

ORDINANCE NO. 2021-12

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF TUSAYAN, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ON FILE WITH THE TOWN CLERK ENTITLED THE "TOWN OF TUSAYAN 2021 BUSINESS LICENSES AND REGULATIONS," BY REFERENCE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, that certain document entitled the "Town of Tusayan 2021 Business Licenses and Regulations," of which at least three paper copies or one paper copy and one electronic copy are on file in the Office of the Town Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the Town Clerk;

WHEREAS, the Mayor and Council of the Town of Tusayan, Arizona (the "Town Council") deem it necessary, in order to protect the public health, and safety, to adopt certain rules and regulations related to business license regulations and fees within the Town limits; and

WHEREAS, the Town Council finds that the proposed rules and regulations will further enable businesses to provide services to Town residents and provide fees for the equitable distribution of the cost of business licenses; and

WHEREAS, the Mayor and Council desire to regulate business licenses within the Town boundaries.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Tusayan, Arizona, as follows:

Section 1. The recitals set forth above are hereby incorporated as if fully set forth herein.

Section 2. The "Town of Tusayan 2021 Business Licenses and Regulations" as set forth in Exhibit A, are hereby adopted.


Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the "Town of Tusayan 2021 Business Licenses and Regulations" adopted herein is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.


THIS SIGNATURE PAGE BELONGS TO ORDINANCE NO. 2021-12

Section 5. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Tusayan, Arizona, this 14th day of November, 2021.




Clarinda Vail, Mayor

ATTEST:


Logan Keel, Town Clerk

APPROVED AS TO FORM:



Aaron D. Amson, Pierce Coleman PLLC
Town Attorney

Exhibit A
Town of Tusayan 2021 Business Licenses and Regulations

TOWN OF TUSAYAN 2021 BUSINESS LICENSES AND REGULATIONS

Chapter ___ - BUSINESS LICENSES GENERALLY

Sections:

1 - Definitions.

As used in this chapter:

"Address of record" means the physical address of the business as stated on the original town of Tusayan application for a business license, or another address if the town has been notified in writing by the business licensee.

"Business" means those activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage, either directly or indirectly; and shall include any trade, game or amusement, calling, profession, occupation, establishment, delivery of products or performance of services.

"Business license" or "license" means any license, permit or other privilege authorized or regulated by the town of Tusayan Municipal Code to transact business or conduct any other type of activity within the town limits of Tusayan, Arizona regardless of whether a fee has been paid or not.

"Commercial business" means businesses with physical locations in the commercial zones in the town.

"Conduct" means to commence, manage, own, solicit, canvass, practice, transact, engage in or carry on.

"Denial" means the town refuses to issue a business license to any entity or individual.

"Illegal activity" means an act determined by a court of competent jurisdiction to violate a municipal, state or federal criminal law.

"Interim license" means a temporary license issued by the town of Tusayan for the purpose of allowing a business entity to continue operating pending appeal of a suspension, revocation, or nonrenewal of a license.

"Licensee" means any business or person that holds a valid town of Tusayan business license and/or any person designated by the owner(s) or director(s) of a business holding a valid town of Tusayan business license as its/their designated representative.

"Nonrenewal" means the refusal of the town of Tusayan to renew a business license previously issued.

"Premises" means a specific address, or locality, including all appurtenant buildings and parking lots and land.

"Property management company" means the operation, control and oversight of real estate, either commercial or residential in nature.

"Rental agent" means a facilitator between a landlord and tenant for the rental of real estate, either commercial or residential in nature.

"Respondent" means an applicant for a new license, applicant for a license renewal, or a licensee who holds a license that the town intends to revoke or actually revokes who is appealing an adverse decision of the town clerk regarding issuance, nonrenewal or revocation of a license pursuant to Sections 3 and 4 of this chapter.

"Revocation" means the seizure of, or withdrawal of any business license previously issued.

"Suspension" means the temporary withdrawal or cessation of a business license after the town reasonably believes that the licensee has used the business license in connection with, or to further or assist, illegal activity as defined in this chapter.

"Town clerk" means the clerk or deputy clerk of the Town of Tusayan.

"Transient business" means businesses physically located outside of the town.

"Verification" means written or personal knowledge of the delivery of any written communication to any interested party.

"Working days" means Mondays through Fridays except town holidays.

2 - License required.

- A. It is unlawful for any person to conduct any trade, calling, profession, occupation or business without first having procured a license from the town for such purpose. All licenses shall be valid for one calendar year and expire on June 30 of the current calendar year. Multiple businesses at the same address require separate licenses for each business. A single business with multiple locations shall have separate licenses for each location.
- B. Licenses are not transferable. New owner(s) shall obtain a new license for the business within ten (10) working days of starting work. Change of business name or "doing business as" name (DBA) shall not require a new license if the registered owners do not change; however, the town clerk may designate an appropriate form to be used to document the

change of business name or DBA. Notice of change of business name or DBA shall be made within ten (10) working days of change.

- C. A business owner shall notify the town clerk of termination of the business within ten (10) working days of closure. A licensee is responsible for license renewal fees until the town clerk is notified of business termination.
- D. Every person seeking a business license shall complete an application and furnish the information requested by the town clerk. The town clerk may request any information deemed necessary to ensure public safety and the collection of license fees and sales taxes. Refusal to provide any requested information is grounds for denial of a license.
- E. Any mistake made by the town clerk in stating, fixing or collecting the amount of any license fee will not prevent, prejudice or stop the collection for the town of the amount actually due from anyone conducting any business in the town.
- F. No greater or less amount of money shall be charged or received for any license than is provided for in this chapter, and no license shall be issued for any period of time other than as provided in this chapter.

3 - Issuance of license—Denial or nonrenewal—Hearing.

- A. It is the duty of the town clerk or authorized assistant to prepare and issue a license for any person required to pay a license fee stating the amount, the period of time covered, the name of the business licensed and the location of the business. Revocation or denial of a license by the Arizona Registrar of Contractors shall be cause for denial of a Tusayan business license to a business regulated by the Arizona Registrar of Contractors.
- B. Upon receipt of an application, the town clerk shall complete an investigation within thirty (30) days. If the town clerk determines that the applicant is in compliance with all requirements of this chapter, a license shall be issued.
- C. If the town clerk determines that grounds exist for denial or nonrenewal of a license, the town clerk shall notify the applicant or licensee in writing of the intent to deny or not renew the license, including a summary of the grounds therefore. The notification shall be by certified mail to the address of record. In the event a license is denied or not renewed, the applicant or licensee shall have five working days from receipt of the written notice of denial or nonrenewal to petition the town clerk in writing, including a statement of reasons why the license should not be denied or should be renewed and requesting a hearing. If a response is not received by the town clerk in the time stated, the denial or nonrenewal shall be final and notice of such will be sent to the applicant or licensee. Within three working days after receipt of a response, the town clerk shall either withdraw the intent to deny or nonrenewal and so notify the respondent in writing by certified mail or shall schedule a hearing before the town manager or the town manager's delegate and shall notify the respondent in writing by certified mail of the date, time and place of the hearing. The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The rules of evidence shall not apply. The town manager shall issue a written decision within five working days after the completion of the hearing and shall mail a copy of the decision by certified mail to the address of the respondent on file with the town clerk. In no event shall more than thirty (30) days elapse between receipt by the town clerk of a request for a hearing and mailing by the town manager of the final decision to the

respondent. In the case of an intent to deny or nonrenewal of a license, the licensee may continue to conduct business under the license pending receipt of the final decision of the town manager. The decision shall be final at the end of five working days after it is mailed and shall constitute final administrative action.

4 - Revocation of license—Hearing.

- A. The town clerk shall revoke the license of any person upon the finding of any of the following:
1. False representation on the application;
 2. Failure to pay the license fee;
 3. Consent to the use of the license by another not issued or possessing a valid license;
 4. Discovery of the revocation of a license by another community due to criminal activities;
 5. Discovery of criminal activity associated with the use of the license issued by Tusayan;
 6. Receipt of an order to revoke a license(s) pursuant to the State Employer Sanctions Law (A.R.S. Section 23-211 et seq.).
 7. Failure to obtain licensing for the operation of the business from appropriate state of Arizona or Maricopa County authority, as required by law.
- B. If the town clerk determines that grounds exist for revocation of a license, the town clerk shall notify the licensee in writing of the intent to revoke, including a summary of the grounds therefor. The notification shall be by certified mail to the address of record with the town clerk, or hand delivered. Within five working days of receipt of such notice, the respondent may provide to the town clerk in writing a response which shall include a statement of reasons why the license should not be revoked and may include a request for a hearing. If a response is not received by the town clerk in the time stated, the revocation shall be final and notice of such will be sent to the licensee. Within three working days after receipt of a response, the town clerk shall either withdraw the intent to revoke, and so notify the respondent in writing by certified mail or shall schedule a hearing before the town manager or the town manager's delegate and shall notify the respondent in writing by certified mail of the date, time and place of the hearing. The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The rules of evidence shall not apply. The town manager shall issue a written decision within three working days after completion of the hearing and shall mail a copy of the decision by certified mail to the address of the respondent on file with the town clerk. In no event shall more than thirty (30) days elapse between receipt by the town clerk of a request for a hearing and mailing by the town manager of a final decision to the respondent. In the case of an intent to revoke a license, the licensee may continue to function under an interim license until appeals are exhausted. The decision shall be final at the end of five working days after it is mailed and shall constitute final administrative action.
- C. An interim license does not constitute permission to violate laws or cause a public nuisance. A business may be immediately closed if it constitutes an immediate threat or danger to public health and safety or property, in accordance with applicable building, fire, health

and safety regulations or as determined by the court. An interim license automatically expires upon the final decision of the town manager, except that if an action is brought in a court of competent jurisdiction then the interim license shall expire upon the court's entry of final judgment and shall be surrendered to the town clerk immediately.

- D. A revoked license may not be re-applied for until one year from the anniversary date of the revocation has expired.

5 - Payment.

Annual license fees set forth in this chapter shall be paid prior to issuance to the licensee.

6 - Expiration.

Licenses shall expire annually on June 30th.

5.04.070 - Exemptions.

The following businesses are not required to obtain a license:

1. Businesses physically located outside the town limits whose only contact within the town is: (a) the delivery of pre-ordered goods that do not require installation or (b) individual employees who reside or are located in the Town who telecommute or work remotely for the business.
2. Businesses that provide services to the town pursuant to a written contract.

7 - Schedule of fees.

The town council shall establish the fees for business licenses by resolution. The length of license shall be as follows:

#	FEE	LENGTH OF LICENSE	TYPE OF BUSINESS TO BE CONDUCTED
A.	\$10	One Calendar Year	Any permanent standard business being conducted within the Town limits of Tusayan with or without a fixed place of business including home occupations
B.	\$10	One Calendar Year	Any permanent standard business being conducted within the Town limits of Tusayan with a fixed place of business that serves and/or sells liquor
E.	\$10	Ongoing	Non-Profit Organizations; Newspaper Sales; Title Companies (Per State Statutes)

F.	\$10	As set forth by local or other law	Seasonal license for any standard business being conducted within the town limits of Tusayan with or without a fixed place of business including home occupations for not more than seven (7) months.
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8 - Failure to renew.

Any license that has lapsed more than thirty (30) days shall be issued a notice of pending closure. A license lapsed for more than sixty (60) days shall be closed and require a new license application.

9 - Fingerprint processing.

Each applicant who is required by this title to submit a full set of fingerprints to the town in connection with applying for or renewing a business license shall submit the fingerprints to the Arizona Department of Public Safety or the town clerk, and the Arizona Department of Public Safety shall use the fingerprints to obtain a state and federal criminal background check pursuant to Arizona Revised Statute 41-1750 and Public Law 92-544. The Arizona Department of Public Safety is authorized to exchange the fingerprint data with the Federal Bureau of Investigation.

10 - Violations; Penalties.

A. Except as otherwise provided in this chapter, any person found in violation of any provision of the Town's business license regulations shall first be issued a notice of violation and provided 30 days in which to correct the violation. If the violation is not corrected within the 30-day period, the violation shall be a civil offense and subject to civil penalties as a first offense in an amount not less than \$150.00 and not exceeding \$2,500.00. A second or subsequent violation within an 18-month period shall be a civil offense and subject to civil penalties in an amount not less than \$300.00 and not exceeding \$2,500.00 for a second offense, and not less than \$500.00 and not exceeding \$2,500.00 for a third and subsequent offense. Each day that a violation continues shall constitute a separate civil offense.

B. After having been found responsible for committing three or more civil offenses of the same code provision in any 24-month period, whether by admission, by payment of the fine, by default or by judgment after hearing, a person is a habitual offender and may be charged with a Class 1 misdemeanor. For purposes of calculating the 24-month period under this subsection, the dates of the commission of the offenses shall be used. Any person found guilty of a Class 1 misdemeanor under this subsection shall be punished by a fine of not less than \$500.00 nor more than \$2,500.00, exclusive of penalty assessments prescribed by law or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.