

ORDINANCE NO. 5099

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING TITLE 11 OF THE MESA CITY CODE (THE MESA ZONING ORDINANCE) BY ADDING A NEW ARTICLE 6, WHICH CONSISTS OF CHAPTER 56 THROUGH 64 OF TITLE 11. THIS AMENDMENT INCLUDES A REGULATING PLAN MAP THAT APPLIES OPT-IN FORM-BASED CODE TRANSECT DISTRICTS TO EXISTING AND ESTABLISHED TRADITIONAL ZONING DISTRICTS AFFECTING: THE 300 BLOCK OF WEST UNIVERSITY DRIVE THROUGH TO THE 0 BLOCK OF EAST UNIVERSITY DRIVE, SOUTH SIDE; THE 300 BLOCK OF WEST 3RD PLACE THROUGH TO THE 0 BLOCK OF WEST 3RD PLACE, BOTH SIDES; THE 300 BLOCK OF WEST 2ND STREET THROUGH TO THE 600 BLOCK OF EAST 2ND STREET, BOTH SIDES; THE 300 BLOCK OF WEST 1ST STREET TO THE 600 BLOCK OF EAST 1ST STREET, BOTH SIDES; THE 500 BLOCK OF WEST MAIN STREET THROUGH TO THE 700 BLOCK OF EAST MAIN STREET, BOTH SIDES; THE 400 BLOCK OF WEST 1ST AVENUE THROUGH TO THE 700 BLOCK OF EAST 1ST AVENUE, BOTH SIDES; THE 300 BLOCK OF WEST 2ND AVENUE THROUGH TO THE 700 BLOCK OF EAST 2ND AVENUE, BOTH SIDES; THE 400 BLOCK OF EAST 3RD AVENUE THROUGH TO THE 700 BLOCK OF EAST 3RD AVENUE; AND THE 400 BLOCK OF EAST BROADWAY ROAD THROUGH TO THE 700 BLOCK OF EAST BROADWAY ROAD, NORTH SIDE. 775-ACRES±

WHEREAS: on November 5, 2002, voters of the City of Mesa approved the Mesa 2025 General Plan (General Plan); and

WHEREAS, on January 23, 2012, the Mesa City Council adopted the Central Main Plan (the Plan) to articulate goals and objectives for the development of Downtown Mesa; and

WHEREAS, the Plan refines and details stated goals and objectives of the Mesa General Plan that relate to the development of this area; and

WHEREAS, the use of Form-Based Code was identified by the Plan as a key implementation tool to achieve the stated goals and objectives for creating a vibrant, downtown; and

WHEREAS, the Form-Based Code is designed to facilitate predictable patterns of urban development and therefore further the achievement of the goals and objectives as stated in the Plan; and

WHEREAS, the Form-Based Code sets fixed, but achievable levels of high quality building form standards and provides predictable outcomes to both affected residents and developers; and

WHEREAS, removing unnecessary public hearings and reviews for projects that meet stated goals and requirements will facilitate the desired development pattern; and

WHEREAS, the Form-Based Code responds appropriately to a multi-modal transportation environment and facilitates the mixture of uses on the same or adjacent sites which will support the public's investment in light rail, reduce detrimental impacts on the environment, and otherwise enhance the overall environmental quality of the City; and

WHEREAS, the Form-Based Code is an option for development within the Downtown and Temple/Pioneer Park Neighborhoods, which will only take affect when a property owner elects to apply it to his or her property.

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

Section 1: ADOPTION BY REFERENCE. That the certain document known as the "Form-Based Zoning Code: Final Draft", three copies of which are on file in the Office of the City Clerk of the City of Mesa, which document was made a public record by Resolution No. 10063, of the City of Mesa, Maricopa County, Arizona, is hereby referred to, adopted, and made part hereof as if fully set out in this ordinance. .

Section 2: APPROVAL OF CODE. That the City Council hereby approves and adopts the certain document known as the "Form-Based Zoning Code: Final Draft" that also contains a Regulating Plan, which maps the transect zones for the Downtown and Temple/Pioneer Park Neighborhoods. This Regulating Plan shall amend the Official Zoning Map by applying the Transect Zone in parallel with the existing Zoning District. The Form-Based Code: Final Draft was presented, reviewed and unanimously recommended, as amended, for approval by the Planning and Zoning Board at the public hearing held on April 30, 2012.

Section 3: EFFECTIVE DATE. This Ordinance shall become effective 30-days after approval by the City Council.

Section 4: APPLICATION OF FORM-BASED CODE TO PROPERTIES. In those circumstances where a parcel is designated with both non-transect and transect zones, the property owner may choose to continue to comply with the existing non-transect zone requirements, or choose to opt-in to the Form-Based Code requirements applicable to the transect zone, but not both. When a property owner selects a transect zone, they shall sign before a notary public a "Form-Based Code Opt-In" form, which states that the Transect Zone standards are now effective, and that the non-transect zone is no longer effective for that site as regulated by §11-56 of the Form-Based Code.

Section 5: REPEAL.

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 6: 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 7: 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 or 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 14th day of June, 2012.

APPROVED:



Scott P. Smith

~~Scott Smith, Mayor~~
Scott Somers Vice-Mayor *SS*

ATTEST:

Linda G. Crocker

Linda G. Crocker, City Clerk

EFFECTIVE DATE: July 14th, 2012