ORDINANCE NO. 5883

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 2, 5, 6, 7, 8, 10, 30, 31, 32, 34, 86, AND 87 PERTAINING TO DETACHED ACCESSORY BUILDINGS, ACCESSORY DWELLING UNITS, PUBLIC SAFETY FACILITIES, AND VARIOUS TECHNICAL UPDATES AND MINOR REVISIONS. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: REPEALING IN ITS ENTIRETY SECTION 11-30-17: DETACHED ACCESSORY BUILDINGS AND REPLACING IT WITH A NEW "SECTION 11-30-17: DETACHED ACCESSORY BUILDINGS"; REPEALING IN ITS ENTIRETY SECTION 11-31-3: ACCESSORY DWELLING UNIT AND REPLACING IT WITH A NEW "SECTION 11-31-3: ACCESSORY DWELLING UNIT"; CHANGES TO DETACHED ACCESSORY BUILDINGS AND ACCESSORY DWELLING UNITS DEVELOPMENT STANDARDS AND TECHNICAL REVISIONS; THE ADDITION OF PUBLIC SAFETY FACILITIES TO RESIDENTIAL DISTRICTS IN CERTAIN CIRCUMSTANCES; VARIOUS TECHNICAL UPDATES AND MINOR REVISIONS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, it has become apparent that it is in the best interest of the City to update Chapters 2, 5, 6, 7, 8, 10, 30, 31, 32, 34, 86, and 87 of Title 11 of the Zoning Ordinance of the Mesa City Code; and

WHEREAS, the City recognizes the importance of providing balanced housing within an attractive living environment for all its residents; and

WHEREAS, the availability of Accessory Dwelling Units (ADUs) contributes to local housing by adding to the City's housing stock while providing for residential land uses consistent with the General Plan and Zoning Code; and

WHEREAS, in addition, from time to time, the Zoning Ordinance requires updates to better protect public health, safety, and welfare, to bring the Zoning Ordinance in line with current practices and procedures, or to provide for minor or technical revisions; and

WHEREAS, to protect the public health, safety, and welfare, it has become apparent that it is in the best interest of the City to permit public safety facilities as a permissible use in residential districts when located on City-owned property to allow for the operation of fire stations in communities; and

WHEREAS, it has become apparent that it is in the best interest of the City to make minor or technical revisions to the Zoning Ordinance, and this Ordinance includes such revisions and updates to the land use tables, definitions, and/or other sections of the Zoning Ordinance as outlined herein; and

WHEREAS, on September 28, 2024, the Planning and Zoning Board recommended that the City Council adopt the proposed amendments.

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

Section 1: REPEALED AND REPLACED LANGUAGE. That Mesa City Code Title 11 (Zoning Ordinance) Chapter 30 (General Development Standards), Section 17 (Detached Accessory Buildings) is hereby repealed in its entirety and replaced with the following language:

11-30-17: DETACHED ACCESSORY BUILDINGS OR STRUCTURES

The purpose of this Section is to aid in the comfort, convenience, and enjoyment of a lot or parcel by providing standards for the allowance and placement of detached accessory buildings or structures that place reasonable limitations to minimize impacts on access to light, air, and spacing relative to adjacent lots and parcels.

A. **General Requirements**. Detached accessory buildings or structures located on lots or parcels in Agricultural (AG), Single Residence (RS), Small Lot Single Residence (RSL), Downtown Residential (DR), and Multiple Residence (RM) districts are permitted subject to the following provisions:

1. The primary building shall be under construction or fully constructed on a lot or parcel of land prior to initiating construction of a detached accessory building or structure;

2. Detached accessory buildings or structures shall not be constructed or used for dwelling purposes, except as an accessory dwelling unit as provided in Section 11-31-3 of this Ordinance;

3. Detached accessory buildings or structures shall adhere to the maximum building coverage and maximum lot coverage requirements of the underlying zoning district;

4. The gross floor area of all detached accessory buildings or structures, including any accessory dwelling unit, shall not exceed 100% of the gross floor area of the primary building; and

5. No detached accessory building or structure shall encroach into any recorded easement.

B. **Building Height and Location.**

1. **Detached Accessory Buildings or Structure: Less than or equal to 200 Square Feet**. Detached accessory buildings or structures 200 square feet or less in gross floor area shall comply with all of the following requirements:

a. May be located within the required rear, side, or street side yards.

b. Shall not be located in the required front yard or between the front of the primary building and the street.

c. On corner lots or parcels abutting a key lot, detached accessory buildings or structures shall not be located closer to the street than the primary building on the adjacent key lot.

d. Shall not be located closer than six (6) feet to the primary building.

e. Shall not exceed eight (8) feet in height at the peak of the roof unless the detached accessory building or structure complies with the height and location requirements in Subsection (B)(2)(d) or Subsection (B)(2)(e) below.

f. No portion of the accessory building or structure shall overhang the property line or cause water to shed or drain from the roof of the accessory building or structure onto a neighboring property.

2. **Detached Accessory Buildings or Structures: Greater than 200 Square Feet**. Detached accessory buildings or structures greater than 200 square feet in gross floor area shall comply with all of the following requirements:

a. Shall not be located in the required front yard or between the primary building and the street.

b. Shall not be located closer than six (6) feet to the primary building.

c. On corner lots or parcels abutting a key lot, detached accessory buildings or structures shall not be located closer to the street than the primary building on the adjacent key lot.

d. Shall not exceed the maximum building height of the underlying zoning district, or the height of the primary building as measured at the peak of the roof, whichever is less, unless approved by a Special Use Permit.

e. In addition to the height maximum in Subsection (d), the below requirements must be met for the detached accessory building or structure, as applicable. If the height of the accessory building or structure is:

i. Equal to or less than 15 feet in height at the peak of the roof, the detached accessory building or structure may be located within the rear, side, or street side yards but shall not be located closer than five (5) feet from the side, street-side, and rear property lines.

ii. Over 15 feet in height at the peak of the roof, the detached accessory building or structure shall not be located within any rear, side, or street side yard, and shall adhere to the setback requirements of the underlying zoning district.

f. No portion of the accessory building or structure shall overhang the property line or cause water to shed or drain from the roof of the accessory building or structure onto a neighboring property.

Section 2: REPEALED AND REPLACED LANGUAGE. That Mesa City Code Title 11 (Zoning Ordinance) Chapter 31 (Standards for Specific Uses and Activities), Section 3 (Accessory Dwelling Unit) is hereby repealed in its entirety and replaced with the following language:

11-31-3: ACCESSORY DWELLING UNIT

The purpose of this Chapter is to provide opportunities for accessory dwelling units (ADUs) while minimizing impacts to surrounding uses and properties.

A. **Applicability.**

1. One (1) attached ADU and one (1) detached ADU are permitted per lot or parcel in any of the following zoning districts where a single residence is allowed: Agricultural, Residential, Commercial and Mixed Use, and Downtown.

2. Any lot or parcel containing an existing single residence is permitted one (1) attached ADU and one (1) detached ADU regardless of the zoning district.

3. One (1) additional detached ADU is permitted on a lot or parcel that is one (1) acre or more in size on a lot or parcel that meets the requirements in Subsection (A)(1) or (A)(2) above if at least one (1) of the ADUs is used as a restricted-affordable dwelling unit, which is defined as a dwelling unit that either, through a private deed restriction or a development agreement with the City, is rented to households earning up to eighty percent (80%) of the area median income.

B. **General Requirements.**

1. There are no minimum lot size requirements to establish an ADU.

2. An ADU shall have a separate and independent entrance from the primary residence.

3. An ADU may contain either a partial kitchen or full kitchen, but no more than one (1) kitchen per ADU is allowed.

4. An ADU in a Historic District shall comply with Chapter 74 of the Zoning Ordinance.

5. An ADU shall comply with all applicable building code requirements for residential dwellings.

6. Manufactured homes, recreational vehicles (RV), and trailers shall not be used as an ADU.

C. **Unit Size.** The interior habitable area of an ADU shall not exceed 75% of the primary residence's interior habitable area, or 1,000 square feet, whichever is less.

D. **Setbacks.**

1. **Attached or Detached - New Structures.**

a. A minimum side and rear setback of five (5) feet shall be provided for all side and rear setbacks.

b. Front and secondary front (street side) setbacks shall comply with the primary residence setback requirements for the underlying zoning district.

2. **Attached or Detached - Existing Structures.**

a. Existing structures converted to an ADU shall require no additional setbacks.

b. For existing structures with a second story that will be converted to an ADU, no additional setbacks are required.

c. For existing structures where a new second story ADU is being added, the setbacks of the ADU shall comply with the primary residence setback requirements of the underlying zone.

3. **Non-conforming Structure Conversions.**

a. *Detached Accessory Building or Structure.*

i. A detached accessory building or structure that does not meet the current setback requirements and is a legal non-conforming structure may be converted to an ADU.

ii. Side and rear setback shall be a minimum of five (5) feet.

iii. For front and secondary front (street side) setbacks, no additional setback shall be required, provided that the conversion does not further increase the nonconformity.

b. *Primary Residence.*

i. A single residence that does not meet current setback requirements and is a legal non-conforming structure may be altered to include an ADU.

ii. Side and rear setback shall be a minimum of five (5) feet.

iii. For front and secondary front (street side) setbacks, no additional setback shall be required, provided that the alteration does not further increase the nonconformity.

c. *Second Story Conversions.* An existing legal non-conforming, two-story structure that does not meet the current setbacks may be altered to include an ADU with no additional setback required.

E. **Lot Coverage and Building Coverage.** An ADU shall comply with all lot coverage and building coverage requirements of the underlying zoning district.

F. **Height.** The height of an attached or detached ADU shall comply with the primary residence height requirements for the underlying zoning district.

G. **Parking.**

1. No additional parking spaces are required for an ADU.

2. If a garage or carport is converted to an ADU, covered parking for the primary residence is not required to be replaced elsewhere on the lot or parcel.

H. **Utilities.**

1. An ADU shall be provided with water, sewer, and electric utilities.

2. An ADU shall be served by the same water, sewer and electric utility providers and meters as the primary residence.

3. An ADU may not be built on top of a current or planned public utility easement of any kind unless the property owner receives written consent from any utilities currently using the public utility easement or that may use the public utility easement in the future.

Section 3: ADOPTION BY REFERENCE. The additions and deletions set forth in that certain document known as "2024 Amendments to the Zoning Ordinance, Title 11 of the Mesa City Code, Pertaining to Detached Accessory Buildings, Accessory Dwelling Units, Public Safety Facilities, and Various Technical Updates and Minor Revisions," which was made a public record on September 23, 2024 by Resolution No. 12269 of the City of Mesa, Maricopa County, Arizona, three copies of which are on file with the City Clerk and available to the public, are hereby referred to, adopted and incorporated into: Title 11 (Zoning Ordinance), Chapter 2 (Rules for the Construction of Language and Interpretation), Section 3 (Rules for Measurement); Title 11 (Zoning Ordinance), Chapter 5 (Residential Districts), Section 2 (Land Use Regulations); Title 11 (Zoning Ordinance), Chapter 5 (Residential Districts), Section 5 (Development Standards for the RM District); Title 11 (Zoning Ordinance), Chapter 6 (Commercial Districts), Section 2 (Land Use Regulations); Title 11 (Zoning Ordinance), Chapter 7 (Employment Districts), Section 2 (Land Use Regulations); Title 11 (Zoning Ordinance), Chapter 8 (Downtown Districts), Section 3 (Land Use Regulations); Title 11 (Zoning Ordinance), Chapter 8 (Downtown Districts), Section 4 (Development Standards – DR Downtown Residence Districts); Title 11 (Zoning Ordinance), Chapter 8 (Downtown Districts), Section 7 (Supplemental Regulations for All Downtown Districts); Title 11 (Zoning Ordinance), Chapter 10 (Public and Semi-Public District), Section 2 (Land Use Regulations); Title 11 (Zoning Ordinance), Chapter 30 (General Site Development Standards), Section 5 (Lighting and Illumination); Title 11 (Zoning Ordinance), Chapter 30 (General Site Development Standards), Section 7 (Outdoor Storage), Title 11 (Zoning Ordinance), Chapter 32 (On-Site Parking, Loading, and Circulation), Section 1 (Purpose and Applicability); Title 11 (Zoning Ordinance), Chapter 32 (On-Site Parking, Loading, and Circulation), Section 3 (Parking Spaces Required); Title 11 (Zoning Ordinance), Chapter 34 (Manufactured Home/Recreational Vehicle Regulations), Section 2 (Permitted Uses); Title 11 (Zoning Ordinance), Chapter 86 (Use Types), Section 2 (Residential Use Classifications); and, Title 11 (Zoning Ordinance), Chapter 87 (Definitions) of the Mesa City Code.

Section 4: RECITALS. The recitals above are fully incorporated in this ordinance by reference, and each recital represents a finding of fact and determination made by the City Council.

Section 5: REPEAL OF CONFLICTING ORDINANCES AND PRESERVATION OF RIGHTS AND DUTIES. That any sections of the 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: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 7: SEVERABILITY. 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: 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 Section, 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.

Section 9: Resolution No. 12269 adopted on September 23, 2024 known as "2024 Amendments to the Zoning Ordinance, Title 11 of the Mesa City Code, Pertaining to Detached Accessory Buildings, Accessory Dwelling Units, Public Safety Facilities, and Various Technical Updates and Minor Revisions" and the attached exhibits are on file and available for review at the Office of the City Clerk, 20. E. Main Street, Suite 150, Mesa, Arizona.

Section 10: This Ordinance is intended to comply with the requirements of A.R.S. § 9-461.18 (Accessory dwelling units; regulation; applicability; definitions) that the City of Mesa adopt development regulations required by the statute and this Ordinance shall be interpreted in a manner to give effect that it has met the statutory requirement.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 7th day of October, 2024.

APPROVED:

Mayor

ATTEST:

City Clerk

CITY OF MESA CORPORATE SEAL MARICOPA COUNTY, AZ