

**ORDINANCE NO. 2014-34**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, *BUSINESS REGULATIONS*, CHAPTER 3-05, *PRIVILEGE TAXES*, LEVYING A LOCAL TRANSACTION PRIVILEGE TAX INCREASE OF 33 CENTS PER \$100 OF TAXABLE GROSS INCOME (SALES) AS APPROVED BY THE MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING IN THE NOVEMBER 14, 2014 GENERAL ELECTION, PROPOSITION 406, "ROAD REPAIR AND STREET SAFETY INITIATIVE"; PROVIDING FOR USE OF TAX REVENUES AS APPROVED BY THE ELECTORS, PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE**

**RECITALS:**

WHEREAS, the City Charter, Article VI, Section 2(b) provides that the City Council shall have the power to levy a transaction privilege tax subject to approval by a majority of the qualified electors voting in the regularly scheduled General Election;

WHEREAS, on July 1, 2014, the City Council adopted Resolution No. 2014-28 ordering a question be submitted to the qualified electors of the City (Proposition 406, "Road Repair and Street Safety Initiative");

WHEREAS, on November 4, 2014, a majority of the qualified electors of the City voting in the regularly scheduled General Election approved Ballot Question/Proposition 406, "Road Repair and Street Safety Initiative," establishing an increase in the transaction privilege tax of 33 cents per \$100 of taxable gross income (sales) commencing January 1, 2015 and continuing for a period of twenty (20) years, and providing that the tax shall be used for street repairs and improvements, and authorizing sale and issuance of bonds;

WHEREAS, the City Council hereby desires to amend the City Tax Code in conformance with the voter mandate, notice and public hearing regarding such changes have been duly provided, and the Arizona Department of Revenue has been advised of the tax increase and updated the official copy of the Model City Tax Code;

WHEREAS, to improve transparency related to local tax revenues, the City Council desires to amend that section of the City Code reciting information about sunset dates and voter restrictions on use of taxes.

**ENACTMENTS:**

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

SECTION 1. In General.

The Flagstaff City Code, Title 3, *Business Regulations*, Chapter 3-05, *Privilege and Excise Taxes*, Division 3-05-004, *Privilege Taxes*, is hereby amended by increasing the tax rate for

taxable activities identified by sections as set forth below (deletions shown as stricken, additions shown as capitalized text, and omitted text which remains unchanged noted as “\* \* \*”):

**3-05-004-0405 ADVERTISING:**

- (a) The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of "local advertising" by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from "local advertising". All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "local advertising", except the following: \* \* \* \*

**3-05-004-0410 AMUSEMENTS, EXHIBITIONS, AND SIMILAR ACTIVITIES:**

- (a) The tax rate shall be at an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the following type or nature of businesses: \* \* \* \*

**3-05-004-0415 CONSTRUCTION CONTRACTING; CONSTRUCTION CONTRACTORS**

A. The tax rate shall be at an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City. \* \* \* \*

**3-05-004-0416 CONSTRUCTION CONTRACTING; SPECULATIVE BUILDERS:**

A. The tax shall be equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City. \* \* \* \*

**3-05-004-0417 CONSTRUCTION CONTRACTING; OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS**

A. At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of: \* \* \* \*

**3-05-004-0420 FEED AT WHOLESALE:**

(a) The tax rate shall be at an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of the sale of feed, salt, vitamins, and other additives to feed, to persons engaged in the raising or feeding of livestock or poultry purchased or raised for slaughter, with no deduction for the income derived from the "resale" of such feed. \* \* \* \*

**3-05-004-0425 JOB PRINTING:**

A. The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the

business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction. \* \* \* \*

**3-05-004-0427 MANUFACTURED BUILDINGS:**

(a) The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income, including site preparation, moving to the site, and/or set-up, upon every person engaging or continuing in the business activity of selling manufactured buildings within the City. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building. \* \* \* \*

**3-05-004-0430 TIMBERING AND OTHER EXTRACTION:**

A. The tax rate shall be an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the following businesses: \* \* \* \*

**3-05-004-0435 PUBLISHING AND PERIODICALS DISTRIBUTION:**

(a) The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business activity of: \* \* \* \*

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

The tax rate shall be at an amount equal to ~~three and seven hundred twenty-one thousandths percent (3.721%)~~ FOUR AND FIFTY-ONE THOUSANDTHS PERCENT (4.051%) 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: \* \* \* \*

**3-05-004-0445 RENTAL, LEASING, AND LICENSING FOR USE OF REAL PROPERTY:**

A. The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration, to the tenant in actual possession, or the licensing for use of real property to the final licensee located within the City for a consideration including any improvements, rights, or interest in such property; provided further that: \* \* \* \*

**3-05-004-0450 RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY:**

A. The tax rate shall be at an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the City as provided by regulation. \* \* \* \*

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

A. The tax rate shall be at an amount equal to ~~three and seven hundred twenty-one thousandths percent (3.721%)~~ FOUR AND FIFTY-ONE THOUSANDTHS PERCENT (4.051%)

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. \* \* \* \*

### **3-05-004-0460 RETAIL SALES; MEASURE OF TAX, BURDEN OF PROOF, EXCLUSIONS:**

A. The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail. \* \* \* \*

### **3-05-004-0470 TELECOMMUNICATION SERVICES:**

(a) The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this City. \* \* \* \*

### **3-05-004-0475 TRANSPORTING FOR HIRE:**

The tax rate shall be at an amount equal to ~~one and seven hundred twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this City to another point within the State. \* \* \* \*

### **3-05-004-0480 UTILITY SERVICES:**

A. The tax rate shall be at an amount equal to ~~one and seven hundred, twenty-one thousandths percent (1.721%)~~ TWO AND FIFTY-ONE THOUSANDTHS PERCENT (2.051%) of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to: \* \* \* \*

### **3-05-008-0800 ~~TERMINATION, APPROVAL~~ TAX SUNSET DATES, USE OF REVENUES, AND AUTHORITY TO EXTEND TAXES OR AMEND CHAPTER**

A. Sunset Clause. The provisions of this chapter shall terminate and cease to be operative for the tax rates specified below at 11:59 P.M. on the date specified for each rate, unless extended pursuant to subsection B below:

1. For the one percent (1.0%) transaction privilege tax rate imposed by Ordinance No. 1491, AS EXTENDED THROUGH November 4, 2024 BY APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS VOTING IN THE GENERAL ELECTION HELD ON MAY 18, 2010. SUCH TAX REVENUES ARE UNRESTRICTED.
2. For the two percent (2.0%) transaction privilege tax rate imposed ON LODGING, RESTAURANT AND LOUNGE BUSINESSES ("BBB TAX"), by Ordinance No. 1532, AS EXTENDED THROUGH March 31, 2028 BY APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS VOTING IN THE GENERAL ELECTION HELD ON MAY 18, 2010. SUCH TAX REVENUES SHALL BE USED AS PROVIDED FOR IN CHAPTER 3-06, HOSPITALITY INDUSTRY TAX REVENUES.

3. For the eight-hundredths percent (0.08%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR "SAFE-TO-SCHOOL AND OTHER PEDESTRIAN AND BIKE PROJECTS" (PROPOSITION 400) AS DESCRIBED IN THE ORDINANCE.
  4. For the sixteen-hundredths percent (0.16%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR "FOURTH STREET RAILROAD OVERPASS" TO ROUTE 66 (PROPOSITION 401A) AS DESCRIBED IN THE ORDINANCE.
  5. For the ~~eighty-four thousandths percent (0.084%)~~ to one hundred seventy-five thousandths percent (0.175%) transaction privilege tax rate imposed by Ordinance No. 2000-14, AS EXTENDED IN ORDINANCE NO. 2008-05 , June 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR "TRANSIT IMPROVEMENTS" (PROPOSITION 402) AS DESCRIBED IN ORDINANCE NO. 2000-14 AND "TRANSIT" (PROPOSITION 401) AS DESCRIBED IN ORDINANCE NO. 2008-05.
  6. For the one hundred eighty-six thousandths percent (0.186%) transaction privilege tax rate imposed by Ordinance No. 2000-14, June 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR "TRAFFIC FLOW AND SAFETY IMPROVEMENTS" (PROPOSITION 403) AS DESCRIBED IN THE ORDINANCE.
  7. FOR THE TWO HUNDREDTHS PERCENT (0.02%) TRANSACTION PRIVILEGE TAX RATE IMPOSED BY ORDINANCE NO. 2008-05, JUNE 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR "HYBRID VEHICLES AND TRANSIT SYSTEM CAPITAL" (PROPOSITION 402) AS DESCRIBED IN THE ORDINANCE.
  8. FOR THE TWO HUNDREDTHS PERCENT (0.02%) TRANSACTION PRIVILEGE TAX RATE IMPOSED BY ORDINANCE NO. 2008-05, JUNE 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR TRANSIT "SERVICE BETWEEN DOWNTOWN AND THE WOODLANDS VILLAGE AREAS" THROUGH AND WITHIN THE NORTHERN ARIZONA UNIVERSITY CAMPUS (PROPOSITION 403) AS DESCRIBED IN THE ORDINANCE.
  9. FOR THE FOUR HUNDREDTHS PERCENT (0.04%) TRANSACTION PRIVILEGE TAX RATE IMPOSED BY ORDINANCE NO. 2008-05, JUNE 30, 2020. SUCH TAX REVENUES SHALL BE USED TO "SUPPORT MOUNTAIN LINE BUS SERVICE IN AREAS UNDERSERVED OR NOT SERVED" (PROPOSITION 404) AS DESCRIBED IN THE ORDINANCE.
  10. FOR THE FOUR HUNDREDTHS PERCENT (0.04%) TRANSACTION PRIVILEGE TAX RATE IMPOSED BY ORDINANCE NO. 2008-05, JUNE 30, 2020. SUCH TAX REVENUES SHALL BE USED FOR "MORE FREQUENT SERVICE ON SOME EXISTING BUS ROUTES" (PROPOSITION 405) AS DESCRIBED IN THE ORDINANCE.
  11. FOR THE THIRTY-THREE HUNDREDTHS PERCENT (0.33%) TRANSACTION PRIVILEGE TAX RATE IMPOSED BY ORDINANCE NO. 2014-34, DECEMBER 31, 2034. SUCH TAX REVENUES SHALL BE USED FOR "ROAD REPAIR AND STREET SAFETY INITIATIVE" (PROPOSITION 406) AS DESCRIBED IN THE ORDINANCE.
- B. Automatic Extension upon Electors' Approval. The authority to levy each of the tax rates specified in subsection A of this section shall be subject to approval by a majority of the qualified electors voting in a regularly scheduled general election. Such approval shall constitute an

automatic extension of this chapter for however long the qualified electors approve such extension at the respective tax rate approved without further action by the City Council.

C. Authority to Amend. The Council may amend this chapter as it may deem necessary with the exception of the rates or the effective term of this chapter.

**SECTION 2. Use of Tax Revenues.**

Tax revenues generated from the 0.33% transaction privilege tax rate increase approved by a majority of the qualified electors of the City voting in the regularly scheduled General Election on November 4, 2014, (who voted "yes" on Ballot Question/Proposition No. 406), shall be used as follows:

Purpose: Repair and Street Safety Initiative

Shall the City Council on behalf of the City of Flagstaff:

Change the City Tax Code to levy an additional 33 cents per \$100 of taxable sales for a period of 20 years starting January 1, 2015, the funds raised by such additional tax to be used exclusively to pay for street improvements and the ongoing preservation of street conditions inside the City limits, and related costs, which include improvements to:

- adjacent curb, gutters, sidewalks, bicycle paths and
- pedestrian safety, transit facilities and
- water, wastewater, and storm water utilities under or around these streets that need improvement or preservation and

pay for these improvements and preservation through borrowing in a principal amount not to exceed \$20,000,000 that would be paid back with interest from this tax in a period not to exceed 20 years from the date the debt is issued?

**SECTION 3. Penalties.**

Any person convicted of a violation of this ordinance is guilty of a class one misdemeanor and shall be fined a sum not to exceed two thousand five hundred dollars (\$2,500.00) and may be sentenced to confinement in the County jail for a period not to exceed six (6) months for any one offense, all in accordance with Flagstaff City Code Chapter 3-05. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

**SECTION 4. Repeal of Conflicting Ordinances.**

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

**SECTION 5. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference 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 6. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency, within thirty (30) days following adoption by the City Council.

SECTION 7. Effective Date.

Pursuant to the voter mandate, the tax increase set forth in SECTION 1 of this ordinance shall be effective January 1, 2015.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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