

ORDINANCE _____

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF
THE CITY OF MESA, MARICOPA COUNTY, ARIZONA,
AMENDING MESA CITY CODE TITLE 5, CHAPTER 10,
“PRIVILEGE AND EXCISE TAXES” BY ADDING
ARTICLE VII REGARDING AN ACCESS TO CARE
PROGRAM.**

WHEREAS, by Resolution No. 5831 the Mayor and Council of the City of Mesa adopted “Chapter 10 Privilege and Excise Taxes” codified as Mesa City Code Title 5, Chapter 10 from the Model City Tax Code; and

WHEREAS, the Municipal Tax Code Commission voted to amend the Model City Tax Code on _____, by adding an Appendix for the “Access to Care Program” as an option available for Arizona municipalities to adopt as a part of the Model City Tax Code; and

WHEREAS, the Mayor and Council deem that the Access to Care Program promotes the health, safety and general welfare of the residents of the City of Mesa by:

- (A) Establishing a funding source for the non-federal share of Arizona Health Care Cost Containment System (“AHCCCS”) payments to acute care hospitals within the City of Mesa that provide significant amounts of uncompensated care to uninsured and low income patients, pursuant to Senate Bill 1357 enacted by the Arizona legislature, during its Fiftieth Legislature, First Regular Session of 2011 (“S.B. 1357”);
- (B) Establishing a funding source for the non-federal share of the cost of an expansion of coverage through the AHCCCS program to uninsured individuals, pursuant to S.B. 1357;
- (C) Promoting access to health care for residents of the City of Mesa, including low-income, uninsured and otherwise vulnerable populations, by ensuring the financial stability and viability of acute care hospital systems in the City of Mesa; and
- (D) Promoting economic development and protecting and expanding jobs in the health sector and related fields within the City of Mesa.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Mesa as follows:

SECTION 1. That Title 5, Chapter 10, “Privilege and Excise Taxes” is hereby amended by adding Article VII, to be entitled “Access to Care Program.”

ARTICLE VII. ACCESS TO CARE PROGRAM

SEC. 5-10-700. LEGISLATIVE INTENT.

THIS ORDINANCE IS ADOPTED FOR THE PURPOSE OF PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF THE RESIDENTS OF THE CITY OF MESA BY:

- (A) ESTABLISHING A FUNDING SOURCE FOR THE NON-FEDERAL SHARE OF ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) PAYMENTS TO ACUTE CARE HOSPITALS WITHIN THE CITY OF MESA THAT PROVIDE SIGNIFICANT AMOUNTS OF UNCOMPENSATED CARE TO UNINSURED AND LOW INCOME PATIENTS, PURSUANT TO S.B. 1357;**
- (B) ESTABLISHING A FUNDING SOURCE FOR THE NON-FEDERAL SHARE OF THE COST OF AN EXPANSION OF COVERAGE THROUGH THE AHCCCS PROGRAM TO UNINSURED INDIVIDUALS, PURSUANT TO S.B. 1357;**
- (C) PROMOTING ACCESS TO HEALTH CARE FOR RESIDENTS OF THE CITY OF MESA, INCLUDING LOW-INCOME, UNINSURED AND OTHERWISE VULNERABLE POPULATIONS, BY ENSURING THE FINANCIAL STABILITY AND VIABILITY OF ACUTE CARE HOSPITAL SYSTEMS IN THE CITY; AND**
- (D) PROMOTING ECONOMIC DEVELOPMENT AND PROTECTING AND EXPANDING JOBS IN THE HEALTH SECTOR AND RELATED FIELDS WITHIN THE CITY OF MESA.**

SEC. 5-10-701. DEFINITIONS.

FOR THE PURPOSES OF THIS ARTICLE ONLY, THE FOLLOWING DEFINITIONS SHALL APPLY:

“ACCESS TO CARE FUND” MEANS THE FUND ESTABLISHED PURSUANT TO SECTION 5-10-705.

“ACCESS TO CARE FUND REMAINDER (“ATC FUND REMAINDER”)” MEANS THE AMOUNT REMAINING IN THE ACCESS TO CARE FUND AFTER RESERVATION OF THE ADMINISTRATIVE COSTS PURSUANT TO SECTION 5-10-725(A).

“ACCESS TO CARE TAX (“ATC TAX”)” MEANS THE TAX IMPOSED PURSUANT TO SECTION 5-10-710.

“ACCESS TO CARE PROGRAM” MEANS THE PROGRAM CONSISTING OF THE ATC TAX, THE UNCOMPENSATED CARE PAYMENTS, AND RELATED EXPANDED AHCCCS COVERAGE, TO BE ESTABLISHED BY AHCCCS AND APPROVED BY CMS.

“ADMINISTRATIVE COSTS” MEANS THE COSTS TO THE TAX COLLECTOR OF COLLECTING, ADMINISTERING, ENFORCING AND TRANSFERRING THE ATC TAX, WHICH MAY INCLUDE: TIME, MATERIALS, OVERHEAD, AND LITIGATION COSTS.

“AHCCCS” MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, AN AGENCY OF THE STATE, WHICH ADMINISTERS THE MEDICAID PROGRAM IN ARIZONA UNDER TITLE XIX OF THE SSA.

“CFR” MEANS THE CODE OF FEDERAL REGULATIONS.

“CMS” MEANS THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, A FEDERAL AGENCY WITHIN THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

“COVERAGE AMOUNT” MEANS AN AMOUNT SPECIFIED BY AHCCCS TO PAY FOR THE NON-FEDERAL SHARE OF THE EXPANDED COVERAGE THAT IS PART OF THE ACCESS TO CARE PROGRAM.

“DELINQUENCY DATE” MEANS THE DAY AFTER THE DUE DATE.

“DUE DATE” MEANS THAT DAY THAT IS 30 DAYS PRIOR TO THE END OF EACH QUARTER DURING THE UC PAYMENT PERIOD, UNLESS OTHERWISE SPECIFIED PURSUANT TO SECTION 5-10-715(E).

“EFFECTIVE DATE” MEANS 30 DAYS AFTER THE DATE OF PASSAGE OF THIS ORDINANCE.

“INPATIENT DISCHARGES” MEANS THE ANNUAL NUMBER OF DAYS OF INPATIENT HOSPITAL CARE PROVIDED TO PATIENTS, CALCULATED PURSUANT TO SECTION 5-10-710.

“MEDICARE COST REPORT” MEANS THE HOSPITAL COST REPORT REQUIRED FOR HOSPITALS PARTICIPATING IN THE MEDICARE PROGRAM UNDER TITLE XVIII OF THE SSA, USING CMS FORM 2552-96.

“NON-FEDERAL SHARE” MEANS THE PORTION OF AHCCCS EXPENDITURES THAT ARE NOT REIMBURSED BY THE FEDERAL GOVERNMENT PURSUANT TO SECTION 1903 OF THE SSA AND ARE REQUIRED TO BE PAID FOR FROM STATE OR LOCAL SOURCES, PURSUANT TO SECTION 1902(A)(2) OF THE SSA.

“PARTICIPATING HOSPITAL” MEANS A HEALTH CARE INSTITUTION LOCATED IN THE CITY OF MESA THAT IS LICENSED AS A HOSPITAL BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES UNDER ARIZONA REVISED STATUTES TITLE 36, CHAPTER 4, ARTICLE 2.

“QUARTER” MEANS A THREE MONTH PERIOD FROM JANUARY TO MARCH, APRIL TO JUNE, JULY TO SEPTEMBER, OR OCTOBER TO DECEMBER.

“S.B. 1357” MEANS SENATE BILL 1357, ENACTED BY THE ARIZONA LEGISLATURE, DURING ITS FIFTIETH LEGISLATURE, FIRST REGULAR SESSION OF 2011.

“SAFETY NET CARE POOL” MEANS THE FUNDING POOL ESTABLISHED PURSUANT TO THE AHCCCS DEMONSTRATION PROJECT AUTHORIZED UNDER SECTION 1115 OF THE SSA.

“SHORTFALL AMOUNT” MEANS THE AMOUNT OF ANY ATC TAX PAYMENT THAT A PARTICIPATING HOSPITAL OWES BUT DOES NOT PAY BY THE DUE DATE.

