

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: August 9, 2012**

SUBJECT: Change to Business License Section of Town Code

SUBMITTING DEPARTMENT: Town Clerk, Legal, Management Services

PREPARED BY: Sarah Herzog, Auditor, for William Kauppi, Management Services Director
Steven Zraick, Deputy Town Attorney
Diane Russell, Town Clerk

AGENDA LOCATION: Comments/Communications , Consent , Work/Study ,
New Business , Public Hearing , Second Reading

ATTACHMENTS: a) Ordinance No. 769, b) Methods currently used to attempt collection of delinquent TPT, c) Proposed changes to Town Business License Code

SUMMARY/BACKGROUND: Since October 12, 1978, the Town of Prescott Valley has administered its own Transaction Privilege/Use Tax Code as its primary source of independent revenue. In 1987, the Town (in conjunction with other Arizona municipalities) adopted a version of the Model City Tax Code which had been established by the Arizona League of Cities and Towns. The purpose of the Model City Tax Code is to standardize local codes as much as possible, yet allow municipalities options to choose from which still fall within the Code's parameters.

Staff continues to combat the unfair business practices of the few businesses that collect, but do not remit, the Transaction Privilege Tax (TPT) to the Town. Businesses that do not remit the tax have a competitive advantage over others who do remit the tax. Our efforts are focused on equal compliance for all our taxpayers.

As of May 2, 2012, we have recorded liens on nineteen businesses for failure to remit TPT. The amount due in total exceeds \$145,000. Of these nineteen businesses, sixteen are contractors, two are retail/amusement businesses and one is a restaurant.

Every week staff actively reviews and contacts numerous businesses for past due sales tax collections. We have six businesses currently on a payment plan for unremitted sales tax collections. The six businesses in total owe \$50,675. There are many other businesses that are under separate audit or payment arrangements with the Arizona Department of Revenue (ADOR).

The Town currently participates in the Offset Debt program through the ADOR to collect past due TPT from taxpayers who may be receiving an income tax refund. If a taxpayer owes money to the Town or another agency, the amount owed may be deducted from their expected refund. The ADOR offsets as much of the refund as is needed in order to pay off overdue taxes owed by delinquent taxpayers.

The Town performs multi-jurisdictional audits, desk reviews and personal contact with various businesses. We follow the Municipal Tax Code requirements and the requirements of our Intergovernmental Agreement with the ADOR.

We have exhausted our allowed resources to collect from some taxpayers and are requesting the option of non-renewal, denial and /or cancellation of Town Business Licenses for the non-compliant taxpayers who

have been through the entire process, including the recording of liens. Although our Tax Code currently would allow us to prosecute delinquent taxpayers for the Class One Misdemeanor of non-payment, staff would prefer that the Business License Code be changed to deny licensing to non-compliant taxpayers and subsequently allow a judgment to be recorded against the taxpayer for operating a business without a Town Business License. Lake Havasu City has a section in their Business License Code allowing them to deny or revoke licensing to non-compliant taxpayers in their municipality and has experienced success with its implementation.

This request for council action was discussed at the July 19, 2012 work-study meeting.

OPTIONS ANALYSIS: The Council may adopt the Ordinance in the timeframe requested, or decline to adopt the Ordinance at this time.

ACTION OPTION: A) Motion to read Ordinance No. 769 by title only on two separate occasions, and then place the same on final passage OR Motion not to read Ordinance No. 769. VOTE.

RECOMMENDATION: Town staff recommends reading Ordinance No. 769 by title only on two separate occasions, and then place the same on final passage.

FISCAL ANALYSIS: The extent of these revenue changes is not yet known. It is anticipated that those taxpayers who wish to continue doing business in the Town will take advantage of our offer of a payment agreement, rather than lose their Town Business License and face prosecution for operating a business without a Town Business License.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____