

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 ZON21-00080 WITHIN THE 3600 TO 3800 BLOCKS OF NORTH HIGLEY ROAD (EAST SIDE) AND THE 5200 TO 5500 BLOCKS OF EAST THOMAS ROAD (SOUTH SIDE). LOCATED EAST OF HIGLEY ROAD ON THE SOUTH SIDE OF THOMAS ROAD. (11± ACRES). REZONE FROM SINGLE RESIDENCE 90 (RS-90) TO LIGHT INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY AND COUNCIL USE PERMIT (LI-PAD-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 ZON21-00080 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 Design Review case DRB21-01173.
3. Compliance with all City development codes and regulations.
4. Execute and comply with the Development Agreement.
5. 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 Falcon Field 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 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. A completed form with a response by the FAA must accompany any building permit application for structure(s) on the property. Provide written notice to future property owners that the project is within two miles of Phoenix-Mesa Gateway Airport.
6. Compliance with all City development codes and regulations, except the modification to the development standards as approved with this PAD as shown in the following table:

| Development Standards | Approved |
|--|--|
| Fences and Freestanding Walls – MZO Section 11-30-4(B) Yards within the front yard | 8-foot-tall |
| Outdoor Storage – MZO Section 11-30-7 Material stored outdoors | No setback from lot lines is required for boats and RVs stored outdoors. |

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| Landscape Yards– MZO Table 11-7-3 -Front facing and street facing sides adjacent t to a freeway (south property line) | 5 feet |
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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 9th day of January, 2023.

APPROVED:

Mayor

ATTEST:

City Clerk