

ORDINANCE NO. 5632

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTERS 4, 5, 6, 8, 31, 32, 58, 64, 86, AND 87 OF TITLE 11, THE ZONING ORDINANCE OF THE MESA CITY CODE PERTAINING TO COMMUNITY RESIDENCES AND OTHER GROUP RESIDENTIAL USES. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO, ADDING COMMUNITY RESIDENCE USE AND REMOVING GROUP HOME FOR THE HANDICAPPED USE AND GROUP HOUSING USE, REPEALING GROUP HOME FOR THE HANDICAPPED DEVELOPMENT STANDARDS AND REPLACING THEM WITH COMMUNITY RESIDENCE DEVELOPMENT STANDARDS, REMOVING DEFINITIONS INCLUDING GROUP HOME FOR THE HANDICAPPED, GROUP HOUSING, AND GROUP RESIDENTIAL, MODIFYING DEFINITIONS INCLUDING SOCIAL SERVICE FACILITY AND DISABILITY, ADDING DEFINITIONS INCLUDING COMMUNITY RESIDENCE, SKILLED NURSING, FAMILY, AND SINGLE HOUSEKEEPING UNIT, AND REPLACING THE TERMINOLOGY IN CHAPTER 32; AND MODIFYING VARIOUS LAND USE CHARTS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, the Fair Housing Act as amended (42 U.S.C. §3601) provides protections for persons with disabilities; and

WHEREAS, the Fair Housing Act affords no coverage to individuals with or without disabilities who present a direct threat to the persons or property of others, provided however, that determining whether someone poses such a direct threat must be made on an individualized basis, and cannot be based on general assumptions or speculation about the nature of a disability; and

WHEREAS, the legislative history of the Fair Housing Amendments Act of 1988 cautions that local zoning regulations are prohibited that result “from false or over-protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose.” H.R. Rep. No. 711, 100th Cong. 2D Session, Reprinted in 1988 U.S.C.C.A.N. 2173, 2192 (1988); and

WHEREAS, the Fair Housing Act does not preempt local zoning laws or preclude the adoption, amendment, or enforcement of zoning regulations by the City as long as the zoning regulations are consistent with state and federal laws, including the Fair Housing Act as amended; and

WHEREAS, the City commissioned a detailed study, *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in Mesa, Arizona*; dated March 2021, (hereinafter, “the Study”) by a planning and law expert on zoning for community residences since 1974 who has written model zoning guidelines for community residences on behalf of the American Planning Association and American Bar Association, provided consulting services on zoning for community residences to dozens of communities, and served as an expert witness for the Department of Housing and Urban Development and United States Department of Justice; and

WHEREAS, the Study, reports upon, among other things: the core nature of Community Residences, the rational foundations for regulating Community Residences based on actual research; an evaluation of

the current zoning treatment of Community Residences in the City; guiding principles for zoning for Community Residences and the least restrictive zoning approach to actually achieve legitimate government interests, a review of the need to protect the vulnerable populations of people with disabilities from unscrupulous operators of Community Residences through licensing, certification, or the Oxford House Charter; a review of the documented abuses — including overdose deaths, prostitution, fraud, and continued use of drugs and alcohol — people in recovery from substance abuse disorder, have suffered at the hands of unscrupulous and largely unlicensed or uncertified operators of community residences in the United States including the State of Arizona; the need to extend to people in recovery the same protections from incompetent and unscrupulous housing providers that certification and state licensing provides to people with other disabilities; a review of the limited carrying capacity of neighborhoods to absorb service-dependent people into their social structure; and

WHEREAS, the City recognizes its regulations for group homes for the handicapped (referred to as Community Residences) need revision to protect the welfare and safety of the residents in these homes and to prevent clustering or concentration; and

WHEREAS, some Community Residences operating in the City fail to provide appropriate living conditions or adequate structure, supervision, support, or family-like environment essential for the residents; and some are operating without a license or industry certification; and

WHEREAS, to protect the individuals residents living in these homes from these bad operators and to ensure these operators provide the quality of care necessary for its residents, this ordinance will require Community Residences (both existing and future) to annually register with the City and to provide evidence of state licensing or certification, Oxford House charter, or industry certification, and if no license or certification is available, a reasonable accommodation process for operators to provide evidence of the quality of care the residents need; and

WHEREAS, a Community Residence that has been denied required state licensing or voluntary certification will not be allowed due to such a Community Residence not providing the protections to its residents that licensing and certification provide; and

WHEREAS, clustering of Community Residences in a neighborhood undermines the ability of their residents to achieve normalization and community integration, which are two of the essential purposes of these forms of housing for people with disabilities; and

WHEREAS, reasonable separation requirements may be enacted to ensure that a proposed Community Residence will not interfere with the community integration of the occupants of any nearby existing Community Residences nor contribute to creating a de facto social service district that thwarts the purpose and successful functioning of the Community Residence; and

WHEREAS, to enforce the rationally based distancing regulations and to ensure accuracy of its data, the City will require existing and future group homes for the disabled to annually register with the City, including any existing homes for the disabled with five residents; and

WHEREAS, in accord with case law, Community Residences that fit within the cap of four unrelated occupants constitute a family under the Zoning Ordinance and must be treated the same as any other family; and

WHEREAS, to implement the guidelines in the Study, these new zoning provisions make the reasonable accommodation the Fair Housing Act requires by allowing Community Residences for five to ten people with disabilities as a permitted use in all residential districts and all other zoning districts where residential uses are allowed, subject to a rationally-based spacing distance from an existing Community Residence, and a licensing or certification requirement for the operator or the home itself; and

WHEREAS, the heightened scrutiny of a conditional use permit is warranted when a proposed Community Residence for people with disabilities fails to meet both the criteria to be allowed as a permitted use; and

WHEREAS, by amending its zoning regulations the City gives prospective operators of Community Residences for people with disabilities clarity and certainty regarding where such homes may locate as permitted or conditional uses; and

WHEREAS, the regulations are the least restrictive means to actually achieving the City's legitimate government interests.

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

Text written in **BOLD ALL CAPS** indicates additional or new language.

~~Strikethrough~~ fonts indicates deletions.

Section 1: **ADOPTION BY REFERENCE**

The additions and deletions set forth in that certain document known as "2021 – Amendments to the Tables in Chapters 4, 5, 6, 8, 32, and 58, Title 11 Zoning Ordinance Pertaining to Community Residences and Group Residential Uses," which was made a public record on July 1, 2021, by Resolution No. 11705, of the City of Mesa, Maricopa County, Arizona, three copies of which are on file with the City Clerk and available to the public, are hereby referred to, adopted and incorporated into the Tables in: 11-4-2: Agriculture District, 11-5-2: Residential Districts, 11-6-2: Commercial Districts, 11-8-3: Downtown Districts, 11-32-3.A: Required Parking Spaces By Use, 11-58-3.A: Composite Use Table, and the Allowed Uses Tables in Section G of 11-58-4: T3 Neighborhood (T3N) Standards, 11-58-5: T4 Neighborhood (T4N) Standards, 11-58-6: T4 Neighborhood Flex (T4NF) Standards, 11-58-7: T4 Main Street (T4MS) Standards, 11-58-8: T5 Neighborhood (T5N) Standards, 11-58-9: T5 Main Street Flex (T5MSF) Standards, 11-58-10: T5 Main Street (T5MS) Standards, 11-58-11: T6 Main Street (T6MS) Standards.

Section 2: That Title 11, Chapter 5, Section 11-5-1(B) is hereby amended as follows:

B. **Specific Purposes of Each District.**

1. *RS Single Residence.* To provide areas for detached single residence housing at densities of up to 7 units per net acre. Designators (-90, -43, -35, -15, -9, -7 and -6) are used to denote the minimum lot size in thousands of square feet. This district also provides for ~~residential care facilities~~ **COMMUNITY RESIDENCES, ASSISTED LIVING HOMES**, day care group homes, park and recreation facilities, and civic and institutional uses such as churches and places for religious

assemblies that are appropriate in a residential environment. Non-residential uses of a strictly limited scale under the specific conditions listed may also be allowed.

2. *RSL Small Lot Single Residence.* To provide areas for small-lot single dwelling development at densities of up to 17 units per net acre, subject to development standards to ensure land use compatibility. Designators (-4.5, -4.0, -3.0 and -2.5) are used to denote the minimum average lot size in thousands of square feet. This district also allows for ~~limited residential care facilities~~ **COMMUNITY RESIDENCES, ASSISTED LIVING HOMES**, family day care, park and recreation facilities, and civic and institutional uses.
3. *RM Multiple Residence.* To provide areas for a variety of housing types at densities of up to 43 units per gross acre. Designators (-2, -3, -4, and -5) are used to denote variations in the maximum allowed development intensity (See Table 11-5-5). Appropriate types of dwelling units include small-lot single residences, townhouses, cluster housing, and multiple residence housing. This district also provides for ~~residential care facilities~~ **COMMUNITY RESIDENCES, ASSISTED LIVING FACILITIES**, residential home-based day care, **BOARDING HOUSE** ~~group residential homes~~ manufactured home parks and subdivisions, recreational vehicle parks and subdivisions, park and recreation facilities, limited and small-scale residential support (including limited scale mixed-use commercial) activities, and civic and institutional uses such as churches and places for religious assembly that are appropriate in a residential environment.

Section 3: That Title 11, Chapter 31 Section 11-31-28(A)(2) is hereby amended as follows:

2. Separation from Similar Uses. The assisted living center or nursing and convalescent homes must be separated a minimum distance of 1,200 feet from the closest assisted living center, nursing and convalescent home, or **COMMUNITY RESIDENCE** ~~group home for the handicapped~~ as measured in accordance with Section 11-2-3(C), unless separated by a significant intervening natural or manmade feature, such as a municipal open space of at least ten (10) acres in size (e.g. park, golf course, etc.), a railroad, or a highway, that is approved by the zoning administrator.

Section 4: That Title 11, Chapter 64, 11-64-4(B)(C)(F)(G)(M) and (S) Definitions are hereby amended by removing and adding the following definitions which are arranged in alphabetical order and includes subcategories or related definitions classifications which are also arranged in alphabetical order. All the other definitions in Chapter 64 shall remain the same.

B. Definitions

Boarding House. A **RESIDENTIAL** dwelling **FOR FIVE (5) OR MORE UNRELATED INDIVIDUALS** in which the owner(s) ~~or primary occupant(s)~~ provides 3, 4, or 5 bedrooms as lodging for compensation, ~~and in which food may be served to the occupants thereof, and which shall have a permit issued by the Maricopa County Health Department as a boarding home. The occupancy of 1 or 2 bedrooms for compensation shall not be considered a boarding house, provided not more than 2 guests shall occupy each bedroom.~~ **A BOARDING HOUSE IS OCCUPIED BY INDIVIDUALS WHERE RENT IS CHARGED SEPARATELY FOR THE INDIVIDUAL ROOMS OR PARTITIONED AREAS AND MAY OR MAY NOT BE EQUIPPED WITH KITCHEN FACILITIES AND CONGREGATE DINING FACILITIES. THE TERM INCLUDES SIMILAR CONGREGATE LIVING ARRANGEMENTS BUT DOES NOT INCLUDE COMMUNITY RESIDENCES, HOTELS, MOTELS, RESIDENTIAL INNS OR BED AND BREAKFASTS.**

C. Definitions

COMMUNITY RESIDENCE. A COMMUNITY RESIDENCE IS A RESIDENTIAL LIVING ARRANGEMENT FOR FIVE TO TEN INDIVIDUALS WITH DISABILITIES, EXCLUDING STAFF, LIVING AS A FAMILY IN A SINGLE DWELLING UNIT WHO ARE IN NEED OF THE MUTUAL SUPPORT FURNISHED BY OTHER RESIDENTS OF THE COMMUNITY RESIDENCE AS WELL AS THE SUPPORT SERVICES, IF ANY, PROVIDED BY THE STAFF OF THE COMMUNITY RESIDENCE. RESIDENTS MAY BE SELF-GOVERNING OR SUPERVISED BY A SPONSORING ENTITY OR ITS STAFF, WHICH PROVIDES HABILITATIVE OR REHABILITATIVE SERVICES RELATED TO THE RESIDENTS' DISABILITIES. A COMMUNITY RESIDENCE SEEKS TO EMULATE A BIOLOGICAL FAMILY TO FOSTER NORMALIZATION OF ITS RESIDENTS AND INTEGRATE THEM INTO THE SURROUNDING COMMUNITY. ITS PRIMARY PURPOSE IS TO PROVIDE SHELTER IN A FAMILY-LIKE ENVIRONMENT. MEDICAL TREATMENT IS INCIDENTAL AS IN ANY HOME. SUPPORTIVE INTERRELATIONSHIPS BETWEEN RESIDENTS ARE AN ESSENTIAL COMPONENT. COMMUNITY RESIDENCE INCLUDES SOBER LIVING HOMES AND ASSISTED LIVING HOMES BUT DOES NOT INCLUDE ANY OTHER GROUP LIVING ARRANGEMENT FOR UNRELATED INDIVIDUALS WHO ARE NOT DISABLED NOR ANY SHELTER, ROOMING HOUSE, BOARDING HOUSE OR TRANSIENT OCCUPANCY.

