

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 ZON17-00158 THE 3700 BLOCK OF EAST MCKELLIPS ROAD (SOUTH SIDE). LOCATED EAST OF VAL VISTA DRIVE ON THE SOUTH SIDE OF MCKELLIPS ROAD. (11.48+/- ACRES). REZONE FROM RS-35 TO RS-35-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 (ZON17-00158) 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 and preliminary plat submitted (without guarantee of lot yield, building count, lot coverage).
2. Compliance with the Residential Development Guidelines as well as the Building Form standards established in Chapter 5 of the Zoning Ordinance.
3. Compliance with all City development codes and regulations.
4. 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.
5. All street improvements and street frontage landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
8. Owner granting 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).
9. Provide a 4-foot x 4-foot sign at the entrance to the sales office for this development, with notice to all prospective buyers that the project is within an Overflight Area for Falcon Field Airport as specified in Section 11-19-5 of the Zoning Ordinance.
10. A building permit cannot be issued until a registered Professional Engineer or registered Professional Architect has certified that Noise attenuation measures have been incorporated into the design and construction of the buildings to achieve a noise level reduction of 45 db as specified in Section 11-19-5 of the Zoning Ordinance.
11. Due to the proximity to Falcon Field Airport, any proposed structure is subject to an FAA filing for review in conformance with CFR Title 14 Part 77.9, (form 7460), to determine any effect to navigable airspace, air navigation facilities. A completed form with response by the FAA must accompany building permit application for structures on this property.
12. Written notice to be provided to all future property owners and acknowledgment received that the project is within 1 mile(s) of Falcon Field Airport.

13. The developer shall prepare CC&R's for the homeowners' association that includes the preservation, maintenance, replacement, and flood irrigation of the citrus trees. This shall be noted on the final plat.
14. The Final Plat shall include a note that the surrounding property owners will have access to the irrigation valves located on the west side of the proposed development.

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 4th day of December, 2017.

APPROVED:

Mayor

ATTEST:

City Clerk