

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTERS 31 AND 70 OF TITLE 11, THE ZONING ORDINANCE OF THE MESA CITY CODE BY MODIFYING CORRECTIONAL TRANSITIONAL HOUSING FACILITY DEVELOPMENT STANDARDS, AND MODIFYING ADMINISTRATIVE USE PERMIT STANDARDS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

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

Text written in BOLD ALL CAPS indicates new language. Strikethrough fonts indicates deletions.

Section 1: That Title 11, Chapter 31, Section 11-31-12 is hereby amended as follows:

11-31-12: - CORRECTIONAL TRANSITIONAL HOUSING FACILITIES (CTHF)

Correctional Transitional Housing Facility (**CTHF**), as described in Section 11-86-2, shall be located, developed, and operated in compliance with the land use regulations in Article 2 and the following standards:

- A. Location.
1. ~~Separation from Dissimilar Uses: A minimum distance of at least 500 feet from all of the following:~~
 - a. ~~Any residential zoning district; and~~
 - b. ~~A public or private school building with kindergarten programs or any of grades one (1) through 12, and any recreational area adjacent to such school building; and~~
 - c. ~~A church; and~~
 - d. ~~A public park~~

1. SEPARATION FROM DISSIMILAR USES.

- A. A MINIMUM DISTANCE OF 500 FEET FROM ANY RESIDENTIAL ZONING DISTRICT.**
- B. A MINIMUM DISTANCE OF 1,200 FEET FROM ANY OF THE FOLLOWING:**
 - I. A PUBLIC OR PRIVATE SCHOOL BUILDING WITH KINDERGARTEN PROGRAMS OR ANY OF GRADES ONE (1)**

**THROUGH 12, AND ANY RECREATIONAL AREA ADJACENT
TO SUCH SCHOOL; AND**

II. A PUBLIC PARK; AND

**III. ANY EXISTING COMMUNITY RESIDENCE OR ASSISTED
LIVING FACILITY.**

2. Separation from Similar Uses. A **MINIMUM DISTANCE** separation of at least 5,280 feet from any other CTHF.

~~B. Location Exception Criteria: The City Council, at its discretion, may grant an exemption to the separation provisions of Subsection A if it makes all of the following findings:~~

- ~~1. That the location of the proposed activity will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare; and~~
- ~~2. That the granting of the exception will not violate the spirit and intent of this Section 11-31-12; and~~
- ~~3. That compliance with this separation requirement will place an undue hardship on the owner of the facility; and~~
- ~~4. That all other applicable provisions of the Mesa City Code will be observed.~~

CB. Criteria for Review of Council Use Permit: The review of the Council Use Permit shall include a review and determination regarding the following items:

1. The use is found to be in compliance with the General Plan and other recognized development plans or policies, and will be compatible with surrounding uses; and
2. A finding that a plan of operation has been submitted, which includes, but is not limited to, acceptable evidence of compliance with all zoning, building, and fire safety regulations; and
3. A finding that a "good neighbor policy" in narrative form has been submitted, which includes, but is not limited to, descriptions of acceptable measures to ensure ongoing compatibility with adjacent uses. Such policies shall include, but are not limited to, the name and telephone number of the manager or person responsible for the operation of the facility; complaint response procedures, including investigation, remedial action, and follow-up; and litter control measures; and
4. Evidence that acceptable documentation is present demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City Development Standards, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.

- ~~D. General Operations: Notwithstanding the foregoing, Correctional Transitional Housing Facility shall not house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or a direct threat of physical damage to the property of others.~~
- C. **REGISTRATION AND RENEWAL. TO REGISTER WITH THE CITY, A CORRECTIONAL TRANSITIONAL HOUSING FACILITY REQUIRES A COUNCIL USE PERMIT TO OPERATE. THE APPLICANT MUST SUBMIT TO THE CITY AN APPLICATION FOR A COUNCIL USE PERMIT IN ACCORDANCE WITH SECTION 11-67, AND PROVIDE EVIDENCE DEMONSTRATING COMPLIANCE WITH THIS SECTION. REGISTRATION OF A CORRECTIONAL TRANSITIONAL HOUSING FACILITY IS VALID FOR ONE (1) YEAR AND MUST BE RENEWED ANNUALLY ON OR BEFORE THE EXPIRATION DATE OF THE REGISTRATION.**
- D. **GENERAL OPERATIONS. CORRECTIONAL TRANSITIONAL HOUSING FACILITIES SHALL SUBMIT AN OPERATIONAL PLAN DEMONSTRATING:**
1. **COMPLIANCE WITH ALL ZONING, BUILDING, AND FIRE SAFETY REGULATIONS INCLUDING, BUT NOT LIMITED TO, EVIDENCE DEMONSTRATING THAT THE BUILDING AND THE PROPOSED SITE WILL BE BROUGHT INTO SUBSTANTIAL CONFORMANCE WITH ALL CURRENT CITY DEVELOPMENT STANDARDS, INCLUDING, BUT NOT LIMITED TO, LANDSCAPING, PARKING, SCREEN WALLS, SIGNAGE, AND DESIGN GUIDELINES;**
 2. **COMPLIANCE WITH STATE LAWS AND REGULATIONS;**
 3. **PROVISIONS OF ON-SITE SUPERVISION, BY QUALIFIED STAFF, FOR ALL HOURS DURING WHICH RESIDENTS ARE ON THE PREMISES; AND**
 4. **SECURITY MEASURES THAT ARE SUFFICIENT TO PROTECT THE SAFETY OF RESIDENTS AND OTHER CITIZENS IN THE VICINITY OF THE FACILITY.**

Section 2: That Title 11, Chapter 70, Section 11-70-3 is hereby amended as follows:

11-70-3: ADMINISTRATIVE USE PERMIT

- A. Administrative Use Permit (AUP). An AUP is a discretionary written authorization issued through the ~~office of the Building Official~~ **PLANNING DIRECTOR** upon a finding that the activity or use conforms with the intent of this Ordinance **AND ANY REQUIRED FINDINGS. AN AUP** may be limited by a specific period of time.
- B. **Uses AND ACTIVITIES** Subject to an Administrative Use Permit. ~~As specified for temporary use of a manufactured home or recreational vehicle (Chapter 34), or in Article 5, the Sign Ordinance for banners, and other temporary signs.~~ **USES AND ACTIVITIES REQUIRING AN AUP ARE IDENTIFIED IN THIS ORDINANCE, INCLUDING BUT NOT LIMITED TO, ARTICLE 2, BASE ZONES, ARTICLE 4, DEVELOPMENT REGULATIONS, ARTICLE 5, SIGN ORDINANCE, AND ARTICLE 6, FORM-BASED CODE.**

- C. Permit Application and Procedures. ~~The following procedures shall be followed in processing a request for an AUP:~~
- ~~1. Application. The Building Official shall prepare and issue application forms and lists as necessary that specify the information that will be required from applicants for projects requiring an AUP.~~
 - ~~2. Review and Approval. The review and approval process shall be established by the Building Official.~~

THE PROCEDURES FOR REQUESTING AN AUP ARE PROVIDED IN CHAPTER 67, COMMON PROCEDURES, EXCEPT A CITIZEN PARTICIPATION PLAN AND REPORT IS NOT REQUIRED.

- D. **REQUIRED FINDINGS. AN AUP SHALL BE GRANTED ONLY IF THE PLANNING DIRECTOR DETERMINES THAT THE PROJECT, AS SUBMITTED OR MODIFIED, CONFORMS TO ALL OF THE FOLLOWING CRITERIA:**

- 1. THE PROPOSED PROJECT WILL ADVANCE THE GOALS AND OBJECTIVES OF, AND IS CONSISTENT WITH, THE PURPOSES AND POLICIES OF THE GENERAL PLAN AND ANY OTHER APPLICABLE CITY PLAN OR POLICIES;**
- 2. THE LOCATION, SIZE, DESIGN, AND OPERATING CHARACTERISTICS OF THE PROPOSED PROJECT ARE CONSISTENT WITH THE PURPOSES OF THE DISTRICT WHERE IT IS LOCATED AND CONFORMS WITH THE GENERAL PLAN AND WITH ANY OTHER APPLICABLE CITY PLANS OR POLICIES;**
- 3. THE PROPOSED PROJECT WILL NOT BE INJURIOUS OR DETRIMENTAL TO THE ADJACENT OR SURROUNDING PROPERTIES IN THE AREA, NOR WILL THE PROPOSED PROJECT OR IMPROVEMENTS BE INJURIOUS OR DETRIMENTAL TO THE NEIGHBORHOOD OR TO THE GENERAL WELFARE OF THE CITY; AND**
- 4. ADEQUATE PUBLIC SERVICES, PUBLIC FACILITIES AND PUBLIC INFRASTRUCTURE ARE AVAILABLE TO SERVE THE PROPOSED PROJECT.**

Section 3: REPEAL OF CONFLICTING ORDINANCES.

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:

- A. 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;
- B. Impair or otherwise affect any site plan or development agreement approved prior to the effective date of this Ordinance that permits residential uses in commercial zoning districts to exceed the maximum density or required commercial floor area, or both, under the existing repealed sections.

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

Section 5: The effective date of this Ordinance shall be August 9, 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 8th day of July 2021.

APPROVED:

Mayor

ATTEST:

City Clerk

EFFECTIVE DATE: August 9, 2021.