

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 67 AND 87 OF THE CITY OF MESA ZONING ORDINANCE. THE AMENDMENTS INCLUDE BUT ARE NOT LIMITED TO ADDING A TIME FRAME FOR ADMINISTRATIVE COMPLETENESS REVIEW OF RESIDENTIAL ZONING APPLICATIONS; ADDING A PROCESS FOR RESIDENTIAL ZONING APPLICATIONS THAT ARE DEEMED INCOMPLETE; ADDING A TIME FRAME FOR APPROVING OR DENYING A RESIDENTIAL ZONING APPLICATION; PROVIDING EXCEPTIONS FROM THE RESIDENTIAL ZONING APPLICATION TIME FRAMES; ADDING A DEFINITION OF RESIDENTIAL ZONING APPLICATION; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, pursuant to Arizona Revised Statutes (“A.R.S.”) § 9-462.01, the legislative body of any municipality by ordinance, in order to conserve and promote the public health, safety, and general welfare, may regulate the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes; and

WHEREAS, pursuant to State authority, the City has codified regulations related to the use of buildings, structures and land as between agriculture, residence, industry, business and other purposes within Title 11 of the Mesa City Code, including an application procedure governing the submission of proposals for City approval, including any associated rezoning necessary for a proposal; and

WHEREAS, the Arizona State Legislature drafted Senate Bill 1162 (SB 1162) to address the timeline of reviewing residential rezoning requests in order to notify applicants whether their applications are complete or what, if any, information is still needed; and

WHEREAS, on April 23, 2024, Governor Hobbs signed Senate Bill 1162 (SB 1162) into law; and

WHEREAS, this Ordinance is being adopted by the City Council to comply with the new mandates under SB 1162, codified as A.R.S. § 9-462.10; and

WHEREAS, SB 1162 requires municipalities to adopt an amendment to their zoning ordinance on or before January 1, 2025, regarding residential zoning application review timelines, including to require municipalities to determine if a residential zoning application is complete within thirty days of its submission; and

WHEREAS, the Planning and Zoning Board at their public hearing on November 13, 2024, recommended that the City Council _____ the proposed text amendments.

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.

Text written in ~~strikethrough~~ indicates deletions.

Section 1: That Mesa City Code Title 11, Section 11-67-4 is hereby amended as follows:

A. **Determination of ADMINISTRATIVELY Complete Applications.** The Planning Director, or a member of the Planning Division staff designated by the Planning Director, shall determine whether an application is **ADMINISTRATIVELY** complete.

1. **ADMINISTRATIVE COMPLETENESS REVIEW. EXCEPT FOR RESIDENTIAL ZONING APPLICATIONS DISCUSSED IN SECTION 11-67-(4)(A)(2) BELOW, A DETERMINATION OF COMPLETENESS WILL OCCUR AS FOLLOWS:**

- A. **ADMINISTRATIVELY Incomplete Application.** If an application is incomplete, notification to the applicant shall be sent listing any additional forms, information, and/or fees that are necessary to complete the application.
- B. **ADMINISTRATIVELY Complete Application.** When an application is determined to be complete, a notation on the application shall make a record of that date. If required, a public hearing shall be scheduled and the applicant shall be notified of the date and time.

2. **RESIDENTIAL ZONING APPLICATION ADMINISTRATIVE COMPLETENESS REVIEW. THIS SECTION ONLY APPLIES TO APPLICATIONS THAT MEET THE DEFINITION OF A RESIDENTIAL ZONING APPLICATION IN CHAPTER 87 OF THE ZONING ORDINANCE.**

A. **ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME. FOR EACH RESIDENTIAL ZONING APPLICATION, THE CITY SHALL DETERMINE IF THE APPLICATION IS ADMINISTRATIVELY COMPLETE WITHIN 30 DAYS AFTER RECEIVING THE APPLICATION.**

B. **ADMINISTRATIVELY INCOMPLETE APPLICATIONS. IF IT IS DETERMINED THE APPLICATION IS ADMINISTRATIVELY INCOMPLETE:**

I. **THE CITY SHALL PROVIDE THE APPLICANT WITH A WRITTEN NOTICE THAT INCLUDES A COMPREHENSIVE LIST OF THE SPECIFIC DEFICIENCIES WITHIN 30 DAYS OF RECEIVING THE APPLICATION.**

II. **UPON ISSUANCE OF THE WRITTEN NOTICE, THE ADMINISTRATIVE COMPLETENESS REVIEW TIME FRAME AND OVERALL TIME FRAME, AS DEFINED IN A.R.S. § 41-1072, ARE SUSPENDED FROM THE DATE THE NOTICE IS ISSUED UNTIL THE CITY RECEIVES THE RESUBMITTED APPLICATION.**

III. **THE CITY SHALL HAVE 15 DAYS TO DETERMINE IF THE RESUBMITTED APPLICATION RESOLVED EVERY DEFICIENCY AND IS ADMINISTRATIVELY COMPLETE.**

B. **APPROVAL OR DENIAL OF RESIDENTIAL ZONING APPLICATIONS. AFTER**

DETERMINING A RESIDENTIAL ZONING APPLICATION IS COMPLETE:

1. **THE DECISION-MAKING BODY SHALL APPROVE OR DENY THE APPLICATION WITHIN 180 DAYS OF THE APPLICATION BEING DETERMINED ADMINISTRATIVELY COMPLETE.**
2. **THE CITY MAY EXTEND THE TIME FRAME TO APPROVE OR DENY THE APPLICATION BEYOND 180 DAYS AS FOLLOWS:**
 - A. **FOR EXTENUATING CIRCUMSTANCES THE PLANNING DIRECTOR MAY GRANT A ONE-TIME EXTENSION OF NO MORE THAN 30 DAYS; OR**
 - B. **AT THE REQUEST OF THE APPLICANT THE PLANNING DIRECTOR MAY GRANT EXTENSIONS IN 30 DAY INCREMENTS.**
- C. **EXCEPTIONS. THE PROVISIONS WITHIN THIS SECTION RELATED TO RESIDENTIAL ZONING APPLICATIONS DO NOT APPLY TO:**
 1. **LAND THAT IS DESIGNATED AS A DISTRICT OF HISTORICAL SIGNIFICANCE PURSUANT TO A.R.S. 9-462.01(A)(10);**
 2. **AN AREA THAT IS DESIGNATED AS HISTORIC ON THE NATIONAL REGISTER OF HISTORIC PLACES; OR**
 3. **A LOT OR PARCEL THAT IS CURRENTLY ZONED WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.**
- B.D. Recommendation Required Before Council Hearing of Request.**
 1. Before any Map Amendments, Site Plan Modifications, Site Plan Reviews or Council Use Permits shall be considered by the Council, the Planning Director, using guidelines adopted by the City Council, shall refer the request or amendment to the Planning Hearing Officer or to the Planning & Zoning Board, who shall hold a public hearing and forward a recommendation to the City Council.
 2. Before any amendments to the text of this Ordinance, the Planning & Zoning Board shall hold a public hearing and forward a recommendation to City Council.
 3. After the applicable public hearing, the Council may adopt the recommendation of the Planning Hearing Officer or Planning & Zoning Board without holding a second public hearing provided there is no objection, request for public hearing or other protest. The City Council, however, shall hold a second public hearing on any application for which a General Plan amendment is requested.
- C-E. Annexation Procedures.** Annexations shall be considered by City Council in accordance with the procedures specified in Chapter 78.
- D-F. Additional Fee for Planning Hearing Officer.** When an application is determined by the Planning Director as appropriate to be heard by the Planning Hearing Officer pursuant to the Planning Hearing Officer guidelines, the applicant may elect to have the matter placed before the Planning Hearing Officer by submitting the additional fee as specified in a schedule adopted by resolution

by the City Council.

E.G. Conditions Requiring Mandatory Supermajority Vote by City Council. In the event the City Council is asked to decide upon any proposed Rezoning Amendment, Council Use Permit, Development Unit Plan, Site Plan Review or Site Plan Modification, amendments to such proposals, or appeals of any such proposals, and upon evidence that all conditions described in subsections 1. and 2. below, have been satisfied, then the proposal shall become effective only by favorable vote of three-fourths ($\frac{3}{4}$) of all members of the City Council. If any members of the City Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths ($\frac{3}{4}$) of the remaining membership of the City Council, provided that such required number of votes shall in no event be less than a majority of the full membership of the Council. For the purposes of this section, the required number of votes shall be rounded to the nearest whole number.

1. A written protest, signed by the property owners opposing the proposal is filed by the owners of 20-percent or more of the area and number of lots, tracts, and condominium units within the zoning area, as defined in A.R.S. § 9-462.04.
2. Signed written protests must be filed in the office of the City Clerk by no later than 12:00 noon the Monday of the week prior to the City Council meeting at which the proposal is scheduled to be considered, unless City offices are closed on that Monday because of a local, State or national holiday, then the protest must be filed by 12:00 noon the next business day.

Section 3: That Title 11, Chapter 87 is hereby amended by adding the following definition, which is to be arranged in alphabetical order with all other definitions listed. All the other definitions in Chapter 87 shall remain the same.

RESIDENTIAL ZONING APPLICATION: A REZONING APPLICATION TO CHANGE A PROPERTY FROM ANY ZONING DISTRICT TO A RESIDENTIAL ZONING DISTRICT OR USE; OR AN APPLICATION THAT REMOVES OR MODIFIES ANY REGULATION OR CONDITION OF APPROVAL FOR A RESIDENTIAL ZONED PROPERTY OR USE PREVIOUSLY IMPOSED BY ORDINANCE.

Section 4: 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 5: 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 6: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 7: 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 8: 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 ____ day of _____ 2024.

APPROVED:

Mayor

ATTEST:

City Clerk

DRAFT