

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 Z15-030 6350 EAST MAIN STREET LOCATED EAST OF RECKER ROAD ON THE NORTH SIDE OF MAIN STREET (1± ACRES). REZONE FROM LC TO ID-1 AND SITE PLAN REVIEW. THIS REQUEST WILL FACILITATE INFILL DEVELOPMENT ON EAST MAIN STREET 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 (Z15-030), 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 Infill Incentive Plan and site plans except as modified by the following stipulations.
2. Compliance with all City development codes and regulations.
3. Compliance with the development agreement approved by City Council modifying the permitted land uses.
4. Within 30 days after City Council approval of the re-zoning, a revised Infill Incentive Plan with all conditions of approval incorporated shall be submitted and accepted by the Planning Director. All phases of development shall comply with the approved Infill Incentive Plan approved by Council.
5. The IIP shall be revised as follows:
 - a. Modify the language within the Development Standards section of the IIP to include the following language: "The development standards and design guidelines for Phase II shall be generally consistent with the T4 Main Street Building Form Standards, the Mixed Use Main Street Building Type Standards, the Private Frontage Standards and the Thoroughfare Standards of the Mesa City Code, Zoning Ordinance Chapters 58-61. The Planning Director may approve minor deviations from these standards to meet existing site constraints and development conditions.
 - b. All landscape shall comply with Mesa Zoning Ordinance Section 11-33.
 - c. Phase I shall require:
 - i. Within 60 days of approval of the rezoning a final Phase 1 site plan consistent with the requirements established in the conceptual site plan incorporating needed revisions shall be submitted to the Planning Director for administrative approval. (page 13 under phasing)
 - ii. The final site plan shall be revised to include removal of 2 parking spaces adjacent to 64th street at the southeast corner of the site to allow for adequate planting area and site visibility. (page 13 under phasing)
 - iii. The landscape plan shall include three shrubs and ground cover along with the proposed tree at the southeast corner of the site. (page 13 under phasing)

- iv. Within 180 days of approval of this rezoning all proposed site plan improvements approved through the Planning Director shall be completed. (page 13 under phasing)
- v. Installation of all street improvements as required by all City development codes and regulations. (page 11 under off-site improvements)
- d. Phase II shall require:
 - i. Compliance with all conditions of Design Review approval.

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 1st day of December, 2015.

APPROVED:

Mayor

ATTEST:

City Clerk