

1. Town Council - Agenda

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1.1. Town Council - Agenda Packet

Documents:

[2016_10_18_CC_SS_PK.PDF](#)



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL

STUDY SESSION
Tuesday, October 18, 2016
6:00 P.M.

Council Chambers
202 N. State Route 89
Chino Valley, Arizona

AGENDA

- 1) CALL TO ORDER; ROLL CALL
- 2) Status update and discussion regarding Agritainment (Agribusiness) uses in certain zoning districts in the Town. (Ruth Mayday, Development Services Director)
- 3) Presentation regarding the Manufactured Home Sales Tax Rate in the Town of Chino Valley. (Joe Duffy, Finance Director)
- 4) ADJOURNMENT

Dated this 13th day of October, 2016.

By: **Jami C. Lewis, Town Clerk**

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at <http://www.chinoaz.net/agendacenter>, and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date: _____ Time: _____ By: _____
Jami C. Lewis, Town Clerk



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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Study Session

Item No. 2)

Meeting Date: 10/18/2016
Contact Person: Ruth Mayday, Development Services Director
Phone: 928-636-4427 x-1217
Department: Development Services
Item Type: N/A
Estimated length of staff presentation: 20 minutes
Physical location of item: N/A

Information

AGENDA ITEM TITLE:

Review of Agritainment text amendments and recent changes based on Council feedback.

RECOMMENDED ACTION:

Unless Council directs otherwise, staff intends to continue meeting with the agriculture community, refine language for defining the proposed regulations of Agritainment uses, and proceed with the Public Hearing Process.

SITUATION AND ANALYSIS:

Issue Statement

Sections of the Unified Development Ordinance (UDO) may be in conflict with standard agriculture practices and create regulatory obstacles for proposed agritourism events and activities. To support successful agricultural activities and facilitate agritourism in Chino Valley, staff recommends amending the existing development standards.

Applicable "Policy"

Chino Valley General Plan 2014, Chino Valley Vision: The Town of Chino Valley is a community looking to its future that envisions diverse business and employment expansion....*all while maintaining its valued farming heritage*, recreation and environmental assets and its small town image.

Satisfaction of "Policy"

Adoption of the proposed UDO text amendments will expand the ability of local

agriculturally-oriented businesses to increase their opportunities for success by reducing the existing regulatory processes and requirements for permits for agriculturally-related businesses, allowing for a greater range of permitted uses and activities with fewer permitting and development requirements, and encouraging agricultural entrepreneurialism.

Summary of Issues and Staff Rationale See attached memo

Findings of Fact See attached memo

Fiscal Impact

Fiscal Impact?: no

If Yes, Budget Code:

Available:

Funding Source:

Attachments

Staff Brief Memo

Agritourism strikethrough Draft

ARS Citations

Retail and Amusements TPT regulations

Producer exemption

Tax code change

Draft Powerpoint

Issue Statement Sections of the Unified Development Ordinance (UDO) may be in conflict with standard agriculture practices. To support successful agricultural activities and agritourism in Chino Valley, amendments to the existing development standards should be made. Applicable "Policy" Chino Valley General Plan 2014, Chino Valley Vision: The Town of Chino Valley is a community looking to its future that envisions diverse business and employment expansion....all while maintaining its valued farming heritage, recreation and environmental assets and its small town image. Satisfaction of "Policy" Adoption of the proposed text amendments and overlay district will broaden the ability of local agriculturally-oriented businesses to succeed by reducing the regulatory burden on agricultural businesses, allowing for a greater range of permitted uses and activities, and encouraging agricultural entrepreneurialism. Summary of Issues and Staff Rationale Staff began work on the Agribusiness/Agritainment issue in late 2014 at the direction of Council, and first presented a concept outline at the January 22, 2015 Council Study Session. Council's direction at the 1/22/15 Study Session was to continue to develop a means to provide relief for agricultural businesses whose expansion or creation was hampered by existing requirements in the UDO, and to specifically address the paving/parking issues brought forward by Norm Freeman of Freeman Farms. Staff proceeded to develop a draft based on conversations with the Arizona Farm Bureau and other communities across Arizona who had implemented agribusiness/agritainment policies. Staff also gathered information from other states where agribusiness/agritainment zoning had proven to be successful. The first Agribusiness/Agritainment roundtable was held on October 20, 2015. One (1) member of the community attended; his concerns were with State water policy rather than any regulations proffered by the Town. Given the lack of response by the community, staff tabled the item at the direction of the Planning & Zoning Commission at its November 3, 2015 regular meeting. Staff reinitiated the amendments in the spring of 2016; after conducting a number of roundtable meetings with many interested parties, staff presented the proposed amendments for Citizen Review at a special meeting of the Planning & Zoning Commission on June 15, 2016. After taking public comment, the Commission directed staff to meet with Norm Freeman, who spoke in opposition to the proposed amendments, to discuss and address his objections to the proposed amendments. Director Mayday, Vice Mayor Croft, and P & Z Chairman Merritt met with Mr. Freeman on June 30, 2016 to discuss Mr. Freeman's issues. Messrs. Croft and Merritt asked Mr. Freeman to provide written comments that would provide staff clarity to make amendments to the proposed language of the draft amendments; while Mr. Freeman did respond in general, he offered no specific suggestions for amending the draft language. Staff then presented the proposed Agritainment amendments for review and discussion on Tuesday, August 6, 2016 during its Regular meeting. After a lengthy discussion, staff was directed to: Provide statistics on how many RV's could be permitted on a 40 acre parcel. Provide a worst-case scenario with regard to RV's and bring back report. Provide language from the tax code and legal provisions related to the definitions. Possibly strike language for TPT licensing. Strike the provision for sewer connection requirement. Provide setbacks on Ag property Strike Farmer's Markets and address them if abuse was found. Strike the 50% clause related to produce stands. Provide powerpoint presentations before meetings. 1 & 2: Recreational Vehicles and camping: Given the limited number of hotel/motel rooms in Chino Valley, as well as the dearth of camping, staff attempted to provide a means to enable private property owners to host visitors either in their homes, or allow them to camp on their property. By doing so, more visitors would be able to stay in Chino Valley and patronize local businesses rather than stay in Prescott or Prescott Valley and patronize businesses there. Councilmember Cuka expressed concerns with the campgrounds based

on the community's opposition to the KOA. In fact, the community supported the KOA at a ratio of 2.27:1, clearly illustrating support and demand for camping facilities in Town. Currently, Campgrounds are first allowed in the CL (Commercial Light) zoning district; there are very specific requirements for this use set forth in UDO Section 4.19 Campgrounds. The Town also allows the use of RV's with an active building permit (maximum one (1) year), and as temporary housing as set forth in UDO Section 4.10 Temporary Housing, subsection B, Medical Hardship, for a period not to exceed 180 days.

To better clarify the intent, staff made the following changes to the text amendments:

1. Allow camping/overnight stays in conjunction with Agritainment events only. (this may conflict with SB 1350, the Arizona Air BnB law)
2. Limit stays to seven (7) consecutive days
3. Restrict the number of units based on parcel size (1 camp site per four (4) acres)
4. Deleted references to size limits on overnight rental units, thereby limiting the size to what is currently allowed in code for Guest Homes.

3 & 4: Provide language from the tax code and legal provisions related to the definitions. Possibly strike language for TPT licensing.: Council also expressed concerns with regards to the requirement for agritainment facilities to obtain a Transaction Privilege Tax (TPT) license. Finance Director Joe Duffy gave a detailed explanation of how sales taxes are implemented in the State of Arizona; Development Services Director Mayday read the relevant sections of Arizona Revised Statutes as they applied to the various taxable and non-taxable categories of sales, including the definition of "agriculture" as defined in Title 3 of ARS; the differences between "retail" and "amusements" categories of TPT as defined in ARS Title 42: Taxation. Staff has attached that information to this item, including determinations from the Don Zelichowski, Sales Tax Auditor for the Town. Finance Director Duffy also addresses the issue of the town not requiring a TPT license for Agritainment enterprises.

5. Strike the provision for sewer connection requirement. : Councilman Turner pointed out that Council had eliminated mandatory connections for sewer and water and stated that this requirement should be removed. Staff's recollection was that Council determined all new commercial would be required to connect, except those properties north of Granite Creek Lane, which would be allowed to use septic or package treatment plants. Staff reviewed the minutes and the video of the March 8, 2016 study session; at 1:55:20, a discussion occurs between Director Mayday, Councilman Turner, Mayor Marley, and Manager Smith with regards to the commercial connection issue. The Mayor requests that staff craft language that north of Granite Creek Lane, properties could use a package treatment plant, but as sewer comes by the property, they must connect to the municipal sewer system. Manager Smith assures Council that attorney Smiley can make those changes. Staff requests further direction
6. on this issue.

6. Provide setbacks on Ag property: Setbacks on AR (Agricultural/Residential) zoned properties are as follows:

	AR 4	AR 5	AR 36
Front	See Section 4.28	See Section 4.28	See Section 4.28
Side Yard	20 feet	20 Feet	20 feet
Rear Yard	20 feet	20 feet	20 feet
Lot Coverage	50%	50%	50%



4.28 Building Setbacks when Adjacent to a Street (Add with Ord. 08-707/Res. 08-886)

Intent: Allow for the acquisition of future right-of-way dedications and leave a reasonable building setback remaining for the existing structure.

Setback Requirement: All building setbacks shall be measured from the presumed dedication of 25 feet from the section, mid section, or presumed street center line, whichever ever applies; whether or not the dedication has actually occurred at this time.

Under special circumstances a reduction in the setback requirement may be granted by the Zoning Administrator.

Building setbacks shall be a minimum of fifty (50) feet from all one (1) mile streets/ arterial.

One (1) mile streets/ Arterial:

- Road 6 North
- Road 5 North
- Road 4 North
- Road 3 North
- Road 2 North
- Center Street
- Road 2 South

Outer Loop Road/ Road 4 South

- Road 5 South
- Road 1 East
- Road 1 West

The east side of Reed Road: and Perkinsville Road

In addition, building setbacks shall be fifty (50) feet from State Route 89 rights of way. Building setbacks shall be a minimum of forty (40) feet from all one half (1/2) mile streets/ collector.

One half (1/2) mile streets/ Collector:

- Road 4 1/2 North
- Road 3 1/2 North
- Road 1 North
- Road 1 South
- Road 3 South

Building setbacks shall be a minimum of twenty (20) feet from all other streets/local streets.

7. Strike Farmer's Markets and address if abuse is found. Staff has stricken "Farmer's Markets" from the list of Agritainment uses. Council should be aware that if abuses are found, the offending farmer's markets would be exempt from additional regulation. Because those markets existed legally, they would be legal, non-conforming uses and not subject to subsequent regulation. Subjecting a legal, non-conforming use to further regulation would constitute an *ex-post facto* law, in violation of clause 3, Article 1, Section 9 of the US Constitution.

8. Strike the 50% clause related to produce stands: There is no 50% limitation related to produce stands in the proposed agritainment amendments. That requirement is set forth in the AR-5 and AR-4 zoning districts, and would have to be amended separately from this action.

9. Provide powerpoint presentations before meetings. Council requested that staff provide powerpoint presentations before meetings so Council had an opportunity to review them. Staff has attached a draft presentation to this item as the final draft is generally not prepared until the day of the presentation. Staff also requests further clarification to the following: 1) Does this apply to all staff presentations, or does this apply only to certain presentations, or all presentations by specific staff members?

Findings of Fact

1. Council directed staff to develop amendments to accommodate agribusinesses in Chino Valley.
2. Staff has developed draft amendments for Agritainment by researching similar regulations throughout Arizona, in consultation with the Arizona Farm Bureau, and tailoring the amendments to Chino Valley by reviewing said amendments with the Planning & Zoning Commission, holding Citizen Review meetings (in full compliance with notification requirements in ARS 9-462.04), and holding roundtable meetings with interested parties.
3. Staff presented the draft amendments to Town Council during its regular meeting on August 16, 2016. Council discussed their concerns with staff and directed staff to provide responses and proposed amendments in September.
4. Council directed staff to present the amendments at the October 18, 2016 Study Session in response to the October 11, 2016 Agenda Item 7c :
Consideration and possible action to affirm or reschedule study sessions for the remainder of 2016 and schedule discussion topics. (Jami Lewis, Town Clerk)
5. Staff has provided responses to Council's concerns and provided a strikethrough version for Council's further consideration and comment.

Amendments to the Town of Chino Valley Unified Development Ordinance
Related to Agritainment Uses
_____, 2016

The following Sections of the Town of Chino Valley Unified Development Ordinance are amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~, * * * indicate intervening provisions remain unchanged):

Chapter 2 Definitions, Section 2.1 Meanings of Words and Terms:

2.1 Meanings of Words and Terms

* * *

Agritainment. An enterprise or activity located at a working farm, ranch, or other agricultural operation or facility, which is conducted for the enjoyment or education of visitors, guests, or clients, and that generates income for the owner/operator of the agricultural operation.

* * *

Overnight Rental Unit: A facility or place offering temporary sleeping units for overnight use BY ~~to~~ travelers and guests IN CONJUNCTION WITH AN AGRITAINMENT EVENT for a period of ~~30~~ SEVEN (7) days or less per visit including, but not limited to, rental cabins, country inns, bed and breakfast, camping, or Recreational Vehicle sites.

* * *

Chapter 3 Zoning District, Sections 3.5.2 Permitted Uses ("AR-36" – Agricultural/Residential (36 Acre Minimum), 3.6.2 Permitted Uses ("AR-5" – Agricultural/Residential (5 Acre Minimum), and 3.7.2 Permitted Uses ("AR-4" – Agricultural/Residential (4 Acre Minimum):

3.5 "AR-36" – Agricultural/Residential (36 Acre Minimum)

* * *

3.5.2 Permitted Uses

* * *

K. Agritainment. See Subsection 4.32 Agritainment Development Standards and Regulations.

3.6 "AR-5" – Agricultural/Residential (5 Acre Minimum)

* * *

3.6.2 Permitted Uses

* * *

J. Agritainment. See Subsection 4.32 Agritainment Development Standards and Regulations.

3.7 "AR-4" – Agricultural/Residential (4 Acre Minimum)

* * *

3.7.2 Permitted Uses

* * *

J. Agritainment. See Subsection 4.32 Agritainment Development Standards and Regulations.

Chapter 4 General Regulations, to add new Section 4.32 Agritainment Development Standards and Regulations:

4.32 AGRITAINMENT DEVELOPMENT STANDARDS AND REGULATIONS

A. Purpose: Agritainment uses preserve the agricultural history of Chino Valley; encourage activities that educate, foster interest in, and provide access to agricultural and agricultural businesses and endeavors in Chino Valley; and promote entrepreneurialism through agricultural tourism, entertainment, and production.

B. General Regulations:

1. Agritainment uses shall be developed in a manner and on a scale that compliments existing on-site structures and maintains the rural environment of Chino Valley.

2. Agritainment uses shall be secondary or accessory uses to an established agricultural or residential use.

3. No land shall be converted from agricultural to non-agricultural uses for purposes of or in connection with an Agritainment use.

4. Prior to commencing operations as an Agritainment use, the property owner or agent shall submit an application to the Development Services Department and obtain approval of, at a minimum, a site plan and dust control plan.

5. All structures with bathroom facilities shall be connected to the Town's sewer system in compliance with Section 51 of the Chino Valley Town Code. If the Town's sewer line is not available for connection the facilities shall be connected to a septic system approved by the Town of Chino Valley and the Yavapai County Environmental Services

6. Prior to beginning Agritainment operations, the owner or agent shall obtain a business license from the Town of Chino Valley and a Transaction Privilege Tax license and all other approvals required by state and local laws and regulations.

7. Minimum setback requirements for all structures, ~~tent, and Recreational Vehicle~~ sites is 50 feet from the side and rear property lines; front setbacks shall be as set forth in Section 4.28 of this Code.

8. Agritainment facilities shall be exempt from the paving requirements set forth in Section 4.22 Off-Street Parking and Loading when the following apply:

- a. Paving or hard-surface would permanently remove agricultural lands out of production; and
- b. A dust-control and ADA-compliant access plan has been approved by the Development Services Director or his/her designee.

9. Food service for guests of the facility shall be provided only in compliance with Arizona, Yavapai County, and local health, licensing, and inspection regulations.

10. Overnight Rental Units AND TEMPORARY CAMPING are permitted in CONJUNCTION WITH AN AGRITAINMENT EVENT AND IN compliance with the following regulations:

b. The total area, in any combination, occupied by overnight rental units on a parcel shall not exceed 1200 square feet, under roof.

c. The Agritainment facility, including overnight rental units, shall not exceed the maximum lot coverage allowed for the zoning district.

d. Overnight Rental Units, CAMPING, AND RECREATIONAL VEHICLES shall be limited to USE NOT BE PERMITTED UNLESS IN CONJUNCTION WITH AN AGRITAINMENT EVENT, AND SHALL BE LIMITED TO ~~for~~ A period OF SEVEN (7) days or less per visit.

E. CAMPING AND RECREATIONAL VEHICLE SITES SHALL NOT EXCEED ONE (1) SITE PER FOUR (4) ACRES.

e. ~~Overnight Rental Unit shall be at least 200 square feet under roof.~~

f. ~~Each Overnight Rental Unit shall include, under one contiguous roof, a bathroom and a bedroom. A kitchen may also be included.~~

~~11. Campgrounds and RV sites are permitted in compliance with the following:~~

~~a. i. Minimum tent site area is 900 square feet.~~

~~b. ii. Minimum Recreational Vehicle site area is 1,200 square feet.~~

~~c. Tent sites and Recreational Vehicle sites shall comply with Section 4.19.B.~~

12. ~~Overnight Rental Units, Campgrounds and Recreational Vehicle sites may be rented through online lodging marketplaces.~~

USES CONTEMPLATED BY THE AGRITAINMENT OVERLAY DISTRICT:

Bed and Breakfast, farm stay programs

Arenas, Public and Private

Stables, Commercial and Private

Stands for the sale of farm produce when primarily grown on site (more than 50% grown on site)

~~Farmer's Markets~~, Food Hubs, Community Supported Agriculture, food co-ops

Farm kitchens and bakeries; cheese/soap/jellies/jam production

Educational, instructional, and interpretive seminars and classes

You-pick operations

Boutique wineries, micro-breweries, and craft distilleries.

Short-term events such as food and wine festivals, art shows, weddings and similar temporary gatherings

Interactive displays and activities such as petting zoos

Farm camps

50-mile producer dinners, etc.

ARS CITATIONS

Arizona State Legislature Bill Number Search: 



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[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-111. [Definitions](#)

In this chapter, unless the context otherwise requires:

1. "Agricultural operations" means all activities by the owner, lessee, agent, independent contractor and supplier conducted on any facility for the production of crops, livestock, poultry, livestock products or poultry products.
2. "Farmland" means land devoted primarily to the production for commercial purposes of livestock or agricultural commodities.

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[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-561. [Definitions](#)

In this article, unless the context otherwise requires:

1. "Food product" includes:
 - (a) Every product of the soil in its natural or manufactured state.
 - (b) Beef and beef products.
 - (c) Swine and pork products.
 - (d) Fowls and poultry products.
 - (e) Eggs and egg products.
 - (f) Milk and milk products.
 - (g) Lamb and sheep products.
 - (h) Animal feed that is grown or raised by the producer and sold as feed for livestock, poultry or raptures purchased or raised for slaughter, including livestock purchased or raised for production or use, such as milk cows, breeding bulls, laying hens and riding or work horses.
2. "Producer" includes owners, proprietors or tenants of agricultural lands, orchards, farms and gardens where food products are grown, raised or prepared for market.

3-562. [Restrictions on sales by food producers prohibited](#)

A. The producers of food products on agricultural lands, farms and gardens shall never under any pretext be denied or restricted the right to sell and dispose of their products, except in the manner and to the extent provided in this article, and subject to inspection by lawful authority when the inspection is uniform as to the same product and without cost to the producer.

B. The right to sell and dispose of food products shall extend to the producer in person, members of his family, his agents and all persons in his service, when the products are sold or disposed of on his behalf and for his benefit.

3-563. [Tax, license or fee against producers and purchasers prohibited](#)

A. A tax, license or fee may not be imposed or levied on or demanded or collected from:

1. A producer for a sale of a food product.

2. A purchaser of a food product from a producer.

B. A penalty or punishment may not be imposed on account of the sale of a food product, except for a violation of laws providing for inspection.

C. A municipal ordinance that seeks to impose or subject a producer, or a purchaser of a food product from a producer, to a tax, license or fee is void, except that all such products in common with similar products offered for sale by persons not the producers thereof are subject to inspection. A municipal ordinance providing for inspection is not valid unless it applies in the same manner and terms to other persons offering similar products for sale.

RETAIL AND AMUSEMENT SALES TAX REGULATIONS

42-5061. Retail classification; definitions

(L16, Ch. 181, sec. 1, Ch. 361, sec. 5, Ch. 368, sec. 1 & Ch. 369, sec. 2)

- A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:
1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.
 2. Services rendered in addition to selling tangible personal property at retail.
 3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.
 4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
 5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.
 6. Business activity that is properly included in any other business classification that is taxable under this article.
 7. The sale of stocks and bonds.
 8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
 9. Prosthetic appliances as defined in section 23-501 and as prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
 10. Insulin, insulin syringes and glucose test strips.
 11. Prescription eyeglasses or contact lenses.
 12. Hearing aids as defined in section 36-1901.
 13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.
 14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.
16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).
17. Textbooks by any bookstore that are required by any state university or community college.
18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.
19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.
20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.
21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:
 - (a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:
 - (i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.
 - (ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.
 - (b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.
 - (c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

(i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty,

law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of

Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service,

research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used

directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

H. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to:

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

2. Businesses classified under the:

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Restaurant classification.

I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.
2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.
2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process"

means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.
2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and

the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

3. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

4. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection I of this section:

1. "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.

2. "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 those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts,

or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

42-5073. Amusement classification

A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, public dances, dance halls, boxing and wrestling matches, skating rinks, tennis courts, except as provided in subsection B of this section, video games, pinball machines, sports events or any other business charging admission or user fees for exhibition, amusement or entertainment, including the operation or sponsorship of events by a tourism and sports authority under title 5, chapter 8. For the purposes of this section, admission or user fees include, but are not limited to, any revenues derived from any form of contractual agreement for rights to or use of premium or special seating facilities or arrangements. The amusement classification does not include:

1. Activities or projects of bona fide religious or educational institutions.
2. Private or group instructional activities. For the purposes of this paragraph, "private or group instructional activities" includes, but is not limited to, performing arts, martial arts, gymnastics and aerobic instruction.
3. The operation or sponsorship of events by the Arizona exposition and state fair board or county fair commissions.
4. A musical, dramatic or dance group or a botanical garden, museum or zoo that is qualified as a nonprofit charitable organization under section 501(c)(3) of the United States internal revenue code and if no part of its net income inures to the benefit of any private shareholder or individual.
5. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional

golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

6. Operating or sponsoring rodeos that feature primarily farm and ranch animals in this state and that are sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

7. Sales of admissions to intercollegiate football contests if the contests are both:

(a) Operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) Not held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8.

8. Activities and events of, or fees and assessments received by, a homeowners organization from persons who are members of the organization or accompanied guests of members. For the purposes of this paragraph, "homeowners organization" means a mandatory membership organization comprised of owners of residential property within a specified residential real estate subdivision development or similar area and established to own property for the benefit of its members where both of the following apply:

(a) No part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) The primary purpose of the organization is to provide for the acquisition, construction, management, maintenance or care of organization property.

9. Activities and events of, or fees received by, a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

10. Arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement personally or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third-party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

B. The tax base for the amusement classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from memberships, including initiation fees, that provide for the right to use a health or fitness establishment or a private recreational establishment, or any portion of an

establishment, including tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more and fees charged for use of the health or fitness establishment or private recreational establishment by bona fide accompanied guests of members, except that this paragraph does not include additional fees, other than initiation fees, charged by a health or fitness establishment or a private recreational establishment for purposes other than memberships which provide for the right to use a health or fitness establishment or private recreational establishment, or any portion of an establishment, for participatory purposes for twenty-eight days or more and accompanied guest use fees.

2. Amounts that are exempt under section 5-111, subsection H.

3. The gross proceeds of sales or gross income derived from membership fees, including initiation fees, that provide for the right to use a transient lodging recreational establishment, including golf courses and tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more, except that this paragraph does not include additional fees, other than initiation fees, that are charged by a transient lodging recreational establishment for purposes other than memberships and that provide for the right to use a transient lodging recreational establishment or any portion of the establishment for participatory purposes for twenty-eight days or more.

4. The gross proceeds of sales or gross income derived from sales to persons engaged in the business of transient lodging classified under section 42-5070, if all of the following apply:

(a) The persons who are engaged in the transient lodging business sell the amusement to another person for consideration.

(b) The consideration received by the transient lodging business is equal to or greater than the amount to be deducted under this subsection.

(c) The transient lodging business has provided an exemption certificate to the person engaging in business under this section.

5. The gross proceeds of sales or gross income derived from:

(a) Business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(b) Business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5062, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(c) Business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

6. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that either:

(a) Until March 1, 2017, consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

(b) Are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

C. For the purposes of subsection B of this section:

1. "Health or fitness establishment" means a facility whose primary purpose is to provide facilities, equipment, instruction or education to promote the health and fitness of its members and at least eighty percent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, under the terms of the membership agreement for participatory purposes for twenty-eight days or more.

2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty percent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty-eight days or more.

3. "Transient lodging recreational establishment" means a facility whose primary purpose is to provide facilities for transient lodging, that is subject to taxation under this chapter and that also provides recreational facilities, such as tennis, golf and swimming, for members for a period of twenty-eight days or more.

D. Until December 31, 1988, the revenues from hayrides and other animal-drawn amusement rides, from horseback riding and riding instruction and from recreational tours using motor vehicles designed to operate on and off public highways are exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from hayrides and other animal-drawn amusement rides, from horseback riding and from recreational tours using motor vehicles designed to operate on and off public highways are subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the taxes will be returned to the customer.

E. If a person is engaged in the business of offering both exhibition, amusement or entertainment and private or group instructional activities, the person's books shall be kept to show separately the gross income from exhibition, amusement or entertainment and the gross income from instructional activities. If the books do not provide this separate accounting, the tax is imposed on the person's total gross income from the business.

F. The department shall separately account for revenues collected under the amusement classification for the purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the amusement classification from sales of admissions to:

1. Events that are held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8, including intercollegiate football contests that are operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code.

2. Professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

Town of Chino Valley Tax Code

Sec. 32.25-465. Retail sales: exemptions.

Income derived from the following sources is exempt from the tax imposed by Section 32.25-460:

- (v) sales of food products by producers as provided for by A.R.S. Sections 3-561, 3-562 and 3-563.

Sales of food products by the producer (farmers selling their crops) are exempt at both the State and Local level. The controlling State statute is a preemption in A.R.S. Section 3-563:

3-563. Tax, license or fee against producers prohibited

A. No tax, license or fee shall be imposed, levied upon, demanded or collected from a producer for a sale of a food product as defined in this article, and no penalty or punishment shall be imposed on account of the sale, except for violation of laws providing for inspection.

B. A municipal ordinance which seeks to impose or subject a producer to a tax, license or fee shall be void, except that all such products in common with similar products offered for sale by persons not the producers thereof shall be subject to inspection. A municipal ordinance providing for inspection shall not be valid unless it applies in the same manner and terms to other persons offering similar products for sale.

In the Model City Tax Code, this preemption is articulated in Section 465(v):

Sec. 465(v). Sales of food products by producers as provided for by A.R.S. § 3-561, 3-562 and 3-563. *(Editor's note: This subsection was added effective January 1, 1997.)*

From: [Joe Duffy](#)
To: [Ruth Mayday](#)
Subject: Tax Code Change
Date: Thursday, October 13, 2016 9:39:35 AM

You could reduce the Towns Tax Rate to Zero, but you would still have to collect the State Portion.
The Town can't change the state tax code.

Joe R. Duffy, CPA

Finance Director

Town of Chino Valley

202 N. State Route 89

Chino Valley, Arizona 86323

Phone (928) 636-2646

Fax (928) 636-2144

*Core values: Integrity . Teamwork . Respectful Communication . Service . Leadership .
Innovation*

Objections: Agritainment

Ruth Mayday
Development Services Director
10/18/16 Study Session

How does zoning influence property and sales taxes?

- If you build it, the Yavapai County Assessor will assign it a value and it will be taxed in accordance with State Law. The Town has no influence or jurisdiction
- The County sets its tax rates – the Town has no property tax
- Zoning districts are not the same as assessment classification
- Land Use designation is not the same as assessment classification
- ARS exempts the sale of produce grown on site from sales tax
- ARS and Model Tax Code set forth Transaction Privilege Tax classifications

Staff discretion in approvals

- Paving requirement
 - UDO 4.22.4 Parking Design Standards, B (2) P: New construction and conversion of a residence to a commercial use:....The Town Engineer may also approve alternative surfacing such as “chip seal”
- State law dictates appeal process
 - ARS 9 -462.06 Board of Adjustment
 - Board of Adjustment :
 - Cannot create a grant of special privileges
 - Cannot make any changes in permitted uses or terms of the ordinance
 - Grant variance if self-imposed harm
 - Superior Court

Equal
Protection
means
everyone gets
treated the
same



Objections

Camping vs. Campgrounds

Camping vs. Campground

- Camping = overnight stays in conjunction with an agritainment activity (e.g., dog shows, horse shows, rodeos)
 - Temporary – not to exceed seven (7) days in a 14 day period
 - Think Air B n B rather than KOA- other uses for the property
- Campground = “Any lot, parcel, or tract of land used, designed, maintained, and intended for rent of plots or sites to accommodate temporary camping by the traveling public whether or not a charge is made for the use of the park and its facilities
 - No time limit
 - No other use than campground
 - Campground = full time commercial operation

Campground

- UDO 4.19: Campgrounds
 - Only permitted in Commercial Zoning Districts
 - Requires Conditional Use Permit in CL
 - Must Comply with the following:
 - Sites must be clearly defined, well drained, and reasonably level
 - Tent site \geq 900 sf; RV sites must be \geq 1,200 sf
 - Adequate and easily identifiable office or registration area
 - Detailed restroom requirements

Campground

Restroom facilities required:

- One (1) toilet for each ten (10) camping sites, excluding sites with sewer hook-ups for self-contained RV's.
 - Minimum of one (1) toilet for each men's and women's restrooms, regardless of number of campsites
 - Urinals may = 50% of toilet requirement for men's restroom
 - Toilets shall be partitioned for privacy
- One (1) hot water shower shall be provided for each ten (10) camping sites
 - Minimum of one (1) shower for each men's and women's restrooms; shall be partitioned for privacy.
- One (1) sink with hot water shall be provided for each ten (10) camping sites; minimum of one (1) per men's and women's restrooms
- Each restroom shall contain: shelf space and/or hooks adequate for toilet articles and towels; good, well-lighted mirror directly above each sink, an electric outlet convenient to the sink, ample illumination, wastebaskets, and windows/doors for complete privacy.

Campground

- KOA met with strong resistance from the community

RESOLUTION TO CANVASS VOTE
RESOLUTION NO. 11-959
A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, DECLARING AND ADOPTING THE RESULTS OF THE GENERAL ELECTION HELD MAY 17, 2011

WHEREAS, the Town of Chino Valley, Yavapai County general election on the 17th day of May, 2011 for the election of Councilmembers; and

WHEREAS, the election returns have been certified by Election Director and Yavapai County Recorder; and

WHEREAS, the election returns have been presented by the Town Council; and

WHEREAS, the Town Council is adopting this resolution at this Regular Meeting, being held today;

NOW, THEREFORE, BE IT RESOLVED that the Town of Chino Valley, Yavapai County, Arizona as follows:

Section 1. That the total number of ballots shown by the poll lists, was 2,950.

Section 2. That the number of ballots rejected was:

Section 3. That the votes cast for the candidates were as follows:

Name	Vote Total	Mar	Dem	Chi
Mike Best	1,467			
James Conn	927			

Section 4. There being two (2) candidates in the election, it is hereby found, determined and declared of record that the following candidates did receive the highest number of votes:

Mike Best
Darryl Croft

Section 5. That the votes cast for the candidate for Mayor were as follows:

Name	Vote Total
Jim Bunker	1,231
Chris Marley	1,610

Section 6. That it is hereby found, determined and declared of record, that the following candidate did receive the highest number of votes and shall be issued a certificate of election:

Chris Marley

Section 7. That the votes cast for Proposition 401 (Referendum 10-01), relating to Ordinance 10-730 for a rezoning of certain property south of the E. Road 3 1/2 North alignment and east of SR 89, from Commercial Light/Agricultural Residential 5 Acre Minimum (CL/AR-5) to Commercial Heavy (CH) for a "Campgrounds of America, Inc." KOA overnight RV parking area or substantially similar campground use, with or without cabins, shall be effective.

Yes	No
1,862	819

Section 8. That it is hereby found, determined and declared of record, that Proposition 401 (Referendum No. REF 10-01) did receive the majority of the total number of valid votes cast and Ordinance 10-730 hereby shall be effective.

Section 9. This resolution shall be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 24th day of May, 2011.

Jim Bunker
Jim Bunker, Mayor

ATTEST: *Janet C. Lewis*
Janet C. Lewis, Town Clerk

APPROVED AS TO FORM:
[Signature]
Musgrove Druitz & Kack, P.C.
Town Attorney

Resolution No. 11-959 May 24, 2011 Page 2

$$1,862/819 = 2.27:1$$

Appealing interpretation of UDO

- State law dictates appeal process

- ARS 9 -462.06 Board of Adjustment

- Board of Adjustment :
 - Cannot constitute a grant of special privileges
 - Cannot make any changes in permitted uses or terms of the ordinance
 - Cannot grant variance if self-imposed harm
 - Superior Court

Staff discretion vs. Public Hearing Process

Staff discretion

- 1) No hearing process
- 2) Minimal application fee (under \$100)
- 3) Quick decision
- 4) Work directly with applicant

Public Hearing Process (Council Approval)

- 1) Statutory notification requirements
- 2) Statutory hearings at P & Z and TC
- 3) \$400 plus advertising
- 4) 45-60 day process

Equal
Protection
means
everyone gets
treated the
same



3.15: Commercial Light –Temporary Uses first allowed in only.

Festivals and Temporary Uses

Because no list of uses can be complete, the interpretation of whether a use not specified is consistent with the intent of this zoning district and may be allowed as a Conditional Use or, where discretion is allowed, a permitted use shall be determined by the Zoning Administrator with appeal to the Board of Adjustments (Amended with Ord. 10-729/ Res. 10-933).

3.15.4 Temporary Uses (Temporary use Permit Required)

A. Temporary carnivals, circuses, revivals, rodeo, swap meets, outdoor retail sales, transient merchants, and similar activities as defined and regulated in Title XI Chapter III of the Town Code.

Applicability. The provisions of this subsection do not apply to garage sales or rummage sales.

B. Temporary Use Permit. A temporary use Permit shall be obtained from the Zoning Administrator in accordance with the following:

1. The Zoning Administrator shall ensure that health and safety are considered, and shall obtain the approval of the Yavapai County Health Department, the Fire District, and the Police Department prior to issuing the temporary use permit.
2. The Zoning Administrator shall ensure that land area is adequate for the proposed use and consequent parking, and shall ensure that traffic safety is considered.
3. The Zoning Administrator shall require any measures necessary to protect surrounding property.
4. A time limit shall be established for each use conducted under the temporary use permit. Unless otherwise previously approved by Council, the time limit shall not exceed fifteen (15) consecutive days.
5. Permanent structures shall not be permitted under a temporary use permit.

3.15.5 Property Development Standards

A. Minimum lot area 7,500 square feet.
All lots less than one (1) acre in size must be served by a water and/or sewage disposal system approved by the Town of Chino Valley (Amended with Ord. 10-729/ Res. 10-933).

B. Minimum lot frontage 50 feet

Additional requirements for Temporary Use Permits

- Approval by other agencies
- Adequate parking
- Required to mitigate impact
- NTE 15 consecutive days
- No permanent structures

Chapter 113: Festivals

§ 113.01 PURPOSE; DEFINITION.

(A) The purpose of this chapter is to aid and assist the town and its appropriate officers in enforcing the applicable provisions of A.R.S. Title 9 and Title 36. It is adopted pursuant to the authority of these provisions and A.R.S. § 9-240, as amended.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FESTIVAL. Music festivals and other activities calculated to attract large crowds, and includes any other activity, whether in the nature of a festival, celebration, fiesta, rally, dance, carnival, circus, revival meeting or similar activities, if the activity is designed, intended or reasonably calculated to attract 100 or more people at the same time and at the same place, whether the places be indoors or outdoors. This definition is not intended to include gatherings of whatever magnitude, duration or frequency if the gatherings are to be conducted both:

(a) At a place where permanently installed sanitation facilities available to the public at the intended location of the gathering are of adequate capacity for the number of persons for which the event is designed or intended; and

(b) Within a use district where the gatherings are within the legally established and authorized uses.

(2001 Code, § 8-5-1)

§ 113.02 LICENSE REQUIRED.

Any person wishing to operate, maintain or conduct a festival within the town must first obtain a license to do so. No license shall be issued, however, until all conditions required pursuant to this chapter have been met and fulfilled. The maximum number of people permitted at any 1 event will be set by the Parks and Recreation Director after the site where the event will take place is established and inspected.

(2001 Code, § 8-5-2)

§ 113.09 CONDITIONS.

(A) The Parks and Recreation Director shall establish conditions which must be met prior to the issuance of any license under this chapter, except that the Parks and Recreation Director may take a matter under advisement before determining which conditions shall be imposed. Where the Parks and Recreation Director takes a matter under advisement and a final decision is subsequently made, written notice of any conditions imposed as prerequisite to the issuance of a license must be mailed to the applicant.

(B) The conditions which may be imposed by the Parks and Recreation Director are as follows:

(1) *Police protection.* Every licensee may, at his or her own expense, be required to employ a number of patrolers or guards shall be approved by the Chief of Police and shall be responsible for the preservation of order to the extent that licensing may from time to time be required under state law. They must be in attendance and employment of off duty peace officers to meet the requirements of this chapter, the peace officers shall be under the command of the licensee. The number of private patrolers or guards will be provided at all times of operation before a license is issued. If a licensee employs a private patrol agency.

(2) *Water facilities.* Every licensee shall provide an ample supply of water for drinking and sanitation purposes. All water supply facilities must be approved by the county's Health Department prior to the issuance of a license. All water shall be dispensed by methods approved by that Department.

(3) *Food concessions.* In the case of any festival proposed to be held in areas located a substantial distance from a restaurant, food will be available at the premises for each day of operation to adequately feed the number of persons expected to attend. The quality and quantity of food and location of concessions must be approved by the county's Health Department.

(4) *Sanitation facilities.*

(a) Every licensee shall provide and maintain adequate toilet facilities pursuant to procedures established by the county's Health Department.

(b) Every licensee shall be required to furnish and maintain adequate trash cans pursuant to procedures established by the county's Health Department.

(5) *Medical facilities.* Where a proposed festival is planned for a site which is located a substantial distance from a medical treatment facilities on the premises. The location of the facilities, number and qualifications of medical and paramedic personnel and other equipment that must be on the site, must be approved by the county's Health Department prior to the issuance of a license. The county's Health Department shall calculate the need for medical services, based on the number of persons expected to attend and the possibility of exposure to inclement weather and outdoor elements.

(6) *Parking areas.* Every licensee shall provide adequate parking space for persons attending a festival in addition to the premises where the festival is to be conducted. Individual parking areas shall be clearly marked and comply with applicable fire code regulations. Planning and zoning will establish minimum parking for maximum occupancy. A license shall be issued before a license shall be issued.

(7) *Access and parking control.* Every licensee shall provide adequate ingress and egress to the premises and entranceways shall exist to insure orderly flow of traffic into the premises from a highway or road which is used by the public. If police must approve the licensee's plan for ingress and egress before a license shall be issued. Additional police officers may be required to insure traffic movement and relieve congestion in the vicinity of the festival area.

(8) *Hours of operation.* Every festival shall close and cease operation continuously between the hours of 11:00 p.m. and 5:00 a.m.

(9) *Illumination.* Every applicant for a license for a festival to be conducted during hours of darkness, or during inclement weather, shall be required to illuminate specific areas on the premises in accordance with the following scale of foot candles:

Open areas reserved for spectators	5 to 10 foot candles
Stage area	75 to 100 foot candles
Parking and overnight areas	1 to 5 foot candles
Restroom and concession areas	20 to 50 foot candles

(10) *Overnight camping facilities.* Every applicant intending to allow persons who attend the festival to remain overnight on the premises shall include the permission. Overnight camping shall be allowed only in officially approved areas.

(11) *Insurance.* At least 10 days prior to the scheduled beginning of the festival, the licensee shall provide evidence of insurance to the risk level of the event, for comprehensive liability with the licensee's policy including coverage for bodily injury and property damage. An additional insured on the policy. Further, the licensee's policy shall state that the licensee's insurance is primary over any other insurance.

(12) *Worker's compensation.* The licensee shall provide satisfactory evidence of worker's compensation insurance for all employees.

(13) *Indemnification.* The licensee shall hold the town harmless from and against any and all claims, judgments or attorney's fees arising out of the occurrence of any event related to the holding of the festival, including any such claims that are based upon the negligence of the town, it being the specific intent of the licensee to indemnify the town for any loss arising out of the occurrence of any event related to the holding of the festival, even if caused by the town's own negligence.

Conditions of Approval for Festivals



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Study Session

Item No. 3)

Meeting Date: 10/18/2016
Contact Person: Joe Duffy, Finance Director
Phone: 928-636-2646 x-1211
Department: Finance
Estimated length of Staff Presentation: 15 minutes
Physical location of item: N/A

Information

AGENDA ITEM TITLE:

Presentation regarding the Manufactured Home Sales Tax Rate in the Town of Chino Valley. (Joe Duffy, Finance Director)

SITUATION & ANALYSIS:

Section 4-1-457 of the Model City Tax Code addresses the tax treatment of manufactured housing.

The Town of Chino Valley has one of the highest sales tax rates for manufactured housing in the State of Arizona. This puts business that sell manufactured housing in Chino Valley at a competitive disadvantage.

David Roe, the General Manager of Clayton Homes would like to discuss the Town's sales tax rate for manufactured housing.

Staff has also prepared an analysis of the fiscal impact of reducing the tax rate for manufactured housing.

Attachments

Manufactured Homes



Manufactured Home Sales Tax Study Session

Finance Department

October 18, 2016

Yavapai County

Manufactured Home Tax Rate by Community

Effective September 1, 2016

Community	State Tax	County Tax	City/Town Tax	Total Tax	Difference
Chino Valley	5.60%	0.75%	4.00%	10.35%	
Prescott	5.60%	0.75%	2.00%	8.35%	2.00%
Prescott Valley	5.60%	0.75%	2.83%	9.18%	1.17%
Dewey-Humbolt	5.60%	0.75%	2.00%	8.35%	2.00%
Camp Verde	5.60%	0.75%	3.65%	10.00%	0.35%
Sedona	5.60%	0.75%	3.00%	9.35%	1.00%
Cottonwood	5.60%	0.75%	3.00%	9.35%	1.00%
Clarkdale	5.60%	0.75%	3.00%	9.35%	1.00%
Jerome	5.60%	0.75%	3.50%	9.85%	0.50%
Glendale	5.60%	0.70%	2.90%	9.20%	1.15%
Mesa	5.60%	0.70%	1.75%	8.05%	2.30%
Designates Competition for Chino Valley Manufactured Home Sellers					

Yavapai County

Manufactured Home Tax Rate Compared

				Sales Tax Impact		
Community	Total Tax	Difference	\$100,000	\$150,000	\$200,000	
Chino Valley	10.35%					
Prescott Valley	9.18%	1.17%	\$760.50	\$1,140.75	\$1,521.00	
Glendale	9.20%	1.15%	\$747.50	\$1,121.25	\$1,495.00	
Mesa	8.05%	2.30%	\$1,495.00	\$2,242.50	\$2,990.00	

Town of Chino Valley

Financial Impact of reducing Sales Tax Rate

	2014 Sales Tax Collections	2015 Sales Tax Collections	2016 Sales Tax Collections (Estimated)
Average Collections Rounded	\$ 93,000	\$ 111,000	\$ 111,000
1% Decrease	\$ 23,250	\$ 27,750	\$ 27,750
2% Decrease	\$ 46,500	\$ 55,500	\$ 55,500
Total Town Sales Tax Collection	\$ 4,976,331	\$ 5,147,141	\$ 5,438,500
% of Total Collections 1% Decrease	0.47%	0.54%	0.51%
% of Total Collections 2% Decrease	0.93%	1.08%	1.02%

Sales Tax Rate Change

Sec. 4-1-427 Manufactured Buildings Sales Tax Rate

Date	ARS	Action Item
October 18, 2016		Council Study Session
October 25, 2016		Council Approves posting of proposed rate change on website
November 10, 2016	9-499-15	Post proposed rate change on the home page of website 60 days prior to Council approval.
December 27, 2016	42-6054	Publish copy of ordinance and notice of public hearing 15 days prior to Council Meeting.
December 29, 2016		Submit proposed change to the DOR 60 days prior to the effective date of the change
January 10, 2017		Council Approves Rate Change
January 11, 2017	42-6053	Submit change to the DOR, MTCC, and League within 10 days of adoption by Council
March 1, 2017	42-6054	Effective Date of Rate Change