

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 ZON17-00607 WITHIN THE 8000 THROUGH 8400 BLOCKS OF EAST WARNER ROAD (NORTH SIDE), THE 4000 THROUGH 4400 BLOCKS OF THE SOUTH HAWES ROAD ALIGNMENT (WEST SIDE), THE 8400 THROUGH 8800 BLOCKS OF EAST ELLIOT ROAD (SOUTH SIDE), THE 3600 THROUGH 4000 BLOCKS OF THE SOUTH HAWES ROAD ALIGNMENT (EAST SIDE), THE 8800 THROUGH 9200 BLOCKS OF EAST ELLIOT ROAD (SOUTH SIDE), THE 8800 THROUGH 9200 BLOCKS OF EAST WARNER ROAD (NORTH SIDE), AND THE 3600 THROUGH 4400 BLOCKS OF SOUTH ELLSWORTH ROAD (WEST SIDE). (595± ACRES). REZONE FROM AG TO RSL-4.0, RSL-2.5, RM-5, OC, LC, GC, LI, AND MX WITH A PAD OVERLAY 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 (ZON17-00607), 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:

The following conditions of approval are in addition to and not intended to replace compliance with the zoning code. Any standard not identified through these conditions of approval, the zoning code requirements shall apply.

ZONING

1. Compliance with Exhibit 1 establishing the allowed land uses within the RS-6, RSL-4, RSL-2.5, and RM-5 zoning district within the Hawes Crossing PAD.
2. Compliance with Exhibit 2 establishing the allowed land uses within the Light Industrial (LI) zoning district within the Hawes Crossing Plan Area Development (PAD).
3. Compliance with Exhibit 3 establishing the allowed land uses within the General Commercial (GC) zoning district within the Hawes Crossing PAD.
4. Prior to approval of any development, a Specific Plan for the development must be submitted to the City for a review and approval. Each Specific Plan shall be a minimum of 20 acres for single-residential development and 10 acres for non-residential, mixed use, and multi-residential development. The minimum acres may be modified in accordance with the development agreement.
5. Compliance with the City of Mesa Zoning Ordinance, except the design standards for each zoning district (Sections 11-5-3, 11-5-4, 11-5-6 and 11-5-7) shall comply with the City of Mesa Zoning Ordinance in effect as of the effective date of this ordinance with the following modifications:

- a. The maximum height in the Mixed Use (MX), Light Industrial (LI), and General Commercial (GC) zoning districts is 75 feet.
- b. MX zoned properties shall include a minimum of 35% non-residential uses. The percentage for non-residential uses shall be calculated by the gross building square footage for vertical mixed-use buildings and per acreage area for horizontal mixed-use sites. The percentage of non-residential uses must be shown on each Specific Plan and a maximum of 50% of the residential uses can be constructed prior to the construction of the required 35% non-residential uses. In accordance with the development agreement, the limitation on the construction of residential may be modified and the requirement to build 35% non-residential uses may be satisfied by the Village in which the development is located.
- c. Property zoned RSL-4.0 and RSL-2.5:
 - i. **Alley-loaded:** Alley-loaded product is permitted if the garage is setback from the rear property line either 3 feet or less or 18 feet or greater.
 - ii. **Shared driveways:** Each home can have only one driveway. Where there are shared driveways, the width of the shared driveway shall be a maximum of 18 feet and the centerline of the driveway shall be located on the property line between the two adjacent lots. Where units are clustered with shared driveways, the distance between each shared driveway must be a minimum of 36 feet. The 36 feet shall be measured from the edge of each shared driveway.
 - iii. **Lot width:** Mixing lot widths along streets is required to further the variation of the streetscape. Different lot widths must be located adjacent and across from each other without a pattern. The variation of lot widths will be determined at the time a Specific Plan is submitted to the City for review and approval.
 - iv. **Covered entry:** Each home shall have an entry that is covered either by a roof specifically for the entry or integration of the entry into the roofline of the home.
 - v. **Front Porches:** Front porch coverings must be at least 50 percent of the width of the home and have a depth of at least 6 feet, however, alternative designs for front porch coverings may be approved by the City, in the City's sole discretion, at the time of product approval with the Specific Plan.

DESIGN GUIDELINES

6. All commercial, office and non-residential uses shall comply with the non-residential design guidelines set forth in Exhibit 4, 'Design Guidelines'.

LANDSCAPING

7. To achieve a unified landscaped environment that is appropriate and successful for the desert climate all development shall comply with Exhibit Q, 'Approved Plant Palette'.
8. Landscaping areas shall consist of a blend of lush and desert appropriate plant materials from the Approved Plant Palette and landscaping along the sidewalks that are adjacent to major streets or pedestrian corridors shall be arranged in patterns with an emphasis on shade and color.
9. Entries to residential and non-residential developments shall be highlighted by unique urban plazas with portal elements framed by large shade trees.
10. A landscape plan prepared by a landscape professional such as a registered landscape architect or a qualified arborist is required for all Specific Plans, site plans and subdivision plats.

11. Landscaping in parks, open spaces and pedestrian trail areas shall include a diversity of desert appropriate plant materials from the Approved Plant Palette and strategic use of trees to create nodes of shade. Turf can be used only where functionally appropriate for recreational fields, useable open spaces and as a complement to shaded nodes.

OPEN SPACE

12. Open space shall comply with Exhibit N 'Open Space Master Plan' and trails shall comply with Exhibit O 'Trail Master Plan'.
13. Open space and trails shall also comply with Exhibit 5 'Open Space Guidelines'.
14. Open space in the RM-5 zoning districts and in non-residential areas shall conform to the open space requirements in Section 11-5-5 and 11-6-5 of the City of Mesa Zoning Ordinance in effect as of the effective date of this ordinance.
15. Public or common open spaces in the RS-6, RSL-4, and RSL-2.5 zoning districts shall be a minimum of 15 percent of the gross acreage of the RS-6, RSL-4, or RSL-2.5 development; and each Specific Plan shall show compliance with this 15 percent requirement. Additionally, a minimum of three percent (3%) of the required open space shall be dedicated to parks (e.g., 3% of the 15% shall be parks).
16. Property owner shall construct the open space as required in condition of approval 15 above, as may be further described in the development agreement, with the construction of, or prior to completion of thirty percent (30%) of the single-family dwelling units within a Specific Plan and the City will not issue any building permits for any single-family dwelling unit above 30% of the allowed residential uses in a Specific Plan until the required open space is constructed and approved by the City in accordance with the development agreement.
17. A Specific Plan shall include neighborhood parks, pocket parks, urban plazas, open space trails, theme street trails, and on-street trails in accordance with Exhibit N, Open Space Master Plan. The exact location of the neighborhood parks, pocket parks, urban plazas, open space, trails, theme street trails, and on-street trails must be identified on the Specific Plan that is submitted to the City for review and approval but must generally conform with Exhibit N. General conformance with the Open Space Master Plan will be determined by the Planning Director in accordance with the development agreement.
18. A development that includes 160 or more contiguous acres, may concurrently with the submission of a Specific Plan, submit a new Open Space Master Plan for the development for review and approval by the Planning Director. The new plan must meet or exceed the requirements in the Open Space Master Plan, comply with the Hawes Crossing PAD, the Specific Plan and the development agreement.
19. The Community Park identified on Exhibit N, Open Space Master Plan and within Village 6 of Exhibit V, Conceptual Village Plan, shall be a minimum of 6.4 contiguous acres. This Community Park shall be required to be located on one or more collector streets (not an arterial) within the RSL-2.5 district. The Community Park shown on Exhibit N, Open Space Master Plan must be constructed prior to building permits being issued covering a total of more than 30% of the Single-Family Residential uses within Village 6, per approved Specific Plans or Subdivision Plats. The exact location of the Community Park shall be determined as a part of the approval of the first Specific Plan for Village 6 of the PAD.

OPEN SPACE BUFFER

20. Each property owner that owns property along the western border of the Hawes Crossing PAD is required to provide a 30-foot open space buffer along the western property lines of the

Hawes Crossing PAD as shown on Exhibits L1, L2, L3, and in accordance with, and subject to reduction as provided in, the development agreement.

LOT FRONTAGE

21. All parcels within the development are allowed to front on either a public or private street.

SIGNAGE

22. Signage shall conform to the City of Mesa Sign Code, as may be amended.
23. A comprehensive sign plan for developments in a non-residential area, if required, shall be submitted concurrently with a Specific Plan.
24. A comprehensive sign plan for residential, parks, open spaces, and entry features, if required, shall be submitted concurrently with a Specific Plan.

PHASING

25. Development within each Village may be completed as a part of a single Specific Plan or site plan or multiple Specific Plans or site plans; however, the required infrastructure and open space must be constructed to support the development per Exhibit V, Conceptual Village Plan and Exhibit N, Open Space Master Plan and in accordance with the development agreement.
26. Each property owner who owns property that is north of Elliot Road and adjacent to the western side of Hawes Road shall dedicate to the City a thirty-foot wide permanent perpetual utility easement for utilities including an above ground electric power distribution facility in accordance with the development agreement.

INFRASTRUCTURE

27. Compliance with the Traffic Impact Analysis Exhibit 17, Master Wastewater Report Exhibit 14, Master Water Report Exhibit 13, and Master Drainage Report Exhibit 15, as required by and may be amended in accordance with the development agreement.

AIRPORT COMPATIBILITY:

28. Each property owner shall execute the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport concurrently with the recordation of the final subdivision map or prior to the issuance of a building permit, whichever comes first.
29. Provide written notice to future property owners that the project is within 1-2 mile(s) of Phoenix-Mesa Gateway Airport. Such notice shall be on brightly colored paper and shall have a visual depiction of an image of an aircraft.
30. Due to the proximity to Phoenix-Mesa Gateway Airport, any proposed permanent, or temporary structure, as required by the FAA, is subject to an FAA filing, for review in conformance with CFR Title 14 Part 77 (Form 7460) to determine any effect to navigable airspace and air navigation facilities. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance.
31. Provide a 4-foot x 4-foot sign at the entrance to all sales and leasing offices located in the Hawes Crossing PAD, with notice to all prospective buyers that the development is within an Overflight Area for Phoenix-Mesa Gateway as specified in Section 11-19-5 of the Zoning Ordinance. Such signage shall also include a visual depiction of an image of aircraft.
32. Prior to the issuance of a building permit, provide documentation by a registered Professional Engineer or registered Professional Architect demonstrating compliance with the noise level reductions required in Section 11-19-5 of the Zoning Ordinance.

33. All final subdivision plats shall include a disclosure notice in accordance with Section 11-19-5 of the Zoning Ordinance which shall state in part: "This property, due to its proximity to Phoenix- Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."
34. The covenants, conditions and restrictions (CC&Rs) for the master association for the Property and each home owners association (HOA) established in the Hawes Crossing PAD shall include, in the body of the CC&Rs and the definition of AOA3: (i) a disclosure notice of airport activity and proximity to Phoenix-Mesa Gateway Airport in accordance with Section 11-19-5 of the Zoning Ordinance, (ii) the language in the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport described in condition 28, and (iii) the public airport disclosure map.
35. Property owners shall install and maintain wayfinding signs at arterial intersections throughout the Hawes Crossing PAD in accordance with the development agreement.

STANDARD CONDITIONS

36. Compliance with the Mesa City Code and development regulations except as specifically modified by condition #5 above (Compliance with the City Zoning Ordinance, except the design standards for each zoning district (Sections 11-5-3, 11-5-4, 11-5-6 and 11-5-7) shall comply with the City of Mesa Zoning Ordinance in effect as of the effective date of this ordinance with the following modifications...).
37. 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 a subdivision plat, or at the time of the City's request for dedication, whichever comes first.
38. Compliance with all requirements of the City's Subdivision Regulations.
39. Execute and comply with the development agreement addressing infrastructure, the prohibited uses, and other regulations relating to the development of the property.

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 20th day of April, 2020.

APPROVED:

Mayor

ATTEST:

City Clerk