“SSA” MEANS THE SOCIAL SECURITY ACT.

“TRANSFER DATE” MEANS THE DATE THAT IS 15 DAYS PRIOR TO THE END OF EACH QUARTER DURING THE UC PAYMENT PERIOD, UNLESS AHCCCS SPECIFIES A DIFFERENT DATE, FOR TRANSFER OF FUNDS FROM THE CITY TO AHCCCS PURSUANT TO SECTION 5-10-725.

“TRANSFER FUNDS” MEANS THE FUNDS TO BE TRANSFERRED TO AHCCCS AS SPECIFIED IN SECTION 5-10-725(B).

“UNCOMPENSATED CARE PAYMENTS” MEANS PAYMENTS, TO BE ADMINISTERED BY AHCCCS AND APPROVED BY CMS, TO PARTICIPATING HOSPITALS TO REIMBURSE SOME OR ALL OF THEIR UNCOMPENSATED CARE COSTS OF TREATING AHCCCS AND UNINSURED PATIENTS.

“UC PAYMENT TRANSFER AMOUNT” MEANS THE ATC FUND REMAINDER MINUS THE COVERAGE AMOUNT , TO BE USED TO PAY FOR THE NON-FEDERAL SHARE OF UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING HOSPITALS FOR THE CURRENT QUARTER, EXCEPT THAT THE UC PAYMENT TRANSFER AMOUNT SHALL NOT EXCEED THE AMOUNT SPECIFIED BY AHCCCS AS REQUIRED TO FUND UNCOMPENSATED CARE PAYMENTS FOR THE QUARTER.

“UC PAYMENT PERIOD” MEANS THE PERIOD BEGINNING ON THE FIRST DAY OF THE PERIOD FOR WHICH CMS APPROVES UNCOMPENSATED CARE PAYMENTS FOR PARTICIPATING HOSPITALS AND ENDING ON THE LAST DAY OF THE PERIOD FOR WHICH AHCCCS IS AUTHORIZED BY STATE STATUTE AND CMS TO MAKE UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING HOSPITALS.

SEC. 5-10-705. CREATION OF ACCESS TO CARE FUND.

- (A) AN ACCESS TO CARE FUND IS CREATED AS A RESTRICTED SUBFUND WITHIN THE CITY. THE FUND SHALL BE USED TO ACCOUNT FOR THE ACCESS TO CARE PROGRAM MONIES AND SHALL CONTAIN ONLY THE FOLLOWING:**
- (1) PROCEEDS FROM ATC TAX PAYMENTS;**
 - (2) PENALTIES AND INTEREST FOR LATE ATC TAX PAYMENTS; AND**
 - (3) MONIES REPAID TO THE CITY BY AHCCCS IN CONNECTION WITH THE ATC TAX OR THE UNCOMPENSATED CARE PAYMENTS.**
- (B) NO MONIES IN THE ACCESS TO CARE FUND SHALL REVERT TO, OR LAPSE INTO ANY OTHER FUND, INCLUDING THE CITY GENERAL FUND, EXCEPT THE AMOUNTS FOR ADMINISTRATIVE COSTS AS PROVIDED FOR IN SECTION 5-10-720(A) AND AMOUNTS FROM PENALTIES AND INTEREST AS PROVIDED FOR IN SECTION 5-10-720(E).**

SEC. 5-10-710. IMPOSITION OF ACCESS TO CARE TAX AND RATE.

- (A) AS OF THE EFFECTIVE DATE, THERE IS HEREBY LEVIED AND IMPOSED AN ATC TAX EQUAL TO \$461.91 PER INPATIENT DISCHARGE FOR EACH PARTICIPATING HOSPITAL.**

- (B) INPATIENT DISCHARGES FOR EACH PARTICIPATING HOSPITAL IS CALCULATED AS THE SUM OF THE FOLLOWING LINES FROM WORKSHEET S-3, PART I, COLUMN 15, OF THE PARTICIPATING HOSPITAL'S MEDICARE COST REPORT LINES 12, 14 &14.01.**
- (C) ALL DATA REQUIRED TO CALCULATE THE ATC TAX AND ITS APPLICATION SHALL BE DERIVED FROM EACH PARTICIPATING HOSPITAL'S MEDICARE COST REPORTS FOR THE HOSPITAL FISCAL YEAR ENDING BETWEEN APRIL 1, 2010 AND MARCH 31, 2011.**

SEC. 5-10-715. COLLECTION OF TAX.

- (A) EXCEPT AS SPECIFIED IN (E) AND SECTION 5-10-735, THE ATC TAX SHALL BE DUE AND PAYABLE ON THE DUE DATE ON A QUARTERLY BASIS WITH A TAX PAYMENT FOR EACH QUARTER WITHIN THE UC PAYMENT PERIOD. EACH TAX PAYMENT SHALL EQUAL ONE-FOURTH OF THE TOTAL AMOUNT CALCULATED PURSUANT TO SECTION 5-10-710(A), EXCEPT THAT THE TAX PAYMENT AMOUNT SHALL BE PRORATED IF THE UC PAYMENT PERIOD BEGINS ON A DAY OTHER THAN THE FIRST DAY OF A QUARTER OR ENDS ON A DAY OTHER THAN THE LAST DAY OF A QUARTER, BASED ON THE NUMBER OF DAYS IN SUCH QUARTER THAT ARE WITHIN THE UC PAYMENT PERIOD.**
- (B) IF THE UC PAYMENT PERIOD IS LONGER THAN ONE YEAR, ADDITIONAL QUARTERLY TAX PAYMENTS SHALL BE DUE, CALCULATED IN THE MANNER SPECIFIED IN (A).**
- (C) EACH PARTICIPATING HOSPITAL SHALL FILE AN ATC TAX FORM WITH THE CITY IN SUCH FORM AND ON SUCH DATE AS THE TAX COLLECTOR SHALL SPECIFY, PROVIDING THE DATA REQUIRED TO DETERMINE THE AMOUNT OF THE ATC TAX PAYMENT DUE. THE TAX COLLECTOR MAY REQUIRE THE TAX FORM TO BE SUBMITTED PRIOR TO THE DATE ON WHICH ALL CONDITIONS SPECIFIED IN SECTION 5-10-735 HAVE OCCURRED.**
- (D) IF ANY PARTICIPATING HOSPITAL FAILS TO REMIT THE FULL AMOUNT OF THE TAX PAYMENT OWED BY THE DUE DATE, THE TAX COLLECTOR SHALL PROMPTLY NOTIFY THE PARTICIPATING HOSPITAL OF THE SHORTFALL AMOUNT. THE PARTICIPATING HOSPITAL SHALL REMIT**

TO THE TAX COLLECTOR FORTHWITH THE SHORTFALL AMOUNT ALONG WITH PENALTIES AND INTEREST DUE PURSUANT TO SECTION 5-10-750.

- (E) THE TAX COLLECTOR SHALL ADJUST THE DUE DATE(S) FOR ANY ATC TAX PAYMENTS DUE WITHIN THE UC PAYMENT PERIOD PRIOR TO CMS APPROVAL AS NECESSARY TO IMPLEMENT THE ACCESS TO CARE PROGRAM AS SOON AS PRACTICABLE AFTER CMS APPROVAL DESCRIBED IN SECTION 5-10-735 AND AS AGREED TO WITH AHCCCS. THE TAX COLLECTOR SHALL PROVIDE WRITTEN NOTICE TO THE PARTICIPATING HOSPITALS INDICATING THE DUE DATE(S) FOR THE APPLICABLE TAX PAYMENTS AT LEAST 5 DAYS PRIOR TO SUCH DUE DATE(S).**
- (F) THE TAX COLLECTOR SHALL ACCOUNT FOR ALL ATC TAX PAYMENTS AND ALL SHORTFALL AMOUNTS REMITTED PURSUANT TO SECTION 5-10-715(D) IN THE ACCESS TO CARE FUND.**

SEC. 5-10-720. USE OF ACCESS TO CARE TAX FUND.

MONIES IN THE ACCESS TO CARE FUND MAY BE UTILIZED FOR THE FOLLOWING PURPOSES:

- (A) UP TO \$6,250.00 OF THE COLLECTED TAX PAYMENTS EACH QUARTER MAY BE USED BY THE CITY TO COVER THE ADMINISTRATIVE COSTS. SUCH AMOUNT MAY BE INCREASED BY THE CITY UPON WRITTEN NOTICE TO THE PARTICIPATING HOSPITALS 30 DAYS PRIOR TO THE NEXT TRANSFER DATE IF THE CITY INCURS UNANTICIPATED COSTS INCLUDING COSTS FOR ADMINISTRATION, LITIGATION OR BANKRUPTCY PROCEEDINGS RELATED TO THE TAX.**
- (B) TO TRANSFER FUNDS TO AHCCCS PURSUANT TO SECTION 5-10-725 AND AN INTERGOVERNMENTAL AGREEMENT FOR THE PURPOSE OF PROVIDING LOCAL FUNDING FOR THE NON-FEDERAL SHARE OF:**
 - (1) UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING HOSPITALS; AND**
 - (2) EXPANDED HEALTH CARE COVERAGE TO INDIVIDUALS THROUGH AHCCCS.**

- (C) TO REFUND TO PARTICIPATING HOSPITALS ANY ATC TAX OVERPAYMENT OR AMOUNTS OTHERWISE COLLECTED IN ERROR;
- (D) TO REFUND TO PARTICIPATING HOSPITALS PURSUANT TO SECTION 5-10-745 ANY AMOUNTS REPAID BY AHCCCS TO THE TAX COLLECTOR AFTER RECOUPMENT OF UNCOMPENSATED CARE PAYMENTS FUNDED BY TAX PROCEEDS TRANSFERRED BY THE CITY;
- (E) WITH RESPECT ONLY TO PENALTIES AND INTEREST COLLECTED PURSUANT TO SECTION 5-10-750, TO TRANSFER TO THE CITY'S GENERAL FUND TO BE USED FOR ANY CITY-AUTHORIZED PURPOSE OR ANY BUDGETED PURPOSE CONSISTENT WITH THE GENERAL FUND RULES.

SEC. 5-10-725. TRANSFER TO AHCCCS.

- (A) FROM THE ATC TAX PAYMENTS COLLECTED EACH QUARTER, THE TAX COLLECTOR SHALL RETAIN THE ADMINISTRATIVE COSTS.
- (B) FROM THE ATC FUND REMAINDER, THE TAX COLLECTOR SHALL TRANSFER TO AHCCCS EACH QUARTER ON THE TRANSFER DATE THE TRANSFER FUNDS, EXCEPT AS PROVIDED UNDER SUBSECTIONS (C) OR (D). THE TRANSFER FUNDS ARE EQUAL TO THE SUM OF: COVERAGE AMOUNT + UC PAYMENT TRANSFER AMOUNT.
- (C) UNDER NO CIRCUMSTANCES SHALL THE TAX COLLECTOR BE REQUIRED TO TRANSFER A TOTAL AMOUNT OF TRANSFER FUNDS GREATER THAN THE ATC FUND REMAINDER. IF THE TRANSFER FUNDS REQUIRED UNDER SUBSECTION (B) EXCEED THE FUND REMAINDER, THE UC PAYMENT TRANSFER AMOUNT SHALL BE REDUCED SUCH THAT THE AMOUNT OF THE TRANSFER FUNDS EQUALS THE ATC FUND REMAINDER.
- (D) IN THE EVENT THAT THE ATC FUND REMAINDER IS GREATER THAN THE TRANSFER FUNDS SUCH THAT THERE ARE AMOUNTS REMAINING IN THE FUND AFTER A QUARTERLY TRANSFER, THE TAX COLLECTOR SHALL RETURN TO THE PARTICIPATING HOSPITALS WITHIN 15

DAYS AFTER THE TRANSFER DATE THEIR PRO RATA SHARE OF THE ATC FUND REMAINDER BASED ON THE ATC QUARTERLY TAX AMOUNTS PAID UNDER SECTION 5-10-715(A). THE PRO-RATA SHARE SHALL BE BASED ON THE PRIOR QUARTER. ADDITIONALLY, IN THE EVENT A PARTICIPATING HOSPITAL OWES THE TAX COLLECTOR MONIES FOR THE PREVIOUS OR CURRENT QUARTER, THE TAX COLLECTOR SHALL OFFSET THAT PARTICIPATING HOSPITAL'S PRO-RATA SHARE BY THE AMOUNT OWED.

