

ORDINANCE NO. 5949

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING MESA CITY CODE TITLES 9 AND 11 RELATED TO SUBDIVISION REGULATIONS. THE AMENDMENTS INCLUDE REPEALING MESA CITY CODE TITLE 9, CHAPTER 6 (SUBDIVISION REGULATIONS) IN ITS ENTIRETY AND REPLACING IT WITH A NEW MESA CITY CODE TITLE 9, CHAPTER 6 TITLED “LAND DIVISION REGULATIONS”; REPEALING MESA CITY CODE TITLE 11, ZONING ORDINANCE, SECTION 11-30-6 (LOTS AND SUBDIVISIONS) IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 11-30-6 TITLED “LOTS AND LAND DIVISIONS”; AMENDING MESA CITY CODE TITLE 11, ZONING ORDINANCE, SECTION 11-66-2(C); AND AMENDING MESA CITY CODE TITLE 11, ZONING ORDINANCE, CHAPTER 87 (DEFINITIONS); PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; 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.”) Title 9, Chapter 4, Article 6.2, the legislative body of every municipality shall by ordinance regulate the subdivision of all lands within its corporate limits.

WHEREAS, the City regulates the subdivision of all lands within its corporate limits through, in large part, the Subdivision Regulations set forth in Mesa City Code Title 9, Chapter 6.

WHEREAS, the City’s Subdivision Regulations, in mostly the same form as they exist today, were adopted in 1989 via Ordinance No. 2474 and Resolution No. 6188.

WHEREAS, Mesa City Code Title 11 (“Zoning Ordinance”) Section 11-30-6 (Lots and Subdivisions), Section 11-66-2(C) (Authority and Duties of the Planning and Zoning Board), and Chapter 87 (Definitions) also contain regulations and definitions applicable to the subdivision of lands.

WHEREAS, on March 31, 2025, the Governor signed House Bill 2447 that amends A.R.S. § 9-500.49 to, in part, require every city by ordinance to authorize administrative personnel to review and approve, without a public hearing, land divisions, lot line adjustment, preliminary plats, final plats, and plat amendments.

WHEREAS, the City desires to repeal its Subdivision Regulations in their entirety and to adopt new regulations for the subdivision of lands called “Land Division Regulations” in order to modernize, simplify, and clarify the regulations, and to adopt a new administrative review and approval process for land divisions in compliance with House Bill 2447.

WHEREAS, to ensure consistency with the City's new Land Division Regulations, the City desires to revise Zoning Ordinance Section 11-30-6 (Lots and Subdivisions), Section 11-66- 2(C) (Authority and Duties of the Planning and Zoning Board), and Chapter 87 (Definitions) related to regulations for the subdivision of lands.

WHEREAS, the City's Subdivision Regulations contain reduced street lighting levels for certain areas of the Desert Uplands Area to control and reduce light pollution and unwanted light intrusion into adjacent residential areas; commonly referred to as "dark sky" regulations. The existing boundaries of the designated dark sky area are generally located east of Hawes Road, north of McDowell Road, and west of Utery Mountain Regional Park.

WHEREAS, the City reviewed the boundaries of the designated dark sky area to determine whether modifications are warranted in light of current land use conditions and development patterns.

WHEREAS, the area generally located east of Hawes Road, north of the Hermosa Vista Drive alignment, and west of Utery Mountain Regional Park (immediately to the south of the current designated dark sky area) is largely built out except for an undeveloped parcel that recently received approval for a residential subdivision.

WHEREAS, it is anticipated that future development to the south of the designated dark sky area will generate only a minimal increase in traffic volumes and will be consistent with the land use and lighting characteristics of the designated dark sky area.

WHEREAS, City Council finds it is appropriate and consistent with the goals of the City to expand the boundaries of the designated dark sky area to the south, to be generally located east of Hawes Road, north of the Hermosa Vista Drive alignment, and west of Utery Mountain Regional Park. City Council finds and determines that the new boundaries of the designated dark sky area set forth in the proposed Land Division Regulations create lighting levels that best meet the goals of the City and its citizens and contributes to the aesthetic character of the City, while allowing for appropriate lighting consistent with community needs and values.

WHEREAS, the new Land Division Regulations and amendments to the Zoning Ordinance related to the subdivision of lands will benefit the public and the City by clarifying the regulations providing a simpler and more streamlined process for land divisions in compliance with A.R.S. Title 9, Chapter 4, Article 6.2 and House Bill 2447.

WHEREAS, the Planning and Zoning Board at their public hearing on May 28, 2025, recommended that the City Council adopt the proposed amendments to Zoning Ordinance Section 11-30-6, Section 11-66-2(C), and Chapter 87.

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

Section 1: REPEAL; ADOPTION BY REFERENCE.

- A. Repeal. Mesa City Code Title 9, Chapter 6 titled “Subdivision Regulations” is hereby repealed in its entirety.
- B. Adoption by Reference. That certain document titled “2025 Amendments to Mesa City Code Title 9, Chapter 6: Land Division Regulations” that was made a public record on June 16, 2025, by Resolution No. 12391, of the City of Mesa, Maricopa County, Arizona, three copies of which are on file and available for public use and inspection with the City Clerk, is hereby adopted by reference and made a part hereof as if fully set forth in this Ordinance and its provisions are hereby declared inserted into Mesa City Code Title 9, Chapter 6 and titled “Land Division Regulations,” to replace and supersede the prior Mesa City Code Title 9, Chapter 6 titled “Subdivision Regulations.”

Section 2: A new Mesa City Code Section 9-6-8 titled “Penalties and Civil Hearing Process” is hereby adopted as follows:

9-6-8: PENALTIES AND CIVIL HEARING PROCESS

- A. **Criminal Penalty.** The following acts are unlawful and any person who commits any of the following acts will be charged with a Class 1 misdemeanor:
1. Recording or attempting to record a Plat, Land Split, or Affidavit of Change/Correction with the Maricopa County Recorder that does not have all required approvals from the City.
 2. Developing or attempting to develop land contrary to or in violation of any provision of this Chapter or any condition or stipulation designated on an approval issued pursuant to this Chapter.
- B. **Civil Penalty and Civil Hearing Process.** A violation of any provision of this Chapter, other than the acts designated as unlawful, is a civil code offense which may be adjudicated and enforced by the following civil hearing process:
1. A person issued a civil penalty pursuant to this Chapter may appeal the civil penalty by requesting a hearing within 10 days of issuance of the civil penalty. The appeal must be in writing, state the grounds for the appeal, and be sent to the Development Services Director. The failure of an appeal to meet the requirements of this Section will entitle the Development Services Director to deny the appeal without further review.
 2. If an appeal meets the requirements of this Section, the Development Services Director will schedule a hearing with the Hearing Officer.

3. All proceedings before the Hearing Officer will be informal and without a jury, except that testimony must be given under oath or affirmation. The technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. Prehearing discovery will not be permitted, unless the Hearing Officer determines good cause exists otherwise. The Hearing Officer is authorized to make such orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the appeal.
4. If either party to the appeal is aggrieved by the decision of the Hearing Officer, the aggrieved party may file a complaint of special action in an Arizona Superior Court with the proper jurisdiction to review the Hearing Officer's decision within 30 days after a final decision of the Hearing Officer has been rendered. Failure to bring the action within 30 days will constitute a waiver of any right to judicial review of the Hearing Officer's decision.

C. **Separate Offense.** Each day a violation of any provision of this Chapter continues will be a separate offense.

Section 3: Mesa City Code Section 11-30-6 titled "Lots and Subdivisions" is hereby repealed in its entirety and replaced with a new Mesa City Code Section 11-30-6 titled "Lots and Land Divisions" as follows:

11-30-6: LOTS AND LAND DIVISIONS

Design Objectives: To promote orderly growth and harmonious development by ensuring land divisions result in lots, tracts, or parcels of land of adequate size and configuration that are compatible with the intent of the zoning district. Land divisions should create parcels that are suitable for their intended use, contribute to cohesive neighborhood patterns, support safe and convenient access, and uphold the long-term viability of public infrastructure and services.

- A. **Legal Nonconforming Lot or Parcel.** Any lot or parcel of land recorded in the Maricopa County Recorder's Office and lawfully created prior to the effective date of this Ordinance, and that has an area, width, depth, or street frontage less than the minimum required by the zoning district in which it is located, shall be considered a legal lot and may be used as a building site. All other applicable regulations for the zoning district in which the lot is located shall continue to apply.
- B. **Lot Dimension Requirements.** No lot, tract, or parcel of land shall be divided in a manner which results in an area, width, depth, or open space less than the minimum required by the zoning district in which it is located, except:
 1. For the purposes of providing public rights-of-way or for conveying a portion of a lot, tract, or parcel of land to a public governing authority for a publicly beneficial use through a land purchase, dedication, or gift; or

2. If modifications to the area, width, depth, or open space have been approved by the City Council or Board of Adjustment.
- C. **Individual Yard and Open Space Requirements.** No yard or other open space required around any building designed to comply with the provisions of this Ordinance shall again be used as a yard or other open space for another lot or parcel.
- D. **Permitted Number of Dwelling Units.** No lot shall be divided in a way that results in a lot containing more dwelling units than permitted by the zoning district in which the lot is located.
- E. **Land Split.** The division of land into two (2) or three (3) tracts or parcels shall require approval of a Land Split in accordance with Title 9 Chapter 6 of the Mesa City Code.
1. When dividing developed land, required separation distances established by the Building Code, as well as open space requirements set forth in this Ordinance, must be maintained.
2. All resulting tracts or parcels shall also comply with all applicable regulations of the zoning district in which they are located.
- F. **Buildings Crossing Lot Lines.** Where two (2) or more lots are used as a building site and where buildings cross lot lines, the entire area shall be considered one (1) lot, except that the front of the parcel shall be determined to be the front of the individual lots as originally platted or recorded.
- G. **Street Frontage Required.** Every lot shall have frontage on a dedicated public street or private street unless the lot is a unit in a condominium subdivision.
- H. **Future Right-of-Way.** Where future width lines for rights-of-way have been established, all required yards and setbacks shall be measured from the future width lines.
- I. **Zoning Ordinance and Plat Conflicts.** Where a conflict exists between yards or setbacks required by this Ordinance and yards or setbacks specified on a plat, the requirements of this Ordinance shall control, except when a modification to such yard or setback was approved by City Council or the Board of Adjustment

Section 4: Mesa City Code Section 11-66-2(C) titled “Authority and Duties of the Planning and Zoning Board” is hereby amended as follows:

Text written in **BOLD ALL CAPS** indicates additional or new language.
Text written in ~~strike through~~ indicates deletions.

C. **Authority and Duties of the Planning and Zoning Board.** The Planning & Zoning Board shall:

1. Recommend action to the City Council on requests for amendments to the Zoning Map and to the Zoning Ordinance, on requests for Council Use Permit, and amendments to the General Plan, except for those cases referred to the Planning Hearing Officer or the Planning Director by this Ordinance.
2. Hear and take action on Special Use Permits only when requested in conjunction with another request requiring action or recommendation by the Planning and Zoning Board, as authorized by this Sub-section C. Any Planning and Zoning Board approval of a SUP that requires the associated request to be approved by the City Council shall be conditioned upon Council approval of the associated request. In the event the City Council denies the associated request, the SUP shall also be considered denied.
3. Hear and take action on requests for Site Plan Reviews and Site Plan Modifications when not otherwise conditioned for review and approval by City Council, or the request does not involve the need to amend a condition of approval as stated in the adopting ordinance.
- ~~4. Consider and decide preliminary plats as part of the platting procedures and requirements described in the Subdivision Regulations, Title 9, Chapter 6, of the Mesa City Code.~~
54. Hear, make recommendations and/or decide matters relating to a PC District, as specified in Chapter 11 of this Ordinance, and the applicable Community Plan as adopted by City Council and including all approved amendments to the Community Plan.
65. Review and make recommendations to the City Council regarding joint public/private projects in designated redevelopment areas.
76. Hold public hearing and make recommendations to the City Council on proposed redevelopment plans or amendments to adopted plans.
87. Propose redevelopment actions to the council which are consistent with adopted plans and stated redevelopment goals.
98. Hear and make recommendations on other matters as directed by the City Council.
409. The Board may adopt rules for the conduct of its business.

Section 5: Mesa City Code Title 11, Chapter 87 titled “Definitions” is hereby amended to modify only the definitions for “Street, Frontage” that appears in alphabetical order under “Street- Related Definitions” and for “Yard” that appears in alphabetical order under “Yard-Related Definitions.” The remainder of Chapter 87 remains the same.

Text written in BOLD ALL CAPS indicates additional or new language. Text written in striketrough indicates deletions.
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Street, Frontage: ~~A local street parallel and adjacent to an arterial route which intercepts minor residential streets and controls access to an arterial route.~~ **THE LINEAR DISTANCE THAT A LOT, PARCEL, OR DEVELOPMENT SITE ABUTS A PUBLIC OR PRIVATE STREET, MEASURED ALONG THE PROPERTY LINE THAT DIRECTLY BORDERS THE STREET RIGHT-OF-WAY.**

Yard: ~~An open space on the same lot or parcel of land, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise permitted by this Title 11.~~ **A MINIMUM REQUIRED OPEN AREA ADJACENT TO A LOT LINE TO BE FREE FROM ANY STRUCTURE, EXCEPT AS OTHERWISE PERMITTED BY THIS TITLE 11 OF THE MESA CITY CODE.**

Section 6: 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 7: AMENDED LANGUAGE. In Sections 4 and 5 of this Ordinance, which modify the current language of the Zoning Ordinance, deleted language is shown in ~~striketrough~~ and new language is shown in **BOLD ALL CAPS**.

Section 8: 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 9: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 10: 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 11: RESOLUTION AND EXHIBIT ON FILE. Resolution No. 12391 adopted on June 16, 2025 and the attached exhibit titled “2025 Amendments to Mesa City Code Title 9, Chapter 6: Land Division Regulations” are on file and available for public use and inspection at the Office of the City Clerk, 20 East Main Street, Suite 150, Mesa, Arizona.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 1st day of July, 2025.

APPROVED:

Mayor

ATTEST:

City Clerk