

ORDINANCE NO. 5869

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 ZON24-00190. WITHIN THE 10000 TO 10400 BLOCKS OF EAST PECOS ROAD (NORTH SIDE) AND WITHIN THE 6200 TO 6800 BLOCKS OF THE FUTURE SOUTH CRISMON ROAD ALIGNMENT (EAST SIDE). LOCATED NORTH OF PECOS ROAD AND EAST OF ELLSWORTH ROAD. (177± ACRES). REZONE FROM AGRICULTURAL (AG) AND LIGHT INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (LI-PAD) TO LI-PAD, SITE PLAN REVIEW, AND COUNCIL USE PERMIT (CUP) 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 ZON24-00190 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 Case No. DRB24-00191.
3. Execute and comply with the development agreement, DA24-00023, and all future amendments to it.
4. Prior to the issuance of any building permit, execute a drainage agreement with the City of Mesa and record the drainage agreement with the Maricopa County Recorder's Office.
5. Compliance with the drainage agreement and all future amendments to it.
6. Compliance with the City's Design and Engineering Standards, except as may be modified by the drainage agreement.
7. 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.
8. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
 - a. Owner must execute the City's standard Avigation Easement and Release for Phoenix-Mesa Gateway Airport prior to or concurrently with the recordation of the final subdivision map or the issuance of a building permit, whichever occurs first.
 - b. 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. A completed form with a response by the FAA must accompany any building permit application for structure(s) on the property.
 - c. Provide written notice to future property owners that the project is within two miles of Phoenix-Mesa Gateway Airport.
 - d. Prior to issuance of any building permit, provide documentation by a registered professional engineer or registered professional architect demonstrating compliance with the noise level

reductions required in Section 11-19-5 of the Mesa Zoning Ordinance.

- e. All final subdivision plats must include a disclosure notice in accordance with Section 11-19-5(C) of the Zoning Ordinance which must state in part: "This property, due to its proximity to the 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 Standards	Approved
<u>Maximum Building Height</u> – <i>MZO Table 11-7-3(A)</i>	70 feet
<u>Foundation Base</u> – <i>MZO Section 11-33-5(A)(1)</i> -Width along exterior walls with a public entrance adjacent to parking stalls	10 feet
<u>Required Parking Spaces by Use</u> – <i>MZO Table 11-32-3(A)</i> - Warehousing and Storage (exclusive of Mini-Storage) -General offices, retail, and services	1 space per 3,830 sq. ft. (436 spaces provided) 1 space per 375 sq. ft. (666 spaces provided) (1,104 total proposed)
<u>Required Solid Waste and Recycling Container Enclosures</u> - <i>MZO Section 11-30-12(A)(1)</i>	Solid waste and recycling container enclosures not required when located inside eight-foot perimeter wall
<u>Service Area Location</u> – <i>MZO Section 11-30-13(B)</i>	Truck docks, loading areas and service areas shall be screened from public view with a solid 8' wall
<u>Fences and Freestanding Wall Height</u> – <i>MZO Section 11-30-4(B)</i>	No fence or freestanding wall within or along the exterior boundary of the required interior side or rear yards shall exceed a height of 11-feet
<u>Outdoor Storage</u> – <i>MZO Table 11-7-2</i>	Accessory outdoor storage is permitted throughout the lot

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 26th day of August, 2024.

APPROVED:

Mayor

ATTEST:

City Clerk