

## ORDINANCE NO. 811

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING CHAPTER 8A "TRANSACTION PRIVILEGE TAX" OF THE TOWN CODE TO INCREASE THE TAX RATE ON CERTAIN CATEGORIES OF TRANSACTIONS FROM 2.33% TO 2.83%; ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR EXISTING CONTRACTS; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING THAT IF ANY PORTION OF THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE VALIDITY OF THE REMAINING PORTIONS SHALL NOT BE AFFECTED; PROVIDING THAT ALL OTHER ARTICLES, SECTIONS, SUBSECTIONS AND REGULATIONS OF CHAPTER 8A, NOT HEREIN AMENDED, SHALL REMAIN IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, general law municipalities in Arizona are authorized to impose a Transaction Privilege Tax (TPT) by Arizona Revised Statute (ARS) §9-240(B)(18) [see, *Centric-Jones Co. v. Town of Marana* (188 Ariz. 464 (App. 1996))]; and

WHEREAS, Ordinance No. 2 of the Town of Prescott Valley, Arizona (Town) adopted a "Transaction Privilege Tax Code" effective October 12, 1978 (which, in turn, established a TPT rate of one percent (1%) on specified categories of transactions); and

WHEREAS, Ordinance No. 99 of the Town (dated May 10, 1984) increased the TPT rate from 1% to two percent (2%) for a period of two (2) years, effective thirty (30) days after its passage and approval; and

WHEREAS, Ordinance No. 148 amended §8-02-030(A) of the Transaction Privilege Tax Code to again provide a TPT rate of 2% (subject to review after 2 years), effective July 9, 1987; and

WHEREAS, Ordinance No. 148 was subsequently amended by Ordinance No. 148(A) to change the effective date from July 9, 1987 to July 20, 1987; and

WHEREAS, Ordinance No. 165 repealed the Transaction Privilege Tax Code and enacted the Arizona Model City Tax Code established by the League of Arizona Cities and Towns (effective November 12, 1987); and

WHEREAS, Ordinance No. 176 (dated April 28, 1988) repealed §8A-445 in the new Tax Code which applied a TPT to the transaction of rental, leasing and licensing for use of real property; and

WHEREAS, Ordinance No. 178 (dated May 26, 1988) re-codified the Town Code and continued to include Chapter 8A which referenced the "Model Town Tax Code" as though fully set forth therein; and

WHEREAS, Resolution No. 330 (dated June 22, 1989) declared that the Mayor and Council had reviewed the 2% TPT rate as required in §3 of Ordinance No. 148, and determined it was not cost-

effective to reduce the TPT rate; and

WHEREAS, Ordinance No. 203 (dated March 23, 1989) repealed Ordinance No. 176 and re-adopted §8A-445 imposing a TPT on the transaction of rental, leasing and licensing for use of real property, but imposed a rate of zero percent (0%) effective retroactively to June 10, 1988; and

WHEREAS, Ordinance No. 211 (dated July 27, 1989) clarified that a 1% TPT rate would apply to contracts entered into before July 20, 1987 for a 180-day period after that date (effective retroactively to July 9, 1987); and

WHEREAS, on July 3, 2002, an ad hoc citizen's committee reviewing options for financing needed street improvements recommended that the TPT rate be raised from 2.00% to two and thirty-three hundredths percent (2.33%) on most transaction categories and the increased revenue be dedicated to finance improvements to the highest priority roadways (including Robert Road, Navajo Drive and Lakeshore Drive); and

WHEREAS, on September 12, 2002, the Town Council adopted Ordinance No. 532 as an emergency measure in accordance with the committee recommendation (effective December 1, 2002); and

WHEREAS, in an effort to make the increased revenue available as needed for financing roadway improvements, Ordinance No. 532 provided it would not be subject to any economic incentives that the Town might thereafter negotiate with respect to reimbursement of transaction privilege or use tax revenues generated by specified commercial developments; and

WHEREAS, from approximately 2008 to 2012, the Town experienced (with the rest of Arizona) the negative effects of the worldwide economic recession which significantly reduced TPT revenues (and other revenues) and required significant reductions in Town expenditures for services (including for maintenance and construction of roadways); and

WHEREAS, as the economy has recovered, the Town has only been able to partially restore such services (including maintenance and construction of roadways); and

WHEREAS, in an effort to restore more services, the Council has determined to raise the TPT rate from 2.33% to two and eighty-three hundredths percent (2.83%) on most transaction categories (but expressly not on the business of mining or rental, leasing and licensing for use of real property) for the support and maintenance of the departments of the Town (*Wade v. Greenlee County*, 173 Ariz 462, 463 (1992); and

WHEREAS, in an effort to make the increased revenue available as needed for financing such services, this Ordinance provides that said revenue will not be subject to any economic incentives that the Town might hereafter negotiate with respect to reimbursement of transaction privilege or use tax revenues generated by specified commercial developments; and

WHEREAS, in accordance with ARS §42-6053(E), notice of this TPT rate change shall be

given to the Municipal Tax Code Commission and the Arizona Department of Revenue (ADOR) within ten (10) days after passage of this Ordinance so that the change may be reflected in the official copy of the model city tax code; and

WHEREAS, in accordance with an Intergovernmental Agreement dated June 25, 2015 between the Town and ADOR for collection of TPTs, a copy of this Ordinance shall also be sent via e-mail to the Cities Unit at [CitiesUnit@azdor.gov](mailto:CitiesUnit@azdor.gov) and shall take effect no earlier than the first day of the month that is at least sixty (60) calendar days after the Town provides the above notice;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA:

Section 1. That the following Sections of Article 8a-01 “ADOPTION OF MODEL TAX CODE” in Chapter 8a “TRANSACTION PRIVILEGE TAX” of the Town Code of the Town of Prescott Valley, Arizona, be hereby amended by increasing the TPT rate from 2.33% to 2.83%:

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|----------------|---|
| Section 8A-405 | Advertising   |
| Section 8A-410 | Amusements, exhibitions, and similar activities.  |
| Section 8A-415 | Construction contracting: construction contractors.   |
| Section 8A-416 | Construction contracting: speculative builders.   |
| Section 8A-417 | Construction contracting: owner-builders who are not speculative builders.                      |
| Section 8A-425 | Job printing.   |
| Section 8A-427 | Manufactured buildings.   |
| Section 8A-430 | Timbering and other extraction.   |
| Section 8A-435 | Publishing and periodicals distribution.  |
| Section 8A-444 | Hotels.   |
| Section 8A-447 | Rental, leasing, and licensing for use of real property: additional tax upon transient lodging. |
| Section 8A-450 | Rental, leasing, and licensing for use of tangible personal property.                           |
| Section 8A-455 | Restaurants and Bars.   |
| Section 8A-460 | Retail sales: measure of tax; burden of proof; exclusions.                                      |
| Section 8A-462 | Retail sales: food for home consumption.  |
| Section 8A-470 | Telecommunication services.   |
| Section 8A-475 | Transporting for hire.  |
| Section 8A-480 | Utility services.   |
| Section 8A-485 | Wastewater removal services.  |
| Section 8A-610 | Use tax: imposition of tax; presumption.  |

Section 2. That the TPT rate increase set forth herein shall be effective from and after January 1, 2016.

Section 3. That the increased TPT rate established herein shall not apply to contracts entered into prior to January 1, 2016.

Section 4. That the additional revenue generated by this increase in the TPT rate shall not be

subject to any economic incentives that the Town may hereafter negotiate with respect to reimbursement of transaction privilege or use tax revenues generated by specified commercial developments.

Section 5. That any person found guilty of violating any provision of these amendments to Chapter 8a of the Town Code shall be guilty of a class one misdemeanor. Furthermore, each day that a violation continues shall be a separate offense punishable as hereinabove described.

Section 6. That, if any article, section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of these amendments to Chapter 8a adopted herein is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 7. That all other articles, sections, subsections and regulations of Chapter 8a "TRANSACTION PRIVILEGE TAX" of the Prescott Valley Town Code, not herein amended, shall remain in full force and effect.

Section 8. That this Ordinance shall be effective 30 days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 22<sup>nd</sup> day of October 2015.

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Harvey C. Skoog, Mayor

ATTEST:

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Diane Russell, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney