

## MESA ZONING ORDINANCE

### CHAPTER 77 - APPEALS<sup>[6]</sup>

#### 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 acting in an administrative or Hearing Officer role, 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 notice of appeal. 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; 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, 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. 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, or Design Review Board, shall be:

1. Provided in the same manner required in Chapter 67, for the appropriate hearing body, 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. Appeals to the Board shall be made in conformance with A.R.S. § 9-462.06.
2. **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.
3. **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.