

## ORDINANCE NO. 5976

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 4, 5, 6, 7, 8, 10, 31, 86, AND 87 PERTAINING TO BATTERY ENERGY STORAGE SYSTEMS. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: ADDING DEFINITIONS FOR BATTERY ENERGY STORAGE SYSTEM, BATTERY ENERGY STORAGE SYSTEM FACILITY, AUGMENTATION, AND NAMEPLATE CAPACITY; MODIFYING LAND USE TABLES TO ADD BATTERY ENERGY STORAGE SYSTEM AND BATTERY ENERGY STORAGE SYSTEM FACILITY; ESTABLISHING DEVELOPMENT AND OTHER STANDARDS SPECIFIC TO BATTERY ENERGY STORAGE SYSTEM FACILITIES; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

Whereas, battery energy storage systems (BESS) and BESS facilities are an emerging and increasingly prominent land use that present unique considerations related to land use compatibility, safety, and environmental impact.

Whereas, BESS and BESS facilities may pose risks to the public health and safety, including but not limited to fire and explosion hazards, toxic gas release, electric shock, chemical spills, and potential environmental contamination if improperly managed or disposed of.

Whereas, the City seeks to conserve and promote the public health, safety, and general welfare by adopting zoning regulations and development standards specific to BESS and BESS facilities that are intended to mitigate the health and safety risks noted above; ensure land use compatibility and appropriate siting; promote environmental stewardship; provide clarity to applicants; and maintain high-quality design, while supporting electricity capacity and economic development in the city.

Whereas, pursuant to Ordinance No. 5957 and as allowed by A.R.S. § 9-462.01, the City Council may modify the land use regulations of another zoning district through a Planned Area Development Overlay (PAD), including to permit additional, compatible land uses, such as BESS Facilities.

Whereas, the proposed ordinance defines “Battery Energy Storage Systems (BESS)” and “Battery Energy Storage Systems Facility (BESS Facility)” as distinct land uses; allows the City Council to permit BESS Facilities as a principal use through approval of a PAD used in combination with certain industrial zoning districts; allows BESS as an accessory use; and adopts related standards for location, design, screening, and noise.

Be it ordained by the City Council of the City of Mesa, Arizona, as follows:

Section 1: Mesa City Code Title 11, Chapter 4, Table 11-4-2 is hereby amended as follows, primarily to add BESS to the Specific Accessory Uses and Facilities category and revise footnote 5 related to a BESS as an accessory use. Except as shown below, Table 11-4-2 remains the same.

Table 11-4-2: Agricultural District		
Proposed Use	AG	Additional Use Regulations
...		
Specific Accessory Uses AND FACILITIES		
...		
<b>BATTERY ENERGY STORAGE SYSTEM (BESS)</b>	<b>P (5)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...		
<b>5. <del>Reserved.</del> REFER TO SECTION 11-31-37(B)(2) FOR CONDITIONS UNDER WHICH A BESS MAY QUALIFY AS AN ACCESSORY USE.</b>		

Section 2: Mesa City Code Title 11, Chapter 5, Table 11-5-2 is hereby amended as follows, primarily to add BESS to the Specific Accessory Uses and Facilities category and revise footnote 6 related to a BESS as an accessory use. Except as shown below, Table 11-5-2 remains the same.

Table 11-5-2: Residential Districts				
Proposed Use	RS	RSL	RM	Additional Use Regulations
...				
Specific Accessory Uses AND FACILITIES				
...				
<b>BATTERY ENERGY STORAGE SYSTEM (BESS)</b>	<b>P (6)</b>	<b>P (6)</b>	<b>P (6)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...				
<b>6. <del>Reserved.</del> REFER TO SECTION 11-31-37(B)(2) FOR CONDITIONS UNDER WHICH A BESS MAY QUALIFY AS AN ACCESSORY USE.</b>				

Section 3: Mesa City Code Title 11, Chapter 6, Table 11-6-2 is hereby amended as follows, primarily to add BESS to the Specific Accessory Uses and Facilities category and revise footnote 15 related to a BESS as an accessory use. Except as shown below, Table 11-6-2 remains the same.

Table 11-6-2: Commercial Districts						
Proposed Use	NC (C-1)	LC (C2)	GC (C-3)	OC (O-S)	MX	Additional Use Regulations
...						
Specific Accessory Uses AND FACILITIES						
...						
<b>BATTERY ENERGY STORAGE SYSTEM (BESS)</b>	<b>P (15)</b>	<b>P (15)</b>	<b>P (15)</b>	<b>P (15)</b>	<b>P (15)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...						

**15. Reserved. REFER TO SECTION 11-31-37(B)(2) FOR CONDITIONS UNDER WHICH A BESS MAY QUALIFY AS AN ACCESSORY USE.**

Section 4: Mesa City Code Title 11, Chapter 7, Table 11-7-2 is hereby amended as follows, primarily to add BESS Facility to the Employment and Industrial Use Classifications, add BESS to the Specific Accessory Uses and Facilities category, and add footnote 21 related to BESS as an accessory use. Except as shown below, Table 11-7-2 remains the same.

Table 11-7-2: Employment Districts					
Proposed Use	PEP	LI (M-1)	GI (M-2)	HI	Additional Use Regulations
...					
Employment and Industrial Use Classifications					
...					
<b>BATTERY ENERGY STORAGE SYSTEM (BESS) FACILITY</b>	—	—	<b>SE (19)</b>	<b>SE (19)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...					
Specific Accessory Uses and Facilities					
...					
<b>BATTERY ENERGY STORAGE SYSTEM (BESS)</b>	<b>P (21)</b>	<b>P (21)</b>	<b>P (21)</b>	<b>P (21)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...					
<b>21. REFER TO SECTION 11-31-37(B)(2) FOR CONDITIONS UNDER WHICH A BESS MAY QUALIFY AS AN ACCESSORY USE.</b>					

Section 5: Mesa City Code Title 11, Chapter 8, Table 11-8-3 is hereby amended as follows, primarily to add BESS to the Specific Accessory Uses and Facilities category and add footnote 17 related to a BESS as an accessory use. Except as shown below, Table 11-8-3 remains the same.

Table 11-8-3: Downtown Districts							
Proposed Use	DR-1	DR-2	DR-3	DB-1	DB-2	DC	Additional Use Regulations
...							
SPECIFIC Accessory Uses and Facilities							
...							

<b>BATTERY ENERGY STORAGE SYSTEM (BESS)</b>	<b>P (17)</b>	<b>P (17)</b>	<b>P (17)</b>	<b>P (17)</b>	<b>P (17)</b>	<b>P (17)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...							
<b>17. REFER TO SECTION 11-31-37(B)(2) FOR CONDITIONS UNDER WHICH A BESS MAY QUALIFY AS AN ACCESSORY USE.</b>							

Section 6: Mesa City Code Title 11, Chapter 10, Table 11-10-2 is hereby amended as follows, primarily to add BESS to the Specific Accessory Uses and Facilities category and add footnote 7 related to a BESS as an accessory use. Except as shown below, Table 11-10-2 remains the same.

Table 11-10-2: Public and Semi-Public District		
Proposed Use	PS	Additional Use Regulations
...		
<b>SPECIFIC Accessory Uses and Facilities</b>		
<b>BATTERY ENERGY STORAGE SYSTEM (BESS)</b>	<b>P (7)</b>	<b>SECTION 11-31-37, BATTERY ENERGY STORAGE SYSTEM (BESS) AND BESS FACILITIES</b>
...		
<b>7. REFER TO SECTION 11-31-37(B)(2) FOR CONDITIONS UNDER WHICH A BESS MAY QUALIFY AS AN ACCESSORY USE.</b>		

Section 7: Standards for Battery Energy Storage Systems and Battery Energy Storage Systems Facilities: Adoption by Reference. That the certain document titled “Section 11-31-37: Battery Energy Storage Systems (BESS) and BESS Facilities, Option 1,” which was made a public record on December 1, 2025, by Resolution No. 12441, of the City of Mesa, Arizona, three copies of which are on file and available for public use and inspection with the City Clerk, is hereby adopted by reference and made a part hereof as if fully set forth in this Ordinance, and its provisions declared to be inserted into the following section of Title 11 of the Mesa City Code: Section 11-31-37 titled “Battery Energy Storage Systems (BESS) and BESS Facilities.”

Section 8: Mesa City Code Title 11, Chapter 86, Section 11-86-5, Employment and Industrial Use Classifications, is hereby amended only to add the use types “Battery Energy Storage Systems (BESS)” and “Battery Energy Storage Systems Facility (BESS Facility),” which shall be arranged in alphabetical order within Section 11-86-5, and the remainder of Section 11-86-5 remains the same.

**BATTERY ENERGY STORAGE SYSTEM (BESS): ELECTROCHEMICAL DEVICES THAT CHARGE OR COLLECT ENERGY FROM THE GRID OR A GENERATION FACILITY, STORE THAT ENERGY, AND THEN DISCHARGE THAT ENERGY AT A LATER TIME TO PROVIDE ELECTRICITY OR OTHER GRID SERVICES. A BESS**

**INCLUDES BATTERY CELLS; THERMAL, BATTERY, AND ENERGY MANAGEMENT SYSTEMS; INVERTERS; AND RELATED CONTROL AND SAFETY COMPONENTS.**

**BATTERY ENERGY STORAGE SYSTEM FACILITY (BESS FACILITY): THE PHYSICAL SITE AND ALL ASSOCIATED INFRASTRUCTURE AND MECHANICAL EQUIPMENT NECESSARY FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF THE BESS, INCLUDING, BUT NOT LIMITED TO, ENCLOSURES; ELECTRICAL, POWER GENERATION, COOLING, AND VENTILATING EQUIPMENT; ACCESS ROADS; SUBSTATIONS; INTERCONNECTION FACILITIES; AND SUPPORTING STRUCTURES.**

Section 9: Mesa City Code Title 11, Chapter 87, is hereby amended only to add a new category for “Battery Energy Storage System (BESS) Related Definitions” which shall be inserted immediately following the definition for “Automobile Storage Space” and add definitions for “Augmentation” and “Nameplate Capacity” which shall be arranged in alphabetical order within the new Battery Energy Storage System (BESS) Related Definitions category.

**BATTERY ENERGY STORAGE SYSTEM (BESS) RELATED DEFINITIONS:**

**AUGMENTATION: THE PROCESS OF ADDING NEW COMPONENTS TO, MODIFYING EXISTING COMPONENTS, OR REPLACING COMPONENTS OF, AN EXISTING BESS FACILITY.**

**NAMEPLATE CAPACITY: THE MAXIMUM AMOUNT OF ENERGY THAT A BESS OR BESS FACILITY CAN SUPPLY OR STORE UNDER SPECIFIC CONDITIONS. IT IS ALSO REFERRED TO AS RATED CAPACITY OR PEAK CAPACITY, AND IS EXPRESSED IN MEGAWATTS (MW) OR KILOWATTS (KW) FOR POWER. THE ASSOCIATED ENERGY CAPACITY, SOMETIMES REFERRED TO AS NAMEPLATE ENERGY CAPACITY, REPRESENTS THE TOTAL AMOUNT OF ENERGY THE SYSTEM CAN STORE OR DELIVER OVER TIME, EXPRESSED IN MEGAWATT-HOURS (MWH) OR KILOWATT-HOURS (KWH).**

Section 10: Recitals. The recitals above are fully incorporated in Ordinance No. 5976 (this “Ordinance”) by reference, and each recital represents a finding of fact and determination made by the City Council.

Section 11: Amended Language. In the sections of this Ordinance that modify the current language of the Mesa City Code (i.e., Sections 1, 2, 3, 4, 5, 6, 8 and 9), new language is shown in **BOLD ALL CAPS** and deleted language is shown in ~~striketrough~~.

Section 12: Preservation of Rights and Duties. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section 13: Effective Date. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

**Section 14: 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 15: Legal Procedurally Conforming Use.** A land use that either meets the criteria of Section 11-36-2(B)(1) of the Zoning Ordinance or that meets all the following criteria is a Legal Procedurally Conforming Use as defined in and regulated by Chapter 36 of the Zoning Ordinance: (1) the use is a Battery Energy Storage System Facility (“BESS Facility”) as defined in Section 11-86-5 of the Zoning Ordinance; (2) a building permit was issued or a complete site plan application was submitted for the BESS Facility prior to the effective date of this Ordinance; (3) the site plan for the BESS Facility is for, and the BESS Facility as built is located on, property that on the effective date of this Ordinance was zoned with a base zoning district of Light Industrial (LI), General Industrial (GI), or Heavy Industrial (HI); (4) the BESS Facility, as submitted, approved, and built, complies with Section 11-31-37 of the Zoning Ordinance, including but not limited to complying with all the following criteria: (a) a minimum separation of 1,000 feet shall be provided from the nearest point of the BESS Facility site screening wall to the nearest point of the property line of the nearest residential zoning district or residential use, (b) a minimum separation of 150 feet shall be provided from the nearest point of the BESS Facility site screening wall to the nearest support wall, post, or column of the nearest commercial or industrial building, and (c) a minimum separation of 400 feet shall be provided from the nearest point of the BESS Facility site screening wall to nearest point of the property line of the nearest church, park, school, or other sensitive use as reasonably determined by the Planning Director; (5) the BESS Facility, as submitted, approved, and built, complies with the 2024 International Building Code, as adopted and amended by the City of Mesa; and (6) the BESS Facility, as submitted, approved, and built, complies with the 2024 International Fire Code, as adopted and amended by the City of Mesa pursuant to Ordinance No. 5978, including but not limited to complying with all the following criteria: (a) the Energy Storage System (“ESS”) (as defined in the 2024 International Fire Code) shall comply with NFPA 855, UL 9540, and UL 9540A, (b) modular battery arrays within the ESS shall not exceed 300 feet in length or depth, (c) a 20-foot-wide fire apparatus access road shall be provided adjacent to all perimeter sides of a modular battery array, (d) for modular battery arrays that exceed 150 feet in length or depth, at least one of the required fire apparatus access roads adjacent to a perimeter side of the modular battery array shall be a 26-foot-wide aerial fire apparatus access road, and (e) to be regulated as a remote outdoor installation, the ESS shall be located more than 100 feet from buildings, lot lines, public ways, stored combustible materials, hazardous materials, high-piled stock, and other exposure hazards.

If the land use does not comply with all the criteria of this Section 15, the land use is not a Legal Procedurally Conforming Use as defined in and regulated by Chapter 36 of the Zoning Ordinance. A person may request a determination from the Zoning Administrator as to whether a land use complies with all the criteria of this Section 15 and is therefore a Legal Procedurally Conforming Use, and such determination may be appealed as set forth in, and is governed by the appeal rights of, Chapter 77 and Section 11-67-12 of the Zoning Ordinance.

**Section 16: Legal Procedurally Conforming Structure.** A structure that either meets the criteria of Section 11-36-2(E)(1) of the Zoning Ordinance or that meets all the following criteria is a Legal Procedurally Conforming Structure as defined in and regulated by Chapter 36 of the Zoning Ordinance: (1) a building permit was issued or a complete site plan application was submitted for

the structure prior to the effective date of this Ordinance; (2) the site plan is for, and the structure as built is occupied by or devoted to, a BESS Facility as defined in Section 11-86-5 of the Zoning Ordinance; (3) the site plan for the BESS Facility is for, and the BESS Facility as built is located on, property that on the effective date of this Ordinance was zoned with a base zoning district of Light Industrial (LI), General Industrial (GI), or Heavy Industrial (HI); (4) the BESS Facility, as submitted, approved, and built, complies with Section 11-31-37 of the Zoning Ordinance, including but not limited to complying with all the following criteria: (a) a minimum separation of 1,000 feet shall be provided from the nearest point of the BESS Facility site screening wall to the nearest point of the property line of the nearest residential zoning district or residential use, (b) a minimum separation of 150 feet shall be provided from the nearest point of the BESS Facility site screening wall to the nearest support wall, post, or column of the nearest commercial or industrial building, and (c) a minimum separation of 400 feet shall be provided from the nearest point of the BESS Facility site screening wall to nearest point of the property line of the nearest church, park, school, or other sensitive use as reasonably determined by the Planning Director; (5) the BESS Facility, as submitted, approved, and built, complies with the 2024 International Building Code, as adopted and amended by the City of Mesa; and (6) the BESS Facility, as submitted, approved, and built, complies with the 2024 International Fire Code, as adopted and amended by the City of Mesa pursuant to Ordinance No. 5978, including but not limited to complying with all the following criteria: (a) the Energy Storage System (“ESS”) (as defined in the 2024 International Fire Code) shall comply with NFPA 855, UL 9540, and UL 9540A, (b) modular battery arrays within the ESS shall not exceed 300 feet in length or depth, (c) a 20-foot-wide fire apparatus access road shall be provided adjacent to all perimeter sides of a modular battery array, (d) for modular battery arrays that exceed 150 feet in length or depth, at least one of the required fire apparatus access roads adjacent to a perimeter side of the modular battery array shall be a 26-foot-wide aerial fire apparatus access road, and (e) to be regulated as a remote outdoor installation, the ESS shall be located more than 100 feet from buildings, lot lines, public ways, stored combustible materials, hazardous materials, high-piled stock, and other exposure hazards.

If the structure does not comply with all the criteria of this Section 16, the structure is not a Legal Procedurally Conforming Structure as defined in and regulated by Chapter 36 of the Zoning Ordinance. A person may request a determination from the Zoning Administrator as to whether a structure complies with all the criteria of this Section 16 and is therefore a Legal Procedurally Conforming Structure, and such determination may be appealed as set forth in, and is governed by the appeal rights of, Chapter 77 and Section 11-67-12 of the Zoning Ordinance.

Section 17: Zoning Interpretation Record. On the effective date of this Ordinance, the Zoning Interpretation Record signed by the Zoning Administrator on May 28, 2025, regarding “Battery Energy Storage System (BESS) – Land Use Classification,” that determined BESS is not within any existing land use classification in Chapter 86 of the Zoning Ordinance and is prohibited in all zoning districts, is no longer applicable and is no longer of any force or effect.

Section 18: Planned Community (PC) District, Infill Development (ID) Districts, and Employment Opportunity (EO) District. Pursuant to Chapters 11, 12, and 13 of the Zoning Ordinance, the permitted and conditional land uses for the PC District, ID Districts, and EO District, respectively, must be established in the adopted plan for the subject district. For the avoidance of doubt, if BESS as an accessory use is not explicitly permitted or conditionally permitted in the adopted plan for the subject district (i.e., the PC District, ID District, or EO District), BESS as an accessory use is prohibited in the subject district; and if BESS Facility as a

principal use is not explicitly permitted or conditionally permitted in the adopted plan for the subject district, BESS Facility as a principal use is prohibited in the subject district. Additionally, if BESS or BESS Facility are permitted or conditionally permitted by the adopted plan for a PC District, ID District, or EO District, all BESS and BESS Facilities in the subject district must comply with Section 11-31-37 of the Zoning Ordinance, unless amended by the adopted plan, and must comply with the 2024 International Building Code, as adopted and amended by the City of Mesa, and the 2024 International Fire Code, as adopted and amended by the City of Mesa.

#### Section 19: 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 Section, 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.

Section 20: Resolution and Exhibit on File. Resolution No. 12441 adopted on December 1, 2025, and its referenced exhibit titled “Section 11-31-37: Battery Energy Storage Systems (BESS) and BESS Facilities, Option 1” are on file and available for public use and inspection at the Office of the City Clerk, 20. E. Main Street, Suite 150, Mesa, Arizona.

Passed and adopted by the City Council of the City of Mesa, Arizona, this 8th day of December, 2025.

APPROVED:

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Mark Freeman, Mayor

ATTEST:

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Holly Moseley, City Clerk