

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AMENDING TITLE 11, MESA ZONING ORDINANCE, CHAPTERS 66, 67, 69, 71, 74 AND 77 OF THE MESA ZONING ORDINANCE;" BY ADOPTING BY REFERENCE THE PUBLIC RECORD KNOWN AS "APPENDIX: AMENDMENTS TO CHAPTERS 66, 67, 69, 71, 74 AND 77 OF THE MESA ZONING ORDINANCE"; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, it has become apparent, and in the best interest of the City, to update Title 11, the Mesa Zoning Ordinance; and

WHEREAS, due to the number of updates, the City decided it is in the best interest of the public to bring forward the updates in phases; and

WHEREAS, the Mesa City Council adopted the first phase of updates on March 19, 2018; and

WHEREAS, this second phase of updates encompasses amendments to Chapters 66, 67, 69, 71 and 77 of the Mesa Zoning Ordinance; and

WHEREAS, such updates include minor revisions, corrections and updates, including the department name and deletion of certain redundancies, all to aid in the usability and understanding of the Zoning Ordinance; and

WHEREAS, the updates also include more substantive clarifications and modifications, which may be generally classified into five different categories: 1) authority and duties of Zoning Administrator, Planning Hearing Officer, Design Review Board, and Board of Adjustment; 2) application requirements and process; 3) public notice requirements; 4) expirations and extensions of permits, approvals, and variances; and 5) the appeals process; and

WHEREAS, the public document has been made available for review and inspection with the City Clerk.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AS FOLLOWS:

Section 1: ADOPTION OF "APPENDIX: AMENDMENTS TO CHAPTERS 66, 67, 69, 71, AND 77 TO THE MESA ZONING ORDINANCE"

The additions and deletions set forth in that certain document known as "Appendix: Amendments to Chapters 66, 67, 69, 71, and 77 to the Mesa Zoning Ordinance," three copies of which are on file with the City Clerk, which was made a public record by Resolution No. 11223, of the City of Mesa, Maricopa County, Arizona, is hereby referred to, adopted and incorporated into Chapters 66, 67, 69, 71, and 77 of Title 11, the Zoning Ordinance, of the Mesa City Code.

Section 2: REPEAL OF CONFLICTING ORDINANCES

That all Ordinances or parts of Ordinances, and all sections of the Mesa Zoning Ordinance or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not:

- A. Affect suits pending, or rights and duties that matured or were existing, or penalties that were incurred and proceedings that were begun immediately prior to the effective date of this Ordinance;
- B. Impair, void or otherwise affect any grant or conveyance made, or any right acquired, or a cause of action now existing under such repealed sections.

Section 3: The recitals above are fully incorporated in this Ordinance by reference.

Section 4: The effective date of this Ordinance shall be thirty (30) days following adoption by the Mesa City Council.

Section 5: If any term, provision, section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid, unenforceable, or unconstitutional by the decision of a Court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in effect.

Section 6: PENALTY.

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.

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 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.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 5th day of November, 2018.

APPROVED:

Mayor

ATTEST:

City Clerk

EFFECTIVE DATE: