

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 ZON20-00877 WITHIN THE 2400 BLOCK OF NORTH OLD GILBERT ROAD (EAST SIDE) AND WITHIN THE 2000 BLOCK OF EAST HERMOSA VISTA DRIVE (NORTH SIDE). LOCATED SOUTH OF THE 202 RED MOUNTAIN FREEWAY AND EAST OF GILBERT ROAD. (4.55± ACRES). REZONING FROM RS-35 TO RS-15-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 (ZON20-00877) 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 preliminary plat submitted.
2. Compliance with the landscape plan submitted.
3. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this BIZ and shown on the following table:

MZO Development Standards	Approved
<u>Minimum Lot Width</u> – <i>MZO Table 11-5-3.A.1</i>	61.45’ for Lots 3 & 4:
<u>Minimum Front Setback</u> – <i>MZO Table 11-5-3.A.1</i>	5’ for Tract A
<u>Minimum Side Setbacks</u> – <i>MZO Table 11-5-3.A.1</i>	Minimum side setback of 10’ for lots 3 and 4 adjacent to the central amenity.
<u>Minimum Rear Setbacks</u> – <i>MZO Table 11-5-3.A.1</i>	10’ Rear setback for the east property line of lots 3 & 4
<u>Maximum Wall Height</u> – <i>MZO Section 11-30-4(A)(1)(b)</i>	8’
<u>Retention Basin Design</u> – <i>Basin Layout</i> <i>MZO Section 11-33-6(B)</i>	Basin edges match the shape of the tennis court and adjacent gathering area (Exhibit 3.3)
<u>Retention Basin Design</u> – <i>Retaining Walls</i> <i>MZO Section 11-33-6(D)</i>	Retaining walls shall not exceed 70% of basin perimeter, measured at the high waterline. The maximum height is 36” (Exhibit 3.3)

4. Compliance with all requirements of the Subdivision Regulations.
5. 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.

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 3rd day of May, 2021.

APPROVED:

Mayor

ATTEST:

City Clerk