

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 Z15-026 THE 7400 THROUGH 7600 BLOCKS OF EAST SOUTHERN AVENUE (NORTH SIDE). LOCATED AT THE NORTHWEST CORNER OF SOSSAMAN ROAD AND SOUTHERN AVENUE (11.57± ACRES). REZONE FROM LC-PAD-PAD TO RSL-2.5-PAD-PAD AND SITE PLAN REVIEW. THIS REQUEST WILL ALLOW FOR THE DEVELOPMENT OF A SINGLE RESIDENCE SUBDIVISION 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 (Z15-026), 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, Preliminary Plat, and landscape plans provided without guarantee of lot yield.
2. Full compliance with all City development codes and regulations.
3. 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 for dedication whichever comes first.
4. All offsite street improvements and street frontage landscaping to be installed in the first phase of construction unless otherwise approved by the City of Mesa.
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Compliance with all requirements of the City of Mesa Terms and Conditions for the Sale of Utilities as administered by the Water Resources Department as well as City of Mesa Standard Detail M-53.
7. Compliance with all requirements of the Fire Department.
8. Compliance with the Residential Development Guidelines as well as the building form standards established in the City of Mesa Zoning Ordinance.
9. No two identical elevations are permitted on adjacent lots or on lots across from each other, and no more than two identical elevations with different exterior colors are permitted within a cluster of lots adjacent within each courtyard.
10. Patios have been included in the open space calculation for the private yards and therefore they may not be enclosed.
11. View fences shall comply with the City of Mesa pool fence barrier regulations.
12. Owner granting an Avigation Easement and Release to the City, pertaining to the Phoenix-Mesa Gateway 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).
13. Written notice be provided to future residents, and acknowledgment received that the project is within five (5) miles of the Phoenix-Mesa Gateway Airport.
14. Noise attenuation measures are to be incorporated into the design and construction of the buildings to achieve a noise level reduction of 25 db.

15. Designated Solid Waste barrel pick-up locations for cluster lots shall be as shown on the Parking and Refuse Exhibit, unless modified by the City of Mesa Staff. Each individual barrel location shall be marked on the concrete identifying it as a solid waste barrel location per M-62.06 of the City of Mesa Standard Details.
16. The sum of the walls for the homes within 10-feet of the rear property line shall not exceed 55% of the outside length of the pod/cluster.
17. Provide dusk to dawn garage lights and porch lights within each cluster.
18. Provide safe, attractive and comfortable shaded seating within all of the open space areas for this development. Details to be approved by the Planning Director prior to issuance of a building permit for the subdivision improvements.
19. Lots 10, 11 and 12 will have a minimum 15-foot setback along the north side of the development. The balance of the homes along the north property line will have a minimum setback of 10-feet for single story and 15-feet for two story, this includes lots 14, 15, 18, 19, 22, 23, 26, 27 and 29 as identified on the Preliminary Plat, dated July 20, 2015.
20. Provide a parking ratio of three (3) parking spaces per dwelling unit.
21. Provide at least 3 exclusive, unassigned parking spaces within 150 of each cluster as measured from curblane at the intersection with the public street and termination of the shared drive.
22. The Home Owner's Association shall maintain all 90 degree parking spaces.

### 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.
- 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 9th day of November, 2015.

APPROVED:

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Mayor

ATTEST:

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City Clerk