

CHAPTER 8. **BUSINESS**

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Article 8-01 PEDDLERS

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- 8-01-010 Definitions.

In this Chapter, unless the context otherwise requires:

- A. "Peddler" means any person, whether a resident of the Town 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.
- B. "Solicitor" means any person, whether a resident of the Town 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 service 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 building, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel or motel room, lodging house, apartment, shop or other place within the Town for the primary purpose of exhibiting samples and taking orders for future delivery.
- C. "Transient merchant" means any person, whether as owner, agent, consignee or employee, whether a resident of the Town or not, who engages in business of selling and delivery of goods, wares and merchandise within said Town; and who, in furtherance of such business, hires, leases, uses or occupies any approved structures within the Town for the exhibition and sale of such goods, wares and merchandise.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 896, Amended, 01/27/22)

8-01-020 License Required.

- A. Requirement: It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the Town without first obtaining a license therefore in compliance with the provisions of this Article.
- B. Prohibited practices:
 - 1. It is unlawful for any peddler, solicitor or transient merchant to make exclusive use of any location on any street, alley, sidewalk or right-of-way for the purpose of selling, delivering or exhibiting goods or merchandise.
 - 2. It is unlawful for any peddler, solicitor or transient merchant to operate in a congested area where such operation may impede or inconvenience the public use of such street, alley, sidewalk or right-of-way. For the purpose of this Article, the judgment of a police officer, exercised in good faith, is conclusive as to whether the area is congested and the public impeded or inconvenienced.
 - 3. It is unlawful for any person to exhibit any copy or facsimile of the original license issued under this Article.
 - 4. Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, 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. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-010, 050, &060; Ord. No. 375, Amended, 12/28/95; Ord. No. 896, Amended, 01/27/22)

8-01-030 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.
- D. Special event vendors are exempt from this chapter when they are approved participants of the event by the show organizer, promoter or sponsor.
- E. Nothing in this Chapter prohibits religious, charitable, and other federally-exempt organizations, societies, associations or corporations desiring to solicit or have

solicited in their name, money, donations of money or property, or financial assistance of any kind, or desiring to sell or distributed any item of literature or merchandise for which a fee is charged or solicited from persons other than a member of such organization from doing so 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.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-080; Ord. No. 375, Amended, 12/28/95; Ord. No. 896, Amended, 01/27/22)

8-01-040 Application.

- A. Applicants for a license under this Article shall file with the Town Clerk a sworn application in writing on a form to be furnished by the Town Clerk which shall give the following information, subject to the exception set forth in Subsection B below:
1. Name and physical description of applicant;
 2. Complete permanent home and local address of the applicant and, in the case of a transient merchant, the local address from which proposed sales will be made;
 3. A brief description of the nature of the business and the goods to be sold;
 4. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship (no post office box will be accepted);
 5. 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;
 6. A recent photograph of the applicant which picture shall be approximately two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishing manner (including any and all helpers);
 7. 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;
 8. The most recent cities or towns, not to exceed three (3), where applicant carried on business immediately preceding the date of application and the address from which such business was conducted in those municipalities;
 9. At the time of filing the application, a fee of fifty dollars (\$50.00) shall be paid by the applicant; and
 10. Description of vehicles, including license numbers to be used in business.

- B. When the power of local authorities to license, register or certify certain businesses has been preempted by the state, the Town Clerk shall not require from those businesses the information requested in items A(8) and A(9) of this section. This exception applies to (without limitation) alarm businesses and alarm agents per ARS §32-113 and contractors per ARS §32-1101.01.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-020; Ord. No. 784, Amended, 01/23/14; Ord. No. 896, Amended, 01/27/22)

8-01-050 Investigation and Issuance.

- A. **Background Check.** Each new application will be submitted to the Prescott Valley Police Department ("PVPD") for investigation and criminal record review on behalf of the Town Clerk. PVPD shall review criminal history record information, including conviction and non-conviction data, of license applicants and controlling persons for the purpose of evaluating the fitness of licensees in connection with the issuance or revocation of a license. PVPD evaluation and the criminal information obtained shall be used only for the purpose of supporting and defending a denial or revocation of a license.
- B. **Grounds for Denial or Revocation.** A license to conduct business as a peddler issued under this Article may be denied or revoked if the applicant or licensee has been convicted of any of the following within five (5) years immediately preceding the date of application:
 - 1. A felony involving trafficking in stolen property, fraud, forgery, theft, burglary, robbery, extortion, conspiracy to defraud, or any preparatory offenses of the aforementioned crimes;
 - 2. A felony involving a fraudulent or dishonest act;
 - 3. A felony involving the sale, manufacture or transportation of any dangerous drug as defined under A.R.S. §13-3401;
 - 4. A "violent crime" under A.R.S. title 13, chapters 11, 12, 13;
 - 5. A "sexual offense" under A.R.S. title 13, chapter 14;
 - 6. An offense for conduct in another jurisdiction which, if carried out in Arizona, would constitute an offense under one of the statutory provisions enumerated in this paragraph; or
 - 7. A misdemeanor involving moral turpitude.
- C. This Section shall not apply to those businesses regulated by the state where the state has preempted the power of local authority to license, register or certify such businesses. This includes (but is not limited to) alarm businesses and alarm agents per ARS §32-113 and contractors per ARS §32-1101.01.

- D. Licenses issued under this Article shall be issued for a period of one (1) year. All licenses shall be renewed in accordance with and upon compliance with all requirements of this Article.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-030; Ord. No. 778, Amended, 10/10/13; Ord. No. 784, Amended, 01/23/14; Ord. No. 896, Amended, 01/27/22)

8-01-060 Fees.

Every applicant for a license and renewal of a license under this Article shall pay the following annual fees:

\$50.00 - for peddlers; solicitors
\$ 5.00 - for each replacement license.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-030; Ord. No. 896, Amended, 01/27/22)

8-01-070 Exhibition of License.

Licenses are required to exhibit their original license at the request of any citizen. Exhibition of any copy or facsimile of the original shall not be considered compliance with this Section.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88; Ord. No. 896, Amended, 01/27/22)

8-01-080 Duty of Police to Enforce.

It shall be the duty of the police of the Town to require any person peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this Article against any person found to be violating the same.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 375, Amended, 12/28/95)

8-01-090 Reserved.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 375, Amended, 12/28/95; Ord. No. 896, Rep&ReEn, 01/27/22)

8-01-100 Revocation of License.

- A. Licenses issued under the provisions of this Article may be temporarily revoked by the Town Manager by issuing a summary order which shall be mailed by certified mail or personally delivered forthwith, for any of the following causes:

1. Fraud, misrepresentation or incorrect statement contained in the application

for license;

2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;
 3. Any violation of this Article; and
 4. Conviction of any crime or misdemeanor set forth in Section 8-01-050 entered during the five-year period immediately preceding the date of the application or at any time after a license has been issued under this Article.
- B. A Citation and notice of the hearing for permanent revocation of a license shall be issued by the Town Clerk and served to the licensee in accordance with Town Code Section 1-08-020 (as amended). The citation will set forth the grounds of complaint and direct the licensee to appear before the Prescott Valley Administrative Hearing Officer ("AHO") on the date and time specified therein. The Citation shall be served to the licensee in accordance with Section 1-08-020(C) at least forty-eight (48) hours prior to the date set for hearing, which shall be set no later than seven (7) days following summary temporary revocation. Appeal from a decision of the AHO shall be to the Superior Court in accordance with Section 1-08-070.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-040; Ord. No. 896, Amended, 01/27/22)

8-01-110 Appeal.

Any person aggrieved by the action of the Chief of Police or the Town Clerk may appeal by sending a Notice of Appeal to the Town Manager. The notice shall contain a written statement setting forth fully the grounds for the appeal. The Town Manager shall set a time and place for a hearing on such appeal and shall provide notice of the hearing to the appellant in the same manner as provided in Section 8-01-100 for notice of hearing on revocation.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 896, Amended, 01/27/22)

8-01-120 Reapplication.

No licensee or company whose license has been revoked or refused shall make further application until at least one (1) year has elapsed since the last previous revocation.

(Ord. No. 178, Enacted, 05/26/88)

8-01-130 Penalty.

Any person who violates any provision of this Article shall be guilty of a class 3 misdemeanor

and upon conviction thereof shall be punished as provided in Section 8-02-110.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 496, Amended, 02/22/01; Ord. No. 600, Amended, 07/22/04)

8-01-140 Severance Clause.

The provisions of this Article are declared to be severable and if any Section, sentence, clause or phrase of this Article 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 Article, but they shall remain in effect, it being the legislative intent that this Article shall stand notwithstanding the validity of any part.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 375, Amended, 12/28/95)

8-01-150 Reserved.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 553, Amended, 05/22/03; Ord. No. 896, Rep&ReEn, 01/27/22)

Article 8-02 BUSINESS LICENSES

- 8-02-010 Purpose.
- 8-02-020 Definitions.
- 8-02-030 License Required.
- 8-02-040 Posting of License/Display of Street Address.
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- 8-02-060 Multiple Businesses, Branches or Locations.
- 8-02-070 Business License Fees.
- 8-02-080 Reserved.
- 8-02-090 Refusal or Revocation of License.
- 8-02-100 License Non-Transferable.
- 8-02-110 Penalty, Delinquent Renewal Penalty and Remedies.
- 8-02-120 Special Requirements - Massage Therapists and Establishments.

8-02-010 Purpose.

In accordance with Arizona Revised Statutes §9-240(B)(19) (as amended), the Town of Prescott Valley hereby applies license and fee requirements to all persons engaging in any non-exempt business within the Town limits from a fixed location (including residential locations) and all persons engaging in special events as defined in this Article. The purpose of the business license and business license fee is primarily to regulate and fund regulation of the quality of business activity which occurs or is transacted within the Town limits, in order to protect the health, safety and welfare of the people of the Town. The fee is imposed on the privilege of doing business within the Town.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-070; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-070; Ord. No. 553, Amended, 05/22/03; Ord. No. 709, Amended, 02/14/08; Ord. No. 896, Amended, 01/27/22)

8-02-020 Definitions.

The following definitions apply to this Article 8-02.

- A. "Business" or "Business Activity" includes all commercial activities or acts engaged in or caused to be engaged in for profit, whether personal or corporate from or within a building (as defined in Town Code §13-02-010(B)(32), as amended) located within the Town boundaries, which is owned and/or occupied by any person who advertises or otherwise represents themselves to the public as engaged in business. This includes (but is not limited to) home occupations as defined herein. Business or Business Activity also includes special events as defined herein.
- B. "Casual Sales" means sales of miscellaneous merchandise of such volume or frequency as to indicate that the seller is not a dealer in merchandise (typically not more than three (3) such sales per annum). Yard sales held no more than three (3) times in a year and subject to the requirements set forth in Town Code §9-04-020(B)(5) are an

example of casual sales.

- C. "Charitable and Religious Organizations" means any organization exempt from state and federal income taxes for charitable or religious reasons.
- D. "Contractors" includes prime contractors or subcontractors.
- E. "Home Occupation" includes the activities defined in Town Code Subparagraph 13-02-010(B) (as amended), subject to the requirements set forth in Subparagraph 13-06-020(A)(8) (as amended).
- F. "Non-profit Corporation" means any organization established and in good standing in accordance with Chapters 28 through 40, Title 10, Arizona Revised Statutes (as amended). As used in this Article, a non-profit corporation does not include organizations regularly engaged in commercial activities.
- G. "Person" includes all individuals and legal entities which may, under applicable law, conduct business.
- H. "Profession" means any occupation which requires advanced learning acquired by a prolonged course of specialized intellectual instruction or which involves original or creative work depending primarily on invention, imagination, or talent, including, but not limited to, accountants, architects, artists, attorneys, dentists, doctors, medical technicians, nurses, engineers, surveyors, teachers and veterinarians.
- I. "Real Property Rentals (Commercial)" means the business of offering (1) or more units of commercial rental property for rent, lease or license or as available for rent, lease, or license. Multi-suite buildings shall be considered one rental address for the purpose of location fees.
- J. "Special Events" include commercial activities or acts of a limited duration located on real property within the Town boundaries. Examples include home and garden shows, classic car shows, concerts, private parades, and the events set forth in Town Code Article 8-07 (as amended).

(Ord. No. 234, Enacted, 07/26/90; Ord. No. 553, Amended, 05/22/03; Ord. No. 603, Amended, 08/26/04; Ord. No. 709, Amended, 02/14/08; Ord. No. 839, Amended, 02/22/18; Ord. No. 896, Amended, 01/27/22)

8-02-030 License Required, Exemptions.

- A. It is unlawful for any person to carry on any business or special event as defined herein without having procured a business license from the Town in accordance with this Article, and otherwise complying with applicable regulations set forth in the Town Code, Town regulations, Arizona Revised Statutes, and Arizona Administrative Code. This includes (but is expressly not limited to) privilege tax licenses required by Town Code §8A-300. Business license applications should be obtained from the Town no later than fifteen (15) business days prior to commencement of business or special events. The following exemptions from Town licensing apply:

1. Casual sales;
2. Current non-profit corporations;
3. Charitable and religious organizations;
4. Sale of agricultural products produced or raised within the Town; and
5. Any exemptions to local licenses and fees provided by federal statutes and regulations, Arizona Revised Statutes, and the Arizona Administrative Code. This includes (but is not limited to) insurance companies and agents per ARS Title 20 (as amended), spirituous liquor wholesalers per ARS §4-223(A) (as amended), real property rentals (residential) per ARS §9-1304(B) (as amended), and real estate brokers/salespersons licensed pursuant to A.R.S. Title 32, Chapter 20, Article 2 AND licensed to do business in the city or town in which the broker/salesperson's primary place of business is located per ARS §9-491.01 (as amended).

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-010; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-010; Ord. No. 553, Amended, 05/22/03; Ord. No. 709, Amended, 02/14/08; Ord. No. 784, Amended, 01/23/14; Ord. No. 808, Amended, 10/08/15; Ord. No. 839, Amended, 02/22/18; Ord. No. 896, Amended, 01/27/22)

8-02-040 Posting of License/Display of Street Address.

- A. Every person having a license under the provisions of this Article and carrying on a business as defined herein shall keep such license posted and exhibited, while in force, in a conspicuous location within view of the general public. Every person carrying on a home occupation or special event shall present such license whenever requested to do so by any Town enforcement officer.
- B. Each business or home occupation shall display near or above the front door of the building the correct street address in accordance with Town Code §7-02-050(A) (as amended).

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 8-03-040; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-020; Ord. No. 234, Rep&ReEn, 07/26/90; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-020; Ord. No. 896, Amended, 01/27/22)

8-02-050 Issuance of License.

- A. It shall be the duty of the Town Clerk to prepare and issue a business license under this Article to every person who makes a proper application for a license; who demonstrates, upon investigation, compliance with requirements for said license; and who pays the license fees required in this Article. Further, the Town Clerk shall state in each license the cost thereof, the period of time covered, the name of the person to whom issued, the businesses or events licensed, and the building or other locations involved.
- B. Applications for business licenses shall be made on forms furnished by the Town Clerk.

Every new application shall be accompanied by a General Business License fee and a non-refundable inspection fee as set forth in this Article. In the event no license is issued, only the General Business License fee shall be returned to the applicant(s). In no case shall any mistake by the Town Clerk in stating the amount of license fees prevent or prejudice the collection by the Town of the amount actually due under this Article. All applications will be processed in the time frame established by the Town in accordance with A.R.S. § 9-835.

C. Before issuing business licenses under this Article, the Town Clerk shall require from each applicant a sworn application on forms provided by the Clerk. Such applications shall generally include the information below, subject to the exception set forth in Subsection (H) below. However, nothing herein shall preclude the Clerk from making certain information "optional" or requiring less information for special event licenses. In the case of applications by partnerships, the following information shall be supplied for each partner:

1. Business or trade name.
2. Street address or location of business and business mailing address.
3. Business telephone number.
4. Local contact and emergency telephone numbers.
5. Number of employees.
6. Nature of business.
7. Start of business date.
8. Applicant's name; mailing and home address; home telephone number; driver's license number; date of birth; and last four digits of applicant's social security number.
9. Existence of home occupation.
10. Nature of ownership.
11. Name, last four digits of social security number(s), home telephone number and address of business owner, and/or partner.

Limited Liability Companies (LLCs) shall provide, at a minimum, the name, address and telephone number(s) of the manager of the LLC, as well as the state in which the LLC was legally established, Federal Tax ID number, and Arizona transaction privilege tax number.

Corporations shall provide, at a minimum, the names, addresses and telephone numbers of all officers of the corporation, as well as the state in which the corporation was legally established, Federal Tax ID number, and Arizona transaction privilege tax number.

12. Whether business location is owned, leased/rented, or subleased; and, if applicable, the name, address, phone number and sales tax number of the lessor.
 13. Federal ID number; Arizona transaction privilege tax number; liquor license series number; contractor's license number; and, nature and identification number of all professional licenses held.
 14. Locations where the business or applicant has operated during the last five (5) years.
 15. Insurance certificates or policies, inspection certificates and reports, permits, licenses, maintenance records, injury records and/or operational records required by this Article or other applicable law.
 16. A description of any and all licenses or permits issued to or applied for by any applicant which have been denied, suspended, or revoked.
 17. The signature of each applicant certifying that his statements are true and correct, and title of applicant.
- D. Except for real property rentals (commercial), businesses located in Prescott Valley that apply for the first time for a business license shall be subject to an inspection of building structures and contents, and investigation of applicants by authorized police, fire, financial, building, zoning, health and safety personnel to determine that they meet the requirements of this Article and other applicable laws, regulations, codes and ordinances. In lieu of an inspection or investigation by Town personnel, agents or contractors, the Town (at its sole discretion) may require applicants to arrange for independent inspections or investigations at their own cost and to provide evidence of the same as part of the application. In the event the Town conducts the inspection or investigation, there shall be imposed an initial inspection fee. Additional inspection fees may be imposed if subsequent inspections are required. Inspection fees may also be imposed at the time of license renewal if circumstances require that a business be re-inspected prior to license renewal. If it is found upon inspection or investigation that the applicant does not meet the requirements of this Article, or that a building structure or contents are unsafe, unsuitable, or otherwise do not meet the requirements of applicable laws, regulations, codes and ordinances, the application for a business license shall be denied. In the event the license is denied and the violation in a building structure or contents can be corrected and is so corrected, the application for license may be resubmitted.
- E. Real property rentals (commercial) that apply for the first time for a business license shall pay an application fee to cover the cost of processing the application and/or investigating the applicant pursuant to Section 8-02-080 (as amended). If it is found upon investigation that applicants do not meet the requirements of this Article, the application for a business license shall be denied.
- F. Businesses selling spirituous liquor shall comply with applicable state law in addition to the requirements of this Article. Such businesses shall also pay annually the

spirituous liquor fee set forth in Section 8-02-070 (as amended) in addition to any other fee set forth herein for a business license.

- G. Once the Town issues a business license, there shall be no refunds or adjustments. Business licenses shall generally be issued for a period of one (1) year. However, special events licenses shall be issued for the period of the events. All licenses shall be renewed in accordance with and upon compliance with all requirements of this Article, except that inspection or application fees shall not apply unless otherwise set forth in this Article.
- H. When the power of local authorities to license, register or certify certain businesses has been preempted by the state, the Town Clerk shall require from those businesses only the following identifying information on the application for a business license:
1. Business or trade name, street address or location of business, business mailing address and business telephone number.
 2. Local contact and emergency telephone numbers.
 3. Nature of business.
 4. Start of business date.
 5. Applicant's name; mailing and home address; home telephone number.
 6. Existence of home occupation.
 7. Nature of ownership; and in the case of corporation, the applicant shall provide the state in which incorporated and the name, address and telephone number of the corporate statutory agent, president, vice-president, secretary, and treasurer.
 8. Whether business location is owned, leased/rented, or subleased; and, if applicable, the name, address, phone number and sales tax number of the lessor.
 9. Federal ID number; Arizona transaction privilege tax number; contractor's license number; alarm business and/or alarm agent license number; and, nature and identification number of all professional licenses held.
 10. The signature of each applicant certifying that his statements are true and correct, and title of applicant.

This exception applies to (without limitation) alarm businesses and alarm agents per ARS §32-113 and contractors per ARS §32-1101.01.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-020; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-020; Ord. No. 553, Amended, 05/22/03; Ord. No. 709, Amended, 02/14/08; Ord. No.784, Amended, 01/23/14; Ord. No. 896, Amended, 01/27/22)

8-02-055 Evidence of Authorized Presence in U.S.

- A. In accordance with Arizona law, no business license (or renewal) under this Article shall issue to any individual if that individual does not include in its application copies of one or more of the following documents indicating that the individual's presence in the United States is authorized under federal law:
1. An Arizona driver license (issued after 1996), or an Arizona nonoperating identification license;
 2. A driver license issued by a state that verifies lawful presence in the United States;
 3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States;
 4. A United States certificate of birth abroad;
 5. A United States passport;
 6. A foreign passport with a United States visa;
 7. An I-94 form with a photograph;
 8. A United States citizenship and immigration services employment authorization document or refugee travel document;
 9. A United States certificate of naturalization;
 10. A United States certificate of citizenship;
 11. A tribal certificate of Indian blood; or
 12. A tribal or bureau of Indian affairs affidavit of birth.
- B. This requirement does not apply to individuals who are citizens of a foreign country (or, at the time of application, reside in a foreign country).

(Ord. No. 723, Enacted, 11/06/08)

8-02-060 Multiple Businesses, Branches or Locations.

- A. Separate business licenses must be obtained for each branch establishment or separate place of business in which any trade, calling, profession, occupation or business is carried on within the Town limits. Each license shall authorize the applicant(s) to carry on, pursue or conduct only the trades, callings, professions, occupations or businesses described in such licenses and only at the locations or places of business indicated.

- B. Persons engaged in more than one (1) business in the same location for which license fees are required shall pay a license fee for each and every business in which they are engaged at such location.
- C. If persons operate more than one (1) division at the same physical location or are engaged in one (1) business under more than one (1) business name at the same physical location, only one (1) license shall be required listing all divisions or business names so operating. The fee shall be the highest of any applicable for any one (1) division or business name.
- D. Persons engaged in real property rental (commercial) shall pay a separate location fee for each separate rental address, in addition to any other fees required in this Article. Multi-suite buildings shall be considered one rental address.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-030; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-030; Ord. No. 709, Amended, 02/14/08)

8-02-070 Business License Fees.

Fees to be paid for business licenses are as follows:

TYPE	FEE
General Business License	\$ 45.00
Inspection Fee - General	20.00
Inspection Fee - Home Occupations	15.00
Annual Renewal Fee	\$45.00
Location Fee (commercial rental units)	5.00 each location
Carnivals, Circuses	120.00 per day
Rodeos	30.00 per day
Other Special Events (30-day maximum)*	Single Vendor - 15.00 per event Multiple Vendor - 250.00 per event

*(For all Town-sponsored special events, the Town shall obtain a Special Event License but shall be exempt from the license fees. Nothing in this Article shall prevent the Town from modifying these fees based on separate agreements with persons or entities that sponsor special events for the benefit of the community.)

Spirituos Liquor Businesses:

Prescott Valley, Arizona

#1 Manufacturer	200.00 annually
#3 Domestic Microbrewery	200.00 annually
#5 Government (county, community college, university)	50.00 annually
#6 Bar (on-site sales)	375.00 annually
#7 Beer & Wine Bar (on-site sales - beer & wine only)	200.00 annually
#9 Liquor Store (off-site sales)	200.00 annually
#10 Beer & Wine Store (off-site sales - beer & wine only)	150.00 annually
#11 Hotel-Motel (on-premises consumption only)	325.00 annually
#12 Restaurant (on-premises consumption only)	375.00 annually
#13 Domestic Farm Winery	50.00 annually
#14 Club (on- premises consumption only)	200.00 annually

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 13, Amended, 09/13/79; Ord. No. 30, Amended, 06/12/80; Ord. No. 51, Amended, 06/12/81; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-080; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-080; Ord. No. 553, Amended, 05/22/03; Ord. No. 709, Amended, 02/14/08; Ord. No.784, Amended, 01/23/14; Ord. No. 896, Amended, 01/27/22)

8-02-080 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Enacted, 05/26/88; Ord. No. 178, Renumbered, 05/26/88, 8-03-050; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-050; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-110; Ord. No. 709, Amended, 02/14/08; Ord. No. 896, Rep&ReEn, 01/27/22)

8-02-090 Refusal or Revocation of License.

- A. The Town Clerk shall refuse to issue a license, revoke the existing license, or decline to renew an existing license of any applicants or licensees for any of the following causes:
1. Any violation of the provisions of this Article.
 2. Any violation of Chapter 8a "Transaction Privilege Tax" of the Town Code, including without limitation the failure or refusal to make any return required by Chapter 8a or the failure or refusal to remit the full amount of any tax, penalty and interest when due.
 3. Failure to provide complete and accurate information on the applications required by this Chapter.
 4. Failure to pay business license fees in full when due and payable.
 5. Fraud, misrepresentation of false statement contained in the license application.
 6. Refusal to allow inspection of the business premises as authorized by this Chapter.
 7. Conducting business in an unlawful manner in violation of any Town Code, as to

constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

8. The licensee is a corporation and is no longer qualified to transact business in the state.
- B. A notice of the refusal to issue or renew a license or the revocation of an existing license shall be in writing and delivered or mailed to the applicant(s) and licensee(s), specifying the nature of the violation(s). Notice shall be delivered or mailed to the address of the applicant(s), licensee(s), or statutory agent(s), as shown on the current business license application. The giving of notice shall be completed upon the date of mailing or delivery. Notice of revocation shall be given at least thirty (30) days before the revocation is to take effect. Such written notice may be prepared and signed by any Town official designated by the Town Manager to perform such duties.
- C. A revocation notice arising from a violation of the provisions of this Article shall be void in the event the licensee(s) corrects the violation and complies with the requirements of this Article prior to the expiration of the thirty (30) day notice period. If the licensee(s) fails to correct the noticed violation within the thirty (30) day notice period, the license shall be permanently revoked. The failure of the licensee(s) to correct a noticed violation, resulting in the permanent revocation of a business license, may constitute grounds for refusal to issue a new business license to the offending licensee.
- D. Applicants and licensees have the right to appeal a denial, revocation or non-renewal of a business license before the Building Department Board of Appeals in the manner specified in Town Code Chapter 7 (as amended).
- E. Building structures or contents shall continue to conform to all applicable federal, state, county, Town and special district regulations, requirements, and codes during the term of applicable business licenses. Where an ongoing maintenance program is necessary to comply with applicable federal, state, county, Town and special district regulations, requirements and codes including, but not limited to, such things as fire extinguishers, hoods and vents over cooking devices a routine inspection by authorized fire, building, zoning, health and safety personnel may occur at any time, to ensure said equipment or structure is kept in proper operating condition. Any remodeling or modification of building structures or contents not approved by authorized fire, building, zoning, health and safety personnel, and which may cause safety or code violations to exist, is grounds for suspension or revocation of any license issued pursuant to this Article. If the building structures or contents of a business licensed under this Article are found to be faulty, unsafe or inoperable, the Town may suspend the applicable license, and any violation occurring after issuance of the business license must be corrected. Thereafter, the premises must be re-inspected and approved (or evidence of re-inspection and approval must be provided) before any reopening of the business shall occur. To continue business to the public or as a private operation while such known violations exist may result in immediate revocation of any license issued pursuant to this Article without prior notice. A revocation notice arising from a violation of this Section shall be void, and the revoked license shall be promptly reinstated, as soon as the licensee has received notice in writing from the appropriate Town official indicating that the violation(s) has/have

been cured, removed or rectified.

- F. It is unlawful for any person to continue to engage in or conduct any business within the Town upon the revocation or non-renewal of that person's business license until the license required by this Chapter has been secured. In the event a person violates this subsection, the Town Clerk may seek, in addition to all remedies available in this Code, an injunction in the Yavapai Superior Court enjoining the violator from engaging or continuing in business within the Town until such person has complied with this Article.

(Ord. No. 53, Enacted, 06/25/81; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-090; Ord. No. 234, Rep&ReEn, 07/26/90; Ord. No. 614, Amended, 02/10/05; Ord. No. 709, Amended, 02/14/08; Ord. No. 769, Amended, 08/23/12; Ord. No. 896, Amended, 01/27/22)

8-02-100 License Non-Transferable.

A business license shall not be transferred upon transfer of ownership of said property or said business. If the person, firm, company or corporation changes ownership, changes to a new location, or changes the type of business from its present business license, the business license shall expire immediately and a new business license shall be applied for forthwith, in accordance with this Article.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 13, Amended, 09/13/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-03-060; Ord. No. 234, Renumbered, 07/26/90, 8-02-060; Ord. No. 553, Amended, 05/22/03; Ord. No. 896, Amended, 01/27/22)

8-02-110 Penalty, Delinquent Renewal Penalty and Remedies.

- A. Any person found in violation of any provision of this Article shall be guilty of a class 3 misdemeanor and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment for a period not to exceed one (1) month, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinafter described.
- B. License renewal fees provided for in this Article shall be due and payable on the date of expiration of the current license, and shall become delinquent on the fifteenth (15th) day following such expiration. A penalty of twenty-five percent (25%) of the applicable license fee shall be assessed on all such delinquencies. The penalty may be abated by the Town Clerk for due cause upon written request for abatement detailing the reason for said delinquency. The written request must be filed with the Town Clerk within twenty (20) days of assessment of such penalty.
- C. In the event the license renewal fee is not received by the Town clerk on or before the forty-fifth (45th) day following the expiration of the license, the delinquent license shall be permanently terminated. If the business owner wishes to continue to transact business within the Town of Prescott Valley, the owner must obtain a new business license pursuant to Sections 8-02-050 and 8-02-060.
- D. Remedies shall be as follows:

1. All remedies provided in this Article shall be cumulative and not exclusive.
2. The imposition of penalties on any person under this Article shall not relieve such persons from the responsibility of correcting prohibited conditions or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal of such violations.
3. Citations may be issued in accordance with Article 1-08 (Enforcement and Penalties) for violations of this section.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 234, Ren&Amd, 07/26/90, 8-02-100; Ord. No. 375, Amended, 12/28/95; Ord. No. 553, Amended, 05/22/03)

8-02-120 Special Requirements - Massage Therapists and Establishments.

All massage therapists and establishments applying for a new or renewed license under this Article shall comply with all requirements contained in Title 32, Chapter 42, Arizona Revised Statutes as amended or as may be amended and, at the time of such application, shall provide to the Clerk a copy of the license obtained pursuant to A.R.S. §32-4221 ("massage therapy license"). In no event shall a business license be renewed or issued to a massage therapist or establishment which does not have a valid massage therapy license.

(Ord. No. 598, Enacted, 06/10/04)

Article 8-03 COMMUNITY ANTENNA TELEVISION

- 8-03-010 Definitions.
- 8-03-020 Rights and Authority Reserved to Town.
- 8-03-030 Administrative Procedures Generally.
- 8-03-040 Records; Reports; Inspection.
- 8-03-050 Rates and Charges.
- 8-03-060 Violations and Enforcement.
- 8-03-070 Licenses Required; Restrictions.
- 8-03-080 License Application.
- 8-03-090 Fees.
- 8-03-100 Acceptance by Licensee.
- 8-03-110 Terms and Conditions.
- 8-03-120 Renewal.
- 8-03-130 Expiration.
- 8-03-140 Bond Required.
- 8-03-150 Liability Insurance; Indemnification and Defense of Litigation.
- 8-03-160 Revocation.
- 8-03-170 Permits; Construction and Provision of Service.
- 8-03-180 Installation of Cable.

- 8-03-010 Definitions.

In this Article, unless the context otherwise requires:

- A. "Cable television system or CATV system" means a facility which receives and amplifies or otherwise modifies the signals broadcast by one or more television or radio stations and redistributes such signals, together with such other signals, as authorized by the Federal Communications Commission, to subscribing members of the public for a fixed or periodic fee, employing wires or cables. This definition does not include:
 - 1. Any system which serves fewer than ten (10) subscribers; or
 - 2. Any system which serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such dwellings.
- B. "CATV" means cable television system as hereinafter defined.
- C. "Gross annual subscriber receipts" means any and all compensation received directly or indirectly by the licensee from subscribers in the Town in payment of the regularly furnished service of the cable television system in the transmission of broadcast television, radio signals and original cablecast programming of the licensee and shall include the installation fees, disconnect and reconnect fees, and all other fees for regular cable benefits.
- D. "License" means any authorization granted hereunder in terms of a privilege permit,

license or otherwise to construct, operate and maintain a CATV system in the Town. Any such authorization, in whatever term granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the Town in accordance with Article 8-02 of the Town Code.

- E. "Licensee" means the person, firm or corporation to whom or which a license, as hereinabove defined, is granted by the Council under this Article and the lawful successor, transferee or assignee of such person, firm or corporation.
- F. "Property of licensee" means all property or service owned, installed or used by a licensee in the conduct of a CATV business in the Town under the authority of a license granted pursuant to this Article.
- G. "Street" means the surface of and the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, easement, right-of-way, or drive, now or hereafter existing as such within the Town.
- H. "Subscriber" means any person or entity receiving for any purpose any service of the CATV system of the licensee.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-020 Rights and Authority Reserved to Town.

- A. Nothing herein shall be deemed or construed to impair or affect in any way to any extent the right of the Town to acquire the property of the licensee, either by purchase or through the exercise of the right of eminent domain, at a fair and just value, and nothing herein contained shall be construed to contract away or to modify or abridge, either for term or in perpetuity, the Town's right of eminent domain. If negotiation of a fair and just value as referred to in this Subsection results in dispute, the dispute shall be presented to the American Arbitration Association for a decision pursuant to its rules.
- B. There is hereby reserved to the Town every right and power which is required to be herein reserved or provided by the Code or any Ordinance of the Town, and the licensee, by its acceptance of any license, agrees to be bound thereby and to exercise of such rights or power, heretofore or hereafter enacted or established.
- C. Neither the granting of any license hereunder nor any of the provisions contained herein shall be construed to prevent the Town from granting any identical or similar license to any other person, firm or corporation, within all or any portion of the Town.
- D. There is hereby reserved to the Town the power to amend any Section of this Article so as to require additional or greater standards of construction, operation, maintenance or otherwise, on the part of the licensee to reflect technical and economic changes occurring during the license term, and to enable the Town and the licensee to take advantage of new developments in the cable television industry so as to more effectively, efficiently and economically serve the public.

- E. The Town shall have the right, free of charge, to make additional use for any public or municipal purpose, whether governmental or proprietary, of any poles, conduits or other similar facilities erected, controlled or maintained exclusively by or for the licensee in any street; provided, that such use by the Town does not interfere with the use by the licensee.
- F. Neither the granting of any license nor any provision of this Article shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.
- G. The Council may do all things which are necessary and convenient in the exercise of its jurisdiction under this Article and may determine any question of fact which may arise during the existence of any license granted hereunder. The Town Manager is hereby authorized and empowered to adjust, settle or compromise any controversy or charge arising from the operations of the licensee or any subscriber, in the best interest of the public. Either the licensee or any member of the public who may be dissatisfied with the decision of the Town Manager may appeal the matter to the Council for hearing and determination. The Council may accept, reject or modify the decision of the Town Manager, and the Council may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the licensee or from any provision of this Article.
- H. Any duties of the Town Manager pursuant to this Article can be delegated to his authorized representative.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-030 Administrative Procedures Generally.

- A. When not otherwise prescribed herein, all matters herein required to be filed with the Town shall be filed with the Town Clerk.
- B. The licensee shall pay to the Town a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of a license pursuant to the provisions of this Article. Such payment shall be made within thirty (30) days after the Town furnishes the licensee with a written statement of such expenses by delivery of same to the Town Clerk.
- C. The licensee shall obtain written permission from the Town Building Inspector prior to commencing any construction or installation of facilities on public property or rights-of-way. Any damage to public property by the licensee shall be promptly repaired to the satisfaction of the Town Building Inspector.
- D. The form of the licensee's contract with the subscriber, if such exists, shall also be subject to approval of the Town.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-040 Records; Reports; Inspection.

- A. At all reasonable times, the licensee shall permit any duly authorized representative of the Town to examine all property of the licensee, together with any appurtenant property of the licensee situated within or without the Town, and to examine and transcribe any and all maps and other records kept or maintained by the licensee or under its control which deal with the operations, affairs, transactions or property of the licensee with respect to its license.
- B. The licensee shall prepare and furnish to the Town Building Inspector at the times and in the form prescribed by such officer, such reports with respect to its operations, affairs, transactions or property, as may be reasonably necessary or appropriate to the performance of any of its officers or employees in connection with the license.
- C. The licensee shall at all times file with the Town full and complete plans, maps, diagrams and records showing the exact location of all CATV system cables and equipment installed or in use in streets and other public places in the Town, within thirty (30) days of the installation of the same.
- D. Any map or part of a map filed by the licensee in compliance with any provision of this Section shall not be, or shall not be deemed to be, notice to the Town in order to comply with any of the provisions or requirements of this Article.
- E. The licensee shall make available for Town inspection, upon request of the Council, a copy of all financial records, an income statement applicable to its operations during the preceding twelve (12) month period, a balance sheet and a statement of its properties devoted to CATV operations, by categories, giving its investment in such properties on the basis of original costs, less applicable depreciation. These reports shall be prepared or approved, at the licensee's expense and at no expense to the Town, by a certified public accountant, and there shall be submitted along with them such other reasonable information as the Council shall request with respect to the licensee's properties and expenses related to its CATV operations within the Town.
- F. The licensee shall keep on file with the Town Clerk a current list of its shareholders, bondholders, sureties, insurers and owners.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-050 Rates and Charges.

- A. Prior to granting any license pursuant to this Article the Council, by ordinance, shall establish and fix all rates and charges for the basic service allowable to the licensee.
- B. Once established, such rates or charges shall not be increased at any time after granting of a license, except after due notice and hearing as provided in this Article.
- C. In connection with any proposed increase of any rates or charges for basic service, at any time after the granting of a license, the Council shall direct the Town Manager to conduct a preliminary hearing into the matter. When so directed by the Council, the Town Manager shall issue his written notice fixing and setting forth the day, hour and

place certain when and where any persons having any interest therein may appear and be heard.

- D. The Town Clerk shall cause such notice to be published in a newspaper of general circulation within the Town. The Town Clerk also shall cause a copy of such notice to be mailed to any licensee at least ten (10) days prior to the date specified for the hearing. At the time set for such hearing, or at any adjournment thereof, the Town Manager shall proceed to hear the matter. Following the close of such hearing, the Town Manager shall prepare and file with the Town Council his report of the hearing, his findings and an opinion containing his recommendations and the reasons therefor. After the expiration of ten (10) days following receipt of the Town Manager's report and opinion, and if no objection has been filed thereto, the Council shall determine whether to adopt the opinion or to hold a further hearing, and shall pass its "Resolution of Intention" to do so, describing and stating any rates or charges to be increased, the reasons of the Council therefor, fixing and setting forth a day, hour and place certain when and where any persons having any interest therein may appear before the Council and be heard. Such resolution shall direct the Town Clerk to publish the same resolution at least once within ten (10) days prior to the date specified for hearing thereon.
- E. If, upon receipt of the report and opinion, and the expiration of such ten (10) days without objection, or following the holding of a further hearing, the Council determines to do so, if the Council finds that the increasing of any rates or charges of the licensee to subscribers will be fair and just, then the Council, by resolution, shall authorize the increase of rates or charges of the licensee to subscribers and users as determined giving its reasons therefor. Such resolution shall thereupon become and shall be a part of any license granted hereunder and affected thereby.
- F. Neither the Council nor the licensee shall, as to rates, charges, service, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person, nor subject any person to prejudice or disadvantage.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-060 Violations and Enforcement.

- A. It is unlawful for any person to establish, operate or to carry on the business of distributing to any person in this Town any television signals or radio signals by means of a CATV system unless a license therefor has first been obtained pursuant to the provisions of this Article, and unless such license is in full force and effect.
- B. It is unlawful for any person to construct, install or maintain within any public street in the Town, or within any other public property of the Town, or within any privately-owned area within the Town which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the Town, any CATV system, unless a license authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this Article, and unless such license is in full force and effect.

- C. It is unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed CATV system within this Town for the purpose of taking or receiving television signals, radio signals, pictures, programs or sound.
- D. It is unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise with any part of a licensed CATV system within this Town for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of such system.
- E. It is unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.
- F. Should any licensed CATV system be abandoned or left unoperated for a period in excess of thirty (30) days, the said CATV system in its entirety shall revert to the Town, if the Town so elects.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-070 Licenses Required; Restrictions.

- A. A nonexclusive license to install, operate and maintain a cable television system within all or any portion of the Town shall first be obtained from the Mayor and Council before any person, firm or corporation commences to operate and continues to operate a cable television system within the Town, and such license shall be obtained under and pursuant to the terms and provisions of this Article.
- B. No provision of this Article may be deemed or construed as to require the granting of a license when, in the opinion of the Council, it is in the public interest to restrict the number of licenses.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-080 License Application.

- A. Each application for a license to construct, operate or maintain any cable television system in this Town shall be filed with the Town Clerk and shall contain or be accompanied by the following:
 - 1. The name, address and telephone number of the applicant.
 - 2. A detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the Town:
 - a. The names, residence and business addresses of all officers, directors

- and associates of the applicant.
- b. The names, residence and business addresses of all officers, persons and entities having, controlling or being entitled to have or control five percent (5%) or more of the ownership of the applicant and the respective ownership share of each such person or entity.
 - c. The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.
 - d. A detailed description of all previous experience of the applicant or its corporate predecessors in providing cable television system service and in related or similar fields.
 - e. A detailed and complete financial statement of the applicant including a stockholders report (if one is prepared), balance sheet, income statement and a statement of its properties devoted to CATV operations, by categories, giving its investment in such properties on the basis of original cost, less applicable depreciation and which must be prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the Town or a statement from a certified public accountant certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in the Town.
 - f. A statement identifying, by place and date, any other cable television license awarded to the applicant, its parent or subsidiary; the status of such license with respect to completion thereof, the total cost of completion of such systems; and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.
- B. Each applicant shall also file a detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:
1. A map indicating all areas proposed to be served, including but not limited to, the location of all proposed trunk cables, feeder lines, headends and amplifiers.
 2. A proposed time schedule for the installation of all equipment necessary to

- become operational throughout the entire area to be served.
3. A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges.
 4. A detailed, informative and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall such operational and performance standards be less than those contained in Title 47, subpart K (Sections 76.601 et seq.), Rules and Regulations, Federal Communications Commission, adopted February 2, 1972, as amended.
 5. A copy of the form of any agreement, undertaking or other instrument, if any, proposed to be entered into between the applicant and any subscriber or any statement proposed to be submitted to subscribers.
 6. A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral or implied, existing or proposed to exist between the applicant and any person, firm or corporation which materially relate or pertain to or depend upon the application and the granting of the license.
- C. Each applicant shall also file a copy of any agreement covering the license area, if existing between the applicant and any public utility subject to regulation by the State Corporation Commission providing for the use of any facilities of the public utility, including but not limited to poles, lines or conduits.
 - D. Each applicant shall also file any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the Council or by any provision of this Code or any other ordinance of the Town.
 - E. Each applicant shall also file an application fee in the sum of three hundred dollars (\$300.00) which shall be in the form of cash, certified or cashier's check, or money order, to pay the costs of studying, investigating and otherwise processing such application, and which shall be in consideration thereof and not returnable or refundable in whole or in part, except to the extent that such fee exceeds the actual costs incurred by the Town in studying, investigating and otherwise processing the application.
 - F. All applications shall be placed on public file by the Town Clerk who shall also notify the public when an applicant files by publishing notice of the same in a newspaper of general circulation within the Town.
 - G. The procedure set forth in ARS §9-505, et.seq., as amended from time to time, shall be followed as to all applications hereunder.
 - H. In making any determination hereunder as to any application, the Council may give due consideration to the quality of the service proposed, rates to subscribers, income to the Town, experience, character, background, legal qualifications and financial responsibility of any applicant, and its management and owners, technical and

performance quality of equipment, willingness and ability to meet construction and physical requirements, and to abide by policy considerations, license limitations and requirements, and any other considerations deemed pertinent by the Council for safeguarding the interests of the Town and the public. The Council, in its discretion, shall determine the award of any license on the basis of such considerations and without competitive bidding.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-090 Fees.

- A. Any licensee granted a license under this Article shall pay to the Town during the life of such license, a sum no less than three percent (3%) of the gross annual subscriber receipts of the licensee. Such payment by the licensee to the Town shall be made quarterly, or as otherwise provided in the license, by delivery of the same to the Town Manager. This payment shall be in addition to any other fees or payments made to the Town by the licensee.
- B. The Town shall have the right to inspect the licensee's records showing the gross receipts from which its license payments are computed and the right of audit and recomputation of any and all amounts paid under this Article. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for further or additional sums payable under this Article or for the performance of any other obligation hereunder.
- C. The percentage of the gross subscriber receipts due the Town and the insurance and bond provisions of this Article shall be subject to reevaluation and renegotiation by the Council every three (3) years. In no event shall the percentage exceed the maximum fixed by the Federal Communications Commission.
- D. If Federal Communications Regulations are amended in the future to allow the Town to receive a greater fee or a fee from its licensee from other than the previously-mentioned gross annual subscriber receipts, then, in that event, the licensee shall immediately commence making such additional payments to the Town as are authorized to the full extent of such authorization.
- E. If renegotiation of the amounts referred to above results in dispute, the dispute shall be presented to the American Arbitration Association for a discussion, which shall be binding on all parties.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-100 Acceptance by Licensee.

- A. Within thirty (30) days after the passage of the ordinance awarding a license or granting renewal of a license, or within such extended period of time as the Council in its discretion may authorize, the licensee shall file with the Town Clerk its written acceptance, in a form satisfactory to the Town Attorney, of the license, together with

the bond and insurance policies required herein, respectively, and its agreement to be bound by and to comply with and to do all things required of it by the provisions of this Article and the license. Such acceptance and agreement shall be acknowledged by the licensee before a notary public and shall in form and content be satisfactory to and approved by the Town Attorney.

- B. In default of the filing of such written acceptance as herein required, the licensee shall be deemed to have rejected and repudiated the license. Thereafter, the acceptance of the licensee shall not be received nor filed by the Town Clerk. The licensee shall have no rights, remedies or redress in the premises unless and until the Council, by resolution, shall determine that such acceptance be received or filed, and then upon such terms and conditions as the Council may impose.
- C. In any case and in any instance, all rights, remedies and redress in these premises, which may or shall be available to the Town, shall at all times be available to the Town, and shall be preserved and maintained and shall continually exist in and to the Town, and shall not be in any manner or means modified, abridged, altered, restricted or impaired by reason of any of these premises or otherwise.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-110 Terms and Conditions.

- A. Any license granted under this Article shall be nonexclusive.
- B. No privilege or exemption shall be granted under this Article except those specifically prescribed herein.
- C. Any privilege claimed under any such license by the licensee in any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property.
- D. Time shall be of the essence of any such license granted hereunder. The licensee shall not be relieved of his obligation to comply promptly with any of the provisions of this Article or by any failure of the Town to force strict compliance.
- E. Any right or power in, or duty imposed upon any officer, employee, department or board of the Town shall be subject to transfer by the Town to any other officer, employee, department or board of the Town.
- F. The licensee shall have no recourse whatsoever against the Town for any loss, cost, expense or damage arising out of any provision or requirement of this Article or of any license issued hereunder or because of its lawful enforcement.
- G. The licensee shall be subject to all requirements of this Code, Town ordinances, rules, regulations and specifications heretofore or hereafter enacted or established.
- H. The licensee shall be subject to all laws, rules and regulations of the State, County, the Town and the United States government, and any of its agencies, including, but

not limited to, the Federal Communications Commission, whether such rule or regulation is in force or hereafter enacted, relating to the business of cable television systems.

- I. Any of the provisions or terms of this Article shall be automatically amended and made consistent with any new or amended rule or regulation of the Federal Communications Commission if such new or amended rule or regulation of the Federal Communications Commission renders such provisions or terms prohibited or inconsistent. The licensee shall then comply with such amendments of this Article within a reasonable time as determined by the Council. Any provision of this Article presently prohibited by the rules and regulations of the Federal Communications Commission which is subsequently allowed by that agency shall automatically have full force and effect, and the licensee shall comply within a reasonable time as determined by the Council.
- J. Any such license granted shall not relieve the licensee of any obligation involved in obtaining the necessary pole or conduit space from any department of the Town, utility company, or from others maintaining poles, conduits or utilities in streets.
- K. Any license granted hereunder shall be in lieu of any and all other rights, privileges, powers, immunities and authorities owned, possessed, controlled or exercisable by the licensee, or any successor to any interest of the licensee of or pertaining to the construction, operation or maintenance of any CATV system in the Town. The acceptance of any license hereunder shall operate, as between the licensee and the Town, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the Town, to the effect that, as between the licensee and the Town, any and all construction, operation and maintenance by any licensee of any CATV system in the Town shall be, and shall be deemed and construed in all instances and respects to be under and pursuant to such license, and not under or pursuant to any other right, privilege, power, immunity or authority whatsoever.
- L. In addition to the payment to the Town described in Section 8-03-090, the licensee shall be subject to any local tax now imposed or hereafter imposed by the Town which is not unique to CATV operations.
- M. The licensee's service and extension policies shall show no preferential or discriminatory practices and shall be on file with the Town Clerk.
- N. Any such license shall be a privilege to be held in personal trust by the original licensee.
 - 1. Such license cannot in any event be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without prior consent of the Council expressed by resolution, and then only under such conditions as may therein be prescribed. Any such transfer or assignment shall be made only by an instrument in writing, a duly executed copy of which shall be filed in the Office of the Town Clerk within thirty (30) days after any such transfer or assignment. The consent of the Council may not be unreasonably refused, provided however, that the proposed assignee must show financial responsibility as determined by the Council and must agree to comply with all

provisions of this Article, and meet all of the qualifications that must be met by an original licensee; and provided, further, that no such consent shall be required for a transfer in trust, mortgage or other hypothecation, in whole or in part, to secure an indebtedness. The granting, giving or waiving of any one or more such consents shall not render unnecessary any subsequent consent or consents.

2. In the event that the licensee is a corporation, prior approval of the Council, expressed by ordinance shall be required where there is an actual change in control or when ownership of more than fifty percent (50%) of the voting stock or ownership control, the licensee is acquired by a person or group of persons acting in concert, none of whom already own fifty percent (50%) or more of the voting stock, singly or collectively. Any such acquisition occurring without prior approval of the Council shall constitute a failure to comply with a material provision of this Article within the meaning of Section 8-03-160.
3. Upon the foreclosure or other judicial sale of all or a substantial part of the CATV system, or upon the termination of any lease covering all or a substantial part of the CATV system, the licensee shall notify the Council of such fact, and such notification shall be treated as a notification that a change in control of the licensee company has taken place, and the provisions of paragraph 4 of this Subsection governing the consent of the Council to such change in control of the licensee company shall apply.
4. Upon written notification by the licensee to the Town of a proposed assignment of the license or transfer of control or ownership of the licensee company, the Council shall direct the Town Manager to issue and the Town Manager shall issue his written notice fixing and setting forth the day, hour and place certain when and where any persons having any interest therein may appear and be heard, and otherwise pursuant to the procedure set forth in Section 8-03-050(C), give notice, conduct a hearing and report to the Council for a determination of the status of the license and the necessary or recommended action to be taken, if any.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-120 Renewal.

- A. Any license granted under this Article is renewable for a term not to exceed fifteen (15) years upon application of the licensee and after full public proceedings, in the same manner and upon the same terms and conditions as required for obtaining the original license, except those which are by their terms expressly inapplicable; provided, however, that the Council may, at its option, waive compliance with any or all of the requirements in Section 8-03-080 which are not required in renewal proceedings by the Federal Communications Commission.
- B. The Council shall also consider, in renewing a license, the performance of the licensee and the adequacy of the license.

- C. Upon the cancellation or termination by the Council or upon expiration of the license, the Council may, by resolution, direct the licensee to operate the same for a period up to six (6) months under the terms and conditions of this Article and at no expense to the Town.
- D. An application fee for renewal shall be accompanied by a fee given and accepted under the same terms and conditions, and of the same amount as the application fee described in Section 8-03-080(E).

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-130 Expiration.

No license granted by the Council under this Article shall be for a term longer than fifteen (15) years following the date of issuance of such license.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-140 Bond Required.

The licensee shall, concurrently with the filing of and acceptance of award of any license granted under this Article, file with the Town Clerk and, at all times thereafter, maintain in full force and effect for the term of such license or any renewal thereof, at the licensee's sole expense, a surety bond in a company and in a form approved by the Town Attorney, in an amount to be determined by the Council not to exceed fifty thousand dollars (\$50,000.00). Such bond shall be conditioned upon the faithful performance of the licensee, and upon the further condition that in the event the licensee shall fail to comply with any one or more of the provisions of the Article or of any license issued to the licensee hereunder, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the Town as a result thereof, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the licensee as prescribed hereby which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond. Such condition shall be a continuing obligation for the duration of such license and any renewal thereof and thereafter until the licensee has liquidated all of its obligations with the Town that may have arisen from the acceptance of such license or renewal by the licensee or from its exercise of any privilege therein granted. The bond shall provide that sixty (60) days' prior written notice of intention not to renew, cancellation or material change be given to the Town.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-150 Liability Insurance; Indemnification and Defense of Litigation.

- A. The licensee shall, concurrently with the filing of an acceptance of award of any license granted under this Article, furnish to the Town and file with the Town Clerk and, at all times during the existence of any license granted hereunder, maintain in full force and effect, a general comprehensive liability insurance policy, in protection

of the Town, its officers, boards, commissions, agents and employees, in a company approved by the Town Manager and in a form satisfactory to the Town Attorney, protecting the Town and all persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operations of licensee under such license. Such insurance policy shall include minimum liability limits of three hundred thousand dollars (\$300,000.00) for personal injury or death of one or more persons in any one (1) occurrence, and one hundred thousand dollars (\$100,000.00) for damage to property resulting from any one (1) occurrence.

- B. The policies mentioned in Subsection A of this Section shall name the Town, its officers, boards, commissions, agents and employees as additional insureds and shall contain a provision that a written notice of cancellation or reduction in coverage of such policy shall be delivered to the Town fifteen (15) days in advance of the effective date thereof. If such insurance is provided by a policy which also covers the licensee or any other entity or person other than those above named, then such policy shall contain the standard cross-liability endorsement.
- C. The licensee shall, at the sole risk and expense of the licensee, upon demand of the Town, made by and through the Town Attorney, appear in and defend any and all suits, actions or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the Town, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of such license, or the granting thereof by the Town.
- D. The licensee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against the licensee, the Town, its officers, boards, commissions, agents or employees in any of these premises. Such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise, provided that the licensee shall not make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit or other proceeding, without first obtaining written consent of the Town.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-160 Revocation.

- A. Any such license granted hereunder may be terminated prior to its date of expiration by the Council in the event that the Council shall have found that any of the following have occurred:
 - 1. The licensee has failed to comply with any material provisions of this Article or has, by act or omission, violated any term or condition of any license issued hereunder.
 - 2. The licensee has failed to comply with any material promises or covenants set forth in its application or in its duty to serve its subscribers.

3. The licensee has failed to comply with any material rule or regulation of the Council or Town Manager validly adopted pursuant to this Article.
 4. The licensee has failed to comply with any order of the Federal Communications Commission.
- B. The Town Manager may make written demand that the licensee do or comply with any such requirement, limitation, term, condition, rules or regulation. If the failure of the licensee continues for a period of thirty (30) days following such written demand, the Town Manager may place his request for termination of the license upon the next regular Council meeting agenda. The Town Manager shall cause to be served upon such licensee, at least ten (10) days prior to the date of such Council meeting, a written notice of his intent to request such termination, and the time and place of the meeting, notice of which shall be published by the Town Clerk at least once ten (10) days before such meeting in a newspaper of general circulation within the Town.
 - C. The Council shall consider the request of the Town Manager and shall hear any persons interested therein and shall determine, in its discretion, whether or not any failure by the licensee was with just cause.
 - D. If such failure by the licensee was with just cause, the Council shall direct the licensee to comply within such time and manner and upon such terms and conditions as are reasonable.
 - E. If the Council shall determine such failure was without just cause, then the Council may, by resolution, declare that the license of such licensee shall be terminated and forfeited unless there be compliance by the licensee within such period as the Council may fix.
 - F. The termination and forfeiture of any license shall in no way affect any of the rights of the Town under this Article, the license or any provision of law.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-170 Permits; Construction and Provision of Service.

- A. Within thirty (30) days after acceptance of any license, the licensee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, microwave carrier licenses and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems, or associated microwave transmission facilities. In connection therewith, copies of all petitions, applications and communications submitted by the licensee to the Federal Communications Commission, Securities and Exchange Commission or any other Federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting the licensee's cable television operations shall also be submitted simultaneously to the Town Manager.

- B. Within three (3) months after obtaining all necessary permits, licenses, authorizations and a certificate of compliance from the Federal Communications Commission, the licensee shall commence construction and installation of the CATV system.
- C. The license is for the present incorporated limits of the Town and, at the Council's request, for any area henceforth added thereto during the term of this license.
 - 1. The licensee shall, within sixty (60) months of its obtaining the certificate of compliance, install and make operational in accordance with the licensee's application, distribution cable along thirty percent (30%) of all of the miles of the Town's streets according to the following schedule: at least eighteen (18) miles by the end of the second year, at least an additional six (6) miles by the end of the third year, at least an additional six (6) miles by the end of the fourth year, and so on.
 - 2. Thereafter, the licensee shall extend cable to new subdivisions simultaneously with electric power and telephone utilities.
 - 3. Installation and operation of distribution cable by the licensee shall proceed on a nondiscriminatory basis giving consideration to subscriber density and without regard for subscriber affluence or other discriminatory factors. The licensee agrees to submit in its application its proposal for such nondiscriminatory installation and operation of distribution cable, and the Council shall make such proposal part of the Ordinance granting the license.
 - 4. At all times during the term of the license, the licensee shall deliver basic service to new subscribers with due diligence. Without a showing by the licensee to the Town Manager of unusual circumstances hindering the delivery of service, basic service to a new subscriber shall be delivered by the licensee within ten (10) days of the request to receive such service; provided, that energized cable is installed at the time of the request by the new subscriber in the immediate vicinity of the request.

(Ord. No. 12, Enacted, 08/16/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-03-180 Installation of Cable.

- A. All cable television company feeder and trunk cables installed within the limits of the Town should be installed in the following manner:
 - 1. Underground to a minimum depth of ten (10) inches below ground surface.
 - 2. On utility company power poles.
- B. No such cable shall in any case be laid on the surface of any street, easement or other right-of-way or property.
- C. Failure to comply with provisions of this Section shall constitute grounds for revocation of a cable television license granted in accordance with the provisions of this Article.

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(Ord. No. 43, Enacted, 10/23/80; Ord. No. 178, Rep&ReEn, 05/26/88)

Article 8-04 RESERVED

8-04-010 Reserved.
8-04-020 Reserved.
8-04-030 Reserved.
8-04-040 Reserved.
8-04-050 Reserved.
8-04-060 Reserved.
8-04-070 Reserved.
8-04-080 Reserved.
8-04-090 Reserved.
8-04-100 Reserved.
8-04-110 Reserved.
8-04-120 Reserved.

8-04-010 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-010; Ord. No. 534, Amended, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-020 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-020; Ord. No. 534, Amended, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-030 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-030; Ord. No. 534, Amended, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-040 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-040; Ord. No. 534, Amended, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-050 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Renumbered, 05/26/88, 12-01-050; Ord. No. 534, Amended, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-060 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-060; Ord. No. 534, Amended, 10/10/02;

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Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-070 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-070; Ord. No. 534, Amended, 10/10/02;
Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-080 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-080; Ord. No. 534, Amended, 10/10/02;
Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-090 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-090; Ord. No. 534, Amended, 10/10/02;
Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-100 Reserved.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 12-01-100; Ord. No. 534, Amended, 10/10/02;
Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-110 Reserved.

(Ord. No. 534, Enacted, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

8-04-120 Reserved.

(Ord. No. 534, Enacted, 10/10/02; Ord. No. 598, Rep&ReEn, 06/10/04)

Article 8-05 AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES

- 8-05-010 Definitions.
- 8-05-020 Regulations.
- 8-05-030 Display of License; Duration and Renewal; Transfer; Change of Information.
- 8-05-040 License Fees.
- 8-05-050 Applications.
- 8-05-060 Change of Location.
- 8-05-070 Revocation of License.
- 8-05-080 Reporting Requirements -Dealers of Used Articles, Junk Dealers and Auction Houses.
- 8-05-090 Property Retention.
- 8-05-100 Special Requirements - Auctions, Junk Dealers and Dealers of Used Articles.
- 8-05-110 Reserved.
- 8-05-120 Special Requirements - Jewelry Auctions.
- 8-05-130 Special Requirements - Dealers of Precious Items.
- 8-05-140 Police Officer Hold on Property.
- 8-05-150 Hours of Operation.
- 8-05-160 Transactions with Minors.
- 8-05-170 Penalty.

8-05-010 Definitions.

Unless otherwise provided, the following definitions shall apply to the provisions of this Article:

- A. Applicant: the person owning, operating, and/or conducting the business to be licensed, including all persons financially interested in the business, the manager(s) or other individual(s) principally in charge of the operation of the business, any authorized local agent(s), and the responsible managing officer designated pursuant to this article.
- B. Auctioneer: any person who shall operate an auction house or who, as a principal or agent, shall offer any article for sale by public outcry and where such items offered at auction are sold immediately to the highest bidder.
- C. 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.
- D. 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.
- E. Dealers of Used Articles: any person (other than a person who deals exclusively in secondhand books, magazines, handbills, trading cards, and/or posters) engaged 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.

- F. Trade-in: the acceptance, sale or disposal of used appliances, 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 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 of construction work shall not be deemed to constitute the doing of any business defined under this term.

(Ord. No. 193, Enacted, 11/10/88; Ord. No. 407, Amended, 11/21/96; Ord. No. 627, Amended, 06/09/05; Ord. No. 776 Amended, 09/12/13)

8-05-020 Regulations.

- A. It shall be unlawful for any person to operate within the corporate limits of the Town any of the mercantile businesses, as listed and defined in this Article, without possessing a valid license as provided in this Article. A person who deals exclusively in used books, magazines, posters, trading cards, and/or handbills is not required to obtain a license under this Article.
- B. It shall further be unlawful for any person to operate a business which has been licensed under this Article while the license for that business is suspended.
- C. A separate license shall be required for each location.

(Ord. No. 193, Enacted, 11/10/88; Ord. No. 407, Amended, 11/21/96; Ord. No. 600, Amended, 07/22/04; Ord. No. 627, Rep&ReEn, 06/09/05)

8-05-030 Display of License; Duration and Renewal; Transfer; Change of Information.

- A. All licenses issued under the provisions of this Article shall be displayed in a conspicuous place.
- B. All licenses, unless specifically excepted, shall be issued for a period of one year and shall be renewed in accordance with and in compliance with all requirements of this Article. Licenses issued under this Article shall not be transferable from one person to another person.
- C. Any change in the information required to be provided to the Town Clerk pursuant to

this Article shall be reported to the Town Clerk within ten calendar days of the change on forms provided by the Town Clerk for that purpose.

(Ord. No. 627, Enacted, 06/09/05)

8-05-040 License Fees.

It is unlawful for any Auctioneer, Junk Dealer or Dealer of Used Articles to conduct business without first obtaining a license pursuant to this Article. This license is in addition to the General Business License pursuant to Town Code Sections 8-02-030 and 8-02-070 (as amended). The license fee for the initial license and all license renewals is \$20.00 and shall be non-refundable.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. 776 Amended, 09/12/13)

8-05-050 Applications.

- A. On a form provided by the Town Clerk, an applicant for a license listed and defined in this article shall submit the following information to the Town Clerk:
1. The full legal name and all other names by which known.
 2. Current residence address and telephone number.
 3. The name(s) under which the prospective licensee will be doing business.
 4. Valid proof of age.
 5. Information as to whether the applicant has ever been refused any similar license or permit or has had any similar license or permit revoked or suspended, and the reason therefor.
 6. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the names, residence addresses and dates of birth of each of the general partners. If one or more of the general partners in a partnership is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an applicant under this article.
- B. The Town Clerk shall have a reasonable period of time in which to process the application through other Town departments as necessary.

- C. The Town Clerk shall grant the license upon the following circumstances:
1. The required fees have been paid.
 2. The application conforms in all respects to the provisions of this article.
 3. The applicant has not made a material misrepresentation of fact in the application.
 4. The applicant has not violated any of the provisions of this article within the five-year period immediately preceding the date of the filing of the application.
 5. The applicant has not had a license similar to the one issued pursuant to the provisions of this article issued by another authority suspended or revoked within the five-year period immediately preceding the date of the filing of the application.
 6. The applicant is in compliance with all laws of the Town, County and State.
 7. The applicant is at least eighteen years of age.
- D. Every application filed pursuant to this article shall be reviewed and approved by the Police Chief.
- E. The Town Clerk shall deny the application if any of the requirements of Subsection C of this section have not been met. The denial of an application shall be accompanied by delivering or mailing written notice of denial to the application which specifies the nature of the violation. Notice shall be delivered or mailed to the address of the application, or statutory agent, as it is shown on the application. The giving of notice shall be completed upon the date of mailing or delivery. Notice of revocation shall be given at least thirty (30) days before the revocation is to take effect. Such written notice may be prepared and signed by any Town official designated by the Town Manager to perform such duties.
- F. Any applicant whose license is denied or revoked may, within ten (10) days after being notified of the denial or revocation, appeal the denial or revocation before a board composed of the Town Manager, the Town Clerk and the investigating officer, if any. A hearing on the appeal shall be held at a reasonable time and place designated by the Town Manager in a written notice to the licensee. Following such hearing, the Town Manager shall reduce the findings of fact to writing, and if he determines that the licensee has at any time violated any of the provisions of this Article, or is unqualified under the provisions of this Article to hold the license in effect, he shall transmit a copy of such finding to the Town Clerk or authorized agent thereof affirming the denial or revocation of the license.
- G. If payment of the license itself has been made by an insufficient funds check, said license shall be immediately denied or revoked with or without notice to the applicant.

(Ord. No. 627, Enacted, 06/09/05)

8-05-060 Change of Location.

A licensee must notify the Town Clerk in writing within fifteen (15) business days of any change in location of any mercantile business listed and defined in this Article. Any change must be approved by the Town Clerk or authorized agent thereof to verify that the licensee and/or the mercantile business is in compliance with all applicable Town ordinances and regulations.

(Ord. No. 627, Enacted, 06/09/05)

8-05-070 Revocation of License.

- A. Whenever the Town Clerk has reason to believe that any licensee has violated any of the provisions of this Article or is not qualified under this Article to hold a license, s/he may order a hearing before a board composed of the investigating officer, the Town Manager and the licensing official. Such hearing shall be held at a reasonable time and place designated by the Town Manager in written notice to the licensee. Following such hearing, the Town Manager shall reduce the findings of fact to writing, and if he determines that the licensee has at any time violated any of the provisions of this Article, or is unqualified under the provisions of this Article to hold the license in effect, he shall transmit a copy of such finding to the Town Clerk or authorized agent thereof recommending revocation, and the Town Clerk or authorized agent thereof shall immediately revoke such license.
- B. If any person licensed under the provisions of this Article is found to have deliberately falsified the application for license in any manner, the Town Clerk or authorized agent thereof shall immediately deny or revoke such license.

(Ord. No. 627, Enacted, 06/09/05)

8-05-080 Reporting Requirements -Dealers of Used Articles, Junk Dealers and Auction Houses.

- A. Every person engaged in the business of Dealers of Used Articles, Junk Dealers and Auctions Houses shall make out at the time of the transaction a true, complete and legible report of all goods or articles received on deposit or consignment, trade or exchange, or by purchase, which bear a serial number or have a fair market value in excess of \$100.00. The report shall be recorded in a permanently fastened ledger and shall contain the following information: a description of each article, including serial numbers, if any, and other marks of identification on the articles; the name and address and general physical description of the person from whom such articles were purchased or received; and the name and address and physical description of the person to whom such articles were sold and delivered.

- B. Subsection A above shall not apply to transactions falling within any one or more of the following categories:
1. Purchases from a business with a fixed business location of either business inventory or business equipment, provided that the licensee acquires at, or has previously acquired by, the time of the transaction, all of the following:
 - a. The name and address of the business.
 - b. The State and local privilege (sales) tax license number of the business, if applicable.
 - c. A copy of the invoice or other document showing the business' bona fide purchase of or right to possess the article sold, or a representative of the business with apparent authority to act in behalf of the business for purposes of this subsection has completed and signed the report required in subsection A of this section in all its particulars, notwithstanding the amount of the transaction.
 2. Purchases of household items from a place of residence provided that all of the following apply:
 - a. The purchase is made by the licensee by check or other negotiable instrument made payable to the seller, or the purchase is made in cash and the licensee has obtained a receipt for that cash payment from the seller bearing the seller's name and address, verified to be accurate by the licensee from identification of the one or more of the following: a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo identification sufficient to verify the information required by this subsection.
 - b. The seller has produced for the licensee's inspection documentary evidence which would establish to the satisfaction of a reasonable person that the seller is either the lawful occupant of the premises or has the legal right to sell the items being offered for sale. The licensee shall record from the documentary evidence produced a description of the document, including the name or nature of the document, and, to the extent available, its date, the individual's name and address thereon, and any account number appearing thereon.
 - c. Notwithstanding the hundred dollar rule of subsection A, the licensee records the serial numbers and descriptions of all items bearing serial numbers.
 3. Consignments, other than a firearm consigned to an auction house or secondhand dealer, provided that no payment is made by the licensee to the consignor for a period of three calendar days after the date of the consignment.

4. Any firearm consigned to a licensee by an Auction House or Dealer in Used Articles licensed by the State of Arizona or any City within the State of Arizona.
5. Articles of used clothing received in trade, exchange, by purchase, or on consignment.
6. Articles of furniture received in trade, exchange, by purchase, or on consignment, excluding electronic appliances and equipment.
7. Goods or articles received in trade, exchange, or by purchase from a business engaged in the lawful liquidation of its business.
8. Goods or articles received in trade, exchange, by purchase, or on consignment from a Dealer in Used Articles or an Auction House possessing a valid license issued pursuant to this article, or a pawnbroker possessing a valid license issued pursuant to A.R.S. § 44-1627.

All documentation obtained pursuant to this subsection shall be retained on the business premises for a period of twenty-four months and shall be made available for reasonable inspection by any peace officer of this State when the business premises are lawfully occupied and during regular business hours.

(Ord. No. 627, Enacted, 06/09/05)

8-05-090 Property Retention.

An Auction House, Junk Dealer or Dealer of Used Articles shall retain any property obtained in a reportable transaction at its place of business, or other storage location approved by the Police Department, for a period of ten calendar days after the date of recording the transaction pursuant to Section 8-05-080(A). Nothing herein shall prevent the Police Department from authorizing the release of property held pursuant to this Section prior to the expiration of the ten-day period. Any article held in custody pursuant to this subsection shall not be altered or transformed in any way but shall be held in the same condition in which it was delivered to the reporting party.

(Ord. No. 627, Enacted, 06/09/05)

8-05-100 Special Requirements - Auctions, Junk Dealers and Dealers of Used Articles.

- A. Each Auction House and Dealer of Used Articles shall maintain a copy of this Code section on the premises at all times and shall make it available upon request to any employee or customer of that Auction House or Dealer of Used Articles and to local law enforcement.
- B. Every person engaged in the business of Auction House or Dealer of Used Articles who, in the conduct of his business, purchases and/or sells precious items as defined in A.R.S. §44-1601(6) shall comply with the requirements set forth in A.R.S. §44-1602,

which requirements include weekly reporting of such items to the Prescott Valley Police Department on the forms provided by the Police Department.

- C. Every person engaged in the business of Auction House or Dealer of Used Articles who, in the conduct of his business, comes into possession of abandoned property, shall turn over such property to the Police Department. If ownership of such property is not established within ninety days after delivery to the Police Department, the property shall be returned to the person from whom the Police Department obtained possession.
- D. The business premises of any Auction House or Dealer of Used Articles, along with their transaction records and stock of goods and articles, shall be open to reasonable inspection by any peace officer of this State when the business premises are lawfully occupied and during regular business hours.
- E. Any person violating any of the provisions of this Article shall be strictly liable. No culpable mental state is required.
- F. Notwithstanding any other provisions of this section, the license of any Auction House or Dealer of Used Articles may be suspended for a period not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 8 of the Town Code of the Town of Prescott Valley, or A.R.S. §§ 13-1802 and 13-2307, in the conduct of business of such establishment. The conviction of an employee under A.R.S. § 13-1802 for an act of theft committed against that employee's own Auction House or Dealer in Used Articles shall not be the basis for suspension under this subsection.
- G. No person engaged in the business of Auction House or Dealer of Used Articles shall knowingly permit a person whose license is under suspension under Subsection E above to be employed in any capacity of such establishment.
- H. The reporting requirements of Subsection A on goods and articles received on deposit or consignment, trade or exchange, or by purchase, shall not apply to organizations qualified under section 501(c), Internal Revenue Code of 1986.

(Ord. No. 627, Enacted, 06/09/05)

8-05-110 Reserved.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. 776 Rep&ReEn, 09/12/13)

8-05-120 Special Requirements - Jewelry Auctions.

A person applying for a license under this Article to sell jewelry at either private or public sale, upon oral or written bids, to the highest bidder, shall comply with all requirements contained in A.R.S. §§44-1671 through 44-1686 as amended or as may be amended.

(Ord. No. 627, Enacted, 06/09/05)

8-05-130 Special Requirements - Dealers of Precious Items.

- A. A person applying for a license under this Article to conduct, manage or carry on the business of purchasing solely precious items or precious items in addition to other tangible personal property shall comply with all requirements contained in A.R.S. §§44-1601 through 44-1604 as amended or as may be amended.
- B. Precious items, as defined in A.R.S. §44-1601, includes the following:
 - 1. Secondhand gold, silver, platinum or jewelry, flatware or hollowware containing gold, silver or platinum.
 - 2. Secondhand precious or semiprecious stones whether mounted or unmounted.
 - 3. Secondhand pearls.

Precious items do not include coins and unmounted gemstones accompanied by a certificate from an independent, internationally recognized gem grading laboratory.

(Ord. No. 627, Enacted, 06/09/05)

8-05-140 Police Officer Hold on Property.

- A. Whenever any peace officer has probable cause to believe that property in the possession of a dealer of used articles, junk dealer or auction house is stolen, the peace officer may place a hold on the property for a period not to exceed ten (10) days. The hold shall be effective immediately upon oral or written notice. If the hold is placed orally, it shall be followed by a written notice mailed to the dealer of used articles, junk dealer or auction house within two days, excluding weekends and Town holidays. The written notice of hold shall accurately describe the property, providing the item's brand name and serial number, if applicable. During the hold period the dealer of used articles, junk dealer or auction house shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. At the time of receipt of the written hold, the dealer of used articles, junk dealer or auction house shall tag and mark the item placed on hold with the following information: date and time of hold, name of law enforcement agency placing the hold, and law enforcement report number. A dealer of used articles, junk dealer or auction house shall not be subject to civil liability for compliance with this section.
- B. Whenever property that is in the possession of a dealer of used articles, junk dealer or auction house is subject to a hold and the property is required by a peace officer in a criminal investigation, the dealer of used articles, junk dealer or auction house, upon reasonable notice, shall produce the property at reasonable times and places or may

deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency or which the peace officer placing the hold on the property is a member.

- C. Whenever property that is in the possession of a dealer of used articles, junk dealer or auction house is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:
1. With respect to the property being held, if the law enforcement agency no longer has probable cause to believe that the property on hold is stolen, the hold shall be released.
 2. If the law enforcement agency has knowledge that property has been reported stolen, the law enforcement agency may give written notification to the person who reported the stolen property of the name and address of the dealer of used articles, junk dealer or auction house holding the property, and may authorize the release of the property to that person and advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for the surrender of the property. A copy of the notice with the address of the claimant deleted shall be mailed to the dealer of used articles, junk dealer or auction house in possession of the property. The person who reported the stolen property shall present a police hold release to the dealer of used articles, junk dealer or auction house prior to the person receiving the item. Notwithstanding the foregoing, if the alleged owner does not choose to participate in the prosecution of an identified alleged thief, the alleged owner shall pay the dealer of used articles, junk dealer or auction house the "out of pocket" expenses paid in the acquisition of the allegedly stolen property in return for the surrender of the property. If no action is taken to recover the property by the person who reported the property stolen within sixty days after the date that the notice was mailed, or if the property was not placed on hold, sixty days after a law enforcement officer advised the dealer of used articles, junk dealer or auction house that the property may be stolen property, the dealer of used articles, junk dealer or auction house in possession of the property may treat the property as regularly acquired in the due course of business.
 3. If a pledgor seeks to redeem property that is subject to a hold, the dealer of used articles, junk dealer or auction house shall advise the pledgor of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution, the hold shall be released.
- D. Whenever any property is taken from a dealer of used articles, junk dealer or auction house by a peace officer which is alleged to be stolen property, the police officer shall give the dealer of used articles, junk dealer or auction house a receipt for the property which shall contain an accurate description of the property, including brand name and serial number, if any, the reason for seizure, and the names of the dealer of used articles, junk dealer or auction house, and the officer.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. 776 Amended, 09/12/13)

8-05-150 Hours of Operation.

No dealer of used articles, junk dealer or auction house shall operate between the hours of 12:00 A.M. and 6:00 A.M.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. 776 Amended, 09/12/13)

8-05-160 Transactions with Minors.

No dealer of used articles, junk dealer or operator or employee of an auction house shall enter into transactions, trades, exchanges or purchases of tangible personal property with persons who are less than eighteen (18) years of age unless such persons are accompanied by a parent or guardian or unless a parent or guardian personally delivers to the dealer a written statement expressly authorizing the dealer to enter into transactions with the minor.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. 776 Amended, 09/12/13)

8-05-170 Penalty.

Except as otherwise provided herein, the penalty for a violation of any provision of this Article by any person shall be that set forth in Section 8-02-110 of this Article.

(Ord. No. 627, Enacted, 06/09/05)

Article 8-06 MUNICIPAL PROPERTY CORPORATION BOARD

- 8-06-010 Title.
- 8-06-020 Purpose and Policy.
- 8-06-030 Establishment.
- 8-06-040 Terms of Office.
- 8-06-050 Officers.
- 8-06-060 Powers and Duties Generally.
- 8-06-070 Reserved.

8-06-010 Title.

This shall be known as the Town of Prescott Valley Municipal Corporation Board Article, may be cited as such, and will be referred to herein as "this Article."

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 524, Rep&ReEn, 06/13/02; Ord. No. 540, Rep&ReEn, 12/19/02)

8-06-020 Purpose and Policy.

The Municipal Property Corporation is hereby organized for the transaction of any or all lawful business for which non-profit corporations may be incorporated under the laws of the State of Arizona, including without limiting the generality of the foregoing, any civic or charitable purpose such as financing the cost of acquiring, constructing, reconstructing or improving buildings, equipment and other real and personal properties suitable for use by and for leasing to the Town of Prescott Valley, Arizona or its agencies or instrumentalities.

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 524, Rep&ReEn, 06/13/02; Ord. No. 540, Rep&ReEn, 12/19/02)

8-06-030 Establishment.

- A. There is hereby established a Prescott Valley Municipal Property Corporation Board. The Board shall be composed of five (5) voting members, herein called directors, appointed by the Town Council.
- B. All directors of the Board shall be residents of Prescott Valley.
- C. Neither directors, officers nor close relatives of a director or an officer shall receive any salary or other compensation for their services.
- D. The Board of Directors, or any member thereof, may be removed from office, with or without cause, by the Town Council.
- E. The Board shall hold its annual meeting on the second Monday in November of each year for the purpose of appointing officers and passing upon reports for the previous fiscal year and for the purpose of transacting such other business as may come before

the meeting. Special meetings of the Board may be called by the president or by any director.

- F. The Town Manager shall assign such Town staff to support the Commission as he or she shall deem necessary.
- G. The Corporation shall be operated as a non-profit corporation at all times.

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 319, Amended, 04/14/94; Ord. No. 524, Rep&ReEn, 06/13/02; Ord. No. 540, Rep&ReEn, 12/19/02)

8-06-040 Terms of Office.

The Board of Directors shall be appointed by the Town Council. The initial Board of Directors shall, by lot, be divided into three groups of directors, the first group to serve for one (1) year, the second group to serve for two (2) years, and the third group to serve for three (3) years. Upon expiration of each initial term, successor directors shall be appointed to serve for terms of three years. The Town Council shall fill vacancies for the unexpired term of any director. If a director is absent for three (3) meetings in any twelve (12) month period, that director shall be deemed to have vacated his or her office and may be replaced by the Town Council.

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 524, Rep&ReEn, 06/13/02; Ord. No. 540, Rep&ReEn, 12/19/02)

8-06-050 Officers.

The officers of the Corporation shall be a president, vice president, and a secretary-treasurer, each of whom shall be a member of the Board of Directors of the Corporation and shall perform such duties as may be designated by the Board of Directors. The officers shall be appointed annually by the Board of Directors at the regular annual meeting. Each officer shall hold office until his/her successor has been appointed and qualified.

- A. The president shall be the principal executive officer of the Corporation and shall preside at all meetings and sign any deeds, mortgages, deeds of trust, notes bonds, contracts, or other instruments authorized by the Board of Directors.
- B. The vice president shall, in the absence of the president, perform the duties of the president and other duties prescribed from time to time by the Board of Directors.
- C. The secretary-treasurer shall keep the minutes of all meetings, ensure that all notices are duly given in accordance with the bylaws or as required by law, be custodian of all records, keep a register of names and addresses for all directors, keep general charge of the accounting books, keep a copy of the bylaws and articles of incorporation, have charge and custody of all funds and securities of the Board of Directors, and be responsible for the receipt and the issuance of receipts for all monies due and payable to the Corporation and for the deposit of all such monies.

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 524, Rep&ReEn, 06/13/02; Ord. No. 540, Rep&ReEn, 12/19/02)

8-06-060 Powers and Duties Generally.

The powers and duties of the Board of Directors shall be:

- A. The business and affairs of the Corporation shall be managed by the Board of Directors which shall have full power to conduct, manage and direct the business and affairs of the corporation.
- B. The Board of Directors may authorize any officer(s) or agent(s) to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation, and such authority may be general or confined to specific instances.
- C. The Board of Directors shall cause to be established and maintained, in accordance with generally accepted principals of accounting, an appropriate accounting system.

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 524, Rep&ReEn, 06/13/02; Ord. No. 540, Rep&ReEn, 12/19/02)

8-06-070 Reserved.

(Ord. No. 277, Enacted, 06/11/92; Ord. No. 524, Rep&ReEn, 06/13/02)

Article 8-07 SWAP MEETS, FLEA MARKETS, FAIRS, CARNIVALS, FESTIVALS, CIRCUSES, AND SIMILAR TRANSIENT SELLING EVENTS

- 8-07-010 Definitions.
- 8-07-020 Regulation of Swap Meets, Flea Markets, Fairs, Carnivals, Festivals, Circuses, and Similar Transient Selling Events.
- 8-07-030 Development Agreements.

8-07-010 Definitions.

Unless otherwise provided, the following definitions shall apply to the provisions of this Article:

- A. Carnival: any traveling amusement show where one or more independent vendors provide amusements, goods or services.
- B. Circus: any traveling public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals under a tent or other temporary facility, where one or more independent vendors come together to provide amusements, goods or services.
- C. Fair: any regular or transient selling event where one or more independent vendors come together to buy and sell goods such as farm products and handicrafts, and where such goods are often judged competitively and/or sold to raise funds for charity.
- D. Festival: any programmed series of cultural performances, exhibitions or competitions where one or more independent vendors provide amusements, goods, or services.
- E. Flea Market: any regular or transient selling event, usually held outdoors, where one or more independent vendors come together to sell antiques, used household goods, and curios.
- F. Swap Meet: any regular or transient selling event where one or more independent vendors come together to conduct business in temporary facilities.

None of the above shall be deemed to include regular or transient selling events in or around malls or shopping centers where the vendors involved operate in permanent facilities on the basis of lease agreements, or operate in association with such vendors.

(Ord. No. 490, Enacted, 12/21/00)

8-07-020 Regulation of Swap Meets, Flea Markets, Fairs, Carnivals, Festivals, Circuses, and Similar Transient Selling Events.

- A. The operators of Swap Meets, Flea Markets, Fairs, Carnivals, Festivals, Circuses and

similar transient selling events within the Town limits shall maintain a current list of vendors conducting business on the premises as sellers. The list shall include each vendor name, business name, business address, and date of sales.

- B. At any time, an authorized official or agent of the Town may issue written notice by regular U.S. mail (postage prepaid) to require an operator to submit a copy of said list for a designated period. The operator shall then submit a verified copy of said list so that it arrives at the Town's Office of Administrative Services no later than ten (10) business days after the date of said notice.
- C. Operators whose events will be conducted more than six (6) times in a calendar year shall automatically submit a verified copy of said list to the Town's Office of Administrative Services so that it arrives no later than the 5th business day of each month for the prior one-month period. Provided, however, that nothing herein shall preclude an authorized official or agent of the Town to agree in writing for verified copies of the list to be submitted every two (2) months if initial lists show a relatively small number of new independent vendors.
- D. In addition to the operators of Swap Meets, Flea Markets, Fairs, Carnivals, Festivals, Circuses and similar transient selling events, the independent vendors conducting business on the premises as sellers are subject to the Business License requirements of Town Code Article 8-02 and the Transaction Privilege Tax provisions of Town Code Chapter 8a. However, nothing herein shall classify as independent vendors for purposes of this Article any person or persons who only conduct business at such events during any one (1) calendar day from January 1st to April 30th, during any one (1) calendar day from May 1st to August 31st, and during any one (1) calendar day from September 1st to December 31st.
- E. In accordance with applicable law, the Town's Chief of Police, Administrative Services Director, and/or their respective successors or agents shall have the right to inspect the premises of any Swap Meet, Flea Market, Fair, Carnival, Festival, Circus and similar transient selling event in order to investigate for and locate articles reported as lost, missing or stolen, and also the list of independent vendors in order to determine whether the provisions of this Article are being fully complied with.
- F. Failure to timely submit the list of independent vendors as required in this Section 8-07-020 shall be an offense punishable as a class 3 misdemeanor. Furthermore, failure by operators of Swap Meets, Flea Markets, Fairs, Carnivals, Festivals, Circuses and similar transient selling events, or the independent vendors conducting business on the premises as sellers, to comply with the Business License requirements of Town Code Article 8-02 or the Transaction Privilege Tax provisions of Town Code Chapter 8a, shall be punishable as set forth in those requirements or provisions.

(Ord. No. 490, Enacted, 12/21/00)

8-07-030 Development Agreements.

Nothing in this Article shall preclude the Town Council from entering into development agreements with operators of Swap Meets, Flea Markets, Fairs, Carnivals, Festivals, Circuses

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and similar transient selling events in order to modify the specific terms of this Article as applied to said selling events for economic development purposes.

(Ord. No. 490, Enacted, 12/21/00)

Article 8-08 RESERVED

8-08-010 Reserved.
8-08-020 Reserved.
8-08-030 Reserved.
8-08-040 Reserved.
8-08-050 Reserved.
8-08-060 Reserved.
8-08-070 Reserved.
8-08-080 Reserved.
8-08-090 Reserved.
8-08-100 Reserved.

8-08-010 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-020 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-030 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-040 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-050 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-060 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-070 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-080 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-090 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)

8-08-100 Reserved.

(Ord. No. 888, Enacted, 02/25/21; Ord. No. 896, Rep&ReEn, 01/27/22)