

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 ZON20-00585 WITHIN THE 7300 BLOCK OF EAST SOUTHERN AVENUE (NORTH SIDE) AND WITHIN THE 1100 BLOCK OF SOUTH ROWEN (EAST SIDE). LOCATED WEST OF SOSSAMAN ROAD ON THE NORTH SIDE OF SOUTHERN AVENUE. (1.77± ACRES). REZONE FROM LIMITED COMMERCIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (LC-PAD) TO MULTIPLE RESIDENCE 2 WITH A PLANNED AREA DEVELOPMENT OVERLAY (RM-2-PAD-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 ZON20-00585 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 and landscape plan submitted.
2. Compliance with all requirements of the Subdivision Regulations.
3. Compliance with the final building elevations submitted.
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 Phoenix-Mesa Gateway 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 Phoenix-Mesa Gateway.
 - d. Due to the proximity to 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.
 - 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 Phoenix-Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."

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>Minimum Lot Area per Dwelling Unit</u> – MZO Section 11-5-5	1,260 square feet
<u>Minimum Lot Dimensions</u> – MZO Section 11-5-5 - Minimum Lot Width (Single-Residence Attached) - Minimum Lot Depth (Single-Residence Attached)	21 feet 60 feet
<u>Building Setbacks</u> – MZO Section 11-5-5 -Front & Street-Facing Side Building Setback, 6-lane arterial (Southern Avenue) - Front & Street-Facing Side Building Setback, Local Street (Rowen) -Interior Side and Rear, 3 or more units on lot, Multiple Story (north & east property lines)	20 feet 16 feet As shown on the site plan
<u>Landscape Yard Width</u> – MZO Section 11-33-3 Non-single residential uses adjacent to single residence uses (East & North property line)	7 feet on north property line, 5 feet on east property line
<u>Minimum Interior Side Yard</u> – MZO Section 11-5-5(A)(1) Required interior side yard on the end units	0 feet
<u>Private Open Space</u> – MZO Section 11-5-5(A)(3)(e) Private open space located at the ground level	Minimum dimension allowed is 6 feet for depth only
<u>Building Entrances</u> – MZO Section 11-5-5(B)(3)(c) Minimum depth for individual exterior unit entrances	Roof projection with a minimum depth of 3 feet and horizontal area of 50 square feet
<u>Access, Circulation and Parking</u> – MZO Section 11-5-5(B)(4)(f) Allowed maximum number of garage doors for multiple garage doors to be located adjacent to one another in one building	5 maximum garage doors adjacent to one another

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 30th day of August, 2021.

APPROVED:

Mayor

ATTEST:

City Clerk