

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, REPEALING IN ITS ENTIRETY THE EXISTING CHAPTER 41 OF TITLE 11 OF THE MESA CITY CODE ENTITLED SIGN REGULATIONS AND ADOPTING BY REFERENCE THE PUBLIC RECORD KNOWN AS “2018 SIGN CODE”, AS CHAPTERS 41 THROUGH 50 OF TITLE 11, THE ZONING ORDINANCE OF THE MESA CITY CODE; PROVIDING PENALTIES FOR THE VIOLATIONS THEREOF; PRESERVING RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS WHICH HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, the last comprehensive update to Chapter 41: Sign Regulations of the Mesa Zoning Ordinance of the Mesa City Code was approved in 1986; and

WHEREAS, the 2015 United States Supreme Court in *Reed v. Town of Gilbert* ruled that sign regulations, including the categorizing of different signs, must be content neutral; and

WHEREAS, City staff has revised the City’s sign regulations to comply with the *Reed* decision by amending the content-based regulations with content-neutral and form-based regulations, and standardizing size allowances; and

WHEREAS, the changes further Council’s intent of having prescriptive standards that specify sign allowances within the Mesa corporate limits; and

WHEREAS, the City desires to adopt a more efficient and business-friendly sign code by updating and modernizing the sign regulations and providing sign allowances that reflect the changes that have occurred in the construction of building sizes in the last 30 years; and

WHEREAS, the City seeks to comply with the *Reed* decision while also recognizing the legitimate needs of sign users, assuring the use of a variety of sign forms, protecting the aesthetic and environmental values of the community, avoiding visual clutter and an overconcentration of signs, and facilitating traffic safety; and

WHEREAS, City staff has conducted a complete review of the sign regulations and the public document has been available for review and inspection.

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

SECTION 1: REFERENCE AND ADOPTION OF “2018 SIGN CODE”

That certain document known as “2018 Sign Code” is made a public record by resolution by the Mesa City Council on July 2, 2018, is hereby adopted as Chapters 41 through 50 of Title 11, the Zoning Ordinance of the Mesa City Code.

SECTION 2: REPEAL OF CONFLICTING ORDINANCES

That all Ordinances or parts of Ordinances, and all sections of the Mesa City Code or parts of such sections in conflict herewith, are hereby repealed; provided that such repeal shall not:

- A. Affect suits pending, or rights and duties that matured or were existing, or penalties that were incurred and proceedings that were begun immediately prior to the effective date of this Ordinance;
- B. Impair, void or affect and grant or conveyance made, or any right acquired, or a cause of action now existing under such repealed portions.

SECTION 3: The recitals above are fully incorporated in this Ordinance by reference.

SECTION 4: The effective date of this Ordinance shall be thirty (30) days following adoption by Mesa City Council.

SECTION 5: If any term, provision, 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, unenforceable, or unconstitutional by the decision of a Court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in effect.

SECTION 6: No regulation contained in the Mesa Sign Ordinance shall prevent the erection, construction, and maintenance of signs if, and to the extent, authorized by Arizona Revised Statutes, Arizona law and federal law.

SECTION 7: 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 Ordinance 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 Ordinance 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 Services 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 described above 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 three (3) or more civil violations of this Ordinance 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 class 1 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a class 1 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 Section, 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 9th day of July, 2018.

APPROVED:

Mayor

ATTEST:

City Clerk