

ORDINANCE NO. 5132

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 Z11-28 LOCATED AT THE 9800 TO 9900 BLOCKS OF EAST MCKELLIPS ROAD ADOPTING AN OFFICIAL SUPPLEMENTARY ZONING MAP CHANGING THE ZONING FROM RS-35 PAD TO RS-15 PAD AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE MAYOR AND 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 (Z11-28), 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 basic development as described in the project narrative and exhibits provided (without guarantee of lot yield, building count, lot coverage).
2. Full compliance with all City development codes and regulations.
3. Dedicate the right-of-way 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.
4. All offsite street improvements and street frontage landscaping to be installed in the first phase of construction unless otherwise approved by the City of Mesa.
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Compliance with the Residential Development Guidelines.
7. View fences shall comply with the City of Mesa pool fence barrier regulations.
8. Homes on the Lots backing onto Crismon, the southern tier of Lots facing the Whisper Mountain Subdivision and the two Lots facing east closest to the southern boundary shall be limited to single story in height. Homes on a minimum of 17 Lots in the entire project, including those Lots specifically described in this stipulation, shall be restricted to single story in height.
9. Perimeter view fencing adjacent to open space areas and block walls on rear lot lines will be built on the southern boundary of the development in order to assist the Whisper Mountain subdivision in maintaining the security of its gated community environment.
10. The proposed park area that was previously located in the southern corner of the property has been relocated to the interior of the subdivision.
11. The area west of the reconfigured wash on the western edge of the property shall be maintained in a natural desert environment. The proposed reconfigured wash will be re-vegetated with desert plant species consistent with the City's Desert Upland Guidelines.
12. The minimum livable square footage of single story homes shall be 2,600 square feet. The minimum livable square footage of two-story homes shall be 3,000 square feet.
13. The applicant will comply with all desert sky lighting requirements of the City's Desert Uplands Guidelines. City street light standards will be modified on interior private streets to be similar to the Whisper Mountain subdivision.
14. Design guidelines that cover the following lighting issues shall be submitted and approved by staff prior to approval of the final plat:
 - a. Shielding of outdoor lighting and screening from neighboring property;

- b. Restricting flood lights in the front of houses facing a street;
- c. Shielding of flood lights in rear yards and ensuring they will be directed downward;
- d. Defining the use of landscape lighting to ensure it is used solely to highlight architectural features of the home or landscape and limiting such lighting to low voltage not to exceed 25-watts per light;
- e. Limiting lighting on wall sconces to no more than 40-watt bulbs; and,
- f. Establishing a recommended time for lights to be turned off.

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.

EACH DAY SEPARATE VIOLATION:

- 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 Council of the City of Mesa, Maricopa County, Arizona, this 3rd day of December, 2012.

APPROVED:



Mayor

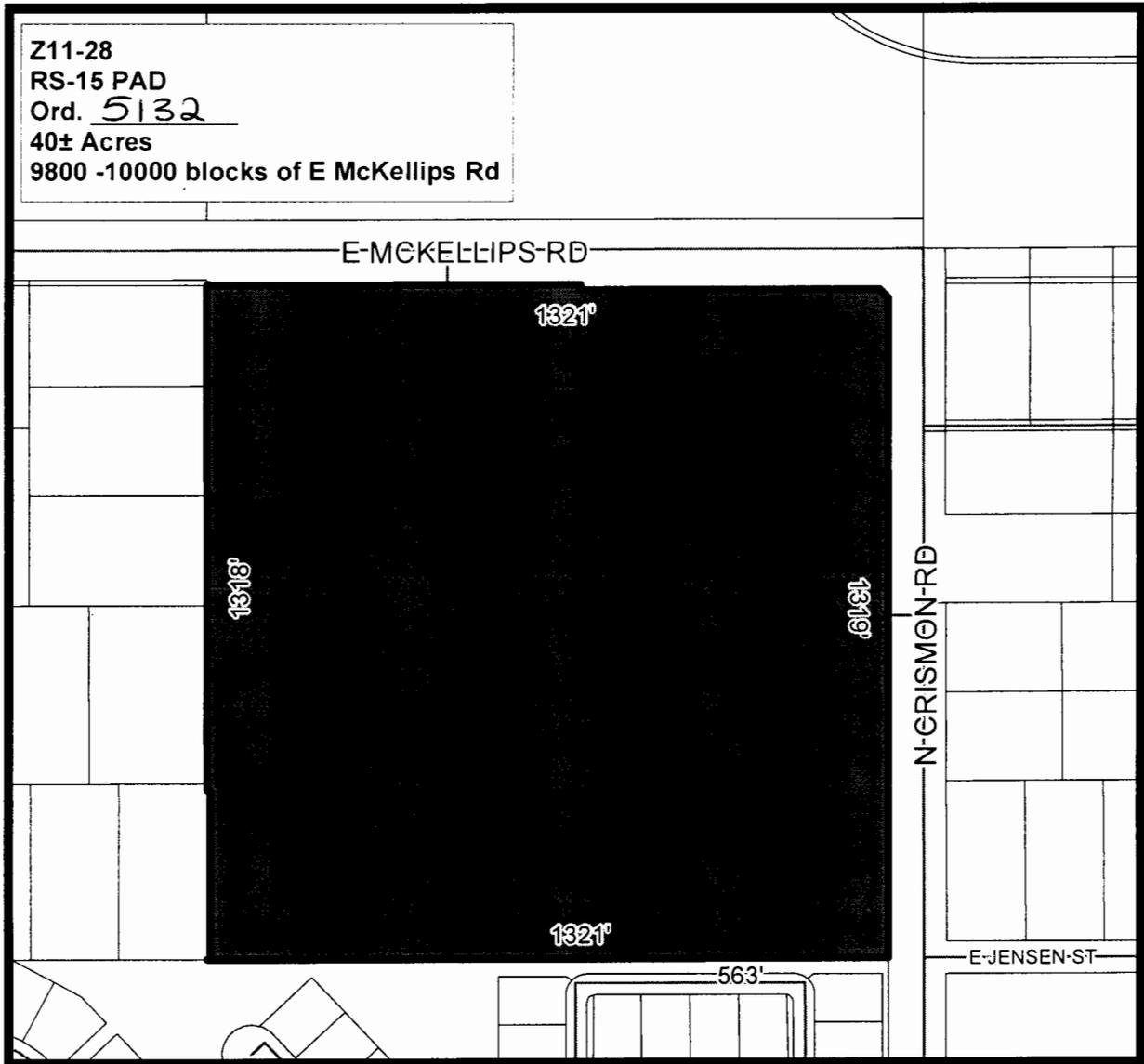
ATTEST:



City Clerk



OFFICIAL SUPPLEMENTARY ZONING MAP
AMENDING THE CITY OF MESA ZONING MAP



Please be advised that the attached zoning changes were approved by the Mesa City Council on *December 3*, 2012 by Ordinance # *5132*. If you have any questions concerning these changes, contact the City of Mesa Planning Division at 480-644-2385.


MAYOR



ATTEST: 
CITY CLERK

DATE: *12-4-12*