

Chapter 67 Common Procedures

Sections:

11-67-1	Purpose
11-67-2	Applications, Supporting Materials and Fees
11-67-3	Citizen Participation
11-67-4	Review of Applications
11-67-5	Public Notice
11-67-6	Conduct of Public Hearings
11-67-7	Records of Actions Taken
11-67-8	Effective Dates
11-67-9	Expirations and Extensions
11-67-10	Modification
11-67-11	Revocation of Permits Approved Through a Public Hearing Process
11-67-12	Appeals

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are common to the application and processing of all permits and approvals provided for in the Zoning Ordinance, unless superseded by specific requirement of this Ordinance or State law.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: Applications, Supporting Materials and Fees

A. **Applicants.** The following persons may file an application:

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. **Applications.** Applications required by this ordinance shall be filed with the office of the Planning Division and include all of the following:

1. An application, provided by the City.
2. The required documents and information in a form acceptable to the Planning Division.
3. Additional materials, as required. 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.
4. The required fee.

- C. **Pre-application or Pre-submittal 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 Services 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 Services 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 Services 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.

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

[Return to Page 1](#)

67-2

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 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 and 2 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. For the purposes of this Section, the required number of votes shall be rounded to the nearest whole number.
1. A written protest, signed by the property owners opposing the proposal is filed by the owners of 20-percent or more of the area and number of lots, tracts, and condominium units within the zoning area, as defined in A.R.S. § 9-462.04.
 2. Signed written protests must be filed in the office of the City Clerk 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: Public Notice

- A. **Any applications to the City Council, Planning and Zoning Board or the Planning Hearing Officer shall:**
1. Provide the same notice of Public Hearing as required by ARS § 9-462.04; and
 2. Post the subject property no less than 15 days prior to the first scheduled hearing; and
 3. Provide additional notice by first class mail a minimum of 15-days prior to the

[Return to Page 1](#)

first scheduled hearing date 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. Any applications to the Board of Adjustment or Zoning Administrator acting as the Hearing Officer shall provide:

1. The same notice of Public Hearing as required by ARS § 9-462.06 (F); and
 2. Additional notice by first class mail a minimum of 15-days prior to the scheduled hearing date 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. Any application to the Design Review Board shall send notice by first class mail a minimum of 15-days prior to the scheduled meeting or work session date 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.
- D. Contents of Public Notice. Any public notice 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 or the owner of the property that is the subject of the application; and
 5. In addition to the items listed above, mailed notice shall include the following:
 - a. A copy of the proposed plans;
 - b. A statement that any interested person or authorized agent may appear, and be heard; and
 - c. A statement describing how to submit written comments.

6. It shall be the responsibility of the applicant to maintain the posting once erected until after the last hearing.
- E. 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

[Return to Page 1](#)

67-7

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

[Return to Page 1](#)

67-8

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: Expirations and Extensions

A. Expirations.

1. The Planning and Zoning Board, Planning Hearing Officer, Zoning Administrator acting as a Hearing Officer, Board of Adjustment, or City Council, in the granting of any permit, (also referred to as discretionary approval), or permit modification, for which the body has authority, may specify the time within which the proposed use must be undertaken and actively and continuously pursued. The Planning and Zoning Board, Planning Hearing Officer, Zoning Administrator acting as a Hearing Officer, Board of Adjustment, or City Council, 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 expired and of no further force and effect if it is not exercised or extended within 1 year of its issuance. The permit is considered exercised by completion of one of the following:
 - 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, structure, or sign is exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced in reliance upon that permit.
2. Approved Variances may be declared expired and of no further force and effect if it is not exercised or extended within 1 year of the date of approval. The variance is considered exercised when a valid city building permit, if required, is issued, and construction has lawfully commenced in reliance upon that permit.
3. Approved site plan review and design review may be declared expired and of no further force and effect if it is not exercised or extended within 2 years of the date of approval. The site plan review or design review is considered exercised by completion of one of the following:

[Return to Page 1](#)

67-9

- a. A valid city business license, if required, is issued, and the permitted use has commenced on the property.
 - b. A valid city building permit, if required, is issued, and construction has lawfully commenced.
- B. **Extensions.** The Zoning Administrator may approve a one-year extension of any permit or approval granted under this Ordinance upon receipt of an application with the required fee prior to the expiration date. All other extensions shall require approval by the original approving body.

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 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 final decision.

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

[Return to Page 1](#)