

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 6, 7, 22, 31, 32, AND 86 PERTAINING TO DATA CENTERS AND PLANNED AREA DEVELOPMENT OVERLAY DISTRICTS. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: ADDING A DEFINITION FOR DATA CENTER; MODIFYING LAND USE TABLES TO ADD DATA CENTER; ESTABLISHING DEVELOPMENT AND OTHER STANDARDS SPECIFIC TO DATA CENTERS; ADDING A MINIMUM PARKING REQUIREMENT FOR DATA CENTERS; AMENDING THE PURPOSE, LAND USE REGULATIONS, AND DEVELOPMENT STANDARDS RELATED TO THE PLANNED AREA DEVELOPMENT (PAD) OVERLAY DISTRICT TO, AMONG OTHER THINGS, ALLOW LAND USES TO BE PERMITTED THROUGH APPROVAL OF PAD OVERLAY DISTRICTS; MODIFYING THE DEFINITION OF INDOOR WAREHOUSING AND STORAGE; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, data centers are an increasingly prominent land use that presents unique considerations related to land use compatibility, infrastructure demand, and environmental impact.

WHEREAS, data centers are frequently heavy utility users and may require substantial utility infrastructure, including electrical power, cooling systems, and broadband capacity, which can significantly affect surrounding development and municipal services, including the availability and distribution of utilities to other City customers.

WHEREAS, the operation of data centers can generate impacts such as noise from mechanical equipment, heat discharge, 24-hour activity, and large-scale building footprints, all of which require appropriate development standards to ensure compatibility with nearby uses.

WHEREAS, the City seeks to support technological innovation and economic development while maintaining land use compatibility, environmental stewardship, and high-quality design.

WHEREAS, establishing zoning regulations and development standards specific to data centers will provide clarity to applicants, promote the public health, safety, and general welfare, and ensure data centers are appropriately sited and designed within the community.

WHEREAS, the proposed ordinance defines “Data Center” as a distinct land use, allows the City Council to permit Data Centers through approval of a Planned Area Development Overlay (PAD) used in combination with certain industrial zoning districts, and outlines related standards for location, design, screening, and noise.

WHEREAS, pursuant to A.R.S. § 9-462.01, the legislative body of any municipality by ordinance, in order to conserve and promote the public health, safety, and general welfare, may (1) adopt overlay zoning districts and regulations applicable to particular buildings, structures, and land within individual

zones that modify regulations in another zoning district with which the overlay zoning district is combined; and (2) regulate the use of buildings, structures, and land.

WHEREAS, the PAD is an overlay zoning district used to permit flexibility in the application of zoning standards in order to encourage creative, high-quality, and integrated development that may not be achievable through conventional zoning standards alone.

WHEREAS, the City has historically used the PAD to modify development standards of another zoning district—including setbacks, building form, and open space standards—consistent with the unique context and vision of the proposed development.

WHEREAS, the current Zoning Ordinance does not explicitly authorize the City Council modify land use regulations through a PAD—such as to permit uses that are appropriate and compatible for the area but may not be contemplated by the Zoning Ordinance—which can limit the intended flexibility of the PAD and ability of the City Council to modify zoning regulations to support site-specific development goals.

WHEREAS, the ability of the City Council to modify land use regulations, including to permit additional, compatible uses through a PAD, as allowed by A.R.S. § 9-462.01, will conserve and promote the public health, safety, and general welfare by enhancing flexibility, promoting innovative mixed-use and master-planned communities, and supporting strategic land use planning consistent with the City’s General Plan.

WHEREAS, on June 11, 2025, the Planning and Zoning Board recommended that the City Council _____ the proposed amendments.

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

Section 1: Mesa City Code Title 11, Chapter 6, Table 11-6-2 is hereby amended only to add Data Center to the Specific Accessory Uses category and to revise footnote 1 related to a Data Center as an accessory use, as follows. The remainder of Table 11-6-2 remains the same.

Table 11-6-2: Commercial Districts						
Proposed Use	NC (C-1)	LC (C-2)	GC (C-3)	OC (O-S)	MX	Additional Use Regulations
...						
Specific Accessory Uses						
DATA CENTER	P (1)	P (1)	P (1)	P (1)	P (1)	SECTION 11-31-36, DATA CENTERS

Table 11-6-2: Commercial Districts						
Proposed Use	NC (C-1)	LC (C-2)	GC (C-3)	OC (O-S)	MX	Additional Use Regulations
...						
1. Reserved. REFER TO SECTION 11-31-36(C)(2) FOR CONDITIONS UNDER WHICH A DATA CENTER MAY QUALIFY AS AN ACCESSORY USE.						
...						

Section 2: Mesa City Code Title 11, Chapter 7, Section 11-7-2 is hereby amended only to add a new letter designation “SE” for use in Table 11-7-2, add Data Center to Table 11-7-2, and add new footnotes 18 and 19 related to a Data Center, as follows. The remainder of Table 11-7-2 remains the same.

11-7-2: - LAND USE REGULATIONS

In Table 11-7-2, which follows, the land use regulations for each Employment Zoning District are established by letter designations as follows:

- "P" designates use classifications permitted.
- "TUP" designates use classifications permitted on approval of a Temporary Use Permit.
- "SUP" designates use classifications permitted on approval of a Special Use Permit.
- "CUP" designates use classifications permitted on approval of a Council Use Permit.
- "(x)" a number in parentheses refers to limitation following the table.
- **“SE” DESIGNATES USE CLASSIFICATIONS THAT ARE NOT ALLOWED BY RIGHT BUT ARE PERMITTED IF APPROVED THROUGH A PARTICULAR REVIEW PROCEDURE.**
- "—" designates a prohibited use.

Use classifications not listed are prohibited. The "Additional Use Regulations" column includes specific limitations applicable to the use classification or refers to regulations located elsewhere in this Ordinance.

Table 11-7-2: Employment Districts					
Proposed Use	PEP	LI (M-1)	GI (M-2)	HI	Additional Use Regulations
...					
Employment and Industrial Use Classifications					
...					

Table 11-7-2: Employment Districts					
Proposed Use	PEP	LI (M-1)	GI (M-2)	HI	Additional Use Regulations
DATA CENTER	—	—	SE (18)	SE (18)	SECTION 11-31-36, DATA CENTERS
...					
Specific Accessory Uses and Facilities					
DATA CENTER	P (19)	P (19)	P (19)	P (19)	SECTION 11-31-36, DATA CENTERS
....					
18. MAY BE PERMITTED ONLY IF SPECIFICALLY AUTHORIZED BY CITY COUNCIL AT THE TIME OF APPROVAL OF A PLANNED AREA DEVELOPMENT OVERLAY (PAD) DISTRICT.					
19. REFER TO SECTION 11-31-36(C)(2) FOR CONDITIONS UNDER WHICH A DATA CENTER MAY QUALIFY AS AN ACCESSORY USE.					

Section 3: PLANNED AREA DEVELOPMENT OVERLAY DISTRICT SECTIONS: REPEAL; ADOPTION BY REFERENCE.

- A. REPEAL. The following sections of Title 11 of the Mesa City Code are hereby repealed in their entirety: Section 11-22-1 titled “Purpose;” Section 11-22-2 titled “Land Use Regulations;” and Section 11-22-3 titled “Development Standards”.
- B. ADOPTION BY REFERENCE. That the certain document titled “Planned Area Development Overlay District Amendments,” which was made a public record on _____, by Resolution No. _____, 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 declared to be inserted into the following sections of Title 11 of the Mesa City Code: Section 11-22-1 titled “Purpose;” Section 11-22-2 titled “Land Use Regulations;” and Section 11-22-3 titled “Development Standards.”

Section 4: STANDARDS FOR DATA CENTERS: ADOPTION BY REFERENCE. That the certain document titled “Section 11-31-36: Data Centers,” which was made a public record on _____, by Resolution No. _____, 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 declared to be inserted into the following section of Title 11 of the Mesa City Code: Section 11-31-36 titled “Data Centers.”

Section 5: Mesa City Code Title 11, Chapter 32, Table 11-32-3.A., Required Parking Spaces By Use, is hereby amended only to add required parking spaces for a Data Center to the Independent Industrial Buildings and Uses category, as follows. The remainder of Table 11-32-3.A. remains the same.

Table 11-32-3.A: Required Parking Spaces By Use	
Use	Minimum Standard
Independent Industrial Buildings and Uses	
...	
DATA CENTER	1 SPACE PER 15,000 SQUARE FEET <u>FOR THE FIRST 200,000 SQUARE FEET AND 1 SPACE PER 10,000 SQUARE FEET THEREAFTER</u>
...	

Section 6: Mesa City Code Title 11, Chapter 86, Section 11-86-5, Employment and Industrial Use Classifications, is hereby amended only to add the use type “Data Center,” which shall be arranged in alphabetical order within Section 11-86-5, revise the definition of “Indoor Warehousing and Storage” as follows. The remainder of Section 11-86-5 remains the same.

11-86-5: - EMPLOYMENT AND INDUSTRIAL USE CLASSIFICATIONS

...

DATA CENTER. A FACILITY, OR PORTION OF A FACILITY, WHOSE PRINCIPAL/PRIMARYLY USE IS/DPRIMARILY USED TO STORE AND MANAGE COMPUTER SYSTEMS, SERVERS, NETWORKING EQUIPMENT, AND COMPONENTS RELATED TO DIGITAL DATA OPERATIONS. THIS INCLUDES RELATED INFRASTRUCTURE, OFFICE SPACE, AND STAFF AREAS NECESSARY TO SUPPORT DIGITAL DATA OPERATIONS. FOR PURPOSES OF THIS DEFINITION, DIGITAL DATA OPERATIONS INCLUDE THE STORAGE, PROCESSING, AND DISTRIBUTION OF DIGITAL INFORMATION AND MAY ENCOMPASS ACTIVITIES RELATED TO ARTIFICIAL INTELLIGENCE, BLOCK-CHAIN TECHNOLOGY, CRYPTOCURRENCY MINING, COMPUTATIONAL MODELING, WEATHER MODELING, GENOME SEQUENCING, AND OTHER COMPUTATIONALLY INTENSIVE APPLICATIONS.

...

Indoor Warehousing and Storage. Storage within an enclosed building of commercial goods prior to their distribution to wholesale and retail outlets and the storage of industrial equipment, products and materials including but not limited to automobiles, feed, and lumber. Also includes cold storage, draying or freight, moving and storage, and warehouses. This classification excludes **DATA CENTERS**, the storage of hazardous chemical, mineral, and explosive materials.

Section 7: RECITALS. The recitals above are fully incorporated in Ordinance No. ____ (this “Ordinance”) by reference, and each recital represents a finding of fact and determination made by the City Council.

Section 8: AMENDED LANGUAGE. In the sections of this Ordinance that modify the current language of the Mesa City Code (i.e., Sections 1, 2, 5, and 6), new language is shown in **BOLD ALL CAPS** and deleted language is shown in ~~strikethrough~~.

Section 9: 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 10: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 11: 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 12: BINDING WAIVER OF ENFORCEMENT. As permitted by Arizona Revised Statutes (“A.R.S.”) § 12-1134 and set forth in this Section 12, if an owner of real property claims the owner’s rights to use, divide, sell, or possess, and the fair market value of, the real property (“specific parcel”) was reduced by the enactment or applicability of the newly enacted Data Center Law (as defined below), the owner may request a binding waiver of enforcement as to the Data Center Law for the specific parcel.

A waiver may only be requested by an owner who owned a specific parcel on the effective date of this Ordinance and the specific parcel was: (1) zoned Planned Employment Park (PEP), Light Industrial (LI), General Industrial (GI), Heavy Industrial (HI), or Downtown Business-2 (DB-2); or (2) located within the Eastmark (Mesa Proving Grounds) Planned Community and had an identified Land Use Group (LUG) of Village, District, Regional Center/Campus, or Urban Core. A waiver may not be requested by an owner who owned a specific parcel before or after the effective date of this Ordinance, but who did not own the specific parcel on the effective date of this Ordinance.

To request a waiver, an owner must submit a written demand to the City of Mesa Planning Division within three years of the effective date of this Ordinance that includes: (1) the specific amount of just compensation; (2) a statement that the rights to use, divide, sell, or possess, and that the fair market value of, the owner’s specific parcel were reduced by the enactment or applicability of the Data Center Law; and (3) evidence that the owner submitting the waiver request owned the specific parcel on the effective date of this Ordinance.

If the waiver request meets all the requirements of this Section 12, as determined by the Planning Director or their designee, the City of Mesa Planning Division may issue to the owner a waiver of the Data Center Law on the owner’s specific parcel (“Waiver”). A Waiver grants the owner only the right to use the specific parcel in compliance with the Zoning Ordinance or Community Plan, as applicable, as if the Data Center Law was not adopted. By way of example only, an owner of a specific parcel zoned General Industrial (GI) or Heavy Industrial (HI) on the effective date of this Ordinance would be permitted, with a Waiver, to develop a data center without approval of a PAD ~~in which a data center is specifically authorized by the City Council at the time of approving the PADs required by this Ordinance.~~ If a Waiver is issued for a specific parcel that had an existing data center, or an approved site plan for a data center, on the specific parcel as of the effective date of this Ordinance, the existing or approved data center will be considered a legal conforming use. A Waiver does not waive or modify any land use laws in this Ordinance or in the Mesa City Code other than the Data Center Law. By way of example only ~~and for the avoidance of doubt~~, a Waiver does not waive any of the application requirements, development standards, or operational requirements in Section 11-31-36 of the Zoning Ordinance (collectively, the “Section 11-31-36 Standards”). The applicability of the Section 11-31-36 Standards is further explained by way of example in Section 15. A Waiver is only applicable to the specific parcel for which it is granted. A data center on a specific parcel that has a Waiver will be considered a legal conforming use (regardless of when the data

center was approved or built). A Waiver runs with the land; provided, however, a Waiver automatically terminates ~~when upon a rezoning of the specific parcel is rezoned~~that modifies the land uses allowed on the specific parcel by either rezoning to a different base zoning district or to an overlay zoning district that modifies the land uses allowed.~~the specific parcel is rezoned.~~ A Waiver does not limit, prevent, alter, or affect a development agreement that restricts or prohibits data centers or other land uses. The Planning Director and City Attorney are authorized to draft the Waiver form to be used pursuant to the terms, conditions, and limitations of this Section 12.

For purposes of this Section 12, the following definitions apply:

“Data Center Law” means the prohibition of data centers (except data centers that qualify as an accessory use pursuant to Section 11-31-36(A)(1) of the Zoning Ordinance) in every zoning district except a Planned Area Development Overlay District (“PAD”) that is used in combination with the General Industrial (GI) or Heavy Industrial (HI) zoning district and in which a data center is specifically authorized by the City Council at the time of approving the PAD. For the avoidance of doubt, “Data Center Law” does not include the application requirements, development standards, or operational requirements in Section 11-31-36 of the Zoning Ordinance.

“Fair market value,” “just compensation,” “land use law,” and “owner” have the meanings ascribed by A.R.S. § 12-1136.

Section 13: ZONING INTERPRETATION RECORD. On the effective date of this Ordinance, the Zoning Interpretation Record signed by the Zoning Administrator on March 13, 2023, regarding “Data Centers – Land Use Classification and Zoning District Allowed,” that determined a data center was within the use classification “Indoor Warehousing and Storage,” is no longer applicable and is no longer of any force or effect.

Section 14: DATA CENTERS IN EASTMARK. As set forth in the adopted Community Plan for Eastmark (Mesa Proving Grounds) in effect on the effective date of this Ordinance, data centers located within the Eastmark (Mesa Proving Grounds) Planned Community are not required to comply with Section 11-31-36 of the Zoning Ordinance.

Section 15: SECTION 11-1-6 OF THE ZONING ORDINANCE PRIOR APPROVALS RECEIVED AND COMPLETE APPLICATIONS SUBMITTED. Data center projects that have received approvals prior to the effective date of this Ordinance may file applications for permits and plats, and may be constructed, as set forth in Section 11-1-6(B) of the Zoning Ordinance. Complete applications for proposed data center projects filed prior to the effective date of this Ordinance may be approved as set forth in Section 11-1-6(C) of the Zoning Ordinance.

By way of example only and without limiting the foregoing, (1) a data center that has received approvals, such as an approved site plan or design review, prior to the effective date of this Ordinance may develop and operate in compliance with the subject approvals and the Zoning Ordinance in effect at the time of the subject approvals, even if the data center does not comply with the Section 11-31-36 Standards; (2) a data center that has submitted complete applications for required approvals, such as for site plan review or design review, prior to the effective date of this Ordinance may develop and operate in compliance with the Zoning Ordinance in effect at the time of submitting the complete applications, even if the data center does not comply with the Section 11-31-36 Standards; and (3) a data center that has not received approvals nor

submitted complete applications for required approvals prior to the effective date of this Ordinance must comply with all provisions of this Ordinance, including the Section 11-31-36 Standards.

Section 16: 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 Section, 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.

Section 17: RESOLUTION AND EXHIBIT ON FILE. Resolution No. _____ adopted on _____ and its attached exhibit titled “Planned Area Development Overlay District Amendments” are on file and available for public use and inspection at the Office of the City Clerk, 20. E. Main Street, Suite 150, Mesa, Arizona.

Section 18: RESOLUTION AND EXHIBIT ON FILE. Resolution No. _____ adopted on _____ and its attached exhibit titled “Section 11-31-36: Data Centers” are on file and available for public use and inspection at the Office of the City Clerk, 20. E. Main Street, Suite 150, Mesa, Arizona.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this ____ day of _____ 2025.

APPROVED:

Mayor

ATTEST:

City Clerk