

Text written in **BOLD ALL CAPS** indicates new language. ~~Strikethrough~~ fonts indicate proposed language to be deleted.

ORDINANCE NO. 4998

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE ZONING ORDINANCE OF THE MESA CITY CODE; AMENDING SECTION 11-18-8 REGARDING PUBLIC NOTICE REQUIREMENTS FOR PUBLIC HEARINGS RELATED TO AMENDMENTS OF THE MESA ZONING ORDINANCE, RECLASSIFICATION OF ZONING DISTRICTS, SITE PLAN REVIEWS, SITE PLAN MODIFICATIONS, AND COUNCIL USE PERMITS, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

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

Section 1: That Sub-sections 11-18-8(H) through 11-18-8(K), inclusive, of the Mesa City Code are amended, as follows:

Section 11-18-8 General Provisions: Applications, Procedures, Fees

(H) ~~Notice of the public hearing shall be given for any such amendments, site plan modifications, site plan reviews, or Council Use Permits by publishing a notice of the time and place and purpose of the meeting at least one (1) time in the local newspaper of general circulation not less than fifteen (15) days prior to the hearing and by posting the property in question at least five (5) days in advance of said hearing. It shall not be the responsibility of the City to maintain the posting once erected.~~

NOTICE OF THE PUBLIC HEARING SHALL BE GIVEN FOR ANY PROCEEDINGS INVOLVING LAND WHICH MAY CHANGE THE ZONING CLASSIFICATION, SITE PLAN MODIFICATIONS, SITE PLAN REVIEWS, OR COUNCIL USE PERMITS AS FOLLOWS:

1. **IN PROCEEDINGS INITIATED BY THE PROPERTY OWNER OR A REPRESENTATIVE ACTING ON BEHALF OF THE PROPERTY OWNER:**
 - A) **NOTICE OF THE TIME AND PLACE AND PURPOSE OF THE MEETING SHALL BE PUBLISHED AT LEAST ONE (1) TIME IN THE LOCAL NEWSPAPER OF GENERAL CIRCULATION NOT LESS THAN FIFTEEN (15) DAYS PRIOR TO THE HEARING; AND**
 - B) **NOTICE OF THE TIME AND PLACE AND PURPOSE OF THE MEETING SHALL BE POSTED ON THE PROPERTY IN QUESTION AT LEAST FIVE (5) DAYS IN ADVANCE OF SAID HEARING. IT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER TO MAINTAIN THE POSTING ONCE ERECTED.**
2. **IN PROCEEDINGS THAT ARE NOT INITIATED BY THE PROPERTY OWNER OR A REPRESENTATIVE ACTING ON BEHALF OF THE PROPERTY OWNER:**
 - A) **NOTICE OF THE TIME AND PLACE AND PURPOSE OF THE MEETING SHALL BE SENT VIA FIRST CLASS MAIL TO EACH REAL PROPERTY OWNER AS SHOWN ON THE LAST ASSESSMENT OF THE PROPERTY OF THE AREA TO BE REZONED, AND TO ALL PROPERTY OWNERS WITHIN THREE HUNDRED FEET (300') OF SAID PROPERTY; AND**
 - B) **ADDITIONAL NOTICE OF THE TIME AND PLACE AND PURPOSE OF THE MEETING SHALL BE GIVEN BY AT LEAST ONE OF THE FOLLOWING**
 - I. **POSTING THE PROPERTY IN QUESTION AT LEAST FIVE (5) DAYS IN ADVANCE OF SAID HEARING. IT SHALL NOT BE THE RESPONSIBILITY OF THE CITY TO MAINTAIN THE POSTING ONCE ERECTED; OR**
 - II **PUBLISHING A NOTICE OF THE TIME AND PLACE AND PURPOSE OF THE MEETING IN A DISPLAY AD COVERING NOT LESS THAN ONE-EIGHTH (1/8) OF A FULL PAGE IN A NEWSPAPER AT LEAST ONE (1) TIME IN THE LOCAL NEWSPAPER OF GENERAL CIRCULATION NOT LESS THAN FIFTEEN (15) DAYS PRIOR TO THE HEARING; OR**

III SENDING NOTICE WITH UTILITY BILLS OR OTHER MASS MAILINGS BY THE CITY OF MESA.

- (I) ~~In proceedings that are not initiated by the property owner involving rezoning of land which may change the zoning classification, notice by first class mail shall be sent to each real property owner as shown on the last assessment of the property of the area to be rezoned and all property owners within three hundred feet (300') of said property. (Deleted)~~
- (J) In proceedings involving one (1) or more of the following proposed **CHANGES OR RELATED SERIES OF CHANGES IN THE STANDARDS GOVERNING LAND USES** ~~text amendments~~ of the Zoning Ordinance, notice shall be provided in the manner described in ~~this Subsection~~ **(K), BELOW**.
1. A ten percent (10%) or more increase or decrease:
 - (a) In the number of square feet or units that may be developed;
 - (b) In the allowable height of buildings; or
 - (c) In the setback or open space requirements.
 2. An increase or reduction in the allowable number of stories of buildings.
 3. An increase or reduction in permitted uses.
- (K) In proceedings governed by Subsection 11-18-8~~(J)~~, notice to real property owners shall be provided by at least one (1) of the following notification procedures:
1. Notice shall be sent by first class mail to each real property owner as shown on the last assessment whose real property is directly governed by the changes;
 2. Notice shall be sent with utility bills or other mass mailings by the City of Mesa;
 3. Notice shall be provided by a display ad covering not less than one-eighth (1/8) of a full page in a newspaper of general circulation in the City prior to the first hearing on such changes.
 4. If notice is provided by paragraphs 2 or 3 above, the City shall also send notice by first class mail to persons who register their names and addresses with the City as being interested in receiving such notice. The City may charge a fee not to exceed five dollars (\$5.00) per year for providing this service.

Section 2: 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 3: PENALTY.

CIVIL PENALTIES:

Upon finding that a person is responsible for a civil violation of this Title, the Civil Hearing Officer shall impose a civil sanction of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation. 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, not to exceed a maximum of five hundred dollars (\$500.00).

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:

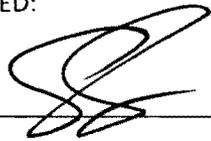
- A. A person who commits a violation of this Title after previously having been found responsible for committing three (3) or more civil violations of this Title within a twenty-four (24) month period –

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 CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 30th day of Aug., 2010.

APPROVED:



Mayor

ATTEST:



City Clerk



EFFECTIVE DATE: