

ORDINANCE NO. 5889

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING SECTION 11-25-4 OF THE CITY OF MESA ZONING ORDINANCE PERTAINING TO BILLBOARDS. THE AMENDMENTS INCLUDE BUT ARE NOT LIMITED TO MODIFYING THE SPACING REQUIREMENTS BETWEEN BILLBOARDS; MODIFYING THE SPACING REQUIREMENTS BETWEEN BILLBOARDS AND RESIDENTIAL ZONING DISTRICTS OR RESIDENTIAL USES; MODIFYING HEIGHT REQUIREMENTS; 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 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 March 4, 2024, the City Council, through Ordinance No. 5847, enacted Chapter 25 of the Zoning Ordinance which includes (1) a Billboard Overlay District that allows 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, it has become apparent that it is in the best interests of the City to amend certain portions of Zoning Ordinance § 11-25-4 to reduce the spacing requirements between Billboards, further refine the spacing requirements between Billboards and residential uses and residential zoning districts, and to modify the height requirement for Billboards; and

WHEREAS, the amendments to Zoning Ordinance § 11-25-4 contained herein conserve and promote the public health, safety, and general welfare by creating reasonable regulations of Billboards which continue to promote an aesthetically pleasing environment and protect residential communities from impacts of Billboards; and

WHEREAS, the Planning and Zoning Board at their public hearing on October 9, 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:

<p>Text written in BOLD ALL CAPS indicates additional or new language.</p> <p>Text written in strike through indicates deletions.</p>

Section 1: That Mesa City Code Title 11, Section 11-25-4(C) is hereby amended as follows:

C. Spacing Requirements.

1. **Billboards or Freeway Landmark Monuments.** No portion of a Billboard may be placed within ~~1,200~~**1,000** 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 ~~h~~**B** 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.~~
 - A. **THE RESIDENTIAL USE IS PART OF A MIXED-USE DEVELOPMENT; OR**
 - B. **A LINE-OF-SIGHT STUDY OR BALLOON TEST IS CONDUCTED AND DEMONSTRATES THE BILLBOARD WILL NOT BE VISIBLE TO OR FROM ANY RESIDENTIAL USE THAT IS NOT PART OF A MIXED-USE DEVELOPMENT OR RESIDENTIAL ZONING DISTRICT WITHIN 500 FEET.**
 - C. **IN NO CASE MAY ANY PORTION OF THE BILLBOARD BE PLACED WITHIN 400 FEET OF A RESIDENTIAL USE THAT IS NOT PART OF A MIXED-USE DEVELOPMENT OR A RESIDENTIAL ZONING DISTRICT.**

Section 2: That Mesa City Code Title 11, Section 11-25-4(D)(3) is hereby amended as follows:

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~~ **THE MAXIMUM HEIGHT OF A BILLBOARD, INCLUDING ANY SUPPORTING STRUCTURES, ATTACHMENTS, AND EMBELLISHMENTS, SHALL NOT EXCEED 60 FEET.**
 - 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).~~ **HEIGHT MEASUREMENT.**
 - I. **IF THE NATURAL GRADE AT THE BASE OF A BILLBOARD IS HIGHER THAN, OR AT THE SAME GRADE AS THE FREEWAY, THE BILLBOARD HEIGHT SHALL BE MEASURED AS THE VERTICAL DISTANCE**

FROM THE AVERAGE ELEVATION OF THE NATURAL GRADE WITHIN A 50-FOOT RADIUS FROM ALL SIDES OF THE BILLBOARD BASE TO THE HIGHEST POINT OF THE BILLBOARD.

II. IF NATURAL GRADE AT THE BASE OF A BILLBOARD IS LOWER THAN THE GRADE OF THE FREEWAY OR HAS BEEN REDUCED TO PROVIDE A STORM WATER RETENTION BASIN, THE HEIGHT OF THE BILLBOARD SHALL BE MEASURED FROM THE FREEWAY ELEVATION TO THE HIGHEST POINT OF THE BILLBOARD.

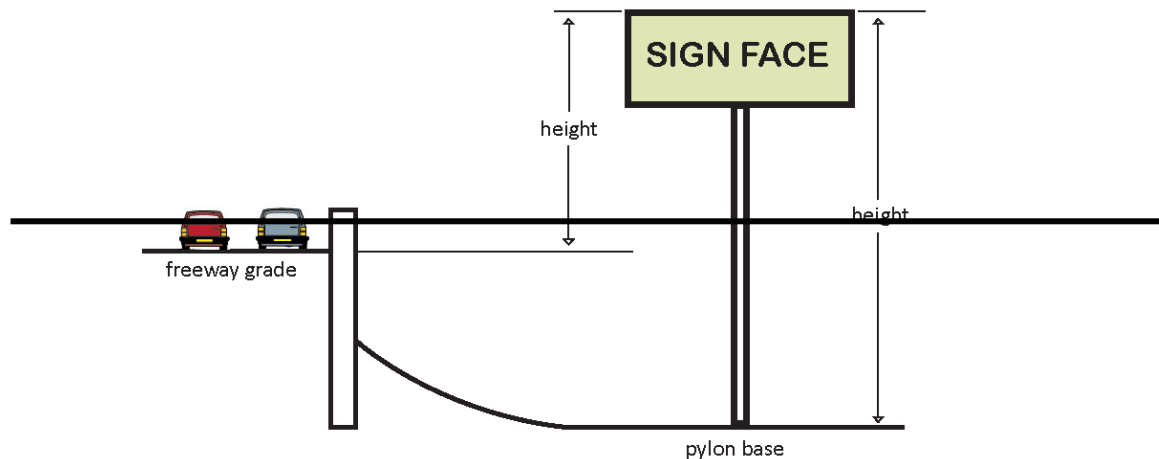


Figure 11-25-4.C.3

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: PRESERVATION OF RIGHTS AND DUTIES. This ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this ordinance.

Section 5: EFFECTIVE DATE. The effective date of this Ordinance is thirty (30) days after the adoption of this Ordinance.

Section 6: 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 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 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.

- 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