

Ordinance No. 769

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING SECTION 8-02-090 "REFUSAL OR REVOCATION OF LICENSE" IN ARTICLE 8-02 "BUSINESS LICENSES" IN CHAPTER 8 "BUSINESS" OF THE TOWN CODE TO PROVIDE FOR THE DENIAL, NON-RENEWAL OR REVOCATION OF A BUSINESS LICENSE WHERE THE APPLICANT OR LICENSEE IS IN VIOLATION OF CHAPTER 8A "TRANSACTION PRIVILEGE TAX" AND TO MAKE IT UNLAWFUL FOR ANY PERSON TO ENGAGE IN OR CONDUCT ANY BUSINESS WITHIN THE TOWN OF PRESCOTT VALLEY WITHOUT FIRST SECURING A BUSINESS LICENSE IN ACCORDANCE WITH CHAPTER 8 "BUSINESS" OF THE TOWN CODE; PROVIDING THAT ALL OTHER CHAPTERS, ARTICLES, AND SECTIONS OF THE TOWN CODE, NOT HEREIN AMENDED, SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE 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, Ordinance No. 178 (dated May 26, 1988) adopted the new Town Code of the Town of Prescott Valley, including Chapter 8 "BUSINESS" and Chapter 8a "TRANSACTION PRIVILEGE TAX"; and

WHEREAS, Article 8-02 "Business Licenses" in Chapter 8 "BUSINESS" of the Town Code provides for the issuance of licenses to those engaging in or conducting business within the Town of Prescott Valley; and

WHEREAS, Chapter 8a "TRANSACTION PRIVILEGE TAX" was adopted as the Model Tax Code of Prescott Valley to levy and impose privilege tax on persons engaging in or conducting business within the Town of Prescott Valley to raise revenue to be used in defraying the necessary expenses of the Town; and

WHEREAS, the Town has experienced a rise in the number of licensed businesses that fail or refuse to comply with the Model Tax Code by failing or refusing to file the reports required under the Model Tax Code or to pay the privilege taxes levied and imposed on their business activities; and

WHEREAS, the current remedies available to the Town to obtain compliance of violators of the Model Tax Code have been successful in limited measure; and

WHEREAS, the Town Council believes that to allow non-compliant business owners to continue to engage in or conduct business within the Town of Prescott Valley is not in the best interest of the Town and could be perceived as an unfair business practice by those businesses that are in compliance with the Model Tax Code; and

WHEREAS, the Town Council desires to establish the additional remedy of denying, revoking or refusing to renew a business license where the applicant or licensee is not in compliance with the Model Tax Code; and

WHEREAS, the Town Council may, pursuant to A.R.S. §9-240(B)(19), authorize the Town Clerk to issue licenses, including business licenses, and to direct the manner of issuing and registering the same; and

WHEREAS, the Town Council desires to amend the Town Code to authorize the Town Clerk to deny, revoke or refuse the renewal of a business license where it has been established by the Town's Sales Tax Auditor that a certain business has failed or refused to comply with requirements of the Model Tax Code; and

WHEREAS, the Town Council finds that these Town Code amendments are designed to help preserve the peace, health and safety of the community;

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

SECTION ONE. That Section 8-02-090 "Refusal or Revocation of License" in Article 8-02 "BUSINESS LICENSES" in Chapter 8 "BUSINESS" of the Town Code of the Town of Prescott Valley be hereby amended to read as follows:

8-02-090 Refusal or Revocation of License.

- A. The Town Clerk shall refuse to issue a license, revoke the existing license, or decline to renew an existing license of any applicants or licensees who are in violation of the provisions of this Article.
- ~~B.~~ Any violation of the standards set forth in Section 8-02-080 which occurs after issuance of a business license may also be grounds for revocation or non-renewal of a business license.
- C. Any violation of Chapter 8a "Transaction Privilege Tax" of the Town Code, including without limitation the failure or refusal to make any return required by Chapter 8a or the failure or refusal to remit the full amount of any tax, penalty and interest when due, shall be grounds for revocation or non-renewal of a business license.
- ~~B~~D. A notice of the refusal to issue or renew a license or the revocation of an existing license shall be in writing and delivered or mailed to the applicant(s) and licensee(s), specifying the nature of the violation(s). Notice shall be delivered or mailed to the address of the applicant(s), licensee(s), or statutory agent(s), as shown on the current business license application. The giving of notice shall be completed upon the date of mailing or delivery. Notice of revocation shall be given at least thirty (30) days before the revocation is to take effect. Such written notice may be prepared and signed by any Town official designated by the Town Manager to perform such duties.
- E. A revocation notice arising from a violation of the provisions of this Article shall be void in the event the licensee(s) corrects the violation and complies with the requirements of this Article prior to the expiration of the thirty (30) day notice period. If the licensee(s) fails to correct the noticed violation within the thirty (30) day notice period, the license shall be permanently revoked. The failure of the licensee(s) to correct a noticed violation, resulting in the permanent revocation of a business license, may constitute grounds for refusal to issue a new business license to the offending licensee.

- EF. Applicants and licensees have the right to appeal a denial, revocation or non-renewal of a business license before the Building Department Board of Appeals in the manner specified in Town Code Chapter 7 (as amended).
- DG. If fee payments are made with an insufficient funds check, any business license that has been issued shall be immediately revoked with or without notice to the persons holding the business license.
- EH. Building structures or contents shall continue to conform to all applicable federal, state, county, Town and special district regulations, requirements and codes during the term of applicable business licenses. Where an ongoing maintenance program is necessary to comply with applicable federal, state, county, Town and special district regulations, requirements and codes including, but not limited to, such things as fire extinguishers, hoods and vents over cooking devices a routine inspection by authorized fire, building, zoning, health and safety personnel may occur at any time, to ensure said equipment or structure is kept in proper operating condition. Any remodeling or modification of building structures or contents not approved by authorized fire, building, zoning, health and safety personnel, and which may cause safety or code violations to exist, is grounds for suspension or revocation of any license issued pursuant to this Article. If the building structures or contents of a business licensed under this Article are found to be faulty, unsafe or inoperable, the Town may suspend the applicable license, and any violation occurring after issuance of the business license must be corrected. Thereafter, the premises must be re-inspected and approved (or evidence of re-inspection and approval must be provided) before any reopening of the business shall occur. To continue business to the public or as a private operation while such known violations exist may result in immediate revocation of any license issued pursuant to this Article without prior notice. A revocation notice arising from a violation of this Section shall be void, and the revoked license shall be promptly reinstated, as soon as the licensee has received notice in writing from the appropriate Town official indicating that the violation(s) has/have been cured, removed or rectified.
- I. It is unlawful for any person to continue to engage in or conduct any business within the Town upon the revocation or non-renewal of that person's business license until the license required by this Chapter has been secured. In the event a person violates this subsection, the Town Clerk may seek, in addition to all remedies available in this Code, an injunction in the Yavapai Superior Court enjoining the violator from engaging or continuing in business within the Town until such person has complied with this Article.

(Ord. No. 53, Enacted, 06/25/81; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-090; Ord. No. 234, Rep&ReEn, 07/26/90; Ord. No. 614, Amended, 02/10/05; Ord. No. 709, Amended, 02/14/08; Ord. No. _____, Amended, -----)

SECTION TWO. That all other Chapters, Articles and Sections of the Town Code not herein amended shall remain in full force and effect.

SECTION THREE. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION FOUR. That this Ordinance shall be effective thirty (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 23rd day of August, 2012.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney