

## ORDINANCE NO. 5892

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING TITLE 6, CHAPTER 1 OF THE MESA CITY CODE BY ADDING A NEW SECTION 23 ENTITLED “URBAN CAMPING.”

WHEREAS, a majority of cities have laws restricting camping in public spaces and nearly forty percent have one or more laws prohibiting camping citywide; however, *Martin v. Boise*, a 2018 U.S. Ninth Circuit Court of Appeals case, resulted in limiting or preventing municipalities across the western United States from enforcing these laws, forcing many cities to allow large encampments on city property or face the threat of federal litigation or a judicial injunction.

WHEREAS, the U.S. Supreme Court recently heard the case of *City of Grants Pass v. Johnson* (144 S.Ct. 2202). Grants Pass, Oregon took a multifaceted approach to the homelessness crisis, including the adoption of ordinances placing certain restrictions against encampments on public property. In its ruling, the U.S. Supreme Court acknowledged the complexity of issues surrounding homelessness and that, even with expanded shelter capacity and other public services, unsheltered populations continue to grow. The Supreme Court ultimately upheld the Grants Pass ordinances as constitutional, effectively overruling *Martin v. Boise*, by finding, in pertinent part, that the ordinances do not criminalize the status of a person being homeless, rather they forbid actions like occupying a campsite on public property for maintaining a temporary place to live.

WHEREAS, as a part of the City of Mesa’s multifaceted approach to address homelessness, the City created its “Off the Streets” program, a temporary housing program with strong support services, but issues surrounding camping on public property remain. The Mesa City Code currently contains provisions that generally prohibit the blocking of City right-of-way by lying, sleeping, or remaining in a sitting position except in the case of an emergency (MCC 6-1-17) and camping in City parks (MCC 6-10-4); therefore, a City ordinance specific to public (urban) camping on City property is an appropriate tool to assist the City’s Off the Streets program.

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

**SECTION 1:** Title 6, Chapter 1 of the Mesa City Code is amended by adding the following as a new Section 23 titled “Urban Camping”:

### 6-1-23: URBAN CAMPING

- (A) The use of City property for camping purposes or storage of personal property without the express permission of the City interferes with the rights of others to use the areas for which they were intended and can constitute a public health and safety hazard that adversely impacts surrounding property. The purpose of this section is to maintain City property in a clean, sanitary and accessible condition, and to adequately protect the health, safety, and welfare of the community, while recognizing that certain temporary camping associated

with emergencies or special events or activities can be beneficial. Nothing in this section is intended to interfere with otherwise lawful and ordinary uses of public property.

- (B) The definitions contained in this subsection (B) shall only govern the construction, meaning, and application of words and phrases used in this section 6-1-23.

“Camp” or “Camping: means to establish temporary or permanent living accommodations on City Property. Indications of camping include laying down bedding, using camp paraphernalia, erecting temporary structures for shelter, sleeping, storing personal belongings, burning a fire, cooking or preparing food, or living in a parked motor or recreational vehicle. An activity shall constitute camping when it reasonably appears, in light of all the circumstances, the person, in conducting the activity, are in fact using the area for the purpose of living accommodations, regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. For the purposes of clarity, the term “Camp” or “Camping” in this Section 6-1-23 does not refer to the mere possession or transportation of Camping Paraphernalia, or the use of a blanket for resting, absent other evidence of living accommodations.

Camping Paraphernalia: any accessory, equipment, or item commonly used to assist someone to camp, including tarpaulins, cots, beds, bedding, sleeping bags, hammocks, tents, blankets, and cooking equipment.

City Property: means property owned or controlled by the City and all public improvements located therein including, but not limited to, public plazas, transportation facilities, bus stops, streets, sidewalks, alleys, and City improved or unimproved land.

Establish: setting up or moving equipment, supplies, or materials to camp or operate camp facilities.

Park: means a park owned by the City as defined in Mesa City Code 6-10-2.

Right-of-Way: means as defined in Mesa City Code 9-1-1.

Store: means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

- (C) It is unlawful for any person on City property to camp, establish or maintain camping facilities, or use or store camping paraphernalia.
- (D) This section does not apply to:
- (1) Camping or activities in a park which is governed by Mesa City Code title 6, chapter 10.
  - (2) Temporary structures or camps set up by a government agency or relief workers during a disaster or emergency situation.
  - (3) Activities approved by the City that receive a special event license, special use permit, lease, license, or other permit or permission.

(E) Any person convicted of a violation of this section shall be guilty of a class 3 criminal misdemeanor. Each day of violation continued shall be a separate offense, punishable as described.

SECTION 2: RECITALS. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 3: EFFECTIVE DATE. The effective date of this Ordinance will be thirty (30) days following adoption by the Mesa City Council.

SECTION 4: PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect the rights and duties that matured, penalties incurred, or proceedings begun before the effective date of this Ordinance.

SECTION 5: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of any material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 2<sup>nd</sup> day of December, 2024.

APPROVED:

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Mayor

ATTEST:

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City Clerk