

**TITLE IV
BUSINESS REGULATIONS**

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CHAPTER 4-1: CITY TAX CODE

SECTIONS:

4-1-1: ADOPTION OF TAX CODE:

4-1-2: PENALTY:

4-1-1: ADOPTION OF TAX CODE:

That certain document entitled "Tax Code of the City of Prescott" which contains amendments through Ordinance 2000 adopted May 5, 1988, and as the same may be amended from time to time is hereby adopted as the official Tax Code of the City and is made a part of this Chapter the same as though said code with amendments were specifically set forth in full herein. At least three (3) copies shall be filed in the office of the City Clerk and shall be kept available for public use and inspections. (Ord. 2052, 1-10-1989; amd. Ord. 2179, 6-12-1990)

AMENDMENTS:

Ord. 2296, eff. 9-24-1991 - Sections 1, 3, 4, 5 and 6

Re: Tax on jet fuel

Ord. 3110, eff. 9-1-1993 - Section 4-1-300(a)

Re: Privilege Tax License Application Fee \$25.00

Ord. 3289, eff. 2-1-1995 - Amending the following sections of the 1995 Amendments to the City Tax Code of the City of Prescott: §§ 1 (with the exception of the deletion of the definition of "manufacturing"), 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, that part of 15 amending section 4-1-465(o) of the Prescott City Tax Code, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28 and 29.

Ord. 3289, eff. 7-1-1995 - Amending the following sections of the 1995 Amendments to the City Tax Code of the City of Prescott: The deletion of the definition of manufacturing from section 1 and section 14, that part of section 15 amending section 4-1-465(u) of the Prescott City Tax Code, 20, 21, 22 and 30.

Ord. 3372, eff. 8-1-1995 - Amend section 4-4-410(b) - add tax on green fees.

Ordinance 3442, eff. 1-1-1996 to 1-1-2006 - The City Tax Code is hereby amended as follows: Any and all references to a tax to be imposed shall read "two percent (2%)" rather than "one percent (1%)".

Ordinance 3558, eff. 12-31-1996 - The City Tax Code is hereby amended as set forth in that certain public record entitled "The 1996 Amendments to the City Tax Code of the City of Prescott, Arizona, including a Taxpayer Bill of Rights", as adopted pursuant to Resolution 2934 on November 26, 1996.

Ordinance 3697, eff. and retroactive April 1, 1987 - The City Tax Code is hereby amended as set forth in that certain public record entitled "Environmental Remediation Amendments to the Tax Code of the City of Prescott, Arizona", as adopted by the Prescott City Council pursuant to Resolution 3016, and as the same may be amended from time to time, is hereby adopted and made a part of the City Tax Code of the City of Prescott, the same as though said amendments were specifically set forth in full herein.

Ordinance 3764, eff. 7-1-1998 - The City Tax Code is hereby amended as set forth in that certain public record entitled "The 1998 Amendments to the Tax Code of the City of Prescott, Arizona", as adopted by the Prescott City Council pursuant to Resolution 3067, and as the same may be amended from time to time, is hereby adopted and made a part of the City Tax Code of the City of Prescott, the same as though said amendments were specifically set forth in full herein.

The following provision of the public record adopted herein is retroactive to April 1, 1987:

Subsection (a), paragraph (16) on "Cleanrooms" as added to Section 2. Section 4-1-110. Definitions: Income-producing capital equipment.

Ordinance 3924, eff. 1-1-2000 - The city tax code is hereby amended as set forth in that certain public record entitled "The 1999 Amendments to the Tax Code of the City of Prescott, Arizona", as adopted by the Prescott city council pursuant to resolution 3210, and as the same may be amended from time to time, is hereby adopted and made a part of the city tax code of the city of Prescott, the same as though said amendments were specifically set forth in full herein.

The following sections of the 1999 amendments to the tax code of the city of Prescott, Arizona are effective retroactive to January 1, 1999:

- A. Section 14-415(b)(3).
- B. Section 14-416(c)(1)(A).
- C. Section 14-417(b)(1)(A).

The following sections of the 1999 amendments to the tax code of the city of Prescott, Arizona are effective retroactive to May 5, 1999:

- A. Section 14-450(c)(10).
- B. Section 14-465(kk).
- C. Section 14-660(kk).

Ordinance 3996, 6-13-2000 - Amending ordinance 3442 as follows: Section 3. Sunset Clause. That, from and after January 1, 2016, this ordinance shall be of no further force and effect, and from and after January 1, 2016, the city tax code shall be amended as follows: Any and all references to a tax to be imposed shall read "one percent (1%)" rather than "two percent (2%)".

Ordinance 4062, eff. 2-1-2001 - The city tax code is hereby amended as follows:

The addition of section 4-1-447.

The proceeds of the additional tax on transient lodging imposed by section 4-1-447 shall be used for the promotion of tourism and development of recreational facilities within the city of Prescott. The new section is to read as follows:

Sec. 4-1-447. Rental, leasing, and licensing for use of real property: Additional tax upon transient lodging.

In addition to the taxes levied as provided in section 4-1-444, there is hereby levied and shall be collected an additional tax in an amount equal to two percent (2%) of the gross income from the business activity of any hotel engaging or continuing within the city in the business of charging for lodging and/or lodging space furnished to any transient. "Transient" means any person who, for any period of less than twenty-eight (28) 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.

The amendment of section 4-1-100.1 to read as follows:

Reg. 4-1-100.1. Brokers

- (a) For the purposes of proper administration of this Chapter and to prevent evasion of taxes imposed, brokers shall be wherever necessary treated as taxpayers for all purposes, and shall file a return and remit the tax imposed on the activity on behalf of the principal. No deduction shall be allowed for any commissions or fees retained by such broker, except as provided in Section 4-1-405, relating to advertising commissions.

- (b) Brokers for vendors . A broker acting for a seller, lessor, or other similar person deriving gross income in a category upon which this Chapter imposes a tax shall be liable for such tax, even if his principal would not be subject to the tax if he conducted such activity in his own behalf, by reason of the activity being deemed a "casual" one. For example:
 - (1) An auctioneer or other sales agent of tangible personal property is subject to the tax imposed upon retail sales, even if such sales would be deemed "casual" if his principal had sold such items himself.
 - (2) (Reserved)
- (c) Brokers for vendees . A broker acting solely for a buyer, lessee, tenant, or other similar person who is a party to a transaction which may be subject to the tax, shall be liable for such tax and for filing a return in connection with such tax only to the extent his principal is subject to the tax.
- (d) The liability of a broker does not relieve the principal of liability except upon presentation to the Tax Collector of proof of payment of the tax, and only to the extent of the correct payment. The broker shall be relieved of the responsibility to file and pay taxes upon the filing and correct payment of such taxes by the principal.
- (e) (RESERVED)
- (f) Location of Business . Retail sales by brokers acting for another person shall be deemed to have occurred at the regular business location of the broker, in a manner similar to that used to determine "out-of-City sales"; provided, however, that an auctioneer is deemed to be engaged in business at the site of each auction.

The addition of 4-1-447.1 to read as follows:

Regulation 4-1-447.1. Gross income from rental, leasing, and licensing for use of real property as lodging or lodging space to transients.

- (a) If the charge made by a hotel to a transient includes any charge for services or accommodations in addition to that of lodging and/or the use of lodging space, then such portion of the total charge as represents only the charge for the use of the room and/or lodging space shall be distinctly set out and billed to such transient by such hotel as a separate item, or the entire charge shall be deemed charge for use of lodging space subject to the tax imposed by section 4-1-447.

- (b) A separately itemized charge for use of the furnishings contained in lodging or lodging space rented, leased, or licensed to a transient shall be deemed gross income from the business of renting, leasing, and licensing lodging to a transient. Furthermore, in regard to such tangible personal property, such person is deemed not in the business of rental, leasing, and licensing of tangible personal property for all purposes of this chapter.
- (c) Complimentary food and drink . Persons engaged in the business of rental, leasing, and licensing of lodging to transients shall include charges for complimentary food and drink as gross income from the business of rental, leasing, and licensing of lodging to transients, and shall not be deemed in the restaurant business for all purposes of this chapter, unless such charges:
 - (1) Are made only at the request of the transient, or as a separate, optional charge for consuming specific food or drink (for example, "room service" charges); and
 - (2) Are commensurate with charges for like quantity and type of food consumed by patrons of persons engaged in the restaurant business.

The rescinding in its entirety of Article VIII entitled "Imposition of privilege tax upon transient lodging".

Ordinance 4220, eff. retroactive to 1-1-2002 - The City Tax Code is hereby amended as set forth in that certain public record entitled "The 2001 Amendments to the City Tax Code of the City of Prescott, Arizona", as adopted pursuant to Resolution Number 3455.

Ordinance 4398, 5-25-2004 - The city tax code is hereby amended as follows:

The amendments of section 4-1-100 to read as follows:

Sec. 4-1-100. General definitions.

"Qualifying Community Health Center "

- (a) means an entity that is recognized as nonprofit under Section 501(c)(3) of the United States Internal Revenue Code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:
 - (1) the sole provider of primary care in the community.
 - (2) a nonhospital affiliated clinic that is located in a federally designated medically underserved area in this State.

- (b) Includes clinics that are being constructed as Qualifying Community Health Centers.

"Qualifying Health Care Organization " means an entity that is recognized as nonprofit under Section 501(c) of the United States Internal Revenue Code and that uses, saves or invests at least eighty percent (80%) of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted accounting standards and filed annually with the Arizona Department of Revenue. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty percent (80%) requirement.

"Qualifying Hospital " means any of the following:

- (4) facility that is under construction and that on completion will be a facility under subdivision (1), (2) or (3) of this paragraph.

The amendment of section 4-1-260(c)(6) to read as follows:

Sec. 4-1-260. Exclusion of fees and taxes from gross income; limitations.

- (c)
 - (6) waste tire disposal fees, imposed pursuant to ARS Section 44-1302.

The addition of 4-1-415.3 to read as follows:

Reg. 4-1-415.3. Construction contracting; tax rate effective date.

- (a) In the event of a tax rate change, the rate imposed on gross income from construction contracting shall be computed based upon the rate in effect when the contract was executed, subject to the "enactment date" as defined in this section. gross income from a contract executed prior to the enactment date shall not be subject to the tax rate change, provided the contract contains no provision that entitles the construction contractor to recover the amount of the tax.
- (b) In the event of a rate increase, in order to qualify for the lower rate, the construction contractor shall, upon request, provide sufficient documentation, in a manner and form prescribed by the tax collector, to verify that a contract was entered into before the enactment date.
- (c) For purposes of this section, "enactment date" shall be:

- (1) in the event an election is held, the date of election.
- (2) in the event no election is held, the date of final adoption by the mayor and council.
- (3) notwithstanding the above, nothing in this section shall be construed to prevent the city from establishing a later enactment date.

The addition to 4-1-520.1 to read as follows:

Reg. 4-1-520.1. Reports made to the City.

- (a)
 - (11) The Tax Collector may prescribe and will notify taxpayers of alternative methods for signing, subscribing or verifying any report or statement required to be filed, including but not limited to electronic signatures and/or security codes, and such methods shall have the same validity and consequences as the actual signature or written declaration of the taxpayer or other person required to sign, subscribe or verify the return, statement or other document.

Ordinance 4564, 11-14-2006, eff. 12-14-2006 – That certain document known as “*The 2006 Amendments to the Tax Code of the City of Prescott, Arizona*” which document amends the Tax Code of the City of Prescott, three copies of which are on file in the office of the City Clerk of the City of Prescott, Arizona, and which document was made a public record by Resolution No. 3785 of the City of Prescott, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Ordinance 4690-0933, 11-27-2008, eff. 7-01-2008 - That certain document known as “*The 2008 Amendments to the Tax Code of the City of Prescott, Arizona*” which document amends the Tax Code of the City of Prescott, three copies of which are on file in the office of the City Clerk of the City of Prescott, Arizona, and which document was made a public record by Resolution No. 3933-0939 of the City of Prescott, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Ordinance 4804-1204, 08-09-2011, eff. 09-08-2011 - That certain document known as “*The 2010-2011 Amendments to the Tax Code of the City of Prescott, Arizona*” which document amends the Tax Code of the City of Prescott, three copies of which are on file in the office of the City Clerk of the City of Prescott, Arizona, and which document was made a public record by Resolution No. 4094-1204 of the City of Prescott, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

4-1-2: PENALTY:

Any person who violates section 4-1-580 of the tax code of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. (Ord. 3116, eff. 8-10-1993; Ord. 4690, 11-27-2009, eff. 7-01-2008)

CHAPTER 4-2: PRIVATE INVESTIGATION SERVICES

SECTIONS:

4-2-1: DEFINITION:

4-2-2: LICENSING:

4-2-3: REGISTRATION:

4-2-4: RENEWAL, REVOCATION OR SUSPENSION:

4-2-5: VIOLATIONS:

4-2-1: DEFINITION:

"Private Investigation Services" are those services or business activities which are defined and regulated in Arizona Revised Statutes § 32-2401 Arizona Revised Statutes § 32-2428.

4-2-2: LICENSING:

No person shall engage in the business of private investigation services within the limits of the City unless duly licensed by the Director of the Arizona Department of Public Safety pursuant to the licensing provisions of Arizona Revised Statutes § 32-2428.

4-2-3: REGISTRATION:

Any person who conducts private investigation services on a regular basis within the limits of the City or who maintains an office or branch office within the City limits for that purpose shall register with the Chief of Police of the City of Prescott. Each and every person required to be licensed as a private investigator under Arizona Statutes shall register by presenting to the Chief of Police or his authorized agent a valid and current identification card issued by the Director of the Department of Public Safety under Arizona Revised Statutes § 32-2402(C), Department of Public Safety Regulation No. 4. The identification card and/or the information contained thereon may be copied by the Chief of Police or his agent and the card shall be returned immediately to the licensee. There shall be no fee charged by the City for this registration. The registration required herein shall be accomplished within five (5) working days of the start of the licensee's business activity within the limits of the City or the opening by the licensee of an office or branch office for private investigation services within the limits of the City.

4-2-4: RENEWAL, REVOCATION OR SUSPENSION:

The licensee shall inform the Chief of Police or his authorized agent within five (5) days of the renewal, suspension or revocation of the license issued by the Director of the Department of Public Services and shall notify the Chief of Police

of the City of any change in information on the identification card. (Ord. 1635, 6-13-83)

4-2-5: VIOLATIONS:

Any person who violates any of the provisions of this Chapter is guilty of a misdemeanor punishable as provided in Section 1-3-1 of the Prescott City Code. (Ord. 1635, 6-13-83; amd. Ord. 1834, eff. 10-23-86)

CHAPTER 4-3: AUCTIONS, JUNK DEALERS, PAWNSHOPS AND SECONDHAND DEALERS

SECTIONS:

- 4-3-1: DEFINITIONS:
- 4-3-2: REGULATIONS:
- 4-3-3: VIOLATIONS:

4-3-1: DEFINITIONS:

AUCTION HOUSE: Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.

JUNK DEALER: Any person who collects or buys junk, including such items as rags, bottles, scrap metal, paper, and such other material as is usually collected for salvage purposes and where such person holds it for storage or offers it for sale.

PAWNSHOP: Any establishment in which is carried on the business of pawn brokerage, or the business of loaning money for himself or for another person, receiving as security for payment thereof pawns or pledges of property and reselling or agreeing to resell, trade, or exchange such articles to vendors, their personal representatives, or their assignees at a price agreed upon at or before the time of such purchase, whether such business be the principal or sole business so carried on or be merely incidental to, in connection with, or a branch or a department of some other business or businesses.

SECONDHAND DEALER: A. The term "Secondhand Dealer" shall mean any person gaged in conducting, managing, or carrying on the business of buying, selling, trading, or exchanging, or otherwise dealing in secondhand goods, wares, merchandise, or articles, whether such business be the principal or sole business so carried on, managed, or conducted or be merely incidental to, in connection with, or a branch or department of some other business or businesses. This term shall not be construed to include trade-ins, dealers, or auctioneers in articles or property, the transfer of title to which is required by the laws of the State of Arizona, to be evidenced by written instrument and recorded in the office of the Department of the State or County Government.

B. The term "Trade-In" shall mean the acceptance, sale or disposal of used automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobile parts taken in part payment for new or reconditioned automobile tires or automobile batteries or farm implement parts or farm machinery parts or road

equipment parts or mining equipment parts or automobile parts, and dealers exchanging articles in the course of service or construction work shall not be deemed to constitute the doing of any business defined under this term. (Ord. 468, 10-10-55)

4-3-2: REGULATIONS:

- (A) All business subject to this Chapter shall be required to make and send to the Chief of Police on Friday of each week a full, true and complete report of all goods, wares, merchandise or articles received on deposit in pawn, pledge, trade or exchange, or by purchase, as listed below:
1. All firearms.
 2. All photographic equipment.
 3. All appliances, including radio, washers, television sets, sewing machines, toasters, and all other identifiable appliances.
 4. All power tools.
 5. All watches and jewelry.
 6. All hand tools by group or set and description.
 7. All auto accessories and tires.
- (B) Such weekly reports shall show the hour of the day and date when such articles were received, the signature of the seller and his name and address as nearly as the same are known or can be ascertained by the auction house, junk dealer, pawnshop or secondhand dealer, together with a description of the seller, which description shall reveal the address, sex, approximate height, age, complexion, color of hair, and any distinguishing marks of such person. Said report filed by the auction house, junk dealer, pawnshop or secondhand dealer shall show the number of the pawn ticket, if any is given, the amount loaned for the article or articles or the amount paid therefor, the quantity or number purchased and a brief description thereof.
- (C) A record shall be kept by each auction house, junk dealer, pawnshop or secondhand dealer of the description of any of the above listed articles which he may have sold or exchanged.
- (D) The Chief of Police or his agents, or any proper City official, shall have the right to inspect the premises of any business covered by this Chapter in order to investigate for and locate articles reported as lost, missing or

stolen, and also the reports of said business to determine whether the provisions of this Chapter are fully complied with by the owner or operator thereof. (Ord. 474, 1-9-56)

4-3-3: VIOLATIONS:

Any person who violates any of the provisions of this Chapter is guilty of a misdemeanor punishable as provided in Section 1-3-1 of the Prescott City Code. (Ord. 2102, 8-8-89)

CHAPTER 4-4: PEDDLERS; SOLICITORS; TRANSIENT MERCHANTS

SECTIONS:

- 4-4-1: DEFINITIONS:
- 4-4-2: LICENSE REQUIRED:
- 4-4-3: EXEMPTIONS:
- 4-4-4: APPLICATION:
- 4-4-5: RELIGIOUS, CHARITABLE AND OTHER FEDERALLY EXEMPT ORGANIZATIONS; EXEMPTION:
- 4-4-6: ISSUANCE:
- 4-4-7: FEES:
- 4-4-8: BONDS:
- 4-4-9: LOUD NOISES AND SPEAKING DEVICES:
- 4-4-10: USE OF STREETS:
- 4-4-11: EXHIBITION OF LICENSE:
- 4-4-12: DUTY OF POLICE TO ENFORCE:
- 4-4-13: RECORDS:
- 4-4-14: REVOCATION OF LICENSE:
- 4-4-15: APPEAL:
- 4-4-16: REAPPLICATION:
- 4-4-17: EXPIRATION OF LICENSE:
- 4-4-18: PENALTY:
- 4-4-19: FEES ARE IN ADDITION TO TRANSACTION PRIVILEGE TAX:
- 4-4-20: SEVERANCE CLAUSE:

4-4-1: DEFINITIONS:

When used in this Ordinance, the following terms have the following meanings:

FEDERALLY EXEMPT ORGANIZATION: An organization which has received a determination or exemption, or qualifies for such exemption, under 26 USC section 501(c) and rules and regulations of the Commissioner of Internal Revenue pertaining to same.

ORGANIZED-SHOW VENDOR: Includes any person, whether a resident of the City or not, who engages in a temporary business of fabricating, displaying, or selling goods or handcrafted objects, curios and textiles, and who in furtherance of such purpose occupies a space, stall, booth or other temporary structure on location in conjunction with, associated with, or attendant to an organized show such as a fair, convention, celebration, promotion or other public gathering, which organized show is not longer than fifteen (15) days in duration. An organized show is a show sponsored by a charitable, religious, or other nonprofit organization which has obtained a permit under this Chapter for such show.

PEDDLER: Any person, whether a resident of the City of Prescott or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

PORTABLE SIGN: Any sign not permanently affixed to the ground or the structure on the site it occupies.

SIGN: Any device for visual communication which is used to or intended to attract the attention of the public for business or professional purposes, when the display of this device is visible beyond the boundaries of the property upon which the display is located. The term "sign" shall not include any flag or badge or insignia of any government or governmental agency. The term "sign" shall not include the displays or advertising devices in a merchant's window or within the interior of a building.

SOLICITOR: Any person, whether a resident of the City of Prescott or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for services to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition includes any person who, for himself, or for another person, hires, leases, uses or occupies any approved building, structure, room in hotels or motels, shops or other approved structures within the City for the primary purpose of exhibiting samples and taking orders for future delivery.

STRUCTURE: Any object constructed or installed by a person, having a permanent location on the ground.

TEMPORARY SIGN: Any sign not intended for permanent display.

TRANSIENT MERCHANT: Includes any person, whether as owner, agent, employee or independent dealer, whether a resident of the city or not, who engages in business of selling and delivery of goods, wares and merchandise within said city; and who, in furtherance of such business, hires, leases, uses or occupies any approved building, structures within the city for the exhibition and sale of such goods, wares and merchandise. (Ord. 982, 7-24-1972; amd. Ord. 1584, 5-24-1982; Ord. 1962, eff. 12-24-1987; Ord. 1998, 4-26-1988; Ord. 2040, eff. 1-12-1989)

4-4-2: LICENSE REQUIRED:

- (A) Requirement: It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the city without first obtaining a license therefor in compliance with the provisions of this chapter.
- (B) Prohibited Practices:
 - 1. It is unlawful for any peddler, solicitor or transient merchant to make exclusive use of any location to any street, alley, sidewalk or right of way for the purpose of selling, delivering or exhibiting goods or merchandise. (Ord. 1584, 5-24-1982)
 - 2. It is unlawful for any peddler, solicitor or transient merchant to operate in a congested area where such operation impedes or inconveniences the public use of such street, alley, sidewalk or right of way. (Ord. 4438, 12-14-2004)
 - 3. It is unlawful for any peddler, solicitor or transient merchant to display signs on the exterior of any structure; no signs or temporary signs shall be allowed. (Ord. 1584, 5-24-1982)
 - 4. It is unlawful for any solicitor or transient merchant to occupy any property or structure for the purpose of selling or delivery of goods, wares or merchandise within the city, unless said structure or property conforms with the Prescott land development code. It is the responsibility of the licensee to assure that approval of each specific structure or property is clearly listed on any license issued under this chapter. (Ord. 4449, 1-11-2005)
 - 5. It is unlawful for any person to exhibit any copy or facsimile of the original license issued under this chapter. (Ord. 1584, 5-24-1982)

4-4-3: EXEMPTIONS:

- (A) The terms of this chapter do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newspaper carriers, nor to the acts of merchants or their employees in delivering goods in the regular course of business.
- (B) Nothing contained in this chapter prohibits any sale required by statute, or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.
- (C) Those persons who have had prior contact with the owners or occupants and have been invited to a private residence for the purpose of making

sales, soliciting orders, or delivering goods shall be exempt from the provisions of this Chapter. (Ord. 1962, eff. 12-24-1987)

- (D) An organized-show vendor and his employees, agents and independent dealers are exempt from the provisions of Sections 4-4-4, 4-4-6, 4-4-8, and 4-4-19 of this Chapter, and also from the provisions of Chapter 1 of this Title pertaining to transaction privilege tax. (Ord. 1998, 4-26-1988; amd. Ord. 2040, eff. 1-12-1989)
- (E) An organized-show vendor is exempt from the provisions of Section 4-4-7 of this Chapter when such vendor is making sales exclusively of paintings, sculptures or similar works of fine art, provided that the organized-show vendor is the original artist of such works of fine art. An organized-show vendor will not be exempt when such vendor is selling "art creations", such as jewelry, macramé, glasswork, pottery, woodwork, metalwork, furniture, and clothing, when such "art creations" have a dual purpose, both aesthetic and utilitarian. (Ord. 2040, eff. 1-12-1989)

4-4-4: APPLICATION:

Applicants for a license under this Chapter shall file with the City Finance Director, a sworn application in writing on a form to be furnished by the City Finance Director, which shall include the following: (Ord. 1962, eff. 12-24-1987)

- (A) Name and physical description of applicant.
- (B) Complete permanent home and local address of the applicant and, in the case of the transient merchants, the local address from which proposed sales will be made.
- (C) A brief description of the nature of the business and the goods to be sold.
- (D) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship (no post office box will be accepted).
- (E) The length of time for which the right to do business is desired.
- (F) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery. (Ord. 982, 7-24-1972)
- (G) Two (2) recent photographs of the applicant, approximately two inches by two inches (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishing manner. (Ord. 1962, eff. 12-24-1987)

- (H) The names of at least two (2) property owners of Yavapai County, Arizona, who will certify as to the applicant's good character and business respectability, or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
- (I) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any Municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor.
- (J) The most recent cities or towns, not to exceed three (3), where applicant carried on business immediately preceding date of application and the address from which such business was conducted in those municipalities. (Ord. 982, 7-24-1972)
- (K) At the time of filing the application, a nonrefundable fee of fifty dollars (\$50.00) shall be paid by the applicant to cover the cost of processing. Upon approval of the application by the City, the applicant shall pay a fee of ten dollars (\$10.00) for an identification card. The applicant may authorize up to twenty (20) identification cards to be issued under his license for employees, agents or independent dealers handling his products. If the applicant wishes to authorize more than twenty (20) identification cards, he must make a special request, in writing, to the Chief of Police. The Chief of Police will indicate his approval or disapproval on the written request and return it to the Finance Department. Employees, agents or independent dealers must complete applications for such cards, and there will be a fee of ten dollars (\$10.00) for each identification card issued. (Ord. 1962, eff. 12-24-1987)
- (L) Description of vehicles, including license numbers to be used in business. (Ord. 982, 7-24-1972)

4-4-5: RELIGIOUS, CHARITABLE AND OTHER FEDERALLY EXEMPT ORGANIZATIONS; EXEMPTION:

Any organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property, or financial assistance of any kind, or desiring to sponsor an organized show, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than a member of such organization upon the streets, in office or business buildings, by house-to-house canvass, or in public places for a charitable, religious, patriotic, philanthropic, fraternal, public service or other similar purpose, shall be exempt from the provisions of sections 4-4-4

and 4-4-8 of this chapter and shall not be subject to the provisions of the definition of "transient merchant" in section 4-4-1 of this chapter, provided there is filed a sworn application in writing on a form to be furnished by the city finance director which shall give the following information:

- (A) Name and purpose of the cause for which permit is sought.
- (B) Names and addresses of the officers and directors of the organization.
- (C) Information regarding the location, date and hours of operation of the activity.
- (D) Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

Upon being satisfied that such organization, association or corporation is a "federally exempt organization" as defined in this chapter, the city finance director shall issue a permit without charge to such organization, association or corporation for the purpose specified in the application. Such organization, association or corporation shall furnish all of its members, agents or representatives credentials in writing stating the name of the organization, name of agent and purpose of solicitation or other activity. (Ord. 2040, eff. 1-12-1989)

4-4-6: ISSUANCE:

- (A) Upon payment of the prescribed fee, the city finance department shall deliver to the applicant his identification card. Such identification card shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, date of issuance, the license number, and other identifying description of any vehicle used in such licensed business. Each peddler, solicitor or transient merchant must secure a personal identification card from the city finance department. No identification card shall be used at any time by any person other than the one to whom it is issued. The finance department shall keep a permanent record of all licenses and identification cards issued. (Ord. 3925, 11-9-1999)

4-4-7: FEES:

Organized-show vendors are required to obtain a permit for each show in which they participate. The fee each for such permit is twenty five dollars (\$25.00) per show, for up to three (3) consecutive days. An additional fee of ten dollars (\$10.00) per day shall be required for each day after three (3) that the show continues in operation. All vendors shall remit the required fees to the show sponsor on or before the first day of the show.

The show sponsor shall remit all fees required, along with a list of participating vendors to the city finance department within ten (10) days of the close of the show. At the finance director's discretion, a show sponsor may be required to provide a deposit in an amount not to exceed twenty five dollars (\$25.00) for each available space in the show. If required, such deposit shall be due on or before the last business day before the first day of the show. (Ord. 4052, 11-14-2000)

4-4-8: BONDS:

- (A) Every applicant for a license issued under this chapter shall post a cash bond with the city finance director in the amount of two hundred dollars (\$200.00) for the applicant, plus one hundred dollars (\$100.00) for each employee, agent or independent dealer acting in the capacity of peddler, solicitor or transient merchant. The total bond required shall not exceed one thousand dollars (\$1,000.00). This bond is to assure compliance with the provisions of this chapter and shall be forfeited if the licensee or any of his employees, agents or independent dealers are found to be in violation of any of the provisions of this chapter. (Ord. 1962, eff. 12-24-1987)
- (B) Upon surrender by the licensee of his peddler, solicitor or transient merchant license and of all identification cards of his employees, agents or independent dealers to the city finance department, the bond shall be returned in full, provided all fees, taxes or other encumbrances are paid, and further provided that the licenses and identification cards are surrendered within sixty (60) days of their expiration date. (Ord. 1998, 4-26-1988; amd. Ord. 2040, eff. 1-12-1989)

4-4-9: LOUD NOISES AND SPEAKING DEVICES:

No licensee, nor any person on his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound-amplifying device upon any of the streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. 982, 7-24-1972)

4-4-10: USE OF STREETS:

(Rep. by Ord. 1600, 9-13-1982)

4-4-11: EXHIBITION OF LICENSE:

Licensees, employees, agents and independent dealers are required to exhibit their original identification card at the request of any citizen. Exhibition of any copy or facsimile of the card shall not be considered compliance with this section. (Ord. 1962, eff. 12-24-1987)

4-4-12: DUTY OF POLICE TO ENFORCE:

It shall be the duty of the police of the city to require any person peddling or soliciting to produce his identification card when such person is not known by the officer to be duly licensed. Such police officer shall enforce the provisions of this chapter against any person found to be violating the same. (Ord. 1962, eff. 12-24-1987)

4-4-13: RECORDS:

The chief of police shall report to the city finance director all convictions for violation of this chapter and the city finance director shall maintain a record for each license and identification card issued and record the reports of violation therein. (Ord. 1962, eff. 12-24-1987)

4-4-14: REVOCATION OF LICENSE:

- (A) Licenses issued under the provisions of this ordinance may be revoked by the city manager after twenty four (24) hours' notice and hearing, for any of the following causes:
1. Fraud, misrepresentation or incorrect statement contained in the application for license. (Ord. 982, 7-24-1972)
 2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, peddler or transient merchant. (Ord. 1962, eff. 12-24-1987)
 3. Any violation of this ordinance.
 4. Conviction of any crime or misdemeanor. (Ord. 982, 7-24-1972)
 5. Conducting the business of peddler, solicitor, transient merchant, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (Ord. 1962, eff. 12-24-1987)

- (B) Notice of the hearing for revocation of a license shall be given by the city clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least forty eight (48) hours prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least forty eight (48) hours prior to the date set for hearing. (Ord. 982, 7-24-1972)

4-4-15: APPEAL:

Any person aggrieved by the action of the chief of police or the city finance director in the denial of a permit, license or identification card as provided in sections 4-4-5 and 4-4-6 of this chapter may appeal to the city manager. Such appeal shall be made by filing a written statement setting forth fully the grounds for the appeal. Such statement must be filed within forty five (45) days of receipt by the applicant of notice of denial of the permit, license or identification card. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 4-4-14 of this chapter for notice of hearing on revocation. (Ord. 1962, eff. 12-24-1987)

4-4-16: REAPPLICATION:

No licensee or company whose license has been revoked or refused shall make further application until at least one year has elapsed since the last previous revocation. (Ord. 982, 7-24-1972)

4-4-17: EXPIRATION OF LICENSE:

All licenses and identification cards issued under the provisions of this chapter expire at twelve o'clock (12:00) midnight on December 31 of the year when issued, unless applicant elects an earlier expiration date. (Ord. 1962, eff. 12-24-1987)

4-4-18: PENALTY:

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. (Ord. 982, 7-24-1972; amd. Ord. 1834, 9-23-1986)

4-4-19: FEES ARE IN ADDITION TO TRANSACTION PRIVILEGE TAX:

All fees levied in this chapter are in addition to transaction privilege tax required by chapter 1 of this title. Failure of applicant to comply with such chapter shall be sufficient grounds for denial or revocation of any license issued under this

chapter, and for forfeiture of any bond posted in accordance with this chapter. (Ord. 1962, eff. 12-24-1987)

4-4-20: SEVERANCE CLAUSE:

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the validity of any part. (Ord. 1962, eff. 12-24-1987)

CHAPTER 4-5: FIRE SAFETY INSPECTIONS

SECTIONS:

- [4-5-1: FIRE SAFETY INSPECTIONS:](#)
- [4-5-2: FIRE SAFETY INSPECTION FEES:](#)
- [4-5-3: EXCEPTIONS TO CHAPTER:](#)

4-5-1: FIRE SAFETY INSPECTIONS:

Prior to the issuance of a Transaction Privilege Tax License, a fire safety inspection shall be conducted by the City Fire Department. The applicant for a license must successfully pass said inspection and pay all applicable fire inspection fees prior to the issuance of a Transaction Privilege Tax License.

4-5-2: FIRE SAFETY INSPECTION FEES:

Upon applying for a Transaction Privilege Tax License, a fire safety inspection fee, to be determined in accordance with City Council policy, shall be paid by the applicant for said license.

4-5-3: EXCEPTIONS TO CHAPTER:

This Chapter shall not apply to the following Business Privilege Licenses:

- (A) Home occupations
- (B) Residential rental properties which have less than three (3) dwelling units on one lot or parcel.
- (C) Businesses which have their physical location outside of the Prescott City limits.

CHAPTER 4-6: SIGNS

See Title X of the Prescott City Code

(Rep. by Ord. 1533, 6-1981)

CHAPTER 4-7: ALCOHOLIC LIQUOR

SECTIONS:

- 4-7-1: DEFINITIONS; APPLICABILITY OF STATE LAW:
- 4-7-2: PERMIT REQUIRED:
- 4-7-3: APPLICATION; FEE:
- 4-7-4: PERMIT FEES:
- 4-7-5: PERMIT; ISSUANCE; TERM; RENEWAL; PAYMENT:
- 4-7-6: SPECIAL EVENT LIQUOR LICENSES:
- 4-7-7: PENALTY:
- 4-7-8: ANNUAL ADJUSTMENT OF FEES:

4-7-1: DEFINITIONS; APPLICABILITY OF STATE LAW:

The definition of all terms used herein shall be those specified under state law relating to alcoholic beverages, title 4, Arizona Revised Statutes. This chapter shall be subject to and in addition to all provisions contained in title 4, Arizona Revised Statutes. (Ord. 745, 12-23-1965)

4-7-2: PERMIT REQUIRED:

It shall be unlawful for any person to sell or otherwise deal in alcoholic beverages within the corporate limits of the city of Prescott without first obtaining a permit issued by the city clerk and paying the fees as provided in this chapter. (Ord. 745, 12-23-1965; amd. Ord. 3409, eff. 10-26-1995)

4-7-3: APPLICATION; FEE:

Every application for an original license or transfer of a license filed with the city clerk pursuant to Arizona Revised Statutes section 4-201 shall be accompanied by an application fee in the sum of three hundred fifty-four dollars (\$354.00), which shall be retained by the city. (Ord. 4320, 7-8-2003; *changes annually with CPI*)

4-7-4: PERMIT FEES:

The annual permit fees for the following series of liquor licenses shall be in the following amounts:

1. Distiller	\$530.00
2. Brewer	530.00
3. Winery	178.00
4. Wholesaler	No fee

5. Government license	530.00
6. On-sale retailer (spirituous liquor)	662.00
7. On-sale retailer (wine and beer)	354.00
9. Off-sale retailer (spirituous liquor)	354.00
10. Off-sale retailer (beer and wine)	266.00
11. Hotel/motel (spirituous liquor)	575.00
12. Restaurant (spirituous liquor)	662.00
14. Club license	354.00

(Ord. 4320, 7-8-2003; *changes annually according to CPI*)

4-7-5: PERMIT; ISSUANCE; TERM; RENEWAL; PAYMENT:

- (A) Upon payment of all fees provided for herein and the issuance or renewal of a license by the state of Arizona, the city clerk shall issue a permit. Every such permit shall expire on December 31 of each year, and may be renewed by payment of the permit fees as provided herein.
- (B) The permit fees provided for herein shall be paid in advance. In case of application for original license, the permit fees shall accompany the application, and will be refunded if the license is not granted by the Arizona department of liquor licenses and control.
- (C) If a permit is issued on or after July 1 in any year, one-half (1/2) of the annual permit fees provided for herein shall be charged.
- (D) If the business of an on-sale retail license is seasonal, not extending over a period of more than six (6) months in any calendar year, and a state license has been granted for such designated period, one-half (1/2) of the annual permit fees provided for herein shall be charged. (Ord. 745, 12-23-1965; amd. Ord. 3409, eff. 10-26-1995)

4-7-6: SPECIAL EVENT LIQUOR LICENSES:

In accordance with title 4, chapter 2, Arizona Revised Statutes, special event liquor licenses and wine festival licenses may be allowed subject to the following: (Amended Ord. 3409, eff. 10-26-1995)

- (A) The filing of an application as required by the Arizona department of liquor licenses and control with the city clerk's office.

- (B) Filing fees in the amount of:
 - 1. Prepayment of the required daily fee, payable to the Arizona department of liquor licenses and control. (Ord. 745, 12-23-1965)
 - 2. Sixty-two dollars (\$62.00) per day, payable to the city. (Ord. 4320, 7-8-2003; *changes annually based on CPI*)
- (C) Recommendation of approval by the city, and issuance of a city permit.
- (D) Approval by the Arizona department of liquor licenses and control. (Ord. 745, 12-23-1965)

4-7-7: PENALTY:

- (A) A licensee who fails to renew his annual license within thirty (30) days after the payment of the fee is due, as prescribed by section 4-7-4 of this chapter, shall be subject to a penalty of twenty percent (20%) of the license fee which shall be paid with the license fee.
- (B) If a licensee fails to renew his annual license within sixty (60) days after the payment is due, the city will notify the Arizona department of liquor licenses and control that said payment has not been received, at which time the state liquor board may suspend or revoke said license after a hearing before the board. (Ord. 1498, 2-23-1981)
- (C) Any person who violates any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. (Ord. 3409, eff. 10-26-1995)

4-7-8: ANNUAL ADJUSTMENT OF FEES:

Commencing July 1, 2004, and annually thereafter, the fees provided for in sections 4-7-3, 4-7-4 and 4-7-6 of this chapter shall be increased equivalent to the increase in the "Consumer Price Index For All Western Urban Cities, All Items", as published by the United States department of labor, bureau of labor statistics for the preceding twelve (12) month period (rounded to the next highest dollar); provided, however, that in no event shall there be a decrease in the fees charged pursuant to this chapter. (Ord. 4320, 7-8-2003)

CHAPTER 4-8: AMUSEMENT RIDES AND DEVICES

SECTIONS:

- 4-8-1: APPLICABILITY:
- 4-8-2: ADOPTION OF PUBLIC RECORDS:
- 4-8-3: DEFINITIONS:
- 4-8-4: COMPLIANCE WITH CODES AND STANDARDS:
- 4-8-5: INSPECTION RESPONSIBILITIES OF OWNERS AND/OR OPERATORS:
- 4-8-6: INSPECTION AUTHORIZATION:
- 4-8-7: CARNIVAL PERMITS:
- 4-8-8: PERMIT TO OPERATE:
- 4-8-9: PENALTY:
- 4-8-10: SPECIAL REGULATIONS FOR RENTED INFLATABLE AMUSEMENT DEVICES:

4-8-1: APPLICABILITY:

This chapter establishes minimum inspection standards and permit requirements, related to the operation and inspection of carnivals and associated amusement rides and devices. It is intended to enhance patron safety and provide enforcement capability. (Ord. 3987, 5-16-2000)

4-8-2: ADOPTION OF PUBLIC RECORDS:

- (A) That certain document identified as ASTM standard F 747-97, entitled "Standard Terminology Relating to Amusement Rides and Devices", as declared to be a public record by city resolution 3257, is hereby adopted and made part of this chapter, the same as though said record were specifically set forth herein, with the following amendments:
1. "Ride inspector" means an individual designated by the City, who has been trained in carnival ride inspection techniques.
 2. "Permit to operate" means a decal issued to each individual inspected ride, following an inspection by a ride inspector, which established compliance with this Chapter.
 3. "Carnival permit" means a permit issued by the City to conduct a carnival or other activity offering amusement rides and/or devices to the general public, which takes place within the City limits.
- (B) That certain document identified as ASTM standard F 770-93, entitled "Operation Procedures for Amusement Rides and Devices", as declared

to be a public record by city resolution 3258, is hereby adopted and made part of this chapter, the same as though said record were specifically set forth herein.

- (C) That certain document identified as ASTM standard F 853-98, entitled "Maintenance Procedures for Amusement Rides and Devices", as declared to be a public record by city resolution 3259, is hereby adopted and made part of this chapter, the same as though said record were specifically set forth herein, with the following amendments:

1. Sections 2 through 4 and paragraph 5.2 shall be deleted.
2. Subsection 5.1.3 shall be changed to read as follows: "Procured or produced using specifications derived from sufficient analysis to ensure parts of equivalent functions and quality, to those provided by the original manufacturer".
3. Section 6.1 entitled "Owner/Operator's Responsibility" is hereby amended by deleting the reference to section 3.1.
4. Section 6 entitled "Owner/Operator's Responsibility" is amended by the addition of new subsections 6.3.9, 6.3.10, 6.3.11, 6.3.12 and 6.3.13, and new paragraphs 6.5, 6.6, and 6.7, to read as follows:

6.3.9 All passenger safety restraints and devices shall be in good working order and in accordance with manufacturer's specifications. All passenger compartment components shall be properly aligned, and shall not be bent, distorted, cut, omitted, or otherwise deformed.

6.3.10 All passenger compartments shall be free of sharp edges, including, but not limited to, screws, bolts, or other protrusions, which because of their location, may cause injury. Interior parts upon or against which a passenger may be forcibly thrown by the action of the amusement ride shall be adequately padded.

6.3.11 All fastening devices, such as, but not limited to, bolts, screws, nuts, keys, pins, and washers, shall be properly installed where required, and be equal to, or exceeding manufacturer's specifications.

6.3.12 The area beneath and around an amusement ride that is less than seven feet from the ground or other surface, must be fenced or barricaded in a manner that prevents unauthorized persons from entering the area.

6.3.13 All sweeps and tubs shall be individually numbered.

6.5 It shall be the responsibility of the amusement ride or device owner to obtain all safety or maintenance bulletins for each ride, and strictly adhere to the manufacturer's requirements. The amusement ride or device owner shall advise the ride maintenance supervisor and the designated ride operator of safety bulletins which require monitoring of a specific portion of a ride, and incorporate such monitoring into a regular checklist.

6.6 It shall be the responsibility of the amusement ride or device owner, or on-site representative of the owner, to be able to provide documentation, if necessary, to verify that rides manufactured outside of the United States were built according to commonly accepted engineering practices.

(Ord. 3987, 5-16-2000)

6.7 Welding of all main structural and passenger compartment components shall be done in accordance with the manufacturer's specifications, if applicable, or in accordance with the American Welding Society Standard D1.1, and by welders certified in accordance with the American Welding Society. The Ride Inspector may require that the welding process be inspected and accepted in writing by a certified welding inspector, at the cost of the owner/operator of the amusement ride or device, according to the requirements of the American Welding Society Welding Inspection Manual and AWS B1.11. Inspection by radiographic or ultrasonic methods may be required by the certified welding inspector.

(D) That certain document identified as ASTM standard F 1305-94, entitled "Classification of Amusement Ride and Device Related Injuries and Illnesses", as declared to be a public record by city resolution 3260, is hereby adopted and made part of this chapter, the same as though said record were specifically set forth herein, with the following amendments:
(Ord. 4135, 8-14-2001)

1. Section 6 shall be deleted and a new section 6 entitled "Notification" shall be added, to read as follows:

6.1 The owner/operator of an amusement ride or device shall notify the appropriate manufacturer(s) of an incident that

results in a serious injury as defined in 2.1.4 within seven days of the occurrence of the incident.

6.2 The owner/operator of an amusement ride or device shall notify the Prescott Fire Department of all injuries occurring within the City limits, including but not limited to those listed in 2.1.2. For minor injuries such as described in 2.1.3 where emergency medical assistance is not required, non-emergency notification shall be made to the Department, and recorded information as described in 4.3 shall be made available to inspectors if requested. For serious injuries such as described in 2.1.4, and those injuries described in 2.1.3 where emergency medical assistance is required, after a request for emergency medical assistance has been made, non-emergency notification shall be made to the Prescott Fire Department without delay, and recorded information such as described in 4.3 shall be made available to inspectors.

6.3 In the case of a serious injury such as described in 2.1.4, the scene of the accident shall be secured and not disturbed to any greater extent than is necessary to prevent additional injuries and to remove the victim(s). The ride shall not be operated, repaired, or in any way tampered with until an investigation is completed by the Prescott Fire and/or Prescott Police Department investigators.

(Ord. 3987, 5-16-2000)

4-8-3: DEFINITIONS:

Those definitions as set forth in subsection 4-8-2(A) of this chapter shall be used in the enforcement of this chapter. (Ord. 3987, 5-16-2000)

4-8-4: COMPLIANCE WITH CODES AND STANDARDS:

- (A) The owner or operator of an amusement ride or device shall comply with ASTM standard F 853-98, as adopted pursuant to subsection 4-8-2(C) of this chapter.
- (B) The manufacturer, owner or operator of an amusement ride or device shall comply with ASTM standard F 770-93, as adopted pursuant to subsection 4-8-2(B) of this chapter.
- (C) The owner or operator of an amusement ride or device shall comply with article 525 of the national electrical code, 1996, as adopted in title III, chapter 7 of this code. (Ord. 3987, 5-16-2000)

- (D) The owner or operator of an amusement ride or device shall comply with section 2504 of the uniform fire code, as adopted in title VI, chapter 1 of this code. (Ord. 4135, 8-14-2001)
- (E) The owner or operator of an amusement ride or device shall comply with ASTM standard F 1305-94, as adopted pursuant to subsection 4-8-2(D) of this chapter. (Ord. 3987, 5-16-2000)

4-8-5: INSPECTION RESPONSIBILITIES OF OWNERS AND/OR OPERATORS:

- (A) Owners and/or operators of amusement rides or devices shall conduct inspections consistent with the procedures outlined in ASTM F 853 and ASTM F 770.
- (B) A ride file for each ride shall be maintained in accordance with the procedures outlined in ASTM F 770 and ASTM F 853. The file shall contain an operating fact sheet, maintenance logs, training records, daily inspection reports, and any other information deemed appropriate by the owner.
- (C) The owner and/or operator of an amusement ride or device shall promptly notify the manufacturer of an incident, failure, or malfunction which, in his judgment, seriously affects the continued proper operation of the ride or device, and is information of which the manufacturer should be aware. (Ord. 3987, 5-16-2000)

4-8-6: INSPECTION AUTHORIZATION:

- (A) Upon proper identification, authorized ride inspectors may enter unannounced, and in a reasonable manner, inspect the amusement rides and premises at any time. They shall have the right to question any owner, manager, operator or agent of the owner; to inspect all pertinent places and devices, examine and reproduce ride maintenance and inspection records, and proof of insurance certificates.
- (B) If a ride inspector determines that an amusement ride needs repair or other correction to comply with applicable codes, manufacturer's requirements, bulletins, or this chapter, the ride may, at the inspector's discretion, be closed to the public until the repairs are complete.
- (C) If a ride's owner, or on-site representative of the owner, refuses to bring a ride into compliance following an inspection by a ride inspector, the ride inspector at his/her discretion, may revoke the operating permit for that ride.

- (D) If a carnival's owner, or on-site representative of the owner, or operator, refuses to cooperate with the ride inspectors, either with their inspection duties, or in compliance with repair requests, the inspector at his/her discretion, may revoke the carnival permit. (Ord. 3987, 5-16-2000)

4-8-7: CARNIVAL PERMITS:

- (A) Carnival owners and/or operators wishing to operate within the city limits shall apply for a carnival permit from the city of Prescott. The city may establish fees and carnival permit requirements. (Ord. 4135, 8-14-2001)
- (B) Within sixty (60) days prior to the proposed dates of the event (or as soon as the request was made), a packet will be mailed to the owner or applicant outlining the permitting process, applicable codes, chapters, and other requirements.
- (C) At least thirty (30) days prior to a scheduled event, carnival owners, applicants or operators shall be required to provide evidence of proof of insurance and a list of all rides. Insurance shall consist of a policy with a minimum of one million dollars (\$1,000,000.00) in liability coverage, per occurrence, and shall name the city as additional insured. (Ord. 3987, 5-16-2000)

4-8-8: PERMIT TO OPERATE:

- (A) Each amusement ride or device shall be inspected by the city to determine compliance with this chapter.
- (B) If following an inspection, a ride is found to be in compliance with this chapter, a permit to operate shall be issued for that ride, and shall be affixed to the ride and contain the following information:
 - 1. Name of the owner of the ride.
 - 2. Name of the manufacturer.
 - 3. Ride name.
 - 4. Serial number of the ride.
 - 5. Year of manufacture.
 - 6. Permit number.
 - 7. Date of permit issuance.
 - 8. Date of permit expiration.
 - 9. Issuing person's initials.
- (C) Each permit to operate is subject to continuing compliance with this chapter. (Ord. 3987, 5-16-2000)

4-8-9: PENALTY:

Any person who is convicted for a violation of any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. (Ord. 3987, 5-16-2000)

4-8-10: SPECIAL REGULATIONS FOR RENTED INFLATABLE AMUSEMENT DEVICES:

Notwithstanding the provisions as set forth in sections 4-8-7 and 4-8-8 of this chapter, the following provisions and regulations will govern air-supported structures, also commonly referred to as inflatable amusement devices, which are rented to the general public:

- (A) This section pertains to an individual or group which rents a single inflatable amusement device for a limited specific duration.
- (B) No later than twenty four (24) hours prior to the renting, delivering or setting up of an inflatable amusement device, and as a condition of said rental, delivery or setting up, the rental company shall have the person or group renting the device fill out and sign an application for an inflatable amusement device single use operating permit, as prescribed by the Prescott fire department. All information on the application must be completed prior to renting any such device. Upon completing the permit application, and at least twenty four (24) hours prior to the rental thereof, the rental company must notify the Prescott fire department of said application and provide all pertinent information contained therein.
- (C) The provisions of subsections 4-8-5(B), 4-8-7(B) and (C), and 4-8-8(A) and (B) of this chapter shall be inapplicable to rented inflatable amusement devices. (Ord. 4135, 8-14-2001)

**CHAPTER 4-9:
(Rep. by Ord. 3315, 3-1995)**

CHAPTER 4-10: ANTI-LITTER REGULATIONS

SECTIONS:

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4-10-1: DEFINITIONS:

For the purpose of this Chapter the following terms, phrases, words, and their derivation shall have the meaning given herein:

- (A) "Aircraft" is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "Aircraft" shall include helicopters and lighter than air dirigibles and balloons.
- (B) "Authorized private receptacle" is a litter storage and collection receptacle.
- (C) "City" is the City of Prescott, Arizona.

- (D) "Commercial Handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:
1. Which advertises for sale any merchandise, product, commodity, or thing; or
 2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sale; or
 3. Which directs attention to or advertises the meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given, or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good mores, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind, without a license, where such license is or may be required of any law of the State, or under any ordinance of the City; or
 4. Which, while containing reading matter other than advertising matter, is predominately and essentially an advertisement, or is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.
- (E) "Garbage" is putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (F) "Litter" is "garbage", "refuse", "rubbish", as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.
- (G) "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal Statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any

periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

- (H) "Noncommercial Handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.
- (I) "Park" is a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation. (Ord. 807; 5-8-67)
- (J) "Person" is any person, firm, partnership, association, corporation, company, owner, lessee, occupant of buildings, grounds or lots. (Ord. 850; 6-24-68)
- (K) "Private Premises" is any dwelling, house, building, or other structure designated or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.
- (L) "Public Place" is any and all streets, sidewalks, boulevards, alleys or other publicways and any and all public parks, squares, spaces, grounds and buildings.
- (M) "Refuse" is all putrescible and non-putrescible solid waste, including garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial waste. (Ord. 807; 5-8-67)
- (N) "Rubbish" is non-putrescible solid waste consisting of both combustible and non-combustible waste, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, weeds, brush, wood, glass, bedding, crockery or other accumulation of filth or debris. (Ord. 850; 6-24-68)
- (O) "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Ord. 807; 5-8-67)

4-10-2: LITTER IN PUBLIC PLACES:

No person shall throw or deposit or be responsible for the accumulation of litter in or upon any street, sidewalk or other public place, or in or upon any building or buildings, grounds, lot or lots. (Ord. 850; 6-24-68)

4-10-3: PLACEMENT OF LITTER IN RECEPTACLES:

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

4-10-4: SWEEPING LITTER INTO GUTTERS PROHIBITED:

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

4-10-5: MERCHANTS DUTY TO KEEP SIDEWALKS FREE OF LITTER:

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any buildings or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

4-10-6: LITTER THROWN BY PERSONS IN VEHICLES:

No person, while a driver or a passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property.

4-10-7: TRUCK LOADS CAUSING LITTER:

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.

4-10-8: LITTER IN PARKS:

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

4-10-9: SNOW AND ICE REMOVAL:

Persons owning or occupying property shall keep the sidewalk in front of their premises free from snow and ice. Snow and ice removal shall be accomplished within a reasonable time after snow has collected or ice has formed so as to insure the public safety in use of the sidewalk.

4-10-10: THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES:

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place, provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

4-10-11: PLACING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON VEHICLES:

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (Ord. 2279, 6-25-1991)

4-10-12: DEPOSITING COMMERCIAL AND NONCOMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES:

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which is temporarily or continuously uninhabited or vacant. (Ord. 2279, 6-25-1991)

4-10-13: PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED:

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement", or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 2279, 6-25-1991)

**4-10-14: DISTRIBUTING COMMERCIAL AND NONCOMMERCIAL
HANDBILLS AT INHABITED PRIVATE PREMISES:**

No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which is inhabited, except by handling or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which is not posted, as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law regulations.

- (A) Exemptions For Mail And Newspapers: The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Ord. 807, 5-8-1967)

4-10-15: DROPPING LITTER FROM AIRCRAFT:

No person in an aircraft shall throw out, drop or deposit within the city any litter or handbill in violation of this chapter. (Ord. 807, 5-8-1967)

4-10-16: POSTING NOTICES PROHIBITED:

- (A) No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.
- (B) No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to the exterior of any building, structure, or any wall, window or facade of any building or structure, unless permission has been granted by the owner or the person in control of said building. (Ord. 4190, 1-15-2002)

4-10-17: LITTER ON OCCUPIED PRIVATE PROPERTY:

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of the private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or

deposited by the elements upon any street, sidewalk or other public place or upon any private property. (Ord. 807, 5-8-1967)

4-10-18: OWNER TO MAINTAIN PREMISES FREE OF LITTER:

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (Ord. 807, 5-8-1967)

4-10-19: LITTER ON VACANT LOTS:

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not. (Ord. 807, 5-8-1967)

4-10-20: CLEARING OF LITTER FROM PRIVATE PROPERTY:

- (A) The city inspector is hereby authorized and empowered to notify, in writing, the owner, lessee or occupant of buildings, grounds or lots to remove litter lying or located on such owner's, occupant's or lessee's property or contiguous sidewalks, streets or alleys. The notice shall also include the cost of the removal by the city upon noncompliance within the specified time. The notice shall be either personally served or mailed to the owner, occupant or lessee at his last known address by certified or registered mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on such property a duplicate notice shall also be sent to him at his last known address.
- (B) Upon receipt of such notice provided herein the owner, occupant or lessee shall have the right of appeal to the council and shall have the right to appear before the council at a time and date set for such hearing and may at that time appeal the notice and the assessment.
- (C) Upon the failure, neglect or refusal of any owner, occupant or lessee so notified to cut, destroy and/or remove litter located upon his property or upon the contiguous sidewalks, street or alleys, within thirty (30) days after receipt of the written notice provided for in subsection (A) of this section, or within thirty (30) days after the date of return of such notice, in the event the same is returned to the post office department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, occupant or lessee, the city may, at the expense of such owner, occupant or lessee, remove or cause the removal thereof.
- (D) When the city has effected the removal of the litter or has paid for its removal, the actual cost thereof, plus five percent (5%) for additional

inspection and other incidental costs in connection therewith, if not paid by the owner, occupant or lessee as provided, shall be charged to the owner of such property as an assessment upon the lot or lots and tract or tracts of land from which such litter is removed.

- (E) Where the full amount due the city is not paid by such owner, occupant or lessee within five (5) days after the cutting, destroying and/or removal of such litter as provided above, then and in that case, the inspector shall cause to be recorded in the office of the Yavapai County recorder, a sworn statement showing the cost and expense incurred for the work and the date, place and property on which said work was done, and the recordation of such sworn statement shall constitute a lien and privilege on the property and shall remain in full force and effect for the amount due until final payment has been made. Such assessment, from the date of its recording in the office of the Yavapai County recorder, shall be a lien on said lot or tract of land until paid. Such lien shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure and order of sale. The city shall have the right to bring an action to enforce the lien in the superior court of Yavapai County at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.
- (F) A prior assessment for the purposes provided in this code shall not be a bar to subsequent assessment or assessments for such purposes and any number of liens on the same lot or tract of land may be enforced in the same action. (Ord. 850, 6-24-1968)

4-10-21: NUISANCE:

The presence of any litter or handbill upon private premises, in or upon any vehicle, park or public place in violation of the terms of this chapter shall constitute a hazard to public health and safety, and any person who violates the provisions of this chapter shall be guilty of a misdemeanor and in addition to any fine which may be imposed for a violation of any other provision of this code, shall be liable for all costs which may be assessed pursuant to this chapter for the removal of said litter. (Ord. 850, 6-24-1968)

4-10-22: PENALTY:

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) and not to exceed two thousand five hundred

dollars (\$2,500.00) or by imprisonment of not more than six (6) months, or by both such fine and imprisonment; and/or the court may, in its discretion, impose a sentence of community service work. (Ord. 4412, 8-24-2004)

**CHAPTER 4-11: USE TAX
(Rep. by Ord. 1856, 1-1987)**

CHAPTER 4-12: CABLE TELEVISION SYSTEMS

SECTIONS:

4-12-1: PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CORPORATION:

4-12-2: CABLE TELEVISION SYSTEMS:

4-12-1: PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CORPORATION:

- (A) Purpose: An independent, nonprofit public, educational and governmental access corporation shall be created as hereinafter provided to promote and develop maximum community involvement in and use of cable television for public, educational and governmental and other nonprofit purposes and to administer use of access channels.
- (B) Control Of Channels: The access corporation shall control the use of the public, educational and governmental access channels, as specified in the cable television license. Copies of access rules shall be filed with the city clerk.
- (C) Funding: The access corporation shall be funded by:
 - 1. Foundation, corporate, governmental, other philanthropic grants and private donations; and
 - 2. As provided in the cable television license.
- (D) Incorporation And Board Of Directors: The access corporation shall be incorporated by citizens who shall be broadly representative of the city and its diverse cable access constituencies. Directors shall be selected by an electoral mechanism designed by the initial directors to assure broad based representation.
- (E) Powers: The powers of the access corporation shall be as set forth in the articles of incorporation, bylaws and rules. They shall include the power to:
 - 1. Conduct public informational and educational activities.
 - 2. Allocate access channel space and time, and access channel interconnections for nonprofit uses on a reasonable, nondiscriminatory basis.

3. Provide assistance for nonprofit programming and other nonprofit uses of the access channels.
4. Acquire ownership of facilities and equipment and employ staff.
5. Ensure compliance by all access channel users with all applicable federal, state and local laws.
6. Other acts necessary and appropriate to carry out the purposes of the access corporation.

(F) Cable Television Licensee Responsibilities:

1. The licensee shall provide a channel for use by the licensor at no charge, and other governmental units which are in intergovernmental agreement with licensor as to the use of the access channel. The city shall have public safety and emergency audio and video override authority. Said authority may be exercised by the mayor, city manager or other designated city officials. Licensee shall provide advice, technical expertise, facilities and equipment and other services as specified in the license agreement as necessary for the use of said channel.
2. The licensee shall provide a channel for use by local educational institutions at no charge to those institutions. The license shall provide advice, technical expertise, facilities, equipment and other services as specified in the license agreement as necessary for the use of said channel.
3. The licensee shall provide a channel for use by the public. The licensee shall provide advice, technical expertise, facilities, equipment and other services as specified in the license agreement, as necessary for the use of said channel.
4. Where the license agreement provides that the public, educational and governmental channels may be combined in one channel, then the public, educational and governmental users shall each have the right to a maximum use of one-third (1/3) of available channel time, with any excess available channel time to be allocated for general informational purposes or as determined by the board of directors of the nonprofit access corporation. (Ord. 1755, 10-14-1985)

4-12-2: CABLE TELEVISION SYSTEMS

(A) DEFINITIONS

“Cable television system,” “cable television,” “system” or “cable system” means any facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. “Cable television system” does not include:

1. A facility that serves fewer than fifty (50) subscribers.
2. A facility that serves subscribers without using any public street, road or alley.
3. A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations.
4. A facility of a common carrier that is subject, in whole or in part, to 47 U.S.C. Sections 201 through 276, except that the facility is considered a cable television system, other than for purposes of 47 U.S.C. Section 541(c), to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of the use is solely to provide interactive on-demand services.
5. An open video system that complies with 47 U.S.C. Section 573.
6. A facility of an electric utility that is used solely for operating its electric utility system [Reference: ARS 9-505]

(B) LICENSE REQUIRED TO OPERATE/ PROHIBITION

It shall be unlawful for any person to construct, install or operate a cable television system in the City, or to construct, install, or operate any equipment or facilities to operate a cable television system in the City, within any street, within any other public property of the City, or within any privately-owned area within the City which has not yet become a Public Street but is designated or delineated as a proposed Public Street on any preliminary subdivision map approved by the City, without a properly granted license awarded pursuant to the provisions of this section. A License may be granted by the City Council to any person, whether operating under an existing License or not, who offers to furnish and provide such Cable System under and pursuant to the terms and provisions of this Chapter.

(C) PAYMENT OF FEES/PENALTIES on FEES

1. The licensee shall pay to the City a percentage of licensee's gross annual revenues (the "license fee") as required by any license agreement.
2. The payment of the license fee by the licensee to the City shall be made as required by any license agreement. The City will impose and the licensee shall pay interest at a rate of 1 1/2 percent per month commencing from the date payment should have been made as required by any license agreement, unless the payment is subject to a bonafide dispute, and continuing until the payment is made. Fractions of a month shall be considered to constitute a full month for the purpose of computing interest. In addition to interest which may be assessed under this subsection, if licensee fails to pay any license fee, licensee shall be subject to the following civil penalties:
 - (a) A licensee who fails or refuses to pay a license fee or any portion thereof within 30 days after written notice and demand by the City shall pay an additional penalty of 25 percent of the unpaid fee, unless licensee shows that the failure is due to reasonable cause and not due to willful neglect. If the City gives a notice and demand to the licensee, this penalty shall be in addition to the interest payment imposed in section 1 hereof.
 - (b) If the cause of failure to pay the licensee fee or any portion thereof is determined by the City to be due to civil fraud or evasion of the license fee, the licensee shall pay a penalty of 50 percent of the amount of deficiency. If the licensee's failure to pay the license fee is due to civil fraud or evasion of the license fee, this penalty shall be paid in addition to the penalties imposed in sections 1,2 and 2(a) hereof.

(D) PROHIBITION OF INFORMATION

No licensee shall publish, furnish, provide, distribute or broadcast any publication, customer bill, or information containing any City of Prescott telephone numbers in relation to any cable services provided by the licensee. Any such publication, customer bill, information or broadcast or portion of such publication, information, or broadcast shall be limited to the printed statement "The City of Prescott is the licensing authority of the licensee for the purposes of using public rights of way but the City does not regulate rates or the delivery of services." Any such statement shall

not be displayed less prominently or in smaller font than any other portion of such publication, customer billing, information, or broadcast.

(E) SEVERABILITY

If any provision of this section is held by any court or by any Federal or State agency of competent jurisdiction to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this article, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding on grantor and grantee; provided, that the City shall give the licensee thirty (30) days' written notice of such change before requiring compliance with said provision or such longer period of time as may be reasonably required for licensee to comply with such provision.

(F) PENALTIES

Except for the penalties provided in section 4-12-2(C) for penalties on fees, any person who violates any provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code.