



City Council Report

DATE: October 15, 2018
TO: Mayor and City Council
THROUGH: Kari Kent, Assistant City Manager
FROM: Christine Zielonka, Development Services Director
John Wesley, Planning Director & Zoning Administrator
SUBJECT: **Mesa Zoning Ordinance text amendments** - Proposed amendments to Chapters 66, 67, 69, 71, 74 and 77. (ZON17-00603)

PURPOSE AND RECOMMENDATION

As established in December of 2017, the Planning Division is undertaking a comprehensive review of the Mesa Zoning Ordinance (MZO) to make updates and changes to the code in response to the experience of active application of the ordinance over the past seven years. This is the second in the series of text amendments that will be processed over the next year.

Attached is an appendix that contains each of the proposed amendments. This set of amendments modifies Chapters 66-Planning Agency, 67-Common Procedures, 69-Site Plan Review, 71-Design Review, 74-Historic District and Historic Landmark Procedures, and 77-Appeals. The focus of the text amendments is clarifications in duties of decision making boards and bodies; a modification to common procedures for application process; clarification of public notice requirements, expirations and extensions of approvals, and the appeals process.

At their May 16, 2018 regular meeting the Planning and Zoning Board voted to recommend approval of all the proposed text amendments.

BACKGROUND AND DISCUSSION

In 2011 the MZO was completely revised creating new zoning districts and introducing new requirements. There have been “housekeeping” items and text amendments that have been approved since 2011. This next year staff will focus on a thorough review of the ordinance to address issues that have arisen since 2011. This is the second of several amendments that will review the entire ordinance to make needed updates.

The attached appendix is a list of the proposed revisions to the Zoning Ordinance. The items listed in the appendix are listed by the order presented in this report, which is organized by chapter and then general topic. The affected zoning ordinance sections or chapters are listed in this report in parentheses after the topic.

Chapter 66-Planning Agency

- 1) Clarify the authority and duties of the Board of Adjustment. This section was updated to clearly identify the decision-making capabilities of the Board. All application types are identified. (11-66-3.C)
- 2) Remove appeals language. This section was removed from the duties of the Board of Adjustment. It is addressed in Chapter 77 of the MZO appropriately named Appeals. (11-66-3.D and 11-66-3.E)

- 3) Remove the City Code Chapter reference. This Section of the Ordinance has an incorrect chapter reference to Chapter 23 of the Mesa City Code for Historic Preservation Board. This reference is not necessary and will be removed. (Section 11-66-4)
- 4) Clarify authority and duties of the Planning Hearing Officer. This section was updated to clarify when the Planning Hearing officer is utilized. (11-66-5)
- 5) Clarify authority and duties of the Design Review Board. Clarification that appeals to the Board can occur for all decisions made by the Planning Director or staff. Clarification of Board recommendations as requested by the Planning Director. (Section 11-66-6.C)
- 6) Clarify duties of Zoning Administrator in an administrative or as a hearing officer.
Amendments to Section 11-66-7 include:
 - Division of the Zoning Administrator duties in an administrative role or as a hearing officer.
 - Remove reference to Planning Director in decision making. The Planning Director and Zoning Administrator are the same position in Mesa.
 - Update the reference to the department from “Development and Sustainability Department” to “Development Services Department.”
 - Remove the zoning Administrator as a hearing officer duty to hear appeals pertaining to rights-of-way.
 - Remove redundant findings for Special Use Permit and reference the findings in the Special Use Permit Section.
 - Remove appeals to the Zoning Administrator because it is covered in Chapter 77 appropriately named “Appeals.”

Chapter 67 – Common Procedures

- 7) Modify applications, supporting materials and fees.
Amendments to Section 11-67-2.A through 11-67-2.J include:
 - Remove “form” as this appears to be related to a paper form. All applications are submitted electronically. The amendments clarify the need to submit needed information from the applicant to comply with the Ordinance.
 - The word “Pre-submittal” is added to clarify that there are two processes that can be utilized prior to formal submittal. This is consistent with terminology and process of the Planning Division.
 - Replace “Development and Sustainability Department Director” and with “Development Services Department Director” to be consistent with current department name.
 - Remove list of application types because it is not necessary.
- 8) Modify public notice requirements. Modify language to clarify public notice requirements for all Boards and Hearing Bodies. Posting of the property and/or mailing of notice would occur 15 days prior to the first hearing. Clarifying that it is the responsibility of the applicant to make sure the posting of the site shall stay erected until after the last hearing. (Section 11-67-5)

- 9) Clarify the expiration and extension for approvals. Amend the language to clearly define when an approval of Council, Boards and Hearing officers would expire and when an approval is considered exercised. Clearly define when an extension can be requested, and which body can approve the request. Remove appeal to an expired approval because it is not necessary. The decision of the Zoning Administrator can be appealed. (Section 11-67-9)
- 10) Modify appeals to apply to all final decisions. Amend the language to clearly describe that all final decisions can be appealed. The current language reads appeal process for each body issuing a “discretionary permit.” This needs to be expanded to all decisions. (Section 11-67-12)

Chapter 69-Site Plan Review

- 11)
 - a. Part 1- Modify Site Plan Review Section titles. The proposed changes will list Section names that are consistent with Common Procedures. Add expiration and extensions to section 11-69-7-appeals and remove Section 11-69-8 Lapse of approval modifications; renewal to for consistency in the MZO. (Section 11-69-Sections)
 - b. Part 2- Clarify public notice for Site Plan Review. Amend the public notice to refer public notice requirements to the appropriate common procedures Section 11-67-5. The intent is to make the MZO consistent. (Section 11-69-3)
 - c. Part 3- Reorganize expirations and extensions language for Site Plan Review. Modify language for expirations and extensions to reference Section 11-67-9, Expirations and Extensions for consistency of the MZO. Removal of Section 11-69-8 titled “Lapse of approval; Modifications; Renewal” because it is no longer needed. (Section 11-69-7 and 11-69-8)

Chapter 71-Design Review

- 12)
 - a. Part 1- Modify Design Review Section titles. The proposed changes will list Section names that are consistent with Common Procedures. Add expiration and extensions to section 11-71-8 appeals and remove Section 11-71-9 Lapse of approval modifications; renewal to for consistency in the MZO. (Section 11-71-Sections)
 - b. Part 2- Clarify public notice for Design Review. Amend the public notice to refer public notice requirements to the appropriate common procedures Section 11-67-5. The intent is to make the MZO consistent. (Section 11-71-4)
 - c. Part 3- Reorganize expirations and extensions language for Design Review. Modify language for expirations and extensions to reference Section 11-67-9, Expirations and Extensions for consistency of the MZO. Removal of Section 11-71-9 titled “Lapse of approval; Modifications; Renewal” because it is no longer needed. (Section 11-71-8 and 11-71-9)

Chapter 74-Historic District and Historic Landmark Procedures

- 13) Remove Historic Preservations “committee” reference. Remove reference to the “committee” and replace with Board in Section 11-74-2.D. This will make Chapter 74 consistent in reference to the Historic Preservation Board. (Section 11-74-2.D)
- 14) Clarify appeals from the Historic Preservation Officer and the Historic Preservation Board. Amend language to refer appeal request to Table 11-67-12 and appeals Chapter 77. The intent is to make the MZO consistent and remove repetition. (Section 11-74-5)

Chapter 77-Appeals

- 15) Update the Appeals process. Amendments to Section 11-77-4.A through 4.D includes:
 - Clarification to filing of appeals process for consistency. (11-77-4.B)
 - Removing reference to payment of fee because there is not a fee approved in the current schedule of fee. (11-77-4.B.1)
 - Clarification of public notice requirements depending on the appropriate hearing body. (Section 11-77-4.C)
 - Clarification of procedure for appeals to Board of Adjustment for consistency with Arizona Revised State Statutes. (Section 11-77-4.D)

RECOMMENDATION

The Planning and Zoning Board and staff recommend approval of the text amendments to Chapter 66, 67, 69, 71, 74 and 77.