

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, REPEALING IN ITS ENTIRETY CHAPTER 69, SITE PLAN REVIEW, TITLE 11, ZONING ORDINANCE, OF THE MESA CITY CODE AND ADOPTING BY REFERENCE THE PUBLIC RECORD KNOWN AS “2020 – CHAPTER 69 SITE PLAN REVIEW, TITLE 11 ZONING ORDINANCE;” PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, it has become apparent, and in the best interest of the City, to update the site plan review procedures of Title 11 of the Zoning Ordinance of the Mesa City Code; and

WHEREAS, Chapter 69, Site Plan Review, Title 11 of the Zoning Ordinance, sets the review and approval process for new site plans and modifications to approved site plans (Collectively “Site Plans”); and

WHEREAS, Site Plans have historically been reviewed and approved by the Planning and Zoning Board or the City Council; and

WHEREAS, the City Council has determined that certain Site Plans, due to the nature of the development, may be approved administratively; and

WHEREAS, it is important to establish the criteria for determining which Site Plans are eligible for administrative review; and

WHEREAS, other municipalities in Arizona, including the Town of Fountain Hills, Town of Gilbert, City of Glendale, Town of Queen Creek, and City of Tucson allow administrative review of certain site plans; and

WHEREAS, it has also become apparent, and in the best interest of City, to clarify other language in Chapter 69, such as applicability of site plan review, criteria for initial site plan review and site plan modifications and the applicable approval process; and

WHEREAS, the Planning and Zoning Board at their public meeting on October 28, 2020, recommended that the City Council adopt the proposed amendments; and

WHEREAS, three copies of the public document known as “2020 – Chapter 69 Site Plan Review, Title 11 Zoning Ordinance” were filed with the Office of the City Clerk and made available for public review and inspection.

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

Section 1: REPEAL OF CHAPTER 69 OF THE ZONING ORDINANCE

That the existing Mesa City Code Title 11, Chapter 69: Site Plan Review, is hereby repealed in its entirety; provided that such repeal shall not affect suits pending, rights and duties that matured or {00378952.1}

were existing, penalties that were incurred or proceedings that were initiated prior to the effective date of this Ordinance.

Section 2: REFERENCE AND ADOPTION OF “2020 - CHAPTER 69 SITE PLAN REVIEW, TITLE 11 ZONING ORDINANCE”

That the certain document entitled “2020 – Chapter 69 Site Plan Review, Title 11 Zoning Ordinance,” three copies of which are on file in the office of the City Clerk, and previously made a public record by the Mesa City Council on November 16, 2020 (Resolution No. 11603), is hereby adopted and made a part hereof as if fully set forth in this Ordinance and its provisions declared to be inserted into the Zoning Ordinance and to replaces and supersede the existing Chapter 69, Title 11, Zoning Ordinance, of the Mesa City Code.

Section 3: All existing approved site plans that are not expired (as set forth in Section 11-67-9 of the Zoning Ordinance adopted prior to this Ordinance) are defined and classified as an approved “Initial Site Plan” in this Ordinance.

Section 4: The recitals above are fully incorporated in this Ordinance by reference.

Section 5: The effective date of this Ordinance shall be January 1, 2021.

Section 6: 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 7: 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 1st day of December, 2020.

APPROVED:

Mayor

ATTEST:

City Clerk

EFFECTIVE DATE: January 1, 2021.