

## **ORDINANCE NO. 5948**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 56, 57, 58, 59, 60, 63 AND 64 PERTAINING TO FORM-BASED CODE. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: REPEALING IN ITS ENTIRETY CHAPTER 56: FORM-BASED CODE OVERVIEW AND ADOPTING A NEW "CHAPTER 56: FORM-BASED CODE OVERVIEW"; REPEALING IN ITS ENTIRETY CHAPTER 57: MAPS; REPEALING IN ITS ENTIRETY CHAPTER 58: BUILDING FORM STANDARDS AND ADOPTING A NEW "CHAPTER 58: BUILDING FORM STANDARDS"; REPEALING IN ITS ENTIRETY CHAPTER 59: BUILDING TYPE STANDARDS AND ADOPTING A NEW "CHAPTER 59: BUILDING TYPE STANDARDS"; REPEALING IN ITS ENTIRETY CHAPTER 60: PRIVATE FRONTAGE STANDARDS AND ADOPTING A NEW "CHAPTER 60: PRIVATE FRONTAGE STANDARDS"; MODIFYING THE PROCESS FOR MODIFICATIONS TO SMART GROWTH REGULATING PLAN TRANSECT ZONES; MODIFYING THE DEFINITION FOR BUILD-TO LINE; MODIFYING THE DEFINITION FOR "DWELLING, DWELLING UNIT, OR HOUSING UNIT"; DELETING THE DEFINITION OF "ACCESSORY/SECONDARY UNIT"; ADDING THE DEFINITION OF "ACCESSORY DWELLING UNIT"; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

**WHEREAS**, on June 14, 2012, the Mesa City Council adopted Ordinance 5099, amending Title 11 of the Mesa City Code (Zoning Ordinance) by adding a new Article 6, which established the Form-Based Code.

**WHEREAS**, the Form-Based Code is a key implementation tool to achieve the City's goals and objectives for creating a vibrant downtown. The Form-Based Code is designed to facilitate predictable patterns of urban development and set fixed, but achievable levels of high-quality building form standards to provide predictable outcomes to residents and developers, while also removing unnecessary public hearings and reviews to facilitate the development of desired projects that meet the stated goals and requirements for the downtown area.

**WHEREAS**, the Form-Based Code is an option for development downtown and the Temple/Pioneer Park Neighborhoods, as well as any future areas that are identified and an appropriate regulating plan is adopted by City Council, and the Form-Based Code and standards only take affect when a property owner affirmatively elects to apply it to their property by completing an "opt-in" form.

**WHEREAS**, the City adopted its Form-Based Code over 10 years ago, and in that time the City granted repeated variances, which has revealed areas of the Form-Based Code that require refinement to better reflect practical development patterns, contemporary planning best practices, and the evolving needs of the community. Through years of application and analysis, the City has gained greater clarity and insight into the type of urban form that best supports the City's goals. The City has identified sections to condense and simplify the language in order to improve readability, streamline application and review processes, and enhance overall accessibility and understanding of the Form-Based Code.

**WHEREAS**, it has become apparent it is in the best interest of the City to update Title 11, Article 6 of the Mesa City Code, by amending Chapters 56, 57, 58, 59, 60, 63, and 64 to incorporate the changes to the issues the City has identified with the current Form-Based Code. Such changes will reduce the need for variances, and ensure the Mesa City Code more effectively supports the intended form, character, and functionality of development throughout the City.

**WHEREAS**, on May 28, 2025, the Planning and Zoning Board recommended that the City Council adopt the proposed amendments.

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

**Section 1:** REPEAL; ADOPTION BY REFERENCE.

- A. REPEAL. The following portions of Title 11 of the Mesa City Code are hereby repealed in their entirety: Chapter 56 titled “Form-Based Code Overview;” Chapter 57 titled “Maps;” Chapter 58 titled “Building Form Standards;” Chapter 59 titled “Building Type Standards;” and Chapter 60 titled “Private Frontage Standards”.
- B. ADOPTION BY REFERENCE. That the certain document known as “2025 Form-Based Code Amendments,” which was made a public record on June 16, 2025, by Resolution No. 12390, of the City of Mesa, Maricopa County, 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 portions of Title 11 of the Mesa City Code: Chapter 56 titled “Form-Based Code Overview;” Chapter 57 titled “Reserved;” Chapter 58 titled “Building Form Standards;” Chapter 59 titled “Building Type Standards;” and Chapter 60 titled “Private Frontage Standards,” and to replace and supersede the following, prior portions of Title 11 of the Mesa City Code: Chapter 56 titled “Form-Based Code Overview;” Chapter 57 titled “Maps;” Chapter 58 titled “Building Form Standards;” Chapter 59 titled “Building Type Standards;” and Chapter 60 titled “Private Frontage Standards.”

**Section 2:** That Mesa City Code Title 11, Section 11-63-5(A) is hereby amended as follows. The remainder of 11-63-5 remains the same.

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

Text written in ~~striktethrough~~ indicates deletions.

A. **General.**

1. Transect Zones established in Chapter 58 (Building Form Standards) shall be used for the regulating plan.
2. ~~Any modifications or additions to the transect zones in Chapter 58 (Building Form Standards) shall be done as part of a process of public consultation and are subject to the approval of the City Council. Metrics shall be recorded in a similar format to what exists~~

~~within this Code.~~ **MODIFICATIONS TO TRANSECT ZONE STANDARDS AFTER SMART GROWTH COMMUNITY PLAN APPROVAL.**

- a. **ADMINISTRATIVE MODIFICATIONS. AN APPLICANT MAY REQUEST ADMINISTRATIVE MODIFICATIONS TO THE TRANSECT ZONE STANDARDS IN ACCORDANCE WITH SECTION 11-56-3(G) OF THIS ORDINANCE.**
- b. **CITY COUNCIL APPROVED MODIFICATIONS. ANY MODIFICATION TO A TRANSECT ZONE STANDARD THAT DOES NOT QUALIFY AS AN ADMINISTRATIVE MODIFICATION SHALL BE PROCESSED AS AN AMENDMENT TO THE APPROVED SMART GROWTH COMMUNITY PLAN AND IS SUBJECT TO CITY COUNCIL APPROVAL.**

**Section 3:** That Mesa City Code Title 11, Section 11-64-3(B) Definitions is hereby amended to modify the definition of Build-to Line as follows. All other definitions in Section 11-64-3(B) shall remain the same.

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**Build-to Line (BTL).** A line parallel to a property line or right-of-way where a building ~~façade~~ **FAÇADE** must be placed. The BTL may appear graphically on the regulating plan or be stated as a maximum setback dimension from the property line or right-of-way. Examples 1 and ~~3~~ **2** below depict how to calculate the percent of BTL Defined by a Building and percent of Building at the BTL as may be required in the Building Form Standards. Minor deviations from the BTL are allowed for Architectural Features, recessed entries, and recessed balconies. These minor deviations do not count against the calculations of percent of BTL ~~Defined~~ by a building or percent of Building Façade at the BTL.

**Section 4:** That Mesa City Code Title 11, Section 11-64-3(D) Definitions is hereby amended to: (1) modify the definition of “Dwelling, Dwelling Unit, or Housing Unit,” which is listed alphabetically within Section 11-64-4(D); and (2) delete the term, and definition of, “Accessory/Secondary Unit” and replace it with a new term, and definition of, “Accessory Dwelling Unit,” to be listed alphabetically under “Dwelling, Dwelling Unit, or Housing Unit,” each as follows. All other definitions in Section 11-64-3(D) shall remain the same.

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**Dwelling, Dwelling Unit, or Housing Unit.** ~~A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.~~ **A ROOM OR SUITE OF ROOMS, INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING,**

**EATING, SANITATION, AND COOKING, AND DESIGNED OR OCCUPIED AS SEPARATE LIVING QUARTERS.**

~~**Accessory/Secondary Unit.** An auxiliary dwelling unit located within an accessory structure of a primary housing unit on the lot. Includes dwelling units found in guest houses, carriage houses, pool houses, and above or beside a garage.~~

**ACCESSORY DWELLING UNIT. AN ATTACHED OR DETACHED SELF-CONTAINED LIVING UNIT THAT IS ON THE SAME LOT OR PARCEL AS A SINGLE-FAMILY DWELLING OF GREATER SQUARE FOOTAGE THAN THE ACCESSORY DWELLING UNIT, THAT INCLUDES ITS OWN SLEEPING AND SANITATION FACILITIES AND THAT MAY INCLUDE ITS OWN KITCHEN.**

**Single-Unit Residence.** A primary dwelling unit designed for occupancy by one household, and located on a separate lot from any other unit (except accessory living quarters, where permitted).

**Multiple-Unit Residence.** Two or more primary dwelling units on a single lot. Types of multiple residence dwellings include, but are not limited to duplexes, garden apartments, and multi-story apartment buildings.

**Section 5:** That Mesa City Code Title 11, Section 11-64-4(D) Definitions is hereby amended to: (1) modify the definition of “Dwelling, Dwelling Unit, or Housing Unit,” which is listed alphabetically within Section 11-64-4(D); and (2) delete the term, and definition of, “Accessory/Secondary Unit” and replace it with a new term, and definition of, “Accessory Dwelling Unit,” to be listed alphabetically under “Dwelling, Dwelling Unit, or Housing Unit,” each as follows. All other definitions in Section 11-64-4 shall remain the same.

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~~**Dwelling, Dwelling Unit, or Housing Unit.** A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.~~ **A ROOM OR SUITE OF ROOMS INCLUDING PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, SANITATION, AND COOKING, AND DESIGNED OR OCCUPIED AS SEPARATE LIVING QUARTERS.**

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**Multiple-Unit Residence.** Two or more primary dwelling units on a single lot. Types of multiple residence dwellings include, but are not limited to duplexes, garden apartments, and multi-story apartment buildings.

**Section 6:** RECITALS. 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.

**Section 7:** AMENDED LANGUAGE. In the sections of this Ordinance that modify the current language of the Mesa City Code (i.e., Sections 2, 3, 4, and 5), new language is shown in **BOLD ALL CAPS** and deleted language is shown in ~~striketrough~~.

**Section 8:** 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 9:** EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

**Section 10:** 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 11:** 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 12:** RESOLUTION AND EXHIBIT ON FILE. Resolution No. 12390 adopted on June 16, 2025 known as “2025 Form-Based Code Amendments” and the attached exhibits are on file and available for review at the Office of the City Clerk, 20. E. Main Street, Suite 150, Mesa, Arizona.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 1st day of July, 2025.

APPROVED:

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Mayor

ATTEST:

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City Clerk