



## City Council Report

**Date:** July 9, 2018

**To:** City Council

**Through:** Karolyn Kent, Assistant City Manager

**From:** Christine Zielonka, Development Services Director  
Angelica Guevara, Development Services Project Manager

**Subject:** Amend Title 11, Mesa City Code, Chapter 41 Sign Regulations (also known as the Sign Code) by repealing Chapter 41 in its entirety and replacing it with Chapters 41 through 50.

### **PURPOSE AND RECOMMENDATION**

In 2015, the U.S. Supreme Court decided in *Reed vs. Town of Gilbert* that categorizing signs differently based on their content violates the First Amendment and is unconstitutional. The primary purpose of the update to the Sign Ordinance is to replace content-based regulations with form-based or content-neutral regulations. In addition, there is a need to standardize size allowances for portable signs. The update also presented an opportunity to update other provisions of the sign code.

To accomplish consistency with the U.S. Supreme Court decision, staff is recommending an amendment to Chapter 41 Sign Regulations of the Zoning Ordinance by replacing it with Chapters 41 through 50. Staff recommends approval of the proposed changes described in summary below and provided in detail in the attached Draft Sign Ordinance.

### **BACKGROUND**

The US Supreme Court decision of 2015 has affected most sign regulations throughout the country. Like many other cities in the United States, the City of Mesa has had to revise the content-based regulations with content-neutral or form-based regulations as the Court determined sign regulations could not be based on the sign's content or message. This means the City's sign allowances cannot be based on the signs' message. In addition, size allowances for portable signs must be standardized.

The last comprehensive update to the Sign Regulations was approved in 1986, making it overdue for an update. Additional staff objectives for the update included modernizing the sign regulations to make them more user-friendly and to provide sign allowances that reflect the changes that have occurred in the construction of building sizes in the last 30 years, all while trying to provide a rough equivalency to the sign areas allowed by the existing sign regulations.

## **ORGANIZATION OF THE SIGN ORDINANCE**

The existing sign regulations contain all allowances within one chapter. This makes it challenging to find a specific section or topic because it is buried within the numerous pages of the chapter. One of the goals of the update is to reorganize the ordinance to make it easier for the reader to find specific allowances. This is accomplished by dividing the topics into the following ten chapters:

- Chapter 41: Introductory and General Provisions
- Chapter 42: Portable Signs
- Chapter 43: Permanent Signs
- Chapter 44: Historic Signs
- Chapter 45: Prohibited Signs
- Chapter 46: Use Permits, Variances, and Interpretations
- Chapter 47: Sign Permits
- Chapter 48: Nonconforming Signs
- Chapter 49: Maintenance, Removal, Disposal, Violations, and Enforcement
- Chapter 50: Definitions

## **PORTABLE SIGNS**

The update to the portable sign allowances based on content neutrality required a focus on the measurable aspects of signs and the context of placement. This has been accomplished by classifying the sign form based on materials, structure type, method of anchoring to the ground, location, and context of placement, all to provide allowances for the number, height, area, setback distance from the street, and spacing between signs. One of the potential effects of the proposed changes is an increase in the number of portable signs. In addition, some portable signs will be smaller while others will be larger due to the needed standardization of sizes.

## **PERMANENT SIGNS**

The update to the permanent sign allowances must also be based on content neutrality, therefore, the permanent sign allowances are also focused on the measurable aspects of signs and the context of placement. As was done with portable signs, the permanent sign allowances are classified by the sign form based on location, context, materials, structure type, placement on a building or the ground, which then determines the allowances for the number, height, area, and spacing between signs. In addition, staff has increased certain sign area maximums to recognize the increased scale of recent commercial development, increased the number of

signs allowed in multiple tenant projects in office districts, and updated the minimum design standards.

### **OTHER CHANGES TO SPECIFIC SIGN ALLOWANCES**

Other additional changes included in the update are provided below:

#### *Window Signs*

Window signs may cover up to 25% of the area of the window and the area will not be counted towards the maximum attached sign area. In the Downtown area, the allowance will remain at 30% of the area of the window.

#### *Statues, Sculptures, and 3-D Figures*

Allowed in multiple residence, commercial, and industrial districts and transects. 50% of the area of the statue would be counted against the total allowable sign area if it is located within 100' of the right-of-way.

#### *Electronic Message Panels*

Messages can be electronically changed after remaining static for a period of eight seconds. In addition, there are reduced lighting levels required from dusk to dawn and no illumination allowed from 11 pm to sunrise when located 150' from residential when not blocked by an intervening building or in the Downtown Pedestrian Area.

#### *Subdivision Entry Signs*

Increasing the allowed number of signs to two at two entrances with a maximum sign area of 20 sq. ft. for each sign.

#### *Expansion of the Downtown Pedestrian Area*

The current Downtown Pedestrian Area extends between Country Club Dr. at the western boundary, to Centennial Way/Sirrine at the eastern boundary, and from 1<sup>st</sup> Street at the northern boundary, to 1<sup>st</sup> Avenue at the southern boundary, encompassing approximately 115 acres. The eastern end of the boundary is extended to Mesa Drive adding approximately 60 acres to the Downtown Pedestrian Area.

#### *Murals*

Murals will be allowed throughout the City, in any Zoning District. Sign copy within a mural exceeding 2" in height and readable beyond the lot boundary or 50', whichever is more, will count towards the allowable sign area.

#### *Air Activated and Balloon Signs*

There was a desire by Council to remove the prohibition of air activated and balloon signs and to allow their display on a temporary basis. In response, an allowance has been added which will allow these types of signs for a maximum of 30 days in a calendar year similar to the

allowance provided for banner signs.

## **PUBLIC REVIEW**

The Public Review Draft Sign Code was released on December 28, 2017 for public review. An electronic version was posted on the project's webpage on the City's website, paper copies were delivered to each of the libraries and made available for public review, and emails were sent to a list of stakeholders identified by staff and to individuals identified as having an interest in the Sign Code Update.

After the release of the public review draft, staff held a public meeting and made various presentations at neighborhood meetings, the Chamber of Commerce, multiple City Advisory Boards, and at the Development Advisory Forum. The public review period concluded on March 31, 2018.

## **COMMENTS AND CONCERNS**

Staff received many good comments that generated a lot of good discussion between staff. Comments were received from residents, neighborhood groups, sign company employees, members of the Chamber of Commerce, members of the Arizona Sign Association, the International Sign Association, the Institute for Justice, the West Mesa Community Development Corporation, City Advisory Board Members, and from City Council Members. The major comments and concerns are summarized below:

- Concern with the number of days banners can be displayed;
- Concern raised over the lack of window sign regulation;
- Concern with proposed nighttime illumination restriction;
- Concern with murals allowed in residential zoning;
- Concern that air activated and balloon signs are prohibited and not allowed on a temporary basis;
- Concern that sign area measurement is too restrictive and should allow the use of multiple geometric shapes;
- Concern that language in draft is subjective because it is difficult to discourage the use of raceways;
- Concern with the 2:1 horizontal to vertical ratio of detached signs;
- Concern with the limit to the individual maximum sign area of 160 sq. ft.;
- Concern with a lack of a maximum address sign area;

Staff analyzed and considered all comments received. General grammar and sentence structure changes along with reference revisions were made throughout the document and to help clarify the code language. In addition, staff revised the Public Review Draft to include the following major changes addressing the comments and concerns received and are listed below by Chapter:

#### Chapter 41: Introductory and General Provisions

- Added an additional item to the purpose list.
- Removed the illumination restrictions to static signs.
- Changed lighting measure from watt to foot candle and added measurement criteria for electronic message panels.

#### Chapter 42: Portable Signs

- Clarified language in the footnotes of the Tables.
- Moved the description and map of the Downtown Pedestrian Area into Chapter 50 Definitions.
- Reduced banner display allowance from 45 days to 30 non-consecutive days per calendar year.
- Included temporary allowance for air activated and balloon signs in non-residential districts.

#### Chapter 43: Permanent Signs

- Added additional Architectural Compatibility in Design Standards.
- Added additional Design Standards for Attached Signs.
- Added additional Design Guidelines for Raceways.
- Added additional Design Guidelines for embellishment on freestanding signs.
- Electronic Message Panel message changes are allowed a 2 second transition and illumination levels are measured using a foot candle measure.
- Moved the Historic Sign allowances to Chapter 44.
- 50% of the area of Statues, Sculptures, and 3-D Figures are counted toward the total allowable sign area if location is within 100' of the right-of-way.
- Window Signs may cover up to 25% of the area of the window.

#### Chapter 44: Historic Signs

- Moved Historic Signs and Historic Sign Designation to this Chapter.
- Modified language to allow the designation of "Historic Signs"

#### Chapter 45: Prohibited Signs

- Removed Air Activated Signs from the list of Prohibited Signs.
- Removed Balloon Signs from the list of Prohibited Signs.
- Added the following to the list of Prohibited Signs:
  - Off-site Signs
  - Signs that are structurally unsafe, unsafely installed, or hazardous to physical safety.
  - Signs not authorized by the property owner.
- Added the following to the list of Prohibited Conditions:
  - Signs placed to prevent or inhibit free ingress to or egress from any entry,

- fire escape, building or site.
- Any sign not maintained in good condition.

#### Chapter 46: Use Permits, Variances, and Interpretations

- Moved Historic Sign Designation to Chapter 44.

#### Chapter 47: Sign Permits

- Removed Community Bulletin Boards from the list of Signs Not Requiring a Sign Permit.
- Added “A change in sign face with no structural or electrical changes or alterations” to the list of Signs and Actions Not Requiring a Sign Permit.
- Added Vehicle Signs to the list of Signs and Actions Not Requiring a Sign Permit.
- Added a requirement for photographs of the site to be provided with a Sign Permit application showing no unauthorized signs displayed on the property.

#### Chapter 48: Nonconforming Signs

- No major changes proposed.

#### Chapter 49: Maintenance, Removal, Disposal, Violations, and Enforcement

- Added the notice period for permanent signs at 28 days.
- Added the notice period for portable signs at 3 days.

#### Chapter 50: Definitions

- Added Downtown Pedestrian Area definition and map showing the location.
- Added “Does not include portable signs 32 sq. ft. or less” to the definition of Off-site Sign.
- Revised the definition of Portable Sign.
- Revised the definition of Roof Sign.
- Revised the definition of Window Sign.

### **FINAL DRAFT**

After incorporating all the comments mentioned above, staff released the Final Draft Sign Code on April 19, 2018. An electronic version of the Final Draft Sign Code was posted on the project’s webpage on the City’s website and paper copies were delivered to each of the libraries and made available for continued public review. Staff followed up with interested individuals to ensure they received the Final Draft Sign Code.

Additional concerns were received by staff at the Planning and Zoning Board Hearing on the measure used for illumination and on the proposed illumination restrictions. This concern resulted in the deletion of the illumination restriction for static signs. For electronic message displays a change from watts to foot candles was made which will make it easier to measure

and determine when a panel exceeds the allowed illumination level. Both items were incorporated into the Final Draft.

#### **FISCAL IMPACT**

The fiscal impact of the code update is associated with costs for personnel time to become familiar with the new code.

#### **COORDINATED WITH**

This code update has been a joint effort with staff from the City Attorney's Office.

In addition, staff from the Transportation and Engineering Departments have been consulted and agree with the updates.

Representatives from the Arizona Sign Association and the International Sign Association have also reviewed the proposed update, have provided comments that were incorporated into the final draft and are supportive of the update.

#### **STAFF RECOMMENDATION**

The updated Sign Ordinance was completed because the existing Sign Regulations were due for an update and needed to be revised to conform to the 2015 U.S. Supreme Court decision of Reed vs. Town of Gilbert. To accomplish consistency with that decision and provide a Sign Ordinance that better addresses the needs of the community, staff is recommending the Council approve the amendment to Chapter 41 Sign Regulations (also known as the Sign Code), of the Mesa City Code by repealing Chapter 41 in its entirety and replacing it with Chapters 41 through 50.