

ORDINANCE NO. 5256

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

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 SECTION 11-41-7 REGARDING THE USE OF BANNERS FOR CIVIC PURPOSES ON CITY OWNED STREET LIGHT POLES AND SIMILAR PIECES OF CITY OWNED INFRASTRUCTURE WHEN LOCATED WITHIN PUBLIC RIGHTS-OF-WAY, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, the Mesa City Council finds that the placement of fabric banners on street light poles and similar devices is beneficial for promoting civic institutions and public cultural events.

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

Section 1: That Section 11-41-7.F of the Mesa City Code is hereby amended as follows:

Section 11-41-7.F Banners and Nonrigid Signs

- 1. Canvas signs, banners, advertising flags, pennants, streamers, garlands, whirly-gigs, and similar devices are permitted only for the initial opening of a new business, new occupancy, or new proprietor or management.
 - a. A Use Permit shall be required for the display of banners and nonrigid signs.
 - b. Such Use Permits shall be valid for a maximum period of 30 consecutive days.
- 2. ~~Banners are permitted within the public right of way in existing approved locations for informational messages concerning civic and cultural programs within the Downtown Zoning District, subject to the approval of the Zoning Administrator. Sponsorship shall be allowed no more than 15% coverage on a streetlight banner. Sponsorship shall be allowed no more than 30% coverage on an over the street banner.~~

BANNERS IN COMPLIANCE WITH THE FOLLOWING REQUIREMENTS ARE PERMITTED WITHIN THE PUBLIC RIGHT-OF-WAY AT LOCATIONS APPROVED BY THE CITY MANAGER OR DESIGNEE: THE BANNER SHALL BE ATTACHED TO A CITY OWNED STREET LIGHT POLE OR TO SOME OTHER CITY OWNED INFRASTRUCTURE THAT IS NOT A UTILITY POLE USED FOR DISTRIBUTION AND TRANSMISSION OF ELECTRICITY; AND THE BANNER SHALL BE INSTALLED BY CITY OF MESA STAFF OR APPROVED CONTRACTOR.

- A. **THE APPROVAL OF THE USE AND LOCATION OF BANNERS PLACED WITHIN THE PUBLIC RIGHT-OF-WAY SHALL BE DETERMINED BY COMPLIANCE WITH THE FOLLOWING:**
 - I. **THE CITY ENGINEER HAS DETERMINED THAT THE STREET LIGHT POLE OR OTHER DEVICE WILL SECURELY HOLD AND DISPLAY THE BANNER WITHOUT COMPROMISING THE STRUCTURAL INTEGRITY OF THE POLE IN EXTREME WEATHER CONDITIONS;**
 - II. **THE BANNERS SHALL BE USED TO DISPLAY INFORMATIONAL MESSAGES CONCERNING CIVIC AND CULTURAL INSTITUTIONS, ACTIVITIES AND EVENTS;**
 - III. **SPONSORSHIP SHALL BE ALLOWED NO MORE THAN 15% COVERAGE ON A STREET LIGHT BANNER;**
 - IV. **SPONSORSHIP SHALL BE ALLOWED NO MORE THAN 30% COVERAGE ON AN OVER-THE-STREET BANNER;**

- V. **BANNERS SHOWING EVIDENCE OF DETERIORATION, SUCH AS RIPS, TEARS, COLOR FADING, FRAYED EDGES, OR OTHERWISE SHOWING NEED OF GENERAL MAINTENANCE SHALL BE REMOVED, REPAIRED OR REPLACED PROMPTLY;**
- VI. **THE BANNER MAY NOT EXCEED THE HEIGHT OF THE POLE ONTO WHICH IT IS ATTACHED; AND**
- VII. **COMPLIANCE WITH EITHER ONE OF THE FOLLOWING:**
 - A. **THE BOTTOM OF ANY BANNER SHALL NOT BE ANY LESS THAN 16-FEET HIGH FROM THE SURFACE OF THE STREET AT ANY POINT; OR**
 - B. **THE LEADING EDGE OF THE BANNER (THE VERTICAL EDGE CLOSEST TO THE STREET) OR RELATED FRAME AND MOUNTING HARDWARE SHALL NOT BE ANY CLOSER THAN 1-FOOT FROM THE FACE OF THE CURB OF THE ADJACENT STREET; OR TO THE EDGE OF PAVING OR THE SHOULDER OF THE STREET WHEN A CURB IS NOT PRESENT.**

Section 2: 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 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 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.
- 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 Title after previously having been found responsible for committing three (3) or more civil violations of this Title 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 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a 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 Subsection, 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, 2014.



APPROVED:

John G. ...

Mayor

ATTEST:

Dee Ann Mickelsen

City Clerk

EFFECTIVE DATE: December 3, 2014