FAMILY COMMUNITY RESIDENCE. A COMMUNITY RESIDENCE IS A RELATIVELY PERMANENT LIVING ARRANGEMENT WITH NO LIMIT ON THE LENGTH OF TENANCY AS DETERMINED IN PRACTICE OR BY THE RULES, CHARTER, OR OTHER GOVERNING DOCUMENTS OF THE COMMUNITY RESIDENCE. THE MINIMUM LENGTH OF TENANCY IS TYPICALLY A YEAR OR LONGER.

TRANSITIONAL COMMUNITY RESIDENCE. A COMMUNITY RESIDENCE THAT PROVIDES A RELATIVELY TEMPORARY LIVING ARRANGEMENT WITH A LIMIT ON LENGTH OF TENANCY LESS THAN A YEAR THAT IS MEASURED IN WEEKS OR MONTHS, AS DETERMINED EITHER IN PRACTICE OR BY THE RULES, CHARTER, OR OTHER GOVERNING DOCUMENT OF THE COMMUNITY RESIDENCE.

F. Definitions

FAMILY. AN INDIVIDUAL OR TWO (2) OR MORE INDIVIDUALS RELATED BY BLOOD, MARRIAGE OR ADOPTION, OR A GROUP OF NO MORE THAN FOUR (4) UNRELATED INDIVIDUALS, LIVING TOGETHER AS A SINGLE HOUSEKEEPING UNIT. A FAMILY INCLUDES A COUPLE IN A DOMESTIC RELATIONSHIP AND BIOLOGICAL, ADOPTED, AND FOSTER CHILDREN OF EITHER PARTNER. THE TERM FAMILY INCLUDES UNRELATED PERSONS WITH DEVELOPMENTAL DISABILITIES (AS DEFINED IN A.R.S. § 36-581) LIVING TOGETHER IN COMPLIANCE WITH A.R.S. § 36-582.

G. Definitions

~~Group Home for the Handicapped (GHH). A dwelling shared as a primary residence by handicapped persons living together as a single housekeeping unit, in which staff persons may provide on-site care, training, or support. Group Homes for the Handicapped shall not include nursing homes, boarding houses, personal care homes, recovery homes, other kinds of group homes, foster homes or homes for the developmentally disabled. GHH or service provided therein shall be licensed and certified, as may be required by the applicable federal, state, or county agency.~~

~~Group Residential. A residential facility of 6 or more unrelated persons providing living facilities, sleeping rooms, and meals. The term shall include dormitories and similar congregate living arrangements but shall not include hospitals, nursing homes, hotels and motels, bed and breakfast establishments, group homes for the handicapped, social service facilities as specified in this Zoning Ordinance, correctional transitional housing facilities as specified in this Zoning Ordinance, prisons or jails, or a dwelling occupied by 1 or more individuals living together without supervision as a single housekeeping unit.~~

M. Definitions.

Medical Services:

~~Extended Care Facility. Establishment that provide 24 hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State of Arizona, including but not limited to, rest homes and convalescent hospitals, but not Residential Care, Hospitals, or Clinics.~~

S. Definitions

SKILLED NURSING FACILITY. A HEALTH CARE INSTITUTION OTHER THAN A HOSPITAL, ASSISTED LIVING FACILITY OR NURSING AND CONVALESCENT HOME WHICH PROVIDES RESIDENT BEDS OR DWELLING UNITS, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICE, DIRECTED CARE SERVICES OR HEALTH-RELATED SERVICES FOR PERSONS ON A TEMPORARY BASIS. SKILLED NURSING FACILITIES DO NOT EMULATE A FAMILY AND NORMALIZATION AND COMMUNITY INTEGRATION ARE NOT AMONG THEIR CORE GOALS. THIS CLASSIFICATION DOES NOT INCLUDE COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, ASSISTED LIVING CENTERS, OR SOCIAL SERVICE FACILITIES.

~~Social Service Facilities. Any nonecommercial facility, such as homeless shelters, charity dining facilities, plasma centers, rescue missions, day labor hiring centers, substance abuse detoxification and treatment centers, halfway houses and similar facilities and emergency shelters, that may also provide meals, showers, and/or laundry facilities to individuals with limited ability for self care, or those persons in need of counseling for employment, or those persons with personal or behavioral disabilities. The term shall include the principal assistance or service facility and all related establishments intended for use by patrons of such facilities. Specialized programs and services related to the needs of the residents may also be provided. This classification excludes transitional housing facilities that provide living accommodations for a longer term (See Group Housing). The classification also does not include homes for the developmentally disabled, child crisis centers and domestic violence centers.~~

SOCIAL SERVICE FACILITY. A FACILITY WHERE THE PRIMARY PURPOSE IS TO PROVIDE EITHER: 1) ON-SITE FOOD, CLOTHING, SHELTER, EMPLOYMENT OR OTHER RELATED SERVICES, SUCH AS COUNSELING FOR EMPLOYMENT, OR OTHER SERVICES FOR INDIVIDUALS WITH LIMITED ABILITY FOR SELF CARE; OR 2) ALCOHOL, DRUG, OR SUBSTANCE ABUSE OR OTHER TREATMENT OR MEDICAL PROGRAMS OR SERVICES, SUCH AS DETOXIFICATION, WHERE SHELTER IS INCIDENTAL AND OF LIMITED DURATION. THE TERM INCLUDES HOMELESS SHELTERS, CHARITY DINING FACILITIES, RESCUE MISSIONS, DAY LABOR HIRING CENTERS, SUBSTANCE ABUSE AND DETOXIFICATION CENTER, AND SIMILAR FACILITIES, BUT DOES NOT INCLUDE CARE FACILITIES SUCH AS COMMUNITY RESIDENCES, GROUP FOSTER HOMES, CORRECTIONAL TRANSITIONAL HOUSING FACILITIES, NURSING AND CONVALESCENT HOMES, OR ASSISTED LIVING FACILITIES.

Section 5: That Title 11, Chapter 86, 11-86-2 Use Types is hereby amended by removing and adding the following definitions which are arranged in alphabetical order and includes subcategories or related definitions classifications which are also arranged in alphabetical order. All the other definitions in Chapter 86 shall remain the same.

Assisted Living Home. An assisted living facility that provides resident rooms ~~to 10 or fewer~~ **FOR FIVE (5) TO TEN (10)** residents.

Boarding House. A **RESIDENTIAL** dwelling **FOR FIVE (5) OR MORE UNRELATED INDIVIDUALS** in which the owner(s) ~~or primary occupant(s)~~ provides 3, 4, or 5 bedrooms as lodging for compensation, ~~and in which food may be served to the occupants thereof. The occupancy of 1 or 2 bedrooms for compensation shall not be considered a boarding house, provided not more than 2 guests shall occupy each bedroom.~~ **A BOARDING HOUSE IS OCCUPIED BY INDIVIDUALS WHERE RENT IS CHARGED SEPARATELY FOR THE INDIVIDUAL ROOMS OR PARTITIONED AREAS AND MAY OR MAY NOT BE EQUIPPED WITH KITCHEN FACILITIES AND CONGREGATE DINING FACILITIES.** The term shall include ~~group homes, dormitories and similar congregate living arrangements but shall not include hospitals, nursing homes, hotels, group homes for the handicapped, social service facilities as specified in this Zoning Ordinance, hotels and motels, bed and breakfast establishments or a dwelling occupied by 1 or more individuals living together without supervision as a single housekeeping unit.~~ **SIMILAR CONGREGATE LIVING ARRANGEMENTS BUT DOES NOT INCLUDE COMMUNITY RESIDENCES, HOTELS, MOTELS, RESIDENTIAL INNS OR BED AND BREAKFASTS.**

COMMUNITY RESIDENCE. A COMMUNITY RESIDENCE IS A RESIDENTIAL LIVING ARRANGEMENT FOR FIVE TO TEN INDIVIDUALS WITH DISABILITIES, EXCLUDING STAFF, LIVING AS A FAMILY IN A SINGLE DWELLING UNIT WHO ARE IN NEED OF THE MUTUAL SUPPORT FURNISHED BY OTHER RESIDENTS OF THE COMMUNITY RESIDENCE AS WELL AS THE SUPPORT SERVICES, IF ANY, PROVIDED BY THE STAFF OF THE COMMUNITY RESIDENCE. RESIDENTS MAY BE SELF-GOVERNING OR SUPERVISED BY A SPONSORING ENTITY OR ITS STAFF, WHICH PROVIDES HABILITATIVE OR REHABILITATIVE SERVICES RELATED TO THE RESIDENTS' DISABILITIES. A COMMUNITY RESIDENCE SEEKS TO EMULATE A BIOLOGICAL FAMILY TO FOSTER NORMALIZATION OF ITS RESIDENTS AND INTEGRATE THEM INTO THE SURROUNDING COMMUNITY. ITS PRIMARY PURPOSE IS TO PROVIDE SHELTER IN A FAMILY-LIKE ENVIRONMENT. MEDICAL TREATMENT IS INCIDENTAL AS IN ANY HOME. SUPPORTIVE INTERRELATIONSHIPS BETWEEN RESIDENTS ARE AN ESSENTIAL COMPONENT. COMMUNITY RESIDENCE INCLUDES SOBER LIVING HOMES AND ASSISTED LIVING HOMES BUT DOES NOT INCLUDE ANY OTHER GROUP LIVING ARRANGEMENT FOR UNRELATED INDIVIDUALS WHO ARE NOT DISABLED NOR ANY SHELTER, ROOMING HOUSE, BOARDING HOUSE OR TRANSIENT OCCUPANCY.

FAMILY COMMUNITY RESIDENCE. A COMMUNITY RESIDENCE IS A RELATIVELY PERMANENT LIVING ARRANGEMENT WITH NO LIMIT ON THE LENGTH OF TENANCY AS DETERMINED IN PRACTICE OR BY THE RULES, CHARTER, OR OTHER GOVERNING DOCUMENTS OF THE COMMUNITY RESIDENCE. THE MINIMUM LENGTH OF TENANCY IS TYPICALLY A YEAR OR LONGER.

TRANSITIONAL COMMUNITY RESIDENCE. A COMMUNITY RESIDENCE THAT PROVIDES A RELATIVELY TEMPORARY LIVING ARRANGEMENT WITH A LIMIT ON LENGTH OF TENANCY LESS THAN A YEAR THAT IS MEASURED IN WEEKS OR

MONTHS, AS DETERMINED EITHER IN PRACTICE OR BY THE RULES, CHARTER, OR OTHER GOVERNING DOCUMENT OF THE COMMUNITY RESIDENCE.

COMPREHENSIVE YOUTH RESIDENCE. A DWELLING OR DWELLINGS MAINTAINED BY AN ORGANIZATION FOR THE PURPOSE OF CARING FOR TEN (10) OR MORE MINOR CHILDREN, SEPARATED FROM THEIR PARENTS OR LEGAL GUARDIANS, THROUGH THE USE OF ON-SITE RESIDENT STAFF. SUCH STAFF ARE NOT RELATED TO THE MINOR CHILDREN BY BLOOD, MARRIAGE OR ADOPTION, AND THE CHILDREN ARE NOT CONSIDERED LEGAL WARDS OF THE STAFF. THE FACILITY SHALL BE LICENSED BY THE STATE OF ARIZONA.

Correctional Transitional Housing Facility (CTHF). A supervised residential center where individuals who are completing a sentence, reside for a defined period of time for counseling, job placement assistance, and similar services that assist in transitioning from institutional to community living. A CTHF is not exempt from the tax imposed under Mesa City Code §5-10-445. The term shall include any boarding house, dormitory, or apartment building or other dwelling when developed, promoted, advertised, or operated as a CTHF, but shall not include ~~group homes for the handicapped~~, **COMMUNITY RESIDENCES**, or any facility providing counseling or other services to individuals who do not reside on the premises. The maximum number of residents is limited to 30.

GROUP FOSTER HOME. A HOME LICENSED BY THE STATE OF ARIZONA AS A GROUP FOSTER HOME THAT IS MAINTAINED BY AN INDIVIDUAL OR INDIVIDUALS HAVING THE CARE OR CONTROL OF FIVE (5) TO TEN (10) MINOR CHILDREN WHO ARE NOT: (1) RELATED TO SUCH INDIVIDUALS OR TO EACH OTHER BY BLOOD, MARRIAGE, OR ADOPTION; OR (2) LEGAL WARDS OF SUCH INDIVIDUALS.

~~Group Home for the Handicapped (GHH). A dwelling shared as a primary residence by handicapped persons living together as a single housekeeping unit, in which staff persons may provide on-site care, training, or support. Group Homes for the Handicapped shall not include nursing homes, boarding houses, personal care homes, recovery homes, other kinds of group homes, foster homes or homes for the developmentally disabled. GHH or service provided therein shall be licensed and certified, as may be required by the applicable federal, state, or county agency.~~

~~Group Housing. A residential facility of 6 or more unrelated persons providing living facilities, sleeping rooms, and meals and which shall have a permit issued by the Maricopa County Health Department as a boarding home.~~

~~Group Residential. A residential facility of 6 or more unrelated persons providing living facilities, sleeping rooms, and meals, and which shall have a permit issued by the Maricopa County Health Department as a boarding home.~~

Multiple Residence. Two or more primary dwelling units on a single lot. Types of multiple residence dwellings include duplexes, garden apartments, and multi-story apartment buildings. Each dwelling unit is designed for **OCCUPANCY BY ONE FAMILY**.

~~Residential Care Institution: A health care institution other than a hospital or a nursing care institution which provides resident beds or dwelling units, supervisory care services, personal care service, directed care services or health related services for persons who do not need inpatient nursing care.~~

Single Residence. A dwelling unit designed for occupancy by one ~~household~~ **FAMILY**, and located on a separate lot from any other unit (except accessory dwelling units, where permitted). This classification

includes individual manufactured housing units and individual recreational vehicles when used as residences in RV parks and subdivisions.

SKILLED NURSING FACILITY. A HEALTH CARE INSTITUTION OTHER THAN A HOSPITAL, ASSISTED LIVING FACILITY OR NURSING AND CONVALESCENT HOME WHICH PROVIDES RESIDENT BEDS OR DWELLING UNITS, SUPERVISORY CARE SERVICES, PERSONAL CARE SERVICE, DIRECTED CARE SERVICES OR HEALTH-RELATED SERVICES FOR PERSONS ON A TEMPORARY BASIS. SKILLED NURSING FACILITIES DO NOT EMULATE A FAMILY AND NORMALIZATION AND COMMUNITY INTEGRATION ARE NOT AMONG THEIR CORE GOALS. THIS CLASSIFICATION DOES NOT INCLUDE COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, ASSISTED LIVING CENTERS, OR SOCIAL SERVICE FACILITIES.

~~Social Service Facilities. Any nonecommercial facility, such as homeless shelters, charity dining facilities, plasma centers, rescue missions, day labor hiring centers, substance abuse detoxification and treatment centers, halfway houses and similar facilities and emergency shelters, that may also provide meals, showers, and/or laundry facilities to individuals with limited ability for self care, or those persons in need of counseling for employment, or those persons with personal or behavioral disabilities. The term shall include the principal assistance or service facility and all related establishments intended for use by patrons of such facilities. Specialized programs and services related to the needs of the residents may also be provided. This classification excludes transitional housing facilities that provide living accommodations for a longer term (See Group Housing). The classification also does not include homes for the developmentally disabled, child crisis centers and domestic violence centers.~~

SOCIAL SERVICE FACILITY. A FACILITY WHERE THE PRIMARY PURPOSE IS TO PROVIDE EITHER: 1) ON-SITE FOOD, CLOTHING, SHELTER, EMPLOYMENT OR OTHER RELATED SERVICES, SUCH AS COUNSELING FOR EMPLOYMENT, OR OTHER SERVICES FOR INDIVIDUALS WITH LIMITED ABILITY FOR SELF CARE; OR 2) ALCOHOL, DRUG, OR SUBSTANCE ABUSE OR OTHER TREATMENT OR MEDICAL PROGRAMS OR SERVICES, SUCH AS DETOXIFICATION, WHERE SHELTER IS INCIDENTAL AND OF LIMITED DURATION. THE TERM INCLUDES HOMELESS SHELTERS, CHARITY DINING FACILITIES, RESCUE MISSIONS, DAY LABOR HIRING CENTERS, SUBSTANCE ABUSE AND DETOXIFICATION CENTER, AND SIMILAR FACILITIES, BUT DOES NOT INCLUDE CARE FACILITIES SUCH AS COMMUNITY RESIDENCE, GROUP FOSTER HOME, CORRECTIONAL TRANSITIONAL HOUSING FACILITIES, NURSING AND CONVALESCENT HOMES, OR ASSISTED LIVING FACILITIES.

Section 6: That Title 11, Chapter 87 Definitions, is hereby amended is hereby amended by removing and adding the following definitions which are arranged in alphabetical order and includes subcategories or related definitions classifications which are also arranged in alphabetical order. All the other definitions in Chapter 87 shall remain the same.

~~Disability: A condition which renders an individual unable to engage in normal activities by reason of a medically determinable physical or mental impairment which can be expected to last for a continuous period for not less than 12 months.~~

DISABILITY. (1) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL'S MAJOR LIFE ACTIVITIES OR IMPAIRS AN INDIVIDUAL'S ABILITY TO LIVE INDEPENDENTLY; (2) HAVING A RECORD OF SUCH AN IMPAIRMENT; OR (3) BEING REGARDED AS HAVING SUCH AN IMPAIRMENT. A PERSON WITH A DISABILITY DOES NOT INCLUDE AN INDIVIDUAL WHO IS CURRENTLY USING

ALCOHOL OR ILLEGAL DRUGS (AS DEFINED IN SECTION 102 OF THE CONTROLLED SUBSTANCES ACT (21 UNITED STATES CODE 802)), OR USING LEGAL DRUGS TO WHICH THEY ARE ADDICTED NOR INDIVIDUALS WHO CONSTITUTE A DIRECT THREAT TO THE HEALTH AND SAFETY OF OTHERS. DISABILITY AND DIRECT THREAT WILL BE INTERPRETED CONSISTENT WITH THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE 12101, ET SEQ.), AS AMENDED, AND THE FEDERAL FAIR HOUSING ACT (42 UNITED STATES CODE 3601 – 3619).

FAMILY. AN INDIVIDUAL OR TWO (2) OR MORE INDIVIDUALS RELATED BY BLOOD, MARRIAGE OR ADOPTION, OR A GROUP OF NO MORE THAN FOUR (4) UNRELATED INDIVIDUALS, LIVING TOGETHER AS A SINGLE HOUSEKEEPING UNIT. A FAMILY INCLUDES A COUPLE IN A DOMESTIC RELATIONSHIP AND BIOLOGICAL, ADOPTED, AND FOSTER CHILDREN OF EITHER PARTNER. THE TERM FAMILY INCLUDES UNRELATED PERSONS WITH DEVELOPMENTAL DISABILITIES (AS DEFINED IN A.R.S. § 36-581) LIVING TOGETHER IN COMPLIANCE WITH A.R.S. § 36-582.

