

**ORDINANCE NO. 5820**

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 ZON22-00610. WITHIN THE 4200 TO 4400 BLOCKS OF EAST SOUTHERN AVENUE (NORTH SIDE) AND WITHIN THE 1100 BLOCK OF SOUTH OAKLAND STREET (EAST SIDE). LOCATED WEST OF GREENFIELD ROAD ON THE NORTH SIDE OF SOUTHERN AVENUE. (1.4± ACRES). REZONE FROM NEIGHBORHOOD COMMERCIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (NC-PAD) TO LIMITED COMMERCIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY AND BONUS INTENSITY ZONE OVERLAY (LC-PAD-BIZ) 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 ZON22-00610 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 Case No. Z00-075.
3. Compliance with all requirements of Design Review Case No. DRB22-00637.
4. Execute and comply with development agreement (DA23-00004).
5. Prior to the issuance of any building permit, record with Maricopa County a cross-access easement with the adjacent property to the west (APN 140-48-133).
6. Compliance with all City development codes and regulations, except the modifications to the development standards approved with this BIZ as shown in the following table:

<b>Development Standard</b>	<b>Approved</b>
<u>Minimum Building Setback</u> – <i>MZO Table 11-6-3.A</i> -Street Facing Side (Commercial Collector)	15 feet
<u>Required Landscape Yards</u> – <i>MZO Section 11-33-3.B</i> -Non-Single Residence Adjacent to Non-Single Residence (North Property Line)	8 feet
-Non-Single Residence Adjacent to Non-Single Residence (East Property Line)	10 feet
<u>Trash and Refuse Collection Location</u> – <i>MZO Section 11-30-12(B)</i>	Permitted in the east landscaped yard

<p><u>Setback of Cross Access Drive Aisles –</u>  <i>MZO Section 11-32-4(A)</i></p>	<p>Parking spaces along main drive aisles connecting directly to a street and drive aisles that cross such main drive aisles shall be set back at least 15 feet, 5 inches from the property line abutting the street</p>
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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 20th day of November, 2023.

APPROVED:

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Mayor

ATTEST:

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City Clerk