

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTERS 7, 31, 86, AND 87 OF TITLE 11, THE ZONING ORDINANCE OF THE MESA CITY CODE BY REPEALING MEDICAL MARIJUANA FACILITY DEVELOPMENT STANDARDS AND REPLACING THEM WITH MARIJUANA FACILITY DEVELOPMENT STANDARDS; MODIFYING DEFINITIONS INCLUDING MEDICAL MARIJUANA CULTIVATION FACILITY, MEDICAL MARIJUANA DISPENSARY, MEDICAL MARIJUANA INFUSION FACILITY; REMOVING DEFINITIONS INCLUDING MEDICAL MARIJUANA CULTIVATION, MEDICAL MARIJUANA DESIGNATED CAREGIVER, AND MEDICAL MARIJUANA QUALIFYING PATIENT; AND ADDING DEFINITIONS INCLUDING DUAL LICENSEE FACILITY, MARIJUANA, MARIJUANA CONCENTRATE, MARIJUANA CULTIVATION, MARIJUANA ESTABLISHMENT, MARIJUANA MANUFACTURING, MARIJUANA PROCESSING, MARIJUANA PRODUCTS AND MODIFYING VARIOUS LAND USE CHARTS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, the statewide ballot initiative I-23-2020, known as the “Smart and Safe Arizona Act,” certified as Proposition 207, was passed by Arizona voters at the November 3, 2020 General Election.

WHEREAS, on December 8, 2020, City Council, to protect public health, safety, and welfare of the public, adopted Mesa City Code Title 6, Chapter 25, entitled Marijuana Prohibition, which prohibits: 1) recreational marijuana retail sales and marijuana testing facilities in the City to the extent permitted by law, and (2) delivery of recreational marijuana and marijuana products within the City.

WHEREAS, the prohibition on retail recreational marijuana sales in Mesa City Code Title 6, Chapter 25 do not apply to establishments permitted by the State of Arizona as a dual licensee to operate as both a nonprofit medical marijuana dispensary and a recreational marijuana retail establishment at a shared location.

WHEREAS, the City desires to include certain provisions from Mesa City Code Title 6, Chapter 25, in the Zoning Ordinance such as the prohibition of recreational marijuana retail sales and marijuana testing facilities.

WHEREAS, the proposed text amendments to the Zoning Ordinance will: 1) allow only dual licensee facilities, which will be subject to the same development standards as medical marijuana facilities; 2) clarify the City’s registration process; and 3) add a suspension and revocation process.

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

<p>Text written in BOLD ALL CAPS indicates new language. Strikethrough fonts indicates deletions.</p>

Section 1: That Title 11, Chapter 7 Table 11-7-2: Employment Districts, is hereby amended as follows:

Table 11-7-2: Employment Districts					
Proposed Use	PEP	LI (M-1)	GI (M-2)	HI	Additional Use Regulations
Residential Use Classifications					
Correctional Transitional Housing Facility (CTHF)	—	CUP (10, 12)	CUP (10, 12)	—	Section 11-31-12, Correctional Transitional Housing Facilities
Public and Semi-Public Use Classifications					
Clubs and Lodges	P (10, 13)	P (10, 13)	--	--	
Colleges and Universities Colleges and Trade Schools, Public or Private					
Colleges and Universities	P (12, 13)	P (12, 13)	--	--	
Commercial Trade Schools	P (12, 13)	P (12, 13)	P (12, 13)	--	
Industrial Trade Schools	P (12, 13)	P (12, 13)	P (12, 13)	--	
Cultural Institutions	CUP (10, 13)	SUP (10, 13)	SUP (10, 13)	--	
Day Care Centers	SUP (10, 11)	P (10, 11)	SUP (10, 11)	SUP (10, 11)	
Government Offices	P	P	P	P	
Hospitals and Clinics					
Clinics	SUP (10, 11)	SUP (10, 11)	SUP (10, 11)	—	Section 11-31-15, Hospitals and Clinics
Hospitals	P (10, 11)	P (10, 11)	—	—	
Places of Worship	P (10, 13)	P (10, 13)	—	—	Section 11-31-22, Places of Worship
Public Safety Facilities	P	P	P	P	
Public Maintenance Facilities	P	P	P	P	
Schools, Public or Private	CUP (10, 11)	CUP (10, 11)	CUP (10, 11)	--	Section 11-31-24, Schools
Commercial Use Classifications					
Animal Sales and Services					
Kennels	—	P	P	—	
Pet Stores	—	P	P	—	
Veterinary Services	P	P	P	—	
Artists' Studios	P	P	P	P/SUP (6)	

Automobile/Vehicle Sales and Services					
Automobile Rentals	SUP	P	P	—	Section 11-31-5, Automobile Rentals; Automobile/Vehicle Sales and Leasing
Automobile/Vehicle Sales and Leasing	—	P	P	—	
Automobile/Vehicle Repair, Major	—	P	P	—	Section 11-31-6, Automobile/Vehicle Repair; Major and Minor
Automobile/Vehicle Service and Repair, Minor	—	P	P	—	
Automobile/Vehicle Washing	SUP	P	P	—	Section 11-31-7, Automobile/Vehicle Washing
Large Vehicle and Equipment Sales, Services, and Rental	—	P	P	—	Section 11-31-5, Automobile Rentals; Automobile/Vehicle Sales and Leasing
Service Station	SUP	SUP	SUP	—	Section 11-31-25, Service Stations
Towing and Impound	—	SUP	SUP	CUP	
Banks and Financial Institutions	P	P	P	—	
With Drive-Thru Facilities	SUP	P	P	—	
Building Materials and Services	—	P	P	—	
Business Services	P	P	P	P/SUP (6)	
Commercial Recreation					
Small-Scale	P	P	--	--	
Large-Scale	SUP	P	--	--	
Eating and Drinking Establishments					
Bars/Clubs/Lounges	P	P	P	—	Section 11-31-19, Outdoor Eating Areas
Coffee Shops/Cafes	P	P	P	P/SUP (6)	
Restaurants, Bar and Grill	P	P	P	P/SUP (6)	
Restaurants, Full-Service	P	P	P	P/SUP (6)	
Restaurants, Limited Service	P	P	P	P/SUP (6)	
With Drive-Thru Facilities	P	P	P	SUP	
With Outdoor Seating Areas	P	P	P	SUP	
Off-track Betting	P (15, 16)	P (15, 16)	--	--	
With Live Entertainment	P	P	—	—	

Farmer's Market	TUP/SUP	—	—	—	Section 11-31-30, Temporary Uses
Food and Beverage Sales					
Convenience Market	P/SUP (1)	P (1,7)	P (1,7)	P/SUP (6)	Section 11-31-11, Convenience Markets
Funeral Parlors and Mortuaries	SUP	P	P	P	
Hotels and Motels	P (12, 13)	P (12, 13)	P (12, 13)	--	
Laboratories	P	P	P	P	
Large Commercial Development	P (8)	CUP	—	—	Section 11-31-16, Large Commercial Development
Light Fleet-Based Services	—	P	P	P	
Live-Work Units	SUP (10, 11)	SUP (10, 11)	SUP (10, 11)	—	Section 11-31-17, Live Work Units
Maintenance and Repair Services	—	P	P	—	
MARIJUANA FACILITIES					
DUAL LICENSEE FACILITIES	--	P	P	--	Section 11-31-34, MARIJUANA FACILITIES
Medical Marijuana Dispensaries	—	P	P	—	
Medical Marijuana Cultivation Facilities AND MARIJUANA INFUSION FACILITIES (Accessory to Medical Marijuana Dispensaries OR DUAL LICENSEE FACILITIES)	--	P	P	--	
Medical Marijuana Cultivation Facilities	—	P	P	—	
MARIJUANA INFUSION FACILITIES	--	P	P	--	
Offices					
Business and Professional	P	P	P	—	
Medical and Dental	P	P	P	—	
Parking, Commercial	—	P	P	P	
Personal Services	P (2)	P	P	P/SUP (6)	
Plant Nurseries and Garden Centers	SUP	P	P	SUP	
Retail Sales					
General	P	P	P	—	
Swap Meets and Flea Markets	—	CUP	CUP	—	Section 11-31-30, Temporary Uses: Swap Meets and Farmer's Markets
Tattoo and Body Piercing Parlors	—	P	P	—	

Employment and Industrial Use Classifications					
Cement Plants	—	—	—	P	
Handicraft/Custom Manufacturing	P (4)	P (5)	P	P	
Hazardous Waste Facility	--	--	--	CUP (10)	
Hazardous Waste Disposal Facility	—	—	—	—	
Incineration of Garbage or Organic Matter	—	—	—	CUP	
Light Assembly/Cabinetry	P (4)	P (5)	P	P	
Manufacturing, General	—	P (5)	P	P	
Manufacturing, Limited	P (4)	P (5)	P	P	
Meat Slaughterhouse or Packing Plant	—	—	—	P	
Metal Refining, Casting or Extrusion	—	—	CUP	P	
Metal Smelting, Industrial	—	—	—	P	
Oil Refinery/Petroleum Distillation	—	—	—	CUP	
Research and Development	P (4)	P (5)	P	P	
Recycling Facilities					
Reverse Vending Machines	SUP	P	P	—	Section 11-31-23
Small Indoor Collection Facilities	SUP	P	P	—	
Large Collection Facilities	—	CUP	SUP	P	
Processing Facilities	—	—	CUP	P	
Salvage and Wrecking	—	—	CUP	SUP	
Tanneries	—	—	—	P	
Warehousing and Storage					
Boat and Recreational Vehicle Storage	—	CUP	CUP	CUP	
Contractors' Yards	—	P (9)	P (9)	P (9)	
Indoor Warehousing and Storage	P	P	P	P	
Outdoor Storage	—	—	—	P	
Mini-Storage	CUP	CUP	CUP	—	
Wholesale	P	P	P	P	
Airport Land Use Classifications					
Aircraft Refueling Stations	—	P	—	—	
Aircraft Light Maintenance	—	P	—	—	
Airport Transit Station	—	P	—	—	
Airport Related Long-term Parking Lots	—	P	—	—	
Heliports	SUP (14)	SUP (14)	SUP (14)	SUP (14)	
Transportation, Communication, and Utilities Use Classifications					

Communication Facilities					
Antenna and Transmission Towers	See Chapter 35				
Facilities within Buildings					
Transportation Facilities					
Freight/Truck Terminals and Warehouses	—	P	P	P	
Transportation Passenger Terminals	P	P	P	P	
Utility Classifications					
Solar Farms	SUP	SUP	P	P	Section 11-30-15, Solar Panels and Other Energy Production Facilities
Utilities, Major	—	CUP	CUP	CUP	
Utilities, Minor	P	P	P	P	
Agricultural and Extractive Use Classification					
Mining and Quarrying	—	—	—	P	
Specific Accessory Uses and Facilities					
Outdoor Storage	—	P (5)	P	P	
Caretakers' Residences	—	P (10, 11)	P (10, 11)	P (10, 11)	
Outdoor entertainment or activities as an accessory use	SUP (10, 13)	P (10, 13)	P (10, 13)	--	
Outdoor Display	—	P	P	P	
Portable Storage Containers	SUP (17)	P/SUP (17)	P	P	Section 11-30-16
<div>1. Permitted if located within an office building or other commercial building and occupying no more than 1,500 square feet, and Accessory Fuel Sales are not present.</div> <div>2. Permitted if floor area is no more than 10,000 square feet.</div> <div>3. Must be at least 1,200 feet from any use in the same classification, and at least 1,200 feet from any school.</div> <div>4. Permitted if all activities pertaining to the manufacturing or processing of the products are conducted entirely within an enclosed building, with no outside storage or display.</div> <div>5. Permitted only if all activities pertaining to the manufacturing or processing of the products are conducted entirely within an enclosed building. Accessory outdoor storage permitted only if confined to the rear one-half of the lot.</div> <div>6. Permitted if floor area is no more than 1,500 square feet. SUP required if greater than 1,500 square feet.</div> <div>7. Granting of a SUP is required if Accessory Fuel Sales are present.</div> <div>8. Permitted only if floor area is no more than 50,000 square feet.</div> <div>9. Permitted only if fully screened by a minimum 7-foot high masonry screen wall composed of masonry blocks utilizing varying colors and textures arranged in an attractive design.</div> <div>10. Use not permitted when the property is subject to the AOA 1 overflight area, See Section 11-19-2, Runway Protection Zones and Airport Overflight Area.</div> <div>11. Use not permitted when the property is subject to the AOA 2 overflight area, See Section 11-19-2, Runway Protection Zones and Airport Overflight Areas.</div> <div>12. Use permitted with the approval of a CUP when the property is subject to the AOA 1 Overflight Area, see Section 11-19-2, Runway Protection Zones and Airport Overflight Areas.</div> <div>13. Use permitted with the approval of a CUP when the property is subject to the AOA 2 overflight area, See</div>					

Section 11-19-2, Runway Protection Zones and Airport Overflight Areas.

14. Heliports in Employment Districts shall be set a minimum of 2 full stories above the natural grade, unless associated with a hospital.
15. Subject to approval by the City Council and the State Racing Commission of a Tele-track Betting Establishment Permit per AAC R19-2-401 and following.
16. Permitted only when accessory to an Eating or Drinking establishment.
17. Temporary or periodic use of portable storage containers is permitted with a SUP in accordance with Section 11-30-16.

Section 2: That Title 11, Chapter 31, Section 34 of the of the Mesa City Code, titled “Medical Marijuana Facilities,” is hereby repealed in its entirety and replaced with a new Mesa City Code Title 11 Chapter 31, Section 14 titled “Marijuana Facilities” as follows:

11-31-34: MARIJUANA FACILITIES

MEDICAL MARIJUANA DISPENSARIES, DUAL LICENSEE FACILITIES, MARIJUANA CULTIVATION FACILITIES, AND MARIJUANA INFUSION FACILITIES, EACH AS DEFINED IN THE ZONING ORDINANCE, ARE PERMITTED SUBJECT TO THE REGULATIONS IN THIS SECTION. RECREATIONAL MARIJUANA ESTABLISHMENTS ARE ONLY PERMITTED WHEN OPERATED AS A DUAL LICENSEE FACILITY.

- A. GENERAL REQUIREMENTS. A MEDICAL MARIJUANA DISPENSARY, DUAL LICENSEE FACILITY, MARIJUANA CULTIVATION FACILITY, AND MARIJUANA INFUSION FACILITY IS PERMITTED ONLY IN THE LI AND GI DISTRICTS, PROVIDED THAT EVIDENCE HAS BEEN DEMONSTRATED OF COMPLIANCE WITH ALL OF THE FOLLOWING:**
 - 1. SPACING REQUIREMENTS FOR MEDICAL MARIJUANA DISPENSARIES AND DUAL LICENSEE FACILITIES. EACH MEDICAL MARIJUANA DISPENSARY OR EACH DUAL LICENSEE FACILITY SHALL BE SEPARATED FROM THE FOLLOWING USES AS FOLLOWS:**
 - A. A MINIMUM DISTANCE OF 5,280 FEET FROM THE NEAREST REGISTERED MEDICAL MARIJUANA DISPENSARY OR DUAL LICENSEE FACILITY, INCLUDING ANY MEDICAL MARIJUANA DISPENSARY, DUAL LICENSEE FACILITY OR MARIJUANA ESTABLISHMENT LOCATED IN NEIGHBORING JURISDICTIONS.**
 - B. A MINIMUM DISTANCE OF 2,400 FEET FROM:**
 - I. A COMMUNITY RESIDENCE;**
 - II. A CORRECTIONAL TRANSITIONAL HOUSING FACILITY; AND**
 - III. A SOCIAL SERVICE FACILITY.**
 - C. A MINIMUM DISTANCE OF 1,200 FEET FROM THE FOLLOWING**

LAND USES, UNLESS SEPARATED BY A CANAL, RAILROAD TRACK, OR HIGHWAY. WHEN SEPARATED BY A CANAL, RAILROAD TRACK, OR HIGHWAY, THE DISTANCE IS MEASURED FROM THE SUPPORT WALL, POST OR COLUMN OF THE MEDICAL MARIJUANA DISPENSARY OR DUAL LICENSEE FACILITY ALONG THE STREET TO THE LOT LINE OF THE SUBJECT LAND USE.

- I. A CHURCH LOCATED IN THE RS, RM, DR, T3N, T4N, OR T5N DISTRICTS;**
- II. A LIBRARY;**
- III. A SCHOOL; AND**
- IV. A PUBLIC PARK AND RECREATIONAL FACILITY LOCATED IN THE LI OR GI DISTRICTS.**

D. A MINIMUM DISTANCE OF 500 FEET FROM THE FOLLOWING LAND USES, UNLESS SEPARATED BY A CANAL, RAILROAD TRACK, OR HIGHWAY. WHEN SEPARATED BY A CANAL, RAILROAD TRACK, OR HIGHWAY, THE DISTANCE IS MEASURED FROM THE SUPPORT WALL, POST OR COLUMN OF THE MEDICAL MARIJUANA DISPENSARY OR DUAL LICENSEE FACILITY ALONG THE STREET TO THE LOT LINE OF THE SUBJECT LAND USE.

- I. A DAY CARE CENTER AND PRE-SCHOOL;**
- II. A PUBLIC PARK AND RECREATIONAL FACILITY LOCATED IN ALL ZONING DISTRICTS EXCEPT LI OR GI; AND**
- III. A PRIVATELY OWNED OPEN SPACE AND RECREATION AREA AS DESIGNATED ON THE APPLICABLE PLAN OF DEVELOPMENT APPROVED BY THE CITY THAT IS MAINTAINED BY A HOMEOWNER'S ASSOCIATION.**

2. SPACING REQUIREMENTS FOR MARIJUANA CULTIVATION AND INFUSION FACILITIES. EACH MARIJUANA CULTIVATION FACILITY AND EACH MARIJUANA INFUSION FACILITY SHALL BE SEPARATED FROM THE FOLLOWING USES AS FOLLOWS:

A. A MINIMUM DISTANCE OF 2,400 FEET FROM THE NEAREST MEDICAL MARIJUANA DISPENSARY, DUAL LICENSEE FACILITY, OFF-SITE CULTIVATION FACILITY OR OFF-SITE MARIJUANA INFUSION FACILITY. THIS SPACING REQUIREMENT DOES NOT APPLY TO A MARIJUANA CULTIVATION FACILITY OR MARIJUANA INFUSION FACILITY AND THE SPECIFIC MEDICAL MARIJUANA DISPENSARY OR DUAL LICENSEE FACILITY IT SERVES.

B. A MINIMUM DISTANCE OF 1,200 FEET FROM ANY OF THE

FOLLOWING LAND USES, UNLESS SEPARATED BY A CANAL, RAILROAD TRACK, OR HIGHWAY. WHEN SEPARATED BY A CANAL, RAILROAD TRACK OR HIGHWAY, THE DISTANCE IS MEASURED FROM THE SUPPORT WALL, POST OR COLUMN OF THE MARIJUANA CULTIVATION OR MARIJUANA INFUSION FACILITY ALONG THE STREET TO THE LOT LINE OF THE SUBJECT LAND USE.

- I. A CHURCH LOCATED IN THE RS, RM, DR, T3N, T4N, OR T5N DISTRICTS;**
- II. A LIBRARY;**
- III. A SCHOOL; AND**
- IV. A PUBLIC PARK AND RECREATIONAL FACILITY LOCATED IN THE LI OR GI DISTRICTS.**

C. A MINIMUM DISTANCE OF 500 FEET FROM ANY OF THE FOLLOWING LAND USES, UNLESS SEPARATED BY A CANAL, RAILROAD TRACK, OR HIGHWAY. WHEN SEPARATED BY A CANAL, RAILROAD TRACK OR HIGHWAY, THE DISTANCE IS MEASURED FROM THE SUPPORT WALL, POST OR COLUMN OF THE MARIJUANA CULTIVATION OR MARIJUANA INFUSION FACILITY ALONG THE STREET TO THE LOT LINE OF THE SUBJECT LAND USE.

- I. A DAY CARE CENTER AND PRE-SCHOOL;**
- II. A PUBLIC PARK AND RECREATIONAL FACILITY LOCATED IN ALL ZONING DISTRICTS EXCEPT LI OR GI; AND**
- III. A PRIVATELY OWNED OPEN SPACE AND RECREATION AREA, AS DESIGNATED ON THE APPLICABLE PLAN OF DEVELOPMENT APPROVED BY THE CITY, THAT IS MAINTAINED BY A HOMEOWNER'S ASSOCIATION.**

3. STATE REGISTRATION AND APPROVAL TO OPERATE. EACH MEDICAL MARIJUANA DISPENSARY AND EACH DUAL LICENSEE FACILITY MUST OBTAIN A VALID DISPENSARY REGISTRATION CERTIFICATE AND AN APPROVAL TO OPERATE (ATO) IN ACCORDANCE WITH STATE LAW.

4. CITY REGISTRATION. EACH MEDICAL MARIJUANA DISPENSARY, DUAL LICENSEE FACILITY, MARIJUANA CULTIVATION FACILITY, AND MARIJUANA INFUSION FACILITY MUST REGISTER WITH THE PLANNING DIVISION IN ACCORDANCE WITH CHAPTER 67 AND THE PROCESS SET FORTH IN THIS SECTION.

- A. THE FOLLOWING INFORMATION SHALL BE PROVIDED TO THE PLANNING DIVISION IN ORDER TO REGISTER WITH THE CITY:**

- I. A COMPLETE APPLICATION FILED WITH THE OFFICE OF THE PLANNING DIVISION.
 - II. NAME, MAILING ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS OF THE INDIVIDUAL, NON-PROFIT ORGANIZATION, OR BUSINESS ENTITY OPERATING THE FACILITY. IF A NON-PROFIT ORGANIZATION OR BUSINESS ENTITY REGISTERS THE FACILITY, CONTACT INFORMATION FOR THE INDIVIDUAL RESPONSIBLE FOR MANAGING THE FACILITY SHALL ALSO BE PROVIDED.
 - III. A WRITTEN NARRATIVE DESCRIBING HOW THE LOCATION AND THE PROPOSED IMPROVEMENTS COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE INCLUDING BUT NOT LIMITED TO THE SPACING REQUIREMENTS.
 - IV. IF APPLICABLE, THE NAME(S) AND LOCATION(S) OF ANY OFF-SITE MARIJUANA CULTIVATION FACILITY OR MARIJUANA INFUSION FACILITY, OR BOTH, ASSOCIATED WITH THE MARIJUANA DISPENSARY OR DUAL LICENSEE FACILITY, AND ITS OPERATIONS.
 - V. WRITTEN ACKNOWLEDGEMENT THAT THE MARIJUANA FACILITY HAS COMPLIED WITH ALL STATE SECURITY REQUIREMENTS INCLUDING APPLICABLE ADMINISTRATIVE CODES AND RECORD KEEPING.
 - VI. A MEDICAL MARIJUANA DISPENSARY MUST PROVIDE A COPY OF THEIR CURRENT ADHS DISPENSARY REGISTRATION CERTIFICATE AND ATO. A DUAL LICENSEE FACILITY MUST PROVIDE A COPY OF THEIR CURRENT ADHS DISPENSARY REGISTRATION CERTIFICATE, LICENSE, AND ATO.
 - VII. ANY OTHER INFORMATION DEEMED NECESSARY BY THE CITY TO PROCESS THE REGISTRATION REQUEST.
- B. REGISTRATION NON-TRANSFERABLE. A MEDICAL MARIJUANA DISPENSARY OR A DUAL LICENSEE FACILITY MAY NOT TRANSFER OR ASSIGN ITS CITY REGISTRATION.
5. REGISTRATION RENEWAL. CITY REGISTRATION IS VALID FOR ONE (1) YEAR FROM THE DATE OF APPROVAL OF THE CITY REGISTRATION AND MUST BE RENEWED ANNUALLY ON OR BEFORE THE EXPIRATION DATE OF THE REGISTRATION. TO RENEW THE CITY'S REGISTRATION, A COMPLETE APPLICATION FOR RENEWAL AND EVIDENCE OF CURRENT STATE REGISTRATION CERTIFICATE, LICENSE, AND ATO, AS APPLICABLE, MUST BE PROVIDED.

- 6. REVOCATION. THE ZONING ADMINISTRATOR MAY REVOKE THE CITY'S REGISTRATION UPON FINDING:**
 - A. THE APPLICANT MADE OR PROVIDED FALSE OR MISLEADING INFORMATION OR STATEMENTS OR BOTH TO CITY STAFF DURING THE APPLICATION PROCESS; THE APPLICATION CONTAINS FALSE OR MISLEADING INFORMATION; OR THE FEES REQUIRED BY THE SCHEDULE OF FEES AND CHARGES HAVE NOT BEEN PAID; OR**
 - B. THE REQUIRED ADHS DISPENSARY REGISTRATION CERTIFICATE OR ATO IS DENIED OR REVOKED.**
 - C. IN THE EVENT THAT A MARIJUANA FACILITY'S CITY REGISTRATION IS REVOKED, THE ZONING ADMINISTRATOR WILL PROVIDE WRITTEN NOTICE TO THE APPLICANT. THE CITY OF MESA REGISTRATION WILL AUTOMATICALLY TERMINATE 15 CALENDAR DAYS AFTER WRITTEN NOTIFICATION WAS PROVIDED TO THE APPLICANT; AND THE MARIJUANA FACILITY MUST CEASE OPERATION 45 CALENDAR DAYS FROM THE DATE OF THE CITY'S WRITTEN NOTIFICATION.**
- B. DEVELOPMENT STANDARDS. EACH MEDICAL MARIJUANA DISPENSARY, DUAL LICENSEE FACILITY, MARIJUANA CULTIVATION FACILITY, AND MARIJUANA INFUSION FACILITY SHALL BE HOUSED IN A PERMANENT BUILDING AND SHALL COMPLY WITH THE FOLLOWING DEVELOPMENT STANDARDS:**
 - 1. FACILITY SIZE.**
 - A. MEDICAL MARIJUANA DISPENSARIES AND DUAL LICENSEE FACILITIES. THE MAXIMUM FLOOR AREA OF AN INDIVIDUAL MEDICAL MARIJUANA DISPENSARY OR AN INDIVIDUAL DUAL LICENSEE FACILITY IS 2,500 SQUARE FEET, OF WHICH, NO MORE THAN 500 SQUARE FEET SHALL BE USED FOR STORAGE OF PRODUCT. A MINIMUM OF 25% OF THE FLOOR AREA SHALL BE SET ASIDE AS AN INTERIOR CUSTOMER WAITING AREA.**
 - B. MARIJUANA CULTIVATION FACILITIES. THE MAXIMUM FLOOR AREA OF AN INDIVIDUAL CULTIVATION FACILITY IS 25,000 SQUARE FEET.**
 - C. MARIJUANA INFUSION FACILITIES. THE MAXIMUM FLOOR AREA OF AN INDIVIDUAL INFUSION FACILITY IS 10,000 SQUARE FEET, OF WHICH NO MORE THAN 2,500 SQUARE FEET SHALL BE USED FOR STORAGE OF MARIJUANA RELATED PRODUCT OR MARIJUANA RELATED MATERIALS USED IN THE PRODUCTION OF PRODUCT.**
 - D. A MEDICAL MARIJUANA DISPENSARY AND A DUAL LICENSEE FACILITY MAY OPERATE A MARIJUANA CULTIVATION**

FACILITY, MARIJUANA INFUSION FACILITY, OR BOTH, AT A SINGLE LOCATION, PROVIDED THE MAXIMUM FLOOR AREA FOR EACH FACILITY DOES NOT EXCEED THE MAXIMUM FLOOR AREA SPECIFIED FOR EACH INDIVIDUAL FACILITY ABOVE.

- 3. MARIJUANA FACILITY USE RESTRICTIONS. MARIJUANA FACILITIES MAY NOT INCLUDE;**
 - A. A DRIVE-THROUGH WINDOW;**
 - B. OUTDOOR SEATING;**
 - C. OUTDOOR VENDING MACHINES; OR**
 - D. TEMPORARY, PORTABLE, OR SELF-POWERED MOBILE FACILITIES.**
- 4. DELIVERY. A MEDICAL MARIJUANA DISPENSARY MAY OFFER DIRECT OR HOME DELIVERY SERVICE TO ONLY MEDICAL MARIJUANA QUALIFYING PATIENTS IN COMPLIANCE WITH ADHS REGULATIONS AND REQUIREMENTS.**
- 5. HOURS OF OPERATION. A MEDICAL MARIJUANA DISPENSARY AND A DUAL LICENSEE FACILITY SHALL ONLY BE OPEN TO THE PUBLIC BETWEEN 8:00 A.M. AND 9:00 P.M. OF THE SAME CALENDAR DAY.**
- 6. MEDICAL MARIJUANA DISPENSARIES AND DUAL LICENSEE FACILITIES SHALL REMAIN IN COMPLIANCE WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.**

Section 3: That Title 11, Chapter 86, 11-86-2 Use Types is hereby amended by removing and adding the following definitions which are arranged in alphabetical order and includes subcategories or related definitions classifications which are also arranged in alphabetical order. All the other definitions in Chapter 86 shall remain the same.

~~Medical~~ Marijuana:

DUAL LICENSEE FACILITY. AN ENTITY LICENSED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES (ADHS) TO OPERATE BOTH A MEDICAL MARIJUANA DISPENSARY AND A MARIJUANA ESTABLISHMENT. THE RETAIL OF RECREATIONAL MARIJUANA AND MEDICAL MARIJUANA MUST OCCUR AT THE SAME LOCATION. RECREATIONAL MARIJUANA SALES MAY ONLY OCCUR IN CONJUNCTION WITH MEDICAL MARIJUANA SALES REGARDLESS OF THE LICENSE HELD.

~~Medical~~ Marijuana Cultivation Facility (~~"Cultivation Facility"~~). A building, structure or premises used for the growing or storage of medical marijuana (cannabis spp.) and registered with the Arizona Department of Health Services (DHS) as related to a dispensary.

Medical Marijuana Dispensary (~~"Dispensary"~~).-An entity registered, certified and authorized by ADHS

as a "Nonprofit medical marijuana dispensary" that acquires, possesses, **CULTIVATES, MANUFACTURES, DELIVERS, TRANSFERS, TRANSPORTS, SUPPLIES**, ~~sells, distributes, OR dispenses, or otherwise provides medical marijuana (cannabis spp.) to qualifying patients and designated caregivers. Such dispensaries may include on-site cultivation and infusion facilities.~~ **OR RELATED SUPPLIES AND EDUCATIONAL MATERIALS TO CARDHOLDERS.**

MARIJUANA ESTABLISHMENT. AN ENTITY LICENSED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES TO OPERATE ALL OF THE FOLLOWING:

- (A) **A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.**
- (B) **A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.**
- (C) **A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.**

~~Medical Marijuana Infusion Facility ("Infusion Facility").~~ A facility that incorporates medical marijuana (cannabis spp.) by the means of cooking, blending, or incorporation into consumable, edible or transdermal goods.

Section 4: That Title 11, Chapter 87 Definitions, is hereby amended is hereby amended by removing and adding the following definitions which are arranged in alphabetical order and includes subcategories or related definitions classifications which are also arranged in alphabetical order. All the other definitions in Chapter 87 shall remain the same.

~~Medical Marijuana Related Definitions~~

MARIJUANA. ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.

- (A) **INCLUDES CANNABIS AS DEFINED IN ARIZONA REVISED STATUTES SECTION 13-3401.**
- (B) **DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE**

TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

MARIJUANA CONCENTRATE. RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL. MARIJUANA CONCENTRATE DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

MARIJUANA CULTIVATION. TO PROPAGATE, BREED, GROW, PREPARE, AND PACKAGE MARIJUANA.

MARIJUANA ESTABLISHMENT. AN ENTITY LICENSED BY THE ARIZONA DEPARTMENT OF HEALTH SERVICES TO OPERATE ALL OF THE FOLLOWING:

- (A) A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.**
- (B) A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.**
- (C) A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.**

MARIJUANA MANUFACTURING. TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.

MARIJUANA PROCESSING. TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

MARIJUANA PRODUCTS. MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

~~Medical Marijuana Cultivation ("Cultivation"): The process by which a marijuana (cannabis spp.) plant is grown.~~

~~Medical Marijuana Designated Caregiver ("Designated Caregiver"): Shall mean a person who meets the definition of A.R.S. § 36-2801(5) and holds and possesses a valid designated caregiver registry identification card, issued by the Arizona Department of Health Services, identifying that person as an individual providing care and assistance to a medical marijuana qualifying patient or patients, and has agreed to assist a medical marijuana qualifying patient or patients with that patient's or patients' medical use of marijuana.~~

~~Medical Marijuana Qualifying Patient ("Qualifying Patient"): Means a person who has been issued, holds and possesses a valid registry identification card issued by the Arizona Department of Health Services (DHS) authorizing them to use medical marijuana to treat or alleviate a debilitating medical condition or symptom approved by DHS.~~

Section 5: REPEAL OF CONFLICTING ORDINANCES AND PRESERVATION OF RIGHTS AND DUTIES. That any sections of the Mesa Zoning Ordinance or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not affect suits pending, rights and duties that matured or were existing, penalties that were incurred or proceedings that were initiated prior to the effective date of this Ordinance.

Section 6: The effective date of this Ordinance shall be August 9, 2021.

Section 7: 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 8: Marijuana testing facilities and retail recreational marijuana facilities are prohibited in the current Zoning Ordinance (the Zoning Ordinance adopted prior to the effective date of this Ordinance) and will continue to be prohibited in this Ordinance. The only retail recreational marijuana facilities permitted are dual licensee facilities (as that term is defined in this Ordinance).

Section 9: 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 8th day of July 2021.

APPROVED:

Mayor

ATTEST:

City Clerk

EFFECTIVE DATE: August 9, 2021.