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 ZON21-00224 WITHIN THE 8800 TO 9100 BLOCKS OF EAST ELLIOT ROAD (NORTH SIDE) AND WITHIN THE 8900 TO 9100 BLOCKS OF EAST PETERSON AVENUE (SOUTH SIDE). LOCATED WEST OF ELLSWORTH ROAD ON THE NORTH SIDE OF ELLIOT ROAD (41± ACRES). REZONE FROM LIMITED COMMERCIAL (LC) WITH A PLANNED AREA DEVELOPMENT OVERLAY (PAD) AND PLANNED EMPLOYMENT PARK (PEP)-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 Map and District Boundaries, of the Mesa Zoning Ordinance is hereby amended by adopting the Official Supplementary Zoning Map for Zoning Case ZON21-00224 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. All off-site improvements and street frontage landscaping to be installed with the first phase of construction.
4. Site Plan Review per Section 11-69-4 of the MZO and Design Review per Chapter 71 of the MZO are required prior to development of the commercial development parcels.
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 Phoenix-Mesa Gateway Airport prior to the issuance of a building permit.
   b. Due to the proximity to the Phoenix-Mesa Gateway 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. If required, an FAA determination notice of no hazard to air navigation shall be provided prior to building permit issuance.
   c. Provide written notice to future property owners that the project is within 2 miles of the Phoenix-Mesa Gateway Airport.
6. Execute and comply with the development agreement.
7. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this PAD and shown on the following table:

Development Standards	**PAD Approved**
Minimum Site Area (acre) for LI – *MZO Section 11-7-3*	**0.75 acres each for parcels 1-3 shown as future retail on the conceptual plan.**

Maximum Building Height – *MZO Section 11-7-3*	**60 feet for all buildings.** **150 feet for ancillary facilities. Ancillary facilities are non-building structures such as mechanical equipment systems and structural systems needed to support operations on the property.**
Required Parking Ratio – *MZO Section 11-32-3* *- Warehousing and Storage* *- Industrial*	 **1 space per 1,200 sf for warehouse and industrial uses for all development on the property.**
Required Landscape Yards – *MZO Section 11-33-3.B.2.C* *- Minimum number of trees required on the perimeter (West property line)*	 **No trees required within the landscape yard along the west property line. All trees shown on the landscape plan shall be required unless modified by the Design Review Board.**

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 July, 2021.

APPROVED:

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Mayor

ATTEST:

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City Clerk