

CHAPTER 8 BUSINESS

ARTICLE 8-1 PEDDLERS

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Sec. 8-1-1 Registration Required

Any person operating as a solicitor, peddler, hawker, salesman or vendor of goods, wares, merchandise, newspapers, magazines or services, who goes from house to house, or to only one house, in the town shall register with the police department and obtain an identification card showing such registration.

Sec. 8-1-2 Application to Police Chief

A. Applicants for police registration under the terms of Section 8-1-1 shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicant's registration card and the other to be retained by the police department. The chief of police may require the applicant to file his fingerprint identification with the police department.

B. Such applicants for police registration shall be required to furnish to the police department a complete description of the product to be sold in the town, together with information regarding sales methods to be used and references that will enable the chief of police to determine whether or not such applicant is qualified to receive a registration card as provided in Section 8-1-3. Investigation by the chief of police under the provisions of this article shall be completed within fifteen days after the applicant has provided the required information.

Sec. 8-1-3 Issuance of Registration Cards

Registration cards under this article shall be given without charge to all applicants who have complied with Section 8-1-2, unless the chief of police determines in his discretion that such applicant is not a proper person to be permitted to go from house to house because of any of the following reasons:

- (1) he has a /criminal record,
- (2) he is associated with a company that has engaged in fraudulent dealings, or
- (3) the proposed sales proposition includes some element of trickery, fraud or deceit, in which case, in the interest of public safety and protection, the applicant shall not be registered.

Sec. 8-1-4 Revocation of Registration Cards

Registration cards under this article may be revoked by the town at any time if deemed necessary in the interest of public safety and protection.

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Sec. 8-1-5 Peddling Without Registration Cards Prohibited

It is unlawful for any person to take part in the act of soliciting, peddling, hawking, selling or vending of goods, wares, merchandise, newspaper, magazines or services from house to house or to only one house in the town without having registered with the police department and obtained a registration card; without having such card in his possession; or failing to exhibit such card when request is made for the registration card by any resident of the town.

Sec. 8-1-6 Registration Required for Selling on Streets or Sidewalks

It is unlawful for any person to erect or maintain any booth, stand or counter on any sidewalk in the town for the purpose of barter, sale or

trade or to keep or maintain upon the streets or alleys any wagon, cart, vehicle, movable booth or stand for the purpose of barter or trade without first obtaining a registration card under the provisions of this Chapter.

Sec. 8-1-7 Signs to be Observed

It is unlawful for any peddler, solicitor or canvasser in the course of his business to ring the doorbell or knock at any building where on a sign bearing the words “no peddlers, solicitors or canvassers” is exposed to public view.

Sec. 8-1-8 Exemptions

A. Newsboys are exempt from the provisions of this article for the sale and delivery of newspaper subscriptions.

B. Nonprofit, charitable or religious organizations may apply to the council for an exemption from this article.

Sec. 8-1-9 Business fees Required

The registration card required under this Article is not a substitute for the business license required in Article 6-2 of this chapter.

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ARTICLE 8-2 BUSINESS LICENSE TAX

8-2-1 License Required

8-2-2 Issuance of License

8-2-3 Payment

8-2-4 Posting of License

8-2-5 Exhibition of License Required

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8-2-8 Business License Fees

Sec. 8-2-1 License Required

A. It is unlawful for any person to carry on any trade, calling, profession, occupation or business in this town without having procured a license from the Town of Superior and complying with any and all regulations of such trade, calling, profession, business or occupation specified in this article.

B. Those persons who are required to obtain a registration card under the provisions of Article 8-2 shall also be required to obtain a business license under this Article prior to conducting any business.

Sec. 8-2-2 Issuance of License

A. It shall be the duty of the clerk to prepare and to issue a license under this article for every person, firm, company or corporation liable to pay a license hereunder and to state in each license the amount thereof, the period of time covered, the name of the person, firm or corporation for whom issued, the trade, calling, profession, occupation or business licensed and the location or place of business of said trade, calling, profession, occupation or business.

B. In no case shall any mistake of the clerk in stating the amount or term of a license prevent or prejudice the collection for the town of what shall be actually due from anyone carrying on a trade, calling, profession, occupation or business, subject to license under this article.

Sec. 8-2-3 Payment

A. All business license taxes shall be paid in advance at the office of the clerk or in such a manner as may be specified by the clerk. For those persons, firms, company or corporations liable for such tax and continuing in business on June 30th, the payment of the annual license tax is due on or before the 30th day of June of each year. Those commencing a covered business activity, occupation, profession, trade or calling between June 30th and July 1st of the next succeeding year shall be required to pay the annual license fee before the first day of conducting business.

B. A separate license must be obtained for each branch establishment or separate place of business in which any trade, calling, profession, occupation or business is carried on. Each license shall authorize the

person obtaining such license to carry on, pursue or conduct only that trade, calling, profession, occupation or business described in such license and only at the location or place of business which is indicated.

C. If any one person is engaged in more than one business in the same location for which license fees are provided in this article, he shall pay the highest fee which is established for any of the businesses in which he is engaged at such location.

D. In addition to all other possible penalties for violation of this code, any person who fails to obtain a required license in a timely manner shall also pay a penalty of ten (10%) per cent of the license fee, which shall be in addition to the regular fee for such business.

Sec. 8-2-4 Posting of License

A. Every person, firm, company or corporation having a license under the provisions of this article and carrying on a trade, calling, profession, occupation or business at a fixed place of business shall keep such license posted and exhibited, while in force, in some conspicuous part of the place of business.

B. Every person having such a license and not having a fixed place of business shall carry such license with him at all times while carrying on that trade, calling, profession, occupation or business for which the same was granted.

C. Every person, firm, company or corporation having a license under the provisions of this article shall produce and exhibit the same when applying for a renewal thereof and whenever requested to do so by any police officer or by any other officer authorized to issue, inspect or collect licenses.

Sec. 8-2-5 Exhibition Of License Required

A. The chief of police shall have and exercise the power to make arrests and to cause complaints to be filed against all persons violating the provisions of this article.

B. The chief of police or any duly authorized official shall have the power to enter free of charge at any time any place of business for which a license is required by this article, and to demand the exhibition of such license for the current term, from any person engaged or employed in the transaction of any such business. It is unlawful for such person to fail to exhibit such license when requested to do so.

Sec. 8-2-6 License Not Transferable

No license granted or issued under the provisions of this article shall be in any manner assignable or transferable to any other person, firm, company or corporation, other than is therein mentioned or named, without permission from the council.

Sec. 8-2-7 Exemptions

A. Any person who has been a bona fide resident of the Town of Superior for a period of six months continuously who wishes to sell any form of agricultural product within the town produced, by himself shall be exempt from paying any license tax under this article for the privilege of selling such products only. Before receiving the exemption, an affidavit of the facts entitling the seller to an exemption must be filed with the clerk.

B. Any nonprofit, charitable or religious organization may apply to the council for an exemption from this article.

Sec. 8-2-8 Business License Fees

A. Unless otherwise specified in this section, all businesses, occupations, professions, trades or callings shall, pay a license tax of Forty (\$40.00) Dollars for any year or part thereof that said business, occupation, profession, trade or calling is carried on.

B. Any fortuneteller or palmist shall pay a daily license fee of twenty-five dollars (\$25).

C. For any year or part thereof that any person holds a liquor license, he shall pay the following license tax:

1. #6 or #9 Liquor License - Ninety (\$90.00) Dollars for any full or part year said license is held.

2. #7 or #10 Liquor License - Seventy Five (\$75.00) Dollars for any full or part year said license is held.

3. #8 or #11 or any other Liquor License - Fifty (\$50.00) Dollars for any full or part year said license is held.

D. Any solicitor, peddler, hawker, salesman or vendor with no established place of business or operation within the town shall pay a daily license fee of fifteen dollars.

ARTICLE 8-3 Transaction Privilege Tax

Transaction Privilege Tax replaced by Model Tax Code by Ordinance No. 27 on the 2nd day of July, 1987.

8-3 Business 8-3-1

Article 8-3 TRANSACTION PRIVILEGE TAX

8-3-1 Definitions

8-3-2 Permit Requirements

8-3-3 Imposition of Tax - Tax Schedule

8-3-4 Exemptions

8-3-5 Administration and Procedures

8-3-6 Assessment and Appeal

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Sec. 8-3-1 Definitions

In this article unless the context requires otherwise:

A. “Assembler” means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of Section 8-3-3 (A) of this article.

B. “Auditor” means any town employee or agent authorized by the tax collector to audit records of a person subject to the tax specified by this chapter and may include an employee of another city or town.

C. “Business” includes all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.

D. “Contracting” means engaging in business as a contractor.

E. “Contractor” means a person who, for either a fixed sum, price fee, percentage, bonus or other compensation other than actual wages, undertakes to or offers to undertake to, or purports to have capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term “contractor” includes subcontractors, specialty contractors, developers and speculative builders.

F. “Engaging” when used with reference to engaging or continuing in business, means the exercise of corporate or franchise powers.

G. “Gross income” means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value of proceedings or accruing from the sale of tangible personal property or service, or both, and without any deduction on account of losses.

H. “Cross proceeds of sales” means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expenses of any kind, or losses, but cash discounts allowed and taken on sales shall not be included as gross income; “gross income” or “gross proceeds of sale” shall not be construed to include goods, wares or merchandise, or value thereof, returned by customers when the sale price is refunded either in cash or by credit, sold, if and when the full sale price of the new article is included in the “gross income” or “gross proceeds of sales”, as the case may be.

I. “Cross receipts” means the total amount of sale, lease or rental price, as the case may be, of the retail sale of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser, without any deduction there from on account of the cost of the property sold, materials used, labor service performed, interest paid, losses or any other expense. The term does not include cash discounts allowed and taken or the sale price of property returned by customers, when the full sale price thereof is refunded either in cash or by credits

J. “Hotel” means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, apartment house, trailer or other lodging place within the Town of Superior, offering Lodging, wherein the owner and operator thereof, for compensation, furnishes lodging to any transient, except foster homes, rest homes, sheltered care homes, nursing homes or hospital.

K. “Lodging” and “lodging space” means the use or possession, or the right to the use or possession, of any room or apartment in a hotel, or the right to the use or possession of furnishings or to the services and accommodations accompanying the use and possession of the room, including storage or parking space for the property of a transient.

L. “Manufacturer” means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to such materials new forms, qualities, properties or combinations. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of Section 8-3-3 (A) of this code.

M. “Modifier” means a person who reworks, changes or adds to a product, wares or articles of manufacture. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of Section 8-3-3 (A) of this code.

N. “Notice” means a written instrument served by the town as follows, with time commencing from date of mailing, serving, filing or recording:

1. By registered or certified mail to the last known address of the person to whom it is required to be given; or

2. By personal service upon the person or his lawful representative;
or

3. By filing or recording with a clerk of the superior court or a county recorder.

O. “Owner-builder” means a person who owns or leases real property within the town acting as a contractor in constructing any improvement upon the real property which real property as improved is held by such person for his use or for rental purposes. An owner/builder who sells such real property as improved at any time on or before the expiration of twenty-four months after an occupancy permit for such improvement is issued, or if no permit is issued, within twenty-four months after final inspection of the improvement or when the improvement is completed whichever is later, shall be treated as a “prime contractor” for purposes of this article. For purposes of this definition, a “sale” of real property as improved includes any form of transaction whether characterized as a lease or otherwise which in substance is a sale and includes any lease of the improvement for a term of thirty years or more with all options for renewal being included as a part of the terra.

P. “Permanent resident” means any person who, as of a given date, has occupied lodging space or has paid or become obligated to pay for the right to occupy Lodging space, in a particular hotel for the thirty consecutive days next preceding such date, or has signed and performs under a lease.

Q. “Person” or “company” herein used interchangeable, means an individual, officer, agent, firm, partnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is clearly intended by the context.

R. “Prime contractor” means a contractor which the owner or lessee of the real property being improved treats as being responsible for administration, construction and completion of the improvement. For purposes of this definition, a person who, for either a fixed sum, price, fee, percentage, bonus or other compensation other than actual wages, undertakes to or offers to undertake to, or submits a bid to, or does himself or by or through others, supervises the construction of the improvement, or coordinates the construction of the improvement, or both, is a prime contractor, unless such supervisor or coordinator demonstrates, to the town’s satisfaction, that another contractor is, in fact, the prime contractor for the improvement; provided, a person acting on behalf of an owner-builder rendering consulting services shall not be regarded as a prime contractor if:

1. Such person does not guarantee a maximum price for the improvement to the owner-builder;

2. Such person does not contract with contractors constructing the improvement; and

3. Such person is not responsible to the owner-builder for the administration, construction and completion of the improvement.

S. “Repairer” means a person who restores or renews products, wares or articles of manufacture. This definition shall not be interpreted to include activities listed in paragraphs 2, 3, 4, 5, 8 and 9 of **Section 8-3-3 (A)** of this article.

T. “Retailer” means every person engaged in the business of making sales at retail, and when in the opinion of the tax collector it is necessary for the efficient administration of this article, includes dealers, distributors, supervisors and employers, and salesmen, representatives, peddlers or canvassers as the agents of such dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, whether in making sales on their own behalf or on the behalf of such dealers, distributors, supervisor or employers.

U. “Retail sale” or “sale at retail” means a sale for any purpose other than for resale in the form of tangible personal Property but the expressions of “transfer of possession”, “lease’ and “rental” as used in the definition of “sale”, mean only such transactions as are found upon investigation to be in lieu of sales as defined without the words “lease” or “rental”.

V. “Room rental” means the total charge, exclusive of all federal, state and municipal taxes, made by any hotel for lodging or lodging space furnished any transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging, or the use of lodging space, then such portion of the total charge as represents only room or lodging space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

W. “Sale” means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, or tangible personal property, for a consideration or any agreement therefore, and includes, but is not limited to:

1. Any transaction whereby the possession of property is transferred, but the seller retains a security interest for the payment of the purchase price.

2. The fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work, where such fabrication is customarily included in the sale price of similar tangible personal property sold to consumers.

3. The furnishing, preparing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property.

X. “Stock” means the goods and wares of a person kept for sale and traffic, and for the purpose of this article shall include, but not be limited to all tangible personal property specially ordered for any customer, if for any reason such specially ordered property is brought into the town prior to completion of the sale.

Y. “Tangible personal property” means personal property which may be seen, weighed, measured, felt, touched or is in any other manner perceptible to the senses.

Z. “Tax collector” means the common council of the town or its authorized agent.

AA. “Taxpayer” means any person Liable for any tax imposed by this article.

BB. “Transient” means any person who, for any period of not more than thirty days, either at his own expense or at the expense of another, obtains Lodging or the use of any Lodging space in any hotel for which lodging or use of lodging space a charge is made.

CC. “Wholesaler” or “jobber” means any person who sells tangible personal property for resale by a licensed retailer and does not sell tangible personal property for consumption by the purchaser. When a person normally selling for resale makes any sale at retail or for consumption by the purchaser, such person is defined as a “retailer’ for purposes of this article.

Sec. 8-3-2 Permit Requirements

A. Every person having a gross proceeds of sales or gross income upon which a privilege tax is imposed by this article desiring to engage in or a continue in business activities within the town shall make application to the tax collector for a transaction privilege permit, accompanied by a fee of two dollars, and no person shall engage in business or continue in business within the town until he shall have such a permit. This fee shall become effective for all new permits at the start of the day on which this article

becomes effective. Previously existing privilege licenses shall be considered to be transaction privilege permits for the purposes of this article.

B. Application for privilege permits required under this article shall be made upon forms prescribed by the tax collector.

C. It shall be a condition precedent to issuance of a permit that all provisions of this code, ordinances, regulations and requirements affecting the public peace, health and safety be complied with in total.

D. The privilege permit required by Section 8-3-2 (A) shall be good so Long as all returns and tax payments are made as required by this article.

E. Upon the failure of any person to pay the required tax, penalty and interest within a period of thirty days after it becomes due, the tax collector may give such person notice of intent to cancel the privilege permit. If the person so notified requests a hearing within ten days from notice, he shall be granted a hearing before the tax collector. Upon a finding by the tax collector that tax, penalty and interest is unpaid and has remained unpaid at Least thirty days, or if no request for hearing has been received within ten days after notification as herein provided, the privilege permit shall be cancelled and such permit shall not be reissued until all such taxes, penalty and interest due shall have been paid.

F. Any person whose privilege permit has been cancelled shall be required to pay a fee of twenty-five dollars for each reissue of a permit and such permit shall not be reissued until all taxes, penalties and interest have been paid. The tax collector may, at his discretion, reissue under the previous permit number or issue a new permit.

G. A person engaged in or conducting taxable business in two or more established locations within the town shall be required to obtain a separate permit for each Location, except that for the business of leasing or renting the use or occupancy of real property, only one application for such property within the town shall be required; however, the applicant shall be required to list all such property by street address or other satisfactory identification and shall notify the tax collector within ten days after sale or acquisition of any such real property, clearly identified by location in such instance.

H. At the time a taxable business is sold, or when any other ownership change occurs, a new privilege permit shall be obtained for each permit effective at the time of such change.

I. Any person holding a privilege permit shall be required to notify the tax collector of any change in either mailing address or location within fifteen days after such change occurs. A fee of one dollar shall be required whenever any change in location of a business within the town occurs.

J. The permit prescribed in **Section 8-3-2 (A)** shall be nontransferable and shall be displayed in some conspicuous part of the applicant's place of business.

Sec. 8-3-3 Imposition of Tax – Tax Schedule

There is hereby levied and shall be collected by the tax collector for the purpose of raising revenue to be used in defraying the necessary expenses of the town, privilege taxes measured by the amounts or volume of business transacted by persons on account of their business activities, and in the amounts to be determined by the application of rates against values, gross proceeds of or gross income, as the case may be, in accordance with the following schedule:

A. Percentage of tax and business Liabile to taxation. An amount equal to one percent or the gross proceeds of sale or gross income from the business upon every person engaging in or continuing within the town in the following businesses:

1. Transporting for hire persons or property by any means of transportation, from a point within the town to another point within the town or from a point within the town to another point within the State of Arizona; provided, that the levy shall not apply to common or contract carriers paying a tax under the provisions of Arizona Revised Statutes **Section 40-641**.

2. Mining, quarrying, smelting or producing for sale, profit or commercial use, any oil, natural gas, limestone, sand, gravel, copper, gold, silver or other mineral product, compound or combination of mineral products, or felling, producing or preparing timber or any produce of the forest for sale, profit or commercial use. In computing the tax, the price shall be reduced by the actual freight paid by any person from the place of production to the place of delivery when the freight is included in the sale prices of the products.

- 3.** Producing and furnishing, or furnishing to consumers, electricity, electric lights, current, power or gas, natural or artificial, and water.
- 4.** Transmitting local or long distance messages or conversations by telephone, or messages by telegraph, from a point within the town to another point within the State of Arizona, including gross income derived from tolls, subscriptions and services on behalf of subscribers, or by publication of a directory of the names of subscribers.
- 5.** Operating a pipe Line for transporting oil, or natural or artificial gas, through pipes or conduits from a point within the town to another point in the town or in the state.
- 6.** Operating private railroad car lines, as they are defined in Title 42, Chapter 4, Article 3, Arizona Revised Statutes, from one point within the town to another point in the town or state.
- 7.** Publication of newspapers, magazines or other periodicals and publications, when published within the town, including the gross income derived from advertising, notices and subscriptions sold within the town. Subscriptions sold within the town for newspapers, magazines or other periodicals and publications published without the town shall also be taxable under this section, and advertising sold within the town shall likewise be taxable.
- 8.** Job printing, engraving, embossing and copying, advertising by billboards, direct mail, radio, television or by any means calculated to appeal to prospective purchasers or users.
- 9.** The contracting business or acting as a prime contractor, or both.
 - a.** For purposes of this classification, there shall be subtracted from the gross income, gross proceeds of sale or gross receipts subject to the privilege tax, a deduction in the amount of thirty five percent of said gross income, gross proceeds of sale or gross receipts in lieu of any Labor, shop or subcontractor deductions. Subcontractors or others, who perform services in respect of the improvement, building, highway, road, railroad, excavation or other structure, project, development or improvement (hereinafter "job") are exempt from the privilege tax on their gross income, gross proceeds of sale or gross receipts derived from the job if they can demonstrate to the town's satisfaction that the job was within the control of a prime contractor or prime contractors and that such prime contractor paid or should have paid the privilege tax upon the gross income, gross proceeds of sale or gross receipts attributable to the job and from which the subcontractors or others were paid.
 - b.** An owner-builder, who is not a prime contractor, shall pay the privilege tax or use tax, as the case may be, upon the sales to him or to his account of all tangible personal property incorporated or fabricated into any structure, project, development or improvement undertaken by him; provided, if the owner-builder is treated as a prime contractor for privilege tax purposes, he shall deduct from the gross income, gross proceeds of sale or gross receipts derived from the sale (as defined under owner-builder) of the real property as improved by him:
 - (1)** An amount of thirty-five percent of said gross income, gross proceeds of sale or gross receipts in lieu of any labor, shop or subcontractor deductions;
 - (2)** Either a tax credit equal to the amount of privilege or use tax, or the equivalent tax, paid to the Town of Superior or another city or town in respect of the tangible personal property incorporated or fabricated into the said structure, project, development or improvement undertaken by him, and
 - (3)** A tax credit equal to the amount of privilege taxes paid by - :he contractor or subcontractors to the Town of Superior on the gross income, gross proceeds of sale or gross receipts derived by the contractor or sub-contractor from the construction of the improvement upon the real property owned or leased by the owner-builder and sold by him.
 - c.** Reporting by contractors. Contractors shall report on a progressive billing basis or cash receipts basis, but home builders, speculative or otherwise, and owner-builders shall report as gross income, gross proceeds of sale or gross receipts the total selling price at the time of closing of escrow or transfer of title.
 - d.** Deductions allowable and pertaining to the gross income, gross proceeds of sale or gross receipts may not be taken prior to the time that said proceeds or receipts are reported.
- 10.** Restaurants, dining rooms, lunchrooms, lunch stands, soda fountains, bars, taverns or similar establishments where articles of food or drink are sold, and catering or sale of food or drink from mobile

units within the town. Articles of food or drink prepared for service or resale by another person may be deducted, providing that the person reselling has a valid privilege permit for such purpose.

The sale to hotels, restaurants, lunchrooms, boarding houses or similar establishments of articles used by human beings for food, drink or condiment, whether simple, mixed or compound, where such articles are customarily prepared and served to patrons for consumption on the premises, shall be deemed wholesale use as to such commodities, providing that the person reselling has a valid privilege permit for such purpose.

11. Selling any tangible personal property whatsoever at retail or to the ultimate consumer, including but not limited to sale of new and used vehicles of any type, and sales made from mobile units when within the town. Gross receipts from painting signs on structures within the town or upon vehicles while within the town shall be taxed as retail sales, without deduction. Sales of tangible personal property within the State of Arizona which result from activities of agents or representatives of a person whose principal office within Arizona is within the Town of Superior shall be taxable, provided that delivery is made from the town.

12. Operating or conducting amusements including but not limited to theaters, movies, operas, exhibitions, concerts, carnivals, circuses, shows of any type or nature, amusement park admissions, amusement rides, menageries, fairs, races, contests, games, golf courses, tennis courts, batting or driving ranges, riding on any animals, juke boxes, pinball machines, billiard and pool parlors, bowling alleys, dance halls, public dances, boxing or wrestling matches, or any other business charging admission fees for exhibition or amusement. Nonprofit private clubs where basic membership fees cover use of amusement facilities, and amusements conducted by the organizations themselves on an occasional basis to raise funds for projects of bona fide religious organizations, nonprofit educational institutions and nonprofit fraternal or service clubs are exempt.

13. Leasing or renting for a consideration any tangible personal property; sales of tangible personal property to be so leased or rented shall be deemed to be resale sales.

14. Leasing or renting for a consideration the use or occupancy of real property, including any improvements, rights or interest in such property.

B. Basis for taxation under certain conditions.

1. In determining value as applied to sales from one to another person, or other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the council may prescribe uniform and equitable rules for determining the value upon which the tax herein levied shall be based, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character of other taxpayers where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions.

2. For the purpose of computing the tax by this article, "conditional or time sales" shall be treated as credit sales and tax shall be based only upon the amounts received under such security agreements, but if the seller transfers his interest in such agreements to a third person, he shall pay an amount based upon the full sale price of the commodity, unless a record is kept of payments thereafter made on the contract in such manner that the tax collector may at all times ascertain from the records of the seller the amount paid thereon by the purchaser. If at any time the tax collector cannot ascertain the amount paid thereon, the tax shall be computed to include any amounts not shown to be paid by the records of the seller to the satisfaction of the tax collector.

3. When any person is engaged in an occupation or business to which **Section 8-3-3** is applicable, such person's books shall be kept so as to show separately the gross proceeds of sale of tangible personal property and the gross income from sales of nontaxable service, and if not so kept, the tax shall be based upon the total of such person's gross proceeds of sales of tangible personal property and gross income from service.

4. When any person is engaged in the business of selling tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of the sales made other than at wholesale when such person's books are kept so as to show separately the gross proceeds of sales of each class, and when such books are not so kept, the retail rate shall be applied to the gross proceeds of every sale so made.

5. For the purpose of **Section 8-3-3**, the total amount of gross income, gross receipts or gross proceeds of sale shall be deemed to be the amount of the sale, exclusive of the tax imposed by **Section 8-3-3**, providing the person upon whom the tax is imposed shall establish to the satisfaction of the tax collector that any tax collected from customers has been added to the sale price and not absorbed by him.

Sec. 8-3-4 Exemptions

The following shall not be subject to taxation under this article:

- A.** Any business, calling, profession or occupation where the general law of the State of Arizona or general law of the United States of America preclude the levying of such a tax.
- B.** Sales in interstate or foreign commerce when prohibited from being so taxed by the Constitution or general laws of the United States or by the Constitution of the State of Arizona.
- C.** Professional services, instruction and other services not connected with the making of retail sales.
- D.** Contracting, retail sales and any other taxable activity for the Town of Superior.
- E.** Sales of gasoline upon which a tax has been imposed under the provisions of Title 28, Chapter 9, Article 9, Arizona Revised Statutes.
- F.** Sales of tangible personal property to a person licensed as a contractor under Title 32, Chapter 10, Arizona Revised Statutes, who holds a valid privilege tax permit for engaging in or continuing in the business of contracting when the property so sold is incorporated or fabricated by the contractor into any structure, project, development or improvement in fulfillment of a contract therefore.
- G.** Sales of tangible personal property made directly to the United States Government, its departments or agencies, by the manufacturer, modifier, assembler or repairer. A deduction of fifty percent shall be permitted where such sales are made by persons other than those specified in the previous sentence.
- H.** Sales of tangible personal property by persons engaging in or continuing in the business of processing, manufacturing, fabricating, modifying, assembling or repairing, when such sales are made for resale and not at retail and not to an ultimate consumer. This subsection shall not apply to any sales of tangible personal property which are not the same as or similar to tangible personal property sold through distributors, jobbers, wholesalers, retailers or other persons than those substantially and principally engaging or continuing in the actual manufacturing, processing, fabricating, modifying or assembling thereof.
- I.** Sales of tangible personal property to manufacturers, modifiers, or assemblers where such property directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.
- J.** Services provided in connection with retail sales if invoices to the customer, sales tickets, cash register tapes and all other business records show separate charges for such services. This exemption shall apply only where such service is not customarily included in the retail sale itself and where such service is not an essential element in the retail sale itself. No deduction shall be allowed for fabrication labor of retail items sold.
- K.** Sales of tangible personal property in which all of the following occur without the town Limits of the Town of Superior.
 - 1. The placement of the order.
 - 2. The stock from which delivery was made.
 - 3. The transference of title and possession.

For the purposes of this exemption, any person engaging or continuing in the business to which this exemption is applicable shall maintain and keep accounting records or books indicating separately the gross proceeds of sale or gross income of tangible personal property which occur without the town limits,

and if not so maintained the tax to be imposed will be upon the total of such person's gross proceeds of sale or gross income.

L. The sale of drugs on the prescription of a member of the medical, dental or veterinary profession who is licensed by law to administer such drugs.

M. All personal property purchased in this town by any hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or operated by the state or any political subdivision of this state.

N. The sale of stock and bonds.

O. Sales of machinery or equipment to be used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations, including leaching, milling, precipitating, smelting and refining.

P. Sales of machinery or equipment to be used directly in the process of extracting ore or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and for the handling, loading or transportation of such extracted material to the surface.

Q. Sales to telephone or telegraph companies of central office switching equipment, switchboards, private branch exchange equipment, microwave radio and carrier equipment and coaxial cable.

R. Sales of machinery, equipment or transmission lines to be used directly in the production or transmission of electrical power, but not for such machinery, equipment for transmission lines that are to be used for distribution and not for transformers and control equipment to be used at transmission substation sites.

S. Sales of pipes or valves four inches in diameter or Larger to be used for transporting oil, natural gas, artificial gas, water or coal slurry.

T. Sales of aircraft, navigational and communication instruments and other accessories and related equipment to be used in conjunction with or to become part of aircraft to be used in the transportation of persons, property or U.S. Mail in intrastate, interstate or foreign air transportation for hire by airlines holding a federal or state certificate of public convenience and necessity or holding a foreign air carrier permit.

U. Sales of railroad rolling stock, rails, ties and signal control equipment to be used directly in the transportation of persons or property in intrastate or interstate transportation for hire.

V. Sales of machinery or equipment to be used directly in the drilling for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

W. Sales or gross income from sales of food by any of the following:

1. A retailer who conducts an eligible grocery business.

2. A retailer who conducts a business whose primary business is not the sale of food but who sells food which is displayed, packaged and sold in a similar manner as an eligible grocery business.

3. A retailer who sells food and does not provide or make available any facilities for the consumption of food on the premises.

4. A retailer who conducts a delicatessen business either from a counter which is separate from the place and cash register where taxable sales are made or from a counter which has two cash registers which are used to record taxable and tax exempt sales or a retailer who conducts a delicatessen business who uses a cash register which has a least two tax computing keys which are used to record taxable and tax exempt sales.

5. A retailer who is a street or sidewalk vendor who uses a pushcart, mobile facility, motor vehicle or other such convenience.

6. Vending machines and other types of automatic retailers,

a. For purposes of this subsection, the terms "eligible grocery business", "facilities for the consumption of food", "food" and "food for consumption on the premises: shall have these definitions as provided in Arizona Revised Statute Section 42-1381 and the rules and regulations adopted by the Arizona Department of Revenue pursuant to A.R.S. 42-1387, as if same were fully set forth herein.

b. All retailers availing themselves of this exemption may apply an average rate to the sales price of both food and non-food items as provided in A.R.S. 42-L384 and the rules and regulations adopted by the Arizona Department of Revenue.

Sec. 8-3-5 Administration and Procedures

A. Vested administration and payment of tax. The administration of this article is vested in and exercised by the Town of Superior, except as otherwise specifically provided, and all payments shall be made to the Town of Superior or the Department of Revenue for the State of Arizona, when an agreement for collection is in force between the Department and the Town of Superior. If payment is made in any other form than money which is Legal tender in the State of Arizona and the United States of America, the tax obligation shall not be ended until the check, bank draft or money order has been honored by the person on whom drawn.

B. Presumption that all gross receipts are taxable. For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all gross receipts are subject to the tax until the contrary is established by the person seeking the exemption from said taxation.

C. Burden of proving sale was not at retail. The burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it, unless such person shall have taken from the purchaser a certificate to the effect that the property was purchased for resale.

D. Tax imposed is cumulative and supplemental to others. The tax imposed by this article shall be cumulative and supplemental to all other taxes levied by law.

E. Records of taxpayer. It shall be the duty of every person engaging or continuing in business activities within this town for which a privilege tax is imposed by this article to keep and preserve for a minimum of three years, suitable records of the gross income, gross receipts of sales, invoices for goods and merchandise purchased and sold, resale certificates, job Labor records and all other such books or accounts as shall be necessary to determine the amount of tax for which such person is liable under the provisions of this article. Collection of back privilege taxes by the town shall be limited to a period of three years prior to the date when the tax collector began an audit of the taxpayer's books, wrote to the person through use of ordinary mail concerning an apparent violation of the article, or took some other recorded action to require a privilege tax permit application or other compliance with the article. ALL records mentioned in this subdivision above, shall be open for examination at any time by the tax collector.

F. Divulging of information forbidden. It is unlawful for any officer, employee or agent of this, Town of Superior to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records and equipment of any person visited or examined in the discharge of his official duty, or the amount or source of income, profits, leases, expenditures or any particular thereof, set forth or disclosed in any return or report, or the amount of tax paid. The council may, by motion, authorize an examination of the reports made pursuant to this article by the United States Director of Internal Revenue or the proper officials of the State of Arizona. Successors, receivers, trustees, executors, administrators and assignees, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected interest and penalties. Divulging of applicable information to any authorized employee or agent of an incorporated city or town shall be permitted when an employee or agent of another incorporated city or town is authorized by the tax collector to conduct audits for the Town of Superior. Information supplied on privilege permit applications shall not be considered as confidential. Any officer, employee or agent of the Town of Superior shall be authorized to divulge such confidential information as may be necessary upon the order of a court of competent jurisdiction.

G. Inadequate records. In the event the records of the gross Income, gross receipts or gross proceeds of sales of the business, kept by the taxpayer, are deemed by the tax collector to be unsuitable, or the taxpayer does not keep such other books or records as may be necessary to determine the amount of the tax for which he is liable under the provisions of this article, the tax collector may prescribe the form and manner of keeping such books and records. In the event the taxpayer fails or refuses to follow such prescribed form, and the tax collector cannot ascertain from the records kept by the taxpayer

the gross income, gross receipts or gross proceeds of sale of the business or the amount of the tax for which the taxpayer is liable under the provisions of this article, the tax collector may proceed as though such taxpayer failed or refused to make a return in the manner prescribed by this article.

H. When tax variable, interest and penalties. Notwithstanding any other provisions of this Article to the contrary, taxes shall be due, payable and delinquent on the dates specified in Section 42-1322 of Arizona Revised Statutes for collection of the state transaction privilege tax. Interest and penalties shall be charged at the same rate and at the same time as provided in Section 42-1322 and 42-1327 of Arizona Revised Statutes for the state transaction privilege tax or such other statutes as are intended by the legislature to replace said sections.

I. Cash receipts or accrual basis. The taxpayer may elect to file returns and pay his tax either on a cash receipts or accrual basis, but the taxpayer shall not change from one basis to the other, without the prior written approval of the tax collector. As a condition of granting such approval, the tax collector may require an audit of the taxpayer's records.

J. Consolidated returns. Any person engaging in two or more forms of business of like classification taxable under this article may file a consolidated return covering all business activities of like classification in which he is engaged within the town.

K. Extension of time for making returns. The tax collector may for good cause extend the date for making any return required under the provisions of this article, but the date for filing such return shall not be extended beyond the fifteenth day of the second month next succeeding the regular due date.

L. Penalty for delinquency. Any taxpayer who shall have failed to pay such tax within five days from the date upon which such payment shall have become due shall be subject to and shall pay a penalty of ten percent of the amount of such tax, together with interest on such tax at the rate of one percent per month or fraction thereof until paid.

M. Correction of errors. If the taxpayer makes an error or errors in computing the tax assessable against him, the tax collector shall correct such error and notify the taxpayer promptly by ordinary mail that such correction has been made. Any additional tax for which the taxpayer becomes liable shall be payable within ten days after the letter or form showing the correction is mailed to the taxpayer. If the taxpayer makes an error which results in overpayment of tax, the tax collector shall allow credit against tax due on future returns or shall authorize a refund to the taxpayer.

N. Duties of person quitting business, his successor or assignee. Any person who sells his business or stock of goods or quits business shall be required to make the return provided for under this article within fifteen days after the date he sold his business or stock of goods or quit business, and his successor in business or assignee shall be required to withhold a sufficient amount of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the tax collector showing that the taxes have been paid, or a certificate that no taxes are due.

1. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided and the taxes shall be due and unpaid after the fifteen-day period herein provided, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operations of the business by the former owner.

2. Transaction privilege tax liability of the purchaser shall be limited to no more than that accrued during a period of one full year prior to the date such business purchase becomes effective,

3. It is unlawful for the purchaser to refuse or fail to pay the back taxes accrued during said period within thirty days after the tax collector mails a Letter or other notice by ordinary mail to the purchaser requesting such payment of back taxes.

O. Tax shall be lien. The tax imposed by this article, if not reported and paid by the due date specified by this article, shall constitute a Lien on the property of any person subject to this article. The procedure to perfect such Lien shall be as follows:

1. The tax collector shall give written notice to the taxpayer at his last known mailing address by certified or registered mail, or such notice may be sent to the address at which the business is conducted. This written notice shall indicate that the town will file a lien on the subject property unless the taxpayer reports and pays all the tax past due including any penalties and interest due under this article or provides

satisfactory evidence to the tax collector that no taxes are due, within a period of thirty days from service or receipt of said written notice.

2. If the taxpayer does not pay taxes due or provide evidence that no taxes are due within thirty days after service or receipt of said written notice, the tax collector may prepare in triplicate copies of a "Notice and Claim of Lien" and file one copy with the county recorder of the county in which the property is Located. The tax collector shall then send by certified or registered mail a copy to the taxpayer at his last known mailing address or at the address at which the business is conducted. The Notice and Claim of Lien" shall contain the following:

a. A description of the property sufficient for identification.

b. The name of the taxpayer as owner or reputed owner of the property.

c. The amount of the delinquent tax, including penalties and interest; or if this amount cannot be determined precisely because suitable records and books were not made available by the taxpayer, the amount assessed, including penalties and interest, by the tax collector as authorized by this article when such books and records are not available or are unsuitable. From and after the date of its recording in the office of the county recorder, the lien shall attach to the property until paid. A sale of the property to satisfy the lien shall be made upon judgment of foreclosure and order of sale. The town shall have the right to bring an action to enforce the lien in the superior court of the county in which the property is located, at any time after its recording, but failure to enforce the lien by such actions shall not affect its validity. The recorded "Notice and Claim of Lien" shall be prima facie evidence of the truth of all matters recited therein and the regularity of all proceedings prior to the recording therein. A prior recording for the purposes provided in this section shall not be a bar to the subsequent recording of a Lien for such purposes, and any number of such Liens on the same property may be enforced in the same action.

P. Tax collector may examine books and papers. The tax collector may examine any books, papers, records or other data bearing upon the correctness of any return or for the purpose of making a return where none has been made, as required by the provisions of this article. If any person shall fail to appear before the tax collector or to answer any material question or to produce any books, records, papers or other data when requested to do so, such failure or refusal shall be reported to the town attorney, who shall thereupon institute proceedings in the superior court of the county where such witness resides to obtain compliance.

Q. Taxpayer's Liability. The liability of the taxpayer for taxes due shall remain the same, whether he collects sufficient added payments from his customers to cover such taxes due.

1. Where the taxpayer fails to show "tax collected", deductible "repair labor" and other deductible "service" on invoices to customers, sales slips and cash register slips, and on all applicable books and records, he shall be liable for taxation on his full gross receipts without allowance for such items.

2. The burden of proof for all deductions by any taxpayer shall be on taxpayer, who must prove to the satisfaction of the tax collector that such deductions shall have been legal and proper under this article. A person taking deductions for "resale" or for "payments to subcontractors" shall not take such deductions unless the persons for whom the deductions are taken have obtained the required privilege tax permits.

R. Tax liabilities or partners. All taxes assessed under the provisions of this article upon the business activities of a partnership shall be a liability and charges against each and all of the individual partners; but when paid by the partnership, such liability against each and all of the individual partners shall cease.

A. Assessment procedure. If any person who is required to file a return under the provisions of this article fails or refuses to make a return, the tax collector shall proceed, in such a manner as he may deem best, to obtain facts and information on which to base the assessment of the tax herein prescribed; and to this end the tax collector may make examination of the books, records and papers of any such person; and may take the evidence on oath of any person whom he may believe to be in possession of facts or information pertinent to the subject of inquiry, which oath the tax collector may administer. If no other information is readily available, the tax collector may make a reasonable judgment on the basis of past reports by the taxpayer or by any predecessor. When the tax collector has reached a decision as to the assessment; he shall notify the taxpayer in writing of such assessment, which shall become final within thirty days after

such notice, has been mailed or served, unless the taxpayer shall notify the tax collector in writing of a request for a tax hearing within said thirty days.

B. Hearing at tax payer's request. When a taxpayer requests a hearing as indicated in **Section 8-3-6 (A)** such hearing shall normally be held in the offices of the Town of Superior provided that the tax collector may choose another suitable room in the same town or by mutual agreement with the taxpayer, he may hold the hearing in such other place as may prove desirable. The hearing shall be conducted by the tax collector, and it shall be closed to all except the tax collector and his authorized representatives and the taxpayer and his authorized representatives, unless the taxpayer agreed in writing to waive restrictions on release of confidential information. The tax collector shall provide the taxpayer with not less than ten days notice of the date, time and place of the hearing. During the hearing the taxpayer or his authorized representative may present any evidence he deems appropriate to the issues or questions under consideration. Within fifteen days after the conclusion of the hearing, the tax collector shall affirm, modify or vacate any decision made with respect to the issues or questions discussed in the course of the hearing. Notice of said decision shall be provided to the taxpayer by the tax collector as provided in this article, and said decision shall be effective in ten days after service of notice.

C. Payment under protest. If any person feels aggrieved by a tax assessment or believes that any or all of his activities are not subject to the privilege tax required by this article, he shall pay the amount of such assessment or tax claimed due before the delinquent date and shall at that time give notice in writing to the tax collector that all or part of such payment is made under protest, and shall in the notice give the grounds and reasons for such protest and that a certain part thereof or that the total sum is protested.

1. Within ten days after receipt of such protest, the tax collector shall reply in writing to the last known mailing address of the taxpayer, stating whether the assessment or tax applied is to be changed as requested, and giving reasons for the decision.

2. If the taxpayer is then dissatisfied, he may take appropriate action in the superior court to recover payments made under protest. Court action shall be taken within sixty days after the tax collector has mailed his reply as required by paragraph 1, above. Failure to take court action within the required sixty day period shall make the protest null and void.

3. If court action has been taken by the taxpayer under paragraph 2 above, all subsequent payments due shall be paid on or before the due date. However if each tax form is plainly marked "Paid Under Protest", such subsequent payments shall be treated as part of the original protest until such time as court remedies have been exhausted or the court action withdrawn by the taxpayer.

D. Collection of delinquent taxes.

1. If any tax imposed by this article, or any portion thereof, is not paid within thirty days after the same becomes delinquent, the tax collector shall be empowered to commence court action in any appropriate court of competent jurisdiction to collect tax, penalties and interest due, and to utilize any and all appropriate remedies as authorized under the laws of the State of Arizona. Such actions may be commenced whether separate criminal charges have been filed to cover alleged failure to comply with this article.

2. Every tax imposed by this article and all increases, interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt from the person liable to the town and it shall be payable to and recoverable by the tax collector.

E. Adoption of administrative procedure. The council is hereby authorized to adopt written administrative regulations to implement the enforcement of this article or to further define terms used in the article. Such administrative regulations shall be enforceable as though they were integral portions of the article itself.

F. State of Arizona Administrative procedures. Except where such regulations would conflict with administrative regulations adopted by the council or with provisions of this article, all regulations on the transaction privilege tax adopted by the State Department of Revenue under the authority of Title 41, Chapter 6, Article 1, Arizona Revised Statutes and amendments thereto, shall be considered as part of this article and enforceable as such.

A. Advertisement regarding taxes. It is unlawful for any person engaged in any of the businesses classified in **Section 8-3-3** to advertise or hold out to the public in any manner, directly or indirectly, that the tax herein imposed is not considered as an element in the price to the consumer.

B. Permit required. It is unlawful for any person engaging in a business subject to the town transaction privilege tax to fail to obtain a permit before beginning or continuing such business.

C. Tax Collection from customer. Any person, who collects added payments from customers stated or indicated to be for the purpose of meeting privilege tax obligations of such person, shall be required to use such money only for such purpose. It is unlawful for any person to fail to pay privilege tax due to the Town of Superior within a period of thirty days after the date such tax is due if evidence is provided that such person has at any time collected such added payments from customers.

D. Failure to make return. It is unlawful for any person or for any officer or agent of any company or corporation to fail or refuse to make the returns and to pay the tax provided to be paid by the provisions of this article, or to make or permit to be made any false fraudulent return or false statement in any return required by this article; or for any reason to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for any person or officer or agent of a company to fail or refuse to permit the examination of any book, paper, account, record or other data by the tax collector as required by this article; or to violate any of the other provisions of this article.