

Text written in **BOLD ALL CAPS** indicates new language. ~~Strikethrough~~ fonts indicate proposed language to be deleted.

ORDINANCE NO. ~~5206~~

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE ZONING ORDINANCE OF THE MESA CITY CODE; AMENDING SECTIONS 11-41-5 AND 11-41-8 REGARDING THE DEFINITION AND ALLOWANCE OF PUBLIC TRANSPORTATION SIGNS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, commercial signs are a useful communications tool; and  
WHEREAS, reasonable allowances of commercial advertising aids the business community by providing an additional forum to communicate business opportunities and ideas; and  
WHEREAS, reasonable limits on the use of signs improves the visual environment of the community; and  
WHEREAS, the City Council has determined that the effectiveness of commercial signs may be enhanced by balancing reasonable allowances for signs with reasonable limits on sign clutter and sign congestion; and  
WHEREAS, the sale of commercial advertising when placed on public transportation facilities to provide financial support of public transportation has been found by the courts to be a reasonable use of public facilities;  
THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

**Section 1:** That Section 11-41-5 of the Mesa City Code is hereby amended to include insertion of the following terms and definitions, as written below, in alphabetical order as appropriate; with the language for the existing terms and definitions remaining intact and as presently stated.

SECTION 11-41-5: DEFINITIONS OF TERMS:

11-41-5 Definitions

**PUBLIC TRANSPORTATION SIGN: A SIGN IN ASSOCIATION WITH A FACILITY, STATION, HUB OR STOP RELATED TO A PUBLICALLY OWNED AND/OR MANAGED TRANSPORTATION SYSTEM, SUCH AS A BIKE SHARE FACILITY; CAR SHARE FACILITY; FIXED-RAIL STATION OR STOP; AND/OR TROLLEY, BUS-RAPID TRANSIT OR LOCAL BUS STATIONS OR STOPS; WITH PLACEMENT OF SUCH SIGNS LIMITED TO LOCATIONS ENTIRELY WITHIN A STREET RIGHT-OF-WAY OR WITHIN AN EASEMENT AUTHORIZING THE PLACEMENT OF PUBLIC TRANSPORTATION -RELATED FACILITIES. SUCH SIGNS SHALL CONVEY A COMMERCIAL TRANSACTION (ON-SITE OR OFF-SITE) THAT ARE MANAGED AND MAINTAINED EITHERBY THE CITY OF MESA; BY A RESPONSIBLE PARTY UNDER CONTRACT WITH THE CITY OF MESA TO INSTALL AND/OR MANAGE SIGNS SPECIFICALLY LINKED TO A PUBLICALLY FUNDED TRANSPORTATION SYSTEM; OR BY A PUBLIC ORGANIZATION (ORGANIZED FOR THE BENEFIT OF SINGLE OR MULTIPLE LOCAL GOVERNMENTS) DEDICATED TO PUBLIC TRANSPORTATION AND IN WHICH THE CITY OF MESA IS A CONTRACTUAL PARTICPANT.**

**Section 2:** That Sub-sections (C) and (D) of Section 11-41-8 of the Mesa City Code are hereby amended

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as follows:

**11-41-8 Supplementary Provisions**

**C. Prohibited Signs.**

**1. The following signs and conditions are prohibited:**

- a. "A" frame and all other portable signs except as permitted in 11-41-7(B), 11-41-6(F), and 11 41 8(D) of this Chapter.
- b. Vehicle signs which are displayed for the purpose of exhibiting commercial advertising, identifying an on-site business, or supplying directional information to an off-site business, by means of any of the following which proves a violation:
  - (1) The absence of a current, lawful license plate affixed to the vehicle on which the sign is displayed; or
  - (2) The vehicle being inoperable as defined in Section 8-6-2 of the Mesa City Code; or
  - (3) The vehicle on which the sign is displayed is not parked in a lawful or authorized location, or is on blocks or other supports, or is parked in a manner that is distinct or different from the pre-determined parking area design; or
  - (4) The vehicle on which the sign is displayed is not used for business activities associated with the product(s) or service(s) designated by the vehicle sign for two (2) consecutive business days; or
  - (5) The vehicle on which the sign is displayed is a part, section, or element of an outdoor display by a dealership or business of transportation vehicles such as motor vehicle, recreational vehicle, watercraft, manufactured home, motorcycle, or utility trailer.
- c. Balloons, banners, advertising flags, and nonrigid signs, except as permitted in Sections 11-41-7(F) and 11-41-8(D) of this Chapter.
- d. Off-site signs (billboards), except as permitted in SectionS 11-41-7(E) **AND 11-41-8(D)19** of this Chapter.
- e. Signs that employ intermittent or flashing illumination, animation, stereopticon, motion picture, or laser projection, sound emission, rotation or other movement, visible moving parts, or any device creating the illusion of motion (except time and temperature units and electronic message displays as defined in this Chapter).
- f. Signs located within a public right-of-way or attached signs which project more than 15 inches into a public right-of-way or are less than 8 feet above grade, except political signs placed in conformance with 11-41-7(G) of this Chapter.
- g. Signs displayed in a location prohibited by this Chapter.

- h. Signs placed so as to prevent or inhibit free ingress to or egress from any door, window, or any exit way required by the Mesa Building Code, or by Fire Department Regulations.
- i. Signs attached to any public utility pole or structure, streetlight, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, bus bay, or other location on public property.
- j. Signs placed in a location which obstructs the view of any traffic sign, signal, or other traffic- control sign, or of a vehicle operator entering, exiting, or traveling upon the public right-of-way.
- k. Signs that by way of shape, color, or position may be confused with any authorized traffic- control or public directional sign.
- l. Discontinued signs under 11-41-2(C) of this Chapter.
- m. Pole signs within the Downtown Zoning Districts.
- n. Roof signs within the Downtown Zoning Districts.

**D. Supplemental Provisions.**

- 1. Schools, churches, or other places of worship located in the AG and Single Residence districts are permitted signage in accordance with Section 11-41-6(D) of this Chapter, except in the Downtown Zoning District where such signage is permitted according to Section 11-41-6(F) of this Chapter.
- 2. If a sign is externally illuminated, the source of illumination shall not be visible from any adjacent residential zone district, and shall comply with the Outdoor Light Control ordinance of the Mesa City Code, and the Mesa Electrical Code.
- 3. Buildings exceeding 3 stories shall only be identified by the building, building complex, or development name, unless modified by a comprehensive sign plan as provided in this Section, except all buildings over one (1) story in the Downtown Zoning District must obtain a Comprehensive Sign Plan.
- 4. No detached sign shall be located within 50-feet of any other detached sign on the same parcel or development site.
- 5. No sign shall be placed within the future width line of a public street as specified in Section 11-30-6 of this Ordinance except in the Downtown Zoning District, which may be placed within such future width line subject to a sign agreement. A sign agreement shall require a certificate of insurance and comply with the following criteria:
  - a. Public liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) for injuries to each person, and in an amount not less than five hundred thousand dollars (\$500,000.00) for any one (1) occurrence.
  - b. Property damage insurance in an amount not less than five hundred thousand dollars (\$500,000.00) for damage to the property of each person on account of any one (1) occurrence.

- c. Said policies shall name the City of Mesa as additional insured and shall constitute primary insurance for the City, its officers, agents, and employees, so that any other policies held by the City shall not contribute to any loss under this insurance.
  - d. Policies shall provide for 30 days' written notice to the City of cancellation or material changes.
6. When a sign is placed at the street intersection of a corner parcel, and is situated at an angle so as to be visible from both streets or both frontages, such sign shall not exceed the maximum area allowed for the longest street frontage. The area of such sign shall be deducted from the total area and number of signs permissible on said corner parcel.
  7. A detached sign may consist of more than one (1) sign panel provided all such sign panels are attached to one (1) common integrated sign structure.
  8. Detached sign structures may extend above the allowable height for purposes of embellishment, as defined in this Chapter, up to a maximum extension of 20% of the permitted height of the sign (See figure below).
  9. Roof signs are permitted in all Commercial and Industrial districts except in the Downtown Zoning District provided:
    - a. Signs shall not exceed a height of 30% of the height of the building on which said sign is located.
    - b. Signs shall be installed in such a manner that there are no visible angle iron supports, guy wires, braces, or secondary supports. Signs shall appear to be an architectural or integral part of said roof.
    - c. No portion of such sign shall extend above the highest portion of the building or roof where such sign is attached (See figures below).
  10. Statues, either sculptures, or other three-dimensional figures, used for commercial identification purposes are permitted in all Multiple Residence, Commercial, and Industrial districts subject to approval of a Special Use Permit. The area of such statues, sculptures, or figures shall be deducted from the total allowable sign area.
  11. Residential subdivisions may display permanent entry identification signs provided such signs:
    - a. Are limited to one (1) wall-mounted sign on each side of said entry; and
    - b. Shall not exceed 12 square feet in area per sign; and
    - c. Shall consist of low-maintenance materials such as metal or ceramic tile; and
    - d. Shall be located on private property, not within the public right-of-way.
  12. On-site directional or similar informational signs are permitted in conjunction with any multiple- residence, commercial, office, or industrial development provided such signs:
    - a. Do not exceed 3 square feet in area and 3 feet in height; and

- b. Are utilized only when necessary for traffic directional or other informational purposes; and
- c. Do not display corporate colors, logos, or other commercial messages.

13. A Comprehensive Sign Plan for a proposed or existing development/building may be approved by the Zoning Administrator/Board of Adjustment in conjunction with the granting of a Special Use Permit under Chapter 70 of this Ordinance. The purpose of a Comprehensive Sign Plan is to provide for the establishment of signage criteria that are tailored to a specific development or location, and which may vary from specific Ordinance provisions. The intent is to provide for flexible sign criteria that promote superior design through architectural integration of the site, buildings, and signs.

A Comprehensive Sign Plan shall include the location, size, height, construction material, color, type of illumination, and orientation of all proposed signs, either permanent or temporary.

A Comprehensive Sign Plan containing elements which exceed the permitted height, area, and number of signs specified in this Chapter may be approved by the Zoning Administrator/Board of Adjustment only upon a finding that:

- a. The development site contains unique or unusual physical conditions, such as topography, proportion, size, or relation to a public street that would limit or restrict normal sign visibility; or
- b. The proposed or existing development exhibits unique characteristics of land use, architectural style, site location, physical scale, historical interest, or other distinguishing features that represent a clear variation from conventional development; or
- c. The proposed signage incorporates special design features such as logos, emblems, murals, or statuary that are integrated with the building architecture.

The construction and placement of individual signs contained in the approved Comprehensive Sign Plan shall be subject to the issuance of sign permits in accordance with 11-41-8(E).

14. Notwithstanding any other provision of this Chapter to the contrary, any noncommercial message may be substituted for the message on any commercial sign permitted by this Chapter, and any other noncommercial message may be substituted for any noncommercial message on any sign permitted by this Chapter.

15. Special event signs intended to support, promote, identify, or advertise a licensed special event as authorized by Section 5-1-2, of the Mesa City Code and 11-31-27 of the Zoning code are permitted in all zoning districts, in accordance with the following:

- a. Such signs are located entirely upon the property authorized by the special event license as specified in Section 5-1-2 of the Mesa City Code.
- b. Such signs shall not occupy any portion of a public right-of-way except within the

Downtown Zoning District, nor be placed in a location prohibited in 11-41-8(C) of this Ordinance.

- c. Such signs are not displayed prior to nor after the dates of the special event as specified in the Special Event License.
  - d. Such signs are permitted in addition to signage otherwise permitted by this Chapter.
  - e. Such signs may include balloons, banners, flags, and portable signs only when displayed in full conformance with the provisions of paragraph 15.
16. Multiple colored bands, stripes, patterns, outlines, or delineations displayed for the purpose of commercial identification which constitute a sign as defined in Section 11-41-5 of this Chapter, and which exceed the maximum permitted signage as specified in this Chapter shall only be permitted upon a finding by the Design Review Board in accordance with the procedures set forth in the Administration and Procedures chapter of Title 11 of the Mesa City Code, that such signs:
- a. Clearly serve as an architectural embellishment to the building or development;
  - b. Are compatible and harmonious with the primary color(s), style, and architecture of the building or development;
  - c. Are integrated into the primary physical elements of the building or development;
  - d. Are constructed or composed of architectural-grade materials such as ceramic tile, metal, glass, or masonry.
17. Electronic message displays are permitted in accordance with the following:
- a. Displays of static messages, where the message change sequence is accomplished immediately or by means of fade or dissolve modes, shall be permitted as a matter of right, subject to the sign size limitations otherwise applicable for the site, provided each message is displayed for a minimum period of one (1) hour.  
  
Exception: In any Downtown Zoning District, such display is allowed only after approval of a Special Use Permit.  
  
Exception: On a freeway landmark monument, such display is allowed only after approval of a Council Use Permit.
  - b. A Special Use Permit in accordance with Chapter 70 of this Ordinance shall be required for approval of the display of static messages displayed for a minimum period less than one (1) hour, and changed by any mode, or for message changes accomplished by the means of travel or scrolling modes. The Zoning Administrator/Board of Adjustment may attach conditions to the approval of such electronic message displays, including limitation on the minimum time period for the display of each message, to the extent necessary to ensure that

the granting of the Special Use Permit will not have a detrimental effect on the surrounding area or the public welfare, and will be consistent with the purpose and intent of this Chapter. In making this determination, the Zoning Administrator/Board of Adjustment shall consider the following factors:

- (1) The speed and volume of the vehicular traffic visually exposed to the sign;
- (2) The presence of other signs or distracting influences in proximity to the sign location; and
- (3) The extent to which the design of the sign is compatible with other signs located on the premises.

Exception: On a freeway landmark monument, such display is allowed only after approval of a Council Use Permit.

- c. The intensity of the LED display shall not exceed the levels specified in the chart below:

INTENSITY LEVEL (NITS)		
COLOR	DAYTIME	NIGHTTIME
Red Only	3,150	1,125
Green Only	6,300	2,250
Amber Only	4,690	1,675
Full Color	7,000	2,500

Prior to the issuance of a sign permit, the applicant shall provide a written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified in the chart above, and the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Building Safety Director.

18. A freeway landmark monument is permitted in all zoning districts, subject to the approval of a Council Use Permit in accordance with Chapter 70 of this Ordinance. In addition to the findings required for approval of a Council Use Permit as specified in the definition contained in Section 11-41-5 of this Ordinance, a freeway landmark monument may be approved only upon a finding by the City Council that such freeway landmark monument is in compliance with the locational parameters, operational limits, and design standards specified in the Freeway Landmark Monument Guidelines.

Prior to any approval by the City Council of a proposed freeway landmark monument, such proposal shall first be reviewed by the Design Review Board who shall forward its recommendations to the City Council. Such review by the Design Review Board shall be limited to consideration of specific design, materials, and architectural features of the proposed freeway landmark monument.

19. **PUBLIC TRANSPORTATION SIGNS, AS DEFINED IN SECTION 11-41-5, MAY BE PLACED IN ASSOCIATION WITH ANY PUBLICALLY OWNED OR MANAGED TRANSPORTATION FACILITY, OR WITH ANY PUBLIC BUS OR TRANSIT STOP AND/OR SHELTER PROVIDED:**

- A. ALL REVENUE DERIVED FROM ANY CONTRACT ASSOCIATED WITH ANY PUBLIC TRANSPORTATION SIGN PROGRAMS SHALL BE DEDICATED TO BE USED EXCLUSIVELY BY THOSE SAME PUBLIC TRANSPORTATION SYSTEM PROGRAMS; AND
- B. ALL FACILITIES AND EQUIPMENT DEDICATED FOR USE AND ASSOCIATED WITH THE PUBLIC TRANSPORTATION SIGN COMPLY WITH THE STANDARDS SET FOR THIS ACTIVITY BY THE CONTRACT OR DESIGNATED STANDARDS:
  - I APPROVED BY THE CITY COUNCIL; OR
  - II. SET BY A PUBLIC MULTIPLE-JURISDICTION TRANSPORTATION SYSTEM WITH THE SIGN PROVIDER.

**Section 3: SEVERABILITY**

If any section, subsection, sentence clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

**Section 4: 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 Chapter 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 Chapter 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 of subsection (A) 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.

**EACH DAY SEPARATE VIOLATION:**

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 3 or more civil violations of this Ordinance within a 24 month period

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— 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 criminal class 1 complaint in the Mesa City Court against habitual offenders. For purposes of calculating the 24-month period under this paragraph, the dates of the commission of the offenses are the determining factor.

- B. Upon conviction of a violation of this Subsection, the Court may impose a sentence or incarceration not to exceed 6 months in jail; or a fine not to exceed \$2,500, exclusive of penalty assessments prescribed by law; or both. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than \$500 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 Subsection.
- 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.

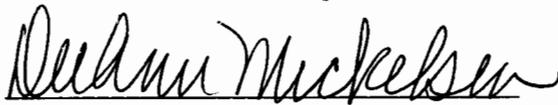
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 3<sup>rd</sup> day of March, 2014.

APPROVED:



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Mayor

ATTEST:



City Clerk



EFFECTIVE DATE: April 2, 2014