

## ORDINANCE NO. 5792

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 ZON22-00921. WITHIN THE 7100 TO 7600 BLOCKS OF EAST ELLIOT ROAD (SOUTH SIDE), WITHIN THE 3600 TO 4200 BLOCKS OF SOUTH SOSSAMAN ROAD (WEST SIDE). LOCATED WEST OF SOSSAMAN ROAD ON THE SOUTH SIDE OF ELLIOT ROAD. (272± ACRES). REZONE FROM AGRICULTURE (AG) TO LIGHT INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (LI-PAD) 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 ZON22-00921 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 the landscape plan submitted.
3. Compliance with the Preliminary Plat submitted.
4. Compliance with all requirements of the Subdivision Regulations.
5. Compliance with all requirements of Design Review Case No. DRB22-00923.
6. Dedicate the right-of-way and easements required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first.
7. Execute and comply with the Development Agreement (DA23-00003), as may be amended.
8. Future development plans require Site Plan Review in accordance with Chapter 69 of the Zoning Ordinance.
9. The phasing of all offsite improvements and street frontage landscaping to be specified and included in the Development Agreement (DA23-00003).
10. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
  - a. Owner must execute the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport prior to or concurrently with the recordation of the final subdivision map or the issuance of a building permit, whichever occurs first.
  - b. 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. A completed form with a response by the FAA must accompany any building permit application for structure(s) on the property.
  - c. Provide written notice to future property owners that the project is within two miles of Phoenix-Mesa Gateway Airport.
  - d. Prior to issuance of any 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 Mesa Zoning Ordinance.

- e. All final subdivision plats must include a disclosure notice in accordance with Section 11-19-5(C) of the Zoning Ordinance which states in part: "This property, due to its proximity to the Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."
11. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this PAD and as shown in the following table:

<b>Development Standards</b>	<b>Approved</b>
<u>Maximum Building Height</u> – <i>MZO Section 11-7-3</i>	65 feet
<u>Required Parking Spaces by Use</u> – <i>MZO Table 11-32-3.A</i> Group Industrial Buildings and Uses- Shell Buildings	1 space per 900 square feet of gross floor area for Industrial, Warehouse, and Manufacturing uses
<u>Foundation Base</u> – <i>MZO Section 11-33-5(A)(1)(a)(i)</i> -For building larger than 10,000 square feet with parking abutting the foundation base	Additional foundation base shall be provided at the entrance to create an entry plaza area. Where fire code requires it, the minimum depth may be reduced to 12 feet, and a shared entry plaza may count toward this requirement.
<u>Interior Parking Lot Landscaping</u> – <i>MZO Section 11-33-4(A)</i>	Interior parking lot landscaping requirement standards apply to all off-street parking lots containing 10 or more parking spaces.  Exception: They do not apply to storage lots, vehicle and equipment storage lots, truck loading areas, or parking in truck loading areas.

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 19th day of June, 2023.

APPROVED:

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Mayor

ATTEST:

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City Clerk