

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 ZON18-00067 WITHIN THE 9500 THROUGH 9800 BLOCKS OF EAST HAMPTON AVENUE (SOUTH SIDE). LOCATED NORTH OF THE US-60 SUPERSTITION FREEWAY AND WEST OF CRISMON ROAD. (33 ± ACRES). REZONE FROM NC-BIZ, NC-PAD AND PEP-PAD-CUP TO RM-2-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 (ZON18-00067), 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 final site plan submitted.
2. Compliance with all requirements of the Subdivision Regulations.
3. Dedicate the right-of-way and easements 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. Compliance with all City development codes and regulations, except as modified in Table 1 in the staff report.
5. Prior to submittal of a permit application for a masterplan, or any modifications to an approved masterplan, submit for review and acceptance by the Planning Director elevations and floor plans that demonstrate:
  - a. Compliance with the Building Form Standards outlined in Chapter 5 of the Mesa Zoning Ordinance and the Residential Development Guidelines;
  - b. Use of architectural enhancements, such as windows, recesses, shutters, or metal accents applied to elevations that are located adjacent to the street or an open space; and
  - c. Use of a variety of real building materials and finishes on the exterior of the homes, such as wood or quality wood synthetic, shutters, stone, or metal to create interest through color, material and texture.
6. Prior to submittal of any construction permit(s), revise the site plan to show the stormwater runoff for the project is retained within the limits of the Bella Encanta subdivision per City of Mesa Code or submit the following documentation that substantiates Bella Encanta has permission to retain a portion of their stormwater runoff in the Muirfield Village Condominium's retention basin and establishes that the retention basin satisfies the City's requirements:
  - a. A drainage report that demonstrates the required volume of stormwater runoff in the Muirfield Village retention basin can meet the City requirements for the retention needs for both the Muirfield Village Condominium and the portion of the stormwater runoff from Bella Encanta that will be retained in the Muirfield Village Condominium retention basin.

- b. A signed and sealed certification from a registered land surveyor that the Muirfield Village Condominium retention basin can adequately retain the volume of stormwater runoff identified in the drainage report.
  - c. Execute and record a contract, easement or similar legal document, acceptable to the City, that secures, in perpetuity, the right of Bella Encanta to retain a portion of their stormwater runoff in the Muirfield Village Condominium retention basin and addresses the long-term maintenance responsibility of the portion of the Muirfield Village Condominium retention basin used by Bella Encanta.
7. Comply with the City's requirement to provide an 8-foot wide public utility easement adjacent to the public streets. Relative to the private streets, the City will approve 6-foot wide public utility easements adjacent to the private streets if prior to the issuance of any construction permit(s), developer obtains consent, from each of the utility and telecommunication companies who will provide service to the property, that the 6-foot public utility easements are acceptable.

### 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 8th day of July, 2019.

APPROVED:

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Mayor

ATTEST:

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City Clerk