

**RESOLUTION NO. 2014-23**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF,  
ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS "THE  
2014 BBB TAX RE-CODIFICATION AMENDMENTS" AS A PUBLIC  
RECORD, AND PROVIDING FOR AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, pursuant to A.R.S. § 9-802 a municipality may enact or amend provisions of the City Code by reference to a public record, provided that the adopting ordinance is published in full;

**ENACTMENTS:**

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1.

That certain document known as "The 2014 BBB Tax Re-Codification Amendments" attached hereto as Exhibit A is hereby declared to be a public record, and three (3) copies shall remain on file with the City Clerk.

SECTION 2.

This resolution shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 15th day of July, 2014.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

Attachment: Exhibit A The 2014 BBB Tax Re-Codification Amendments

## EXHIBIT A

**THE 2014 BBB TAX RE-CODIFICATION AMENDMENTS**

The Flagstaff City Code, Title 3 *Business Regulations*, Chapter 3-06 *Privilege and Excise* Section 3-05-004-0444 *Hotels* and Section 3-05-004-0455 *Restaurants and Bars* are hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

**3-05-004-0444 HOTELS:**

The tax rate shall be at an amount equal to THREE ~~one~~ and seven hundred, twenty-onethousandths percent (3.721%) (~~4.721%~~) of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or space furnished to any:

- (a) Reserved.
- (b) Transient. "Transient" means any person who, for any period of not more than twenty-nine (29) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.)
- (c) Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or any other state in a privately operated prison, jail or detention facility is exempt from the tax imposed by this section.

**3-05-004-0455 RESTAURANTS AND BARS:**

- (a) The tax rate shall be at an amount equal to THREE ~~one~~ and seven hundred, twenty-onethousandths percent (3.721%) (~~4.721%~~) of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.
- (b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off premises, shall also be allowed to exclude separately charged delivery, set-up, and clean-up charges, provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off premises, his regular business location shall still be deemed the location of the transaction for the purposes of the tax imposed by this Section.
- (c) The tax imposed by this Section shall not apply to sales to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

- (d) The tax imposed by this Section shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. § 42-1310.01(a)(48), that serves the food and beverages to its passengers, without additional charge, for consumption in flight.
- (e) The tax imposed by this Section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.
- (f) For the purposes of this Section, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

The Flagstaff City Code, Title 3 *Business Regulations*, Chapter 3-06 *Lodging, Restaurant and Lounge Tax*, is hereby amended as set forth below (deletions shown as stricken, and additions shown as capitalized text):

**CHAPTER 3-06**  
~~**LODGING, RESTAURANT AND LOUNGE TAX**~~  
**HOSPITALITY INDUSTRY TAX REVENUES**

**3-6-001-0001 DEFINITIONS:**

**ARTS AND SCIENCES:** Support for Flagstaff arts, scientific and cultural activities, events and organizations to provide direct and indirect citizen participation and enhancement of the overall quality of life and community image including support of public art.

~~**BAR/LOUNGE:** Any public or private establishment where spirituous liquor, as defined by Arizona Revised Statutes, section 4-101.26, is sold for consumption on the premises.~~

**BEAUTIFICATION:** Any modification of the urban physical environment to increase pleasure to the senses or pleasurably exalt the mind or spirit or strengthen the urban design framework of the City.

**ECONOMIC DEVELOPMENT:** The encouragement, promotion and assistance of the expansion of economic activity for the purposes of expanding revenue and providing jobs to the community.

**HOSPITALITY INDUSTRY:** Those establishments engaged in business as bar/lounge, restaurant or hotel/motel/campground.

**HOSPITALITY INDUSTRY TAX REVENUES:** A SHARE OF THE LOCAL TRANSACTION PRIVILEGE TAX REVENUES COLLECTED AND RECEIVED PURSUANT TO THE CITY TAX CODE, SECTION 3-05-0004-0444 HOTELS AND 3-05-004-0455 RESTAURANTS AND BARS, WHICH SHARE IS EQUIVALENT TO TWO DIVIDED BY THREE AND SEVEN HUNDRED, TWENTY-ONETHOUSANDTHS ( $2 \div 3.721$ ) OR APPROXIMATELY 53.749% OF ALL SUCH REVENUES.

~~HOTEL/MOTEL/CAMPGROUNDS: Any public or private establishment which provides transient lodging for compensation; except hospitals, rest homes, nursing homes, foster homes, sheltered care homes or residential treatment facilities operated on a not-for-profit basis.~~

PARKS AND RECREATION: The development and management of public parks, recreational facilities, and programs which are available to the residents and visitors including funding the Flagstaff Urban Trail System.

~~RESTAURANT: Any business activity where articles of food, drink or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this Chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports or similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant", and not a "retailer".~~

TOURISM: The guidance, management, marketing, accommodation, promotion and encouragement of tourists.

TOURISTS/VISITORS: Individuals or groups which visit Flagstaff and surrounding areas for business, recreational, educational, scientific or cultural purposes.

~~TRANSIENT: Person who obtains, at his own or another's expense, lodging for a period of thirty (30) days or less.~~

### ~~3-06-001-0002~~ **TAX RATE:**

~~There is hereby levied against all hotels/motels/campgrounds, bars and restaurants a tax in the amount of two percent (2%) on the gross sales of that portion of all revenue defined as hotel/motel/ campgrounds, bar or restaurant business. This tax shall be in addition to all other taxes.~~

### **3-06-001-00030002 DISTRIBUTION:— DISTRIBUTION OF HOSPITALITY INDUSTRY TAX REVENUES:**

There shall be a separate accounting for all funds HOSPITALITY INDUSTRY TAX REVENUES collected ~~under this Chapter~~. Said funds shall be distributed and expended ~~in an manner~~ consistent with CITY ORDINANCES, the City Charter and State law. The funds collected ~~under this Chapter~~ shall be allocated as follows:

~~A. An initial allocation of \$40,000 in 1997, \$30,000 in 1998, \$20,000 in 1999 and \$10,000 in 2000, shall be made for economic development purposes.~~

~~B. After the initial allocation above, the balance of the tax collected shall be distributed as follows:~~

- ~~1. Thirty percent (30%) for tourism in conformance with subsection 3-06-001-0003(A) 3-06-001-0004(A).~~
- ~~2. Twenty percent (20%) for beautification in conformance with subsection 3-06-001-0003(B) 3-06-001-0004(B).~~

3. Nine and one-half percent (9.5%) for economic development in conformance with subsection 3-06-001-0003(C) ~~3-06-001-0004(C)~~.
4. Thirty-three percent (33%) for Parks and Recreation, in conformance with Section 3-0-001-0003(D) ~~3-06-001-0004(D)~~.
5. Seven and one-half percent (7.5%) for Arts and Science in conformance with Section 3-06-001-0003(E) ~~3-06-001-0004(E)~~.

**3-06-001-~~0004~~0003 FINANCIAL CONTROL:**

- A. Tourism: Those funds designated for tourism shall be administered as follows:
1. The City Council shall appoint a Tourism Commission composed of nine (9) members, five (5) of whom shall be from the hospitality industry. Recommendations for members will be made by the Flagstaff tourism industry; or
  2. The City Council shall designate an appropriate public or private agency to form a Tourism Committee. Said Committee shall be composed of one City Council person and additional members as required, the majority of whom will be from the hospitality industry.
  3. This public or private agency, or Commission shall review the expenditure of the portion of this tax to be applied to tourist related activities and projects and;
    - a. Develop and transmit to the Council an annual master plan outlining the Commission's or public or private agency's program recommendations for the upcoming year.
    - b. Make recommendations to the Council concerning the annual budgetary allocation of the tourism portion of this tax to include, but not be limited to:
      - (1) Providing funding to the qualified, established public or private agency to administer, on a contract basis, tourism programs as required.
      - (2) Developing and implementing a marketing plan. Major elements of the marketing plan will include, but not be limited to, developing a specific image for Flagstaff, identifying target market segments, implementing a promotional plan directed to target market segments.
      - (3) Establishing visitor information center(s) to include, but not be limited to, a high profile location, easy visitor access, adequate staffing, a toll-free telephone number for visitor information, and develop other facilities as needed to benefit visitors and the community.

- (4) Establishing an educational program to include, but not be limited to, scholarships for hospitality education at Northern Arizona University.
      - (5) Promoting activities that enhance the community's image and the overall quality of life.
      - (6) Retaining of appropriate staff to implement approved programs.
    - c. Perform those additional duties determined by the Council as set forth by ordinance.
- B. Beautification: Those funds designated for beautification and public art shall be administered as follows:
  1. The City Council shall appoint a Beautification and Public Art Commission composed of nine (9) members to review the expenditure of the portion of this tax to be applied to beautification activities and projects. Funds for the public art program shall be derived from an allocation of the arts and sciences portion of this tax as set out in Section 3-06-001-0003(E) ~~3-06-001-0004(E)~~ and from other monies as the City Council may consider appropriate.
  2. The Beautification and Public Art Commission shall:
    - (a) Make recommendations concerning the allocation of this tax.
    - (b) Make recommendations to the Council concerning the annual budgetary allocation of the beautification and public art portions of this tax and other monies as deemed appropriate, to include but not be limited to:
      - (1) Purchase, installation or modification of landscaping and irrigation systems
      - (2) Purchase, removal or modification of billboards and nonconforming signs.
      - (3) Beautification of buildings and facilities, streetscapes and gateways.
      - (4) Development and support of the City's public art program.
      - (5) Purchase or lease of easements or property necessary for beautification projects.
  3. Perform those additional duties determined by the Council as set forth by ordinance.

- C. Economic Development: Those funds designated for economic development shall be administered as follows:

The City Council shall:

1. Appoint or act as an Economic Development Commission;
2. Designate an appropriate public or private economic development agency. Said agency shall be composed of at least two City Council persons and additional members as required;
3. This public or private agency, shall:
  - a. Develop and transmit to the Council an annual master plan outlining the Commission's or public or private agency's program recommendations for the upcoming year. Said plan shall be presented to the Council prior to April 1 of each year.
  - b. Make recommendations to the Council concerning the annual budgetary allocation of the economic development portion of this tax, to include but not be limited to:
    - (1) Developing, acquiring and distributing advertising material to promote economic development.
    - (2) Providing financial assistance programs to stimulate relocation and retention of industrial prospects to Flagstaff.
    - (3) Retaining of appropriate staff to implement approved programs.
    - (4) Perform those additional duties determined by the Council as set forth by ordinance.

- D. PARKS AND RECREATION: Those funds designated for Parks and Recreation shall be administered as follows:

The City Council shall:

1. Appoint a Parks and Recreation Commission which shall:
  - a. Review the expenditure of the portion of this tax to be applied to Parks and Recreation related activities and projects.
  - b. Develop and transmit to the Council an annual operating plan outlining the Commission's program recommendations for the upcoming year.
  - c. Make recommendations to the Council concerning the annual budgetary allocation of the Parks and Recreation portion of this tax, to include but not be limited to:

- (1) Developing Parks and Recreation facilities, and programs as needed to benefit the community and its visitors.
- (2) Funding for the Flagstaff Urban Trails System development and maintenance.
- (3) Developing, acquiring and distributing material to promote Parks and Recreation.
- (4) Retaining of appropriate staff to implement approved programs.

d. Perform those additional duties determined by the Council as set forth by ordinance.

E. ARTS AND SCIENCE: Those funds designated for Arts and Science shall be administered as follows:

The City Council shall:

- 1. Allocate an annual amount for the support and development of the City's public art program to be administered by the Beautification Commission as provided in Section 3-06-001-003(B) ~~3-06-001-0004(B)~~.
- 2. Designate an appropriate public or private arts and science agency or board.
- 3. This public or private agency or board, shall:
  - a. Review the expenditure of the portion of this tax to be applied to arts and science related activities and projects; and
  - b. Develop and transmit to the Council an Annual Plan outlining program recommendations for the upcoming year in conjunction with the City's annual budgetary process.
  - c. Make recommendations to the Council concerning the annual budgetary allocation of the Arts and Science portion of this tax, to include but not be limited to:
    - (1) Developing and supporting the Flagstaff arts, scientific and cultural activities, events and organizations to provide direct and indirect citizen participation, and opportunities for enhancement of the overall quality of life and community image.
    - (2) Developing, acquiring and distributing material to promote arts and science.
    - (3) Developing financial assistance programs to stimulate artistic and scientific activities in Flagstaff.
    - (4) Retaining of appropriate staff to implement approved programs.

- d. Perform those additional duties determined by the Council as set forth by ordinance.

**~~3-06-001-0005 TECHNICAL ADMINISTRATION:~~**

~~The tax shall be collected by the City of Flagstaff. Technical administration, collection, audits, appeals not covered by this Chapter shall be in accordance with the City of Flagstaff Transaction Privilege Tax Ordinance No. 1491 and its amendments.<sup>4</sup> Should any conflict arise between this Chapter and the City of Flagstaff Transaction Privilege Tax Ordinance, this Chapter shall prevail as it relates to the lodging, restaurant and lounge tax.~~

**~~3-06-001-0006-0004 EXEMPTION:~~**

~~The HOSPITALITY INDUSTRY TAX REVENUES tax shall be exempt from the limits imposed on spending by article IX, section 20, of the Arizona State Constitution.~~