ORDINANCE NO. 5814

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 4, 5, 6, 7, 8, 10, 30, 31, 33, 86, AND 87. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: MODIFYING LAND USE TABLES TO REMOVE OUTDATED INFORMATION AND CORRECT REFERENCES; MODIFYING LANDSCAPE STANDARDS TO BE CONSISTENT ACROSS VARIOUS CHAPTERS OF THE ZONING ORDINANCE; CLARIFYING OUTDOOR STORAGE REQUIREMENTS; MODIFYING HOW ACCESSORY STRUCTURES ARE MEASURED; CLARIFYING DEVELOPMENT STANDARDS FOR GROUP COMMERCIAL, INDUSTRIAL AND OFFICE DEVELOPMENTS; MODIFYING THE LAND USE DEFINITIONS AND ADDING A NEW DEFINITION FOR CROSS ACCESS; 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, and this Ordinance includes such revisions and updates to the land use tables, definitions, and other sections of the Zoning Ordinance pertaining to, in part, landscape standards, outdoor storage, accessory structures, and development standards for commercial, industrial, and office developments, and corrects various references and codification errors and creates consistency in the Zoning Ordinance; and

WHEREAS, it has become apparent that it is in the best interest of the City to make several minor revisions and technical updates to the land use tables found in Chapters 4, 5, 6, 7, 8, and 10 of the Zoning Ordinance; and

WHEREAS, the minor revisions and technical updates include: (1) removal of land use classifications that no longer exist; (2) removal of footnotes that are no longer in use; (3) clarification to footnote language; and (4) minor revisions to the "Additional Use Regulations" column in land use tables for consistency; and

WHEREAS, it has become apparent that it is in the best interest of the City to make several minor revisions and updates to various definitions and such amendments include: (1) correcting the placement of certain land use classifications; and (2) clarifying certain definitions; and

WHEREAS, it has become apparent that it is in the best interest of the City to make several minor revisions and updates to the landscaping regulations found in Chapters 10, 30, and 33 of the Zoning Ordinance and to the accessory structure regulations founds in Chapters 30 and 31 of the Zoning Ordinance; and

WHEREAS, the landscape revisions are intended to, in part, provide clarity in landscape requirements and create consistency between chapters of the Zoning Ordinance; and

WHEREAS, the accessory structure revisions include amendments to how accessory structures are measured and are intended to, in part, provide consistency with how other structures are measured; and

WHEREAS, on September 20, 2023, the Planning and Zoning Board recommended that the City Council adopt the proposed amendments; and

WHEREAS, to conserve and promote the public health, safety, and welfare, the Mayor and City Council desire to amend certain chapters of the Zoning Ordinance, as set forth herein, to update and make minor revisions to various land use tables, definitions, landscaping requirements, accessory structure requirements, and other aspects of the Zoning Ordinance in order to clarify certain provisions, correct codifications errors, and create consistency throughout the Zoning Ordinance for the benefit of the public.

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: ADOPTION BY REFERENCE

That additions and deletions set forth in that certain document known as "Exhibit 1: Miscellaneous Amendments – Land Use Tables", which was made a public record on October 2, 2023, by Resolution No. 12100, of the City of Mesa, Maricopa County, Arizona, three copies of which are on file with the City Clerk, are hereby referred to, adopted, and incorporated as amendments in Tables: 11-4-2: Agricultural Districts, 11-5-2: Residential Districts, 11-6-2: Commercial Districts, 11-7-2: Employment Districts, 11-8-3: Downtown Districts, and 11-10-3: Development Standards – PS Public and Semi-public Districts.

Section 2: That Title 11, Chapter 30, Section 11-30-7(B) is hereby amended as follows:

B. Screening and Setbacks. Storage areas visible from public streets shall be screened.

1. Screening Walls. Screening walls and fences shall be at least **EIGHT (**8**)** feet in height. If located on a street facing front or side yard, the fence shall be placed to meet required street side setbacks.

2. Landscaping. Landscaping is not required within screened storage areas **UNLESS REQUIRED PARKING SPACES ARE LOCATED WITHIN THE SCREENED STORAGE AREA, IN WHICH CASE, INTERIOR PARKING LOT LANDSCAPING (SECTION 11-33-4) IS REQUIRED.**

3. Setback. A setback shall be provided for material stored outdoors at the ratio of 1:1 from all lot lines equal to total height of stored material above **THE** required **EIGHT (8) FOOT** screen wall ~~8 feet~~.

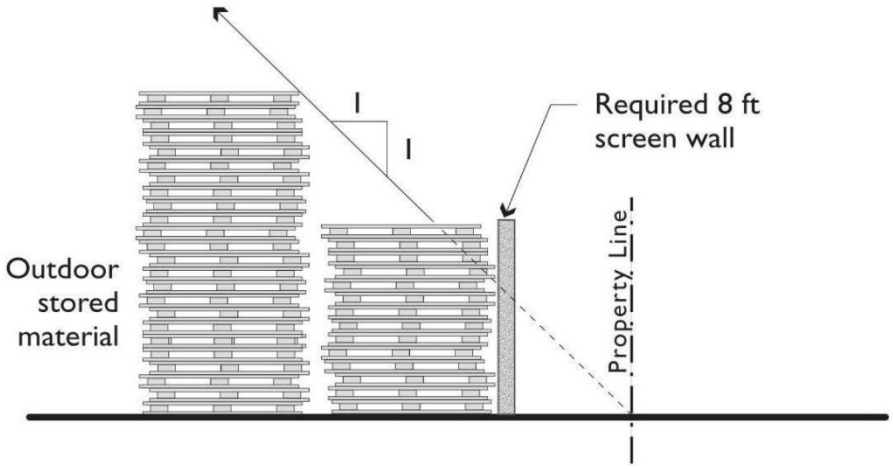


Figure 11-30-8.B.3: Outdoor Stored Material

Section 3: That Title 11, Chapter 30, Section 11-30-17(B) is hereby amended, and that Figure 11-30-17: Detached Accessory Buildings is replaced, as follows:

B. Detached accessory buildings or structures located on lots or parcels in AG, RS and RM districts are permitted subject to the following provisions. Detached accessory structures:

1. May be located in the required side/rear yards provided that they are within the rear one-quarter of the lot and do not exceed 10 feet in height.

2. May be located in the required rear yard but outside of the required side yard provided that they do not exceed 15 feet in height.

3. May be located in the required side yard (outside of the rear ¼ of the lot), provided that they do not exceed **EIGHT (**8**)** feet in height and 200 square-feet ~~of roof area~~.

4. May be located in any required side yard, and be closer to the primary residence than **SIX (**6**)** feet, provided all of the following are present:

   a. Does not exceed **SEVEN (**7**)** feet in height (at the peak of the roof) and 120 square feet ~~in roof area~~.

   b. Has no permanent attachment to the ground or permanent foundation.

   c. Shall not have any electrical or plumbing fixtures installed.

   d. Shall drain all storm water back to the same lot or parcel as the accessory structure.

5. Shall not be located in the required front yard or in the area between the front of the principal dwelling and the front property line.

6. Shall not be located in the required rear yard of a corner lot closer to the street than any dwelling on an adjacent key lot.

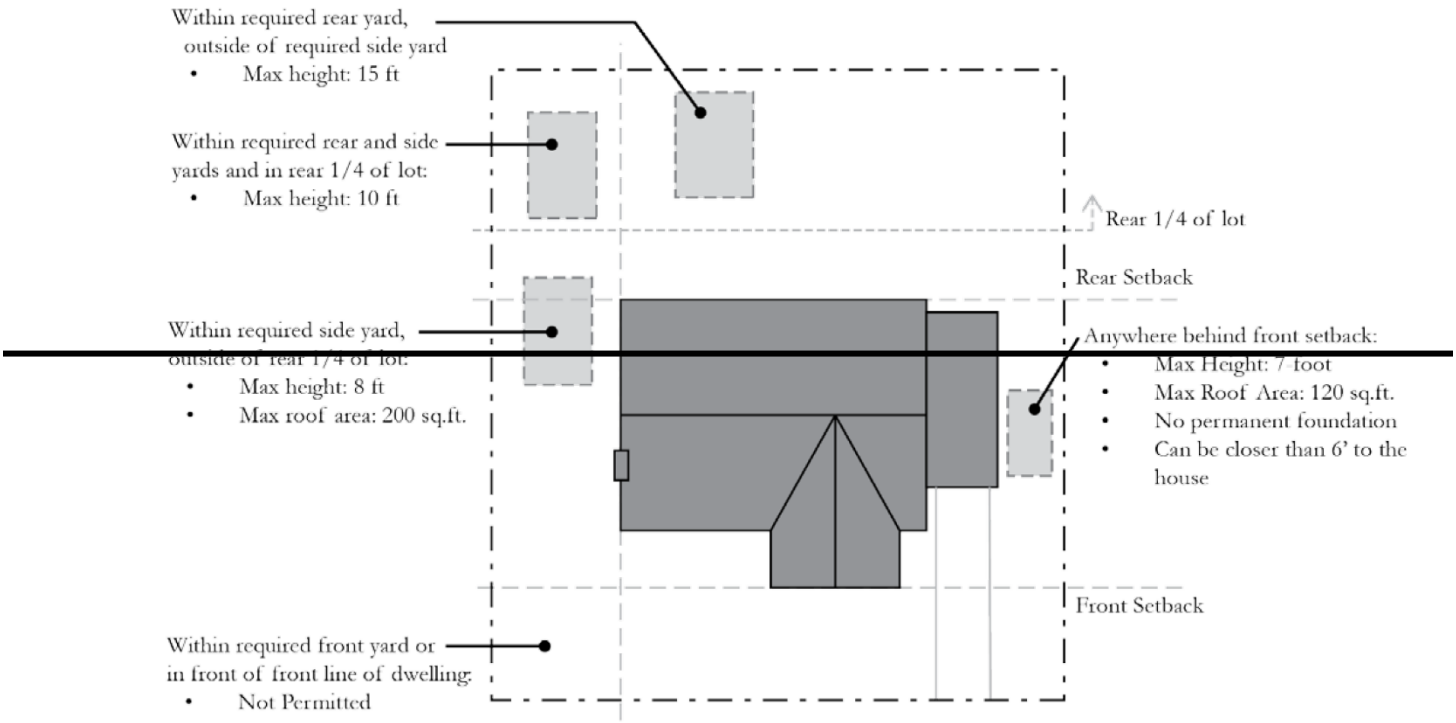
7. Shall not exceed 30 feet in height when located within any part of the buildable lot area.

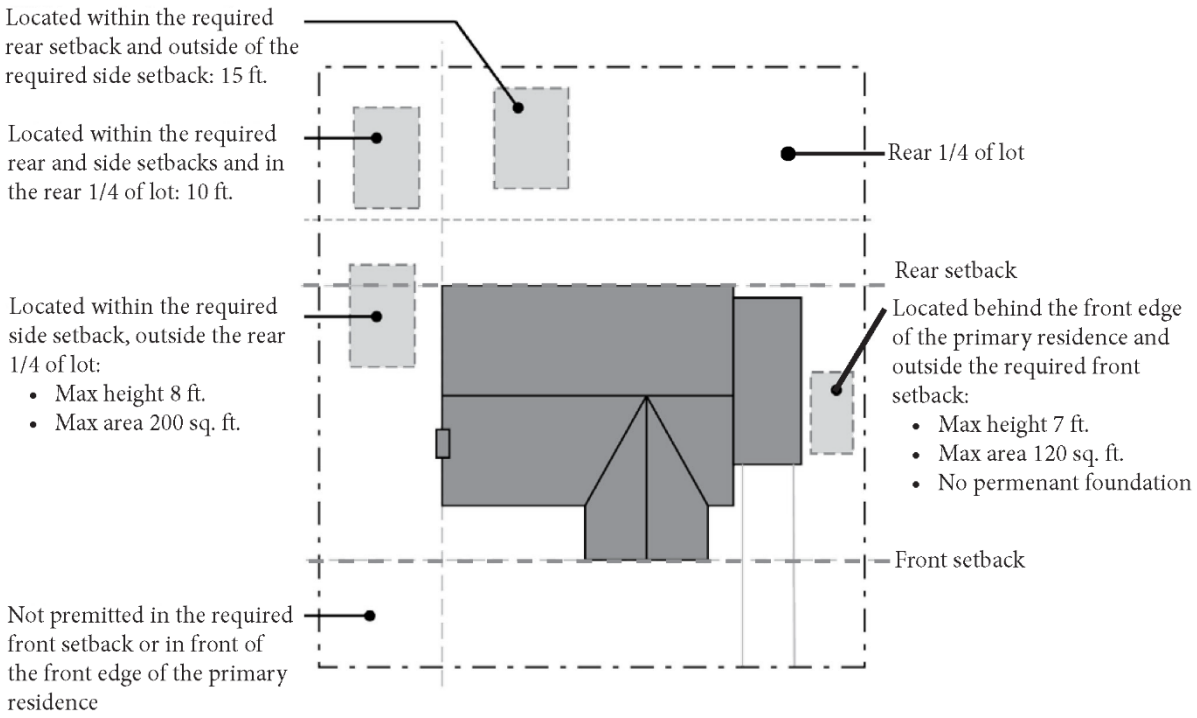
8. In the AG, RS-90, and RS-43 districts, ~~shall not have an~~ **WHERE MULTIPLE DETACHED ACCESSORY BUILDINGS EXIST, THE** aggregate area of all such detached buildings ~~greater than~~ **MAY NOT EXCEED THE SQUARE FOOTAGE OF THE PRIMARY RESIDENCE** ~~100 percent of the roof area of the dwelling,~~ unless ~~a larger aggregate roof area is~~ approved by Special Use Permit.

9. In the RS-35, RS-15, RS-9, RS-7, RS-6, DR-1 and DR-2 districts, and on lots in a multiple residence district with a single residence use, **WHERE MULTIPLE DETACHED ACCESSORY BUILDINGS EXIST,** ~~shall not have an~~ **THE** aggregate area of all such detached buildings **MAY NOT BE** greater than 50 percent of the **PRIMARY RESIDENCE** ~~roof area of the dwelling~~.

10. Detached accessory structures in multiple residence districts shall not be located in any required yard when in conjunction with a multiple residence use.

FIGURE 11-30-17: DETACHED ACCESSORY BUILDINGS





Section 4: That Title 11, Chapter 31, Section 11-31-3 is hereby amended as follows:

11-31-3: - ACCESSORY DWELLING UNIT

One accessory dwelling unit is permitted on a residential lot in all Single Residence (RS) Districts. Accessory Dwelling Units may be detached, attached, or directly accessible from the primary dwelling unit. Accessory dwelling units must also comply with the following provisions:

A. An Accessory Dwelling Unit that is attached to or part of the same structure as the primary dwelling unit must be provided a separate entrance and if facing the street, must be setback from the front façade and not visible from the public right-of-way.

B. The maximum floor area of an Accessory Dwelling Unit shall not exceed 30 percent of the ~~roof area of the~~ primary unit, except within the Town Center Redevelopment Area or within an Infill District (unless modified by Council through the approval of an Infill Incentive Plan for a specific Infill District), where Accessory Dwelling Units shall not exceed 50 percent of ~~the roof area of~~ the primary dwelling.

C. Accessory Dwelling Units shall conform to ~~all setbacks,~~ height, lot coverage and other requirements applicable to the primary dwelling unit, based on the zoning district requirements. ~~Attached Accessory Dwelling Unit is required to meet setbacks including supplemental standards of 11-5-7.A. Detached Accessory Dwelling Unit shall comply with standards established in 11-30-17.~~

1. ATTACHED ACCESSORY DWELLING UNITS MUST COMPLY WITH ALL SETBACKS OF THE PRIMARY DWELLING UNIT.

2. DETACHED ACCESSORY DWELLING UNITS MUST COMPLY WITH STANDARDS ESTABLISHED IN 11-30-17, EXCEPT FOR THE STANDARDS SPECIFIED WITHIN THIS SECTION.

D. The architectural design, exterior materials and colors, roof pitch and style, type of windows and trim details shall be substantially the same as and compatible with the primary dwelling unit.

E. An Accessory Dwelling Unit must be served by the water service of the primary residence. The Accessory Dwelling Unit cannot be served by separate water services.

Section 5: That Title 11, Chapter 33, Section 11-33-2(A) is hereby amended as follows:

11-33-2: - GENERAL REQUIREMENTS

A. Landscaped Areas. Required landscaped areas shall be maintained free from encroachment by any use, structure, vehicle, or feature not a part of the landscaping design, except as specified in Chapter 33.

1. Where turf abuts decomposed granite or similar inorganic landscape material, a hardscape edging material such as brick or concrete curb/mow-strip shall be provided.

~~2. Where vehicular cross-access is provided between adjoining properties that are not part of group commercial, office, industrial development, a 15-foot-wide perimeter landscape yard shall be provided, except where drive aisle occurs.~~

~~3~~**2**. Electric vehicle charging stations may be placed in parking lot landscape islands. If necessary, shrubs and ground cover may be eliminated to accommodate the charging equipment.

Section 6: That Title 11, Chapter 33, Section 11-33-3(B) is hereby amended as follows:

A. Required Landscape Yards. Landscaping should provide a visual buffer, screen view of objectionable uses, provide a transition between adjacent development, shade paved and unpaved surfaces, and screen nighttime light from adjacent property.

1. Landscaping for ~~n~~**N**on-~~s~~**S**ingle ~~r~~**R**esidence ~~u~~**U**ses adjacent to ~~s~~**S**ingle ~~r~~**R**esidence **USES OR DISTRICTS**.

a. Width.

i. ~~Where a parcel of land~~ **SITES** less than ~~2.5~~ **FIVE (5)** acres ~~is~~ adjacent to a**N** RS or RSL district~~,~~ **MUST PROVIDE** a minimum 20-foot landscape yard ~~shall be provided~~.

ii. Sites ~~2.5~~ **FIVE (5)** acres or more adjacent to an RS or RSL district must provide a minimum 25-foot landscape yard.

b. Ground Treatment.

i. The entire landscape yard shall be either covered with decomposed granite, "desert varnish or cobble", desert tree mulch and/or turf or as approved.

ii. Landscape yards shall remain free from parking, driveways, and encroachment by any structures that are not part of the landscaping design.

c. Number of Plants.

i. Screening. Landscape yards not visible from public parking/drive aisles and adjacent to loading, service and unsightly areas shall have a minimum of **FIVE (**5**)** non-deciduous trees per 100 linear feet of adjacent property line (1 tree per 20 linear feet) or shall have continuous tree canopy between 6~~'~~ **FEET**—20~~'~~ **FEET IN** height at maturity, 50 percent canopy within **FIVE (**5**)** years, 70 percent canopy within **SEVEN (**7**)** years and 100 percent within 10 years.

~~ii. *Enclosed yards, not visible from public parking or drive aisles.* Trees and shrubs are not required.~~

~~iii.~~ **II.** Areas visible from public parking or drive aisles. A minimum of **FOUR (**4**)** non-deciduous trees and 20 shrubs per 100 linear feet of adjacent property line shall be provided.

~~iv.~~ **III.** Transition Areas. A planted transition between visible areas and loading/service areas shall be provided.

d. Size of Plants. Required trees shall be at least 24-inch box size.

e. Wall. Refer to Section 11-30-9 (Screening) for standards regarding screening design of exterior walls and equipment.

2. Landscaping for Non-Single Residence Uses Adjacent to Other Non-Single Residence **USES OR DISTRICTS**.

a. Width. ~~Non-single residence uses adjacent to non-residential districts and/or uses shall provide a 15-foot landscape yard.~~

I. GROUP C-O-I DEVELOPMENT. PROPERTIES THAT ARE PART OF GROUP COMMERCIAL, OFFICE, INDUSTRIAL DEVELOPMENT, AS DEFINED IN CHAPTER 87, MUST PROVIDE A SEVEN (7) FOOT WIDE PERIMETER LANDSCAPE YARD EXCEPT WHERE A CROSS-ACCESS DRIVE AISLE OCCURS WITHIN THE REQUIRED LANDSCAPE YARD.

II. NON-GROUP C-O-I DEVELOPMENT. PROPERTIES THAT ARE NOT PART OF A GROUP C-O-I DEVELOPMENT, AS DEFINED IN CHAPTER 87, MUST PROVIDE A 15-FOOT LANDSCAPE YARD EXCEPT WHERE A CROSS-ACCESS DRIVE AISLE OCCURS WITHIN THE REQUIRED LANDSCAPE YARD.

b. Ground Treatment. The entire landscaped yard shall be either covered with decomposed granite, "desert varnish or cobble", desert tree mulch and/or turf as approved. Supplemental shrubs and ground covers including accents, flowers, and vines shall provide 50 percent vegetative ground coverage.

c. Number of Plants. A minimum of **THREE (**3**)** non-deciduous trees and 20 shrubs per 100 linear feet of adjacent property line shall be provided. In the event of fractional results, the resulting number will be rounded to the next highest whole number. Shrubbery and ground covers are not necessary if the area is not visible from public parking and drive aisles.

d. Size of Plants. A minimum of 50 percent of the required trees shall be at least 24-inch box size. The balance of the required trees shall be at least 15-gallon-size trees.

I. EXCEPTION. TREES WITHIN LI, GI. AND HI DISTRICTS MAY BE 15-GALLON-SIZE THROUGHOUT.

e. *Plant types*. In areas with no pedestrian activity, appropriate low water use desert trees shall be planted.

~~f. Exception. Trees within LI, GI and HI Employment Districts may be 15-gallon-size throughout.~~

Section 7: That Title 11, Chapter 86, Section 11-86-2: Residential Use Classifications is hereby amended by removing the following definition. All the other definitions in Chapter 86 shall remain the same.:

~~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 8: That Title 11, Chapter 86, Section 11-86-3: Public and Semi-Public Use Classifications is hereby amended by revising the following definition. All the other definitions in Chapter 86 shall remain the same.

Social Service ~~Facilities~~ **FACILITY**. ~~Any noncommercial 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.~~ **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 9: That Title 11, Chapter 87 is hereby amended to modify, remove, and add the following definitions which are arranged in alphabetical order. All the other definitions in Chapter 87 shall remain the same.

CROSS-ACCESS: A DRIVEWAY OR DRIVE AISLE WHICH CONNECTS TWO (2) OR MORE ADJACENT PARCELS WITHOUT USING A ROADWAY.

Group C-O-I Development: A commercial, office, or industrial **MASTER PLANNED** development **CONTAINING THREE (3) OR MORE BUSINESSES** ~~where there are located several separate business activities having appurtenant~~ **WHICH** share~~d~~ facilities such as driveways, parking, and pedestrian walkways and which is designed to provide a single area in which the public can obtain varied products and services.
~~Distinguishing characteristics of a group C-O-I development may, but need not, include common ownership of the real property upon which the development is located, common wall construction, and multiple-occupant commercial use of a single structure. As used in context, the term may be used to refer specific land use classifications arranged in a group development format, such as Group Commercial, Group Office, or Group Industrial.~~

Section 10: 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 11: 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 with this Ordinance, 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 12: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 13: 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 14: MULTIPLE ORDINANCES AMENDING THE SAME LAND USE TABLES. 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 tables amended by Section 1 of this Ordinance. If both ordinances are adopted by the City Council, the amendments to the land use tables shown in Section 1 of this Ordinance

and the amendments to the land use tables 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 15: 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 16th day of October, 2023.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk