

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 ZON21-00792. WITHIN THE 7300 TO 7600 BLOCKS OF SOUTH HAWES ROAD (EAST SIDE), THE 8400 BLOCK OF EAST GERMANN ROAD (NORTH SIDE) AND THE 7300 TO 7500 BLOCKS OF SOUTH 85TH PLACE (WEST SIDE). LOCATED NORTH OF GERMANN ROAD AND EAST OF HAWES ROAD. (34± ACRES). REZONE FROM LIGHT INDUSTRIAL WITH A BONUS INTENSITY ZONE OVERLAY (LI-BIZ) AND OFFICE COMMERCIAL WITH A BONUS INTENSITY ZONE OVERLAY (OC-BIZ) TO LIGHT INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (LI-PAD) AND OFFICE COMMERCIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (OC-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 ZON21-00792 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 Preliminary Plat submitted.
3. Compliance with all requirements of the Subdivision Regulations.
4. Compliance with all requirements of Design Review Case No. DRB21-00926.
5. Any future changes to the approved site plans that include any portion of the 150-foot buffer zone shall be processed through the Planning and Zoning Board and City Council public hearing process.
6. All street improvements and street frontage landscaping shall be part of the first phase of construction.
7. 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.
8. 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 Phoenix Mesa Gateway 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 of Phoenix-Mesa Gateway Airport.
 - d. Any proposed permanent or temporary structure 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. An FAA determination notice of no hazard to air navigation shall accompany any building permit application for the property.

- e. All final subdivision plats and sales 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 Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."
9. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this PAD and shown in the following table:

Development Standard	Approved
<u>Maximum Building Height</u> – <i>MZO Section 11-7-3(A)</i>	46 feet
<u>Massing and Scale</u> – <i>MZO Section 11-7-3(B)(2)(c)(iii)</i> -Parapet detailing	Detailing such as cornices, moldings, trim, or variations in brick coursing is not required on any building parapets.
<u>Materials and Colors</u> – <i>MZO Section 11-7-3(B)(5)(b)</i>	All buildings may be constructed of a single material
<u>Roof-mounted Equipment Screening</u> – <i>MZO Section 11-30-9(A)(1)</i>	The height of the screening element shall be of sufficient height to screen the structure's tallest piece of installed equipment from the public rights-of-way via line-of-sight studies reviewed and approved by the City
<u>Parking Area Screening</u> – <i>MZO Section 11-30-9(H)(6)</i>	When using a screen wall there shall be a landscaped setback of at least 2 feet between the screen wall and the edge of the parking area.
<u>Parking Spaces Required</u> – <i>MZO Section 11-32-3(A)</i> -Shell industrial buildings	1 parking space per 600 square feet of building area
<u>Foundation Base</u> – <i>MZO Section 11-33-5(A)(1)</i> - Exterior walls with public entrances	A 12-foot-wide foundation base, measured from face of building to face of curb along the entire length of the exterior wall. For buildings with corner entries, both adjacent walls require a 15-foot-wide foundation base.

- Typical Building Entrances for buildings larger than 10,000 square feet	Entry plazas provided with minimum depth of 16 feet.
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10. Truck court screen wall and gate along east side between buildings 2 and 3 shall be 10 feet tall.
11. Screen wall along at 5th Place shall vary in height between six and eight feet.

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 12th day of September, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk