

ORDINANCE NO. 5847

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING ZONING ORDINANCE, MESA CITY CODE TITLE 11, CHAPTERS 25, 45, 50, 51, AND 87 PERTAINING TO BILLBOARDS. THE AMENDMENTS INCLUDE BUT ARE NOT LIMITED TO ADDING A NEW CHAPTER 25: BILLBOARD OVERLAY DISTRICT; MODIFYING CHAPTER 45: PROHIBITED SIGNS TO REMOVE BILLBOARDS AS A PROHIBITED SIGN TYPE; MOVING DEFINITIONS FOR ADVERTISING FOR HIRE SIGN, BILLBOARD, AND OFF-SITE SIGN FROM CHAPTER 50: DEFINITIONS OF TERMS USED IN THE SIGN ORDINANCE TO CHAPTER 87: DEFINITIONS; AND ADDING A NEW CHAPTER 51: BILLBOARDS; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; AND PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, pursuant to Arizona Revised Statutes (“A.R.S.”) § 9-462.01, the legislative body of any municipality by ordinance, in order to conserve and promote the public health, safety, and general welfare, may regulate signs and billboards, and adopt overlay zoning districts and regulations applicable to particular buildings, structures, and land within individual zones; and

WHEREAS, the Arizona Highway Beautification Act (A.R.S. § 28-7901, et al.) includes regulations and standards applicable to outdoor advertising (which includes billboards) along Arizona highways; and

WHEREAS, pursuant to A.R.S. § 28-7914, the Arizona Highway Beautification Act is cumulative and supplemental to other provisions of law and does not affect or enlarge any authority of cities pursuant to any other provisions of law that may exist to enact ordinances regulating the size, lighting, and spacing of outdoor advertising; and

WHEREAS, pursuant to Arizona law, the Arizona Highway Beautification Act evidences a legislative intent that the state and local governments exercise concurrent jurisdiction over the regulation of outdoor advertising along Arizona highways, and that local governments may enact regulations that are at least as restrictive as those in the Arizona Highway Beautification Act; and

WHEREAS, it has become apparent that it is in the best interest of Mesa to amend Title 11 of the Mesa City Code (the Mesa Zoning Ordinance) to create a Billboard Overlay District; and

WHEREAS, the City Council, through this Ordinance, desires to enact (1) a Billboard Overlay District that will allow Billboards within certain areas of Mesa, and (2) regulations of Billboards that are at least as restrictive as the regulations in the Arizona Highway Beautification Act; and

WHEREAS, the Billboard Overlay District is a commercial zoning district that helps provide for the orderly, well-planned, and balanced growth of commercial areas by encouraging the development or redevelopment of large or underutilized sites along a freeway and creating

unique commercial opportunities for those large or underutilized sites while conserving and promoting public health, safety, and general welfare through development standards for Billboards that protect the visual quality of the commercial areas; and

WHEREAS, the creation of a Billboard Overlay District and the other regulations in this Ordinance conserve and promote the public health, safety, and general welfare by encouraging the development and redevelopment of large and underutilized sites along freeways; creating the opportunity to utilize Billboards for announcements for the benefit of the public; and promoting an aesthetically pleasing environment while minimizing distractions for motorists through development standards regulating the location, number, size, height, spacing, illumination, and maintenance of Billboards; and

WHEREAS, the Planning and Zoning Board at their public hearing on February 14, 2024, recommended that the City Council adopt the proposed text amendments.

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

Section 1: That Mesa City Code Title 11 is hereby amended by adding a new Chapter 25 titled “Billboard Overlay District” as follows:

CHAPTER 25 – BILLBOARD OVERLAY DISTRICT

11-25-1: - PURPOSE AND INTENT

The purpose of the Billboard Overlay District is to encourage the development or redevelopment of large or underutilized sites near a Freeway while conserving and promoting public health, safety, and general welfare. The Billboard Overlay District promotes an aesthetically pleasing environment while minimizing distractions for motorists through regulations limiting the location, number, size, and height of Billboards, and requiring spacing, illumination, maintenance, and other development standards for Billboards.

11-25-2: - LAND USE REGULATIONS

- A. The Billboard Overlay District shall only be used in conjunction with the Infill Development District-2 (ID-2), Public and Semi-Public District (PS), or Mixed-Use District (MX).
- B. The Billboard Overlay District allows Billboards in accordance with this Chapter and permits the same land uses as the underlying base zoning district, except those land uses that may be excluded by the City Council through a development agreement.

11-25-3: - ELIGIBILITY REQUIREMENTS

To be eligible for a Billboard Overlay District, a site must meet the requirements of this Section.

A. Minimum Site Area.

- 1. The site must be at least fifty (50) acres in size.

2. This requirement may be met by one parcel of land fifty (50) acres or more in size, or a combination of adjoining parcels of land under the same ownership, that are not separated by a right-of-way dedicated to the City, that are collectively fifty (50) acres or more in size.
- B. **Minimum Freeway Frontage.** The site must have a minimum of 1,500 feet of frontage along a Freeway.

11-25-4: - DEVELOPMENT STANDARDS FOR BILLBOARDS

A. **General Development Standards.**

1. Billboards are required to comply with A.R.S. Title 28, Chapter 23, Article 1, and the development standards established in this Chapter.
2. No deviations from the development standards identified in this Chapter are permitted unless the deviation is more restrictive.
3. For all other land uses on the site, compliance with the specific development standards for the underlying base zoning district is required and cannot be modified through the Billboard Overlay District.

B. **Setback Requirements.** Setbacks for Billboards must adhere to the standards of the underlying base zoning district except for setbacks from the Freeway, in which the following setbacks shall apply:

1. **Minimum Setback from Freeway.** The minimum setback to a Freeway right-of-way is zero (0) feet, distance measured from the nearest edge of the Billboard face to the nearest edge of the Freeway right-of-way.
2. **Maximum Setback from Freeway.** A Billboard must be located within 250 feet of a Freeway right-of-way, distance measured from the furthest edge of the Billboard face to the nearest edge of the Freeway right-of-way.
3. **Encroachment into Right-of-Way Prohibited.** No portion of a Billboard shall overhang or encroach into the right-of-way.

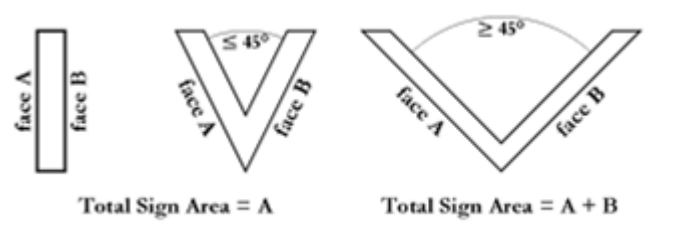
C. **Spacing Requirements.**

1. **Billboards or Freeway Landmark Monuments.** No portion of a Billboard may be placed within 1,200 feet of another Billboard or Freeway Landmark Monument, including billboards and Freeway Landmark Monuments located in neighboring jurisdictions, distance measured from the nearest edge of the Billboard face to the nearest edge of the nearest billboard face or Freeway Landmark Monument face.
2. **Residential Zoning District or Residential Use.** No portion of a Billboard may be placed within 500 feet of a Residential Zoning District (RS, RSL, or RM) or residential use unless the residential use is part of a mixed-use development.

D. **Number and Size Requirements.**

1. **Maximum Number.** No more than two (2) Billboards are permitted within a Billboard Overlay District.
2. **Billboard Sign Area.**
 - a. *Maximum Sign Area.* The maximum sign area of a Billboard is limited to 672 square feet per sign face.
 - b. *Sign Area Dimensions.* The maximum vertical dimension of a Billboard's sign face is fourteen (14) feet and the maximum horizontal dimension of a Billboard's sign face is forty-eight (48) feet.
 - c. *Back-to-Back.* Back-to-Back are permitted with the maximum sign area allowed for each face as shown on Figure 11-25-4.C.2.
 - d. *"V" Shaped Billboards.*
 - i. A Billboard may be "V" shaped, provided the interior angle between the two sign faces is forty-five (45) degrees or less.
 - ii. If the angle between the two (2) sign faces is greater than forty-five (45) degrees, the sign area is the sum of the areas of the two (2) sign faces as shown on Figure 11-25-4.C.2.

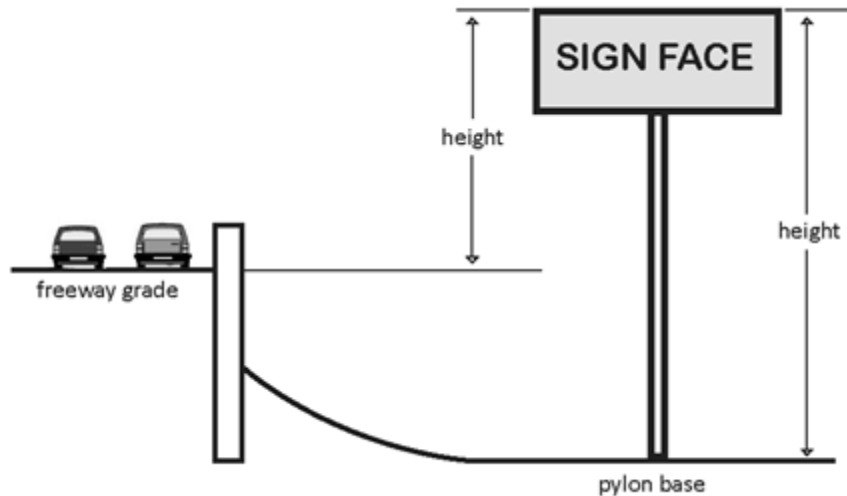
Figure 11-25-4.C.2



- e. *Embellishments.* A Billboard's maximum sign area may be exceeded by up to 20% by a Billboard embellishment.
 - f. *Standards of Measurement for Billboards and Embellishments.* Billboards and embellishments shall be measured by the smallest square, rectangle, triangle, circle or combination of the smallest square, rectangle, triangle, or circle that will encompass the entire Billboard or the entire embellishment, excluding base or apron supports, pylons, and other structural parts.
3. **Billboard Height.** The maximum height of a Billboard is:

- a. Forty-eight (48) feet, as measured from the grade of the adjacent Freeway's main travel lanes to the highest point of the Billboard, including embellishments and attachments (see Figure 11-25-4.C.3); and
- b. Seventy (70) feet, as measured from the base of the Billboard pylon to the top of the highest component of the Billboard (see Figure 11-25-4.C.3).

Figure 11-25-4.C.3



- E. **Auditory Effects.** Auditory effects, including music, are prohibited as part of any Billboard.
- F. **Electronic Billboard Requirements.** Electronic Billboards must comply with the following:
 1. *Copy Change.* Copy must not change more than once every eight (8) seconds.
 2. *Message Animation.*
 - a. Animation, video, flashing, blinking, or moving lights are prohibited.
 - b. In the transition between copy, there must not be any sense of movement from one message to the next.
 3. *Malfunction.* An electronic Billboard must contain a default design mechanism that freezes copy in one (1) position if a malfunction occurs.
- G. **Lighting Controls.**
 1. *Electronic Billboards.*

- a. *Evening Illumination.* Illumination of electronic Billboards must not exceed 300 nits in full white mode in evening hours (from sunset until 11 p.m.).
 - b. *Automatic Dimming.* Electronic message panels must include automatic lighting control technology to dim, control, and vary the intensity of the display based on ambient light conditions (e.g. daytime, nighttime, partial shade, or cloudy conditions) through a photoelectric sensor that detects ambient light levels and automatically adjusts the display intensity to ensure compliance with the maximum nit levels in this Section.
2. *Nighttime Illumination.* All electronic and non-electronic Billboard illumination must be extinguished in nighttime hours (from 11 p.m. until sunrise), except for amber alerts and emergency messaging.

11-25-5: - BILLBOARD APPLICATION, PERMITS, AND MAINTENANCE

- A. **Application Requirements.** The requirements and procedures for submission and consideration of an application for a Billboard permit are provided in Chapter 67, Common Procedures, and must include:
 1. Graphic depictions of the Billboard, in plan and elevation views, including:
 - a. A description of the Billboard type and materials used for the Billboard and Billboard structure.
 - b. Dimensions of the Billboard defining the proposed Billboard sign area including copy.
 - c. Dimensions of the Billboard structure.
 2. A site plan depicting, at a minimum:
 - a. The Billboard location.
 - b. The Billboard's distance from all property lines.
 - c. The Billboard's distance from structures on the site.
- B. **Building Permit.** A Billboard is required to obtain a permit and comply with all requirements of Title 4, Chapter 1 of the Mesa City Code including the requirements relating to permits, inspections, fees, and penalties.
- C. **Maintenance.** All Billboards must be maintained according to this Section.
 1. It is unlawful for a Billboard to remain in a damaged or deteriorated condition that constitutes a danger or hazard to public safety or a visual blight.

2. All Billboards must be maintained to the following standards of structural repair and visual appearance:
 - a. All structural and nonstructural components must be positioned and secured in accordance with approved plans for the Billboard;
 - b. Any deteriorated, damaged, or weakened components must be promptly repaired or replaced;
 - c. All copy and painted surfaces of a Billboard must be free of chipping, peeling, rusting or other oxidation of metals, and fading of colors;
 - d. Billboards must be maintained in working order; and
 - e. If a permit is required per Title 4 of the Mesa City Code for any Billboard maintenance or repair activities, the permit must be obtained prior to commencing work and all work must be done in accordance with permit requirements.

11-25-6: -DEVELOPMENT AGREEMENT OR INTERGOVERNMENTAL AGREEMENT

- A. A development agreement or intergovernmental agreement is required in conjunction with a Billboard Overlay District.
- B. The agreement must be approved prior to or concurrently with the approval of the Billboard Overlay District.
- C. The development agreement or intergovernmental agreement may include, but is not limited to:
 1. Requirements that Billboards, or permission for Billboards to, display public service announcements, public announcements, event announcements, or other announcements.
 2. Removal of an existing Freeway Landmark Monument on the site.
 3. Requirements, standards, or limitations for Billboards which may be established as conditions of approval for the Billboard Overlay District.

Section 2: That Mesa City Code Title 11, Chapter 45 Section 11-45-1(A), is hereby amended as follows:

11-45-1: - PROHIBITED SIGNS

- A. The following signs are prohibited:
 1. Discontinued Signs

2. Pennants, streamers, and whirligigs
3. Portable Message Center Signs
4. Reflective Signs
5. ~~Billboards or Advertising For Hire Signs~~
6. ~~Off-site Signs~~
75. Animated Signs
86. Signs that employ intermittent or flashing illumination, stereopticon, motion picture, rotation or other movement, visible moving parts, or any device creating the optical illusion of motion.
97. Signs that emit sound or odor.
108. The use of strobe lights or similar intermittent light devices, separately, or as part of a sign or to illuminate a sign.
119. Any sign which is structurally unsafe, unsafely installed, or otherwise hazardous to physical safety.
1210. Signs not authorized by the property owner.

Section 3: That Mesa City Code Title 11, Chapter 50 Section 11-50-2 is hereby amended to revise the following definitions, which are arranged in alphabetical order, to reference the definitions in Chapter 87. All the other definitions in Section 11-50-2 shall remain the same.

11-50-2: - DEFINITIONS: A THROUGH C

~~Advertising For Hire Sign: A sign on which display space is made available to a person in exchange for rent, fee, or other consideration; does not include the owner of the sign, operator of the sign or the occupant of a parcel who rents tenant space on the same parcel or Group C-O-I Development as the sign.~~ **AS DEFINED IN CHAPTER 87 – DEFINITIONS.**

~~Billboard: A permanent off-site sign or a portable off-site sign more than thirty-two (32) square feet or an Advertising For Hire Sign.~~ **AS DEFINED IN CHAPTER 87 – DEFINITIONS.**

Section 4: That Mesa City Code Title 11, Chapter 50 Section 11-50-6 is hereby amended to revise the following definitions, which are arranged in alphabetical order, to reference the definitions in Chapter 87. All the other definitions in Section 11-50-2 shall remain the same.

11-50-6: - DEFINITIONS: O THROUGH R

~~Off-site Sign: A sign portraying information or directing attention to a business, activity, commodity, service, product, or entertainment which is not conducted, sold, or offered on the~~

~~premises upon which the sign is located. Does not include portable signs thirty-two (32) square feet or less. AS DEFINED IN CHAPTER 87 – DEFINITIONS.~~

Section 5: That Mesa City Code Title 11-is hereby amended by adding a new Chapter 51 titled “Billboards” as follows:

CHAPTER 51 – BILLBOARDS

11-51-1: - BILLBOARDS

- A. Billboards, including Off-Site Signs, and Advertising for Hire Signs, are prohibited in all zoning districts except that Billboards, including Off-Site Signs, and Advertising for Hire Signs, are permitted in an approved Billboard Overlay District in compliance with Chapter 25 of the Zoning Ordinance.
- B. Billboards, including Off-Site Signs, and Advertising for Hire Signs, are governed by and must comply with Chapter 25 – Billboard Overlay District.

Section 6: That Mesa City Code Title 11, Chapter 87 is hereby amended to add the following definitions which shall be arranged in Chapter 87 in alphabetical order. All the other definitions in Chapter 87 shall remain the same.

ADVERTISING FOR HIRE SIGN: A SIGN ON WHICH DISPLAY SPACE IS MADE AVAILABLE TO A PERSON IN EXCHANGE FOR RENT, FEE, OR OTHER CONSIDERATION; DOES NOT INCLUDE THE OWNER OF THE SIGN, OPERATOR OF THE SIGN OR THE OCCUPANT OF A PARCEL WHO RENTS TENANT SPACE ON THE SAME PARCEL OR GROUP C-O-I DEVELOPMENT AS THE SIGN.

BILLBOARD: A PERMANENT OFF-SITE SIGN OR A PORTABLE OFF-SITE SIGN MORE THAN THIRTY-TWO (32) SQUARE FEET OR AN ADVERTISING FOR HIRE SIGN.

OFF-SITE SIGN: A SIGN PORTRAYING INFORMATION OR DIRECTING ATTENTION TO A BUSINESS, ACTIVITY, COMMODITY, SERVICE, PRODUCT, OR ENTERTAINMENT WHICH IS NOT CONDUCTED, SOLD, OR OFFERED ON THE PREMISES UPON WHICH THE SIGN IS LOCATED. DOES NOT INCLUDE PORTABLE SIGNS THIRTY-TWO (32) SQUARE FEET OR LESS.

Section 7: RECITALS. The recitals above are fully incorporated in this Ordinance by reference, and each recital represents a finding of fact and determination made by the City Council.

Section 8: AMENDED LANGUAGE. In the sections of this Ordinance that modify the current language of the Zoning Ordinance (i.e., Sections 2, 3, 4, and 6), new language is shown in **BOLD ALL CAPS** and deleted language is shown is ~~strikethrough~~.

Section 9: REPEAL OF CONFLICTING ORDINANCES AND PRESERVATION OF RIGHTS AND DUTIES. That any sections of the Mesa Zoning Ordinance or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not affect suits pending,

rights and duties that matured or were existing, penalties that were incurred or proceedings that were initiated prior to the effective date of this Ordinance.

Section 10: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 11: COMMERCIAL ZONING DISTRICT. The Billboard Overlay District enacted by this Ordinance is a commercial zoning district that helps provide for the orderly, well-planned, and balanced growth of commercial areas by encouraging the development or redevelopment of large or underutilized sites along a freeway and creating unique commercial opportunities for those large or underutilized sites while conserving and promoting public health, safety, and general welfare through development standards for Billboards that protect the visual quality of the commercial areas. Additionally, the Billboard Overlay District is a commercial zoning district for purposes of A.R.S. § 28-7902(A)(5)(a).

Section 12: SEVERABILITY. If any term, provision, section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid, unenforceable, or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance and the remaining portions of this Ordinance shall remain in effect. For the avoidance of doubt, if any term, provision, section, subsection, sentence, clause, phrase, or portion of Chapter 25 of the Zoning Ordinance, as adopted by Section 1 of this Ordinance, is for any reason held to be invalid, unenforceable, or unconstitutional by the decision of a court of competent jurisdiction, Billboards, Off-site Signs, and Advertising for Hire Signs shall be prohibited in every zoning district. In such instance, any Billboard that was approved through an approved Billboard Overlay District in compliance with Chapter 25 of the Zoning Ordinance will become a legal nonconforming use provided the Billboard meets the requirements for legal nonconforming uses in the Mesa Zoning Ordinance.

Section 13: 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 Ordinance after previously having been found responsible for committing 3 or more civil violations of this Ordinance within a 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 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 Subsection except on the condition that the person pay the mandatory minimum fines as provided in this Subsection.
- B. 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 COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 4th day of March 2024.

APPROVED:

Mayor

ATTEST:

City Clerk