

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 ZON21-00731 WITHIN THE 2800 TO 3100 BLOCKS OF NORTH RECKER ROAD (WEST SIDE) AND WITHIN THE 5900 BLOCK OF EAST LONGBOW PARKWAY (SOUTH SIDE). LOCATED NORTH OF MCDOWELL ROAD ON THE WEST SIDE OF RECKER ROAD. (20± ACRES). MODIFICATION OF THE LONGBOW PARK PLANNED AREA DEVELOPMENT OVERLAY (LONGBOW PARK PAD); REZONE FROM LIGHT INDUSTRIAL (LI) TO LIMITED COMMERCIAL (LC), COUNCIL USE PERMIT (CUP) AND SITE PLAN REVIEW 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 Map and District Boundaries, of the Mesa Zoning Ordinance is hereby amended by adopting the Official Supplementary Zoning Map for Zoning Case ZON21-00731 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 final site plan submitted.
2. Compliance with all requirements of Design Review.
3. Compliance with all requirements of the Subdivision Regulations.
4. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Owner shall execute and record the City's standard Avigation Easement and Release for Falcon Field Airport prior to the issuance of a building permit.
 - b. Prior to the issuance of a building permit, provide documentation that 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 to 45 decibels as specified in Section 11-19-5 of the Mesa Zoning Ordinance.
 - c. Provide written notice to future property owners that the project is within 1 mile(s) of Falcon Field Airport.
 - d. Due to the proximity to Falcon Field 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.
 - e. All final subdivision plats and leasing offices shall include a disclosure notice in accordance with Section 11-19-5(C) of the Zoning Ordinance which shall state in part: "This property, due to its proximity to Falcon Field Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."
5. Compliance with all City development codes and regulations and the existing Longbow PAD (Case No. Z08-063; Ordinance No. 4897), except the modifications to the development

standards as approved with the PAD overlay and shown in the following table:

MZO Development Standards	Approved
<u>Maximum Building Height</u> – <i>MZO Section 11-6-3</i>	38 feet
<u>Minimum Building Separation</u> – <i>MZO Section 11-6-3</i> - Building height up 20 feet - Building height between 20 and 40 feet	20 feet 20 feet
<u>Residential Development Standards</u> – <i>MZO Section 11-6-3</i> - Minimum Outdoor Living Area (sq. ft./unit)	44 square feet (minimum)
<u>Required Parking Spaces</u> – <i>MZO Section 11-32-3(A)</i> - Multiple Residence	1.95 spaces per unit
<u>Maximum Fence Height</u> – <i>MZO Section 11-30-4(B)</i> - Required Front Yards	No fence or freestanding wall within or along the exterior boundary of the required front yard shall exceed a height of 6-feet.

6. Prior to submittal of a building permit, record a shared parking agreement between the multiple residence and commercial developments.
7. Compliance with the good neighbor policy that prohibits, on the balcony of any multiple residence located adjacent to Recker Road, the following: (i) any antenna, satellite disc, or other antenna or wireless communication facility, and (ii) any exterior storage.
8. Elevations and renderings must conform to the recommendations of the Design Review Board as determined by the Planning Director; and all development on the property must comply with the elevations and renderings approved by the Planning Director.
9. The addition of any drive-thru or the relocation of a drive-thru shown on the final site plan is a Major Site Plan Modification that requires review by the Planning and Zoning Board and approval by City Council.

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 18th day of April, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk