

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 Z16-012 60 SOUTH COUNTRY CLUB DRIVE. LOCATED ON THE WEST SIDE OF COUNTRY CLUB DRIVE AND SOUTH OF MAIN STREET. (0.66± ACRES). REZONING FROM DB-1 TO GC-BIZ. THIS REQUEST WILL ALLOW FOR AN AUTOMOBILE/VEHICLE SALES AND LEASING FACILITY AND REDEVELOPMENT OF THE SITE CONSISTENT WITH T4NF TRANSECT 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 (Z16-012), 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 dated February 29, 2016.
2. Compliance with all City development codes and regulations.
3. Vehicle access to the property shall be limited to one driveway on to each street frontage.
4. Implementation of the following prior to occupancy of the building:
 - a. Removal of barbed wire from the fence along the West First Avenue frontage and within the side street yard of the building and provide a kneel wall of 18 inches height along the remainder of the frontage not used for the driveway or landscape area as indicated on the site plan.
 - b. Removal of the existing non-conforming pole sign and any additional prohibited signs. A new illuminated sign shall require a permit and shall not to exceed 5 feet in height and 32 square feet in message area on a monument type fixture separated from parking, vehicle display and drive aisles by raised curbing approved to City of Mesa engineering design standards.
 - c. Provide and maintain a minimum of 1,131 square-feet of landscape area consisting of right of way landscaping, foundation base landscaping and a new landscape bed around the new sign (#6 above) as shown on the site plan; replace any dead or dying existing landscape materials. An irrigation plan shall be approved by the City.
 - d. Execute an encroachment agreement to maintain existing landscaping within the public right of way.
 - e. Provision of 9 parking spaces for the use of customers and employees.
 - f. Install pedestrian connections from both the Country Club Drive and First Avenue sidewalks to the primary building entrance as shown on the site plan. At the time of future redevelopment upgrade existing sidewalks, pedestrian connections and ramps for ADA compliance as necessary.
 - g. Unscreened equipment and building systems shall be painted to match the building.

5. Solid Waste collection shall be provided in accordance with City of Mesa specifications.
6. The use of outdoor speakers, amplification and paging systems shall be prohibited.
7. The use of vehicle display platforms is prohibited.
8. All vehicle loading/unloading shall occur on site.
9. At the time the property owner chooses to redevelop the property, the property owner shall file a site plan application with the City of Mesa and approved by the Planning & Zoning Board for the property to facilitate the building form, type and frontage standards established by Chapters 58, 59 and 60 of the Zoning Ordinance for the T-4NF transect as adopted on June 12, 2012 as part of the Downtown Neighborhoods Regulating Plan.

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 2nd day of May, 2016.

APPROVED:

Mayor

ATTEST:

City Clerk