

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 11-3-2, OFFICIAL ZONING DISTRICT MAP AND DISTRICT BOUNDARIES, OF THE MESA CITY CODE, CHANGING THE ZONING OF CERTAIN PROPERTY DESCRIBED IN ZONING CASE Z14-059 AT 8650 EAST BROWN ROAD LOCATED WEST OF ELLSWORTH ROAD ON THE SOUTH SIDE OF BROWN ROAD AN OFFICIAL SUPPLEMENTARY ZONING MAP CHANGING THE ZONING FROM RS-43 TO RSL2.5 PAD AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

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

Section 1: That Section 11-3-2 Official Zoning District Map and District Boundaries, of the Mesa Zoning Ordinance is hereby amended by adopting the Official Supplementary Zoning Map for Zoning Case (Z14-059), signed by the Mayor and City Clerk, which accompanies and is annexed to this ordinance and declared a part hereof.

Section 2: The Official Supplementary Zoning Map attached hereto is adopted subject to compliance with the following conditions:

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, landscape exhibits and preliminary plat submitted, (without guarantee of lot yield, building count, or lot coverage).
2. Minimum lot size shall be 38' x 78' for all lots.
3. Minimum rear yard setback shall be 15'. A patio cover may encroach into the rear yard setback up to 10' from the property line.
4. Lots 1, 32, 33, 35 and 36 indicated on the site plan are limited to single-story homes. No two-story products shall be built on these lots.
5. No two identical elevations are permitted on adjacent lots or on lots across from each other.
6. The house plans submitted do not comply with the Building Form Standards established in section 11-5-3(E) of the City of Mesa Zoning Ordinance. Residential product is not included as part of this approval and must be submitted for administrative review and approval by the Planning Director. Compliance with section 11-5-3(E) is required.
7. Provide elevations of the shade structures for the open space areas. Details to be Administratively Approved by the Planning Director.
8. Compliance with all City development codes and regulations.
9. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request of dedication whoever comes first.
10. All street improvements, street frontage landscaping, and perimeter theme walls to be installed with the first phase of development.
11. Compliance with all requirements of the Subdivision Technical Review Committee.
12. Compliance with all requirements of the current City of Mesa Engineering and Design Standards Manual.
13. Owner shall grant an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
14. Written notice be provided to future residents, and acknowledgment received that the project is within 4 mile(s) of Falcon Field Airport.

15. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction as required by Code.
16. View fences shall comply with the City of Mesa pool fence barrier regulations.

Section 3: 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 Ordinance 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 Ordinance 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 described above 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.

EACH DAY SEPARATE VIOLATION:

- 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 three (3) or more civil violations of this Ordinance 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 class 1 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a class 1 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 Section, 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 26th day of January, 2015.

APPROVED:

Mayor

ATTEST:

City Clerk

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