ORDINANCE NO. 5950

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 30, 31, AND 87 PERTAINING TO ACCESSORY DWELLING UNITS, DETACHED ACCESSORY BUILDINGS OR STRUCTURES, AND HOME OCCUPATIONS. THE AMENDMENTS INCLUDE, BUT ARE NOT LIMITED TO: MODIFYING THE GROSS FLOOR AREA REQUIREMENTS FOR DETACHED ACCESSORY BUILDINGS OR STRUCTURES; MODIFYING THE SETBACK REQUIREMENTS FOR ACCESSORY DWELLING UNITS; MODIFYING THE SPECIFIC USE AND ACTIVITIES STANDARDS FOR HOME OCCUPATIONS; ADDING THE DEFINITION OF "BUILDING ADDITION"; MODIFYING THE DEFINITION OF HOME OCCUPATIONS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, from time to time, it is necessary to make revisions and updates to the Zoning Ordinance to clarify provisions and ensure the effective implementation of its intent.

WHEREAS, on October 7, 2024, the Mesa City Council adopted Ordinance 5883, amending Title 11 of the Mesa City Code (Zoning Ordinance) by repealing and replacing Section 11-30-17 (Detached Accessory Buildings) and repealing and replacing Section 11-31-3 (Accessory Dwelling Unit).

WHEREAS, since the adoption of Ordinance 5883, it has become apparent that it is in the best interest of the City to update Chapters 30 and 31 of the Zoning Ordinance to clarify development standards for Accessory Dwelling Units and Detached Accessory Buildings or Structures.

WHEREAS, the addition of a definition for "Attached Building" will clarify the distinction between attached and detached structures, supporting consistent interpretation and enforcement of related zoning standards.

WHEREAS, it has become apparent that it is in the best interest of the City to update Chapters 31 and 87 of the Zoning Ordinance to revise the definition and development standards for Home Occupations to ensure consistent interpretation and enforcement of Home Occupations so that they remain subordinate to the residential use and preserve neighborhood character.

WHEREAS, on June 11, 2025, 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: That Mesa City Code Title 11, Section 11-30-17(A) is hereby amended as follows. The remainder of 11-30-17 remains the same.

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 **COMBINED** 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, **UNLESS APPROVED BY A SPECIAL USE PERMIT**; and

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

Section 2: That Mesa City Code Title 11, Section 11-31-3(D) is hereby amended as follows. The remainder of 11-31-3 remains the same.

D. **Setbacks.**

1. ***NEW STRUCTURES* – 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. ***EXISTING DETACHED ACCESSORY BUILDING OR STRUCTURE CONVERSION.* ~~Attached or Detached – Existing Structures~~.**

   a. ***CONFORMING DETACHED ACCESSORY BUILDING OR STRUCTURE.*** ~~Existing structures converted to an ADU shall require no additional setbacks.~~

      I. AN EXISTING DETACHED ACCESSORY BUILDING OR STRUCTURE THAT COMPLIES WITH THE SETBACK REQUIREMENTS IN SECTION 11-30-17 (DETACHED ACCESSORY BUILDINGS OR STRUCTURES) BUT DOES NOT COMPLY WITH THE SETBACK REQUIREMENTS IN SUBSECTION (D)(1) ABOVE MAY BE CONVERTED TO AN ADU WITHOUT REQUIRING ADDITIONAL SETBACKS.

II. **ANY EXPANSION OR ADDITION TO ACCOMMODATE AN ADU SHALL COMPLY WITH THE SETBACK REQUIREMENTS OF SUBSECTION (D)(1) ABOVE.**

b. ***LEGAL NON-CONFORMING DETACHED ACCESSORY BUILDING OR STRUCTURE.*** ~~For existing structures with a second story that will be converted to an ADU, no additional setbacks are required.~~

I. **AN EXISTING DETACHED ACCESSORY BUILDING OR STRUCTURE THAT DOES NOT COMPLY WITH THE SETBACK REQUIREMENTS IN SECTION 11-30-17 (DETACHED ACCESSORY BUILDINGS OR STRUCTURES) OR THE SETBACK REQUIREMENTS IN SUBSECTION (D)(1) ABOVE, MAY BE CONVERTED TO AN ADU WITHOUT REQUIRING ADDITIONAL SETBACKS.**

II. **AN EXPANSION OR ADDITION TO ACCOMMODATE AN ADU MAY BE CONSTRUCTED IN COMPLIANCE WITH SUBSECTION (D)(1) ABOVE, OR IN LINE WITH THE EXISTING NON-CONFORMING SETBACK, PROVIDED IT DOES NOT FURTHER INCREASE THE EXISTING NON-CONFORMITY.**

~~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. ***PRIMARY RESIDENCE.*** ~~Non-conforming Structure Conversions.~~

a. ***PRIMARY RESIDENCE RENOVATION.*** **A PRIMARY RESIDENCE MAY BE INTERNALLY RENOVATED TO INCLUDE AN ADU AND SHALL NOT REQUIRE ADDITIONAL SETBACKS. ANY EXPANSION OR ADDITION TO THE PRIMARY RESIDENCE TO ACCOMMODATE AN ADU IS SUBJECT TO THE FOLLOWING:** ~~*Detached Accessory Building or Structure.*~~

i. ***GROUND FLOOR ADDITION.*** **ANY GROUND FLOOR ADDITION CONSTRUCTED TO ACCOMMODATE AN ADU SHALL COMPLY WITH THE SETBACK REQUIREMENTS OUTLINED IN SUBSECTION (D)(1) ABOVE.**~~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. ***SECOND-STORY ADDITION.*** **ANY SECOND-STORY ADDITION CONSTRUCTED TO ACCOMMODATE AN ADU SHALL COMPLY WITH THE SETBACK REQUIREMENTS FOR THE PRIMARY RESIDENCE.** ~~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. *LEGAL NON-CONFORMING STRUCTURES.* ~~*Primary Residence.*~~

i. A ~~single~~ **PRIMARY** residence that does not ~~meet~~ **CONFORM TO THE REQUIRED** ~~current~~ setback**S FOR THE UNDERLYING ZONING DISTRICT OR THE SETBACK REQUIREMENTS IN SUBSECTION (D)(1) ABOVE, MAY BE INTERNALLY RENOVATED TO ACCOMMODATE AN ADU WITHOUT REQUIRING ADDITIONAL SETBACKS.** ~~requirements and is a legal non conforming structure may be altered to include an ADU~~.

ii. **AN EXPANSION OR ADDITION TO ACCOMMODATE AN ADU MAY BE CONSTRUCTED IN COMPLIANCE WITH SUBSECTION (D)(1) ABOVE, OR IN LINE WITH THE EXISTING NON-CONFORMING SETBACK, PROVIDED IT DOES NOT FURTHER INCREASE THE EXISTING NON-CONFORMITY.** ~~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.~~

Section 3: That Mesa City Code Title 11, Section 11-31-33 is hereby amended as follows.

11-31-33: - HOME OCCUPATIONS

Home Occupations, as ~~defined~~ **DESCRIBED** in Chapter 87, ~~are permitted as specified~~ **SHALL BE LOCATED, DEVELOPED, AND OPERATED IN COMPLIANCE WITH THE LAND USE REGULATIONS IN** Article 2, ~~limited by the following~~ **AND THE FOLLOWING STANDARDS**:

A. In all ~~residence~~ **RESIDENTIAL**, eCommercial, ~~m~~Mixed-use, and ~~d~~Downtown ~~d~~Districts, the following standards apply~~:~~**. NONCOMPLIANCE WITH ANY PROVISION OF THIS SECTION IS A VIOLATION OF THIS ORDINANCE.**

1. ~~There is no~~ ~~n~~Non-resident employee**S ARE PROHIBITED FROM** working at ~~the~~ **A** Home Occupation~~s~~ site **UNLESS, THE PROPERTY IS ZONED AG, RS-90, OR RS-43 AND APPROVED BY A SPECIAL USE PERMIT AS REQUIRED BY SUBSECTION (B) BELOW**~~,~~**.**

2. ~~There is no commercial~~ **EXTERIOR** storage **AND EXTERIOR DISPLAY OF MATERIALS, GOODS, AND EQUIPMENT IS PROHIBITED** ~~on the~~ **AT A** Home Occupation~~s~~ site~~, interior or exterior,~~.

3. ~~The~~ **A** Home Occupations site ~~is~~ **MAY** not **BE** used for day-long or ~~other~~ long-term parking of vehicles **ASSOCIATED WITH OR** used by non-resident employees~~,~~ or clients, **WHETHER** for personal or business use~~,~~**.**

4. Any short-term **PARKING NEEDED FOR** employee**S** or client**S** ~~parking that is needed~~ **SHALL** ~~occurs~~ **BE LOCATED EITHER** on the Home Occupations ~~property~~ **SITE** or on the street immediately in front of the residence~~,~~**.** ~~and~~

5. There ~~is~~ **SHALL BE** no exterior indication of ~~a~~ nonresidential use **AT A HOME OCCUPATION SITE, EXCEPT THAT** ~~outside of a~~ one **(1)**~~,~~ non-illuminated, static ~~message~~ sign, ~~of~~ no ~~more~~ **LARGER** than **THREE** (3) square feet in area, **EITHER** attached to the building or placed in a window, **IS ALLOWED**.

B. In the AG, RS-90 and RS-43 ~~d~~**D**istricts~~:~~**, APPROVAL OF A SPECIAL USE PERMIT IS REQUIRED TO PERMIT THE FOLLOWING:**

~~1. The definition of "Home Occupations" may be expanded to include on-site fabrication of artisan or custom crafted materials for installation at a different location, when conducted within an enclosed, sound-attenuated building.~~

~~2. Home Occupations that are not in conformance with items 1 through 5 in Paragraph A, above, shall require approval a Special Use Permit, pursuant to Chapter 67 and 70. Such SUPs shall be limited as follows:~~

~~a~~**1.** ~~No more than~~ **UP TO TWO** (2) non-resident employees~~;~~**.**

~~b~~**2.** **ONE** (1) **ADDITIONAL** on-site, independently accessed parking space ~~provided~~ for each non-resident employee. The parking space(s) shall be located on a dust-proof surface, and shall be in addition to **THE** required minimum parking for the residence~~;~~**.**

~~c. Any commercial storage occurs entirely within an enclosed structure;~~

~~d. The primary residence, and all accessory buildings and structures, shall comply with the requirements of Section 11-5-3 and 11-5-7(B)~~

Section 4: That Title 11, Chapter 87: Definitions is hereby amended to add a heading "Building Related Definitions" which shall appear immediately above the term "Building", add a definition for "Building Addition" which shall be arranged in alphabetical order under Building Related Definitions, and to revise the definition for "Home Occupations". All the other definitions in Chapter 87 shall remain the same.

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BUILDING RELATED DEFINITIONS:

Building: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or property of any kind.

BUILDING ADDITION: AN EXTENSION OR INCREASE IN FLOOR AREA, HEIGHT, OR VOLUME OF AN EXISTING BUILDING. TO QUALIFY AS AN ADDITION, THE NEW CONSTRUCTION MUST SHARE A COMMON WALL WITH THE EXISTING BUILDING, WITH THE POINT OF ATTACHMENT MEASURING AT LEAST 20% OF THE LENGTH OF THE COMMON WALL TO WHICH IT IS ATTACHED.

Building, Enclosed: A building composed of rigid walls on all sides, and a roof.

Building Height: The vertical distance from the natural mean ground elevation of the lot to the top of the parapet of a flat roof or the mean height between the plate line and the ridge of mansard, gable, hip, shed, or similar roof, excluding embellishment.

Building, Pre-Engineered Metal: An enclosed structure with siding consisting of large, modular metal panels, often available in standardized kit form from a manufacturer and assembled on-site.

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Home Occupations: ~~An ancillary use in any Residence or Mixed-Use district which:~~ **A BUSINESS OR PROFESSIONAL ACTIVITY CONDUCTED ON THE SAME LOT OR PARCEL AS A RESIDENTIAL DWELLING UNIT, WHICH IS CLEARLY INCIDENTAL AND SECONDARY TO THE PRIMARY FUNCTION AS A RESIDENTIAL DWELLING UNIT. THE BUSINESS OR PROFESSIONAL ACTIVITY MUST NOT NEGATIVELY IMPACT THE RESIDENTIAL CHARACTER OF THE NEIGHBORHOOD OR THE HEALTH, SAFETY, AND WELFARE OF NEIGHBORS.**

PERMITTED HOME OCCUPATIONS MAY INCLUDE BUT ARE NOT LIMITED TO: ARTIST STUDIOS, PERSONAL SERVICES, THERAPY, CONSULTING, LAW OFFICE, REAL ESTATE, INSURANCE, PROFESSIONAL OFFICE, PROFESSIONAL DESIGN SERVICES, MUSIC AND FINE ARTS INSTRUCTION, SWIM LESSONS, AND SMALL-SCALE E-COMMERCE THAT SERVICE FIVE (5) OR FEWER INDIVIDUALS AT A TIME.

~~A. Is clearly incidental to a residence use;~~

~~B. Is subordinate to the purpose of the residence use;~~

~~C. Contributes to the comfort, convenience, or necessity of occupants in the residence use;~~

~~D. Is located on the same lot or parcel as the residence use served;~~

~~E. Includes swimming lessons, babysitting, and fine arts instruction, each for 5 or fewer persons;~~

~~F. Includes door-to-door and telephone solicitation;~~

~~G. Includes uses and activities that can be conducted entirely indoors without negatively impacting the residential character of the neighborhood or health, safety, and welfare of neighbors; and~~

~~H.~~ **HOME OCCUPATIONS** ~~E~~**E**xcludes **THE** on-site exchange of sold or bartered goods (exceptions made for occasional and infrequent exchanges), ~~on-site~~ vehicle repair ~~as a commercial use~~, commercial warehousing or storage - indoor or outdoor, ~~non-resident employees working in the home,~~ or manufacturing of products using hazardous materials or equipment not typically found in household settings.

Section 5: 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 6: AMENDED LANGUAGE. In this Ordinance, new language is shown in **BOLD ALL CAPS** and deleted language is shown in ~~strikethrough~~.

Section 7: PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect suits pending, rights and duties that matured or were existing, or penalties that were incurred or proceedings that were initiated prior to the effective date of this Ordinance.

Section 8: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 9: 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 10: PENALTY. Penalties for a violation are set forth in the Mesa Zoning Ordinance Sections 11-79-4 and 11-79-5 which are as follows:

11-79-4 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.

11-79-5 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 2025.

APPROVED:

Mayor

CITY OF MESA CORPORATE SEAL MARICOPA COUNTY, AZ

ATTEST:

City Clerk