

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 ZON20-00398 WITHIN THE 3400 BLOCK OF EAST UNIVERSITY DRIVE (NORTH SIDE). LOCATED WEST OF VAL VISTA DRIVE ON THE NORTH SIDE OF UNIVERSITY DRIVE. (2.3 ACRES). REZONING FROM RM-3 TO RM-3-BIZ 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 District Map and District Boundaries, of the Mesa Zoning Ordinance is hereby amended by adopting the Official Supplementary Zoning Map for Zoning Case (ZON20-00398) 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. Development must include the common amenities shown on the final site plan submitted, including: a swimming pool, ramada, playground, dog park, and a community amenity building.
3. Compliance with the requirements of Design Review.
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. 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 five mile(s) of Falcon Field.
 - 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 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."
6. Prior to issuance of a building permit, record a cross access agreement with the property owner to the west.
7. All roof access ladders shall be installed within the interior structure of the buildings.

8. Prior to submitting a building permit, the applicant shall submit for review and approval by the Planning Director:
 - a. Plans showing screening of all service entry section (SES) equipment in the development.
 - b. All SES equipment within the development facing a street or public parking areas and are not recessed and/or separated from the street by intervening building(s) shall be screened. The screening devices shall incorporate elements of the building design, such as color, texture, and materials.
 - c. Revised wall elevations for all proposed private yards within the development. The private yard walls shall be no more than six feet in height and include a minimum of 2 feet of view fencing on top of the fence walls.
9. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this BIZ and shown in the following table:

MZO Development Standards	Approved
<u>Minimum Setbacks - Section 11-5-5 and 11-33-3</u> (building/landscape) <i>4-lane arterial (University Drive)</i>	(building/landscape) 10'/10'
<u>Minimum Setbacks - Section 11-5-5 and 11-33-3</u> (landscape) <i>Interior Side (West property line)</i>	(landscape) 5' Minimum, except the minimum setback is 0 feet on the section shown on the site plan as 0' (i.e. the section that is approximately 250 feet from the right-of-way on University Drive)
<u>Building Separation – Section 11-5-5</u> <i>Minimum separation between buildings (2-story)</i>	21' Minimum (as shown on the site plan)
<u>Access, Circulation and Parking (attached garages)- Section 11-5-5</u> <i>Garage doors to be recessed from upper story living façade</i>	No recess required
<u>Required Open Space – Section 11-5-5</u> <i>Above ground private open space</i>	60 SF minimum, Minimum depth is 3'

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 8th day of December, 2020.

APPROVED:

Mayor

ATTEST:

City Clerk