

ORDINANCE NO. 5078

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE ZONING ORDINANCE OF THE MESA CITY CODE; AMENDING CERTAIN SECTIONS OF THE PRESENT TITLE 11 OF THE MESA CITY CODE BY ADOPTING BY REFERENCE A CERTAIN DOCUMENT KNOWN AS "APPENDIX B, HOUSEKEEPING AMENDMENTS TO THE MESA ZONING ORDINANCE, JANUARY 9, 2012"; MAKING MINOR REVISIONS TO SPELLING, GRAMMAR AND FORMATTING OF LAND USE AND DEVELOPMENT STANDARDS ASSOCIATED WITH EACH ZONING DISTRICT; ESTABLISHING DEVELOPMENT STANDARDS RELATED TO PORTABLE STORAGE CONTAINERS, ACCESSORY DWELLING UNITS, AUTO VEHICLE DISPLAY PLATFORMS, DRIVE-THROUGH FACILITIES, RECREATIONAL VEHICLE AND MANUFACTURED HOME LAND USES, AND REVISIONS TO THE REVIEW REQUIREMENTS FOR ELECTRONIC MESSAGE DISPLAYS IN DOWNTOWN ZONING DISTRICTS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, a significant update of the Mesa Zoning Ordinance was approved by the Mesa City Council on July 7, 2011, which became effective on September 3, 2011; and

WHEREAS, since then it has become apparent and in the best interest of the City to make a number of housekeeping changes to the Mesa Zoning Ordinance, Title 11 of the Mesa City Code; and

WHEREAS, such a housekeeping measure includes revisions to correct minor errors to wording, spelling, grammar and formatting to aid in the usability and understanding of the zoning ordinance; and

WHEREAS, the proposed changes may be classified into three different categories: 1) corrections that affect land use and development policy, including transcription errors of sections which were not carried forward from the previous zoning ordinance, and were intended to be, 2) wordsmithing clarifications that have little or no effect on policy, and 3) minor spelling, grammar, and formatting revisions; and

WHEREAS, the majority of the proposed housekeeping revisions are wordsmithing clarifications; corrections to formatting, grammar or spelling; or transcription errors in which previous zoning requirements were overlooked and not carried forward to the new code; and

WHEREAS, the remaining changes continue to forward the Council's intent of having prescriptive standards that specify higher quality for development that occurs within the Mesa corporate limits.

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

**Section 1:** REFERENCE AND ADOPTION OF "APPENDIX B, HOUSEKEEPING AMENDMENTS TO THE MESA ZONING ORDINANCE, DECEMBER 8, 2011"

That the certain document known as the "Appendix B, Housekeeping Amendments to the Mesa Zoning Ordinance, January 17, 2012," three copies of which are on file on the Office of the City Clerk of the

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City of Mesa, which document was made a public record by Resolution No. 9983, of the City of Mesa, Maricopa County, Arizona, is hereby referred to and adopted as amendments to Mesa Zoning Ordinance, Title 11 of the Mesa City Code as fully set forth in this section.

**Section 2: REPEAL OF CONFLICTING ORDINANCES**

That all Ordinances or parts of Ordinances, and all sections of the Mesa City Code or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not:

- A. Affect suits pending, or rights and duties that matured or were existing, or penalties that were incurred and proceedings that were begun immediately prior to the effective date of this Ordinance;
- B. Impair, void or affect and grant or conveyance made, or any right acquired, or a cause of action now existing under such repealed portions.

**Section 3: SEVERABILITY**

If any 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 or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

**Section 4: PENALTY.**

**CIVIL PENALTIES:**

Upon finding that a person is Responsible, whether by admission, default or after a hearing, for a civil violation of this Title, the Civil Hearing Officer shall impose a civil sanction of not less than \$150.00 nor more than one thousand five hundred dollars (\$1500.00) for each violation. 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 determining the appropriate sanction the Civil Hearing Officer may assess against the Responsible party the City's personnel, mailing, and other costs incurred in investigating and hearing the case, based upon the applicable fees and charges set forth in the City's Development and Sustainability Department (Code Compliance) Schedule of Fees and Charges.

**EACH DAY SEPARATE VIOLATION:**

Each day in which a violation of this Title continues, or the failure to perform any act or duty required by this Title or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

**HABITUAL OFFENDER:**

- A. A person who commits a violation of this Title after previously having been found Responsible for committing three (3) or more civil violations of this Title within a twenty-four (24) month period – whether by admission, by payment of the fine, by default, or by judgment after hearing – shall be guilty of a criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal misdemeanor complaint in the Mesa City Court against habitual offenders. For purposes of calculating the twenty-four (24) month period under this Subsection, 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 of incarceration not to exceed six (6) months in jail; or a fine not to exceed two thousand five

hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law; or both such fine and imprisonment. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars (\$500.00) 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 this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.

- 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 6<sup>th</sup> day of February, 2012.

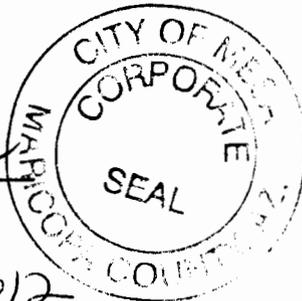
APPROVED:

\_\_\_\_\_  
Mayor



ATTEST:

\_\_\_\_\_  
City Clerk



EFFECTIVE DATE: *March 7, 2012*