

ORDINANCE NO. 1450

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AMENDING APACHE JUNCTION CITY CODE, VOLUME I, CHAPTER 8: BUSINESS, BY REPEALING ARTICLE 8-1: GENERAL BUSINESS AND LICENSING PROVISIONS, ARTICLE 8-2: SPECIFIC LICENSING AND REGISTRATION PROVISIONS, ARTICLE 8-8: REQUIREMENTS FOR COMMUNITY AND CIVIC EVENTS AND ARTICLE 8-10: MOBILE AND TEMPORARY FOOD AND BEVERAGE VENDORS, ALL IN THEIR ENTIRETY; ADOPTING BY REFERENCE NEW PROVISIONS FOR THE REGULATIONS NOTED ABOVE AS MORE FULLY DETAILED IN THAT CERTAIN DOCUMENT ENTITLED "2017 AMENDMENTS TO THE APACHE JUNCTION CITY CODE, VOLUME I, CHAPTER 8: BUSINESS"; DESIGNATING AN EFFECTIVE DATE; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, the then mayor and council first established a city business license program and related requirements and fees in 1980; and

WHEREAS, at the request of the Apache Junction Chamber of Commerce and local businesses, this business license program was placed on a ballot and upheld by city voters in 1981; and

WHEREAS, in July 2007 the city put in place an additional program for issuing transaction privilege (sales tax) licenses where applicable and collecting its own sales taxes; and

WHEREAS, in January 2017, based on revised state law, the Arizona Department of Revenue took over the issuance of these city tax licenses and collection of city sales tax; and

WHEREAS, the city no longer receives license applications from taxable businesses creating a gap in information needed for property owner and neighborhood safety and protection, and for law enforcement, zoning and building code purposes; and

WHEREAS, establishing a broad business license program as existed prior to July 2007 will reinstate these property owner and neighborhood safety and protection as well as establish parity for others already required to have a city business license; and

WHEREAS, pursuant to A.R.S. §§ 9-801(1) and 9-802, codes which may be adopted by reference include those relating to business licenses, license fees, events and food truck and mobile food vendors; and

WHEREAS, A.R.S. § 9-802 permits municipalities to enact the provisions of a code of public record theretofore in existence without setting forth such provisions in full text as long as the adopting ordinance is published in full text and at least one paper copy of the code changes or public record are filed in the office of the clerk of the municipality and the electronic copy is accessible on the city's website and made available for public inspection.

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

SECTION I IN GENERAL

1. That existing Apache Junction City Code, Volume I, Chapter 8: Business, Article 8-1: General Business and Licensing Provisions, Article 8-2: Specific Licensing and Registration Provisions, Article 8-8: Requirements for Community and Civic Events and Article 8-10: Mobile and Temporary Food and Beverage Vendors, are hereby repealed in their entirety.
2. That certain document containing the amended and new Chapter 8 code provisions relating to business, business licensing and registration, community and civic events and mobile and temporary food and beverage vendors, known as the "2017 Amendments to the Apache Junction City Code, Volume I, Chapter 8: Business", one paper copy and one electronic copy which are accessible on the city's website and filed in the office of the city clerk, which document was made a public record by Resolution No. 17-21 of the City of Apache Junction, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, pursuant to A.R.S. § 9-802.

SECTION II DESIGNATING AN EFFECTIVE DATE

The provisions of this ordinance shall become effective December 1, 2017.

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SECTION III 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 IV PROVIDING FOR SEVERABILITY:

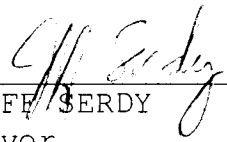
If any section, subsection, sentence, phrase, clause or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION V PROVIDING FOR PENALTIES

Any violation of the provisions adopted herein shall be punishable as a Class 1 Misdemeanor consistent with Apache Junction City Code, Chapter 1: GENERAL, Article 1-1 GENERAL, Section 1-1-11: PENALTY.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS 19TH DAY OF SEPTEMBER, 2017.

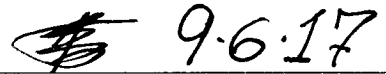
SIGNED AND ATTESTED TO THIS 19TH DAY OF SEPTEMBER 2017.


JEFF SERDY
Mayor

ATTEST:


KATHLEEN CONNELLY
City Clerk

APPROVED AS TO FORM:


RICHARD JOEL STERN
City Attorney

2017 Amendments to the Apache Junction City Code, Volume 1,
Chapter 8: Business

ARTICLE 8-1: GENERAL BUSINESS AND LICENSING PROVISIONS

Section

- 8-1-1 Definitions
- 8-1-2 City clerk; duties
- 8-1-3 Other regulatory provisions
- 8-1-4 Criminal penalties

§ 8-1-1 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVERTISEMENT. The attempt by publication, dissemination, solicitation, signage or circulation to induce directly or indirectly any person to enter into any transaction with persons conducting business activities within or outside the city.

APPROPRIATE LICENSE. A privilege tax or use tax license that has been issued pursuant to the provisions of Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping; or a business or non-profit license that has been issued pursuant to the provisions of this chapter.

A.R.S. Arizona Revised Statutes.

BUSINESS ACTIVITY. To practice, transact or carry on any trade, business, game or amusement, calling, profession or occupation, or the renting, leasing or licensing for use of real property with the object of gain, benefit or advantage.

BUSINESS LICENSE. A license issued to a person conducting a business activity within the city.

CARNIVAL COMPANY. A collection of shows, exhibitions, feats of strength, merchandise booths, games of skill, fortunetelling, games of chance, wheels of fortune or any other amusement device presented or offered upon the streets or vacant property within the city, other than circuses, animal shows or side shows with circuses.

CASUAL ACTIVITY or **SALE.** A transaction of an isolated nature made by a person who neither represents himself or herself to be nor is engaged in a business activity. **CASUAL ACTIVITY** never includes the sale, rental, leasing or licensing for use of real property; nor does it include the sale of merchandise purchased or manufactured for the purpose of resale.

CITY. The City of Apache Junction.

CLERK. The city clerk or designee.

DEPARTMENT OF PUBLIC SAFETY. The department within the city responsible for the protection of life and property and for the enforcement of the laws of the State of Arizona and the City of Apache Junction.

FORTUNE TELLER. A person who purports to have the ability to predict a person's future by palmistry, using a crystal ball or cards, or similar methods.

LICENSE. A business or non-profit license.

LOCATION. A place of a separate business establishment, but licensing does not apply to persons solely renting or leasing residential real property.

MASSAGE ESTABLISHMENT. Any place of business or establishment conducting business activity wherein any massage therapy techniques are administered, practiced or used.

MASSAGE THERAPIST. An individual who is either licensed or specifically exempted under A.R.S. Title 32, Chapter 42.

MERCHANDISE. Any new or used object, wares, goods, commodities, personalty and intangibles, real estate, amusements, food concessions or services.

NON-PROFIT BUSINESS. A person who is either:

(1) A federally exempt organization which has received a determination of exemption under 26 U.S.C. § 501(c); or

(2) The federal government, the State of Arizona, any other state or any political subdivision, department or agency; or

(3) A public educational entity operated pursuant to any provision of A.R.S. Title 15.

NON-PROFIT LICENSE. A license issued to a person conducting non-profit activities within the city.

NON-TAXABLE BUSINESS ACTIVITY. A person conducting business activity within the city, the income of which is not taxable in whole or in part pursuant to any section in Apache Junction Tax Code, Chapter 8A, Article IV, or which meets the provisions of Apache Junction Tax Code, Chapter 8A, Sec. 8A-460(c)(4).

PEDDLER. Any person operating as a solicitor, peddler, hawker, salesperson, vendor of goods, wares, merchandise, newspapers, magazines or services, and who goes from door-to-door, business to business, or to only one door or business in the city; or who offers such items for sale along a parade route or on real property other than their own.

PERSON. An individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, limited liability company, the federal government, this state, any political subdivision or agency of this state, or such person's legal representative. **PERSONS** affiliated through common ownership, or where one person owns another person, are considered separate **PERSONS** for licensing purposes.

PREMISES. Any building, structure, lot or other area at which business activity is conducted. When the premise involves a building or structure, that premises shall include all outside areas including the parking lot.

PRIVILEGE LICENSE. A license issued pursuant to the provisions of Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping to a person conducting taxable business activity within the city.

SALE. A transaction of any type where the title or ownership of tangible personal property or real property exchanges hands for a consideration of any type; or where the promise or completion of a service is exchanged for a consideration of any type.

STREET BALLYHOO. Any person advertising by means of any vehicle containing amplifiers, phonographs, loudspeakers, music rolls, microphones, broadcasting, radio, public address system or music of any description, operating upon the public streets or public grounds of the city.

TAXABLE BUSINESS ACTIVITY. A person engaged in business within the city, the income of which in whole or in part is taxable pursuant to any section in Apache Junction Tax Code, Chapter 8A, Article IV.

TEMPORARY LOCATION. Operating the same kind of business, for which a business license has been issued, at such location for no more than 7 consecutive days, except that mobile and temporary food and beverage vendors shall be limited to the times as set forth in Article 8-10 of this code.

VALID. Any license subject to the provisions of this chapter that has not expired or has not been suspended, cancelled or revoked.

VENDOR. Any person soliciting or making a sale, or causing any advertisement for a product or service.

ZONING ADMINISTRATOR. The city official who initially determines zoning and land development compliance, as appointed by the development services director.

§ 8-1-2 CITY CLERK; DUTIES.

(A) It shall be the duty and responsibility of the city clerk to administer the provisions of this chapter and pursuant to this duty shall issue, renew, deny, suspend, cancel or revoke privilege, use, business and non-profit licenses.

(B) It shall be the duty of the city clerk to file complaints with the city attorney against all persons violating any of the provisions of this chapter.

(C) It shall be the duty of the city clerk to prepare and issue an appropriate license for every person required to pay a license fee, and to state in each license the amount thereof, the period of time covered thereby, the name of the person for whom issued, the specific business activities conducted by the licensee, and the location and place of business where the business activities are carried on.

(D) It shall be the duty of the city clerk, or deputy, before issuing a license under this chapter to require from every applicant a sworn application, on a form to be furnished by the city.

(E) The city clerk may appoint license inspectors, and it shall be the duty of such inspector to inspect places of business activity subject to the provisions of this chapter and Apache Junction Tax Code, Chapter 8A, and report all violations to the city clerk.

(F) No greater or lesser amount of license and/or registration fee shall be charged or received for any license issued hereunder than is provided for in this chapter, and no license shall be issued for any period of time other than as provided in this chapter.

(G) In no case shall any mistake made by the city clerk in stating, fixing or collecting the amount of any license and/or registration fee prevent, prejudice or estop the city from collecting the correct amount due as provided by this chapter.

§ 8-1-3 OTHER REGULATORY PROVISIONS.

(A) Where any business activity is subjected to a certificate of health or sanitary examination, before any license is issued, the applicant must produce such certificate or permit from the appropriate county health department, as provided for in A.R.S., Title 36, Article 4 as amended.

(B) No license may be issued until the zoning administrator has provided preliminary verification that the business is in an approved zone. The zoning administrator shall furnish such verification within 5 city business days of the request.

(C) In the event the zoning administrator subsequently disapproves the formal zoning certificate, the city clerk shall revoke the person's appropriate license.

§ 8-1-4 CRIMINAL PENALTIES.

Any person violating any of the provisions of this chapter, shall be deemed guilty of a class one misdemeanor and, shall upon conviction, be punished pursuant to the provisions of the Apache Junction City Code, Vol. I, Chapter 1: General, Article 1-1: General, § 1-1-11 Penalty.

ARTICLE 8-2: SPECIFIC LICENSING AND REGISTRATION PROVISIONS

Section

- 8-2-1 License required
- 8-2-2 Issuance of license by clerk; contents
- 8-2-3 General rules
- 8-2-4 Peddler registration required
- 8-2-5 Application to city clerk
- 8-2-6 Licensing; fees
- 8-2-7 Permits; fees
- 8-2-8 Delinquency penalty
- 8-2-9 Unlawful activities
- 8-2-10 Suspension, revocation and cancellation of license
- 8-2-11 Notice of hearing and appeal

8-2-1 LICENSE REQUIRED.

(A) It shall be unlawful for any person, partnership, association, company or corporation to commence, transact or carry on any trade, business, game or amusement, calling, profession or occupation, as set out in this article, without first having procured a license from the city to do so,

or without complying with any and all regulations of such trade, business, game or amusement, calling, profession or occupation designated in this article.

(B) The practice, transaction or carrying on of any trade, business, game or amusement, calling, profession or occupation specified in this article without complying with any and all regulations of such trades, businesses, games or amusements, callings, professions or occupations, contained in this article shall constitute a separate violation of this article for each and every day that such trade, business, game or amusement, calling, profession or occupation is practiced, transacted or carried on.

(C) The granting of a license is not deemed as evidence or proof that the licensee has complied with the provisions of this article or other provisions of the Apache Junction City Code or Apache Junction Tax Code, nor shall it stop the prosecution by the city for any violation of the Apache Junction City Code or Apache Junction Tax Code.

(D) A license shall be required for each business. For instance, if a person, partnership, association, company, or corporation conducts two separate businesses (i.e., a travel agency and a blacksmith shop), then two licenses shall be required. This requirement shall be applicable to situations where two or more businesses are being operated in the same location.

(E) Should questions as to form of business arise, interpretations of this section shall be based upon form indicia contained in the following: Arizona Revised Statutes; Internal Revenue Code and Rules and Regulations prescribed by the Internal Revenue Service.

(F) All transfers of ownership shall be considered to be a new business and, as such, shall be required to obtain a valid, current business license and pay a fee in accordance with the schedule for new businesses listed herein.

(G) Any person conducting a taxable business activity shall also obtain a privilege tax or use tax license and pay the appropriate licensing fees pursuant to the provisions of Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping

(H) Any federally exempt organization who has unrelated business income as defined in 26 U.S.C. § 512 from any business activity.

§ 8-2-2 ISSUANCE OF LICENSE BY CLERKS; CONTENTS.

(A) It shall be the duty of the clerk, or deputy, to prepare and issue a license under this article for every person required to pay a license fee hereunder, and to state in each license the amount thereof, the period of time covered thereby, the name of the person for whom issued, the trade, business, game or amusement, calling, profession or occupation licensed and the location and place of business where such trade, business, game or amusement, calling, profession or occupation is to be practiced, transacted or carried on.

(B) It shall be the duty of the clerk, or deputy, before issuing a license under this article to require from every applicant a sworn application, on a form to be furnished by the clerk, which shall give the following information: business trade name, location of business, business mailing address, business owner, home street address, home telephone number, business telephone number, exact nature of business, date business began in the city and any other state or federal requirement

information, signature of applicant certifying his statements are true and correct and title of applicant.

(C) If the business is to be located within the city limits, a zoning compliance certificate must be obtained from the zoning administrator of the city before a license can be issued.

(D) Upon verification by the zoning administrator that the business is in the approved zone, the clerk may issue a license to the applicant before the formal zoning compliance certificate is approved by the zoning administrator and that the determination from the zoning administrator concerning the zoning compliance certificate be forthcoming in a period not to exceed 5 city business days.

§ 8-2-3 GENERAL RULES.

(A) Any person having a privilege tax or use tax license shall also have a city business license and shall pay the appropriate license fee if it is found that such person is conducting taxable business activity within the city unless such business license is prohibited by state or federal law.

(B) No person may apply for a license for another person, and no licensee may allow another person to use his or her license. All licenses issued hereunder shall be nontransferable and non-assignable.

(C) A person engaged in or conducting 1 or more businesses at 2 or more locations, or under 2 or more business names shall procure a license for each such location or business name.

(D) A new license is not required when a licensee has an address change; however, such licensee must provide the city clerk with written certification that the licensee had changed business locations.

(E) A separate license is not required for each type of business activity provided that the each type of business activity is conducted by the same person, using the same business name, and at the same business location. Every person shall have his or her license updated with the city clerk before engaging in any new business activity.

(F) Should questions arise as to form of business, interpretations of this chapter shall be based upon form indicia contained in the following: Apache Junction Tax Code, Chapter 8A, Arizona Revised Statutes; Internal Revenue Code; and rules and regulations prescribed by the Internal Revenue Service.

(G) All transfers of ownership, including changes in type of business entity, shall be considered to be a new business and, as such, shall be required to obtain an appropriate license and pay the required license fee.

(H) An appropriate license shall be displayed in a conspicuous place at each business or operating location. This division does not apply to persons solely renting, leasing or licensing for use of real property. Licensees conducting business activity at temporary locations shall have available either the license or a copy of the license at the temporary location. Every person having a license under the provisions of this article shall produce and exhibit the license upon demand by any city police officer or city tax and licensing official.

(I) No license issued by the city shall be presumed to apply to any business activity which is a part of interstate commerce; or which such business activity is conducted as an agency or department of the United States government for which the government has failed to make provisions allowing states and municipalities to so license.

(J) The granting of a license is not deemed as evidence or proof that the licensee has complied with the provisions of this chapter, or other provisions of the Apache Junction City Code, nor shall it stop the prosecution by the city for any violation of the Apache Junction City Code.

(K) A business license shall be valid for a 12 month period from the month of issue and during such time period the payment shall not be pro-rated.

§ 8-2-4 PEDDLER REGISTRATION REQUIRED.

(A) Notwithstanding the provisions in Vol. I, § 8-2-1, any person operating as a peddler shall register with the city clerk and obtain an identification card showing the registration.

(B) Applicants for registration shall be required to furnish 2 recent satisfactory photographs of the applicant, one to be attached to the applicant's identification card and the other to be retained by the city clerk's office. In the event the applicant is unable to supply such photographs, photographs will be supplied by the city clerk's office for a fee of \$3 each. The city clerk shall require the applicant to file his or her fingerprint identification with the city clerk's office.

(C) Peddlers applying for registration shall be required to furnish to the city clerk's office a complete description of the product to be sold in the city, together with information regarding sales methods to be used and references that will enable the city clerk to determine whether or not the applicant is qualified to receive an identification card as provided herein.

(D) If approved, issuance of an identification card under the provisions of this article shall be completed within 15 city business days after the applicant has given the required information.

(E) Identification cards under this article shall be issued upon payment of a \$25 registration fee for each person operating as a peddler and shall be valid for the duration of the related license, unless the city clerk discovers any of the following:

- (1) He or she has a criminal record;
- (2) He or she is associated with a company that has engaged in fraudulent dealings; or
- (3) The proposed sales proposition includes some element of trickery, fraud or deceit.

(F) Identification cards shall be assigned the same status and duration as the person's related license: active, suspended, canceled or revoked.

(G) Identification cards issued under the provisions of this article may be suspended, cancelled or revoked pursuant to the provisions of Vol. I, § 8-2-8 subject to hearing and appeal pursuant to the provisions of Vol. I, § 8-2-10.

(H) Peddlers wishing to continue peddling activities within the city shall apply for a new identification card upon expiration of the current identification card.

§ 8-2-5 APPLICATION TO CITY CLERK.

(A) An application for a license and/or identification card under this article shall be made on forms furnished by the city. Every application shall be accompanied by an application fee in the amount provided in Vol. I, § 8-2-6. In the event a license and/or identification card is not issued, the application fee shall not be refunded but shall be applied to cover the cost of processing the application.

(B) All licenses shall be valid only for 1 year from the date issued unless renewed each year by paying the appropriate fee(s) on or before the last city business day of the month prior to the annual anniversary of the original issuance of such license. Payment for renewal must be received within the city clerk's office by such date to be deemed filed and paid.

§ 8-2-6 LICENSING; FEES.

(A) The business license fee set out in the following schedule is hereby established for all business activities.

(B) In addition to the fee in (A) above, for taxable business activities the transaction privilege tax and use tax license fee shall be as set forth in Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping.

(C) Notwithstanding any other required fee, all dealers in alcoholic beverages shall submit a \$50 non-refundable application fee to the city prior to the council public hearing on the state liquor license application to cover the cost of conducting such public hearing. This fee shall apply to all new, owner-transfer, person-transfer, and location-transfer applications.

(D) A massage therapist operating as an independent contractor within the city and not as an employee of a massage establishment shall obtain the appropriate license pursuant to the provisions of this chapter.

(E) In any action brought under or arising out of any of the provisions of this article, the fact that the person (defendant) is engaged in any business activity for which a license is required by this article, or that the party has conducted an advertisement for such activity shall be prima facie evidence of such party's liability to pay the required fee.

(F) The conviction and punishment of any person for conducting any business activity without a license shall not excuse or exempt such person from the payment of any license fee due or unpaid at the time of such conviction.

(G) The fee schedule for licenses issued under this chapter shall be as follows:

<i>Type of License</i>	<i>Initial Fee</i>	<i>Renewal Fee</i>
Business license (basic)	\$50	\$50
Duplicate or replacement license	\$25	\$25
Non-profit license	\$0	\$0

§ 8-2-7 PERMITS; FEES.

(A) Circus and/or carnival businesses must have approval of the director of public safety, and are required to provide certificate of insurance naming as additionally insured the City of Apache Junction officials, employees and citizens. A privilege license is mandatory for such businesses. Applications for such business activities shall be submitted to the city clerk no later than six (6) city business days prior to the date the event begins.

(B) Notwithstanding the provisions of division (B) above and other requirements deemed necessary to protect the health, safety and general welfare of the public, circuses and/or carnival companies operating under the auspices of local non-profit organizations are exempt from the permit fee prescribed herein.

(C) Persons already in possession of an appropriate license, other than those solely licensed as peddlers, who wish to operate at temporary locations as defined by Vol. I, § 8-1-1 shall pay a \$10 permit fee for each such location. Payment of such fee shall be valid for the term of the license.

(D) Permit fees are in addition to licensing fees detailed in Vol. I, § 8-2-5 and in Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping. The following permit fees shall be applied:

<i>Type of Permit</i>	<i>Initial Fee</i>	<i>Renewal Fee</i>
Distiller's permit	\$225.00	\$22.50
Brewer's permit	\$225.00	\$22.50
Winer's permit	\$225.00	\$22.50
Hotel-motel permit to sell all spirituous liquors by individual portions and in the original containers	\$450.00	\$45.00
Hotel-motel permit to sell all spirituous liquors	\$450.00	\$45.00
Hotel-motel permit to sell beer and wine by individual portions and in the original containers	\$150.00	\$15.00
Hotel-motel permit to see beer by individual portions and in the original containers	\$112.50	\$11.25
On-sale retailer's permit to sell all spirituous liquors by individual portions and in the original containers	\$300.00	\$30.00
On-sale retailer's permit to sell beer and wine by individual portions and in the original containers	\$150.00	\$15.00
On-sale retailer's permit to sell beer by individual portions and in the original containers	\$112.50	\$11.25
Off-sale retailer's permit to sell all spirituous liquors	\$112.50	\$11.25
Off-sale retailer's permit to sell beer and wine	\$112.50	\$11.25

Off-sale retailer's permit to sell beer	\$75.00	\$7.50
Club permit to sell all spirituous liquors	\$75.00	\$7.50
Restaurant permit to sell all spirituous liquors	\$450.00	\$45.00
Fortuneteller, palmist (with approval of the director of public safety)	\$1,200.00	\$1,200.00
Sexually oriented business	\$500.00	\$500.00
Each employee of a sexually oriented business	\$100.00	\$50.00
Circus/carnival (per day)	\$300.00	\$150.00

§ 8-2-8 DELINQUENCY PENALTY.

- (A) When any license fee provided for herein shall become due and unpaid, the same shall become delinquent and the city clerk shall add thereto a penalty of \$25.
- (B) No license shall be issued or renewed by the city clerk until the license or registration fees that are delinquent and the penalties added thereto have been paid in full.

§ 8-2-9 UNLAWFUL ACTIVITIES.

- (A) It shall be unlawful for any person to conduct any business or operating activity within the city without first having procured the appropriate license from the city.
- (B) It shall be unlawful for any person to conduct any business activity using a suspended, cancelled or revoked license.
- (C) It shall be unlawful for any person to conduct any business or operating activity within the city without complying with any and all regulations of such activity designated in this chapter.
- (D) It shall be unlawful for any person licensed as provided in this chapter to operate under any name or conduct business under any designation not specified on such license.

§ 8-2-10 SUSPENSION, REVOCATION AND CANCELLATION OF LICENSE.

- (A) An appropriate license shall be suspended for any person who fails to renew the license and pay the required renewal fee in a timely manner. The suspension period shall not exceed a 90 calendar day period. If the license is renewed with the appropriate payment of renewal fee and related penalty during the suspension period, the status of the license shall be restored to current.
- (B) Licenses issued under the provisions of this chapter shall be cancelled for any of the following reasons:
- (1) License renewal has not been completed within 90 calendar days of expiration;
 - (2) The licensee notifies the city clerk in writing with appropriate signature that the business has been closed, sold or moved out of the city; or
 - (3) The licensee, upon adequate identification, verbally notifies the city clerk that the business has been closed, sold or moved out of the city.

(C) Licenses issued under the provisions of this chapter may be revoked after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license;
- (2) Any violation of this chapter; or
- (3) Conducting a business activity in violation of the Arizona Revised Statutes.

(D) Revoked licenses may be reinstated only after the cause of such revocation has been fully corrected.

(E) A person whose license has been suspended, cancelled or revoked shall be issued a notice to cease business operations within the city.

§ 8-2-11 NOTICE OF HEARING AND APPEAL.

(A) To suspend or revoke a license, the city clerk shall deliver or mail by certified mail to the business address as shown by the license application, a written notice that such license is suspended or revoked. The reason for such suspension or revocation shall be set forth in the notice. The notice shall also contain the licensee's rights and procedures to appeal such suspension or revocation. A suspended or revoked license shall be surrendered to the city clerk on demand.

(B) The city clerk shall grant on demand to any licensee whose license has been revoked or suspended a full hearing on the merits of such suspension or revocation. Appeal of the city clerk's action to a hearing officer appointed by the city manager, pursuant to division (C) below, shall not be had prior to the hearing. Demand for hearing shall be made within 10 city business days of receipt of the city clerk's notice of suspension or revocation, and failure to demand a hearing within that time will constitute a full waiver. After considering evidence presented at the hearing, the city clerk shall make a decision to uphold or repeal the license suspension or revocation; and shall deliver or mail by certified mail to the business address as shown on the license application the results of the decision.

(C) Any person aggrieved by the city clerk's decision pursuant to division (B) above shall have the right of appeal to the designated hearing officer. The appeal shall be filed with the city manager within 14 city business days after receipt of the city clerk's decision. The appeal shall contain a written statement setting forth fully the grounds for the appeal. The hearing officer shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided for notice of hearing on revocation. The decision and order of the hearing officer shall be final and conclusive, except any person aggrieved may pursue any appropriate judicial proceedings.

(D) No person may reapply for any license after denial, revocation or non-renewal of such license unless the cause for such denial, revocation or non-renewal has been removed or corrected.

§ 8-2-12 EXEMPTION.

Any person, partnership, association, company or corporation that has procured and maintained a valid city transaction privilege tax license for the calendar year 2017 shall not be required to obtain a city business license until January 1, 2018.

ARTICLE 8-8: REQUIREMENTS FOR COMMUNITY AND CIVIC EVENTS

§ 8-8-1 PURPOSE & INTENT.

This article is intended to regulate community and civic events for the benefit of its citizens and visitors which enable the city to:

- (1) Protect life, health, property and general welfare of the city;
- (2) Minimize expenditures of public funds for community and civic events;
- (3) Minimize business interruptions during events while promoting business growth and economic development;
- (4) Implement a high profile, proactive approach to local economic development through public/private partnerships;
- (5) Provide a range of community and civic events open to everyone to improve the quality of life in the city;
- (6) Facilitate the redevelopment and revitalization of the downtown and older commercial areas;
- (7) Assist the city in implementing its overall economic development goals;
- (8) Provide a consistent set of standards for community and civic events;
- (9) Compete on an equal basis with other communities for tourism and other economic development projects.

§ 8-8-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMUNITY EVENT. An activity or gathering not exceeding 4 consecutive days in any calendar year which is conducted, organized and sponsored by non-profit organizations or for-profit organizations and is open to all participants on an equal basis.

EVENT. An activity or gathering with the purpose of promoting or benefitting the city and its residents and/or the sponsoring organizations. An application will be required for any activity or gathering which meets any of the following criteria:

- (1) Use of or impact/encroachment on any city street, sidewalk, alley or other right-of-way area (which includes any indirect impact that will affect the flow of typical vehicular or pedestrian traffic) that requires more than one city department approval, or will require the approval of more than one city department for inspections, assistance or permits.
- (2) Is likely to draw a crowd to a venue not properly suited and has the potential to require special accommodations, regulations, traffic control devices or public works or safety personnel;
- (3) Presence or participation of one or more for-profit or nonprofit vendors that intend to make a sale, advertise for sale, solicit sales, offer for sale, or provides a service or offer/advertise to provide a service. This provision does not apply to vendors already in possession of a valid city license issued under this code or city tax code;

(4) Activities such as weddings, funerals, private yard sales, car shows or charity car washes shall not be considered an event.

(5) A programmed event of a city department shall not be considered an event, however if the event includes vendors that are not already properly licensed with the city, then a fee of \$15 per vendor shall be collected for each event. The city department sponsoring the programmed event shall be responsible for collecting this fee from each participating vendor. These fees shall be paid in total to the city no later than 8 working days following the last day of the event.

FOR-PROFIT ORGANIZATION. Any entity or corporation which has been established, maintained, or conducted for the purpose of making a profit.

NON-PROFIT ORGANIZATION. Any religious, social, fraternal or civic organization which has been designated as a 501C organization by the Internal Revenue Service and which has a valid operating license as provided for in Vol. I, Chapter 8 of the city code or the city tax code. Should questions as to form of business arise, interpretations of this section shall be based upon form indicia contained in the following: Arizona Revised Statutes; Internal Revenue Code Rules and Regulations prescribed by the Internal Revenue Service.

CIVIC EVENT. An activity or gathering not exceeding 4 consecutive days in any calendar year which is conducted, organized and sponsored solely by the city or in conjunction with a non-profit organization, has been approved as such by the council during the annual budget process and which is open to all participants on an equal basis.

§ 8-8-3 CIVIC EVENT SPONSOR REQUIREMENTS.

(A) A non-profit sponsor of any civic event which includes vendors shall pay a fee of \$50 per day. This fee shall be paid no later than 10 city business days in advance of the first day of the event. A penalty of \$5 per day shall be assessed for each city business day the initial payment is late beginning with the city business day immediately following the initial deadline. The civic event fee shall not apply to those events which do not include vendors or city events.

(B) A non-profit sponsor of any civic event shall provide the city clerk with the name, address and telephone number of the event coordinator or contact person at least 30 city business days in advance of the event.

(C) The sponsor of any civic event shall obtain a completed vendor application, on a form to be provided by the city, from each participating vendor and obtain a copy of the vendor's driver's license for any vendor(s) not already properly licensed with the city. The sponsor shall provide the city with these completed forms in addition to a complete list containing name, address and telephone number of each participating vendor no later than 8 city business days following the last day of the event.

(D) Any food truck vendor, as defined in this chapter, that is present at a civic event shall follow the regulatory process in Article 8-10 of this chapter.

(E) Obtain the city transaction privilege tax or use tax number from the vendor in advance of an event and verify with the city that it is a valid number. No vendor will be permitted to participate in the event without a valid city tax license.

§ 8-8-4 CIVIC EVENT VENDOR REQUIREMENTS.

- (A) All civic event vendors who engage or attempt to engage in a sale at a civic event or who advertise or solicit services or products shall complete a civic event vendor application in order to participate in the event. The completed form shall be submitted to the event sponsor.
- (B) Non-profit organizations which participate as vendors at civic events shall not be required to complete an event vendor application if their participation is limited to the distribution of literature or information relative to their organization.
- (C) Massage therapists or healthcare professionals or any students in conjunction with a recognized school of massage or educational institution as allowable under A.R.S. Title 32 who wish to participate as a vendor at a civic event shall be permitted to do so as long as such service is provided by a person holding a valid city business license and who is authorized under A.R.S. Title 32 to perform massages.
- (D) Any food truck vendor, as defined in this chapter, that is present at a civic event shall follow the regulatory process in Article 8-10 of this chapter.

§ 8-8-5 COMMUNITY EVENT SPONSOR REQUIREMENTS.

- (A) The sponsor of any community event which includes vendors shall remit to the city a fee of \$15 per vendor for those vendors not already properly licensed for each event. The sponsor shall be responsible for collecting this fee from each participating vendor. These fees shall be paid in total to the city no later than 8 city business days following the last day of the event. A penalty of \$5 per city business day shall be assessed for each city business day that the total fee remains unpaid.
- (B) The sponsor of any community event shall provide the city clerk department with the name, address and telephone number of the event coordinator or contact person at least 30 city business days in advance of the event.
- (C) The sponsor of any community event shall obtain a completed vendor application, on a form to be provided by the city, from each participating vendor and obtain a copy of the vendor's driver's license for any vendor(s) not already properly licensed with the city. The sponsor shall provide the city with these completed forms in addition to a complete list containing name, address and telephone number of each participating vendor no later than 8 city business days following the last day of the event.
- (D) Any food truck vendor, as defined in this chapter, that is present at a special event shall follow the regulatory process in Article 8-10 of this chapter.
- (E) Obtain the city transaction privilege tax or use tax number from the vendor in advance of an event and verify with the city that it is a valid number. No vendor will be permitted to participate in the event without a valid city tax license.

§ 8-8-6 COMMUNITY EVENT VENDOR REQUIREMENTS.

- (A) All community event vendors who engage or attempt to engage in a retail sale or who solicit or advertise in any form at a community event shall complete a community event vendor

application in order to participate in the event. The completed form shall be submitted to the event sponsor.

(B) Non-profit organizations who participate as vendors at community events shall not be required to complete a community event vendor application if their participation is limited to the distribution of literature or information relative to their organization.

(C) Vendors who have an appropriate license shall not be required to pay an additional vendor fee provided they are engaging in an activity covered by the license.

(D) Massage therapists or healthcare professionals or any students in conjunction with a recognized school of massage or educational institution as allowable under A.R.S. Title 32 who wish to participate as a vendor at a community event shall be permitted to do so as long as such service is provided by a person holding a valid city business license and who is authorized under A.R.S. Title 32 to perform massages.

(E) Any food truck vendor, as defined in this chapter, that is present at a special event shall follow the regulatory process in Article 8-10 of this chapter.

§ 8-8-7 TAX LICENSE REQUIRED.

Any vendor participating at a community or civic event who is engaged in a taxable activity shall be required to obtain a city privilege tax or use tax license as set forth in the Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping. This license shall be obtained in advance of the event.

§ 8-8-8 BUSINESS LICENSE AND TAX LICENSE REQUIRED.

No city business license shall be required for a community event or civic event vendor if such vendor is engaged in hobby or craft sales in which the seller is the creator or non-paid representative of the creator and for which the gross sales of each hobbyist and craftsman shall not exceed \$3,000 in any twelve (12) month period of time. Such vendors are still required to complete the vendor application and obtain a city privilege tax or use tax license prior to participating in the event.

ARTICLE 8-10: MOBILE AND TEMPORARY FOOD AND BEVERAGE VENDORS

§ 8-10-1 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY HEALTH PERMIT. A Pinal or Maricopa County (according to the location of where business is being conducted in the city) special event health permit for on-site inspection of

temporary food booths, food trucks and mobile food vendors on the day of the event or an annual food service permit as outlined in Pinal County Environmental Health Services Substantive Policy Statements; Maricopa County Environmental Services Department Substantive Policy Statements; the Pinal County Environmental Health Code; or the Maricopa County Environmental Health Code.

MOBILE FOOD VENDING VEHICLE. A licensed concession trailer or motorized vehicle suitable for use on a public highway which is equipped and primarily used for the sale of food and beverage of any kind including prepared, pre-packaged or unprepared, unpackaged food and non-food sundries specifically related to the mobile food vendor's business.

FOOD VENDING CART. Any wheeled device moved by human power.

MOBILE FOOD VENDOR. Any person or entity, as defined in this chapter, who:

- (a) owns, controls, manages, operates and/or leases a mobile food vending vehicle or food vending cart;
- (b) contracts or employs any person to drive, operate, prepare foods, and/or vend from a mobile food vending vehicle or food vending cart.

OPERATOR. Any person who prepares food and/or sells food, beverages or sundries from a mobile food vending vehicle or food vending cart or any individual that operates such a vehicle or cart.

§ 8-10-2 PERMIT.

(A) *Required.* It is unlawful for any mobile food vendor to conduct business without first obtaining and maintaining a mobile food vendor permit and all other required licenses, including a privilege or use tax license, the applicable county environmental health services permit as determined by Pinal or Maricopa County (according to the location of where business is being conducted in the city), current food handler's card and identification cards as may be required by this chapter. If a mobile food vendor has more than one food vending vehicle or food vending cart, multiple permits shall be required. There shall be no application fee for a mobile food vendor permit.

(B) *Application.* In addition to the requirements set forth in this chapter and the Apache Junction Tax Code, applicants for a mobile food vendor permit shall include the following information with the permit application:

- (1) A description of the goods to be sold;
- (2) If the applicant is an agent of the business for which the permit will be issued, the name and address of the agent, if different from the business address, together with credentials establishing the exact relationships with the mobile food vendor;
- (3) A description, license plate number and photograph of the vehicle or cart;
- (4) All location(s) from which the applicant intends to conduct business and a permanent address to which notifications may be sent;
- (5) A valid driver's license;
- (6) A mobile food vendor shall provide proof of vehicle liability insurance which shall be maintained during the term of the permit and shall have at least the minimum limits required by law;

(7) A mobile food vendor who conducts business on public property or city right-of-way shall provide: a) a certificate of insurance naming the "City of Apache Junction" as an additionally insured party; and b) a signed indemnification and duty to defend and hold harmless commitment.

§ 8-10-3 MOBILE FOOD AND VENDING OPERATING CONDITIONS.

Mobile and temporary food and beverage vendors who have obtained a permit shall be subject to the following limitations and conditions:

(A) Mobile vending shall only be permitted to operate on developed, commercially zoned property and shall not be authorized to operate on vacant lots and shall not impede access to adjacent businesses;

(B) There shall be an open and operating permanent business on the site in order to accommodate the sanitary facilities access requirement of the Building Code (i.e, restrooms, trash, recycling, food waste and grease disposal). The temporary food and beverage vendor must also be able to use these facilities;

(C) The hours of operation for the vendors shall be limited to the hours that the on-site, permanent business is open;

(D) The vendor shall secure the permission of the sponsoring business owner;

(E) Vendors/operators of food vending vehicles shall arrange for trash receptacles and will dispose of all trash during operations and shall keep the area surrounding the mobile food vending vehicles free of debris, litter and waste;

(F) The temporary food and beverage vendors shall not store the vehicle or cart when the permanent on-site business is not open unless the operator has the sponsoring business owner's permission;

(G) Mobile food vending vehicles or carts shall not be stored on the sponsoring business' property, when not in use, in lieu of placing it in a storage lot or similar facility regardless of the sponsoring business owner's permission;

(H) Mobile food and beverage vending shall be limited to 96 consecutive hours maximum at each temporary location;

(I) Signage attached to a mobile food vending vehicle shall not require a sign permit, but must conform to the signage regulations in the City of Apache Junction Zoning Ordinance. One A-frame sign or menu board per vehicle or cart is also permitted;

(J) A mobile food vendor or operator shall carry at all times proof of liability insurance, mobile food vendor permit, county health department permit, food handling card and proof of property owner approval to be on a given property;

(K) A mobile food vendor or operator may operate on city-owned or leased property, public right-of-way or city park as part of a civic event;

(L) Mobile food vending shall not be permitted on any city street or public right-of-way unless it is part of a civic event;

(M) Mobile food vendors shall be permitted to operate on private property at any location within the city when catering a private function and shall not stage the vehicle on public property or right-of-way.

(N) If the mobile food vendor is charged a fee for the food truck space, the sponsoring business owner shall comply with city tax code requirements.

§ 8-10-4 PERMIT REVOCATION AND APPEALS.

(A) A mobile food vendor permit shall be revoked by the city clerk's office for any of the following reasons:

(1) The permittee notifies the city in writing with appropriate signature that the business has been closed, sold or is no longer operating in the city; or

(2) Fraud, misrepresentation or false statement contained in the application for a permit;

(3) Any violation of this chapter or the Apache Junction Tax Code; or

(4) Conducting a business activity in violation of the Arizona Revised Statutes.

(B) Revoked permits may be reinstated only after the cause of such revocation has been fully corrected;

(C) A person whose permit has been revoked shall be issued a notice to cease mobile food vending operations within the city;

(D) Any person aggrieved by the city's decision to revoke a permit pursuant to subsection (A) above shall have the right of appeal to a hearing officer designated by the city manager. The appeal shall be filed with the city manager within 14 business days after receipt of the city's decision. The appeal shall contain a written statement setting forth fully the grounds for the appeal. The hearing officer shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant. The decision and order of the hearing officer shall be final and conclusive, except any person aggrieved may pursue any appropriate judicial proceedings;

(E) No person may reapply for any permit after revocation unless the cause for such revocation has been corrected.

§ 8-10-5 PENALTIES.

Any person violating any of the provisions of this chapter, shall be deemed guilty of a class one misdemeanor and, shall upon conviction, be punished pursuant to the provisions of the Apache Junction City Code, Vol. I, Chapter 1: General, Article 1-1: General, § 1-1-11 Penalty.