

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 13 OF THE MESQUITE CITY CODE, AS PREVIOUSLY AMENDED, BY MAKING CERTAIN ADDITIONS AND DELETIONS UNDER SECTIONS 13-1, 13-5, 13-72, AND 13-73 THEREBY UPDATING CERTAIN REGULATIONS ON SIGNS AND ADDING REGULATIONS FOR “FREEWAY-ORIENTED MARQUEE SIGNS”; PROVIDING A REPEALING CLAUSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”) to protect the public health, safety, and welfare; and

WHEREAS, the City of Mesquite, Texas, (“**City**”) is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

WHEREAS, the City shall have the power to provide for the issuance of permits for erecting all buildings, for the inspection of the construction of buildings in respect to proper wiring for electric lights and other electrical appliances, piping for gas, flues, chimneys, plumbing, and sewer connections; and to enforce proper regulations in regard thereto; and the City shall also have the power to provide for license, permit and inspection fees, pursuant to Article III, [Section 28](#) of the Mesquite City Charter; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code as herein provided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. Recitals Incorporated. The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

SECTION 2. MESQUITE CITY CODE AMENDMENT: Revising Chapter 13, Sections 13-1, 13-5, 13-72, 13-73. The Mesquite City Code, as previously amended, is hereby amended by making certain additions and deletions as identified in **EXHIBIT A**. The amended sections of the Mesquite City Code shall now read as shown as shown in **EXHIBIT B**. Said exhibits are attached hereto and made a part hereof, and in all other respects said Code, Chapters, Divisions, and Sections shall remain in full force and effect.

SECTION 3. Repealing Clause. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. Conflicts Resolution Clause. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 5. Severability Clause. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, the Mesquite City Code, as hereby or previously amended, or the Mesquite Zoning Ordinance, as hereby or previously amended, which shall remain in full force and effect.

SECTION 6. Penalty Clause. Generally. Nothing in this ordinance prohibits the City from pursuing civil and criminal enforcement remedies and penalties concurrently or availing itself of any other remedy allowed by law. **Criminal.** Any violation of the provisions or terms of this ordinance by any “person,” (as defined in Mesquite City Code, Chapter 1, [Section 1-2](#)) shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine not to exceed FIVE HUNDRED DOLLARS (\$500.00) for each offense, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended. **Civil.** The City may also file a civil action for enforcement of this ordinance. **Maximum penalties.** If the maximum penalties provided for by this ordinance for an offense or civil action is greater than the maximum penalty provided for the same offense or civil action under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense or civil action shall be the maximum penalty provided by the laws of the State of Texas.

SECTION 7. Publication. This ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

SECTION 8. Effective Date. This ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on this the **21st day of SEPTEMBER, 2020**.

Bruce Archer
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. _____

MESQUITE CITY CODE

Chapter 13 - SIGNS

* * *

ARTICLE 1. – IN GENERAL

Sec. 13-1. – Definitions.

* * *

Freestanding permanent on-premise sign is a classification of certain sign types. ~~means a freeway-oriented monument sign.~~ Freestanding permanent on-premise signs include gateway signs, marquee signs, monument signs, or pole signs.

~~Freeway-oriented monument sign means a variant of a monument sign that is used exclusively within certain high-speed roadway corridors.~~

Freeway-oriented marquee sign means a marquee sign that is oriented along a freeway and located on the premises, or adjacent to the premises, for which the sign exists to serve. See also Marquee sign.

* * *

Marquee sign means any sign, excluding billboards, that has changeable messages. See also Freeway-oriented marquee sign.

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Sec. 13-5. - City Council variances – Electronic Video Screen (EVS).

- (a) *City Council authority.* The City Council is hereby given the authority to hear and grant variances to the provisions of this Chapter relating to signs ~~the utilization of on-premise signs whose composition includes an~~ utilizing electronic video screens (EVS). ~~A variance granted under this section~~ which may also include variances to the provisions of this Chapter relating to the height, size and design of permitted signs utilizing electronic video screens (EVS).
- (b) *Procedure.* A property owner or the owner's authorized representative may file with the Director an application for variance to allow the placement of an electronic video screen (EVS) in a location of a permitted sign. Such application may also include a request for variance relating to the height, size and design of a permitted sign utilizing electronic video screens (EVS) and shall be made on a form provided by the City. Upon filing of an application, the Director will, within ten (10) business days, determine if the application is complete. If incomplete, the form shall be returned to the applicant noting the areas of deficiency. If complete, the application will be set on the next available City Council agenda, in accordance with the preset schedule for such meetings, for a public hearing. In no event will the hearing date be more than forty-five (45) days from the date the application is deemed complete.
- (c) *Notice.* Notice of the variance hearing shall be by posting on the agenda for the City Council in compliance with applicable law.
- (d) *Criteria.* A variance under this subsection may be granted for an electronic video screen (EVS) in accordance with the following criteria:
- (1) The location of the proposed sign is on property zoned commercial or industrial whether or not the use is commercial or industrial~~;~~
 - (2) The property on which the sign is proposed to be located has a structure or structures that contains a minimum of four hundred forty-four thousand (440,000) square feet under one (1) roof and consists of one (1) use or, where there is more than one (1) use, the uses are similar in nature, or the property is part of a recreation or amusement venue within a designated entertainment district~~;~~
 - (3) The property on which the sign is proposed to be located must front an interstate highway or a public street that runs parallel to an interstate highway and that is visible from the highway~~;~~
 - (4) The sign will not interfere with traffic so as to violate Section 13-72(e) of this Chapter~~;~~
 - (5) The electronic video screen (EVS) shall be a maximum of ~~five~~seven hundred ~~(500)~~700 square feet on each face;
 - (6) An electronic video screen (EVS) shall not emit an audible sound~~;~~
 - (7) Content may not be considered except as permitted by law~~;~~ and
 - (8) No electronic video screen (EVS) shall be approved within a two-mile radius of another electronic video screen (EVS); however, this provision does not apply for a replacement of an existing electronic video screen (EVS) found to be, as proposed, in compliance with this Code and the Mesquite Zoning Ordinance as determined by the Director of Planning & Development Services.

* * *

ARTICLE IV. - SPECIFICATIONS; STANDARDS; USE

Sec. 13-72. - Prohibited signs.

* * *

(d) *Certain illuminated signs.*

* * *

- (4) No electronic video screen (EVS) shall be erected except by City Council variance pursuant to the criteria set forth in [Section 13-5](#); however, a City Council variance is not required for a replacement of an existing electronic video screen (EVS) if it is found to be, as proposed, in compliance with this Code and the Mesquite Zoning Ordinance as determined by the Director of Planning & Development Services.

* * *

~~(k) Off-premise signs with electronic video screens. No person shall use an electronic message center or an electronic video screen in conjunction with any off-premise sign, including billboards.~~

* * *

Sec. 13-73. - Specifications by type of sign.

* * *

(g) **Electronic video screen (“EVS”).** An electronic video screen may be permitted only by City Council variance pursuant to the procedure and criteria set forth in [Section 13-5](#); however, a City Council variance is not required for a replacement of an existing electronic video screen (EVS) if it is found to be, as proposed, in compliance with this Code and the Mesquite Zoning Ordinance as determined by the Director of Planning & Development Services.

(h) Electronic message center.

(1) An electronic message center with a maximum area of fifty (50) square feet may be permitted as a component of a [gateway sign, marquee sign, monument sign, or a pole sign](#), ~~freeway-oriented monument sign or a gateway sign~~. An electronic message center shall be included in the calculation of the maximum area for any sign. Except as expressly provided herein, electronic message centers shall not be used as a component of any nonconforming sign.

(2) Messages displayed shall not change more rapidly than once every five (5) seconds.

(3) An electronic message center shall be equipped with an auto-dimming sensor. The Building Official shall promulgate and enforce brightness standards that are deemed necessary and proper to prevent excessive illumination in violation of [Section 13-72\(d\)](#).

* * *

(k) Marquee Sign – “Freeway-Oriented Marquee Sign.”

(1) A freeway-oriented marquee sign is defined in Section 13-1.

(2) One (1) freeway-oriented marquee sign is permissible when:

a. there is a structure or structures that contains a minimum of four hundred forty-four thousand (440,000) square feet under one roof and consists of one use or, where there is more than one use, the uses are similar in nature; or

b. it is part of a recreation or amusement venue within a designated entertainment overlay zoning district. No more than one freeway-oriented marquee sign is permissible in said entertainment overlay zoning district unless the City Council authorizes a variance for more than one sign within the district.

(3) A freeway-oriented marquee sign may utilize electronic video screens (EVS) on each face when permitted by a variance approved by the City Council pursuant to the procedure and criteria set forth in Section 13-5.

(4) If a freeway-oriented marquee sign utilizes a support pole, it shall be enclosed with masonry material and the width of the enclosure shall be no less than ten percent (10%) of the width of the sign.

[Editor’s Note: Re-letter the remaining types of signs accordingly.]

EXHIBIT B

To Ordinance No. _____

MESQUITE CITY CODE

Chapter 13 - SIGNS

* * *

ARTICLE 1. – IN GENERAL

Sec. 13-1. – Definitions.

* * *

Freestanding permanent on-premise sign is a classification of certain sign types. *Freestanding permanent on-premise signs* include gateway signs, marquee signs, monument signs, or pole signs.

[Editor's Note: Repeal and delete "Freeway-oriented monument sign" and its definition.]

Freeway-oriented marquee sign means a *marquee sign* that is oriented along a freeway and located on the premises, or adjacent to the premises, for which the sign exists to serve. See also *Marquee sign*.

* * *

Marquee sign means any sign, excluding billboards, that has changeable messages. See also *Freeway-oriented marquee sign*.

* * *

* * *

Sec. 13-5. - City Council variances – Electronic Video Screen (EVS).

- (a) *City Council authority.* The City Council is hereby given the authority to hear and grant variances to the provisions of this Chapter relating to signs utilizing electronic video screens (EVS). A variance granted under this section may also include variances to the provisions of this Chapter relating to the height, size and design of permitted signs utilizing electronic video screens (EVS).
- (b) *Procedure.* A property owner or the owner's authorized representative may file with the Director an application for variance to allow the placement of an electronic video screen (EVS) in a location of a permitted sign. Such application may also include a request for variance relating to the height, size and design of a permitted sign utilizing electronic video screens (EVS) and shall be made on a form provided by the City. Upon filing of an application, the Director will, within ten (10) business days, determine if the application is complete. If incomplete, the form shall be returned to the applicant noting the areas of deficiency. If complete, the application will be set on the next available City Council agenda, in accordance with the preset schedule for such meetings, for a public hearing. In no event will the hearing date be more than forty-five (45) days from the date the application is deemed complete.
- (c) *Notice.* Notice of the variance hearing shall be by posting on the agenda for the City Council in compliance with applicable law.
- (d) *Criteria.* A variance under this subsection may be granted for an electronic video screen (EVS) in accordance with the following criteria:
- (1) The location of the proposed sign is on property zoned commercial or industrial whether or not the use is commercial or industrial;
 - (2) The property on which the sign is proposed to be located has a structure or structures that contains a minimum of four hundred forty-four thousand (440,000) square feet under one (1) roof and consists of one (1) use or, where there is more than one (1) use, the uses are similar in nature, or the property is part of a recreation or amusement venue within a designated entertainment district;
 - (3) The property on which the sign is proposed to be located must front an interstate highway or a public street that runs parallel to an interstate highway and that is visible from the highway;
 - (4) The sign will not interfere with traffic so as to violate [Section 13-72\(e\)](#) of this Chapter;
 - (5) The electronic video screen (EVS) shall be a maximum of seven hundred (700) square feet on each face;
 - (6) An electronic video screen (EVS) shall not emit an audible sound;
 - (7) Content may not be considered except as permitted by law; and
 - (8) No electronic video screen (EVS) shall be approved within a two-mile radius of another electronic video screen (EVS); however, this provision does not apply for a replacement of an existing electronic video screen (EVS) found to be, as proposed, in compliance with this Code and the Mesquite Zoning Ordinance as determined by the Director of Planning & Development Services.

* * *

ARTICLE IV. - SPECIFICATIONS; STANDARDS; USE

Sec. 13-72. - Prohibited signs.

* * *

(d) *Certain illuminated signs.*

* * *

- (4) No electronic video screen (EVS) shall be erected except by City Council variance pursuant to the criteria set forth in [Section 13-5](#); however, a City Council variance is not required for a replacement of an existing electronic video screen (EVS) if it is found to be, as proposed, in compliance with this Code and the Mesquite Zoning Ordinance as determined by the Director of Planning & Development Services.

* * *

[Editor's Note: Repeal and delete (k) and re-letter the remaining sub-sections accordingly.]

* * *

Sec. 13-73. - Specifications by type of sign.

* * *

(g) **Electronic video screen (“EVS”).** An electronic video screen may be permitted only by City Council variance pursuant to the procedure and criteria set forth in [Section 13-5](#); however, a City Council variance is not required for a replacement of an existing electronic video screen (EVS) if it is found to be, as proposed, in compliance with this Code and the Mesquite Zoning Ordinance as determined by the Director of Planning & Development Services.

(h) **Electronic message center.**

(1) An electronic message center with a maximum area of fifty (50) square feet may be permitted as a component of a gateway sign, marquee sign, monument sign, or a pole sign. An electronic message center shall be included in the calculation of the maximum area for any sign. Except as expressly provided herein, electronic message centers shall not be used as a component of any nonconforming sign.

(2) Messages displayed shall not change more rapidly than once every five (5) seconds.

(3) An electronic message center shall be equipped with an auto-dimming sensor. The Building Official shall promulgate and enforce brightness standards that are deemed necessary and proper to prevent excessive illumination in violation of [Section 13-72\(d\)](#).

* * *

(k) **Marquee Sign – “Freeway-Oriented Marquee Sign.”**

(1) A *freeway-oriented marquee sign* is defined in [Section 13-1](#).

(2) One (1) *freeway-oriented marquee sign* is permissible when:

- a. there is a structure or structures that contains a minimum of four hundred forty-four thousand (440,000) square feet under one roof and consists of one use or, where there is more than one use, the uses are similar in nature; or
- b. it is part of a recreation or amusement venue within a designated entertainment overlay zoning district. No more than one freeway-oriented marquee sign is permissible in said entertainment overlay zoning district unless the City Council authorizes a variance for more than one sign within the district.

(3) A *freeway-oriented marquee sign* may utilize electronic video screens (EVS) on each face when permitted by a variance approved by the City Council pursuant to the procedure and criteria set forth in Section 13-5.

(4) If a *freeway-oriented marquee sign* utilizes a support pole, it shall be enclosed with masonry material and the width of the enclosure shall be no less than ten percent (10%) of the width of the sign.

[Editor’s Note: Re-letter the remaining types of signs accordingly.]

* * *