

## **ORDINANCE NO. 5858**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 5, 6, AND 31. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: MODIFYING FIGURES; MODIFYING LAND USE TABLES TO CORRECT FOOTNOTE REFERENCES; CORRECTING SECTION REFERENCES; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

**WHEREAS**, from time to time, the Zoning Ordinance requires minor revisions and technical updates to the land use tables, figures, and section references, which revisions and updates are in the best interest of the City to keep the public abreast of updates and to clarify the meaning of the Zoning Ordinance; and

**WHEREAS**, it has become apparent that it is in the best interest of the City to make a minor revision to a figure found in Chapter 5 of the Zoning Ordinance to correct a depiction of how driveway widths are measured; and

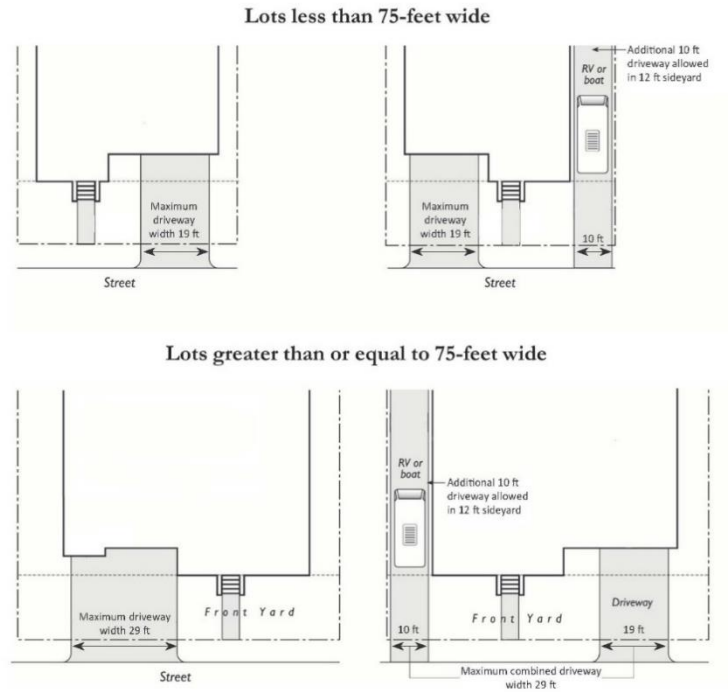
**WHEREAS**, it has become apparent that it is in the best interest of the City to make a minor revision to correct footnote references in the land use table found in Chapter 6 of the Zoning Ordinance; and

**WHEREAS**, it has become apparent that it is in the best interest of the City to make a minor revision to Chapters 31 of the Zoning Ordinance to correct a reference to another Code section; and

**WHEREAS**, the Planning and Zoning Board at their public meeting on May 22, 2024, 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:** That Mesa City Code Title 11, Chapter 5, Section 11-5-3(B)(5) is hereby amended by repealing Figure 11-5-3.B(4) and replacing it with the new Figure 11-5-3.B(4) shown below. All other portions of Section 11-5-3 shall remain the same.



**FIGURE 11-5-3.B(4): DRIVEWAYS**

**Section 2:** That Mesa City Code Title 11, Chapter 6, Section 11-6-2, Table 11-6-2: Commercial Districts is hereby amended to revise the footnote citations for Skilled Nursing Facility as follows. All other portions of Table 11-6-2 shall remain the same.

| Table 11-6-2: Commercial Districts                                                             |                     |                     |                     |             |                   |                               |
|------------------------------------------------------------------------------------------------|---------------------|---------------------|---------------------|-------------|-------------------|-------------------------------|
| Proposed Use                                                                                   | NC<br>(C-1)         | LC<br>(C-2)         | GC<br>(C-3)         | OC<br>(O-S) | MX                | Additional Use<br>Regulations |
| Public and Semi-Public Use Classifications                                                     |                     |                     |                     |             |                   |                               |
| <div style="text-align: center;">           .<br/>           .<br/>           .         </div> |                     |                     |                     |             |                   |                               |
| Skilled Nursing Facility                                                                       | CUP/P<br>(19,20 22) | CUP/P<br>(19,20 22) | CUP/P<br>(19,20 22) | —           | CUP/P<br>(19, 22) |                               |
| <div style="text-align: center;">           .<br/>           .<br/>           .         </div> |                     |                     |                     |             |                   |                               |

**Section 3:** That Mesa City Code Title 11, Chapter 31, Section 11-31-14(A)(1) is hereby amended as follows:

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 sSection 11-2-3(~~CD~~), 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.

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

**Section 6:** REPEAL OF CONFLICTING ORDINANCES AND PRESERVATION OF RIGHTS AND DUTIES. 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 7:** EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

**Section 8:** 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 9:** MULTIPLE ORDINANCES AMENDING THE SAME LAND USE TABLE. On the same date the City Council considered this Ordinance, it also considered a separate ordinance amending different portions of some of the land use table amended by Section 2 of this Ordinance. If both ordinances are adopted by the City Council, the amendments to the land use table shown in Section 2 of this Ordinance and the amendments to the land use table shown in the other ordinance shall both be effective, as of their respective effective dates, and shall both be codified in the Mesa City Code.

**Section 10:** 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 1st day of July 2024.

APPROVED:

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Mayor

ATTEST:

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City Clerk