

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 ZON20-00872 WITHIN THE 3800 TO 4000 BLOCKS OF SOUTH POWER ROAD (EAST SIDE). LOCATED SOUTH OF ELLIOT ROAD ON THE EAST SIDE OF POWER ROAD. (OVERALL 41.85± ACRES). MODIFICATION TO AN APPROVED PLANNED AREA DEVELOPMENT OVERLAY (PAD) ON A 41.85± ACRE PROPERTY; REZONE 10.8± ACRES OF THE 41.85± ACRE PROPERTY FROM GENERAL INDUSTRIAL (GI) PAD TO LIGHT INDUSTRIAL (LI) PAD 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 (ZON20-00872) 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 all requirements of Design Review.
3. Compliance with all requirements of the Subdivision Regulations.
4. Prior to the development of "Site 5" (as identified on the final site plan), a specific site plan must be submitted for review and approval.
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.
6. Prior to the submittal of a building permit, record in the Official Records of Maricopa County a reciprocal cross access and cross parking easement between all parcels on the site.
7. All off-site improvement and street frontage landscaping for this specific site plan as approved must be installed with the first phase of construction.
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. Provide written notice to future property owners that the project is within 1 mile of Phoenix-Mesa Gateway Airport.
 - c. 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.
 - d. 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</i>	52 feet for Building No. 2 & 4 (as identified on the final site plan) and 40 feet for all other buildings.
<u>Required Parking</u> - <i>MZO Section 11-32-3</i>	1 space per 1,010 SF for warehousing and storage.
<u>Foundation Base</u> - <i>MZO Section 11-33-5.A1.a</i> <i>900 SF additional entry plaza per 10,000 SF Building</i>	No entry plazas required. Foundation base as shown on the final site plan.
<u>Required Landscape Yard</u> - non-single residence uses adjacent to non-residential districts per <i>MZO Section 11-33-3</i>	5 feet along the east property line of “Site 5” (as identified on the final site plan).

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 _____ day of _____, 2021.

APPROVED:

Mayor

ATTEST:

City Clerk