~~Foster Home, Group: A foster home suitable for the placement of more than 6 but not more than 10 minor children which is licensed by the Arizona Department of Economic Security.~~

~~Handicapped Person: An individual who: one (1) has a physical or mental impairment which substantially limits 1 or more of such person's major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 United States Code 802]).~~

SINGLE HOUSEKEEPING UNIT. A PERSON OR GROUP OF PERSONS JOINTLY OCCUPYING A SINGLE DWELLING UNIT THAT: (1) HAS ACCESS TO AND THE JOINT USE OF ALL COMMON AREAS SUCH AS THE KITCHEN AND EATING AREAS OF THE DWELLING UNIT; (2) SHARES HOUSEHOLD ACTIVITIES AND RESPONSIBILITIES, SUCH AS MEALS, CHORES, OR EXPENSES; AND (3) HAS NO LIMITS ON LENGTH OF TENANCY, EXCEPT FOR THOSE IMPOSED BY A LEASE OR RENTAL AGREEMENT.

Section 7: That Title 11, Chapter 31, Section 14 of the of the Mesa City Code, titled "Group Homes For The Handicapped," is hereby repealed in its entirety and replaced with a new Mesa City Code Title 11 Chapter 31, Section 14 titled "Community Residences" as follows:

11-31-14: COMMUNITY RESIDENCES

A COMMUNITY RESIDENCE (FAMILY AND TRANSITIONAL) SHALL BE LOCATED, DEVELOPED AND OPERATED IN COMPLIANCE WITH THE LAND USE REGULATIONS IN ARTICLE 2 AND THE FOLLOWING STANDARDS:

A. GENERAL REQUIREMENTS.

- 1. SPACING REQUIREMENTS. A MINIMUM DISTANCE OF 1,200 FEET FROM THE CLOSEST EXISTING COMMUNITY RESIDENCE, ASSISTED LIVING HOME, OR ASSISTED LIVING CENTER, AS MEASURED UNDER SECTION 11-2-3(C), UNLESS SEPARATED BY A SIGNIFICANT INTERVENING NATURAL OR MANMADE FEATURE SUCH AS, BUT NOT LIMITED TO, A CANAL, MUNICIPAL OPEN SPACE OF AT LEAST TEN (10) ACRES (E.G., PARK, GOLF COURSE, ETC.), A RAILROAD, OR A HIGHWAY, THAT IS APPROVED BY THE ZONING ADMINISTRATOR.**

2. **OCCUPANCY. FIVE (5) UP TO A MAXIMUM OF TEN (10) INDIVIDUALS (NOT INCLUDING STAFF).**
3. **LICENSURE AND CERTIFICATION. A COMMUNITY RESIDENCE MUST OBTAIN ONE (1) OR MORE OF THE FOLLOWING:**
 - A. **LICENSE OR CERTIFICATION FROM THE STATE OF ARIZONA REQUIRED TO OPERATE THE PROPOSED COMMUNITY RESIDENCE; OR**
 - B. **CERTIFICATION BY THE ARIZONA RECOVERY HOUSING ASSOCIATION IF NOT REQUIRED TO BE LICENSED BY THE STATE OF ARIZONA; OR**
 - C. **A "PERMANENT" OXFORD HOUSE CHARTER.**
- B. **COMMUNITY RESIDENCES REQUIRING A CONDITIONAL USE PERMIT. IN CERTAIN ZONING DISTRICTS COMMUNITY RESIDENCES ARE NOT ALLOWED BY RIGHT BUT REQUIRE THE APPROVAL OF A CONDITIONAL USE PERMIT. A CONDITIONAL USE PERMIT SHALL BE GRANTED ONLY IF THE GOVERNING BODY FINDS THAT THE APPLICANT HAS DEMONSTRATED THAT ALL OF THE FOLLOWING CRITERIA ARE MET:**
 1. **THE PROPOSED USE WILL BE COMPATIBLE WITH THE RESIDENTIAL USES ALLOWED AS OF RIGHT IN THE ZONING DISTRICT;**
 2. **THE PROPOSED USE IN COMBINATION WITH ANY EXISTING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, AND ASSISTED LIVING CENTERS WILL NOT RESULT IN A CLUSTERING OF SUCH USES OR ALTER THE RESIDENTIAL CHARACTER OF THE SURROUNDING NEIGHBORHOOD BY CREATING OR INTENSIFYING AN INSTITUTIONAL ATMOSPHERE; AND**
 3. **THE PROPOSED USE WILL NOT INTERFERE WITH NORMALIZATION AND COMMUNITY INTEGRATION OF THE RESIDENTS OF ANY EXISTING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS, AND THAT THE PRESENCE OF OTHER EXISTING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS WILL NOT INTERFERE WITH NORMALIZATION AND COMMUNITY INTEGRATION OF THE RESIDENTS OF THE PROPOSED USE;**
 4. **THE APPLICANT HAS SUBMITTED A "GOOD NEIGHBOR POLICY" IN NARRATIVE FORM THAT INCLUDES:**
 - A. **A DESCRIPTION OF ACCEPTABLE MEASURES TO ENSURE ONGOING COMPATIBILITY WITH ADJACENT USES;**
 - B. **THE NAME AND TELEPHONE NUMBER OF THE MANAGER OR PERSON RESPONSIBLE FOR THE OPERATION OF THE FACILITY;**
 - C. **COMPLAINT RESPONSE PROCEDURES INCLUDING INVESTIGATION, REMEDIAL ACTION, AND FOLLOW-UP PROCEDURES; AND**
 - D. **THE PROPOSED USE COMPLIES WITH ALL OTHER DEVELOPMENT STANDARDS IN THIS CHAPTER.**
- C. **REGISTRATION, RENEWAL, AND REVOCATION. A COMMUNITY RESIDENCE MUST REGISTER WITH THE CITY AND RENEW ITS REGISTRATION AS SET FORTH BELOW:**

- 1. REGISTRATION PROCESS FOR COMMUNITY RESIDENCES THAT DO NOT REQUIRE A CONDITIONAL USE PERMIT. AN APPLICANT FOR A COMMUNITY RESIDENCE THAT DOES NOT REQUIRE A CONDITIONAL USE PERMIT TO OPERATE AND IS NOT REQUESTING A REASONABLE ACCOMMODATION UNDER SECTION 11-31-14(D), MUST REGISTER WITH THE CITY BY SUBMITTING THE CITY'S REGISTRATION APPLICATION ACCORDING TO CHAPTER 67, COMMON PROCEDURES. IF THE USE COMPLIES WITH ALL CITY REQUIREMENTS, THE APPLICANT WILL RECEIVE PROVISIONAL REGISTRATION APPROVAL FROM THE PLANNING DIVISION. TO OBTAIN FINAL REGISTRATION, THE APPLICANT MUST PROVIDE EVIDENCE OF THE REQUIRED LICENSE OR CERTIFICATION WITHIN 120 DAYS FROM THE DATE THE PROVISIONAL REGISTRATION WAS APPROVED.**
- 2. REGISTRATION PROCESS FOR A COMMUNITY RESIDENCE THAT REQUIRES A CONDITIONAL USE PERMIT OR IS REQUESTING A REASONABLE ACCOMMODATION. A COMMUNITY RESIDENCE THAT REQUIRES A CONDITIONAL USE PERMIT TO OPERATE OR THAT REQUESTS A REASONABLE ACCOMMODATION TO THE STANDARDS IN SECTION 11-31-14(A), MUST REGISTER WITH THE CITY BY SUBMITTING THE CITY'S APPLICATION FOR A CONDITIONAL USE PERMIT ACCORDING TO CHAPTER 67, COMMON PROCEDURES, AND BY PROVIDING EVIDENCE OF COMPLIANCE WITH ALL CITY REQUIREMENTS. THE REQUEST WILL BE REVIEWED BY THE APPLICABLE GOVERNING BODY. APPROVAL OF THE CONDITIONAL USE PERMIT GRANTS THE APPLICANT PROVISIONAL REGISTRATION. TO OBTAIN FINAL REGISTRATION, THE APPLICANT MUST PROVIDE EVIDENCE OF THE REQUIRED LICENSE OR CERTIFICATION WITHIN 120 DAYS FROM THE DATE THE PROVISIONAL REGISTRATION WAS APPROVED; EXCEPT REGISTRATION FOR A COMMUNITY RESIDENCE THAT IS GRANTED A REASONABLE ACCOMMODATION TO THE LICENSE AND CERTIFICATION REQUIREMENT IS CONSIDERED FINAL AND NO OTHER ACTION IS REQUIRED.**
- 3. REGISTRATION RENEWAL. REGISTRATION OF A COMMUNITY RESIDENCE IS VALID FOR ONE (1) YEAR AND MUST BE RENEWED ANNUALLY ON OR BEFORE THE EXPIRATION DATE OF THE REGISTRATION. TO RENEW A REGISTRATION, THE OPERATOR OF A COMMUNITY RESIDENCE SHALL SUBMIT TO CITY AN APPLICATION FOR RENEWAL AND EVIDENCE OF A CURRENT STATE LICENSE, CERTIFICATION OR OXFORD HOUSE CHARTER.**
- 4. REVOCATION. THE REGISTRATION AND CONDITIONAL USE PERMIT OBTAINED BY A COMMUNITY RESIDENCE MAY BE REVOKED AS SET FORTH IN THIS SECTION:**
 - A. FACILITIES WITHOUT A CONDITIONAL USE PERMIT. IN THE EVENT THE LICENSE, CERTIFICATION OR OXFORD HOUSE CHARTER FOR A COMMUNITY RESIDENCE IS DENIED OR REVOKED, THE CITY OF MESA REGISTRATION WILL AUTOMATICALLY TERMINATE AFTER 15 CALENDAR DAYS OF THE DATE OF THE CITY'S WRITTEN NOTIFICATION TO THE APPLICANT; AND THE COMMUNITY RESIDENCE MUST CEASE OPERATION 45 CALENDAR DAYS FROM THE DATE OF THE CITY'S WRITTEN NOTIFICATION.**
 - B. FACILITIES WITH A CONDITIONAL USE PERMIT. A COMMUNITY RESIDENCE THAT REQUIRES A CONDITIONAL USE PERMIT TO**

OPERATE OR THAT HAS APPLIED FOR OR RECEIVED A SPECIAL USE PERMIT FOR A REASONABLE ACCOMMODATION AND WHOSE LICENSE, CERTIFICATION, OR OXFORD HOUSE CHARTER REQUIRED IN SECTION 11-31-14(A)(3) IS DENIED OR REVOKED, THE CITY OF MESA REGISTRATION SHALL AUTOMATICALLY TERMINATE, AND THE CONDITIONAL USE PERMIT IS SUBJECT TO THE REVOCATION PROCESS IN CHAPTER 70. IF THE CONDITIONAL USE PERMIT IS REVOKED, THE COMMUNITY RESIDENCE MUST CEASE OPERATION WITHIN 45 CALENDAR DAYS FROM THE DATE THE CONDITIONAL USE PERMIT IS REVOKED.

- D. REASONABLE ACCOMMODATION.** A COMMUNITY RESIDENCE THAT DOES NOT MEET THE SPACING, OCCUPANCY OR LICENSURE REQUIREMENTS MAY REQUEST A REASONABLE ACCOMMODATION THROUGH THE SPECIAL USE PERMIT PROCESS. THE ACCOMMODATION BEING SOUGHT MUST BE REASONABLE AND NECESSARY TO AFFORD INDIVIDUAL(S) WITH DISABILITIES AN EQUAL OPPORTUNITY TO USE AND ENJOY HOUSING THAT IS THE SUBJECT OF THE REQUEST. THE PROCESS TO APPLY FOR A SPECIAL USE PERMIT ARE PROVIDED IN CHAPTER 67, COMMON PROCEDURES, EXCEPT A CITIZEN PARTICIPATION PLAN AND REPORT IS NOT REQUIRED.
- 1. ACCOMMODATION TO SPACING REQUIREMENTS.** A SPECIAL USE PERMIT TO THE SPACING REQUIREMENTS SHALL BE GRANTED ONLY IF THE GOVERNING BODY FINDS THAT THE APPLICANT HAS DEMONSTRATED THAT THE PROPOSED USE MEETS ALL OF THE FOLLOWING CRITERIA:
- A. THE PROPOSED USE WILL NOT INTERFERE WITH THE COMMUNITY INTEGRATION OF THE RESIDENTS OF ANY EXISTING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS, OR THEIR ABILITY TO INTERACT WITH NEIGHBORS WITHOUT DISABILITIES; AND THE PRESENCE OF OTHER COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS WILL NOT INTERFERE WITH THE COMMUNITY INTEGRATION AND INTERACTION OF THE RESIDENTS OF THE PROPOSED USE;**
 - B. THE PROPOSED USE IN COMBINATION WITH ANY EXISTING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS WILL NOT ALTER THE RESIDENTIAL CHARACTER OF THE SURROUNDING NEIGHBORHOOD BY CREATING OR INTENSIFYING AN INSTITUTIONAL ATMOSPHERE OR BY CREATING OR INTENSIFYING A DE FACTO SOCIAL SERVICE DISTRICT BY CLUSTERING OR CONCENTRATING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS; AND**
 - C. THE PROPOSED USE COMPLIES WITH ALL OTHER DEVELOPMENT STANDARDS IN THIS CHAPTER.**
- 2. ACCOMMODATION TO LICENSURE REQUIREMENTS.** WHEN THE STATE, ARIZONA RECOVERY HOUSING ASSOCIATION OR OXFORD HOUSE DOES NOT OFFER A LICENSE, CERTIFICATION, OR CHARTER FOR THE TYPE OF COMMUNITY RESIDENCE AND THE POPULATION IT WILL SERVE, THE COMMUNITY RESIDENCE MAY REQUEST A SPECIAL USE PERMIT. THE SPECIAL USE PERMIT SHALL BE GRANTED ONLY IF THE GOVERNING BODY FINDS THAT

THE APPLICANT HAS DEMONSTRATED THAT ALL OF THE FOLLOWING CRITERIA ARE MET:

- A. THE PROPOSED USE WILL OPERATE IN A MANNER EFFECTIVELY SIMILAR TO A LICENSED OR CERTIFIED COMMUNITY RESIDENCE;**
 - B. STAFF WILL BE ADEQUATELY TRAINED UNDER STANDARDS TYPICALLY REQUIRED BY THE STATE OR OXFORD HOUSE FOR A COMMUNITY RESIDENCE;**
 - C. THE PROPOSED USE WILL HAVE OPERATING RULES AND PRACTICES THAT WILL PROTECT RESIDENTS FROM ABUSE, EXPLOITATION, FRAUD, THEFT, INSUFFICIENT SUPPORT, USE OF ILLEGAL DRUGS OR ALCOHOL, AND MISUSE OF PRESCRIPTION MEDICATIONS;**
 - D. THE PROPOSED USE WILL EMULATE A FAMILY AND WILL OPERATE TO ACHIEVE COMMUNITY INTEGRATION; AND**
 - E. THE PROPOSED USE OTHERWISE COMPLIES WITH ALL OTHER DEVELOPMENT STANDARDS IN THIS CHAPTER.**
- 3. ACCOMMODATION TO OCCUPANCY LIMITS. A COMMUNITY RESIDENCE THAT WANTS TO HOUSE MORE THAN TEN (10) PEOPLE MAY REQUEST A SPECIAL USE PERMIT. A SPECIAL USE PERMIT SHALL BE GRANTED ONLY IF THE GOVERNING BODY FINDS THAT THE APPLICANT HAS DEMONSTRATED THAT THE PROPOSED COMMUNITY RESIDENCE MEETS ALL OF THE FOLLOWING CRITERIA:**
- A. THE NUMBER OF RESIDENTS OVER TEN (10) IS NEEDED FOR THERAPEUTIC VIABILITY OF THE PROPOSED COMMUNITY RESIDENCE;**
 - B. THE NUMBER OF RESIDENTS IN THE PROPOSED COMMUNITY RESIDENCE WILL EMULATE AND OPERATE AS A FAMILY RATHER THAN A BOARDING HOUSE, SKILLED NURSING FACILITY, SHORT-TERM RENTAL, TREATMENT CENTER, SOCIAL SERVICE FACILITY OR OTHER NONRESIDENTIAL USES; AND WILL NOT INTERFERE WITH THE COMMUNITY INTEGRATION OF THE OCCUPANTS OF ANY EXISTING COMMUNITY RESIDENCES, ASSISTED LIVING HOMES, OR ASSISTED LIVING CENTERS;**
 - C. THE PRIMARY FUNCTION OF THE PROPOSED COMMUNITY RESIDENCE IS RESIDENTIAL WHERE ANY TREATMENT IS MERELY INCIDENTAL TO THE RESIDENTIAL USE OF THE PROPERTY;**
 - D. THE PROPOSED COMMUNITY RESIDENCE HAS SUFFICIENT PARKING FOR THE REQUESTED NUMBER OF OCCUPANTS SO AS NOT TO IMPACT THE ADJACENT PROPERTIES; AND**
 - E. THE PROPOSED USE COMPLIES WITH ALL OTHER STANDARDS IN THIS CHAPTER.**

Section 8: RECITALS AND FINDINGS OF FACT. The recitals above are fully incorporated in this ordinance by reference, and each recital represents a finding of fact and determination made by the City Council. Furthermore, the City Council adopts the findings and conclusions of the study it commissioned dated March 2021, *Zoning Principles for Community Residences for People With Disabilities and for Recovery Communities in Mesa, Arizona*; and the findings in the Planning Division Staff Report.

Section 9: REPEAL OF CONFLICTING ORDINANCES AND PRESERVATION OF RIGHTS AND DUTIES. That any sections of the Mesa Zoning Ordinance or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not affect suits pending, rights and duties that matured or were existing, penalties that were incurred or proceedings that were initiated prior to the effective date of this Ordinance.

Section 10: EFFECTIVE DATE. The effective date of this Ordinance shall be thirty (30) days following adoption by the City Council.

Section 11: SEVERABILITY. 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 12: REGISTRATION AND LICENSURE OF EXISTING GROUP HOMES FOR THE HANDICAPPED. A Group Home for the Handicapped located in the City of Mesa on or before the Effective Date of this Ordinance must register and provide proof of licensure according to this Ordinance within six months of the Effective Date. A Group Home for the Handicapped that fails to register with the City and provide the required license or certification within six months of the Effective Date is not a permitted use and must immediately cease operation. Provided further, under the Current Zoning Ordinance a home is not classified as a Group Home for the Handicapped unless it has six or more disabled residents, however, as of the Effective Date of this Ordinance, that number is being reduced to five. Therefore, a home with five disabled residents (excluding staff) located in the City of Mesa on or before the Effective Date of this Ordinance, will also be required to register with the City and to submit evidence of licensure or certification as required in this Ordinance within six months of the Effective Date. An existing home with five disabled residents (excluding staff) that fails to register with the City and provide the required license or certification within the six months of the Effective Date is not a permitted use and must immediately cease operation. The term Group Home for the Handicapped used in this section is as defined in the Zoning Ordinance (Mesa City Code Title 11) immediately prior to the Effective Date of this Ordinance.

Section 13: 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 8th day of July, 2021.

APPROVED:

[Signature]
Vice Mayor

ATTEST:

[Signature]
City Clerk

EFFECTIVE DATE: August 9, 2021.

