

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, REPEALING IN ITS ENTIRETY THE EXISTING CHAPTER 5: RESIDENTIAL DISTRICTS, CHAPTER 6: COMMERCIAL AND MIXED USE DISTRICTS, AND CHAPTER 7: EMPLOYMENT DISTRICTS OF TITLE 11 OF THE MESA CITY CODE AND ADOPTING BY REFERENCE THE PUBLIC RECORD KNOWN AS “2019 - CHAPTERS 5, 6 AND 7 OF THE ZONING ORDINANCE”, AND IDENTIFIED FOR CODIFICATION AS CHAPTERS 5 THROUGH 7 OF TITLE 11, THE ZONING ORDINANCE OF THE MESA CITY CODE; 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 Chapters 5, 6, and 7 of Title 11, of the Zoning Ordinance of the Mesa City Code; and

**WHEREAS**, the proposed changes support Quality Development Design Guidelines and continue to promote the City Council’s goals of having definitive standards that specify higher quality for developments within the City of Mesa; and

**WHEREAS**, the Planning and Zoning Commission at their public meeting on October 23, 2019, recommended that the City Council adopt the proposed amendments; 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, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:**

Section 1: REPEAL OF CHAPTERS 5-7 OF THE ZONING ORDINANCE

That the existing Mesa City Code Title 11, Chapter 5: “Residential Districts”, Chapter 6: “Commercial and Mixed Use Districts”, and Chapter 7: “Employment District” are hereby repealed in its entirety; provided that such repeal shall not: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void or affect and grant or conveyance made, or any right acquired, or a cause of action now existing under such repealed portions.

Section 2: REFERENCE AND ADOPTION OF 2019 – CHAPTERS 5, 6 AND 7 OF THE ZONING ORDINANCE

That the certain document known as “2019 – Chapters 5, 6 and 7 of the Zoning Ordinance” which was made a public record by the Mesa City Council on December 2, 2019, (Resolution No. 11434) is hereby adopted as Chapters 5 through 7 of Title 11, the Zoning Ordinance of the Mesa City Code.

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

Section 4: The effective date of this Ordinance shall be February 10, 2020.

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 COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 9th day of December, 2019.

APPROVED:

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Mayor

ATTEST:

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City Clerk

EFFECTIVE DATE: February 10, 2020.