

ORDINANCE NO. 2019-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 3, BUSINESS REGULATIONS, CHAPTER 3-05, PRIVILEGE AND EXCISE TAXES, DIVISION 3-5-006, USE TAX, BY INCREASING THE USE TAX RATE FROM 1% TO 2.281%; PROVIDING FOR PENALTIES, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, the City Council has authority to levy a local use tax pursuant to A.R.S. § 42-6001 et seq; and

WHEREAS, the City desires to increase the local use tax rate from 1% to 2.281% for the purpose of raising revenue to help pay for expenses of the City, including its unfunded liability for police and fire fighter pensions;

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. In General.

The Flagstaff City Code, Title 3, Business Regulations, Chapter 3-05, Privilege and Excise Taxes, Division 3-05-006, Use Tax, is hereby amended by amending Section 3-05-006-0610 to read as follows (additions shown in bolded underlined text, and deletions shown as stricken):

3-05-006-0610 USE TAX: IMPOSITION OF TAX; PRESUMPTION

A. There is hereby levied and imposed, subject to all other provisions of this chapter, an excise tax on the storage or use in the City of tangible personal property, for the purpose of raising revenue to be used in defraying the necessary expenses of the City, such taxes to be collected by the Tax Collector.

B. The tax rate shall be at an amount equal to ~~one percent (1%)~~ **TWO AND TWO-HUNDRED AND EIGHTY-ONE THOUSANDTHS PERCENT (2.281%)** of the:

1. Cost of tangible personal property acquired from a retailer, upon every person storing or using such property in this City.
2. Gross income from the business activity upon every person meeting the requirements of Section 3-05-006-0620(B) or (C) who is engaged or continuing in the business activity of sales, rentals, leases, or licenses of tangible personal property to persons within the City for storage or use within the City, to the extent that tax has been collected upon such transaction.
3. Cost of the tangible personal property provided under the conditions of a

warranty, maintenance, or service contract.

4. Cost of complimentary items provided to patrons without itemized charge by a restaurant, hotel, or other business.

5. Reserved.

C. It shall be presumed that all tangible personal property acquired by any person who at the time of such acquisition resides in the City is acquired for storage or use in this City, until the contrary is established by the taxpayer.

D. Exclusions. For the purposes of this division, the acquisition of the following shall not be deemed to be the purchase, rental, lease, or license of tangible personal property for storage or use within the City:

1. Stocks, bonds, options, or other similar materials.

2. Lottery tickets or shares sold pursuant to A.R.S. Title 5, Chapter 5, Article I.

3. Platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by regulation.

E. Reserved.

F. Reserved.

SECTION 2. Penalties.

Any person convicted of a violation of this ordinance is guilty of a misdemeanor and shall be fined a sum not to exceed two thousand five hundred dollars (\$2,500.00) and may be sentenced to confinement in jail for a period not to exceed ninety (90) days for any one offense, all in accordance with the Flagstaff City Code Chapter 1-04. Any violation which is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.

SECTION 3. Repeal of Conflicting Ordinances.

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. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Effective Date.

This ordinance shall become effective thirty (30) days after adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 2nd day of July, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY