

AGENDA

TUSAYAN TOWN COUNCIL MUNICIPAL CODE WORKSHOP

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, May 7, 2014 at 5:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a Meeting and Municipal Code workshop open to the public on Wednesday, May 7, 2014 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager at (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

TOWN COUNCIL MUNICIPAL CODE WORKSHOP

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. ROLL CALL

MAYOR GREG BRYAN
VICE MAYOR AL MONTOYA

COUNCILMEMBER BILL FITZGERALD
COUNCILMEMBER JOHN RUETER
COUNCILMEMBER CRAIG SANDERSON

** One or two Councilmembers may attend by telephone*

3. DISCUSSION OF DRAFT LANGUAGE FOR THE TUSAYAN MUNICIPAL CODE

Chapter 9 – Business Regulations

4. MOTION TO ADJOURN

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this ____ day of May, 2014, at _____ pm in accordance with the statement filed by the Tusayan Town Council

Signature of person posting the agenda

CHAPTER 9
BUSINESS REGULATIONS
ARTICLE 9-1

BUSINESS LICENSES

- 9-1 Definitions
 - 9-1-1 Purpose
 - 9-1-2 Registration and License
 - 9-1-3 Issuance of Business License
 - 9-1-4 Payment
 - 9-1-5 Posting of Business License
 - 9-1-6 License not Transferable
 - 9-1-7 Fees
 - 9-1-8 Penalty
 - 9-1-9 Business License Revocation
 - 9-1-10 Revocation Compliance Procedure and Appeal

SECTION 9-1 DEFINITIONS

- A. "Business" means occupation, work, or trade in which a person is engaged; commercial, industrial, or professional dealings; the buying and selling of commodities; and any commercial store or factory. For the purposes of this article, "Business" also includes those property owners that offer for lease three (3) or more residential units and/or one (1) or more commercial unit(s) that are located within the incorporated limits of the Town of Tusayan.
- B. "Business Location" means the physical location (address) of the business location. If business location includes more than one parcel, all parcel numbers must be listed on the Application for Business License and receive a Zoning Clearance approval before a Business License will be issued.
- C. "Home Occupation" means an occupation, profession, activity or use located in a residential district, and which uses is merely incidental to the residential use and does not change the character of the neighborhood by externally detectable lighting, noise, odor, or appearance associated with the activity, and is created and operated as a sole proprietorship with no more than one non-residential employee. No storage or use of toxic materials and/or chemicals that are utilized in connection with a Home Occupation are permitted in a residential district.
- D. "Property Owner" means the legal owner of the land/parcel on which the business is conducted.
- E. "Occupier of Land" means a Business Owner that does not own the land/parcel on which the business is conducted.
- F. "Telecommuting" means working from home as an employee or employer by way of electronic transmission devices. Telecommuting does not require a Business License.
- G. "Toxic Materials/Chemicals" mean liquid, aerosol, or solid substances that are harmful, destructive, deadly, or poisonous to human, animal, or fowl.

SECTION 9-1-1 PURPOSE

The Council has determined that it is in the best interest of the public to maintain a list of business activities within the Town to provide contacts for emergency services, directories, compliance with zoning codes, building and fire codes, tax, and/or other ordinances and statutes.

SECTION 9-1-2 REGISTRATION AND LICENSE

It is unlawful for any person, firm, organization, corporation or other entity to engage in business within the corporate limits of the Town without first obtaining a Business License in compliance with the provisions of this chapter.

SECTION 9-1-3 ISSUANCE OF BUSINESS LICENSE

It is the duty of the Town Clerk to prepare and issue a Business License under this article for every person, firm, company, or corporation liable therefore; the period of time covered; the name of the person, firm or corporation for whom issued; the type of business; the location or place of business and verification of privilege tax license.

SECTION 9-1-3.1 CERTIFICATE OF COMPLIANCE

No operation of any new business, excluding Home Occupation or service businesses that do not have a permanent location, will be allowed or Business License issued within the limits of the Town without the issuance of a Certificate of Compliance from the Building Department. The Certificate of Compliance requires a physical inspection of the building to verify that the proposed business activity and building are in compliance with all zoning, building, and fire codes, as approved by the Building Official. Issuance of the Business License does not imply that the Town in any way regulates or warrants the manner in which the operator does business.

SECTION 9-1-4 PAYMENT

- A. All Business License fees shall be paid at the office of the Town Clerk.
- B. Business Licenses are issued for 12-month or 24-month periods. Annual renewal payments are due on the first day of the month in which the license was first issued. For example, renewal fees for License #000 issued on January 30, 2015 becomes due on January 1, 2016.
- C. The Business License and registration for all businesses which do not pay the required fees within thirty days of their due date will be cancelled. A new application and associated fees will be required to reinstate the Business License.
- D. A full fee shall be paid for each fee period.
- E. A separate Business License must be obtained for each branch established or separate place of business in which any business is carried on. If a business location includes more than one parcel, all parcel numbers must be listed on the Application for Business License. All parcels must receive Zoning Clearance approval before a Business License will be issued.

SECTION 9-1-5 POSTING OF CERTIFICATE

Every person, firm, company, or corporation, having a Business License under the provisions of this article, shall keep such Business License posted and exhibited, while in force, in some conspicuous part of the place of business. Every person having such Business License and not having a fixed place of business shall carry such Business License with him at all times while carrying on that business for which the same was granted. Every person, firm, company, or corporation having a Business License under the provisions of this article shall produce and exhibit the same whenever requested to do so by any officer authorized to issue, inspect, or collect by the Town.

SECTION 9-1-6 LICENSE NOT TRANSFERABLE

No Business License issued under the provisions of this article shall in any manner be assignable or transferable to any other person, firm, company, or corporation.

SECTION 9-1-7 FEES

All businesses liable shall pay a set fee as set forth by the Council by resolution. Fees are non-refundable and are not set on a pro rata basis.

SECTION 9-1-8 PENALTY

It is unlawful for any person to commence, transact, or carry on any business within the Town without first having obtained a license from the Town or to comply with all provisions of this Chapter. Violations shall be punishable under Chapter 1, Article 1-8 with each day that such business is practiced, transacted or carried on constituting a separate offense. It shall be the duty of any authorized personnel or officer of the Town to enforce the provisions of this chapter.

SECTION 9-1-9 BUSINESS LICENSE REVOCATION

Any business license issued under the provisions of this code may be revoked as provided in this section. Any of the following shall constitute grounds for revocation of a business license.

1. Revocation of any state, county or town license or permit that is required for the operation of business.
2. Conviction by a court of competent jurisdiction of the licensee or any of its owners, managers or employees and in the case of a corporation, any of its principal officers, directors and principal shareholders, of any felony of any violation of law or regulation related to the operation of the business for which the license is obtained under this chapter.
3. Adjudication in any civil action or administrative proceeding in any jurisdiction, that the licensee or any of its owners, managers or employees, and in the case of a corporation, its principal officers, directors or principal shareholders, are responsible for any violation of any law or regulation related to the operation of the business for which the license is obtained under this chapter.
4. The licensee is delinquent in payment of any privilege license taxes or use taxes owed to the town and has not, upon reasonable notice, made such payment together with any applicable interest and penalties.
5. The town manager's designee based upon reasonable information and belief finds that unlawful conduct by a minor or minors or adults has occurred at the business and that the licensee has failed to undertake adequate measures to prevent such unlawful conduct.
6. The town manager's designee finds that the licensee has made a false statement on or in connection with its license application.

The Town Manager's designee shall notify the applicant of the town's revocation of the license and the reasons therefor. The applicant may request a hearing in accordance with the provisions of this chapter on the revocation of license.

SECTION 9-1-10 REVOCATION COMPLIANCE PROCEDURE AND APPEAL

Following the town manager's designee's notice of revocation pursuant to subsection 9-1-9, the town clerk shall give the licensee notice by registered mail of the purported reason for the revocation. Within the next three (3) working days the licensee shall submit to the town clerk evidence that the revocation occurred in error. If the town clerk determines by a preponderance of all information presented, that there is a good and sufficient reason for revocation of the licensee's license, the town clerk shall enter an order revoking the license effective immediately and notify the licensee by registered mail.

Within five (5) days, excluding weekends and legal holidays, an applicant for a license or a licensee may appeal to the town manager, from either the refusal of the town clerk to issue a license under this chapter, or from the revocation of any license granted in accordance with this chapter. The licensee shall have the right to be represented by counsel at his or her own expense, to introduce witnesses on his or her behalf and at his or her own expense, and to have the testimony given at the hearing transcribed.

SECTION 9-2
PEDDLER'S/SOLICITOR'S LICENSE (2004-A280) (2008-A355)

- 9-1-1 Definitions
- 9-1-2 License Required
- 9-1-2.1 Exemptions
- 9-1-3 Applications
- 9-1-4 Licensing and Fees
- 9-1-5 Fees for Charitable, Religious or Civic Organizations (2010-A373)
- 9-1-6 License to be posted
- 9-1-7 Location Restrictions
- 9-1-8 Undue Noise Prohibited
- 9-1-9 Enforcement Provisions
- 9-1-10 Revocation
- 9-1-11 Signs to be Observed

SECTION 9-2-1 DEFINITIONS (2004-A280) (2008-A355)

In this article unless the context otherwise requires:

- A. "Canvasser or solicitor", "Peddler", "Transient Merchant" or "Itinerant Merchant/Vendor" means any person, whether a resident of the Town or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance from place to place, from house to house or from street to street carrying, conveying or transporting goods, wares, merchandise, including meats, fish or farm products or provisions, offering, exposing the same for sale or making sales and delivering articles to purchasers, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether such person is collecting advance payments on such sales or not, either privately or at public auction, provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location does not sell from stock but exhibits samples only for the purpose of securing orders and provided that such definition shall include any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad car, 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. It is further provided that a person who solicits orders and, as a separate transaction, makes delivery to purchasers as a part of the scheme or design to evade provisions of this chapter shall be deemed subject to the provisions herein contained either .
- B. "Special Event" includes the temporary sales and displays by street vendors, craft shows, fair booths, and similar operations usually associated with a special event or holiday.
- C. "Producer" includes owners, proprietors or tenants of agricultural lands, orchards, farms and gardens whereon food products are grown, raised, or prepared for market. "Food product" includes: every product of the soil in its natural or manufactured state, including, without limitation, beef and beef products; swine and pork products; fowls and poultry products; eggs and egg products; milk and milk products; honey, and lamb and sheep products.

SECTION 9-2-2 LICENSE REQUIRED

It is unlawful for any person to carry on any trade, profession, occupation or business within the town limits specified in this chapter, unless exempted, without having procured a license from the town. When a business may be classified under more than one trade, profession or occupation only one license is required. This article does not apply to participants of Town Events who have paid booth fees, OR garage sales, auctions, sidewalk sales, home-based party sales of items for personal use (Avon, Tupperware, etc.), student fund raising sales, and bake sales that occur less than four (4) times per year. This article also does not apply to licensed retail businesses that conduct occasional off-site sales events, such as car and recreational vehicle shows and home shows. However, off-site sales may require zoning clearance.

9-1-2.1 Exemptions

A person conducting the following shall be exempt from this chapter. (NOTE: FIREWORKS SALES ARE NOT EXEMPT FROM THIS CHAPTER.):

- a. Activities required by statute or by order of any court
- b. Bona fide auction sales pursuant to Arizona law
- c. Religious, political, or nonprofit organizations, as recognized by internal revenue service (must provide documentation)
- d. School and youth activities (i.e. boy scouts, girl scouts, church clubs, youth sports groups, etc.).
- e. Fund raising activities intended to provide financial assistance to the gravely ill, to assist the victims of crimes, disasters, or the less fortunate, for the construction of a community facility, etc.
- f. Governing agencies (federal, state, county, city or town)
- g. Outdoor sales or activities being conducted on a property directly related to the primary sales of a business located on the same property (though, activity shall be subject to zoning compliance)
- h. Any business or vendor that is participating in a community-wide special event activity that is sponsored by the town or a private (non-public) organization. However, a vendor who does not have a permanent Tusayan business license must obtain a temporary business license for special events pursuant to the town of Tusayan special event policy.
- i. Producer of farm products on agricultural lands, farms, and gardens
- j. Activities intended to increase public awareness of public programs.

SECTION 9-2-3 APPLICATIONS

- A. Applicants for a Peddler/Solicitor's License under this chapter must file with the clerk a sworn application in writing, on a form to be furnished by the Clerk, which shall give the following information:
 1. A current and valid driver's license or other form of state-issued identification that includes the applicant's name, description, and recent photograph..
 2. Complete address, physical and mailing of the peddler/solicitor
 3. A brief description of the nature of the business and the goods or services to be sold.
 4. Verification of a Transaction Privilege Tax License.
 5. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 6. The length of time for which the right to do business is desired. No Peddler/Solicitor's License shall be issued for a period longer than three (3) consecutive days.
 7. If a vehicle is to be used, a complete description, including make and model, license plate and number, vehicle identification number, and other identifying characteristics of all vehicles that will be used in the business. .
 8. A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor, or violation of any municipal laws and the nature of the offense and the punishment or penalty assessed therefore.
 9. If operating from a specific location (i.e. retail parking lot) and not door-to-door, original written and signed letter of consent from the property owner of record permitting the activity or event.
 10. Copies of any necessary health or other regulatory permits required by law.
- B. No license issued hereunder shall be transferable.

SECTION 9-2-4 LICENSING AND FEES

A. Fees

The license fees for peddlers, solicitors, canvassers, and transient merchants and the application fee provided in Section 9-2-3 shall be determined by resolution of the Council, BUT IS NO LESS THAN THE ACTUAL COSTS ASSOCIATED WITH A BACKGROUND CHECK. No fee shall be required of any person, agency, or agent selling products of the farm, soil, or orchard.

B. License

The applicant shall submit fingerprint(s) and all fees associated with the cost of a background check to law enforcement for a complete background check. The clerk shall forward a copy of the application to law enforcement. Law enforcement shall have ten (10) working days in which to respond with comments or concerns. Following a clean background investigation and payment of license fees, the clerk shall issue the peddler/solicitor's license for a period not to exceed three (3) days. The license shall be displayed with the peddler/solicitor at all times.

Peddler/solicitor's license may be issued to the same person(s) or organization no more than four (4) times in a one-year period.

SECTION 9-2-5 FEES FOR CHARITABLE, RELIGIOUS OR CIVIC ORGANIZATIONS

There shall be no fees assessed for the use of Town-owned facilities, grounds, or equipment by charitable*, religious, or civic organizations¹. It shall be the duty of the Clerk to determine if the organization making the application is a charitable, religious, or civic organization and that the individual making the application is a member of the organization. The Town Clerk is authorized to waive user fees only for these organizations based on Council policy. Fees are determined by Council Resolution on an annual basis. The determination by the Clerk may be appealed to the Town Manager, which may at his discretion decide such appeal or refer it to the Council.

SECTION 9-2-6 LICENSE TO BE POSTED

The license issued by the Clerk shall be posted in a conspicuous place if the licensee is using a vehicle or a building in his business and otherwise must be kept by the person and exhibited at any time upon request.

SECTION 9-2-7 LOCATION RESTRICTIONS

No peddler, canvasser, or transient merchant shall locate on the public street or property, and must have written permission of a property owner for private property in their possession and on file with the clerk's office. It is unlawful for any peddler, canvasser, or transient merchant to operate in any stationary location, to operate within three hundred feet of a public school ground, or to operate in any congested area where such operation might impede or inconvenience the public or cause traffic or parking hazards. The judgment of a law enforcement officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

SECTION 9-2-8 UNDUE NOISE PROHIBITED

No licensee, nor any person on the licensee's 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, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell upon any of the streets, alleys, parks or other public places of the Town or upon any private premises in the Town where sound of sufficient volume is emitted or produced that is capable of being plainly heard upon the public thoroughfares.

SECTION 9-2-9 ENFORCEMENT PROVISIONS

It shall be the duty of any law enforcement officer of the Town to enforce the provisions of this article.

SECTION 9-2-10 REVOCATION

The Clerk, after notice for any of the following causes, may revoke permits and licenses issued under the provisions of this chapter:

- 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 business;
- C. Any violation of this article;
- D. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public

* Charitable organizations must be recognized as tax-exempt by the internal revenue service. Documentation proving IRS exemption shall be presented at the time of the request to waive fees.

SECTION 9-2-11 SIGNS TO BE OBSERVED

It is unlawful for any peddler, solicitor, canvasser or transient merchant, in the course of his business to ring the doorbell or knock at any building whereon a sign bearing the words "No Peddlers," "No Solicitors," "No Canvassers," "No Transient Merchants," or a similar message is exposed to public view.