

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING SECTION 11-43-7 OF THE CITY OF MESA ZONING ORDINANCE PERTAINING TO FREEWAY LANDMARK MONUMENTS. THE AMENDMENTS INCLUDE BUT ARE NOT LIMITED TO CODIFYING DEVELOPMENT STANDARDS; MODIFYING THE ELIGIBLE LOCATION STANDARDS; MODIFYING THE NUMBER, SIGN AREA, AND HEIGHT REQUIREMENTS; ADDING SPACING REQUIREMENTS; MODIFYING HEIGHT MEASUREMENTS; MODIFYING DESIGN STANDARDS; ADDING ELECTRONIC MESSAGE DISPLAY STANDARDS; ADDING PROVISIONS SETTING FORTH THE REQUIRED APPROVALS AND REVIEW PROCESS AND A PROCESS TO ALLOW FOR THE MODIFICATION OF DEVELOPMENT STANDARDS; AND ADDING SIGN PERMIT MAINTENANCE STANDARDS; 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 regulations applicable to particular buildings, structures, and land within individual zones; and

WHEREAS, Freeway Landmark Monuments are sign structures intended to be visible from an adjacent designated state or federal freeway; and

WHEREAS, the Arizona Highway Beautification Act (A.R.S. § 28-7901, et al.) includes regulations and standards applicable to outdoor advertising (which includes Freeway Landmark Monuments) along Arizona highways, and pursuant to Arizona law, local governments may enact regulations that are at least as restrictive as those in the Arizona Highway Beautification Act; and

WHEREAS, on May 17, 2004, the City Council, through Resolution No. 8245, adopted the Freeway Landmark Monument Guidelines setting forth design and construction requirements for Freeway Landmark Monuments. The City Council later adopted revised Freeway Landmark Monument Guidelines on April 17, 2006, through Resolution No. 8700; and

WHEREAS, on July 9, 2018, the City Council, through Ordinance No. 5457, adopted a comprehensive update to the City’s sign regulations. The comprehensive update was intended, in part, to adopt a more efficient and business-friendly sign code by updating and modernizing the sign regulations. That update included the current version of Section 11-43-7, which does not contain development standards for Freeway Landmark Monument; and

WHEREAS, it has become apparent that it is in the best interests of the City to amend certain portions of Zoning Ordinance, Section 11-43-7 to codify development standards for Freeway Landmark Monuments within the Zoning Ordinance rather than utilizing design guidelines adopted by resolution. Additionally, it is in the best interests of the City to amend Section 11-43-7 to modify the eligible location standards, number, sign area, and height requirements, height measurements, design standards, and add spacing requirements, electronic message display standards, a review and modification process, and sign permit and maintenance standards applicable to Freeway Landmark Monuments; and

WHEREAS, the amendments to Zoning Ordinance, Section 11-43-7 contained herein conserve and promote the public health, safety, and general welfare by permitting the ongoing use of Freeway Landmark Monument while also protecting the aesthetic and environmental values of the community, avoiding visual clutter and an overconcentration of signs, and facilitating traffic safety; and

WHEREAS, the Planning and Zoning Board at their public hearing on _____, recommended that the City Council _____ the proposed text amendments; and

WHEREAS, Resolution Nos. 8245 and 8700, which adopted the Freeway Landmark Monument Guidelines, will be simultaneously repealed upon the adoption of 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, Section 11-47-3 is hereby repealed in its entirety and replaced with a new Title 11, Section 11-47-3 Mesa City Code as follows:

11-43-7: - FREEWAY LANDMARK MONUMENTS (FLM)

A. **Purpose and Intent.** The purpose and intent of this Section 11-43-7 is to:

1. Promote the effectiveness of individual Freeway Landmark Monuments by preventing the over concentration, improper placement, deterioration, excessive size, and excessive number.
2. Regulate advertising distractions that may contribute to traffic accidents, thereby protecting travelers from injury or damage due to distraction or obstruction of vision, and enhancing the flow of traffic, visual environment, and the convenience, ease, and enjoyment of travel along Mesa's freeways.
3. Assure that public benefits derived from expenditures of public funds for the improvement and beautification of freeways and other public structures and spaces are protected by exercising reasonable control over the character and design of large sign structures.

B. **Applicability.** The provisions of this Section 11-43-7 prevail if conflicts occur with other portions of the Sign Ordinance and govern Freeway Landmark Monuments, regardless of which provision imposes a greater restriction.

C. **Eligibility Requirements.** To be eligible for a Freeway Landmark Monument, a development site must meet the following requirements:

1. **Zoning Districts.** The development site must be zoned Limited Commercial (LC), General Commercial (GC), Planned Employment Park (PEP), Light Industrial (LI), or General Industrial (GI). if the development site is zoned Planned Community (PC) or Infill District-2 (ID-2), a Freeway Landmark Monument may be permitted in conjunction with a commercial or industrial use, if specified as permitted in the approved Community Plan or Infill Plan.
2. **Minimum Site Area.**
 - a. The development site must be at least thirty (30) contiguous acres in size.
 - b. This requirement may be met by one parcel of land thirty (30) 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 thirty (30) acres or more in size.

3. **Frontage.** The development site must have frontage on a freeway and an intersecting arterial street.
- D. **Authorization.** Freeway Landmark Monuments require the following recommendations and approvals:
1. Recommendation by the Design Review Board;
 2. Recommendation by the Planning and Zoning Board;
 3. Approval and issuance of a Council Use Permit in accordance with Section 11-70-6 of the Zoning Ordinance and the standards contained within this Section 11-43-7; and
 4. Issuance of a sign permit in accordance with Title 11, Chapter 47 of the Zoning Ordinance.
- E. **General Development Standards.** Freeway Landmark Monuments are required to comply with A.R.S. Title 28, Chapter 23, Article 1, and the development standards established in this Section 11-43-7.
- F. **Number, Sign Area, and Height Requirements.**
1. **Maximum Number.**
 - a. Eligible development sites are allowed a maximum of one (1) Freeway Landmark Monument, except as set forth in subsection (b) below.
 - b. Eligible development sites with more than 2,000 linear feet of freeway frontage and that are 60 contiguous acres or more in size are allowed a maximum of two (2) Freeway Landmark Monuments.
 2. **Sign Area.**
 - a. The maximum sign area of a Freeway Landmark Monument is determined by the following ratio: maximum one (1) square foot of total sign area per two (2) lineal feet of freeway or arterial frontage, whichever is greater.
 - b. In no instance may the maximum sign area exceed 750 square feet.
 3. **Maximum Height.**
 - a. The maximum height of a Freeway Landmark Monument, including any support structures, attachments, and embellishments, shall not exceed sixty (60) feet, unless a modification to the maximum height is granted as set forth in Section 11-43-7(J)(1) and Subsection c below.
 - b. **Height Measurement.**
 - i. If the natural grade at the base of a Freeway Landmark Monument is higher than, or at the same grade as the freeway, the Freeway Landmark Monument height shall be measured as a vertical distance from the average elevation of the natural grade within a 50-foot radius from all

sides of the Freeway Landmark Monument base to the highest point of the Freeway Landmark Monument.

- ii. If natural grade at the base of the Freeway Landmark Monument is lower than the grade of the freeway or has been reduced to provide a storm water retention basin, the height of the Freeway Landmark Monument shall be measured from the freeway elevation to the highest point of the Freeway Landmark monument.
- c. *Height Exception.* A modification to the maximum height limit may be granted per Section 11-43-7(J)(1), if the following are demonstrated:
 - i. A 60-foot-tall sign is not visible from a vehicle approaching on the same side of the freeway within a sufficient distance to permit vehicles to safely exit the freeway;
 - ii. The proposed sign is no higher than reasonably necessary for the topmost portion of the sign (including sign embellishment) to be visible from a vehicle approaching on the same side of the freeway and located within sufficient distance to permit vehicles to safely exit the freeway; and
 - iii. Visibility of sign area assigned to tenant(s) may not be used as the basis to justify additional sign height.
- d. If a height modification is granted, the maximum height of a Freeway Landmark Monument may be increased but shall not exceed ninety (90) feet.

G. **Spacing Requirements.**

1. ***Freeway Landmark Monuments.***

- a. No portion of a Freeway Landmark Monument may be placed within 2,000 feet of another Freeway Landmark Monument, including Freeway Landmark Monuments located in neighboring jurisdictions, distance measured from the nearest edge of the Freeway Landmark Monument face to the nearest edge of the nearest Freeway Landmark Monument face.
- b. No more than three (3) Freeway Landmark Monuments are permitted on one (1) side of the freeway within one (1) lineal mile of freeway frontage.

2. ***Billboards.*** No portion of a Freeway Landmark Monument may be placed within 1,000 feet of a Billboard, including Billboards located on adjacent properties or in neighboring jurisdictions, the distance measured from the nearest edge of the Freeway Landmark Monument face to the nearest edge of the nearest Billboard face.

3. ***Residential Zoning District or Residential Use.***

- a. No portion of a Freeway Landmark Monument may be placed within 500 feet of a Residential Zoning District (RS, RSL, or RM) or residential use unless:
 - i. The residential use is part of a mixed-use development; or
 - ii. A line-of-sight study or balloon test is conducted and demonstrates the

Freeway Landmark Monument will not be visible to or from any Residential Zoning District or residential use within 500 feet.

- b. In no case may any portion of the Freeway Landmark Monument be placed within 400 feet of a residential use that is not part of a mixed-use development or a Residential Zoning District.
- 4. ***Setback Requirements.*** Setbacks for Freeway Landmark Monuments must adhere to the standards of the underlying base zoning district except for setbacks from the freeway, in which the following setbacks shall apply:
 - a. ***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 Freeway Landmark Monument face to the nearest edge of the freeway right-of-way.
 - b. ***Maximum Setback from Freeway.*** A Freeway Landmark Monument must be located within 250 feet of a freeway right-of-way, distance measured from the furthest edge of the Freeway Landmark Monument face to the nearest edge of the freeway right-of-way.
 - c. ***Encroachment into Right-of-Way Prohibited.*** No portion of a Freeway Landmark Monument shall overhang or encroach into the right-of-way.

H. **Design Standards.**

- 1. ***Architectural Compatibility.*** Freeway Landmark Monuments must complement the development site's primary architecture by incorporating design elements from the development site, such as, materials, form, texture, color, and finish.
- 2. ***Materials.*** Freeway Landmark Monuments shall be constructed with low maintenance, architectural-grade surfacing materials such as metal, masonry, ceramic tile, glass or stucco.
- 3. ***Project Identification.*** The project or destination name should be clearly visible and located towards the topmost visible portion of the Freeway Landmark Monument or located vertically along the side of the Freeway Landmark Monument.
- 4. ***Lighting Controls.***
 - a. ***Exposed Lighting.*** A Freeway Landmark Monument, or portion thereof, may be outlined by exposed neon, argon or krypton tubing, exposed incandescent lighting, or other exposed artificial lighting provided that the subject exposed lighting complies with all of the following:
 - i. It constitutes a design component of the overall Freeway Landmark Monument architecture;
 - ii. Is integrated into the primary physical elements of the Freeway Landmark Monument and is harmonious with the architectural style of the structure;
 - iii. Serves only the purpose of embellishing the nighttime architecture of the

Freeway Landmark Monument, and does not portray an advertising message;

- iv. Is compatible with the land use and architecture of adjacent developments; and
- v. Complies with Section 11-41-3(B) of the Zoning Ordinance regarding signage illumination and the National Electrical Code, as evidenced by submittal of complete design plans and specifications.

b. *Internal Illumination.*

- i. Internally illuminated signs shall have opaque backgrounds so that only the sign copy is illuminated.
- ii. Where a background is integral to the design of a corporate image or registered trademark, the background is to be colored to mute the amount of illumination.

c. *Nighttime Illumination.*

- i. Nighttime illumination is limited to the sign copy or sign message.
- ii. Illumination must be extinguished in nighttime hours (from 11:00 p.m. until sunrise).

- d. *Maintenance.* If any component of the lighting becomes nonfunctional, none of the lighting system may be illuminated until the entire lighting system is repaired and is functioning as intended.

I. **Electronic Message Display.**

- 1. *Copy Change.* Copy may not change more than once every eight (8) seconds.

- 2. *Message Animation Prohibited.*

- a. Animation, video, flashing, blinking, or moving lights are prohibited.
- b. In the transition between copy, there shall not be any sense of movement from one message to the next. No continuous, traveling or scrolling displays are allowed.

- 3. *Electronic Message Display Lighting Controls.*

- a. *Automatic Dimming.* Electronic message displays must include automatic lighting control technology to dim, control, and vary the intensity of the display based on ambient light conditions (e.g. evening and nighttime) 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 11-43-7(I).
- b. *Evening Illumination.* The intensity of the electronic message display lighting shall not exceed 300 nits in full white mode in evening hours (from sunset until

11:00 p.m.).

- c. *Nighttime Illumination.* Illumination of electronic message displays must be extinguished in nighttime hours (from 11:00 p.m. until sunrise).
- d. *Certification.* The applicant must provide written certification from the sign manufacturer that the sign's light intensity has been factory pre-set not to exceed the limits specified above, and the intensity level is protected from end-user manipulation by password-protected software or other method.

J. **Modifications to Development Standards.** City Council may approve modifications or alternatives to the development standards in this Section 11-43-7 upon finding:

- 1. *Site Characteristics.* The development site contains unique or unusual physical conditions, such as topography, proportion, size, or relation the freeway that would limit or restrict visibility; or
- 2. *Design.*
 - a. The proposed or existing development exhibits unique characteristics of land use, architectural style, development site location, physical scale, historical interest or other distinguishing feature that represents a clear variation from conventional development; and
 - b. Such modifications or alternatives are consistent with the intent of these Freeway Landmark Monument provisions and will result in conditions that are commensurate with or superior to the development standards contained in this Section.

K. **Maintenance.**

- 1. All Freeway Landmark Monuments must be maintained according to this Section 11-43-7(K).
- 2. It is unlawful for a Freeway Landmark Monument to remain in a damaged or deteriorated condition that constitutes a danger or hazard to public safety or a visual blight.
- 3. All Freeway Landmark Monuments 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 Freeway Landmark Monument;
 - b. Any deteriorated, damaged, or weakened components must be promptly repaired or replaced;
 - c. All copy and painted surfaces of a Freeway Landmark Monument must be free of chipping, peeling, rusting or other oxidation of metals, and fading of colors;
 - d. Freeway Landmark Monuments must be maintained in working order; and
 - e. If a permit is required per Title 4 of the Mesa City Code for any Freeway Landmark Monument maintenance or repair activities, the permit must be

obtained prior to commencing work and all work must be done in accordance with permit requirements.

Section 2: REPEAL OF RESOLUTIONS. Resolution No. 8245 and Resolution No. 8700, which adopted the Freeway Landmark Monument Guidelines, are hereby repealed in their entirety.

Section 3: 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 4: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 5: 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.

Section 6: 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 Section, 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.
- 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 COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 4th day of November 2024.

APPROVED:

Mayor

ATTEST:

City Clerk