

Note:  
**BOLD AND ALL CAPS** --- indicates proposed addition  
~~Strikethrough~~ --- indicates deletions

ORDINANCE NO. 5068

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING THE MESA CITY CODE TITLE 10, TRAFFIC, BY AMENDING SECTION 10-10-1 TRAFFIC BARRICADE MANUAL, AND SECTION 10-10-3 VIOLATIONS AND ENFORCEMENT.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Section 10-10-1(A) of the Mesa City Code is amended by adding subsection 1 to read as follows:

10-10-1: Traffic Barricade Manual

(A) City Traffic Barricade Manual. The City Traffic Engineer shall develop, publish, and revise from time to time as needed, a manual on procedures and practices necessary to establish temporary control measures to be used in conjunction with partial and full restrictions of all City streets, sidewalks, bicycle lanes, equestrian, bicycle, pedestrian or multi-use paths, special use trails, alleys, highways, transit stops or other facilities, hereinafter referred to as "City Transportation Facilities," to be used in conjunction with any work, construction, maintenance, or other use of City rights-of-way or easements. Such City Traffic Barricade Manual may consist of a manual or manuals, in whole or in part, developed and published by other cities, states or the federal government, along with modifications, amendments, or a supplement specific to the City of Mesa. The City Traffic Barricade Manual shall be adopted by City Council resolution.

**1. CLARIFICATIONS AND CORRECTIONS. THE CITY TRAFFIC ENGINEER IS AUTHORIZED TO PUBLISH CLARIFICATIONS AND CORRECTIONS TO THE CITY TRAFFIC BARRICADE MANUAL AS NEEDED TO PROVIDE CLARIFICATION, ADDITIONAL EXPLANATION OR ILLUSTRATION OF ANY**

**PROVISION OF THE CITY TRAFFIC BARRICADE MANUAL, OR TO CORRECT TYPOGRAPHICAL OR OTHER SIMILAR ERRORS. SUCH CLARIFICATIONS AND CORRECTIONS SHALL BE IN WRITING AND FILED WITH THE CITY CLERK.**

Section 2: That Section 10-10-3 of the Mesa City Code is amended by revising subsections 10-10-3(D) and 10-10-3(E), and deleting subsections 10-10-3(F),

10-10-3(G), 10-10-3(H), and 10-10-3(I) as follows:

10-10-3: VIOLATIONS AND ENFORCEMENT

(D) Civil Violations and ~~Citation~~ **PROCEDURE:**

1. Violation of any portion of this Chapter is **SHALL BE** a civil violation ~~OFFENSE~~ **AND SHALL BE COMMENCED AND ADJUDICATED PURSUANT TO THE ARIZONA RULES OF PROCEDURE IN CIVIL TRAFFIC AND CIVIL BOATING VIOLATION CASES. VIOLATIONS WILL BE FILED WITH THE MESA MUNICIPAL COURT.** ~~A civil action for violations of this Chapter may be commenced by issuance of a citation.~~

2. ~~The citation will be substantially in the form established by the City Traffic Engineer.~~ **These citations COMPLAINTS FOR VIOLATIONS OF THIS CHAPTER** may be issued by Transportation Department employees working under the authority of the City Traffic Engineer or designee, **AND SHALL BE IN A FORM SUBSTANTIALLY SIMILAR TO THE ARIZONA TRAFFIC TICKET AND COMPLAINT AS APPROVED BY THE CITY TRAFFIC ENGINEER OR DESIGNEE.** ~~The citation shall be served by personal service, or by certified or registered mail, return receipt requested.~~

3. ~~The citation shall include the date, time, location and description of the violation(s),~~

~~either by written description of the violation(s) or by designation of the City Code Section that was violated, and notice that within fourteen (14) calendar days from the day on which the notice was issued, the sanction for the violation must be paid and received by the City or a request made and received by the City for a hearing to contest the alleged violation.~~

(E) ~~Response to Citation~~**PENALTIES. UPON A FINDING OR ADMISSION OF RESPONSIBILITY, A VIOLATOR IS SUBJECT TO THE FOLLOWING SANCTIONS:**

