

ORDINANCE NO. 5945

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 ZON24-01074. LOCATED AT SOUTHWEST CORNER OF EAST HAMPTON AVENUE AND SOUTH CLEARVIEW AVENUE. (1.8± ACRES). MODIFICATION OF COUNCIL USE PERMIT (CUP), MAJOR SITE PLAN MODIFICATION TO ALLOW FOR AN 18,540 SQUARE FOOT K-12 PRIVATE SCHOOL AND TO REMOVE CONDITIONS NO. 1, 7, 8, 10, AND 11 OF ORD. NO. 2732 AND REZONING 0.8± ACRES FROM LIGHT INDUSTRIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (LI-PAD) TO LI-PAD WITH A BONUS INTENSITY ZONE OVERLAY (LI-PAD-BIZ) 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 ZON24-01074 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 and landscape plan as submitted.
2. Compliance with all requirements of Design Review Case No. DRB24-01075.
3. Prior to the issuance of any building permit, record a cross-access and cross-parking easement between APN 218-56-570A and 218-56-570B.
4. Prior to the issuance of a building permit, record a shared refuse agreement between APN 218-56-570A and 218-56-570B.
5. A second trash enclosure shall be required on the southern parcel if the use on either parcel should ever change from a School, as evidenced by a new Certificate of Occupancy.
6. Compliance with all City development codes and regulations, except the modification to the development standards as approved with this BIZ Overlay as shown in the following table:

Development Standards	MZO Required	BIZ Proposed
<u>Interior Side and Rear Setback Adjacent to Commercial</u> – MZO Table 11-7-3 (south setback for southern property)	1 foot of setback for each foot of building height with a minimum 20-foot setback	5' minimum
<u>Trash and Refuse Collection Areas</u> – MZO Section 11-30-12(A)(1) Southern Property only	Solid waste and recycling container enclosures are required for all commercial/industrial developments in which the aggregate gross floor area exceeds 10,000 square feet.	No solid waste enclosure
<u>Parking Spaces Required</u> – MZO Table 11-32-3(A) Southern Property Only	School, kindergarten through 9 th grade: 1 space per 75 square feet for public assembly space, such as auditoriums and theaters, and 1 space per 600 square feet for all other areas High Schools, academies, colleges, universities, trade or vocational schools: 1 space per 200 square feet	1 space per 600 square feet
<u>Setback of Cross Drive Aisles</u> – MZO Section 11-32-4(A) Southern Property Only	50 feet	38 feet
<u>Landscaping for Non-Single Residence Adjacent to Non-Single Residence</u> – MZO Section 11-33-3(B)(2)(a)(ii) Southern Property Only (west and south landscape yards)	15-foot landscape yard	5 feet minimum

Development Standards	MZO Required	BIZ Proposed
<u>Landscaping for Non-Single Residence Adjacent to Non-Single Residence – MZO Section 11-33-3(B)(2)(c) –</u> Number of Plants Southern Property Only (South landscape yard)	3 trees & 20 shrubs per 100 linear feet	3 trees and 20 shrubs per 200 linear feet
<u>Foundation Base – MZO Section 11-33-5(A)(1) and 11-33-5(A)(1)(a)</u> Southern Property Only Exterior Walls with a Public Entrance Buildings larger than 10,000 square feet	15-foot foundation base An additional foundation base shall be provided at the entrance to create an entry plaza area. The plaza area shall have a minimum width and depth of 20 feet, and a minimum area of 900 square feet	10-foot foundation base An additional foundation base shall be provided at the entrance to create an entry plaza area. The plaza area shall have a minimum depth of 10 feet, a minimum width of 106 feet, and a minimum area of 1,060 square feet

7. Compliance with all requirements of Chapter 19 of the Zoning Ordinance including:
- Owner must execute the City's standard Avigation Easement and Release for the Mesa Gateway Airport prior to or concurrently with the recordation of the Final Plat or the issuance of a building permit, whichever occurs first.
 - 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.
 - 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 5 miles of Mesa Gateway Airport
- e. All Final 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 Mesa Gateway Airport, will experience aircraft overflights, which are expected to generate noise levels that may be of concern to some individuals.”

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 1st day of July, 2025.

APPROVED:

Mayor

ATTEST:

City Clerk