

## ORDINANCE NO. 5817

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 ZON23-00469. WITHIN THE 6700 BLOCK OF EAST MAIN STREET (SOUTH SIDE), THE 0 BLOCK OF SOUTH SUNAIRE (WEST SIDE), AND THE 6700 BLOCK OF EAST ALDER AVENUE (NORTH SIDE). LOCATED WEST OF POWER ROAD ON THE SOUTH SIDE OF MAIN STREET. (1.3± ACRES). REZONE FROM LIMITED COMMERCIAL (LC) TO LIMITED COMMERCIAL WITH A BONUS INTENSITY ZONE OVERLAY, (LC-BIZ), COUNCIL USE PERMIT (CUP), 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 ZON23-00469 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 final site plan and final landscape plan submitted.
2. Compliance with the Off the Streets Operations and Maintenance Plan and the Good Neighbor Policy submitted.
3. At such time the subject site ceases to be used for the Off the Streets program as described in the Staff Report and in the Off the Streets Operations and Maintenance Plan, the City Council may consider whether to remove the Council Use Permit, pursuant to Section 11-70-6 of the Mesa Zoning Ordinance, as may be amended.
4. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this BIZ and shown in the following table:

Development Standards	Approved
<u>Minimum Setback to Building and Parking Areas –</u> <i>MZO Table 11-6-3.A</i> -Front and Street Facing Side: Main Street (arterial road)  Sunair (local street)  Alder Avenue (local street)  -Interior Side: Adjacent to Non-residential District	   8.21 feet (existing)  5.46 feet (existing)  7.89 feet (existing)  4.06 feet (existing, two-stories)
<u>Fences and Freestanding Wall Height –</u> <i>MZO Section 11-30-4(B)(1)</i>	

-Walls with the required front and side street yards	8 feet in height along Sunaire and Alder Avenue
<u>Fences and Freestanding Wall Articulation –</u> <i>MZO Section 11-30-4(E)</i> -Maximum length of continuous, unbroken and uninterrupted fence or wall plan adjacent to right-of-way	120 feet
<u>Off-street Parking and Loading –</u> <i>MZO Table 11-32-2.H.1</i> -Minimum width of two-way drive aisle adjacent to 90° parking spaces	23.19 feet (existing)
<u>Required Parking Spaces by Use –</u> <i>MZO Table 11-32-3.A</i> -Hotel and Motel uses	47 spaces
<u>Setback of Cross Drive Aisles –</u> <i>MZO Section 11-32-4.A</i>	Parking spaces along main drive aisles connecting directly to a street shall be set back at least 7.89 ft. from the property line abutting the street
<u>Open Space Landscape –</u> <i>MZO Section 11-33-2(E)</i>	30.4% of all required open space contains live plant material
<u>Perimeter Landscape –</u> <i>MZO Section 11-33-3</i> -Main Street (arterial road) – 1 tree and 6 shrubs per 25 linear feet of frontage  -Sunaire (local street) – 1 tree and 4 shrubs per 25 linear feet of frontage  -Alder Avenue (local street) – 1 tree and 4 shrubs per 25 linear feet of frontage  <i>MZO Section 11-33-2(B)(2)(c)</i> -West property line – 3 non-deciduous trees and 20 shrubs per 100 linear feet of adjacent property line	3 trees and 37 shrubs  14 trees and 32 shrubs  7 trees and 13 shrubs  0 trees and 0 shrubs
<u>Parking Lot Landscape Islands –</u> <i>MZO Section 11-33-4(B)</i>	0 parking lot landscape islands

<u>Parking Lot Landscape Island Plant Material –</u> <i>MZO Section 11-33-4(D)</i>	0 trees and 0 shrubs per parking lot landscape island (existing)
<u>Foundation Base along Exterior Walls –</u> <i>MZO Section 11-33-(A)</i> -Exterior Wall with Public Entrances       - Exterior Wall with Public Entrances, buildings larger than 10,000 square feet with parking space that abut the foundation base	An 8.78-foot-wide foundation base shall be provided, measured from face of building to face of curb along the entire length of the exterior wall (existing)       An additional foundation base shall be provided at the entrance to create an entry plaza area. The plaza area shall have a minimum 14.4 feet width and 29 feet depth, and a minimum area of 417.6 square feet (existing)

### 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 6th day of November, 2023.

APPROVED:

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Mayor

ATTEST:

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City Clerk