

ORDINANCE NO. 5969

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 ZON24-00892. LOCATED AT THE NORTHEAST CORNER OF EAST WARNER ROAD AND SOUTH HAWES ROAD. (60.8± ACRES). REZONE 18± ACRES FROM SMALL LOT RESIDENCE-2.5 WITH A PLANNED AREA DEVELOPMENT OVERLAY(RSL-2.5-PAD) TO GENERAL COMMERCIAL WITH A PLANNED AREA DEVELOPMENT OVERLAY (GC-PAD), REZONE 18± ACRES OF THE PROJECT SITE FROM GC-PAD TO RSL-2.5-PAD, REZONE TO ESTABLISH A SECOND PAD OVERLAY ON THE ENTIRE 60.8± ACRES, COUNCIL USE PERMIT AND SPECIFIC PLAN APPROVAL FOR A 342-UNIT SINGLE RESIDENCE DEVELOPMENT 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 ZON24-00892 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 specific plan as submitted.
2. Compliance with CUP criteria and approval of minimum commercial floor area required for any residential use in the GC.
3. Compliance with all conditions of approval for Case No. ZON17-00606 (Ordinance No. 5566).
4. Compliance with the Hawes Crossing Development Agreement No. 3144 (Recorders No. 2020-0381318).
5. Compliance with the Preliminary Plat submitted.
6. Compliance with all requirements of the Subdivision Regulations.
7. 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.
8. Installation of all off-site improvements and street frontage landscaping during the first phase of construction.
9. 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 one mile 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 states 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."

10. Compliance with all City development codes and regulations, except for the alternative compliance for front porches, windows, and building materials approved as part of this case and except for the modification to the development standards as approved with Case No. ZON17-00606 (Ordinance No. 5566) and this PAD as shown in the following table:

Development Standard	Approved
<u>Minimum Dimensions for Residential Double Car Enclosed Garages – MZO Section 11-32-4(F)(2)</u>	Alley Loaded: 19’4” wide by 19’6” long Townhomes: 21’0” wide by 19’6” long
<u>Fences and Freestanding Walls – Maximum Height - Side and Rear Yards MZO Section 11-30-4(A)(1)(b)</u>	Maximum of 8-foot-tall theme wall along the eastern property line
Townhomes	
<u>Minimum Lot Area – MZO Table 11-6-3.A</u>	1,496 square feet
<u>Minimum Lot Width – MZO Table 11-6-3.A</u>	22 feet
<u>Minimum Lot Depth – MZO Table 11-6-3.A</u>	68 feet
<u>Maximum Lot Coverage – MZO Table 11-6-3.A</u>	88%

Development Standard	Approved
<u>Minimum Building Setback –</u> <u>MZO Table 11-6-3.A</u> <u>-Front and Street-Facing Side</u> <u>-Interior Side and Rear</u> <u>-Adjacent to RS Districts:</u> <u>Adjacent to Non-Residential Districts:</u>	 10 feet Interior Side: 0 feet Exterior side: 5 feet Rear: 5 feet Interior Side: 0 feet Exterior side: 5 feet Rear: 5 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 3rd day of November 2025.

APPROVED:

Mayor

ATTEST:

City Clerk