1. **ANY ACT, ERROR, OR OMISSION WITHIN THE RIGHT-OF-WAY THAT CREATES AN IMMINENT RISK OF DEATH OR INJURY; CIVIL SANCTION: \$1,500.00.**
2. **RESTRICTING THE RIGHT-OF-WAY OR EASEMENT WITHOUT A REQUIRED TEMPORARY TRAFFIC CONTROL PERMIT; CIVIL SANCTION: \$1,000.00.**
3. **RESTRICTING TRAFFIC DURING PEAK TRAFFIC HOURS AS DESCRIBED IN THE TRAFFIC BARRICADE MANUAL WITHOUT AUTHORIZATION; CIVIL SANCTION: \$1,000.00**
4. **FAILING TO CORRECT OR CURE A VIOLATION OF THE TRAFFIC BARRICADE MANUAL WITHIN THE TIME PERIOD STATED ON THE NOTICE OF VIOLATION; CIVIL SANCTION: \$1,000.00.**
5. **RESTRICTING THE RIGHT-OF-WAY AT AN INTERSECTION WITH TRAFFIC SIGNALS WITHOUT ANY WORK BEING CONDUCTED FOR WHICH THE RESTRICTION IS NECESSARY FOR A PERIOD OF ONE CONTINUOUS HOUR UNLESS OTHERWISE APPROVED; CIVIL SANCTION: \$1,000.00.**
6. **IMPROPERLY CLOSING A SIDEWALK OR CLOSING A SIDEWALK WITHOUT**

**FIRST OBTAINING A REQUIRED TRAFFIC CONTROL PERMIT; CIVIL SANCTION: \$500.00.**

- 7. FAILING TO COMPLY WITH THE CONDITIONS, RESTRICTIONS, LIMITS, TIMES, OR LOCATION OF A TEMPORARY TRAFFIC CONTROL PERMIT; CIVIL SANCTION: \$500.00.**
- 8. FAILING TO INSTALL ADVANCE WARNING SIGNS OR FAILING TO INSTALL ADVANCE WARNING SIGNS THAT COMPLY WITH THE TRAFFIC BARRICADE MANUAL; CIVIL SANCTION: \$500.00.**
- 9. FAILING TO INSTALL TRAFFIC BARRICADES OR CHANNELIZING DEVICES OR FAILING TO INSTALL TRAFFIC BARRICADES OR CHANNELIZING DEVICES THAT COMPLY WITH THE TRAFFIC BARRICADE MANUAL; CIVIL SANCTION: 500.00.**
- 10. FAILING TO REMOVE AN ADVANCE WARNING SIGN LEAVING THE SIGN FACING TRAFFIC AFTER THE TRAFFIC RESTRICTION HAS BEEN REMOVED; CIVIL SANCTION: \$250.00.**
- 11. FAILING TO REMOVE TRAFFIC CONTROL DEVICES FROM THE RIGHT-OF-WAY WITHIN TWENTY-FOUR HOURS AFTER EXPIRATION OF THE TEMPORARY TRAFFIC CONTROL PERMIT; CIVIL SANCTION: \$250.00.**
- 12. FAILING TO INSTALL AND MAINTAIN TRAFFIC CONTROL DEVICES THAT MEET THE QUALITY REQUIREMENTS DESCRIBED IN THE TRAFFIC BARRICADE MANUAL; CIVIL SANCTION: \$250.00.**
- 13. RENDERING A BUS STOP INACCESSIBLE WITHOUT RELOCATING IT OR MAKING OTHER APPROVED ACCOMMODATIONS; CIVIL SANCTION: \$250.00.**

**14. FAILURE TO COMPLY WITH ANY OTHER PROVISION OF THE TRAFFIC BARRICADE MANUAL OR THIS CHAPTER WHETHER OR NOT A TEMPORARY TRAFFIC CONTROL PERMIT IS REQUIRED; CIVIL SANCTION: \$250.00.**

~~1. Within fourteen (14) calendar days from the day on which the citation was issued, the person or persons responsible for the violation(s) shall respond to the citation by one of the following methods:~~

~~(a) By appearing before a Municipal Magistrate or Hearing Officer in City Court in person, by representation, by deposit in a City collection box, or by mail to the City Court admitting responsibility for the violation and paying the civil sanction indicated in the citation for the violation.~~

~~(b) By appearing before a Municipal Magistrate or Hearing Officer in the City Court in person, by representation, by deposit in a City collection box, by mail, or by telephone, and denying all allegations in the citation, and requesting a hearing to contest the alleged violation(s). The Court shall set the matter for hearing. Civil hearings are informal and held without a jury, and the City is required to prove the violation(s) by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications.~~

~~(c) A request for a hearing or payment of the civil sanction will be considered received by the City if it is actually delivered to the City Court, deposited in a City collection box, or postmarked within fourteen (14) calendar days after the date the citation was issued. A request for a hearing made by telephone will be considered received the day it is made, if it is received by a City Court employee~~

~~during City Court business hours of any day the City Court is open for normal business.~~

~~(F) Traffic Barricade Manual Violations and Civil Sanctions. The following violations of the Traffic Barricade Manual or any provision of this Chapter may result in a Civil Sanction. The amount of the Civil Sanction listed is the amount per day for a violation.~~

- ~~1. Any act, error, or omission within the right of way that creates an imminent risk of death or injury; Civil Sanction: \$1,500.00.~~
- ~~2. Restricting the right of way or easement without a required temporary traffic control permit; Civil Sanction: \$1,000.00.~~
- ~~3. Restricting traffic during peak traffic hours as described in the Traffic Barricade Manual without authorization; Civil Sanction: \$1,000.00~~
- ~~4. Failing to correct or cure a violation of the Traffic Barricade Manual within the time period stated on the notice of violation; Civil Sanction: \$1,000.00.~~
- ~~5. Restricting the right of way at an intersection with traffic signals without any work being conducted for which the restriction is necessary for a period of one continuous hour unless otherwise approved; Civil Sanction: \$1,000.00.~~
- ~~6. Improperly closing a sidewalk or closing a sidewalk without first obtaining a required traffic control permit; Civil Sanction: \$500.00.~~
- ~~7. Failing to comply with the conditions, restrictions, limits, times, or location of a temporary traffic control permit; Civil Sanction: \$500.00.~~
- ~~8. Failing to install advance warning signs or failing to install advance warning signs that comply with the Traffic Barricade Manual; Civil Sanction: \$500.00.~~
- ~~9. Failing to install traffic barricades or channelizing devices or failing to install traffic~~

~~barricades or channelizing devices that comply with the Traffic Barricade Manual;  
Civil Sanction: \$500.00.~~

- ~~10. Failing to remove an advance warning sign leaving the sign facing traffic after the traffic restriction has been removed; Civil Sanction: \$250.00.~~
- ~~11. Failing to remove traffic control devices from the right of way within twenty four hours after expiration of the temporary traffic control permit; Civil Sanction: \$250.00.~~
- ~~12. Failing to install and maintain traffic control devices that meet the quality requirements described in the Traffic Barricade Manual; Civil Sanction: \$250.00.~~
- ~~13. Rendering a bus stop inaccessible without relocating it or making other approved accommodations; Civil Sanction: \$250.00.~~
- ~~14. Failure to comply with any other provision of the Traffic Barricade manual or this Chapter whether or not a temporary traffic control permit is required; Civil Sanction: \$250.00.~~

~~(G) Failure to Respond to a Citation; Increased Sanction for Failure to Make a Timely Response:~~

- ~~1. If the person or persons responsible for a temporary traffic control violation(s) fails to respond by one of the methods listed in Subsection (E) within fourteen (14) calendar days from the date the citation was issued, the sanction for the violation shall automatically be increased to twice the listed sanction. If the sanction is not paid within thirty (30) days after the date of the citation and the person or persons liable for the violation have failed to make a timely response pursuant to Subsection (E), the sanction shall be increased automatically to four (4) times the listed sanction which is due and payable at that time.~~
- ~~2. The list of violations and sanctions provided for in Subsection (E) are the sanctions~~

~~that may be imposed when the defendant responds to the notice in a timely manner.~~

~~The civil sanctions prescribed herein shall not be suspended or reduced except as provided herein.~~

~~3. A City Magistrate or a civil Hearing Officer may suspend the payment of an increased sanction or late penalty for the failure to respond to a citation; however, a City Magistrate or Hearing Officer cannot suspend the payment of the listed sanction as provided in the schedule in Subsection (F).~~

~~(H) Civil Complaints; Hearings.~~

~~1. If a defendant has not made a timely request for a hearing pursuant to Subsection (E)1(b) or (E)1(c) or has failed to make a timely response to the notice and has not paid the civil sanction as required by Subsection (E)1(a), a civil complaint and summons will be issued by the City Court unless the city traffic engineer or the City Prosecutor determines that a complaint shall not be requested.~~

~~2. Failure to respond to a civil complaint and summons will result in a default judgment for the amount of the civil sanction plus court costs and attorney's fees, if applicable.~~

~~3. A civil hearing for a temporary traffic control violation may be heard by a civil Hearing Officer pursuant to applicable State statutes and the Arizona Supreme Court Rules of Procedure in Civil Violation Cases. The Hearing Officer may make such orders as may be necessary and proper to dispose of such cases.~~

~~4. Each day shall be a continuing violation.~~

~~(I) Time calculation. If the fourteenth (14th) calendar day as set forth herein is a Saturday, Sunday, Legal Holiday, or other Non-Business day of the City, then payment shall be due on the next day that is not a Saturday, Sunday, Legal Holiday, or Non-Business day of the City.~~

Section 3: SEVERABILITY. If any provision of this ordinance is held to be unenforceable or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in effect.

PASSED AND ADOPTED by the City Council of the City Of Mesa, Maricopa County, Arizona, this 7<sup>th</sup> day of November, 2011.

APPROVED:



\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

