



City Council Report

Date: October 6, 2025
To: City Council
Through: Marc Heirshberg, Assistant City Manager
From: Nana Appiah, Development Services Director
Mary Kopaskie-Brown, Planning Director
Rachel Phillips, Assistant Planning Director
Subject: Mesa Zoning Ordinance Text Amendment (**Nonconforming and Procedurally Conforming Amendments**)- Version 2 of proposed amendments to Chapter 36 of Title 11 of the Mesa City Code. (**Citywide**)

Overview

This Ordinance is a modified version of the Nonconforming and Procedurally Conforming Amendment, with the difference being that this Ordinance does not include the proposed language in Sections 11-36-2(B)(2) and 11-36-2(E)(2) (the definitions for Legal Procedurally Conforming Use and Legal Procedurally Conforming Structure).

Background

At its September 8, 2025 meeting, the City Council introduced Ordinance No. 5963 (Nonconforming and Procedurally Conforming Amendments). At the September 22, 2025, City Council meeting, the City Council continued action on Ordinance No. 5963 to the October 6, 2025, City Council meeting, to allow time to receive information regarding the impact of Ordinance No. 5963, including in relation to specific battery energy storage system projects.

Since the September 22, 2025, City Council meeting, staff received direction to prepare a modified version of the Nonconforming and Procedurally Conforming Amendments. The requested modifications revise the definitions of Legal Procedurally Conforming Use and Legal Procedurally Conforming Structure by removing the language in Sections 11-36-2(B)(2) and 11-36-2(E)(2) of the proposed ordinance. The modifications are shown in redline below.

Sections 11-36-2:

...

- B. **Legal Procedurally Conforming Use.** A land use ~~that meets one of the following criteria: for which (1) a building permit was issued for the land use prior to the issuance of a written interpretation by the Zoning Administrator in which the land use was determined to not be within any classification or use in the Zoning Ordinance and therefore prohibited in every zoning district, or (2) an ordinance was adopted that amends the Zoning Ordinance regulations applicable to a certain land use and contains a section titled "Legal Procedurally Conforming Use" that specifically provides how that certain land use will be, or will remain, a Legal Procedurally Conforming Use.~~

...

- E. **Legal Procedurally Conforming Structure.** A structure ~~that meets one of the following criteria: (1)~~for which a building permit was issued ~~for the structure~~ prior to the issuance of a written interpretation by the Zoning Administrator in which the land use that the structure is occupied by or devoted to was determined to not be within any classification or use in the Zoning Ordinance and therefore prohibited in every zoning district, ~~or (2) an ordinance was adopted that amends the Zoning Ordinance regulations applicable to a certain land use and contains a section titled "Legal Procedurally Conforming Structure" that specifically provides how a structure occupied by or devoted to that certain land use will be, or will remain, a Legal Procedurally Conforming Structure.~~

Impact of Modifications

By revising the definitions of Legal Procedurally Conforming Use and Legal Procedurally Conforming Structure in the Nonconforming and Procedurally Conforming Amendments as set forth above, this Ordinance does not include the flexibility given to the City Council to determine, via future ordinances, that certain uses or structures are "legal procedurally conforming."

Exhibits

Exhibit 1 – Presentation

Exhibit 2 – Nonconforming and Procedurally Conforming Ordinance (Version 2)