

ORDINANCE NO. 1561

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, RELATING TO THE TRANSACTION PRIVILEGE LICENSE TAX, COMMONLY KNOWN AS THE "SALES TAX"; AMENDING THE TAX CODE OF THE CITY OF APACHE JUNCTION BY CONTINUING THE RATE OF TAXATION BY TWO-TENTHS OF ONE PERCENT (.2%) AS ORIGINALLY ADOPTED BY ORDINANCE NO. 1406; DESIGNATING THE PURPOSE FOR MAINTENANCE, REPAIR, DESIGN, CONSTRUCTION AND REPLACEMENT OF PUBLIC RIGHT-OF-WAYS; DESIGNATING AN EFFECTIVE DATE; DESIGNATING A TERMINATION DATE, COMMONLY KNOWN AS THE "SUNSET CLAUSE"; PROVIDING FOR EXISTING CONTRACTS; PROVIDING FOR PENALTIES; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR NOTICE.

WHEREAS, Arizona Revised Statutes § 9-240(B)(26) conveys upon the mayor and city council the power to levy taxes including a transaction privilege license tax (also known as the "sales tax"); and

WHEREAS, the City of Apache Junction relies heavily on state-shared highway user revenue funds ("HURF") to pay for design, repair, construction, replacement and continuing maintenance for city roads; and

WHEREAS, since fiscal year 2006-2007, the state has legislatively reduced HURF dollars to cities and towns; and

WHEREAS, the costs to make the maintenance, repairs, design, construction and replacement are escalating at a rapid rate each passing year; and

WHEREAS, having no city property tax, the City of Apache Junction relies primarily upon sales tax revenues to pay for these costs; and

WHEREAS, the mayor and city council have determined that a continuation of the two-tenths of one percent (.2%) transaction privilege license tax, is necessary to sustain the quality of the transportation grid system for community residents and visitors and enhance the public health, safety and welfare; and

WHEREAS, at the regular city council meeting of November 5, 2024, the mayor and city council provided unanimous direction to

staff to prepare an ordinance for a continuation of this .2% sales tax in compliance with state law and the model city tax code; and

WHEREAS, changes to the transaction privilege tax rate are affected by amending the Tax Code of the City of Apache Junction, and by appropriate notification to city taxpayers, the Arizona Department of Revenue, and the Municipal Tax Code Commission; and

WHEREAS, pursuant to A.R.S. § 9-499.15, the City provided sixty-day written notice of the proposed sales tax continuation on the City's website (www.apachejunctionaz.gov) before the date of the public hearing, January 21, 2025, when this ordinance is to be considered.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

SECTION I IN GENERAL

A. The tax rate in each of the following sections of the city tax code is continued at the rate of two and two-tenths percent (2.2%), in addition to 0.2% for expenses related to the Public Safety Personnel Retirement System ("PSPRS") imposed under Ordinance No. 1418 set to terminate on September 1, 2026:

Section 8A-018	Advertising
Section 8A-012	Amusement, exhibitions, and similar activities
Section 8A-015	Construction contracting: construction contractors
Section 8A-016	Construction contracting: speculative builders
Section 8A-037	Construction contracting: owner-builders who are not speculative builders
Section 8A-116	Feed at wholesale
Section 8A-010	Job printing
Section 8A-027	Manufactured buildings
Section 8A-020	Timbering and other extractions
Section 8A-009	Publishing and periodicals distribution
Section 8A-044	Hotels
Section 8A-144	Additional tax upon transient lodging
Section 8A-214	Rental, leasing and licensing for use of tangible personal property
Section 8A-011	Restaurants and bars
Section 8A-062	Food for home consumption
Section 8A-315	MRRA Amount

Section 8A-006	Transporting for hire
Section 8A-029	Use Tax Purchases
Section 8A-030	Use Tax From Inventory
Section 8A-203	Medical Marijuana Retail Sales
Section 8A-420	Adult Use Marijuana Retail Sales

B. The tax rate in the following sections of the city tax code is continued at the rate of three and two-tenths percent (3.2%), in addition to 0.2% for expenses related to PSPRS imposed under Ordinance No. 1418 set to terminate on September 1, 2026:

Section 8A-005	Telecommunications services
Section 8A-004	Utility services

C. Section 8A-017 of the city tax code is amended to read as follows:

Section 8A-017. Retail sales: measure of tax; burden of proof; exclusions

- (a) The tax rate shall be at the amount equal to two and two-tenths percent (2.2%) of the gross income from the business activity upon every person engaging or continuing in the business of selling personal property at retail, plus another 0.2% approved under Ordinance No. 1418 set to terminate on September 1, 2026.
- (b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.
- (c) Exclusions: For the purpose of this Chapter, sales of tangible personal property shall not include:
 - (1) sales of stocks, bonds, options or other similar materials.
 - (2) sales of lottery tickets or shares pursuant to Article 1, Chapter 5, Title 5, Arizona Revised Statutes.
 - (3) sales of platinum, bullion or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.
 - (4) gross income derived from the transfer of tangible personal property which is specifically included as the gross income of a business activity upon which

another Section of this article imposes a tax, shall be considered gross income of that business activity, and are not included as gross income subject to the tax imposed by this Section.

- (5) sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

- (d) Notwithstanding the provisions of subsection (a) above, when the gross income from the sale of a single item of tangible personal property exceeds two thousand dollars (\$2,000), the extended two and four-tenths (2.4%) tax rate, shall apply to the first \$2,000. Above \$2,000, the measure of tax shall be at a rate of one and four-tenths percent (1.4%).

- (e) When this city and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purpose of this chapter such city or town has sole and exclusive rights to such tax.

- (f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this city or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

- (g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunication services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

SECTION II DESIGNATING THE PURPOSE

For such period of time that the City of Apache Junction, Arizona, levies the tax as described in Section I above, the revenues collected from the two-tenths of one percent (.2%) continuation shall be used for maintenance, repair, design, construction and replacement of public right-of-ways.

SECTION III DESIGNATING AN EFFECTIVE DATE

The provisions of this ordinance continuing the tax rate of .2% for the purpose set forth in Section II above shall become effective on March 2, 2025.

SECTION IV DESIGNATING A TERMINATION DATE

The provisions of this ordinance continuing the tax rate of .2% for the purpose set forth in Section II above shall terminate, or "sunset" on March 1, 2035, at which time the increased tax rate as set forth in Section I of this ordinance shall automatically be reduced by two-tenths of one percent (.2%).

SECTION V PROVIDING FOR EXISTING CONTRACTS

The tax imposed pursuant to this ordinance shall not apply to contracts entered into prior to the effective date of the tax as set forth in Section III above.

SECTION VI PROVIDING FOR PENALTIES

Any person found guilty of violating any provision of these amendments to the tax code shall be guilty of a class one misdemeanor and shall be prosecuted pursuant to Article 1-8 of the Apache Junction City Code and Section 8A-580 of the Tax Code of the City of Apache Junction.

SECTION VII REPEALING ANY CONFLICTING PROVISIONS

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the codes adopted herein by reference are hereby repealed.

SECTION VIII PROVIDING FOR SEVERABILITY

If any section, subsection, sentence, phrase, clause or portion of this ordinance 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 IX

PROVIDING FOR NOTICE

Pursuant to A.R.S. § 42-6052(E), staff shall provide a fully executed copy of this ordinance to the Municipal Tax Code Commission and the Arizona Department of Revenue within ten days after the passage date of this ordinance.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS _____ DAY OF _____, 2025.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2025.

WALTER "CHIP" WILSON
Mayor

ATTEST:

YVETTE MCKINNEY
Acting City Clerk

APPROVED AS TO FORM:

RICHARD JOEL STERN
City Attorney