ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING MESA CITY CODE TITLE 5 (BUSINESS REGULATIONS) BY ADDING A NEW CHAPTER 21 TO TITLE 5 ENTITLED "STRUCTURED SOBER LIVING HOME LICENSE".

WHEREAS, A.R.S. §9-500.40 allows a municipality to adopt by ordinance standards for structured sober living homes that comply with state and federal fair housing laws and the Americans with Disabilities Act;

WHEREAS structured sober living homes are essential to allow individuals recovering from substance use disorders to incorporate into the community and live in a drug-free and alcohol-free home where they receive support;

WHEREAS, currently the state of Arizona does not license structured sober living homes; and

WHEREAS, structured sober living homes should promote independent living and provide structured activities directed toward recovery from substance use disorder;

WHEREAS, Council finds and determines that some structured sober living homes in the City of Mesa fail to provide appropriate living conditions or a supportive, family-like environment essential for the residents to achieve and maintain sobriety;

WHEREAS, Council finds and determines that some structured sober living homes in the City of Mesa do not provide adequate structure or supervision for its residents and do not facilitate the rehabilitative process;

WHEREAS, Council finds and determines there is a need to establish certain minimum standards and regulations for structured sober living homes to protect the individuals living in the structured sober living homes as well as the neighboring community from operators who fail to provide the supportive, residential family-like environment necessary for the residents to achieve and maintain sobriety;

WHEREAS, Council finds and determines that the licensing requirements in this ordinance are for the benefit of the individuals living in structured sober living homes and are in the best interests of the health, safety, and welfare of the individual residents living in these homes as well as the local neighbors; and

WHEREAS, Council finds and determines that the licensing provisions in this ordinance comply with state and federal fair housing laws and the Americans with Disabilities Act.

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

SECTION 1. Mesa City Code Title 5 is amended by adding a new Chapter 22 to read as follows:

CHAPTER 21

STRUCTURED SOBER LIVING HOME LICENSE

SECTION:

5-21-1: PURPOSE AND INTENT
5-21-2: DEFINITIONS
5-21-3: ADMINISTRATION; LICENSE REQUIRED
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5-21-12: VIOLATION AND PENALTIES
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5-21-1: INTENT

The intent of this Chapter is to protect the residents of structured sober living homes from operators who engage in abuse, neglect, mistreatment, fraud, or inadequate supervision of this vulnerable population as well as to protect the residents of structured sober living homes and the neighboring community from operators who fail to provide the supportive, residential family-like living environment necessary to achieve and maintain sobriety.

5-21-2: DEFINITIONS

The terms of this Chapter have the below meanings unless the context otherwise requires. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(A) **APPLICANT:** A person who applies for a license pursuant to this Chapter.

(B) **BEHAVIORAL HEALTH SERVICES**: Services that pertain to mental health and substance use disorders and that are either:

(1) Performed by or under the supervision of a professional who is licensed pursuant to Arizona Revised Statutes Title 32 and whose scope of practice allows for the provision of these services; or

(2) Performed on behalf of patients by behavioral staff as prescribed by law.

(C) **BUSINESS LICENSING ADMINISTRATOR:** The Business Licensing and Revenue Collections Administrator of the City or his/her designee.

(D) **CITY:** City of Mesa, Arizona.

(E) **HEARING OFFICER:** The Business Services Department Director or his/her designee.

(F) **HOUSE MANAGER**: A staff member, regardless of title, whether live-in or on a shift basis, who is responsible for the day-to-day operation of the structured sober living home, maintaining and managing a sober living environment, keeping the house running smoothly, and maintaining a clean and sanitary environment.

(G) **LICENSE:** A license issued to a structured sober living home operator in accordance with this Chapter.

(H) **LICENSING OFFICE:** The division of the City's Business Services Department under the supervision of the City's Business Licensing and Revenue Collections Administrator.

(I) **OPERATOR**: A business entity or individual (natural person) who owns or provides structured sober living home services including the placement of individuals in a residence, setting house rules, and governing behavior of the occupants as residents of the home. Operator does not include a property owner or property manager that exclusively handles real estate contracting, property management, and leasing of the property and who does not otherwise meet the definition of operator.

(J) **SCHEDULE OF FEES AND CHARGES:** The current City schedule of fees and charges as approved by the City Council.

(K) **STRUCTURED SOBER LIVING HOME:** Any group residential/group home for the handicapped that provides alcohol-free or drug-free housing, promotes independent living and life skill development, and provides structured activities that are directed primarily toward recovery from substance use disorders in a supervised setting to a group of unrelated individuals, who are recovering from drug or alcohol addiction and who are receiving outpatient behavioral health services for substance abuse or addiction treatment while living in the home. Structured sober living home does not include: (1) a private residence in which a related family member is required to receive outpatient behavioral health services for substance abuse or addiction treatment as a condition of continuing to reside in the family dwelling; or (2) group home/group home for the handicapped that is licensed or otherwise subject to oversight by the State of Arizona.

5-21-3: ADMINISTRATION; LICENSE REQUIRED

(A) It is the duty and responsibility of the Business Licensing Administrator to administer the provisions of this Chapter. Pursuant to this duty, the Business Licensing Administrator will issue, renew, deny, or revoke a structured sober living home license in accordance with this Chapter.

(B) Any party aggrieved by a decision of the Business Licensing Administrator under this Chapter may appeal within ten (10) calendar days of issuance of the decision. The appeal must meet the requirements set forth in Section 5-21-13.

(C) All operators in the City must first obtain a license from the Licensing Office as provided in this Chapter.

(D) A separate license is required for each structured sober living home location in the City.

(E) A license is issued for a period of one (1) year and cannot be transferred.

(F) An operator must display its license in a conspicuous location at the structured sober living home location where the residents of the home can easily view the license.

(G) An applicant for a license may seek a reasonable accommodation as prescribed in Section 5-21-11 of this Chapter.

5-21-4: LICENSE APPLICATION

(A) An applicant must submit a licensing application on a form provided by the City and provide, at a minimum, all of the following documents:

(1) If the property is leased to an operator, a copy of the lease or other properly executed document stating that states that the property will be used as a structured sober living home.

(2) Supervision requirements in the structured sober living home for the residents during all hours of operation.

(3) Documentation for each house manager indicating the manager meets the minimum qualifications in Section 5-21-9.

(4) Operation plan that facilitates the rehabilitative process and addresses the maintenance of the property and noise abatement consistent with local ordinances.

(5) The structured sober living home's rules and regulations, written intake procedures, relapse policy, and discharge plan.

(6) A copy of the structured sober living home good neighbor policy.

(7) A copy of the operator's insurance policy for the structured sober living home.

(8) An affirmation by the operator that, except for house manager(s), only residents who have the disability of addiction to drugs and/or alcohol as defined by state and federal law are eligible to reside at the structured sober living home and the home will not admit residents who pose a direct threat to the health or safety of others such as persons on the sex offender registry.

(9) A blank copy of every form residents and potential residents are required to complete.

(10) A signed waiver by the operator agreeing to allow fire inspectors or code compliance officers entry into the common areas (including, but not limited to, the living room, kitchen, dining room, and back or side yard of a structured sober living home) upon demonstration that probable cause exists to believe that a violation of this Chapter exists.

(11) A signed and dated safety self-assessment checklist confirming the following safety devices are installed and fully functional, as well as a schedule for self-inspecting each device:

(a) Functioning smoke detectors in the sleeping rooms.

(b) Functioning fire extinguishers in plain sight or clearly marked locations.

(c) Interior and exterior of the property is in a functional, safe and clean condition and free of fire hazards.

(12) A signed waiver by the operator agreeing to allow the City to conduct an annual fire inspection of the structured sober living home to ensure compliance with the City's fire code and Section 5-21-4 (A)(11).

(13) A legible floor plan of the structured sober living home that includes the total square footage of the home; the layout, location, dimensions, and square footage of each bedroom or room occupied as a bedroom (excluding closet space); the number of beds in each bedroom or room occupied as a bedroom; and the maximum number of residents proposed to occupy the home now and in the future.

(B) As part of the license application process and prior to the issuance of a license, the operator must permit the City to perform a fire inspection of the structured sober living home.

(C) The Licensing Office will grant a license to an applicant unless it determines the application is subject to denial in accordance with Section 5-21-6.

(D) All required fees set forth in the schedule of fees and charges (including issuance, application, and renewal, as applicable) must be paid by the operator prior to the issuance of a license.

(E) An applicant who obtains a license is responsible for updating any information provided to the City in this Section, within ten (10) days of the change in information.

5-21-5: LICENSE RENEWAL

(A) A license, unless revoked, may be renewed and such renewal will be valid for a term of one (1) year. The completed renewal application must be submitted by the operator no later than forty-five (45) calendar days prior to the expiration of the license along with the applicable renewal fee set forth in the schedule of fees and charges, otherwise the renewal application will be denied. The Licensing Office is authorized to obtain necessary information to update the original license application and to determine whether the license should be renewed in accordance with the requirements of this Chapter.

(B) As part of the annual renewal process, a licensed structured sober living home must pass an annual fire inspection conducted by the City.

(C) If an operator fails to submit a complete renewal application and renewal fee at least forty-five (45) calendar days prior to the expiration of the term of the license, the license will expire at the end of the term of the license and will be deemed non-renewable; unless otherwise prohibited by this Chapter, an operator will still be eligible to apply for a new license. An operator may not operate a structured sober living home at a location with an expired license until a new license is issued.

(D) An application for renewal of a license must comply with Section 5-21-6.

5-21-6: LICENSE DENIAL OR REVOCATION

(A) In addition to any penalties set forth in this Chapter, the Licensing Office shall deny an application for a new license and may revoke a current license for any of the following reasons:

(1) Applicant failed to meet the requirements set forth in this Chapter for issuance of a license.

(2) Applicant or operator failed to pay the applicable fees set forth in this Chapter.

(3) Application contained materially false or misleading information or omitted any pertinent information.

(4) Applicant or operator is in violation of any provision of this Chapter, or any other law applicable to the operation of a structured sober living home.

(5) Applicant currently owes a debt to the City and therefore cannot be issued a license as set forth in Mesa City Code Title 1, Chapter 32.

(6) Applicant, operator or house manager refused entry into a structured sober living home upon request by a fire inspector or code compliance officer upon demonstration that probable cause exists to believe that a violation of this Chapter exists.

(7) Operator was convicted or pled nolo contendere to any of the following criminal offenses within five (5) years prior to the date of the application for the license or operator commits any of the following offenses while having the license:

(a) Any sex offense classified as a Level II or Level III community risk (intermediate to high risk).

(b) Any arson offense.

(c) Any violent felony which involved doing bodily harm to another person.

(d) An unlawful sale, transfer, production, delivery, or manufacturing drug offense under Arizona Revised Statutes Title 13, Chapter 34 (as amended) or similar law in another state.

(8) Operator is on parole or formal probation supervision on the date of the submittal of the application for the license or at any time thereafter.

(9) Excluding the house manager, operator allowed a person who is not in recovery from drug and/or alcohol addiction and not handicapped as defined by the Fair Housing Act and the Arizona Fair Housing Act to reside in the structured sober living home.

(B) In addition to any penalties set forth in this Chapter, the Licensing Office may deny an application for a license or may revoke a current license for any of the following reasons:

(1) Operator, who is in recovery from drug and/or alcohol addiction, has been clean and sober for fewer than two (2) full years as of the date of application for a license or the date of employment.

(2) Operator or house manager fails to take immediate measures to remove or isolate any resident, using alcohol or illegally using prescription or nonprescription drugs, from contact with all other sober residents in the structured sober living home.

(3) Operator or house manager fails to take immediate measures to remove or isolate any resident of the structured sober living home who fails to actively participate in a legitimate recovery program.

(4) More than three (3) violations of this Chapter have occurred within a twelve (12) month period.

(5) Repeated violations of the operating rules and regulations submitted as part of the application for the license, the supervision requirements in the structured sober living home for the residents during hours of operation, the structured sober living home's rules and regulations, written intake procedures, relapse policy, or discharge procedure and policy.

5-21-7: MINIMUM STANDARDS FOR THE OPERATION OF A STRUCTURED SOBER LIVING HOME

(A) If the operator is not the property owner, the operator must obtain written approval from the property owner to operate a structured sober living home at the property as shown on the lease or other properly executed document.

(B) Like all properties in the City, the structured sober living home must be maintained in full compliance with all City building codes, the Mesa City Code, the Mesa Zoning Ordinance, and any other City regulations.

(C) An individual required to register under Arizona law as a sex offender and classified as a Level II or Level III community risk (intermediate to high risk) is not permitted to live in a structured sober living home.

(D) A structured sober living home shall provide a clean, safe, substance-free living environment in which:

(1) Case management is provided to help residents receive substance abuse treatment, community-based recovery services, or both, for sustained recovery;

(2) At least one (1) house manager is present at all times when residents are present at the structured sober living home; and

(3) The operator or house manager is available on call at all times.

(E) A structured sober living home must have Naloxone (Narcan) available on the premises for use by the residents in the home, all of whom must have received training to administer Naloxone within one (1) week of admission to the home.

(F) A structured sober living home shall provide house managers with an understanding of substance use disorders, co-occurring substance use and mental health disorders, and recovery principles.

(G) The operator shall acquire and maintain commercial general liability insurance of at least one million dollars ($1,000,000.00) in coverage per occurrence and at least three million dollars ($3,000,000.00) aggregate or at least one million dollars ($1,000,000.00) general liability per occurrence and at least two million dollars ($2,000,000.00) general aggregate coverage with at least one million dollars ($1,000,000.00) umbrella coverage.

5-21-8: OPERATING RULES AND REGULATIONS FOR STRUCTURED SOBER LIVING HOMES

Each operator must establish and enforce operating rules and regulations that meet or exceed the following minimum standards:

(A) House rules and regulations that include all of the following:

(1) Prohibits the use of alcohol at the home or by any recovering addict either on or off the premises.

(2) Prohibits the use of non-prescription drugs at the home or by any recovering addict either on or off the premises.

(3) Prohibits theft by residents, staff or house manager(s).

(4) Addresses residents, staff, or house managers borrowing money from other residents, staff or house managers.

(5) Requires residents attend weekly household meetings and participate in self-help meetings and recovery programs, including a statement that refusal to actively participate in recovery programs may be cause for discharge.

(6) Requires residents to seek employment and the number of hours that must be devoted per day to that job search.

(7) Addresses residents completing household chores and adhering to the house curfew.

(8) Statement that violating the house rules and regulations will result in consequences and a description or listing of the consequences, up to and including immediate discharge from the home.

(B) The structured sober living home shall have one (1) or more house managers at the home, at least one (1) of whom is present at all times when residents are present at the structured sober living home.

(C) All residents, other than the house manager, must actively participate in recovery programs, such as Alcoholics Anonymous or Narcotics Anonymous, and must adhere to the program's applicable prescribed schedule and requirements.

(D) The structured sober living home shall establish a protocol to assure that all residents have access to meals at the home whether the residents dine individually or as a group. Public, social, or charitable service-provided meals shall not be a substitute for these protocols.

(E) The structured sober living home shall establish a designated smoking area outside of the home that does not expose neighbors to secondhand smoke. If an adjacent resident is sensitive to secondhand smoke, the operator or house manager should take reasonable measures to accommodate that neighbor. A structured sober living home may ban smoking from the home and grounds.

(F) A structured sober living home shall develop protocols to prevent locking residents out of the home or otherwise preventing resident access to the home at any time unless the residents are at work or engaged in some other approved activity outside the home. The purpose of the protocol is to prevent a structured sober living home from simply locking its doors and leaving residents loitering outside the home. Part of maintaining a family-like living environment is enabling access to the home as in a biological family.

(G) A structured sober living home must establish a medication policy which shall be posted at a conspicuous site in a common area inside the home. The policy shall address, at a minimum, all of the following:

(1) Possession, use and storage of prescription medications.

(2) Individuals on medication-assisted treatment being permitted to continue to receive this treatment while living in the structured sober living home.

(3) Operator, house manager, and staff of the structured sober living home shall not dispense medications but must make them available to the resident to whom the medication is prescribed.

(4) Possession or use of prescription medications is prohibited except for the person to whom the medication(s) are prescribed and in the prescribed dose.

(5) Preventing a resident who violates the medication policy from having contact with other residents until the violation is resolved.

(H) The structured sober living home must establish and maintain an operation plan that facilitates the rehabilitative process, including discharge planning, and that addresses the maintenance of the property and noise abatement consistent with local ordinances. The structured sober living home's relapse and discharge policy must include options for eviction of a resident to avoid forcibly evicting a resident onto the street including, but not limited to, a provision that an operator or house manager cannot discharge a resident who does not have alternative living arrangements. The options for eviction of residents may include, but are not limited to:

(1) Notice to resident and resident's family of proposed eviction;

(2) Time limits on when eviction can occur where no immediate threat to other residents exist;

(3) Travel arrangements to the resident's home of record; or

(4) Alternate living accommodation arrangements or referrals.

(I) The structured sober living home shall have a written visitation policy requiring house manager consent of all visitors and prohibiting any visitor who is under the influence of illegal drugs, excessive medication, or alcohol.

(J) The structured sober living home shall have a good neighbor policy directing residents to be considerate of neighbors, including refraining from engaging in behavior that would unduly interfere with a neighbor's use and enjoyment of their home and property. The good neighbor policy shall establish a written protocol for the house manager or operator to follow when a neighbor complains to the staff, house manager, operator or to the City. The good neighbor policy shall address the following issues:

(1) Policies and procedures that, upon request, provide neighbors with full contact information for the structured sober living home's operator and house manager(s).

(2) Policies and procedures that require the operator or house manager to respond to a neighbor's concerns even if it is not possible to resolve the issue.

(3) New resident orientation to include how residents are to greet and interact with neighbors and concerned parties.

(4) Policies that are responsive or preemptive to neighbor's reasonable complaints regarding: smoking, loitering, parking, noise, lewd or offensive language, and cleanliness of public space around the property.

(K) All rules and regulations for residents of a structured sober living home shall be posted in a visible location in the home.

5-21-9: HOUSE MANAGER

The purpose of this section is to ensure the house manager of a structured sober living home can perform the job in a safe and knowledgeable manner.

(A) Certification. A house manager, within thirty (30) days of being hired for the position, shall provide the Licensing Office a certification or similar proof of meeting the minimum qualifications set forth in Section 5-21-9(C).

(B) Duties. House manager is responsible for the day-to-day operation of the structured sober living home including, but not limited to: general oversight of the house; create a safe, supportive and caring home environment in which the residents continue their recovery; provide regularly scheduled opportunities for the residents to grow in their understanding of recovery; prevent disruptive residents and neighborhood activities; and provide basic first aid and CPR when necessary. The house manager may also coordinate aspects of the resident's transportation, meals, activities and meetings.

(C) Minimum Qualifications. A house manager shall meet the following minimum qualifications:

(1) Possess at least a high school or general equivalency diploma;

(2) Be at least twenty-one (21) years old;

(3) Is not on formal probation supervision or parole;

(4) Be clean and sober for at least one (1) year as of the date of employment;

(5) Successfully complete training in first aid; and

(6) Successfully complete training and certification in cardiopulmonary resuscitation (CPR).

5-21-10: REPORTING A VIOLATION

A structured sober living home operator shall not terminate any staff or house manager, evict any resident (collectively "Reporting Party"), or take any other adverse action against a Reporting Party for disclosing a violation of any provision of the Mesa City Code, based upon the Reporting Party's reasonable belief that the operator, staff or house manager has violated or is violating a provision of the Mesa City Code. This provision applies to: (1) disclosure to any person the Reporting Party reasonably believes is in a managerial or supervisory position at the structured sober living home or who has the authority to investigate the violation and take action to prevent further violations of the Mesa City Code; or (2) disclosure to an employee of any public body or political subdivision of this state or the federal government.

5-21-11: REASONABLE ACCOMMODATION

(A) Policy. It is the City's policy to provide a reasonable accommodation in accordance with federal and state fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) for persons with disabilities seeking fair access to housing in the application of this Chapter. The term "disability" as used in this Chapter shall have the same meaning as the terms "disability" and "handicapped" as defined in the federal and state fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.). The purpose of this Section is to establish the procedure by which a person may request a reasonable accommodation and how the request is to be processed.

(B) Reasonable Accommodation. Any person seeking a permit to operate a structured sober living home that will substantially serve persons with disabilities may apply for a reasonable accommodation to obtain relief from a City regulation, policy, or condition that poses a barrier to equal access to housing.

(C) Procedure.

(1) Application Required. An application for a reasonable accommodation shall be filed and processed with the City Manager or designee. The application shall include the following information and be subject to the determinant factors required by this Section.

(2) Submittal Requirements. The application shall be made in writing, and shall include the following information:

(a) The specific City provision, regulation, policy, or condition from which the reasonable accommodation is being requested;

(b) The specific exception or modification sought from the application of the subject provision, policy, or condition of this Chapter that the applicant seeks;

(c) Documentation that the specific exception or modification requested by the applicant is necessary to provide one (1) or more individuals with a disability an equal opportunity to use and enjoy the residence;

(d) Any other information that the City Manager or designee reasonably determines is necessary to evaluate the request for a reasonable accommodation;

(e) Any other information that the City Manager or designee reasonably concludes is necessary to determine whether the findings required by Section 5-21-11(G) of this Section can be made, so long as any request for information regarding the disability of the individuals benefited complies with fair housing law protections and the privacy rights of the individuals affected.

(D) Fee. No application fee is required to request a reasonable accommodation.

(E) City Manager Action. Within sixty (60) days of receipt of a completed application, the City Manager or designee shall issue a written determination to approve, conditionally approve, or deny a request for the requested reasonable accommodation.

(F) Standards for Granting a Reasonable Accommodation. The following factors may be considered in determining whether to grant a reasonable accommodation:

(1) Whether a less drastic exception or modification to the applicable provision, regulation, policy, or condition that achieves the same end as the requested reasonable accommodation is available;

(2) Special needs created by the disability at issue;

(3) Potential benefit that can be accomplished by the requested modification;

(4) Physical attributes of the subject property and structures;

(5) Alternative accommodations that may provide an equivalent level of benefit;

(6) Whether the requested accommodation would impose an undue financial or administrative burden on the City;

(7) Whether the requested accommodation would require a fundamental alteration in the nature of a program of the City;

(8) Whether granting the request would be consistent with the City's General Plan; and

(9) The property will be used by an individual with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.).

(G) Findings. The written decision to approve, conditionally approve, or deny a request for a reasonable accommodation shall be based on the following findings, all of which are required for approval. In making these findings, the City Manager or designee may approve alternative reasonable accommodations which provide the applicant with an equivalent level of benefit.

(1) The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.);

(2) The requested accommodation is necessary to provide one (1) or more individuals with a disability an equal opportunity to use and enjoy a dwelling;

(3) The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. and A.R.S. § 41-1491 et seq.) and interpretive case law;

(4) The requested accommodation will not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others;

(5) Whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting;

(6) The requested accommodation will not result in a fundamental alteration in the nature of the requirements of City regulation, policy, or condition.

(H) Any party aggrieved by a decision of the City Manager or designee may appeal the decision by requesting a hearing within ten (10) calendar days of issuance of the decision. The appeal must be in writing, state the grounds for the appeal, and be sent to the City Manager or designee; the failure of an appeal to meet the requirements of this Section will entitle the City Manager or designee to deny the appeal without further review. The appeal shall be processed in accordance with Section 5-21-13.

5-21-12: VIOLATION AND PENALTIES

(A) Nothing in this Chapter shall be construed as affecting the ability of the City to initiate or continue concurrent or subsequent criminal prosecution or civil code enforcement actions for any violation of the Mesa City Code or state law arising out of the circumstances necessitating the application of this Chapter.

(B) The remedies herein are cumulative, and the City may proceed under one (1) or more such remedies. Each violation of any provision of this Chapter shall constitute a separate offense and each day a violation remains unabated may constitute a separate offense.

(C) Any operator or other person who causes, permits, facilitates, aids, or abets any violation of any provision of this Chapter, or who fails to perform any act or duty this Chapter requires, is subject to a minimum civil sanction of not less than one hundred dollars ($100.00) and a maximum civil sanction of two thousand five hundred dollars ($2,500.00). Each day any violation of any provision of this Chapter exists shall constitute a separate violation.

(D) Any operator, house manager, or other person who knowingly causes, permits, facilitates, aids, or abets any violation of any provision of this Chapter or who knowingly fails to perform any act or duty required by this Chapter is guilty of a class 1 misdemeanor.

5-21-13: APPEAL HEARING; JUDICIAL REVIEW

(A) Any party aggrieved by a decision of the Business Licensing Administrator may appeal the decision by requesting a hearing within ten (10) calendar days of issuance of the decision. The appeal must be in writing, state the grounds for the appeal, and be sent to the Business Services Director; the failure of an appeal to meet the requirements of this Section will entitle the Business Services Director to deny the appeal without further review.

(B) If an appeal meets the requirements of Section 5-21-13 (A), the Business Services Director will schedule a hearing with a Hearing Officer within thirty (30) calendar days of receipt of the appeal and the Hearing Officer will render a decision within sixty (60) calendar days of the hearing. The filing of an appeal meeting the requirements of Section 5-21-13(A) will suspend the decision of the Business Licensing Administrator until the Hearing Officer has rendered their decision. Any suspended decision of the Business Licensing Administrator, if upheld by the Hearing Officer, will be reinstituted and dated as of the original date the decision was issued by the Business Licensing Administrator.

(C) All proceedings before a Hearing Officer will be informal and without a jury, except that testimony will be given under oath or affirmation. The technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. No prehearing discovery will be permitted, unless the Hearing Officer determines good cause exists otherwise. The Hearing Officer is authorized to make such orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand.

(D) If either party to the appeal is aggrieved by the decision of the Hearing Officer, the aggrieved party may file a complaint of special action in an Arizona Superior Court with proper jurisdiction to review the Hearing Officer's decision at any time within thirty (30) calendar days after a final decision of the Hearing Officer has been rendered. Failure to bring the action within thirty (30) calendar days, or such other time as is agreed upon in writing by the parties to the hearing, will constitute a waiver of any right to judicial review of the Hearing Officer's decision.

(E) The decision of the Business Licensing Administrator, if not appealed, will be the City's final determination on a matter pursuant to this Chapter. If the decision of the Business Licensing Administrator is appealed to a Hearing Officer, the decision of the Hearing Officer will be the City's final decision on the matter unless appealed in accordance with this Chapter.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3. This Ordinance shall become effective on October 1, 2018. Any structured sober living home that comes into existence upon or after the effective date of this Ordinance, and which is required to obtain a City license under this Ordinance, shall have one hundred eight (180) days from the effective date of this Ordinance to comply with its provisions.

SECTION 4. Any structured sober living home in existence as of the date on which this Ordinance is effective and which is required to obtain a City license under this Ordinance, must apply for a license within sixty (60) days of the effective date of this Ordinance. Any existing structured sober living home may apply to the City Manager or designee for up to an additional one hundred eighty (180) days to obtain a license if

it is necessary to prevent undue financial hardship or is essential to continue to provide treatment for the residents of a structured sober living home.

SECTION 5. The term group residential/group home for the handicapped as used in the definition of structured sober living home means a residential facility of six (6) or more unrelated persons providing living facilities, sleeping rooms, and meals and that is shared as a primary residence by handicapped persons living together as a single housekeeping unit, in which staff persons may provide on-site care, training, or support; any staff or house manager that lives at the structured sober living home is considered a resident and is included in the calculation of the number of persons that may live together.

SECTION 6. Any fee that is required by this Ordinance will be set forth in the City's Schedule of Fees and Charges and will not be required until such fee is adopted in the City's Schedule of Fees and Charges.

SECTION 7. This Chapter of the Mesa City Code is automatically repealed upon the Arizona Department of Health Services finalizing the rules relating to the licensure of sober living homes pursuant to Title 36, Chapter 18, Article 4, Arizona Revised Statutes.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 9th day of July, 2018.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk