

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 ZON18-00862 THE 8200 TO 8500 BLOCKS OF EAST BASELINE ROAD (NORTH SIDE). LOCATED EAST OF SOUTH CHANNING (HAWES ROAD) ALIGNMENT ON THE NORTH SIDE OF BASELINE ROAD. (69± ACRES). REZONING 15± ACRES FROM AG TO RSL-2.5-PAD AND INCORPORATING THE ACREAGE INTO THE APPROVED 54± ACRE BASELINE MIXED-USE 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 (ZON18-00862), 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 site plan and preliminary plat submitted (without guarantee of lot yield, building count, lot coverage).
2. Compliance with all City development codes and regulations, except as modified by the Baseline Mixed Use PAD.
3. Compliance with the Baseline Mixed Use Planned Area Development Design Booklet.
4. Compliance with all requirements of the Subdivision Regulations.
5. Dedicate the right-of-way and easements, including the twenty-foot public water easement adjacent to the eastern property line, 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.
6. Prior to submittal for a building permit, submit building product including floor plans, elevations, material, color and texture for the City's Planning Director review and acceptance.
7. Prior to final plat approval, submit a site plan to the Planning Director for review and acceptance. The site plan, at a minimum, shall include the following items:
 - a) Widen the width of the green space to 35' between the Irvine Avenue and the amenities to the south.
 - b) Remove the perimeter wall located between phase II and phase III.
 - c) Install street lights along the public streets and photocell coach lighting on each lot along the alleys that provide access to garages.
 - d) Path lights along the pedestrian connections.
 - e) Install landscaping with shrubs, groundcover and vines on both sides of the proposed trail/pedestrian path along the eastern property line.
8. Owner granting an Avigation Easement and Release to the City, pertaining to Phoenix-Mesa Gateway Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map or prior to the issuance of a building permit).

9. Written notice be provided to future property owners, and acknowledgment received that the project is within 5 mile(s) of Phoenix-Mesa Gateway Airport.
10. Due to the proximity to Phoenix-Mesa Gateway 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.
11. 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 Phoenix-Mesa Gateway Airport* as specified in Section 11-19-5 of the Zoning Ordinance.
12. A building permit shall not 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 MZO.

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 March, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk