

ORDINANCE NO. 5866

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 ZON23-01007. WITHIN THE 8000 THROUGH 8200 BLOCKS OF EAST WARNER ROAD (NORTH SIDE), WITHIN THE 4000 TO 4400 BLOCKS OF SOUTH 80TH STREET (EAST SIDE), WITHIN THE 4000 THROUGH 4200 BLOCKS OF 82ND STREET ALIGNMENT (BOTH SIDES), AND WITHIN THE 4000 THROUGH THE 4200 BLOCKS OF SOUTH HAWES ROAD (WEST SIDE). LOCATED WEST OF HAWES ROAD AND NORTH OF WARNER ROAD. (115± ACRES). REZONE 2.3± ACRES OF THE PROJECT SITE FROM SMALL LOT SINGLE RESIDENCE 2.5 WITH A PLANNED AREA DEVELOPMENT OVERLAY (RSL-2.5-PAD) TO SMALL LOT SINGLE RESIDENCE 4.0 WITH A PAD OVERLAY (RSL-4.0-PAD), REZONE 2.3± ACRES OF THE PROJECT SITE FROM RSL-4.0-PAD TO RSL-2.5-PAD, REZONE TO ESTABLISH A SECOND PAD OVERLAY ON THE ENTIRE 115± ACRES, AND SPECIFIC PLAN APPROVAL 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 ZON23-01007 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 all conditions of approval for Case No. ZON17-00607 (Ordinance No. 5567).
2. Compliance with the Hawes Crossing Development Agreement No. 3145 (Recorders No. 2020-0379927).
3. Compliance with the Preliminary Plat submitted.
4. Compliance with all requirements of the Subdivision Regulations.
5. 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.
6. Compliance with submitted floor plans and elevations for all product types except for the 45-foot-by 90-foot lots.
7. Administrative Review through Planning for product floor plans and elevations for the 45-foot by 90-foot lots.
8. Compliance with submitted plot plans for all product types.
9. Compliance with the following monotony rules:
 - a. No more than three (3) contiguous lots may have the same floor plan;
 - b. No more than three (3) contiguous lots may have the same elevation style (i.e. Spanish, Craftsman, Farmhouse);
 - c. An identical floor plan and elevation may not be repeated directly across any street;

- d. An identical floor plan and elevation may not be repeated directly adjacent to the same floor plan and elevation; and
 - e. Adjacent lots and lots directly across the street from each other may not use the same paint color for the primary material, regardless of floor plan.
10. 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. 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 one mile of Phoenix 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 states in part: "This property, due to its proximity to Phoenix Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals."
11. Compliance with all City development codes and regulations, except the modification to the development standards as approved with Case No. ZON17-00607 (Ordinance No. 5567) and this PAD as shown in the following table:

Development Standard	Approved
<u>Minimum Dimensions for Residential Enclosed Garages – MZO Section 11-32-4(F)</u> Double-car garage	19 feet 4 inches wide and 22 feet long
<u>Fences and Freestanding Walls for AG, RS, RSL, RM and DR Districts – MZO Section 11-30-4(A)(1)(b)</u> Maximum Height of fences and freestanding walls within or along the exterior boundary of the required side or rear yards	8 feet

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