- (E) IN THE EVENT THAT A PARTICIPATING HOSPITAL OWES A SHORTFALL AMOUNT PURSUANT TO SECTION 5-10-715(D), THE TAX COLLECTOR SHALL NOT TRANSFER TO AHCCCS ANY SUCH SHORTFALL AMOUNTS PAID UNTIL 95 BUSINESS DAYS AFTER RECEIPT OF THE SHORTFALL AMOUNT FROM THE PARTICIPATING HOSPITAL. THE TAX COLLECTOR SHALL TRANSFER SHORTFALL AMOUNTS TO AHCCCS ON THE NEXT TRANSFER DATE AFTER THE 95 DAY PERIOD ALONG WITH THE TRANSFER FUNDS FOR THE THEN-APPLICABLE QUARTER. IN THE CASE OF SHORTFALL AMOUNTS FROM THE LAST ATC TAX PAYMENT OWED BEFORE THE ATC TAX TERMINATES, THE TAX COLLECTOR SHALL TRANSFER THE SHORTFALL AMOUNTS WITHIN 15 DAYS AFTER THE 95 DAY PERIOD.**

SEC. 5-10-730. NO IMPACT ON PATIENTS OR PAYERS.

PARTICIPATING HOSPITALS SHALL NOT PASS THE COST OF THE TAX ON TO PATIENTS OR THIRD PARTY PAYERS LIABLE TO PAY FOR THE CARE ON A PATIENT'S BEHALF.

SEC. 5-10-735. REQUIREMENTS FOR IMPLEMENTATION.

THE TAX SHALL NOT BE DUE OR PAYABLE UNLESS AND UNTIL ALL OF THE FOLLOWING OCCURS:

- (A) CMS APPROVES THE UNCOMPENSATED CARE PAYMENTS AND THE ATC TAX; AND**
- (B) AHCCCS AGREES TO RETURN TO THE CITY THE NON-FEDERAL SHARE OF ANY UNCOMPENSATED CARE PAYMENTS RECOUPED BY AHCCCS FROM PARTICIPATING HOSPITALS, UNLESS SUCH RECOUPED PAYMENTS ARE REDISTRIBUTED BY AHCCCS TO OTHER PARTICIPATING HOSPITALS PURSUANT TO THE TERMS AND CONDITIONS**

OF THE FEDERAL APPROVAL OF THE UNCOMPENSATED CARE PAYMENTS; AND

- (C) THE CITY ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT WITH AHCCCS.**

SEC. 5-10-740. TERMINATION.

- (A) THE ATC TAX SHALL TERMINATE ON SEPTEMBER 30, 2013, UNLESS THE UC PAYMENT PERIOD EXTENDS BEYOND THAT DATE DUE TO AN EXTENSION OF AHCCCS' AUTHORIZATION TO MAKE UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING HOSPITALS AND AHCCCS' AUTHORIZATION TO ACCEPT CITY FUNDS FOR THE NON-FEDERAL SHARE OF AHCCCS PAYMENTS PURSUANT TO S.B. 1357. IN THE EVENT THAT THE ATC TAX EXTENDS BEYOND SEPTEMBER 30, 2013, THE ATC TAX SHALL TERMINATE ON THE EARLIEST OF:**

- (1) THE DATE ON WHICH AHCCCS' AUTHORIZATION TO MAKE UNCOMPENSATED CARE PAYMENTS TO PARTICIPATING HOSPITALS ENDS; OR**
- (2) THE DATE ON WHICH AHCCCS' AUTHORIZATION TO ACCEPT CITY FUNDS FOR THE NON-FEDERAL SHARE OF AHCCCS PAYMENTS PURSUANT TO S.B. 1357 EXPIRES; OR**
- (3) DECEMBER 31, 2013.**

- (B) THE ATC TAX SHALL TERMINATE PRIOR TO THE DATE IN SUBSECTION (A) UPON ANY OF THE FOLLOWING CONDITIONS:**

- (1) THE ATC TAX IS DETERMINED NOT TO BE A PERMISSIBLE SOURCE OF NON-FEDERAL SHARE FUNDING; OR**
- (2) THE ATC TAX IS OTHERWISE DETERMINED TO BE UNLAWFUL UNDER CITY, STATE OR FEDERAL LAW; OR**
- (3) A STATEWIDE HOSPITAL TAX OR OTHER ASSESSMENT IS ADOPTED AND TAKES EFFECT.**

SEC. 5-10-745. IMPACT OF TERMINATION OR RECOUPMENT

- (A) IN THE EVENT THAT THE AHCCCS REFUNDS ALL OR PART OF ANY TRANSFERS MADE TO IT PURSUANT TO SECTION 5-10-725(B), THE CITY SHALL RETURN TO THE PARTICIPATING HOSPITALS, WITHIN 15 DAYS OF RETURN OF THE FUNDS FROM AHCCCS , THEIR PRO RATA SHARE OF THE RETURNED FUNDS BASED ON ATC TAX AMOUNTS PAID UNDER SECTION 5-10-710.
- (B) IN EVENT THAT THE ATC TAX TERMINATES UNDER SECTION 5-10-740, THE TAX COLLECTOR SHALL REFUND TO EACH PARTICIPATING HOSPITAL WITHIN 15 DAYS OF TERMINATION THE PRO RATA PORTION OF ANY MONIES REMAINING IN THE ATC FUND THAT HAVE NOT BEEN SPENT OR IRREVOCABLY ALLOCATED FOR THEIR DESIGNATED PURPOSES.

SEC. 5-10-750. INTEREST AND PENALTIES.

- (A) IN THE EVENT A PARTICIPATING HOSPITAL OWES A SHORTFALL AMOUNT TO THE TAX COLLECTOR PURSUANT TO SECTION 5-10-715(D), THE PARTICIPATING HOSPITAL MUST PAY INTEREST ON SUCH SHORTFALL AMOUNT FROM THE DELINQUENCY DATE UNTIL IT IS REMITTED TO THE TAX COLLECTOR. THE INTEREST RATE SHALL BE DETERMINED PURSUANT TO SECTION 5-10-540.
- (B) IN ADDITION TO INTEREST BEING ASSESSED UNDER SUBSECTION (A), ANY PARTICIPATING HOSPITAL THAT FAILS TO PAY ANY OF THE ATC TAX IMPOSED BY THIS ARTICLE WHICH WERE DUE OR FOUND TO BE DUE BEFORE THE DELINQUENCY DATE SHALL BE SUBJECT TO AND SHALL PAY TWO (2) PERCENT CIVIL PENALTIES ON THE SHORTFALL AMOUNT.
- (C) PENALTIES PROVIDED FOR UNDER SECTION 5-10-540 ARE NOT APPLICABLE.
- (D) PENALTIES AND INTEREST IMPOSED BY THIS SECTION ARE DUE AND PAYABLE UPON NOTICE BY THE TAX COLLECTOR.

SEC. 5-10-755. EXAMINATION OF BOOKS AND RECORDS; FAILURE TO PROVIDE RECORDS.

- (A) THE TAX COLLECTOR AND THE PARTICIPATING HOSPITALS SHALL HAVE ALL THE RIGHTS AND OBLIGATIONS AS STATED IN SECTION 5-10-510.
- (B) NOTHING IN THIS ORDINANCE MAY BE READ AS A WAIVER OF ANY RIGHTS THE TAX COLLECTOR MAY HAVE UNDER THE CODE OR BY CITY CHARTER WITH REGARDS TO THE ABILITY TO ENFORCE AND/OR COLLECT ALL MONIES OWED BY THE PARTICIPATING HOSPITALS EXCEPT WHERE EXPRESSLY STATED.
- (C) ALL OTHER PROVISIONS IN THE CODE OR CITY CHARTER ARE APPLICABLE UNLESS EXPRESSLY STATED OTHERWISE.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this ____ day of _____, 2013.

APPROVED:

Mayor

ATTEST:

City Clerk