

ORDINANCE NO. 5940

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 ZON24-00708. LOCATED APPROXIMATELY 275 FEET EAST OF THE NORTHEAST CORNER OF SOUTH POWER ROAD AND EAST GUADALUPE ROAD. (5± ACRES). REZONE FROM LIMITED COMMERCIAL WITH PLANNED AREA DEVELOPMENT OVERLAY (LC-PAD) TO LIMITED COMMERCIAL WITH A NEW PLANNED AREA DEVELOPMENT OVERLAY (LC-PAD), COUNCIL USE PERMIT, AND SITE PLAN REVIEW 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 ZON24-00708 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 the Plan of Operation and Good Neighbor Policy submitted.
3. Compliance with all requirements of Design Review Case No. DRB24-00707.
4. Execute and comply with the Development Agreement (DA24-00052), and all future amendments to it.
5. Compliance with all City development codes and regulations.
6. 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 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 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. Prior to the 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.
 - d. Provide written notice to future property owners that the project is within three miles of Mesa Gateway Airport

- 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 Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals.”
7. All off-site improvements and street frontage landscaping must be installed in the first phase of construction.
8. Compliance with all City development codes and regulations, except the modification to the development standards as approved with this PAD overlay as shown in the following table:

Development Standards	Approved
<u>Maximum Building Height</u> – <i>MZO Table 11-6-3.A</i>	38 feet
<u>Minimum Setback along Property Lines to Building and Parking Areas</u> – <i>MZO Table 11-6-3.A</i> -Front and Street-Facing Side: 6-lane arterial street (Guadalupe Road) -Interior Side and Rear Adjacent to RS District: 3-story building (North property line) (East property line) -Interior Side and Rear Adjacent to Non-residential District: (West property line)	0 feet 5 feet 15 feet 15 feet total
<u>Minimum Separation between Buildings on Same Lot</u> – <i>MZO Table 11-6-3.A</i> -Building height between 20 and 40 feet	25 feet
<u>Fences and Freestanding Walls Maximum Height</u> – <i>MZO Section 11-30-4(B)(1)(a)</i> - Front Yards and Required Side Yards (Guadalupe Road)	6 feet
<u>Fence Materials in Commercial and Employment Districts</u> – <i>MZO Section 11-30-4(B)(2)(i)</i> -Fence Materials in Commercial and Employment Districts	Existing chain link fence may remain along the south property line
<u>Screening – Parking Areas</u> – <i>MZO Section 11-30-9(H)</i>	Parking areas and drive aisles will not be screened
<u>Required Landscape Yards</u> – <i>MZO Section 11-33-3(B)(1)(a)(ii)</i> -Landscaping for Non-Single Residence Uses adjacent to Single Residence Uses or Districts:	

Development Standards	Approved
Sites five acres or more adjacent to an RS or RSL district (North property line)	5 feet
(East property line)	15 feet
<u>Perimeter Landscape Required Plant Material – MZO Table 11-33-3.A.4 and Section 11-33-3(B)(1)(c)(ii):</u> - Arterial Streets (Guadalupe Road)	0 trees, 0 shrubs
(North property line)	0 trees and 194 shrubs
<u>Foundation Base, Exterior Walls with Public Entrances – MZO Section 11-33-59(A)(1)(a)(i)</u> - Buildings larger than 10,000 square feet with parking spaces that abut the foundation base	A plaza area shall not be required adjacent to the east elevation of the Building 3 or the west elevation of Building 4

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 2nd day of June 2025.

APPROVED:

Mayor

ATTEST:

City Clerk