

ORDINANCE NO. 5478

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA RELATING TO TRANSACTION PRIVILEGE AND USE TAXES; AMENDING ARTICLE IV AND ARTICLE VI OF THE MESA CITY CODE TITLE 5, CHAPTER 10 (PRIVILEGE AND EXCISE TAXES) BY INCREASING THE RATE OF TAXATION IN CERTAIN SECTIONS FROM ONE AND THREE-FOURTHS PERCENT (1.75%) TO TWO PERCENT (2.00%) WITH THE FUNDS TO BE USED FOR THE SOLE PURPOSE OF FUNDING MESA POLICE AND MESA FIRE & MEDICAL SERVICES, PERSONNEL, EQUIPMENT, TRAINING AND RELATED COSTS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR A PRESERVATION OF RIGHTS AND DUTIES; PROVIDING FOR THE GRANDFATHERING OF CERTAIN TRANSACTIONS; PROVIDING FOR SEVERABILITY; EFFECT OF PROPOSITION 126 FROM THE NOVEMBER 6, 2018 GENERAL ELECTION; DESIGNATING THE EFFECTIVE DATE; AND DESIGNATING THE DATE THE TAX RATE INCREASE SHALL BE LEVIED.

WHEREAS, Section 602(A) of the Mesa City Charter provides the City Council with the power to levy a transaction privilege tax (commonly called sales tax), but such rate must be approved by a majority of the qualified electors voting on the question at a general or special election if the tax rate exceeds 1.00%;

WHEREAS, on May 7, 2018, the City found and determined that additional resources were necessary to fund public safety and approved Resolution No. 11131 to place on the November 6, 2018 general election ballot a question authorizing the City of Mesa to increase the City's transaction privilege (sales) tax, applicable to all taxable activities in the City of Mesa, by 0.25% from 1.75% to 2.00% beginning on March 1, 2019, for the sole purpose of funding Mesa Police and Mesa Fire & Medical services, personnel, equipment, training, and related costs ("Question Two");

WHEREAS, on July 2, 2018, the City Council approved Resolution No. 11185 that, amongst other things, designated the date and purposes of the general election at which Question Two would be voted upon by the electors;

WHEREAS, at the November 6, 2018 general election, the qualified electors of Mesa passed Question Two authorizing the tax rate increase;

WHEREAS, the Mesa City Code Title 5, Chapter 10 (Privilege and Excise Taxes) sets forth the codified tax rate on taxable activities in the City of Mesa;

WHEREAS, to codify and reflect the tax rate increase already approved by the qualified electors of Mesa under Question Two, Title 5, Chapter 10 of the Mesa City Code should be amended; and

WHEREAS, Section 210 of the Mesa City Charter requires acts of the City Council adopting or amending the Mesa City Code be done by ordinance.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1: SEC. 5-10-405 (ADVERTISING). The tax rate set forth in Section 5-10-405(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

(A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of local advertising by billboards, direct mail, radio, television, or by any other means. However, commission and fees retained by an advertising agency shall not be includable in gross income from local advertising. All delivery or disseminating of information directly to the public or any portion thereof for a consideration shall be considered "local advertising," except the following:

1. The advertising of a product or service which is sold or provided both within and without the State by more than one (1) "commonly designated business entity" within the State and in which the advertisement names either no "commonly designated business entity" within the State or more than one (1) "commonly designated business entity."

COMMONLY DESIGNATED BUSINESS ENTITY: Any person selling or providing any product or service to its customers under a common business name or style even though there may be more than one (1) legal entity conducting business functions using the same or substantially the same business name or style by virtue of a franchise, license, or similar agreement.

2. The advertising of a facility or of a service or activity in which neither the facility nor a business site carrying on such service or activity is located within the State.
3. The advertising of a product which may only be purchased from an out-of-State supplier.
4. Political advertising for United States Presidential and Vice Presidential candidates only.
5. Advertising by means of product purchase coupons redeemable at any retail establishment carrying such product, but not product coupons redeemable only at a single commonly designated business entity.
6. Advertising transportation services where a substantial portion of the transportation activity of the business entity advertised involves interstate or foreign carriage.

SECTION 2: SEC. 5-10-410 (AMUSEMENTS, EXHIBITIONS, AND SIMILAR ACTIVITIES). The tax rate set forth in Section 5-10-410(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of providing amusement that begins in the City or takes place entirely within the City, which includes the following type or nature of businesses:
1. Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, skating rinks, tennis courts, golf courses, video games, pinball machines, public dances, dance halls, sports events, jukeboxes, batting and driving ranges, animal rides, or any other business charging admission for exhibition, amusement, or entertainment.
 2. (Reserved)

SECTION 3: SEC. 5-10-415 (CONSTRUCTION CONTRACTING; CONSTRUCTION CONTRACTORS). The tax rate set forth in Section 5-10-415(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business upon every construction contractor engaging or continuing in the business activity of construction contracting within the City.
1. However, gross income from construction contracting shall not include charges related to groundwater-measuring devices required by A.R.S. §45-604.
 2. (Reserved)
 3. Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 5-10-427.
 4. For taxable periods beginning from and after July 1, 2008, the portion of gross proceeds of sales or gross income attributable to the actual direct costs of providing architectural or engineering services that are incorporated in a contract is not subject to tax under this Section. For the purposes of this Subsection, "direct costs" means the portion of the actual costs that are directly expended in providing architectural or engineering services.

SECTION 4: SEC. 5-10-416 (CONSTRUCTION CONTRACTING; SPECULATIVE BUILDERS). The tax rate set forth in Section 5-10-416(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax shall be equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in business as a speculative builder within the City.
1. The gross income of a speculative builder considered taxable shall include the total selling price from the sale of improved real property at the time of closing of escrow or transfer of title.
 2. IMPROVED REAL PROPERTY: Any real property:
 - (a) Upon which a structure has been constructed; or
 - (b) Where improvements have been made to land containing no structure (such as paving or landscaping); or
 - (c) Which has been reconstructed as provided by regulation; or
 - (d) Where water, power, and streets have been constructed to the property line.
 3. SALE OF IMPROVED REAL PROPERTY: Includes any form of transaction, whether characterized as a lease or otherwise, which in substance is a transfer of title of, or equitable ownership in, improved real property and includes any lease of the property for a term of thirty (30) years or more (with all options for renewal being included as a part of the term). In the case of multiple unit projects, "sale" refers to the sale of the entire project or to the sale of any individual parcel or unit.
 4. PARTIALLY IMPROVED RESIDENTIAL REAL PROPERTY: As used in this Section, means any improved real property as defined in Subsection (A)2 above being developed for sale to individual homeowners, where the construction of the residence upon such property is not substantially complete at the time of the sale.

SECTION 5: SEC. 5-10-417 (CONSTRUCTION CONTRACTING; OWNER-BUILDERS WHO ARE NOT SPECULATIVE BUILDERS). The tax rate set forth in Section 5-10-417(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) At the expiration of twenty-four (24) months after improvement to the property is substantially complete, the tax liability for an owner-builder who is not a speculative builder shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of:

1. The gross income from the activity of construction contracting upon the real property in question which was realized by those construction contractors to whom the owner-builder provided written declaration that they were not responsible for the taxes as prescribed in Subsection 5-10-415(C)2; and
2. The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

SECTION 6: SEC. 5-10-425 (JOB PRINTING). The tax rate set forth in Section 5-10-425(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of job printing, which includes engraving of printing plates, embossing, copying, micrographics, and photo reproduction.

SECTION 7: SEC. 5-10-427 (MANUFACTURED BUILDINGS). The tax rate set forth in Section 5-10-427(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income, including site preparation, moving to the site, and/or setup, upon every person engaging or continuing in the business activity of selling manufactured buildings within the City. Such business activity is deemed to occur at the business location of the seller where the purchaser first entered into the contract to purchase the manufactured building.

SECTION 8: SEC. 5-10-430 (TIMBERING AND OTHER EXTRACTION). The tax rate set forth in Section 5-10-430(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the following businesses:
1. Felling, producing, or preparing timber or any product of the forest for sale, profit, or commercial use.
 2. Extracting, refining, or producing any oil or natural gas for sale, profit, or commercial use.

SECTION 9: SEC. 5-10-435 (PUBLISHING AND PERIODICALS DISTRIBUTION). The tax rate set forth in Section 5-10-435(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~

TWO PERCENT (2.00%) of the gross income from the business activity upon every person engaging or continuing in the business activity of:

1. Publication of newspapers, magazines, or other periodicals when published within the City, measured by the gross income derived from notices, subscriptions, and local advertising as defined in Section 5-10-405. In cases where the location of publication is both within and without this State, gross income subject to the tax shall refer only to gross income derived from residents of this State or generated by permanent business locations within this State.
2. Distribution or delivery within the City of newspapers, magazines, or other periodicals not published within the City, measured by the gross income derived from subscriptions.

SECTION 10: SEC. 5-10-444 (HOTELS). The tax rate set forth in Section 5-10-444 of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of operating a hotel charging for lodging and/or lodging space furnished to any:

- (A) Person.
- (B) Exclusions. The tax imposed by this section shall not include:
 1. Income derived from incarcerating or detaining prisoners who are under the jurisdiction of the United States, this State or any other State or a political subdivision of this State or of any other State in a privately operated prison, jail or detention facility.
 2. Gross proceeds of sales or gross income that is properly included in another business activity under this article and that is taxable to the person engaged in that business activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.
 3. Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person not subject to tax under this article.
 4. Gross proceeds of sales or gross income from transactions or activities that are not limited to transients and that would not be taxable if engaged in by a person subject to taxation under Section 5-10-410 or Section 5-10-475 due to an exclusion, exemption or deduction.

5. Gross proceeds of sales or gross income from commissions received from a person providing services or property to the customers of the hotel. However, such commissions may be subject to tax under Section 5-10-445 or Section 5-10-450 as rental, leasing or licensing for use of real or tangible personal property.
6. Income from providing telephone, fax or Internet services to customers at an additional charge, that is separately stated to the customer and is separately maintained in the hotel's books and records. However, such gross proceeds of sales or gross income may be subject to tax under Section 5-10-470 as telecommunication services.

SECTION 11: SEC. 5-10-445 (RENTAL, LEASING, AND LICENSING FOR USE OF REAL PROPERTY). The tax rate set forth in Section 5-10-445(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of leasing or renting real property located within the City for a consideration to the tenant in actual possession or the licensing for use of real property to the final licensee located within the City for a consideration, including any improvements, rights, or interest in such property; provided further that:
1. Payments made by the lessee to, or on behalf of, the lessor for property taxes, repairs, or improvements are considered to be part of the taxable gross income.
 2. Charges for such items as telecommunications, utilities, pet fees, or maintenance are considered to be part of the taxable gross income.
 3. However, if the lessor engages in telecommunication activity, as evidenced by installing individual metering equipment and by billing each tenant based upon actual usage, such activity is taxable under Section 5-10-470.

SECTION 12: SEC. 5-10-450 (RENTAL, LEASING, AND LICENSING FOR USE OF TANGIBLE PERSONAL PROPERTY). The tax rate set forth in Section 5-10-450(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of leasing, licensing for use, or renting tangible personal property for a consideration, including that which is semi-permanently or permanently installed within the City as provided by regulation.

SECTION 13: SEC. 5-10-455 (RESTAURANTS AND BARS). The tax rate set forth in Section 5-10-455(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of preparing or serving food or beverage in a bar, cocktail lounge, restaurant, or similar establishment where articles of food or drink are prepared or served for consumption on or off the premises, including also the activity of catering. Cover charges and minimum charges must be included in the gross income of this business activity.

SECTION 14: SEC. 5-10-460 (RETAIL SALES; MEASURE OF TAX; BURDEN OF PROOF; EXCLUSIONS). The tax rate set forth in Section 5-10-460(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail.

SECTION 15: SEC. 5-10-470 (TELECOMMUNICATION SERVICES). The tax rate set forth in Section 5-10-470(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of providing telecommunication services to consumers within this City.

1. Telecommunication services shall include:

- (a) Two-way voice, sound, and/or video communication over a communications channel.
- (b) One-way voice, sound, and/or video transmission or relay over a communications channel.
- (c) Facsimile transmissions.
- (d) Providing relay or repeater service.
- (e) Providing computer interface services over a communications channel.
- (f) Time-sharing activities with a computer accomplished through the use of a communications channel.

2. Gross income from the business activity of providing telecommunication services to consumers within this City shall include:
 - (a) All fees for connection to a telecommunication system.
 - (b) Toll charges, charges for transmissions, and charges for other telecommunications services; provided that such charges relate to transmissions originating in the City and terminating in this State.
 - (c) Fees charged for access to or subscription to or membership in a telecommunication system or network.
 - (d) Charges for monitoring services relating to a security or burglar alarm system located within the City where such system transmits or receives signals or data over a communications channel.
 - (e) Charges for telephone, fax or Internet access services provided at an additional charge by a hotel business subject to taxation under Section 5-10-444.

SECTION 16: SEC. 5-10-475 (TRANSPORTING FOR HIRE). The tax rate set forth in Section 5-10-475 of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of providing the following forms of transportation for hire from this City to another point within the State:

- (A) Transporting of persons or property by railroad; provided, however, that the tax imposed by this Subsection shall not apply to transporting freight or property for hire by a railroad operating exclusively in this State if the transportation comprises a portion of a single shipment of freight or property, involving more than one (1) railroad, either from a point in this State to a point outside this State or from a point outside this State to a point in this State. For purposes of this paragraph, "a single shipment" means the transportation that begins at the point at which one of the railroads first takes possession of the freight or property and continues until the point at which one of the railroads relinquishes possession of the freight or property to a party other than one of the railroads.
- (B) Transporting of oil or natural or artificial gas through pipe or conduit.
- (C) Transporting of property by aircraft.
- (D) (Reserved)
- (E) (Reserved)

- (F) Deductions or Exemptions. The gross proceeds of sales or gross income derived from the following sources is exempt from the tax imposed by this section:
1. Income that is specifically included as the gross income of a business activity upon which another section of Article IV imposes a tax, that is separately stated to the customer and is taxable to the person engaged in that classification not to exceed consideration paid to the person conducting the activity.
 2. Income from arranging amusement or transportation when the amusement or transportation is conducted by another person not to exceed consideration paid to the amusement or transportation business.
- (G) The tax imposed by this section shall not include arranging transportation as a convenience to a person's customers if that person is not otherwise engaged in the business of transporting persons, freight or property for hire. This exception does not apply to businesses that dispatch vehicles pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the transportation is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting transportation charges from a person's customers on behalf of the persons providing the transportation.

SECTION 17: SEC. 5-10-480 (UTILITY SERVICES). The tax rate set forth in Section 5-10-480(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon every person engaging or continuing in the business of producing, providing, or furnishing utility services, including electricity, electric lights, current, power, gas (natural or artificial), or water to:
1. Consumers or ratepayers who reside within the City.
 2. Consumers or rate payers of this City, whether within the City or without, to the extent that this City provides such persons utility services, excluding consumers or rate payers who are residents of another city or town which levies an equivalent excise tax upon this City for providing such utility services to such persons.

SECTION 18: SEC. 5-10-485 (WASTEWATER REMOVAL SERVICES). The tax rate set forth in Section 5-10-485(A) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

- (A) The tax rate shall be an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the gross income from the business activity upon

every person engaging or continuing in the business of providing wastewater removal services by means of sewer lines or similar pipelines to:

1. Consumers or ratepayers who reside within the city.
2. Consumers or ratepayers of this city, whether within the city or without, to the extent that this city provides such persons wastewater removal services, excluding consumers or ratepayers who are residents of another city or town which levies an equivalent excise tax upon this city for providing such wastewater removal services to such persons.

SECTION 19: SEC. 5-10-610 (USE TAX; IMPOSITION OF TAX; PRESUMPTION). The tax rate set forth in Section 5-10-610(B) of the Mesa City Code is hereby amended as follows to increase the tax rate from one and three-fourths percent (1.75%) to two percent (2.00%):

(B) The tax rate shall be at an amount equal to ~~one and three-fourths percent (1.75%)~~ **TWO PERCENT (2.00%)** of the:

1. Cost of tangible personal property, except jet fuel, 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 Subsection 5-10 620(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. Cost of food consumed by the owner or by employees or agents of the owner of a restaurant or bar subject to the provisions of Section 5-10-455 of this Chapter.

SECTION 20: ADDITIONS AND DELETIONS. In the sections of this Ordinance that are intended to amend the Mesa City Code, additions to the Mesa City Code are written in text that is in **BOLD, ALL CAPS, AND UNDERLINED**, and deletions to the Mesa City Code are written in ~~strikethrough~~.

SECTION 21: RECITALS. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 22: PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

SECTION 23: PENALTIES. A violation of the provisions of this Ordinance is subject to the penalties and provisions set forth in Mesa City Code Title 5, Chapter 10 (Privilege and Excise Taxes), which includes, but is not limited to, Mesa City Code Section 5-10-580 (class one misdemeanor penalty for named unlawful activities) and Section 5-10-590 (allowing for liens and civil actions to recover tax).

SECTION 24: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a final order or judgment of any court of competent jurisdiction, such final order or judgment of the court shall not affect the validity of the remaining portions thereof.

SECTION 25: EFFECTIVE DATE. The provisions of this Ordinance shall become effective thirty (30) days after adoption by City Council.

SECTION 26: LEVY DATE. The tax rate increase authorized by this Ordinance shall be levied beginning on March 1, 2019.

SECTION 27: GRANDFATHERING. Notwithstanding any other provision of the Mesa City Code, the City shall tax at 1.75% all transactions creating transaction privilege or use tax liability under the Mesa City Code where the transaction is established under a written contract that was entered into and executed prior to March 1, 2019, and the contract is either silent about allocating increases in the transaction privilege and/or use tax among the parties to the contract or the contract establishes and allocates a fixed 1.75% tax rate. Contracts containing only general language, such as "plus applicable taxes," shall not qualify for grandfathering. This grandfathering of certain transactions lasts only so long as the term of the contract described above or until that contract is renegotiated between the parties, whichever occurs first.

SECTION 28: PROPOSITION 126. At the November 6, 2018 general election, the electors of the State of Arizona passed Proposition 126, "[a]mending Article IX of the Arizona Constitution by amending Section 6 and adding Section 25, and Amending Article XIII, Section 2, of the Arizona Constitution; prohibiting the taxation of any service that was not taxed as of December 31, 2017." To the extent a court of law determines in a final order or judgment that the 0.25% tax rate increase set forth in this Ordinance for any taxable business activity is not permitted pursuant to Proposition 126, then the 0.25% tax rate increase will no longer be effective against the taxable business activity and the City Tax Administrator is authorized to make such changes to the Mesa City Code and to take such administrative action as is necessary to reflect a return of the tax rate for the applicable taxable business activity to a tax rate of 1.75% in compliance with the requirements of such final court order or judgment.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 3rd day of December, 2018.



APPROVED:



Mayor

ATTEST:



City Clerk