

Text written in **BOLD ALL CAPS** indicates new language. ~~Strikethrough~~ fonts indicate proposed language to be deleted.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE ZONING ORDINANCE OF THE MESA CITY CODE; AMENDING SECTIONS 11-8-3 REGARDING ALLOWANCE OF RECYCLING FACILITIES IN THE DOWNTOWN BUSINESS DISTRICTS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, the presence of recycling facilities help to reduce the amount of waste materials otherwise headed for sanitary landfills; and

WHEREAS, small scale recycling facilities may be managed in ways that allow them to be compatible with other commercial activities; and

WHEREAS, public hearing reviews, such as those that are used for Special Use Permits can assist in determining under what conditions a small-scale recycling can be compatible with surrounding sites; NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Section 11-8-3 of the Mesa City Code is hereby amended to include a new sub-section entitled "RECYCLING FACILITIES" in the section entitled "Employment and Industrial Use Classifications" in Table 11-8-3, as described in the table excerpt below. All other portions of the existing Table 11-8-3 remain unchanged.

Table 11-8-3: Downtown Districts							
<i>Proposed Use</i>	<u>DR-1</u>	<u>DR-2</u>	<u>DR-3</u>	<u>DB-1</u>	<u>DB-2</u>	<u>DC</u>	<i>Additional Use Regulations</i>
Employment and Industrial Use Classifications							
<u>Handicraft/Custom Manufacturing</u>	--	--	--	--	P	--	
<u>Manufacturing, Light Cabinet Assembly</u>	--	--	--	--	P	--	
<u>Manufacturing, Limited</u>	--	--	--	--	P	--	
<u>Research and Development</u>	--	--	--	--	P	--	
Warehousing and Storage							
<u>Contractors' Yards</u>	--	--	--	--	SUP	--	
<u>Indoor Warehousing and Storage</u>	--	--	--	--	P	--	
<u>Mini-Storage</u>	--	--	--	--	P	--	
RECYCLING FACILITIES							
<u>REVERSE VENDING MACHINE</u>	--	--	--	P(4)	P(4)	--	<u>SECTION 11-31-23</u>
<u>SMALL INDOOR COLLECTION FACILITY</u>	--	--	--	--	SUP	--	<u>SECTION 11-31-23</u>

Section 2: SEVERABILITY

If any 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 or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

Section 3: 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) above of this Section 3 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.

EACH DAY SEPARATE VIOLATION:

- C. Each day in which a violation of this Title continues, or the failure to perform any act or duty required by this Title or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

- D. A person who commits a violation of this Title after previously having been found responsible for committing three (3) or more civil violations of this Title 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 criminal misdemeanor. The Mesa City Prosecutor is authorized to file a 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.
- E. Upon conviction of a violation of this Subsection, 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.
- F. 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 _____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

EFFECTIVE DATE: