

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 ZON21-00129. WITHIN THE 2200 TO 2400 BLOCKS OF EAST MCDOWELL ROAD (SOUTH SIDE). LOCATED EAST OF GILBERT ROAD ON THE SOUTH SIDE OF MCDOWELL ROAD. (9± ACRES). REZONE FROM SINGLE RESIDENCE 43 (RS-43) AND SINGLE RESIDENCE 43 WITH HISTORIC LANDMARK OVERLAY (RS-43-HL) TO MULTIPLE RESIDENCE 4 WITH A PLANNED AREA DEVELOPMENT OVERLAY (RM-4-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 ZON21-00129 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, including;
 - a. The total number of residential units within the development shall not exceed 222 units.
2. Compliance with Design Review Case Number DRB21-00135, including:
 - a. No building shall be taller than three-stories and shall not exceed a height of 39'-6".
 - b. The maximum finished floor level of buildings shall not exceed 1,259'-6".
 - c. Building elevations shall be four-sided architecture as reviewed and recommended by the Design Review Board (DRB) and approved by the Planning Director.
 - d. In all instances, building materials for development of the property shall be of high-quality, durable, and visually appealing as shown with the proposed building elevations reviewed by the DRB and approved by the Planning Director.
 - e. Trees planted along the southern drive aisle as shown on the landscape plan shall be located outside the 24-foot-wide water line easement located along the southern boundary of the property.
 - f. Trees to be planted along the southern drive aisle, at a minimum, shall consist of:
 - i. 50-percent two-inch caliper canopy drought-tolerant trees
 - ii. 50-percent three-inch caliper larger canopy drought-tolerant trees.
 - g. No lit signage shall be installed on the south façade of the building.
 - h. On-site lighting shall not exceed zero-foot-candle at the development's property line.
3. Compliance with the Good Neighbor Policy dated October 12, 2021.
4. 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.
5. Prior to submittal of a building permit, submit documentation to the City's Historic Preservation Office for review and approval. The documents must show interpretation strategies that communicates the site's history to residents and visitors to the site, including, but not limited to, historical photos or a plaque memorializing the site.
6. Compliance with all City development codes and regulations, 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 Fence Height</u> – MZO Section 11-30-4(B)(1)(a) -Front Yards and Required Street Side Yards	No fence or freestanding wall within or along the exterior boundary of the required front yard shall exceed a height of 6 feet
<u>Required Parking Spaces</u> – MZO Section 11-32-3(A)	1.8 spaces per unit (404 total spaces)
<u>Covered Parking Spaces</u> – MZO Section 11-32-3(D)(2)	0.98 spaces per unit (217 total spaces)
<u>Required Landscape Yard</u> – MZO Section 11-33-3(B)(1) -Non-single residence uses adjacent to single residence (south property line)	15 feet
<u>Required Foundation Base</u> – MZO Section 11-33-5 (A)(1) - Exterior walls with public entrance	10 feet
<u>Required Landscape Islands</u> – MZO Section 11-33-4 (B)(6)	Adjoining (parking) canopies shall be separated by at least an 8-foot-wide landscape island

7. Execute and comply with the development agreement DA23-00002.

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 13th day of February, 2023.

APPROVED:

Mayor

ATTEST:

City Clerk