

Article 8 – 1 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS

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Section 8 – 1 – 1 License Required

It is unlawful for any peddler, solicitor, canvasser, transient merchant or itinerant vendor, as the same are defined in this article, to engage in such business within the corporate limits of the town without first obtaining a license therefore in compliance with the provisions of this article.

Section 8 – 1 – 2 Definitions

In this chapter, unless the context otherwise requires:

- A. “Canvasser or solicitor” means any person, corporate or individual, or firm, whether resident of the town or not, who travels, or whose agents travel, either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, from street to street or business to business, taking or attempting to take orders for sale of goods, wares and merchandise, edible foodstuffs, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether collecting advance payments on such sales or not; provided that such definition shall include any person or firm who, for him/herself or itself, or for another person or firm hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the town for the sole purpose of exhibiting samples and taking orders for future delivery.
- B. “Peddler” means any person, individual or corporate, or firm, whether a resident of the town or not, who travels, or whose agents travel, by foot, wagon, automobile or any other type of conveyance, from place to place, from house to house, from street to street or business to business, carrying, conveying or transporting goods, wares, merchandise, edible foodstuffs or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same from wagon, automobile vehicle, railroad car or other conveyance, and further provided, that persons or firms who solicit orders and as a separate transaction make delivery to purchasers as a part of the scheme of design to evade the provisions herein contained shall be deemed a peddler subject to the provisions herein contained. The word “peddler” shall include the words “hawker” and “huckster”.

- C. “Transient merchant”, “itinerant merchant” or “itinerant vendor” means any person, corporate or individual, or firm, whether owner or otherwise, whether a resident of the town or not, who engages, or whose agents engage, in a temporary business of selling and delivering goods, wares, merchandise, edibles foodstuffs or provisions, within the town, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the town for the exhibition and sale of such goods, wares, merchandise and edible foodstuffs, either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant or auctioneer.

Section 8 – 1 – 3 Exemptions From Article

- A. The following activities are exempt from the terms of this article:
1. Persons selling personal property at wholesale to dealers in such articles;
 2. Newsboys, students on school class projects, boy scouts, girl scouts or similar groups and organizations;
 3. Merchants or their employees in delivering goods in the regular course of business;
 4. Yards sales that occur no more than four times per year at the same address.
- B. Nothing contained in this article prohibits any sale required by statute or by order of any court or prevents any person from conducting a bona fide auction sale pursuant to law.

Section 8 – 1 – 4 Application for License and Permit

- A. Individual Applicants. Individual applicants for the permit and license under this article must comply with the licensing requirements of this article. An applicant shall supply the following information to the town manager’s office.
1. Name and description of the applicant; date of birth; social security number.
 2. Address (legal and local); state sales tax number.
 3. A brief description of the nature of the business and the goods to be sold.
 4. If employed, the name and address of the employer, together with evidence establishing the exact relationship.
 5. The length of time for which the right to do business is desired.
 6. If a vehicle is to be used, a description of the same, together with license number or other means of identification.
 7. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor – (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefore.

8. Applicants proposing to sell edible foodstuffs are subject to a certificate of health or sanitary examination and before any license is issued the applicant must produce such certificate or permit from the county health department as provided for in A.R.S. § 36-136.

B. Corporate or Firm Applicants. Corporate or firm applicants must furnish the following information upon duplicate applications sworn to by an appropriate officer of the firm or corporation authorized so to do:

1. Name of applicant; date of birth; social security number.
2. Address (legal and local); state sales tax number.
3. A brief description of the nature of the business and the goods, etc., to be sold.
4. The length of time for which the right to do business is desired.
5. If vehicles are to be used, the quantity and description of same, together with the license numbers or other means of identification.
6. A list of all the agents or representatives who will be operating within the town, including their addresses. In this connection, such firm or corporation shall furnish at the time of application the following information and material pertaining to such representatives or agents:
 - a. A statement as to whether each agent or representative has been convicted of any crime, misdemeanor (except minor traffic violations) or violation of any municipal laws, the nature of the offense and the punishment or penalty assessed therefor.
 - b. Applicants proposing to sell edible foodstuffs are subject to a certificate of health or sanitary examination and before any license is issued the applicant must produce such certificate or permit from the county health department as provided for in A.R.S. § 36-136.

C. No license issued hereunder shall be transferable, but corporate or firm licensees may change, substitute or alter the list of their agents or representatives furnished to the town manager's office at any time; provided, however, that for each newly named agent or representative on such list, the information and material required in subsection B, paragraph 6 of this section shall be furnished therewith.

Section 8 – 1 – 5 Investigation of Applicant for License and Permit; Issuance and Contents of License.

Upon receipt of such application, the town manager may cause such investigation of such person's business responsibility or moral character to be made as s/he deems necessary to the protection of the public good. If the town manager deems that such an investigation is necessary, and if, as a result of the investigation, the applicant's or his/her agents or representatives' business responsibility and character are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appears to be satisfactory, a license shall be issued by the town manager's office. The town manager's office shall keep a full record in his/her office of all licenses issued. Such license shall contain the number of the license, the date the same is issued, the nature of the

business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under such license and the name of the person authorized to carry on the same.

Section 8 – 1 – 6 Solicitation by Charitable, Religious, Patriotic or Philanthropic Organization

- A. Any organization, society, association, or corporation desiring to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise to persons other than members of such organization upon the streets, in office or business buildings, by house-to-house canvass or in public places for a charitable, religious, patriotic or philanthropic purpose exclusively shall be exempt from the provisions of Sections 8-1-1, 8-1-3 and 8-1-11 of this article; provided, there is filed a sworn application in writing on a form to be furnished by the town manager's office which shall give the following information:
1. Name and purpose of the cause for which the permit is sought.
 2. Period during which the solicitation is to be carried on.
 3. Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.
- B. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the town manager's office shall issue a permit without charge to such organization, association or corporation to solicit in the town. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitations identification cards stating the name of the organization, name of agent, and purpose of solicitation.

Section 8 – 1 – 7 License Fees

A license fee of twenty five dollars (\$25.00) per year or five dollars (\$5.00) per day if sales are to occur as part of a recognized town event shall be charged to each person licensed pursuant to this article. Such persons shall also be liable for the tax imposed by Article 8 A – 1 of this chapter.

Section 8 – 1 – 8 Posting of License

The license issued to the individual or corporate licensees hereunder shall be posted in a conspicuous place if such licensees are using a vehicle or building and in all cases shall be shown upon request.

Section 8 – 1 – 9 Location for Transaction of Business Regulated

- A. No licensee hereunder shall have any exclusive right to any location in the public right-of-way nor shall any peddler, solicitor or transient merchant be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer or town official, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- B. A fine of one hundred dollars (\$100.00) will be levied for the first infraction of this regulation, and a fine of five hundred dollars (\$500.00) for each subsequent infraction.

- C. Licensees participating in events sanctioned by the town are exempt from the regulations set forth in this section.

Section 8 – 1 – 10 Creation of Undue Noise Prohibited

No licensee nor any person in his/her behalf shall shout, make any outcry blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system, upon any of the streets, alleys, parks or other public places of the town or upon any private premises in the town for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell, where sound of sufficient volume is emitted or produced therefrom that is determined to be in violation of Chapter 10, Section 10 – 1 – 9 of this Code. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the sound is of sufficient volume to constitute such a violation.

Section 8 – 1 – 11 Enforcement of Article; Record of Licenses Issued and Violations Reported

It shall be the duty of any police officer of the town to enforce this article. The Marshal shall report to the town manager's office all convictions for violation of this article, and the town manager's office shall maintain a record for each license issued and record the reports of violations therein.

Section 8 – 1 – 12 Revocation of License and Permit

Permits and licenses issued under the provisions of this article may be revoked by the town manager's office after notice and hearing, for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for license.
- B. Fraud, misrepresentation or false statement made in the course of carrying on his/her business.
- C. Any violation of this chapter.
- D. Conviction of any crime involving moral turpitude.
- E. Conducting business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

Section 8 – 1 – 13 Appeal From Denial or Revocation of License

An appeal from denial or revocation of license shall be controlled by the provisions of Article 8A – 1 of this chapter, pertaining to appeal regarding business licenses.

Section 8 – 1 – 14 Peddling, etc. on Posted Premises or Refusal to Leave Premises Upon Request

It is unlawful for any peddler, solicitor, canvasser or transient merchant, their agents or representatives, to come upon any premises whereon a sign bearing the words "no peddlers" or "no canvassers" or "no solicitors" or any combination of such terms or terms similar thereto is exposed to public view or to remain on any premises after having been requested to leave by the owner or occupant thereof whether such premises are posted as specified above or not.

Article 8 – 2 BUSINESS LICENSE

- A. Chapter 8A of this Code prescribes the conditions, definitions, method of determining gross income, exclusions, exemptions, limitations, licensing and record keeping requirements, taxable activities, privilege taxes, administrative procedures, and regulations of this article unless otherwise set forth below.
- B. All persons, except as expressly exempted by this Chapter, desiring to engage in or continue in business activities within the town shall first make application to the tax collector for a business license on such form as the tax collector shall require, together with an application fee and first year's business license fee, in such amounts as the council may set by resolution. All business licensees shall thereafter comply with the provisions of Chapter 8A Patagonia Tax Code relating to transaction privilege taxes and Article 8 – 3, below, as may be applicable to that person.
- C. Such a person shall not engage in or continue in business until s/he has obtained a business license; and such license shall be renewable annually.
- D. It shall be a condition precedent to issuance of license that all provisions of this code, ordinances, Chapter 8A, and other state and local regulations and requirements affecting the public peace, health and safety be complied with in toto.
- E. A person engaged in or conducting taxable business in two or more established locations within the town shall be required to obtain a separate license for each location as required in Chapter 8A, except that for the business of leasing or renting the use or occupancy of real property, only one application for such property within the town shall be required; however, the applicant shall be required to list all such property by street address or other satisfactory identification of any such real property, clearly identified by location in each instance.

Article 8 – 3 OCCUPATIONAL – PROFESSIONAL LICENSE TAX

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Section 8 – 3 – 1 General Definitions

- A. “Average number of employees” means the average number of persons employed full time in the applicant’s business, where the applicant has a fixed place of business, for the three month period ending on the last day of the calendar quarter preceding the date of the application which average number is ascertained by determining the number of persons employed by the applicant on the business day nearest the fifteenth day of each month and dividing the sum thereof by three.
- B. “Business” includes all activities or acts including professions, trades and occupations, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect.
- C. “Engaged in business” means any business conducting business within the Town of Patagonia.
- D. “Gross sales volume” means the total values of all properties sold by a real estate agency.
- E. “Home occupation” shall mean any occupation or profession carried on by a member of a family, residing on the premises, and which is clearly incidental to the use of the structure for dwelling purposes and which does not change the exterior character of the premises in any way. There shall be no commodity sold upon the premises, nor shall such use generate pedestrian or vehicular traffic beyond that normal to the area in which it is located, and further there shall be no additional buildings or structures used in the conduct of the occupation or profession other than the residential dwelling.
- F. “Person” means an individual, firm, partnership, joint venture, association, agency, corporation, estate, trust, receiver, syndicate, broker, the federal government, this state, or any political subdivision or agency of this state.
- G. For the purposes of this article, a person shall be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.
- H. “Sale” means any transfer, of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, including consignment transactions and auctions, of property for a consideration. “Sale” includes any transaction whereby the possession of such property is transferred by the seller who retains the title as security for the payment of the price.
- I. “Sworn statement” means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under the penalty of perjury.
- J. “Tax collector” means the town manager, and if the position is vacant for any reason, the town clerk, and/or any designee or agent of the manager or clerk.
- K. “Town” means the Town of Patagonia, Arizona, in its present incorporated form or in any later reorganized, consolidated, salaried or re-incorporated form.

Section 8 – 3 – 2 Purpose and Effect of Article: Cumulative Remedies

- A. This article is enacted solely to raise revenue for municipal purposes, and is not intended for regulation.

- B. Persons required to obtain a Patagonia transaction privilege license for transacting and carrying on retail sales business in this town shall not be relieved from the payment of an occupations – professional license tax if such person is also engaged in activities or acts constituting professions, trades and occupations.
- C. All remedies prescribed by this article shall be cumulative and supplemental and the use of one (1) or more remedies by the town shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

Section 8 – 3 – 3 Effect of Article on Past Actions

Neither the adoption of this article nor its superseding of any portion of any other ordinance of the town shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date thereof, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited and all rights and obligations shall continue in full force and effect.

Section 8 – 3 – 4 Violations

Any person violating any of the provisions of this article shall be guilty of a misdemeanor.

Section 8 – 3 – 5 Persons Deemed Not Engaged in Business

- A. For the purposes of this section, the following definitions shall apply:
1. “Federally exempt organization” means an organization which has received a determination of exemption under 26 U.S.C. Section 501(c) and rules and regulations of the commissioner of internal revenue pertaining to same, but not including a “government entity”, “non-licensed business”, or “public education entity”.
 2. “Governmental entity” means the federal government, the State of Arizona, any other state, or any political subdivision, department, or agency of any of the foregoing: provided further that persons contracting with such a governmental entity to operate any part of the governmentally adopted and controlled program to provide urban
 3. Mass transportation shall be deemed a governmental entity in all activities such person performs when engaged in said contract.
 4. “Non-licensed business” means any person conducting any business activity for gain or profit, whether or not actually realized, which person is not required to be licensed for the conduct or transaction of activities subject to the tax imposed under this article.
 5. “Proprietary club” means any club which has qualified as an exempt club under the provisions of 26 U.S.C. Section 501(c)(7), (8) and (9) notwithstanding the fact that some of all of the members may own a proprietary interest in the property and assets of the club.
 6. “Public educational entity” means any educational entity operated pursuant to any provisions of Title 15, Arizona Revised Statutes.
- B. Nothing in this article shall be deemed or construed to apply to any person engaging in any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of Arizona from payment of such taxes as prescribed by this article. The

following will be exempted from payment of this tax:

1. Any entity defined in Section 8 – 3 – 5(A)(1) through (5).
 2. Individuals who engage in a home occupation as defined in Section 8 – 3 – 1(E).
- C. Any person claiming an exemption pursuant to this article shall file a sworn statement with the tax collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this article.
- D. The tax collector shall, upon proper showing contained in the sworn statement, file the sworn statement in lieu of issuing a license to such person claiming exemption under this article without payment to the town of the license tax required by this article. The tax collector, after giving notice and a reasonable opportunity for hearing to a person claiming exemption under this article, may revoke their exempt status upon information that the licensee is not entitled to the exemption as provided herein and collect such license fees as would be owing had no exemption been claimed.

Section 8 – 3 – 6 Constitutional Apportionment Provision

- A. None of the license taxes provided for by this article shall be so applied as to create an undue burden upon interstate commerce or be in violation of the equal protection and due process clauses of the constitutions of the United States and the State of Arizona.
- B. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be in violation of such constitutional clauses, the licensee or applicant may apply to the tax collector for an adjustment of the tax. Such application may be made before, at, or within six (6) months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, show the method of business and the gross volume or estimated gross volume of business and such other information as the tax collector may deem necessary in order to determine the extent, if any, of such undue burden or violations.
- C. The tax collector shall then conduct an investigation, and, after having first obtained the written approval of the town attorney, shall fix as the license tax for the applicant, an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the tax collector shall have the power to base the license tax upon a percentage of gross sales volume or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this article. Should the tax collector determine the gross sales volume measure of license tax to be the proper basis, the tax collector may require the applicant's business to provide a sworn statement of the gross sales volume and pay the amount of license tax therefore, provided that no additional license tax during any one (1) calendar year shall be required after the licensee shall have paid any amount equal to the annual license tax as prescribed in this article.

Section 8 – 3 – 7 Powers and Duties of The Tax Collector

- A. It is the duty of the tax collector to enforce the provisions of this article. The town marshal shall render such assistance in the enforcement of the provisions as may be required by the tax collector or the town council.

- B. The tax collector may examine or cause to be examined all places of business in the town to ascertain whether the provisions of this article have been complied with. The tax collector and his designee shall have the power and authority to insure each business has the applicable license posted in a conspicuous location. Any person having such license theretofore issued, who willfully fails to post the license, is guilty of a misdemeanor and subject to the penalties provided for by the provisions of this code, and the tax collector shall cause a complaint to be filed against any person found to be violating any provision herein.
- C. The tax collector may make rules, regulations or procedures which are ~~not~~ inconsistent with the provisions of this article and the Tax Code of the Town of Patagonia, Article 8A of this chapter as may be necessary in the enforcement of the provisions of this article.
- D. The tax collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding thirty (30) days, and in such case to waive any penalty that would otherwise have accrued.

Section 8 – 3 – 8 Imposition of License Tax; Evidence of Engaging in Business

- A. There is imposed upon any person engaging in business within the town, license taxes in the amounts prescribed by this chapter. No person shall engage in any business in the town without first having procured a license from the town and paying the tax prescribed or without complying with the applicable provisions of this article.
- B. This section shall not be construed to require any person to obtain a license prior to engaging in business within the town if such requirement conflicts with applicable statutes of the United States or of the state. Persons not so required to obtain a license prior to engaging in business within the town nevertheless shall be liable for payment of the tax imposed by this article.
- C. When any person shall by use of signs, circulars, cards, telephone book or newspapers, advertise, hold out, or represent that said person is engaged in business in the town, or when any person holds an active license or permit issued by a governmental agency for conducting business in the town, and such person fails to deny by a sworn statement given to the collector that business is not being conducted in the town, after being requested to do so by the collector, then these facts shall be considered prima facie evidence that business is being conducted in the town.

Section 8 – 3 – 9 Amount of License Tax; Time of Payments

- A. Every person engaging in business where the amount of the license tax to be paid is not measured by gross sales volume shall pay a license tax based on the average number of employees as follows:

Service Business:

<u>Average Number of Employees</u>	<u>Annual License Tax</u>
0 – 2	\$ 50.00
3 – 7	\$100.00
8 – 11	\$150.00
12 – 25	\$200.00
26 – 100	\$300.00
101 - 200	\$500.00

- B. In lieu of the license tax imposed by subsection (a) of this section, any real estate broker or agent shall pay a license tax based on the gross sales volume as follows:

Real Estate Brokers:

<u>Gross Sales Volume</u>	<u>Annual License Tax</u>
\$ 0 – 1,000,000	\$100.00
\$ 1,000,001 – 2,500,000	\$150.00
\$ 2, 500,001 – 5,000,000	\$200.00
\$ 5,000,001 – 7,500,000	\$250.00
\$ 7,500,001 – 10,000,000	\$300.00
\$10,000,001 – 20,000,000	\$500.00
\$20,000,001 – and over	\$1,000.00

- C. Unless otherwise specifically provided, all license taxes under the provisions of this article shall be paid in advance on an annual basis. In each renewal year, the taxes shall be due on or before the first business day of the month that the original license was issued.
- D. Recovery of taxes owed shall be limited to a maximum of the current license tax due plus the tax due for four prior years.

Section 8 – 3 – 10 Application for First License

- A. Upon a person making an application for the first license to be issued under this article for a newly established business, or home occupation exemption, such person shall furnish to the tax collector a sworn statement, upon a form provided by the tax collector, setting forth the following information:
1. The exact nature or kind of business for which a license is requested;
 2. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residence of the owners of same;
 3. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residences of those owning said business;
 4. In the event that the application is made for the issuance of a license to a corporation or a partnership, the application shall include the names and places of residences of the officers or partners thereof;
 5. In all cases where the amount of license tax to be paid is measured by the number of employees or gross sales volume, the application shall set forth such information as may be required and as may be necessary to determine the amount of the license tax to be paid by the applicant;
 6. Any further information which the tax collector may require to enable the issuance of a license applied for.
- B. It is a condition precedent to issuance of a license that the applicant furnish evidence of compliance with all applicable state and town laws, rules and regulations.

- C. If the amount of the license tax to be paid by the applicant is measured by gross sales volume, an estimate shall be made of the gross sales for the period to be covered by the license to be issued. Such estimate, if accepted by the tax collector as reasonable, shall be used in determining the amount of license tax to be paid by the applicant, provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within thirty days after the expiration of the period for which such license was issued, furnish the tax collector with a sworn statement, upon a form furnished by the tax collector, showing the gross sales during the period of such license, and the license tax for such person shall be finally ascertained and paid in the manner provided by this article for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due, the amount paid at the time such first license was issued.
- D. The tax collector shall not issue to any such person another license for the same or any other business, until such person shall be furnished a sworn statement and paid the license tax as required by this article.

Section 8 – 3 – 11 False Statements in Applications

No person shall knowingly or intentionally misrepresent to any officer or employee of the town any material fact in procuring a license under this article.

Section 8 – 3 – 12 Contents of License

Every person required to have a license under the provisions of this article shall make application as prescribed for the same to the tax collector, and upon the payment of the prescribed license tax, the tax collector shall issue to such person a license which shall contain the following information:

1. The name of the person to whom the license is issued.
2. The business licensed.
3. The place where such business is to be transacted and carried on.
4. The date of the expiration of such license.
5. Such other information as may be necessary for the enforcement of this article.

Section 8 – 3 – 13 Posting and Display of Licenses

Any licensee engaged in business at a fixed place of business in the town shall keep the license posted in a conspicuous place upon the premises where engaging in business.

Section 8 – 3 – 14 License Transferable at Tax Collector's Discretion

- A. No license issued pursuant to this article shall be transferable, provided that, where a license is issued authorizing a person to transact and carry on a business at a particular place, the tax collector may upon application authorize the ~~licenses~~ LICENSEE to engage in business under the same license at another location to which the business is to be moved. Provided further that transfer, whether by sale or otherwise, to another person under such circumstances creates ownership after the transfer that is substantially similar to the ownership existing before the transfer. For the purpose of this subsection, stockholders, bondholders, partnerships or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

- B. A separate license shall be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to engage in the business licensed thereby at the location or in the manner designated in such license. Warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this article shall not be deemed to be separate places of business or branch establishments.

Section 8 – 3 – 15 Renewal and Duplicate Licenses

- A. In all cases, the applicant for the renewal of a license shall submit to the tax collector, a sworn statement for ascertaining the amount of the license tax to be paid by the applicant, upon a form to be provided by the tax collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the tax collector to determine the amount of the license tax to be paid by said applicant pursuant to the provisions of this article.
- B. A duplicate license may be issued by the tax collector to replace any license previously issued which has been lost or destroyed upon the licensee filing a statement of such fact, and at the time of filing such statement of such fact, and at the time of filing such statement paying to the collector a duplicate license fee of ten dollars (\$10).

Section 8 – 3 – 16 Statements and Records; Failure to File

- A. No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the town from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the tax collector as may be necessary in order to verify or ascertain the amount of the license fee due.
- B. All persons subject to the provisions of this article shall keep complete records of business transactions, including sales, receipts, purchases, number of employees, and other expenditures, and shall retain all such records for examination by the tax collector. Such records shall be maintained for a period of at least four years. No person required to keep records under this section shall refuse to allow authorized representatives of the tax collector to examine said records at reasonable time and places.
- C. If any person fails to file any required statement within the time prescribed, or if after demand therefore made by the tax collector the person fails to file a corrected statement, or if any person subject to the tax imposed by this article fails to apply for a license, the tax collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain. If the tax collector is not satisfied with the information supplied in statements or applications filed, the amount of any license tax due may be determined by means of any available information.
- D. If such determination is made, the tax collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Patagonia, Arizona, postage prepaid, to the person's last known address. Such person may, within forty-five days after the mailing or serving of such notice, make application in writing to the tax collector for a hearing on the amount of the license tax. If such application is made, the tax collector shall cause the matter to be set for hearing within fifteen days.
- E. The tax collector shall give at least ten days notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The tax collector shall consider all evidence produced, and shall make findings thereon, which shall

be final. Notice of such findings shall be served upon the application in the manner prescribed above for serving notices of assessment.

Section 8 – 3 – 17 Confidentiality of Information

- A. It is unlawful for the tax collector or any person having an administrative duty under the provisions of this article to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a license, or pay a license tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses expenditures or any particular thereof, set forth in any statement except the original application, or to permit any statement, or copy of any statement, or any book containing any abstract or particulars thereof to be seen or examined by any person.
- B. The following exceptions allow for disclosure:
1. The town council may authorize an examination of any billing statement or audit of a specific taxpayer made pursuant to this chapter by authorized agents of the federal government, the state of Arizona, or any political subdivisions.
 2. The tax collector may provide to an Arizona county, city, or town any information concerning any taxes imposed in this chapter relative to the taxing ordinances of that county, city, or town.
 3. Successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees, if directly interested, may be given information by the tax collector as to the items included in the measure and amounts of any unpaid tax, interest, and penalties required to be paid.
 4. Upon a written direction by the town attorney or other legal advisor to the town designated by the town council, officials or employees of the town may divulge the amount and source of income, profits, leases, or expenditures disclosed in any return or report, and the amount of such delinquent and unpaid tax, penalty, or interest, to a private collection agency having a written collection agreement with the town.
 5. The tax collector may provide information to appropriate representatives of any Arizona city or town to comply with the provisions of A.R.S. § 42-6003 relating to the assessment and collection of multi-municipal taxes.
 6. The tax collector may provide information regarding the enforcement and collection of taxes imposed by this chapter to any governmental agency with which the town has an agreement.
 7. The disclosure of the names and addresses of persons to whom licenses have been issued, and the general type or nature of the business.
 8. The disclosure of general statistics regarding taxes collected or business done in the town.

Section 8 – 3 – 18 Delinquent Tax Penalties; Collection; Tax a Debt

- A. Any licensee who fails to renew his license or any applicant who fails to apply for his license on or before the renewal date provided in Section 8 – 3 – 9(C), shall be deemed to be operating without a license following such due date, and shall be subject to all penalties imposed under this article against persons required to be licensed and operating without a

license. The non-license status may be removed by payment of an annual license fee in the amount of one hundred fifty percent (150%) imposed under 8 – 3 – 9 (A) & (B).

- B. No license or symbol shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued to any person, who at the time of applying therefore, is indebted to the town for any delinquent license taxes, unless such person, with the consent of the tax collector, enters in to a written agreement with the town, through the tax collector, to pay such delinquent taxes, plus twelve percent simple annual interest upon the unpaid balance, in monthly installments, or more often, extending over a period of not to exceed one year. In any agreement so entered into, such person shall acknowledge the obligation owed to the town and agree that in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that the current license shall be revocable by the tax collector upon thirty days notice. In the event legal action is brought by the town to enforce collection of any amount included in the agreement, such person shall pay all costs of suit incurred by the town of its assignee, including a reasonable attorney's fee. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided by this article, but not penalties shall accrue on account of taxes included in the agreement, after the execution of the agreement, and the payment of the first installment and during such time as such person shall not be in breach of the agreement.
- C. The amount of any license tax interest and penalty imposed by the provisions of this article shall be deemed a debt to the town. An action may be commenced in the name of the town in any court of competent jurisdiction, for the amount of any delinquent license tax interest and penalties.

Section 8 – 3 – 19 Refund of Overpayments

No refund of an overpayment of taxes imposed by this article shall be allowed in whole or in part unless a claim for refund is filed with the tax collector within a period of six months from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of the overpayment shall be filed with the tax collector on forms furnished and in the manner prescribed by him. Upon the filing of such a claim, and when he determines that an overpayment has been made, the tax collector may refund the amount overpaid. Refunds will not exceed 48 months from the date of notification of said overpayment.

Section 8 – 3 – 20 Appeal From Decisions of The Tax Collector

- A. Any person aggrieved by any decision of the tax collector with respect to the amount assessed as a tax or who believes that any activities engaged in are not subject to the license tax required by this article shall pay the amount of such assessment or tax claimed due before the delinquent date and shall at the time give notice, in writing, to the tax collector that all or part of such payment is made under protest and shall in the notice be the grounds and reasons for such protest and that a certain part thereof or that the total sum is protested.
- B. Within thirty days after receipt of such protest, the tax collector shall reply, in writing, to the last known mailing address of the taxpayer stating whether the tax applied is to be changed as requested and giving reasons for the decision.
- C. If the taxpayer is dissatisfied, appropriate action in any court of competent jurisdiction within the State of Arizona may be taken to recover payments made under protest. Court action shall be taken within forty-five days after the tax collector has mailed a reply as required. Failure to take court action within the required forty-five day period shall make the protest null and void.

- D. If court action has been taken by the taxpayer, all subsequent payments due shall be paid on or before the due date. However, if each tax form is plainly marked “paid under protest”, such subsequent payment shall be treated as part of the original protest until such time as court remedies have been exhausted or the court action has been withdrawn by the taxpayer.

ARTICLE 8A TRANSACTION PRIVILEGE TAX

Article 8 A - 1 ADOPTION OF TAX CODE

That certain code entitled Tax Code of the Town of Patagonia adopted by Ordinance # 73, and all subsequent amendments thereto, is hereby made a part of this code the same as though said code was specifically set forth in full herein. At least three copies of said code shall be kept on file in the office of the town clerk/treasurer.