Department Director](#).
  2. *Fee Waiver or Deferral.* No fee shall be required when the applicant is the City, or if it is waived or deferred by the [Development and Sustainability Department Director](#) based upon a finding of unique financial hardship or in unique circumstances where it would be unreasonable to impose the normal fee, or to impose such fee at the usual time.
  3. *Refund of Fees.* Once an application is filed with the [Planning Division](#), no part of any application fee shall be refundable, unless the [Development and Sustainability Department Director](#) determines such a refund is justified on the



basis of unique financial hardship and factual circumstances. No refund shall be made for any application that has been denied.

- E. **Applications Requiring City Council or Planning and Zoning Board Approval.** [Applications for Annexation](#), [Rezoning Amendments](#), [Site Plan Modifications](#), [General Plan](#) Amendments, [Site Plan Reviews](#), [Council Use Permit](#), or any other application or discretionary permit, relating to development and requiring [City Council](#) approval, shall be made in the office of the [Planning Division](#) on a form provided and shall be accompanied by the required fee.
- F. **Applications Requiring Board of Adjustment or Zoning Administrator Hearing Officer Approval.** Applications for variances, [Special Use Permit](#), [Development Incentive Permits](#) (DIPs), [Substantial Conformance Improvement Permit](#) (SCIPs), interpretations determined by the [Zoning Administrator](#) to require a public hearing, or any other application or discretionary permit relating to development and requiring approval of the [Board of Adjustment](#) or [Zoning Administrator Hearing Officer](#), shall be made in the office of the [Planning Division](#) on a form provided and shall be accompanied by the required fee.
- G. **Applications Requiring Design Review Board Approval.** Applications for items specified as requiring approval of the [Design Review Board](#), or any other application or discretionary permit relating to development and requiring approval of the [Design Review Board](#) shall be made in the office of the [Planning Division](#) on a form provided and shall be accompanied by the required fee.
- H. **Applications Requiring Historic Preservation Board Approval.** Applications for items specified as requiring approval of the [Historic Preservation Board](#) as listed in [Chapter 74](#) or any other application or discretionary permit relating to development and requiring approval of the [Historic Preservation Board](#) shall be made in the office of the [Planning Division](#) on a form provided and shall be accompanied by the required fee.
- I. **Applications Requiring the Approval of the Planning Director or Zoning Administrator.** Applications for administrative revisions to approved plans, product review of [PAD](#) subdivisions, Administrative Use Permits, [Temporary Use Permits](#), Zoning Permits, or administrative interpretations of the [Zoning Ordinance](#) shall be made in the office of the [Planning Division](#) on a form provided and shall be accompanied by the required fee.
- J. **Applications Requiring Approvals From Multiple Authorities.** If, at the time of a [Pre-Submittal Conference](#), it is determined that a particular request requires reviews and approvals by more than one governing body or authority, and the [Planning Director](#) agrees the applications to each reviewing authority can be consolidated under one development entitlement application, then one application requesting review and approval by each applicable authority shall be made in the office of the [Planning](#)

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[Division](#) and shall be accompanied by a total application fee calculated by summing the individual fees for each request as specified by the fee schedule, and then discounting that sub-total by 33%.

### 11-67-3: Citizen Participation

- A. [Citizen Participation Plan](#). Every application that requires a public hearing in accordance with this Chapter shall be accompanied by a [Citizen Participation Plan](#) designed to provide effective, early and continuous public participation that includes at least the following:
1. A contact list or method for notifying adjacent landowners and other potentially affected citizens of the proposed action, that shall include, but is not limited to:
    - a. Property owners within the maximum public hearing notice area required for that type of application,
    - b. Residents, registered neighborhoods, and homeowners associations that may be impacted as a result of the application, and other neighborhood entities identified by the City,
    - c. Interested parties which have requested that they be placed on a contact list for this application, and
    - d. Interested parties that have been identified by the City.
  2. A general description of how interested persons and those on the contact list may obtain information and updates on the project, such as newsletters, mailings, and meetings.
  3. A general description of how interested persons, including those on the contact list, will be provided an opportunity to discuss the proposal with the applicant, such as neighborhood meetings, phone contacts, or door-to-door visits.
  4. The applicant's proposed schedule for implementation of the [Citizen Participation Plan](#).
  5. How the applicant plans to keep the City informed on the status of the implementation of its [Citizen Participation Plan](#), such as providing staff copies of notices prior to meetings with citizens, and contact lists used to notify interested parties.
- B. **Citizen Participation Report**. The requirements in this Section apply in addition to any notice provisions required elsewhere in this [Zoning Ordinance](#), or by [Arizona Revised Statutes \(ARS\)](#).

1. Applicants shall provide a written [Citizen Participation Report](#) on the results of implementing their [Citizen Participation Plan](#) at least 10 City business days prior to the first scheduled public hearing. The [Citizen Participation Report](#) shall include the following information:
  - a. A summary of neighborhood meetings, if held, including when and where they were held, number in attendance (copies of sign-in sheets), and results achieved at the meeting(s);
  - b. A summary of citizen concerns, issues and problems expressed during the citizen participation process, and how these have been addressed through changes or stipulations to the project; and
  - c. Copies of comment letters, petitions, and other pertinent information received from residents and other interested parties.
2. [City of Mesa](#) staff may apply the [Citizen Participation Guidelines](#), Resolution 7283 (adopted November 2, 1998) as needed to meet the requirements of this section.
3. Failure to comply with the citizen participation provisions of this Section, or a determination that such efforts were insufficient to provide adequate opportunities for citizen participation, may result in postponement, rescheduling or denial of an application.

#### **11-67-4: Review of Applications**

- A. **Determination of Complete Application.** The [Planning Director](#), or a member of the [Planning Division](#) staff designated by the [Planning Director](#), shall determine whether an application is complete.
  1. *Incomplete Application.* If an application is incomplete, notification to the applicant shall be sent listing any additional forms, information, and/or fees that are necessary to complete the application.
  2. *Complete Application.* When an application is determined to be complete, a notation on the application shall make a record of that date. If required, a public hearing shall be scheduled and the applicant shall be notified of the date and time.
- B. **Recommendation Required Before Council Hearing of Request.**
  1. Before any Map Amendments, [Site Plan Modifications](#), [Site Plan Reviews](#) or [Council Use Permits](#) shall be considered by the Council, the [Planning Director](#), using guidelines adopted by the [City Council](#), shall refer the request or amendment to the [Planning Hearing Officer](#) or to the [Planning & Zoning](#)

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- [Board](#), who shall hold a public hearing and forward a recommendation to the [City Council](#).
2. Before any amendments to the text of this Ordinance, the [Planning & Zoning Board](#) shall hold a public hearing and forward a recommendation to [City Council](#).
  3. After the applicable public hearing, the Council may adopt the recommendation of the [Planning Hearing Officer](#) or [Planning & Zoning Board](#) without holding a second public hearing provided there is no objection, request for public hearing or other protest. The [City Council](#), however, shall hold a second public hearing on any application for which a [General Plan](#) amendment is requested.
- C. **Annexation Procedures.** Annexations shall be considered by [City Council](#) in accordance with the procedures specified in [Chapter 78](#).
- D. **Additional Fee for Planning Hearing Officer.** When an application is determined by the [Planning Director](#) as appropriate to be heard by the [Planning Hearing Officer](#) pursuant to the [Planning Hearing Officer](#) guidelines, the applicant may elect to have the matter placed before the [Planning Hearing Officer](#) by submitting the additional fee as specified in a schedule adopted by resolution by the [City Council](#).
- E. **Conditions Requiring Mandatory Supermajority Vote by City Council.** In the event the [City Council](#) is asked to decide upon any proposed Rezoning Amendment, [Council Use Permit](#), [Development Unit Plan](#), [Site Plan Review](#) or [Site Plan Modification](#), amendments to such proposals, or appeals of any such proposals, and upon evidence that all conditions described in one (1), through 3, below, have been satisfied, then the proposal shall become effective only by favorable vote of three-fourths (3/4) of all members of the [City Council](#). If any members of the [City Council](#) are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the [City Council](#), provided that such required number of votes shall in no event be less than a majority of the full membership of the Council. Notwithstanding the foregoing, in all cases, a motion shall pass only if a minimum of 4 Council members vote in favor of the motion.
1. A protest in writing against such a proposal is filed by the owners of 20-percent or more of the area of lots described by conditions in Section 2, below.
  2. Conditions:
    - a. All lots included in the proposal, or
    - b. Within 150-feet and immediately adjacent to the rear or any side of the proposal site, or

- c. Extending 150-feet from the street frontage of the lots opposite the lots included in the proposal.
3. Such written protests shall be filed in the office of the [Planning Director](#) by no later than 12:00 noon the Monday of the week prior to the [City Council](#) meeting at which the proposal is scheduled to be considered, unless City offices are closed on that Monday because of a local, State or national holiday, then the protest must be filed by 12:00 noon the next business day.

### 11-67-5: Notice of Public Hearings

- A. **Applications to the City Council, Planning and Zoning Board and Planning Hearing Office.** Any amendments, [Site Plan Modifications](#), [Site Plan Reviews](#), [Council Use Permits](#) or any other land use change shall provide:
  1. The same notice of public hearing as required by [ARS § 9-462.04](#) (A) (4); and
  2. Additional notice sent a minimum of 14-days before the scheduled hearing date by first class mail to all owners of property located within 500-feet of the exterior boundary of the property that is the subject of the application, based on the last assessment.
- B. **Applications to the Board of Adjustment or Zoning Administrator Hearing Officer.** Any variances, [Special Use Permits](#), [Development Incentive Permits](#) (DIPs), [Substantial Conformance Improvement Permits](#) (SCIPs), and interpretations determined by the [Zoning Administrator](#) to require a public hearing, shall provide
  1. The same notice of public hearing as required by [ARS § 9-462.06](#) (F); and.
  2. Additional notice sent a minimum of 14-days before the scheduled hearing date by first class mail to all owners of property located within the following distances of the exterior boundary of the property that is the subject of the application, based on the last assessment:
    - a. For any single residence, duplex, or single lot RV or manufactured home: 150-feet.
    - b. For any other request: 500-feet.
- C. **Contents of Notice.** Any notice of public hearing shall include the following information:
  1. A general description of the proposed project or action and the location of the real property, if any, that is the subject of the application;

2. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required;
  3. The identity of the hearing body or officer;
  4. The names of the applicant and the owner of the property that is the subject of the application;
  5. The location and times at which the complete application and project file may be viewed by the public;
  6. A statement that any interested person or authorized agent may appear and be heard; and
  7. A statement describing how to submit written comments.
- D. Notwithstanding the notice requirements of this Section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the [City of Mesa](#) for which the notice was given.

### **11-67-6: Conduct of Public Hearings**

A public hearing held pursuant to this Ordinance shall comply with the following procedures:

- A. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state their name and address, and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented. The presiding officer may establish time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- B. **Continuance of Public Hearing.** The body conducting the public hearing may, by motion, continue the public hearing to a fixed date, time and place or may continue the item to an undetermined date and provide notice of the continued hearing as set forth in [Section 11-67-5](#).
- C. **Investigations.** The body conducting the hearing may cause such investigations to be made as it deems necessary and in the public interest on any matter to be heard by it. Such investigation may be made by a committee of one or more members of the body conducting the hearing or by members of its staff or its agents or employees. The facts established by such investigation shall be submitted to the body conducting the hearing either in writing, to be filed with the records of the matter, or in testimony before the body, and may be considered by the body in making its decision.

- D. **Record of Hearing.** The body conducting the hearing shall cause a written summary of all pertinent testimony heard at such public hearing, together with a record of the names and addresses of all persons testifying, to be prepared and filed with the papers relating to such matter.

### 11-67-7: Records of Actions Taken

Unless otherwise specified in this Ordinance, the minutes of the meeting where a decision is made shall be the official record of any action taken or decision made to approve, approve with conditions, modify, revoke or deny any discretionary permit or discretionary approval (e.g.: [Site Plan Review](#), [Certificate of Appropriateness](#)) under this Ordinance.

- A. **Date of Action.** The responsible body shall decide to approve, modify, revoke, or deny any discretionary permit or discretionary approval following the close of the public hearing, or if no public hearing is required, at a public meeting within the time period required by this Ordinance. The date of action shall be the date of the meeting where a motion or other action is approved.
- B. **Notice of Action.** After the [Zoning Administrator](#) or other responsible body takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Ordinance, Notice of Action shall be sent to the Applicant. The Notice shall describe the action taken, including any applicable conditions, and shall list any required findings that were the basis for the decision. The Notice shall be mailed within seven calendar days from the date of taking the action, to the Applicant at the address (including electronic addresses) stated in the application and to any other person or entity who has filed a written request of such notification.
- C. **Findings.** Findings shall be required for any action of the [Zoning Administrator](#) acting as a [Hearing Officer](#) and for the [Board of Adjustment](#), as required by [ARS § 9-462.06](#) or this Ordinance, and shall be based upon personal observations, consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution by or meeting minutes of the decision-making authority. The findings shall be set forth in the notice that the City issues following an appealable decision by the [Zoning Administrator](#) or other responsible body and in the minutes of the meeting or other record where the decision making authority documents its decision.

### 11-67-8: Effective Dates

- A. **Approvals Subject to Appeal.** A final decision on an application for any discretionary approval subject to appeal (e.g., a use permit, variance, or site plan approval) shall become effective after the expiration of the appeal period following the date of action, unless an appeal is filed. In accordance with paragraph B, below, no building permit or business license shall be issued until the day following the expiration of the appeal

period, unless the applicant signs a waiver explaining that they understand and accept the risk of proceeding before the appeal period ends.

- B. **Exercising Approval at Risk.** An approved variance or [Special Use Permit](#) or an interpretation favorable to the applicant may be exercised at the applicant's sole risk, and a construction permit (if required) may be issued subsequent to the approval by the [Zoning Administrator](#) or [Board of Adjustment](#). However, if an appeal of the decision is filed in accordance with the provisions of this Ordinance that reverses in whole or in part or modifies the decision and that causes any construction or use commenced as a result of exercising the decision to be in conflict with the appellate body's decision, then such construction permit may be revoked in accordance with the appellate body's decision and any such construction or use may constitute a violation of this Ordinance and may be subject to removal or cessation by the applicant, property owner, or his agent.

### 11-67-9: Expiration and Extension

#### A. Expiration.

1. The [City Council](#), in the granting of any permit, or the [Zoning Administrator](#) or the [Board of Adjustment](#), in the granting of any permit or discretionary approval or permit modification or adjustment for which the Administrator or Board has authority, may specify the time within which the proposed use must be undertaken and actively and continuously pursued. The [City Council](#), [Board of Adjustment](#), or [Zoning Administrator](#) may impose upon the permit a term of such period of time as is found to be consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare. If no time period is otherwise specified, any permit granted under this Ordinance may be declared lapsed and of no further force and effect if it is not exercised or extended within 1 year of its issuance.
  - a. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property in reliance on that permit.
  - b. A permit for the construction of a building or structure is exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced in reliance upon that permit.
2. Approved applications for [Council Use Permits](#) (CUPs), Variances, [Special Use Permits](#) (SUPs), Substantial Compliance Improvement Permits (SCIPs) and [Development Incentive Permits](#) (DIPs) shall expire after 1 year in the event no action has commenced relating to the development associated with the approved application, unless this time limit is otherwise extended at the time the application is being considered by the approving authority.

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- B. **Extensions.** The [Zoning Administrator](#) may approve a one-year extension of any permit or approval granted under this Ordinance upon receipt of a written application with the required fee within one year of the date of the approval. All other extensions shall require approval by the [City Council](#).
- C. **Appeals.** Permits may be declared lapsed by the [Zoning Administrator](#) upon 15 days written notice to the permit holder. The [Zoning Administrator](#)'s determination that a permit has lapsed may be appealed to the [Board of Adjustment](#) in the same manner as any action by the [Zoning Administrator](#).

### 11-67-10: Modification

- A. **Modifications of Approvals.** The [Planning Director](#) may approve minor modifications to approved plans that are consistent with the original findings and conditions approved by the [Board of Adjustments](#), [Design Review Board](#), [Planning Hearing Officer](#), [Planning & Zoning Board](#) or the [City Council](#) that would not intensify any potentially detrimental effects of the project.
- B. **Changed Plan.** A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect a condition of approval shall be treated as a new application, except that such changes determined to be minor, in the opinion of the [Zoning Administrator](#), may be approved by the Administrator.

### 11-67-11: Revocation of Permits Approved through a Public Hearing Process

Any [Council Use Permit](#) (CUP), [Special Use Permit](#) (SUP), [Development Incentive Permit](#) (DIP), or [Substantial Conformance Improvement Permit](#) (SCIP) granted under this Chapter may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith.

- A. **Initiation of Proceeding.**
1. The [City Council](#), by its own action, or following a recommendation from the [Planning & Zoning Board](#) or [Zoning Administrator](#), may initiate revocation proceedings regarding [Council Use Permits](#).
  2. The [Board of Adjustment](#), following a recommendation from the [Zoning Administrator](#), may initiate revocation proceedings for [Special Use Permits](#), [DIPs](#) and [SCIPs](#).
- B. **Public Notice.** Notice that the possible revocation of the permit has been scheduled for hearing shall be made pursuant to the requirements of [Section 11-67-5](#), Notice of Public Hearing.

- C. **Public Hearing.** The public hearing regarding the revocation of a permit shall be conducted in the same manner as was used for the approval of the use permit, pursuant to [Chapter 70](#).
- D. **Required Finding for Revocation.** The [City Council](#), or [Board of Adjustment](#), as applicable, may revoke a permit if it makes any of the following findings:
  1. That approval was obtained by means of fraud or misrepresentation of a material fact;
  2. That the permittee or holder of the permit has failed to initiate construction or undertake the use in question within a 1 year period following the effective date of the permit or variance;
  3. That the use in question has ceased to exist or has been suspended for one year or more;
  4. That there is or has been a violation of or failure to observe the terms or conditions of the permit or the use has been conducted in violation of the provisions of this Ordinance, law or regulation; or
  5. That the use to which the permit or applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

**11-67-12: Appeals**

A final decision on any discretionary permit is subject to appeal according to the standards in [Chapter 77](#) - Appeals. Table 11-67-12 summarizes the appeal process for each body issuing a discretionary permit.

<b>Table 11-67-12: Appeal Bodies</b>	
<i>Initial Decision-Maker</i>	<i>Appeal Body</i>
<a href="#">Historic Preservation Officer</a>	<a href="#">Historic Preservation Board</a>
<a href="#">Zoning Administrator</a>	<a href="#">Board of Adjustment</a>
<a href="#">Zoning Administrator</a> –Alternative Landscape Plan	<a href="#">Design Review Board</a>
<a href="#">Zoning Administrator Hearing Officer</a>	<a href="#">Board of Adjustment</a>
<a href="#">Board of Adjustment</a>	<a href="#">Superior Court</a> , per <a href="#">ARS § 9-462.06.K</a>
<a href="#">Planning Director, Site Plan Modification</a>	<a href="#">Planning &amp; Zoning Board</a>
<a href="#">Planning Director, Design Review</a>	<a href="#">Design Review Board</a>
<a href="#">Historic Preservation Board</a>	<a href="#">City Council</a>
<a href="#">Planning &amp; Zoning Board</a>	<a href="#">City Council</a>
<a href="#">Design Review Board</a>	<a href="#">City Council</a>
<a href="#">Planning Hearing Officer</a>	<a href="#">City Council</a>
<a href="#">City Council</a>	<a href="#">Superior Court</a> , where applicable under state law

## Chapter 68 Zoning Clearance

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Sections:

11-68-1	Purpose
11-68-2	Applicability
11-68-3	<a href="#">Review and Decision</a>
11-68-4	<a href="#">Appeals</a>

### 11-68-1: Purpose

This Chapter establishes procedures for conducting zoning clearance to ensure that each new or expanded use or structure complies with the applicable requirements of this [Ordinance](#). Having made such determination, the City shall establish a record of the Zoning Clearance that document the initial establishment of a use, or the construction of a structure, which is allowed as a matter of right.

### 11-68-2: Applicability

Zoning clearance is required for buildings or structures erected, constructed, altered, repaired or moved, which require a building permit, the use of vacant land, changes in the use of land or building, or for substantial expansions in the use of land or building.

### 11-68-3: Review and Decision

- A. **Determination.** The [Zoning Administrator](#) shall determine whether the [Zoning Ordinance](#) allows the proposed uses or structures by right. A Zoning Certificate shall be issued if the [Zoning Administrator](#) determines that the proposed use or building is allowed as a matter of right by the [Zoning Ordinance](#), and conforms to all the applicable development and use standards. An approved Zoning Certificate may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Chapter.
- B. **Exceptions.** No Zoning Certificate shall be required for the continuation of lawful uses and structures approved or permitted prior to the adoption of this ordinance, uses and structures that are not subject to any building or zoning regulations, or other uses or buildings already subject to [Council Use Permit](#), [Special Use Permit](#), variances or other discretionary approvals in the district in which they are located.

**11-68-4: Appeals**

The applicant or any other aggrieved party may appeal a determination of zoning conformance pursuant to the provisions of [Chapter 77](#), Appeals.

## Chapter 69 Site Plan Review

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Sections:

- 11-69-1: [Purpose](#)
- 11-69-2: [Applicability](#)
- 11-69-3: [Application Requirements](#)
- 11-69-4: [Procedures](#)
- 11-69-5: [Review Criteria](#)
- 11-69-6: [Minor and Major Modifications](#)
- 11-69-7: [Appeals](#)
- 11-69-8: [Lapse of Approval; Modifications; Renewal](#)

### 11-69-1: Purpose

This Chapter establishes objectives, standards, and procedures for conducting [Site Plan Review \(SPR\)](#). These regulations shall be carried out in a manner that encourages creative and appropriate solutions while avoiding unnecessary delays in project approval. The specific purpose of [Site Plan Reviews](#) are to:

- A. Ensure that the proposed development plan will be in compliance with the provisions of this Ordinance.
- B. Eliminate or minimize potential land use conflicts and provide effective transitions between abutting parcels appropriate to the context of the circumstance.
- C. Mitigate any adverse impacts on adjacent developments or land uses that may be caused by specific proposed land uses.
- D. Ensure high quality development and encourage development options that are designed in an aesthetically pleasing manner and incorporate public spaces that are integral to the project.
- E. Ensure a safe and efficient traffic circulation system, foster the provision of adequate off-street parking and off-street loading facilities, bicycle facilities and pedestrian amenities, and support a multi-modal transportation system. Encourage improved connectivity between abutting residential, commercial, educational, employment and recreational uses.
- F. Achieve goals, objective, and policies of the comprehensive plan, sub-area plans, and other policies adopted by the [City Council](#).

**11-69-2: Applicability**

Any ordinance adopting a [Rezoning](#) or a [Council Use Permit](#) may be conditioned upon [SPR](#). [Site Plan Review](#) is not required for individual, detached single-family residences. Additionally, [SPR](#) is required for development proposals including the following:

- A. Buildings 4 or more stories in height.
- B. Residence projects that exceed the standard density of the [RM-2](#) density range.
- C. [Mixed Use](#), commercial and/or industrial projects that have frontage on an [arterial](#) or [collector street](#) or that are part of an existing or planned development that has frontage on an [arterial](#) or [collector street](#).
- D. [Mixed Use](#), commercial and/or industrial projects that have, or will have, greater than 20,000 square feet of gross floor area.
- E. Modifications to existing commercial or industrial projects having frontage on an [arterial](#) street or that are part of an existing or planned development having frontage on an [arterial](#) street that involve:
  - 1. A change in the distinguishing traits or primary features of the use of a building or land as evidenced by increased parking requirements, change in occupancy designation, change in outside storage, or other features.
  - 2. The predominant primary architectural features or materials of existing buildings, such as changes to horizontal or vertical elements of exterior walls, building trim, roof shape or composition, detailing, building height or roof line, and parapets. Such review is limited to the specific architectural building features proposed for modification.
- F. Parking garages.
- G. Municipal projects of the [City of Mesa](#), including fire stations, libraries, parking lots with over 50 spaces, and any building or facility meeting the above height, size, or location criteria set forth above. Projects not subject to Board review include streets, walls and fences, well sites, and road widening.

**11-69-3: Application Requirements**

Applications for [SPR](#) shall be filed with the [Planning Division](#) in accordance with the application procedures in [Chapter 67](#), Common Procedures. Public notice shall be provided for all projects subject to [Site Plan Review](#).

**11-69-4: Procedures**

The [Planning & Zoning Board](#) or [Planning Hearing Officer](#), pursuant to [Section 11-67-4](#) shall conduct review of all projects for which [Site Plan Review](#) is required following the procedures described in [Chapter 67](#), Common Procedures.

**11-69-5: Review Criteria**

- A. **Review Criteria.** When conducting [SPR](#), the Planning Director and the [Planning & Zoning Board](#) shall be guided by whether the project satisfies the following criteria.
1. The project shall be consistent with and conform to the adopted general plan and any applicable sub-area or neighborhood area plans, is consistent with all of the development standards of this Ordinance, and is consistent with any specific conditions of approval placed on the zoning of the property.
  2. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.
  3. The project site plan is appropriate to the function of the project and will provide a suitable environment for occupants, visitors, and the general community.
  4. Project details, colors, materials, and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.
  5. The project is compatible with neighboring development by avoiding big differences in building scale and character between developments on adjoining lots in the same zoning district and providing a harmonious transition in scale and character between different districts.
  6. The project contributes to the creation of a visually interesting built environment that includes a variety of building styles and designs with well-articulated structures that present well designed building facades, rooflines, and building heights within a unifying context that encourages increased pedestrian activity and promotes compatibility among neighboring land uses within the same or different districts.
  7. The streetscapes, including street trees, lighting, and pedestrian furniture, are consistent with the character of activity centers, commercial districts and nearby residential neighborhoods.

8. Street frontages are attractive and interesting for pedestrians and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.
  9. The proposed landscaping plan is suitable for the type of project and site conditions and will improve the appearance of the community by enhancing the building and site design; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with Mesa's climate.
  10. The project has been designed to be energy efficient including, but not limited to, building siting, and landscape design. For purposes of this criterion, buildings that meet environmental standards such as [LEED™](#), [Green Globe](#) or equivalent third-party certification are considered to be energy efficient.
- B. **Additional Criteria for SPR of Sites Located in Employment Districts.** In addition to the criteria listed in [Paragraph A](#), above, the decision-making authority shall find that adequate design features are provided to meet the following objectives:
1. Create a distinctive and appealing community with well designed buildings that represent a 'desert tech' look.
  2. Create a safe, attractive and inviting environment at the ground floor of building(s) on sides used by the public.
  3. Respond to intensity of specific land use classifications located within employment districts as follows:
    - a. [PEP](#) sites shall provide a higher degree of design interest, and building articulation, and additional attention to building scale, including context-sensitive building massing on all sides of the building.
    - b. [LI](#) sites shall provide a higher degree of design interest, building articulation and attention to building scale and massing for those sides of the building visible to the public, and on those sides of the building visible from abutting residential districts. Sides of the building that are both not visible from the street and not visible from abutting residential districts may utilize simpler forms and less articulation.
    - c. [GI](#) and [HI](#) sites may utilize simpler forms with less building articulation. Attention should be paid to create architectural interest on the sides of the building that abut residential districts, and to the primary building entrance, which shall be distinctive and readily identifiable.



- d. Commercial uses located within employment districts shall comply with [Section 11-6-4](#) and [Section 11-6-6](#). Commercial uses located in [PEP](#) districts, and in which the approved plans provide for an urban character, shall also comply with [Section 11-6-5](#).
  4. Reduce the impact of employment uses on adjacent residential development by providing appropriately scaled transitions and buffers to abutting land uses, and provide a higher degree of architectural interest on walls visible from residential development.
  5. Mitigate the effects of solar exposure for users and pedestrians.
- C. **Conditions of Approval.** To achieve the purposes of the [SPR](#), the [Planning & Zoning Board](#) may impose reasonable conditions to achieve the review criteria in [paragraph \(A\)](#), above and ensure land use compatibility, including one or more of the following:
1. Additional building setbacks;
  2. Additional landscaping;
  3. Height and area limitations of structures;
  4. Limited vehicular access;
  5. Walls, fences and screening devices;
  6. Noise attenuation construction; or
  7. Any other restriction necessary to protect adjacent properties, preserve neighborhood character, or mitigate adverse environmental impacts.

#### **11-69-6: Minor and Major Modifications**

- A. After approval of a project, modifications of the approval may be granted by the [Planning Director](#), when it is determined that the modifications are minor, such as minor dimensional changes and building configurations. Such requests shall be made in writing and be accompanied by the required fee.
- B. Any modification that is considered a major modification by the [Planning Director](#), such as changes in uses, densities, or other major changes, shall be considered a new application, subject to the procedures described in this Section for [Site Plan Review](#).

#### **11-69-7: Appeals**

[Site Plan Review](#) decisions by the Planning Director and the [Planning & Zoning Board](#) are subject to the appeal provisions of [Chapter 77](#), Appeals, and [Section 11-67-12](#).

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**11-69-8: Lapse of Approval; Modifications; Renewal**

[Site Plan Review](#) approvals are effective for a period of two years and may only be extended or modified as provided for in [Chapter 67](#), Common Procedures.

## Chapter 70 Conditional Use Permits

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Sections:

- 11-70-1: [Purpose](#)
- 11-70-2: [Burden of Proof](#)
- 11-70-3: [Administrative Use Permits](#)
- 11-70-4: [Temporary Use Permits](#)
- 11-70-5: [Special Use Permits](#)
- 11-70-6: [Council Use Permits](#)
- 11-70-7: [Appeals; Expiration and Extensions; Modifications](#)

### 11-70-1: Purpose

This Chapter describes the process and general requirements applicable to those uses for which a Conditional Use Permit is required. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The purpose of the conditional use permit application process is to evaluate possible adverse impacts and to minimize them, where possible, through the imposition of specific conditions of approval. If adverse impacts cannot be appropriately resolved, the use is not appropriate in that location or configuration.

### 11-70-2: Burden of Proof

The applicant has the burden of proving that the application meets the Ordinance requirements for granting of any use permit. No structure, facility, or use approved by conditional use permit may be modified, enlarged or expanded, without obtaining an approved modification to the Conditional Use Permit. The application for modification shall be processed as a new conditional use permit application under this Ordinance. The issuance of a Conditional Use Permit may require that the existing development site be brought into substantial conformance with the terms of the [Mesa City Code](#) in effect on the date the use permit is approved, including but not limited to: landscaping, screening, parking, and storm water retention.

### 11-70-3: Administrative Use Permit

- A. **Administrative Use Permit (AUP).** An AUP is a discretionary written authorization issued through the office of the [Building Official](#) upon a finding that the allowed activity is in conformance with the intent of this Ordinance and may be limited by a specific period of time.

- B. **Uses Subject to an Administrative Use Permit.** As specified for temporary use of a manufactured home or recreational vehicle ([Chapter 34](#)), or in [Article 5](#), the Sign Ordinance for banners, and other temporary signs.
- C. **Permit Application and Procedures.** The following procedures shall be followed in processing a request for an [AUP](#):
1. **Application.** The Building Official shall prepare and issue application forms and lists as necessary that specify the information that will be required from applicants for projects requiring an [AUP](#).
  2. **Review and Approval.** The review and approval process shall be established by the Building Official.

#### 11-70-4: Temporary Use Permit

- A. **Temporary Use Permit (TUP).** A TUP is a discretionary authorization for certain uses that are intended to be of limited duration and will not permanently alter the character or physical facilities of the site where they occur.
- B. **Uses Subject to Temporary Use Permits.** Uses for which a Temporary Use Permit is available are established in [Chapter 31](#) Standards for Specific Uses and Activities.
- C. **Permit Procedures.** In addition to the applicable requirements and procedures provided in [Chapter 67](#), Common Procedures, the following specific procedures apply:
1. **Application.** The application for a TUP must be submitted to the [Zoning Administrator](#) for approval not less than 45 days before the use is intended to begin.
  2. **Determination.** The [Zoning Administrator](#) shall render a written decision after City receipt of a completed application.
  3. **Required Findings.** The [Zoning Administrator](#) may approve an application for a TUP only upon determining that all of the following conditions are met by the application:
    - a. The proposed use will not unreasonably affect or have a negative impact on adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or the general welfare of the City

- b. The proposed use is consistent with land uses permitted by the zoning district within which the site is located, and land uses consistent with the [General Plan](#) land use designation of the site;
- c. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas; and
- d. Appropriate controls are in place that will ensure the premises will be kept clean, sanitary, free of litter, and all pedestrian and vehicle circulation and parking will occur on a suitable dust-controlled surface.

**D. Conditions of Approval.**

1. A temporary use permit may not exceed 2 years in duration. The [Zoning Administrator](#) may impose time limits of less than 2 years where warranted by the request, or the site conditions, or impacts on adjacent properties. The [Zoning Administrator](#) may not renew a [Temporary Use Permit](#) more than once. The length of the renewal is at the discretion of the [Zoning Administrator](#), but in no case shall the renewal exceed a single additional 2 year period.
2. In the event a [Temporary Use Permit](#) has been renewed once by the [Zoning Administrator](#), subsequent requests for renewal of the Temporary Use Permit shall be directed to the attention of the [Board of Adjustment](#) for review and consideration. In considering the extension, the Board may approve or deny the request. If approved, the [TUP](#) may be extended no more than one time by the Board, and for no longer than 2 years. Upon expiration of a [TUP](#) extended by the [Board of Adjustment](#), then all development of the property shall be improved to comply with all requirements of this Ordinance in place at the time the Temporary Use Permit expires.
3. In approving a Temporary Use Permit, the [Zoning Administrator](#), or [Board of Adjustment](#) when considering renewals, may impose reasonable conditions deemed necessary to achieve the findings for a [Temporary Use Permit](#) listed above. The conditions may include, but need not be limited to: regulation of vehicular ingress and egress and traffic circulation; regulation of dust control surfaces; regulation of lighting; regulation of hours of operation; submission of final plans to ensure compliance with conditions of approval, and such other conditions as the [Zoning Administrator](#) or [Board of Adjustment](#) may deem appropriate.

**11-70-5: Special Use Permit**

- A. **Special Use Permit (SUP).** A SUP is a discretionary permit issued by the [Zoning Administrator](#) or [Board of Adjustment](#).
- B. **Uses Subject to Special Use Permits.** Uses requiring a SUP are established in the use tables in [Chapters 4 through 11](#).
- C. **Permit Requirements.** Permit requirements for some uses requiring a SUP are provided in [Chapter 31](#), Standards for Specific Uses and Activities.
- D. **Permit Application and Procedures.** The procedures for review and consideration of a SUP are as provided in the [Chapter 67](#), Common Procedures, except a citizen participation plan and report is not required.
- E. **Required Findings.** A SUP shall only be granted if the approving body determines that the project as submitted or modified conforms to all of the following criteria. If it is determined that it is not possible to make all of the required findings, the application shall be denied. The specific basis for denial shall be established in the record.
1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the [General Plan](#) and any other applicable City plan and/or policies;
  2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the [General Plan](#) and with any other applicable City plan or policies;
  3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and
  4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.
- F. **Revocation of Special Use Permits.** A Special Use Permit granted pursuant to this Chapter may be suspended, revoked, or modified by the [Zoning Administrator](#), after holding a public hearing to determine whether any condition, stipulation, or term of the approval of the Use Permit has been violated. At least 30-days notice shall be public hearing, and all of the noticing and hearing requirements of [Chapter 67](#) shall apply.

**11-70-6: Council Use Permits**

- A. **Council Use Permits (CUP).** A CUP is a discretionary permit issued by the City Council after review and recommendation by the [Planning & Zoning Board](#).

- B. **Uses Subject to Council Use Permits.** Uses requiring a CUP are established in the use tables in [Chapters 4 through 11](#).
- C. **Permit Application and Procedures.** The procedures for review and consideration of a CUP are as provided in the [Chapter 67](#), Common Procedures.
- D. **Review Criteria.** A CUP shall only be granted if the approving body determines that the project as submitted or modified conforms to all of the following criteria. If it is determined that it is not possible to meet all of the review criteria, the application shall be denied. The specific basis for denial shall be established in the record.
1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the [General Plan](#) and any other applicable City plan and/or policies:
  2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the [General Plan](#) and with any other applicable City plan or policies;
  3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area of the proposed project or improvements in the neighborhood or to the general welfare of the City; and
  4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.
- E. **Revocation of Council Use Permits.** Any CUP granted under this Chapter may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith.
1. **Initiation of Proceeding.** The [City Council](#), by its own action, or following a recommendation from the [Planning & Zoning Board](#) or [Zoning Administrator](#), may initiate revocation proceedings.
  2. **Public Notice.** Notice that the possible revocation of the Council Use Permit has been scheduled for hearing before the City Council shall be made pursuant to the requirements of [Section 11-67-5](#), Notice of Public Hearing.
  3. **Public Hearing.** The public hearing regarding the revocation of a use permit or variance shall be conducted pursuant to requirements of [Section 11-67-6](#), Conduct of Public Hearings.
  4. **Decision of the City Council.** The City Council may revoke the [Council Use Permit](#) if it makes any of the following findings:

- a. That approval was obtained by means of fraud or misrepresentation of a material fact;
- b. That the permittee or holder of the permit has failed to initiate construction or undertake the use in question within a 1 year period following the effective date of the permit or variance;
- c. That the use in question has ceased to exist or has been suspended for 1 year or more;
- d. That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this Ordinance, law or regulation; or
- e. That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

**11-70-7: Appeals; Expiration and Extension; Modification**

Use permits are subject to the expiration, extension, modification and appeal provisions of [Chapter 67](#), Common Procedures and [Chapter 77](#), Appeals.



## Chapter 71      Design Review

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Sections:

- 11-71-1:      [Purpose](#)
- 11-71-2:      [Applicability](#)
- 11-71-3:      [Application Requirements](#)
- 11-71-4:      [Public Notice](#)
- 11-71-5:      [Procedures](#)
- 11-71-6:      [Review Criteria](#)
- 11-71-7:      [Minor and Major Modifications](#)
- 11-71-8:      [Appeals](#)
- 11-71-9:      [Lapse of Approval; Modifications; Renewal](#)

### 11-71-1:      Purpose

This Chapter establishes objectives, standards, and procedures for conducting [Design Review \(DR\)](#). These regulations shall be carried out in a manner that encourages creative and appropriate solutions while avoiding unnecessary delays in project approval. The specific purposes of Design Review are to:

- A.      Ensure that the proposed development plan will be in compliance with the provisions of this Ordinance.
- B.      Ensure high quality development and encourage development options that are designed in an aesthetically pleasing manner and incorporate public spaces that are integral to the project.
- C.      Achieve goals, objective, and policies of the comprehensive plan, sub-area plans, and other policies adopted by the [City Council](#).

### 11-71-2:      Applicability

- A.      [Design Review](#) shall be required for development proposals including the following:
  - 1.      Buildings 4 or more stories in height.
  - 2.      Multiple-residence and attached single residence projects that exceed the standard density of the [RM-2](#) density range.
  - 3.      Mixed-use, commercial and/or industrial projects that have frontage on an arterial or collector street or that are part of an existing or planned development that has frontage on an arterial or collector street.

4. [Mixed Use](#), commercial and/or industrial projects that have, or will have, greater than 20,000 square feet of gross floor area.
  5. Modifications to existing commercial or industrial projects having frontage on an arterial street or that are part of an existing or planned development having frontage on an arterial street that involve:
    - a. A change in the distinguishing traits or primary features of the use of a building or land as evidenced by increased parking requirements, change in occupancy designation, change in outside storage, or other features.
    - b. The predominant primary architectural features or materials of existing buildings, such as changes to horizontal or vertical elements of exterior walls, building trim, roof shape or composition, detailing, building height or roof line, and parapets. Such review is limited to the specific architectural building features proposed for modification.
  6. Parking garages.
  7. Municipal projects of the [City of Mesa](#), including fire stations, libraries, parking lots with over 50 spaces, and any building or facility meeting the above height, size, or location criteria set forth above. Projects not subject to [Design Review](#) include streets, walls and fences, well sites, and road widening.
- B. [Design Review](#) may be required, at the option of the decision making authority, in conjunction with any of the following:
1. As a condition of approval included in any ordinance adopting a Rezoning or attached to the approval of a [Council Use Permit](#), or
  2. As a condition attached to the approval of a [Special Use Permit](#), [Development Incentive Permits](#) (DIP), or [Substantial Conformance Improvement Permit](#) (SCIP) by the [Board of Adjustment](#), [Zoning Administrator Hearing Officer](#), or [Planning & Zoning Board](#), whichever is applicable.
- C. [Design Review](#) is not required for individual, detached single-family residences.

### **11-71-3: Application Requirements**

Applications for [DR](#) shall be filed with the [Planning Division](#) in accordance with the application procedures in [Chapter 67](#), Common Procedures.

**11-71-4: Public Notice**

In addition to notice required for public meetings, additional Public Notice shall be provided for all projects subject to [Design Review](#) by mailing notice to all property owners within 300 feet of the exterior boundaries of the property at least 15 days prior to the [Design Review Board](#) work session or public meeting.

**11-71-5: Procedures**

- A. **Staff Review Applications.** Following submittal of a complete application with the required fees, review of [DR](#) applications shall be completed as follows:
1. Notice of [DR](#) applications shall be mailed in accordance with [Section 11-71-4](#).
  2. New applications requiring [DR](#) approval shall be distributed to the [Design Review Board](#) for input and direction by the Design Review Board members at a work session prior to staff action on the proposal.
  3. Following input received by the Design Review Board members at the work session, staff shall approve, approve with conditions, return the application for modification, or deny the request. Prior to taking final action, the [Planning Director](#) shall notify any citizens who have expressed interest in the application and provide them the opportunity to review and comment on the final plan.
  4. The applicant may request further review by the Design Review Board during the staff review process. The applicant may also appeal staff decisions to the next available [Design Review Board meeting](#).
- B. **Design Review Board Applications.** Those applications requiring [Design Review Board](#) action shall be processed based on the procedures described in [Chapter 67](#), Common Procedures.
- C. **Appeals of Planning Director Design Review Decisions to the Design Review Board.** Any appeal of a [Planning Director](#) decision regarding a [Design Review](#) application shall follow the procedures described in Chapter 77, Appeals.

**11-71-6: Review Criteria**

- A. **Review Criteria.** When conducting [DR](#), the [Planning Director](#) and the [Design Review Board](#) shall be guided by whether the project satisfies the following criteria.
1. The project is consistent with:
    - a. Applicable goals, objectives and policies of the general plan and any applicable sub-area or neighborhood area plans;

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- b. All of the development standards of this ordinance;
  - c. Other adopted Council policies, as may be applicable; and
  - d. Any specific conditions of approval placed on the zoning of the property.
2. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site, the street type, and surrounding natural and built environment.
  3. The overall design will create a distinctive and appealing community by providing architectural interest in areas visible from streets, sidewalks, and public areas.
  4. The project site plan is appropriate to the function of the project and will provide a suitable environment for occupants, visitors, and the general community.
  5. Project details, colors, materials, and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design and creates a safe, attractive and inviting environment at the ground floor of buildings on sides used by the public.
  6. The project is compatible with neighboring development by avoiding big differences in building scale and character between developments on adjoining lots in the same zoning district and providing a harmonious transition in scale and character between different districts.
  7. The project contributes to the creation of a visually interesting built environment that includes a variety of building styles and designs with well-articulated structures that present well designed building facades on all sides, rooflines, and building heights within a unifying context that encourages increased pedestrian activity and promotes compatibility among neighboring land uses within the same or different districts.
  8. The project creates visual variety and relief in buildings and avoids a large-scale, bulky, or box-like appearance.
  9. The streetscapes, including street trees, lighting, and pedestrian furniture, are consistent with the character of activity centers, commercial districts and nearby residential neighborhoods.

10. Street frontages are attractive and interesting for pedestrians and provide for greater safety by allowing for surveillance of the street by people inside buildings and elsewhere.
  11. The proposed landscaping plan is suitable for the type of project and site conditions and will improve the appearance of the community by enhancing the building and site design; and the landscape plan incorporates plant materials that are drought-tolerant, will minimize water usage, and are compatible with [Mesa's climate](#).
  12. The project has been designed to be energy efficient including, but not limited to, building siting, and landscape design. The project also mitigates the effects of solar exposure for users and pedestrians. For purposes of this criterion, buildings that meet environmental standards such as [LEED™ Green Globes](#), or equivalent third-party certification are considered to be energy efficient.
- B. **Conditions of Approval.** To achieve the purposes of the [DR](#), the [Planning Director](#) or [Design Review Board](#) may impose reasonable conditions to achieve the review criteria in paragraph [\(A\)](#), above and ensure land use compatibility, including one or more of the following:
1. Modification to building articulation;
  2. Modification to or additional landscaping;
  3. Modification to the height of structures to achieve design objectives;
  4. Walls, fences and screening devices;
  5. Noise attenuating construction; or
  6. Any other restriction necessary to provide compatible development with adjacent properties, preserve neighborhood character, or mitigate adverse environmental impacts.

### **11-71-7: Minor and Major Modifications**

- A. After approval of a project, subsequent modifications of the approval may be granted by the [Planning Director](#), when it is determined that the modifications are minor, such as minor dimensional changes and building configurations. Such requests shall be made in writing and be accompanied by the required fee.
- B. Any modification that is considered a major modification by the [Planning Director](#), such as changes in uses, densities, or other major changes, shall be considered a new

application, subject to the procedures described for new application in this Section for [Design Review](#).

**11-71-8: Appeals**

[Design Review](#) decisions by the [Planning Director](#) and the [Design Review Board](#) are subject to the appeal provisions of [Chapter 77](#), Appeals.

**11-71-9: Lapse of Approval; Modifications; Renewal**

[Design Review](#) approvals are effective and may only be extended or modified as provided for in [Chapter 67](#), Common Procedures.

## Chapter 72      Development Incentive Permits

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Sections:

- 11-72-1:      [Purpose and Applicability](#)
- 11-72-2:      [Incentives](#)
- 11-72-3:      [Required Findings](#)
- 11-72-4:      [Conditions of Approval](#)
- 11-72-5:      [Appeals; Expiration and Extensions; Modifications](#)

### 11-72-1:      Purpose and Applicability

This chapter is intended to provide incentives for the development of smaller tracts of land that would have difficulty meeting current development standards, having been bypassed by previous developments, and where land assembly either is not available, or is available only to a limited extent. [Development Incentive Permits](#) (DIPs) may be approved to allow incentives for the development of parcels that meet the following criteria:

- A.      **Area.**
  - 1.      Total area of the parcel does not exceed 2.5 net acres, and the parcel has been in its current configuration for more than 10 years; or
  - 2.      Total area of the site does not exceed 5 net acres and was created by the assembly of 2 or more individual, contiguous parcels.
- B.      **Utilities.** The parcel is served by, or has direct access to, existing utility distribution facilities.
- C.      **Surrounding Development.** The parcel is surrounded by properties within a 1,200 foot radius in which:
  - 1.      The total developable land area is not more than 25 percent vacant; and
  - 2.      Greater than 50 percent of the total numbers of lots or parcels have been developed 15 or more years ago.

### 11-72-2:      Incentives

Development incentives that may be granted by the [DIP](#) shall be limited to modifications to building setbacks, landscaping design, onsite parking, building height, right of way dedication, and other site development provisions contained in this [Ordinance](#).

**11-72-3: Required Findings**

A [DIP](#) shall not be granted unless the [Zoning Administrator](#), acting at the [Hearing Officer](#), or [Board of Adjustment](#) shall find upon sufficient evidence:

- A. The proposed development is consistent with the [General Plan](#), any other applicable Council adopted plans and/ policies, and the permitted uses as specified in this [Ordinance](#);
- B. The incentives do not allow development that is more intense than the surrounding neighborhood; commensurate with existing development within a 1200 foot radius of the by-passed property; and,
- C. The architectural elements, construction and landscape materials, and other site improvements of the proposed development meet the intent of the [Design Standards](#) of this [Ordinance](#).

**11-72-4: Conditions of Approval**

After the conclusion of the hearing, the [Board of Adjustment](#) or [Zoning Administrator Hearing Officer](#) may approve, modify, approve with conditions or deny the proposed [Development Incentive Permits](#). The Board or [Hearing Officer](#) may condition any approval, and such conditions may include, but are not limited to: review by the [Design Review Board](#); conditions to assure implementation of the submitted plan in accordance with the Mesa [General Plan](#), and other applicable policies and plans adopted by the City; conditions to achieve the purpose and intent of the requested zoning district; and conditions to achieve reasonable compatibility with the proposed use and adjacent land uses.

**11-72-5: Appeals; Expiration and Extensions; Modifications**

- A. [DIPs](#) are subject to the appeal provisions of [Chapter 77](#), Appeals.
- B. [DIPs](#) are subject to the expiration and extension provisions of [Section 11-67-9](#), Expiration and Extension.
- C. A minor modification of a [DIP](#) granted pursuant to this Chapter may be approved under [Section 11-67-10\(A\)](#), Modifications of Approvals. Changed plans, including changes in conditions of approval of a [DIP](#) shall be treated as a new application; see [Section 11-67-10\(B\)](#), Changed Plan.



## Chapter 73 Substantial Conformance Improvement Permits (SCIP)

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Sections:

- 11-73-1: [Purpose and Applicability](#)
- 11-73-2: [Allowed Modifications](#)
- 11-73-3: [Required Findings](#)
- 11-73-4: [Conditions of Approval](#)
- 11-73-5: [Appeals; Expiration and Extensions; Modifications](#)

### 11-73-1: Purpose and Applicability

The purpose of this chapter is to establish a review process by which improvement standards required by this [Ordinance](#) can be incrementally installed on non-conforming sites when such sites are enlarged; buildings are replaced, extended or have additions constructed; or other site modification developed. The intent is to recognize existing site constraints, and work proportionately with the degree of improvement being sought by the applicant to also improve the property based upon the development standards adopted by the Ordinance, and therefore bring non-conforming developments into substantial compliance with this Ordinance through approval of a [Substantial Conformance Improvement Permit](#) (SCIP).

### 11-73-2: Allowed Modifications

The only development requirements that may be modified in a [SCIP](#) are building setbacks, landscaping design, on-site parking, building height, right of way dedication, and other site development provisions, contained in this [Ordinance](#).

### 11-73-3: Required Findings

A [SCIP](#) shall not be granted unless the [Zoning Administrator](#), acting as a [Hearing Officer](#), or [Board of Adjustment](#) shall find upon sufficient evidence that:

- A. The entire development site will be brought into substantial conformance. Substantial conformance shall mean physical improvements to the existing development site which constitute the greatest degree of compliance with this [Ordinance](#) that can be attained without causing or creating any of the following conditions:
  - 1. The demolition or reconstruction of existing buildings or other significant structures (except signs); or

2. The cessation of the existing conforming use, or the preclusion of any other lawful, permitted use.
  3. The creation of new non-conforming conditions.
- B. The improvements authorized by the [SCIP](#) will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

#### **11-73-4: Conditions of Approval**

After the conclusion of the hearing, the [Board of Adjustment](#) or [Zoning Administrator Hearing Officer](#) may approve, modify, approve with conditions or disapprove the proposed [Substantial Conformance Improvement Permit](#). The Board or [Hearing Officer](#) may condition any approval, and such conditions may include, but are not limited to: review by the [Design Review Board](#); conditions to assure implementation of the submitted plan in accordance with the [Mesa General Plan](#), and other applicable policies and plans adopted by the City; conditions to achieve the purpose and intent of the requested zoning district; and conditions to achieve reasonable compatibility with the proposed use and adjacent land uses.

#### **11-73-5: Appeals; Expiration and Extensions; Modifications**

- A. [SCIPs](#) are subject to the appeal provisions of [Chapter 77](#), Appeals.
- B. [SCIPs](#) are subject to the expiration and extension provisions of [Section 11-67-9](#), Expiration and Extensions.
- C. A minor modification of a [SCIP](#) granted pursuant to this Chapter may be approved under [Section 11-67-10\(A\)](#), Modifications of Approvals. Changed plans, including changes in conditions of approval of a variance shall be treated as a new application; see [Section 11-67-10\(B\)](#), Changed Plan.

## Chapter 74      **Historic District and Historic Landmark Procedures**

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Sections:

11-74-1	<a href="#">Purpose</a>
11-74-2	<a href="#">Designation of Historic Districts and Historic Landmarks</a>
11-74-3	<a href="#">Certificates of Appropriateness</a>
11-74-4	<a href="#">Demolition Permits</a>
11-74-5	<a href="#">Appeals</a>

### **11-74-1: Purpose**

This Chapter establishes uniform procedures for the designation and regulation of [Historic Landmarks](#) and historic preservation overlay districts in order to preserve and maintain such landmarks and districts, consistent with the [General Plan](#) and State Law.

### **11-74-2: Designation of Historic Preservation Districts and Historic Landmarks**

Upon compliance with the minimum criteria established in [Section 11-23-4](#), Criteria for Historic Districts (HD) and Landmarks (HL), for the establishment of an HD or HL Overlay District, an application for such overlay may be made following the requirements for a zoning amendment as set forth in [Chapter 76](#), Amendments to [Zoning Map](#).

- A. **Eligible Applications.** In addition to the requirements of [Chapter 76](#) and the payment of the fee as specified in the fee schedule adopted by the [City Council](#), the application must include the following items:
1. An application for the [HD](#) Overlay District must include a petition with signatures of a minimum of 50% plus one (1) of the number of owners within the boundaries of the proposed [Historic District](#), and who also control at least 50% of the property area to be included in the Historic District.
  2. An application for the [HL](#) Overlay District must include either:
    - a. A petition with signatures of a minimum of 50% plus one of the owners within the boundaries of the [Historic Landmark](#), and who also control 50% of the property area to be included in the proposed [Historic Landmark](#); or,
    - b. A petition of at least 50 qualified electors residing within the [City of Mesa](#).

- B. **Review of Application.** When an application is deemed complete, the [Historic Preservation Officer \(HPO\)](#) shall proceed with the review process specified in this Ordinance. A hearing shall be scheduled before the [Historic Preservation Board](#) (HPB) within 30 days of the application being deemed complete. Following review and recommendation by the [Historic Preservation Board](#) the application shall be reviewed by the [Planning & Zoning Board](#) at their next available meeting. Following review and recommendation by the [Planning & Zoning Board](#) the application will be presented to the [City Council](#) at its next available meeting.
- C. **Posted Notice.** Notice of the public meeting of the [Historic Preservation Board](#) shall be posted on the property in question at least 15 days in advance of the said meeting. A notice of the time and place and purpose of the meeting shall be published at least one (1) time in the local newspaper of the City, not less than 15 days prior to the hearing. It shall not be the responsibility of the City to maintain the posting once erected.
- D. **Minutes.** Minutes of the meeting will be kept and findings of the Historic Preservation Committee forwarded to the [Planning & Zoning Board](#). Copies of the minutes will be kept with the permanent record of the application.
- E. **Council Authority to Remove Property from a Proposed Designation.** The [City Council](#) shall not include any property within a proposed [Historic District](#) or a proposed [Historic Landmark](#) when the owner has objected in writing or at a public hearing to such a designation, and may remove any property from a proposed designation if the owner of record has not responded to a request for comments on the proposed rezoning and designation as a [Historic District](#) or [Historic Landmark](#). The City intends that these designations be voluntary and acceptable to affected property owners.
- F. **Procedure to Remove Property from Adopted District.** The procedure to remove the Historic Preservation Zoning District or [Historic Landmark](#) Zoning District designation shall be the same procedure specified by this Ordinance to establish a [Historic District](#) or [Historic Landmark](#) overlay.

### 11-74-3: Certificates of Appropriateness

- A. **Certificate of Appropriateness Required.** Activities, such as, but not limited to, changes to or installation of items listed below to be performed on or in connection with any building, structure, site, included in an [HD](#) or [HL](#) Overlay District shall require a [Certificate of Appropriateness](#).
1. Additions
  2. Awnings or canopies
  3. Carports; garages

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4. Decks
  5. Doors, door frames
  6. Driveways
  7. Exterior walls; fencing
  8. Fire escapes, exterior stairs, exterior elevators, and ramps for the handicapped
  9. Painting of historically unpainted surfaces including wood, stone, brick, terra cotta, concrete and marble
  10. Parapet walls
  11. Pool & Pool Cages
  12. Porch and balcony railings or decorative detailing
  13. Roofs; skylights
  14. Screen windows and doors; windows and window frames
  15. Siding
  16. Signs
- B. **Submittal Requirements for a Certificate of Appropriateness.** Alteration, new construction, and rehabilitation, to an existing structure involving items listed in [Subsection A](#) of Section 11-74-3 on a site located within a proposed or approved [HD](#) or [HL](#) Overlay District shall require submittal to the [Historic Preservation Officer \(HPO\)](#) of the following items:
1. An application, on such form(s) and accompanied by such fee(s) as may be adopted. Applications may be obtained in the [Office of Historic Preservation](#).
  2. Photographs of the existing property;
  3. Drawings, to approximate scale, of the site plan, floor plan(s) and elevations of the proposed work, indicating materials and color scheme;
  4. If signage is part of the proposed work, drawings, to approximate scale, showing size and location of proposed signage, type of lettering to be used and indication of color and type of illumination, if any; and
  5. Any other information that the [HPO](#) may reasonably deem necessary to review the proposed work.

C. **Review Procedures.** The following procedures will be used for review of applications for [Certificate of Appropriateness](#):

1. Within 10 City Business days of receiving the application for a [Certificate of Appropriateness](#), the [Historic Preservation Officer](#) shall determine whether approval may be given for a building or a demolition permit, or shall provide written findings as to why the clearance was not approved. The decision of the [Historic Preservation Officer](#) shall be based upon compliance of the request with the United States Secretary of the Interior’s “Standards for Rehabilitation” appearing 36 CFR Part 68. Additional guidelines, as proposed by the [Historic Preservation Board](#) and approved by the [City Council](#), may also be used by the [Historic Preservation Officer](#), provided the guidelines are not inconsistent with the Secretary’s Standards.
2. The [Certificate of Appropriateness](#) shall be effective from the time of issuance by the [Historic Preservation Officer](#) or the [Historic Preservation Board](#) until the expiration of the building permit obtained for the specified improvements. A [Certificate of Appropriateness](#) is effective for 2 years unless there is an active building permit.

D. **Ordinary Maintenance and Repair.**

1. Ordinary maintenance and repair of any exterior architectural feature of a designated [Historic Landmark](#) or a site within a [HD](#) or [HL](#) overlay zone shall be permitted, provided the maintenance does not change the material, design, or alter the features that contribute to the distinctive character and general appearance of the landmark or site.
2. A [Certificate of Appropriateness](#) shall not be required for ordinary maintenance and repair, in-kind replacement of materials or painting historic materials, which are currently painted (i.e. wood, brick, stone or stucco).

#### 11-74-4: Demolition Permits

A. **Proposed Districts or Landmarks.** For a period of 6 months from the date of application for a proposed [HD](#) or [HL](#) designation, demolition of structures and sites within an area shall not proceed except in conformance with the following:

1. An application for demolition must be submitted to the [HPO](#).
2. The [HPO](#) shall consider the request and either approve or deny the request within 20 city business days.
3. If the building or structure is less than 40 years old and meets one (1) of the following circumstances the [HPO](#) shall approve the demolition:

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- a. The building or structure is determined not to contain historic or architectural significance; or,
  - b. The building or structure is determined not to essentially contribute to the historic features of the area.
4. If the building or structure is 40 years old or greater and/or the [HPO](#) finds that the conditions of #3 above are not met, the request for demolition shall be considered following the requirements of Subsection (B) below.
  5. If the [HD](#) or [HL](#) overlay district is not approved by the [City Council](#) within 6 months of the application filing date, the [HPO](#) shall then approve the request for demolition.
- B. **Approved Districts or Landmarks.** On properties with an approved [HD](#) or [HL](#) overlay district, a request for demolition shall be granted only if either of the following exists:
1. The [Building Official](#), in conjunction with the [HPO](#) and the City Manager, determines that the building or structure is currently an imminent hazard to the public safety and repairs and/or renovation would be impractical; or,
  2. The [HPB](#) determines that both of the following are found:
    - a. The building or structure is of minimal historic significance because of its location, conditions, modifications, or other factors; and,
    - b. Demolition of the building or structure would be inconsequential to the preservation of historic properties in the vicinity.
- C. **Actions Subsequent to Denial of a Request for Demolition.** In the event a request for a demolition permit is denied for either a proposed or an existing district, issuance of a demolition permit by the [Building Official](#) will be delayed 180 from the effective date of the denial by the [HPO](#). During the 180 day period the applicant may appeal the decision of the [HPO](#) to the [HPB](#). In addition, the [HPO](#), the [HPB](#), and the applicant shall meet to attempt to negotiate and develop an agreement and/or plan to preserve the building or structure. The agreement and/or plan may include public and private financial assistance, consideration of alternative land uses and/or zoning districts, expansions or additions to the building or structure within its historical context, adaptive reuse of the site, or public or private purchase of the property. If no plan and/or agreement is achieved, a clearance to issue a demolition permit will be forwarded to the [Building Official](#) at the applicant's request any time after the prescribed 180 days are passed.

### 11-74-5: Appeals

- A. **Appeals from the [HPO](#).** Decisions of the [HPO](#) with regards to interpretation of [Overlay District Design Guidelines](#), [Certificate of Appropriateness](#), and demolition

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requests may be appealed to the [HPB](#). A request for an appeal shall be made in writing in the [Historic Preservation Office](#). All such appeals shall be forwarded to the [HPB](#) which shall consider the matter at a public hearing. Notice of the public hearing shall be provided as prescribed in [Chapter 67](#), Common Procedures.

- B. **Appeals from the HPB.** Decisions of the [HPB](#) may be appealed to the [City Council](#) only when such appeal is submitted in writing to the [Historic Preservation Office](#) within 30 days of the [HPB](#) decision.



## Chapter 75      Amendments to General Plan

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Sections:

- 11-75-1      [Purpose and Applicability](#)
- 11-75-2      [Initiation of Amendments](#)
- 11-75-3      [Public Notice, Hearing and Review Procedures](#)

### **11-75-1:      Purpose and Applicability**

This Chapter establishes procedures for making changes to the [General Plan](#) as provided for in State Law when there are compelling reasons to do so as a result of changes in conditions or circumstances unforeseen at the time of adoption or last amendment of the [General Plan](#). These circumstances include, but are not limited to, changes in State or Federal law and problems and opportunities that were unanticipated at the time of adoption or last amendment. This amendment process is not intended to relieve particular hardships nor to confer special privileges or rights upon any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. In addition to the requirements of this Chapter, all [General Plan](#) amendments shall conform to the requirements of [ARS § 9-461.06](#) (Adoption and Amendment of [General Plan](#)).

### **11-75-2:      Initiation of Amendments**

Application for amendment of the Mesa [General Plan](#) designation applicable to a piece of property shall be made in the office of the Planning Division on an application form provided by the City. The application shall be accompanied by payment of the applicable fee. Pursuant to [ARS § 9-461.06](#), the City has adopted criteria for determining whether a proposed amendment is a “major amendment”, in which case such amendments shall be presented at a single public hearing during the calendar year they are proposed to the City.

### **11-75-3:      Public Notice, Hearing and Review Procedures**

Any notice, public hearings and action regarding any amendment to the Mesa [General Plan](#) shall be in conformance with the requirements of [ARS § 9-461.06](#), including:

- A.      **Public Notice.** In addition to the procedures set forth in [Chapter 67](#), Common Procedures, Public Notice of hearings by the [Planning & Zoning Board](#) and the [City Council](#) for [General Plan](#) amendments shall be given as required in [ARS § 9-461.06](#).

**B. Planning and Zoning Board: Public Hearing and Action.**

1. **Public Hearing.** All [General Plan](#) amendments shall be subject to two public hearings by the [Planning & Zoning Board](#) in conformance with the requirements of [ARS § 9-461.06](#), and which shall be conducted in conformance with the provisions of [Chapter 67](#), Common Procedures.
2. **Action.** After the conclusion of the second hearing, the [Planning & Zoning Board](#) will forward a recommendation regarding the proposed [General Plan](#) amendment to the [City Council](#) for its consideration.

**C. [City Council](#): Public Hearing and Action.**

1. **Hearing.** The [City Council](#) shall conduct a public hearing in conformance with the provisions of [ARS § 9-461.06](#) and [Chapter 67](#), Common Procedures.
2. **Action.** After the conclusion of the hearing, the [City Council](#) may approve, modify, or disapprove the proposed amendment. Active applications may only be amended in compliance with Council adopted policy.

## **Chapter 76      Amendments to Zoning Map**

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Sections:

11-76-1	<a href="#">Purpose and Applicability</a>
11-76-2	<a href="#">Initiation of Amendments</a>
11-76-3	<a href="#">Public Notice, Hearing and Review Procedures</a>
11-76-4	<a href="#">Public Hearing</a>
11-76-5	<a href="#">Planning and Zoning Board Action</a>
11-76-6	<a href="#">City Council Action</a>

### **11-76-1:      Purpose and Applicability**

Any amendment to this [Zoning Ordinance](#) which changes any property from one zone to another, which imposes any regulation or which removes or modifies any regulation previously imposed in the City's zoning authority, shall be adopted in the manner set forth in this Chapter. In addition to the requirements of this Chapter, amendments to the [Zoning Map](#) shall conform to the requirements of section [9-462.03](#) et. seq. of Arizona Revised Statutes (Zoning Ordinance Amendment Procedure).

### **11-76-2:      Initiation of Amendments**

Application for amendment of the Mesa [Zoning Map](#) shall be made in the office of the Planning Division on an application form provided by the City. The application shall be accompanied by payment of the applicable fee.

### **11-76-3:      Public Notice, Hearing and Review Procedures**

Public notice of hearings by the [Planning & Zoning Board](#) and the [City Council](#) for [Zoning Map](#) Amendments shall be given as specified in [Chapter 67](#), Common Procedures. A [Citizen Participation Plan](#) must be submitted and followed, and the results documented in the [Citizen Participation Report](#) required by [Section 11-67-3](#), Citizen Participation.

### **11-76-4:      Public Hearing**

All [Zoning Map](#) Amendments shall be subject to a minimum of one public hearing by the [Planning & Zoning Board](#) and to one public hearing by the [City Council](#) prior to adoption.

**11-76-5: Planning and Zoning Board Action**

- A. **Hearing.** The [Planning & Zoning Board](#) shall conduct a public hearing in conformance with the provisions of [Chapter 67](#), Common Procedures.
- B. **Action.** After the conclusion of the hearing, the [Planning & Zoning Board](#) may approve, modify, approve with conditions or disapprove the proposed [Zoning Map](#) for [City Council](#) consideration.

**11-76-6: City Council Action**

- A. **Hearing.** The [City Council](#) shall conduct a public hearing in conformance with the provisions of [Chapter 67](#), Common Procedures.
- B. **Action.** After the conclusion of the hearing, the [City Council](#) may approve, modify, approve with conditions or disapprove the proposed [Zoning Map](#). Conditions to approval may include, but are not limited to: future site plan review, conditions to assure implementation of the submitted plan in accordance with the [Mesa General Plan](#), and other applicable policies and plans adopted by the City; conditions to achieve the purpose and intent of the requested zoning district; conditions to achieve reasonable compatibility with the proposed use and adjacent land uses, and additional or different approval processes than those normally required by this [Ordinance](#).

## Chapter 77 Appeals

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Sections:

11-77-1	<a href="#">Purpose and Applicability</a>
11-77-2	<a href="#">Rights of Appeal</a>
11-77-3	<a href="#">Time Limits</a>
11-77-4	<a href="#">Procedures</a>
11-77-5	<a href="#">Standards of Review</a>

### 11-77-1: Purpose and Applicability

This chapter establishes uniform procedures for appeals of final decisions by the [Historic Preservation Officer](#), [Planning Director](#), [Zoning Administrator](#), [Zoning Administrator Hearing Officer](#), [Board of Adjustment](#), [Planning and Zoning Board](#), [Planning Hearing Officer](#), [Design Review Board](#), and the [Historic Preservation Board](#).

### 11-77-2: Rights of Appeal

Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that may be appealed under the provisions of this [Ordinance](#).

### 11-77-3: Time Limits

Unless otherwise specified in State or federal law, all appeals except of [Board of Adjustment](#) decisions shall be filed in writing within 15 calendar days after the date of the action being appealed. Appeals of [Board of Adjustment](#) decisions shall be filed within 30 calendar days of the Board rendering its decision. Calendar days are inclusive of all business days, non-business days, weekends and holidays. In the event the time limit for appeals ends on a non-business day, holiday or weekend, the time limit shall be extended to the close of business of the next business day.

### 11-77-4: Procedures

- A. **Proceedings Stayed by Appeal.** The timely filing of an appeal may stay all City-related proceedings in the matter appealed including, but not limited to, the issuance of demolition permits, building permits, and business licenses. Proceedings in which an appeal has been filed to County, State or federal courts or jurisdictions may only be stayed by action from those jurisdictions.
- B. **Filing of Appeals.**
  - 1. **Appeals of Specified Decisions.** All decisions of the [Historic Preservation Officer](#), [Planning Director](#), [Zoning Administrator](#), [Zoning Administrator](#)

[Hearing Officer](#), [Planning and Zoning Board](#), [Planning Hearing Officer](#), [Design Review Board](#), and [Historic Preservation Board](#) may be appealed to the appropriate body as specified in [Chapter 67](#) by filing a written appeal accompanied by payment of the appropriate fee. The notice of appeal shall set forth, in concise language, the following:

- a. Date of appeal;
  - b. Name of person filing the appeal (appellant) and any individual representing appellant;
  - c. Address to which notices shall be sent;
  - d. Contact information such as telephone number and/or e-mail address of appellant or representative to be contacted regarding the appeal;
  - e. Action or decision being appealed and the date of such action or decision;
  - f. Description of requested outcome if the appeal is granted;
  - g. Grounds for appeal, if required by this [Ordinance](#); and,
  - h. Address and case number involved.
2. **Appeals of Board of Adjustment Decisions.** Any person aggrieved by the decision of the [Board of Adjustment](#), or officer or department of the [City of Mesa](#) affected by a decision of the Board may file a complaint of special action in [Superior Court](#) to review the Board's decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay, and on final hearing, may affirm or reverse, in whole or in part, or modify the decision reviewed.
- C. **Public Notice.** Notice of an appeal heard by the [City Council](#), [Planning and Zoning Board](#), [Board of Adjustment](#), [Design Review Board](#), or [Historic Preservation Committee](#) shall be:
1. Provided in the same manner required for the action that was the subject of the appeal, and
  2. Provided to all persons who spoke on the matter at any prior hearings on the same matter, if such persons provided their names and addresses at the time they spoke at the prior hearing.
- D. **Appeals to the Board of Adjustment.**
1. **Board of Adjustment Action.** The [Board of Adjustment](#) shall conduct a public hearing *de novo*, and shall review all relevant information, including but not

limited to the application, plans, related project materials that were the subject of the original decision, any additional materials as may be presented at the appeal hearing, and any written correspondence submitted after the appeal has been filed, information observed by a site visit if made, and may take one of the following actions:

- a. Make a decision; or
- b. Remand the matter to the [Zoning Administrator](#) to cure a deficiency in the record or proceedings.

2. **Board of Adjustment Decision.** The [Board of Adjustment](#) may approve, approve with conditions, or deny an appeal, and may prescribe reasonable conditions in connection with its decision as may be necessary in order to fully carry out the purpose and intent of the provisions of this [Zoning Ordinance](#).

E. **Appeals to the Design Review Board.**

1. **Design Review Board Action.** The [Design Review Board](#) shall conduct a public meeting and review the appeal, the record, including the application, plans, related project materials that were the subject of the original decision, any additional materials as may be presented at the meeting, and any written correspondence submitted after the appeal has been filed, and may take one of the following actions:

- a. Make a decision; or
- b. Remand the matter to the [Planning Director](#) to cure a deficiency in the record or proceedings.

2. **Design Review Board Decision.** The [Design Review Board](#) may approve, approve with conditions, or deny an appeal, and may prescribe reasonable conditions in connection with its decision as may be necessary in order to fully carry out the purpose and intent of the provisions of this [Zoning Ordinance](#).

F. **Appeals to the Planning and Zoning Board.**

1. **Planning and Zoning Board Action.** The [Planning and Zoning Board](#) shall conduct a public hearing, and review the appeal, the record, including the application, plans, related project materials that were the subject of the original decision, any additional materials as may be presented at the appeal hearing, and any written correspondence submitted after the appeal has been filed, and may take one of the following actions:

- a. Make a decision; or
- b. Remand the matter to the [Planning Director](#) to cure a deficiency in the record or proceedings.

2. **Planning and Zoning Board Decision.** The [Planning and Zoning Board](#) may approve, approve with conditions, or deny an appeal, and may prescribe reasonable conditions in connection with its decision as may be necessary in order to fully carry out the purpose and intent of the provisions of this [Zoning Ordinance](#).
- G. **Appeals to the Historic Preservation Board**
1. **Historic Preservation Board Action.** The [Historic Preservation Board](#) shall conduct a public meeting and review the appeal, the record, including the application, plans, related project materials that were the subject of the original decision, any additional materials as may be presented at the appeal hearing, and any written correspondence submitted after the appeal has been filed, and may take one of the following actions:
    - a. Make a decision; or
    - b. Remand the matter to the [Historic Preservation Officer](#) to cure a deficiency in the record or proceedings.
  2. **Historic Preservation Board Decision.** The [Historic Preservation Board](#) may approve, approve with conditions, or deny an appeal, and may prescribe reasonable conditions in connection with its decision as may be necessary in order to fully carry out the purpose and intent of the provisions of this [Zoning Ordinance](#).
- H. **Appeals to the City Council.** The [City Council](#) shall review the appeal, the record, and any written correspondence submitted after the appeal has been filed, and at the Council's discretion, review any additional materials that may be presented at the meeting. After the review, the Council may take one of the following actions:
1. Conduct a public hearing, after which it may affirm, reverse, or modify the previous decision; or
  2. Remand the matter to the [Planning and Zoning Board](#), [Planning Hearing Officer](#), [Design Review Board](#), or [Historic Preservation Board](#) (as deemed appropriate) for additional review and consideration, or to cure a deficiency in the record or proceedings.

#### **11-77-5: Standards of Review**

When reviewing any decision on appeal, the same standards and criteria shall apply as were required for the original decision.



## Chapter 78 Annexations

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Sections:

11-78-1	<a href="#">Purpose</a>
11-78-2	<a href="#">Initiation of Annexations</a>
11-78-3	<a href="#">Procedures</a>
11-78-4	<a href="#">Existing Uses and Structures</a>

### 11-78-1: Purpose

This Chapter establishes uniform procedures for annexation of property not within the City limits and subsequent zoning of that property.

### 11-78-2: Initiation of Annexations

Applications for annexation shall be made in the office of the [Planning Division](#) on a form provided by the city and shall be accompanied by the required fee.

### 11-78-3: Procedures

#### A. Process.

1. Requests for annexation by any owner of property located outside the City limits shall be made in the [Planning Division](#) in accordance with [Section 11-67-3](#), Application Forms, Supporting Materials and Fees.
2. Upon compliance with State statutes and City regulations and processes, annexation applications shall be forwarded to the [City Council](#) for the public hearing required by Arizona Revised Statutes [9-471.A.3](#) prior to release of the annexation petition.
3. If the [City Council](#) accepts the request for annexation, official annexation petitions shall be prepared by staff to be circulated by the requesting property owners following the public hearing for the release of the petition.

4. When all provisions of [ARS § 9-471](#) *et seq.* have been complied with, the [City Council](#) shall hold the required public hearings to consider an ordinance authorizing annexation of the property into the City.
- B. **Zoning of Annexed Properties.** Areas under consideration for annexation may be zoned at the time of annexation or within 6 months after the annexation to City zoning districts comparable to, but not greater in intensity than the County zoning applicable to the property immediately preceding annexation. In the event that City zoning is not established with annexation, the area shall be considered to be zoned as shown on the Official Maricopa County [Geographic Information Systems](#) (GIS) Portal Zoning Map of the Maricopa County Planning and Zoning Commission until City zoning is applied to the property.
- C. **Construction and Building Permits.**
1. [Maricopa County Building Permits](#) validly issued pursuant to County requirements not more than 60 days prior to the effective date of annexation, shall be accepted by the [Building Official](#) as valid permits for a period of 60 days after the effective date of annexation. If construction has not commenced on or before the 60th day after the effective date of annexation, a City building permit shall be required.
  2. For buildings under construction with a valid building permit issued by [Maricopa County](#) prior to the effective date of an annexation ordinance, a City building permit shall not be required, but the [Building Official](#) shall require that buildings constructed under such County building permit shall be structurally safe and shall conform to pertinent County zoning regulations in effect at the time the County permit was issued.

#### 11-78-4: Existing Uses and Structures

- A. Any use or activity conducted contrary to County zoning regulations at the effective date of annexation and not constituting a legal non-conforming use under the County zoning regulations shall not be considered a legal non-conforming use by the City.
- B. Any use or activity conducted in conformance with County zoning regulations at the effective date of annexation and not in conformance with this [Ordinance](#) shall be considered a legal non-conforming use by the City.
- C. Any use, activity or structure that is existing at the effective date of annexation, under a [Maricopa County Use Permit](#) with a time limit imposed, may continue for the remainder

- of the time limit. Any extension of this time limit requires City approval of a [Conditional Use Permit](#) pursuant to Chapter 70, Conditional Use Permits, of this Ordinance. The type of Conditional Use Permit required shall be determined according to the regulations for the City zoning district where the use is located. If, after the expiration of the [Maricopa County Use Permit](#), no Conditional Use Permit is specified or approved for that activity, then the property shall require rezoning to a conforming zoning district permitting the activity, or the activity may continue only as a legal nonconforming use, subject to the requirements of [Chapter 36](#), Nonconforming Uses, Structures, and Lots.
- D. Any legal lot or parcel of land duly recorded in the [Maricopa County Recorder's Office](#) prior to the effective date of this Ordinance and having an area, width, depth, or street frontage less than that required in the [Zoning District](#) regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the [City of Mesa Zoning District](#) shall apply.
- E. Building setbacks established by [Maricopa County](#) overlay zoning or [Special Use Permit](#), for residential developments including manufactured home parks and subdivisions, shall be enforced. Conventional residential developments without county overlay zoning or [Special Use Permit](#) shall have setbacks as specified in this [Zoning Ordinance](#).

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## Chapter 79      Enforcement

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Sections:

11-79-1	<a href="#">Purpose</a>
11-79-2	<a href="#">Commencement of an Action</a>
11-79-3	<a href="#">Civil Violations and Citation</a>
11-79-4	<a href="#">Civil Penalties</a>
11-79-5	<a href="#">Habitual Offender</a>
11-79-6	<a href="#">Failure to Provide Evidence of Identity</a>

### 11-79-1:      Purpose

This Chapter establishes the responsibilities of various departments, officials and public employees of the City to enforce the requirements of this Title and sets forth the procedures the City will use to identify, abate, remove, and enjoin those uses, structures, or buildings that are deemed to be in violation of this [Ordinance](#).

### 11-79-2:      Commencement of an Action

- A.      The [City Manager](#) or designee is authorized to commence an enforcement action under this [Ordinance](#) by issuing a citation for civil sanctions under this Chapter. They may also seek the issuance of a complaint by the [Mesa City Prosecutor](#) for criminal prosecution of habitual offenders as defined in this Chapter.
- B.      Nothing in this Section shall preclude City employees from seeking voluntary compliance with the provisions of this [Ordinance](#), or from enforcing this Ordinance through notices of violations, warnings or through other informal devices designed to achieve compliance in the most efficient and effective manner under the circumstances.
- C.      Violations of this [Ordinance](#) are in addition to any other violation established by law, and this Ordinance shall not be interpreted as limiting the penalties, actions, or abatement procedures which may be taken by the City or other persons under other laws, ordinances, or rules.
- D.      Any owner or occupant who causes, permits, facilitates, aids, or abets any violation of this [Ordinance](#), or who fails to perform any act or duty required pursuant to this

[Ordinance](#), is subject to the enforcement provisions of this Ordinance. The owner, occupant, or responsible party may be individually and jointly responsible for the violations, the prescribed civil or criminal sanctions, and for abating the violations and for any associated costs and fees.

### **11-79-3: Civil Violations and Citation**

- A. A civil action for violations of this [Ordinance](#) may be commenced by issuance of a citation.
- B. The citation will be substantially in the form established by the [City Manager](#) or Designee. It shall advise the responsible party of the violation(s) committed, either by written description of the violations or by designation of the City Code Section that was violated. The [Civil Hearing Officer](#) may permit amendments to the citation if substantial rights of the responsible party are not thereby prejudiced. The citation shall direct the responsible party to pay the civil sanction and all applicable fees as specified in [Section 11-79-4](#) within the time period specified on the citation. The citation shall be served by personal service, or by serving the citation pursuant to [A.R.S. §9-500.21](#).
- C. The responsible party shall, within the time period specified on the citation, either pay the fine or appear in person or through an authorized representative before the Clerk of the [Civil Hearing Officer](#) and admit or deny the allegations contained in the citation. If the responsible party timely pays the fine and fees, either in person or by mailing payment to the City, the allegations in the citation shall be deemed admitted and such person shall be deemed responsible for having committed the offense(s) described in the citation. If the responsible party appears and admits the allegations, the Civil Hearing Officer shall enter judgment against the responsible party in the amount of the fine assessed. If the responsible party appears and denies the allegations contained in the citation, the Civil Hearing Officer shall set the matter for hearing.
- D. The responsible party shall, within 10 days of the issuance of the citation, either pay the civil sanction and the fees, or appear in person or through an attorney before the [Civil Hearing Officer](#) and admit or deny the allegations contained in the citation. If the responsible party pays the civil sanction and the fees, either in person or by mailing payment to the City, the allegations in the citation shall be deemed admitted and such person shall be deemed responsible for having committed the offense(s) described in the citation. If the responsible party appears and admits the allegations, the Civil Hearing Officer shall enter judgment against the responsible party in the amount of the civil sanction, plus any applicable fees designated in [Section 11-79-4](#). If the responsible party

- appears and denies the allegations contained in the citation, the [Civil Hearing Officer](#) shall set the matter for hearing.
- E. If a person served with a citation fails to pay the fine and to appear on or before the time directed to appear or at the time set for hearing by the [Civil Hearing Officer](#), the allegations in the complaint shall be deemed admitted and the Civil Hearing Officer shall enter a finding of responsible and a judgment for the City and impose the appropriate sanction.
- F. All proceedings before the [Civil Hearing Officer](#) shall be informal and without a jury, except that testimony shall be given under oath or affirmation. The technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the allegations in the citation are denied, the City is required to prove violations of this [Ordinance](#) by a preponderance of the evidence. No pre-hearing discovery shall be permitted except under extraordinary circumstances, as determined by the Civil Hearing Officer. The Civil Hearing Officer is authorized to make such orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand.
- G. If, after hearing all evidence the [Civil Hearing Officer](#) determines the responsible party is responsible for the alleged violation, and after entering a judgment of responsible and setting a civil sanction as specified in section [11-79-4\(A\)](#), the Civil Hearing Officer may order a compliance hearing and set a date for such hearing. Upon presentation of evidence and testimony by the [Code Compliance Officer](#) at the compliance hearing that the violation(s) specified in the complaint has been abated, the Civil Hearing Officer may reduce all or a portion of the civil sanction commensurate with the cost borne by the defendant to achieve compliance or the Civil Hearing Officer may vacate the previous judgment and dismiss the citation(s).
- H. An appeal from final judgments of the [Civil Hearing Officer](#) may be taken pursuant to the [Arizona Rules of Procedure for Special Actions](#).
- I. Any civil fine or judgment for civil sanctions taken pursuant to this Article shall constitute a lien against the real property of the responsible party that may be perfected by recording a copy of the judgment with the [Maricopa County Recorder](#). Any judgment for civil fines or penalties pursuant to this Chapter may be collected as any other civil judgment.

**11-79-4: Civil Penalties**

- A. Any owner, occupant or responsible party who is found responsible for a civil violation of this [Ordinance](#), whether by admission, default, or after a hearing, shall pay a civil sanction of not less than \$150 or more than \$1,500, per citation. A second finding of responsibility within 24 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$250 or more than \$2,500. A third finding of responsibility within 36 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$500 or more than \$2,500. In addition to the civil sanction, the responsible party shall pay the applicable fees and charges set forth in the City's Development and Sustainability Department (Code Compliance) [Schedule of Fees and Charges](#), and may be ordered to pay any other applicable fees and charges.
- B. The 36 month provision of subsection (A) of this Section shall be calculated by the dates the violations were committed. The owner, occupant, or responsible party shall receive the enhanced sanction upon a finding of responsibility for any violation of this Chapter that was committed within 36 months of the commission of another violation for which the owner or responsible party was convicted or was otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.
- C. Each day in which a violation of this [Ordinance](#) continues, or the failure to perform any act or duty required by this Ordinance or by the [Civil Hearing Officer](#) continues, shall constitute a separate civil offense.

**11-79-5: Habitual Offender**

- A. A person who commits a violation of this [Ordinance](#) after previously having been found responsible for committing 3 or more civil violations of this [Ordinance](#) within a 24 month period — whether by admission, by payment of the fine, by default, or by judgment after hearing — shall be guilty of a [class 1 criminal misdemeanor](#). The [Mesa City Prosecutor](#) is authorized to file a criminal class 1 complaint in the [Mesa City Court](#) against habitual offenders. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Subsection, the Court may impose a sentence or incarceration not to exceed 6 months in jail; or a fine not to exceed \$2,500, exclusive of penalty assessments prescribed by law; or both. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than \$500 for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this



Subsection except on the condition that the person pay the mandatory minimum fines as provided in this Subsection.

- C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the [Arizona Rules of Criminal Procedure](#).

**11-79-6: Failure to Provide Evidence of Identity**

A person who fails or refuses to provide evidence of his or her identity to a duly authorized agent of the City upon request, when such agent has reasonable cause to believe the person has committed a violation of this [Ordinance](#), is guilty of a misdemeanor. Evidence of identity under this Section shall consist of a person's full name, residence address, and date of birth.

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## Chapter 80      Variances

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Sections:

11-80-1	<a href="#">Purpose and Applicability</a>
11-80-2	<a href="#">Procedures</a>
11-80-3	<a href="#">Required Findings</a>
11-80-4	<a href="#">Use Variances Prohibited</a>
11-80-5	<a href="#">Conditions of Approval</a>
11-80-6	<a href="#">Appeals; Expiration and Extensions; Modifications</a>

### **11-80-1:                      Purpose and Applicability**

Variances are authorized as set forth in Arizona Revised Statutes [ARS § 9-462.06](#) and as set forth in this [Ordinance](#).

### **11-80-2:                      Procedures**

Applications for variances shall be submitted, reviewed, and heard in accordance with the procedures described in [Chapter 67](#).

### **11-80-3:                      Required Findings**

A variance shall not be granted unless the [Zoning Administrator](#), when acting as a [Hearing Officer](#), or [Board of Adjustment](#) shall find upon sufficient evidence make a determination:

- A.    There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- B.    That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- C.    The strict application of the zoning [Ordinance](#) will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and
- D.    Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

### **11-80-4:                      Use Variances Prohibited**

No variance shall be granted to permit a use not otherwise permitted in the applicable zoning district.

**11-80-5: Conditions of Approval**

In approving a variance, the [Zoning Administrator](#), acting as a [Hearing Officer](#), or [Board of Adjustment](#) may impose reasonable conditions necessary to insure that the variance shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and the zoning district in which the subject property is located, including but not limited to the following:

- A. Ensure that the project conforms in all significant respects with the [General Plan](#) and with any other applicable plans or policies adopted by the City;
- B. Achieve the general purposes of this [Ordinance](#) and the specific purposes of the zoning district in which the site is located;
- C. Protect the public health, safety, and general welfare; or
- D. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses in the surrounding area.

**11-80-6: Appeals; Expiration and Extensions; Modifications**

- A. Variances are subject to the appeal provisions of [Chapter 77](#), Appeals.
- B. Variances are subject to the expiration and extension provisions of [Section 11-67-9](#), Expiration and Extensions.
- C. A minor modification of a variance granted pursuant to this Chapter may be approved under [Section 11-67-10](#). Changed plans, including changes in conditions of approval of a variance shall be treated as a new application; see [Section 11-67-10\(B\)](#).

**Chapters 81 through 85 (Reserved for future use.)**

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