ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLIAMS, ARIZONA AMENDING CHAPTER 4-4 PRIVILEGE TAXES OF THE WILLIAMS CITY TAX CODE RELATING TO THE PRIVILEGE TAX; IMPOSING A PENALTY FOR VIOLATION; REPEALING CONFLICTING ORDINANCES; INCLUDING SEVERABILITY AND PROVIDING FOR APPLICATION TO EXISTING CONTRACTS.

Be it ordained by the City Council of the City of Williams, as follows:

Section 1: Title 4, Chapter 4 of the City Tax Code is amended to read:

Article 4-400 - Imposition; Presumption

(a) There are hereby levied and imposed, subject to all other provisions of this Title, the following privilege taxes 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:

(1) A privilege tax upon persons on account of their business activities, to the extent provided elsewhere in this Chapter, to be measured by the gross income of persons, whether derived from residents of the City or not, or whether derived from within the City or from without.

(2) (Reserved)

(b) Taxes imposed by this Title are in addition to others. Except as specifically designated elsewhere in this Title, each of the taxes imposed by this Title shall be in addition to all other license, fees, and taxes levied by law, including other taxes imposed by this Title.

(c) Presumption. For the purpose of proper administration of the Title and to prevent evasion of the taxes imposed by this Title, it shall be presumed that all gross income is subject to the tax until the contrary is established by the taxpayer.

(d) Limitation of exemptions, deductions, and credits allowed against the measure of taxes imposed by this Title. All exemptions, deductions, and credits set forth in the Title shall be limited to the specific activity or transaction described and not extended to include any other activity or transaction subject to the tax. (Ord. 695 §1 (part), 1990)

Article 4-405 - Advertising

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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 "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 "commonly designated business entity." "Commonly designated business entity" means 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 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.

(b) (Reserved) (Ord. 695 §1 (part), 1990)

Article 4 -407 - (Reserved) (Ord. 695 §1 (part), 1990)

Article 4- 410 - Amusements, Exhibitions and Similar Activities

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) of the gross income from the business activity upon every person engaging or continuing in 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).

(b) 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) (Reserved)

(2) Amounts retained by the Arizona Exposition and State Fair Board from ride ticket sales at the annual Arizona State Fair.

(3) Income received from a hotel business subject to tax under Section 4-444, if all of the following apply:

(A) The hotel business receives gross income from a customer for the specific business activity otherwise subject to amusement tax.

(B) The consideration received by the hotel business is equal to or greater than the amount to be deducted under this subsection.

(C) The hotel business has provided an exemption certificate to the person engaging in business under this section.

(4) Income that is specifically included as the gross income of a business activity upon which another section of this article 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.

(5) Income from arranging transportation connected to amusement activity that is separately stated to the customer, not to exceed consideration paid to the transportation business.

(c) Tax imposed by this section shall not include arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement themselves or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. for the purposes of this paragraph, "arranging,' includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement. (Ord. 864 §3, 2006; Ord. 737 §1(§7), 1995: Ord. 695 §1 (part), 1990)

Article 4-415 - Construction Contracting: Construction Contractors

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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. Section 45-604.

(2) (Reserved).

(3) Gross income from construction contracting shall not include gross income from the sale of manufactured buildings taxable under Section 4-427.

(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.

(b) Deductions and Exemptions.

(1) Gross income derived from acting as a "subcontractor" shall be exempt from the tax imposed by this Section.

(2) All construction contracting gross income subject to the tax and not deductible herein shall be allowed a deduction of thirty-five percent (35%).

(3) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt form or deductible from privilege or use tax under:

(A) Article 4-465, subsections (g) and (p)

(B) (Reserved)

Shall be exempt or deductible, respectively, from the tax imposed by this Article.

(4) The gross proceeds of sales or gross income that is derived from a contract entered into for the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in Article 4-110, that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be deducted from the tax imposed by this Article. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "Permanent Attachment" means at least one of the following:

(A) to be incorporated into real property.

(B) to become so affixed to real property that it becomes part of the real property.

(C) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(5) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt form the tax imposed under this Article.

(6) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Article 4-465, subsection (g) shall be exempt from the tax imposed under this Article.

(7) The gross proceeds of sales or gross income that is derived form a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt form the tax imposed under this Article.

(8) The gross proceeds of sales or gross income received from a post construction contract to perform post-construction treatment of real property for termite and general pest control, including wood destroying organisms, shall be exempt from tax imposed under this Section.

(9) Through December 31, 2009, the gross proceeds of sales or gross income received from a contract for constructing any lake facility development in a commercial enhancement reuse district that is designated pursuant to A.R.S. §9-499.08 if the contractor maintains the following records in a form satisfactory to the Arizona Department of Revenue and to the City:

(A) The certificate of qualification of the lake facility development issued by the City pursuant to A.R.S. §9-499.08, subsection D.

(B) All state and local transaction privilege tax returns for the period of time during which the contractor received gross proceeds of sales or gross income from a contract to construct a lake facility development in a designated commercial enhancement reuse district, showing the amount exempted from state and local taxation.

(C) Any other information considered to be necessary.

(10) Development or impact fees included in a construction or development contract for payment to the state or local government to offset governmental costs of providing public infrastructure, public safety and other public services to a development.

(11) For taxable periods beginning from and after July 1, 2008 AND ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(c) "Subcontractor" means a construction contractor performing work for either:

(1) A construction contractor who has provided the subcontractor with a written declaration that he is liable for the tax for the project and has provided the subcontractor his City privilege license number;

(2) An owner-builder who has provided the subcontractor with a written declaration that:

(A) The owner-builder is improving the property for sale; and

(B) The owner-builder is liable for the tax for such construction contracting activity; and

(C) The owner-builder has provided the contractor his City privilege license number.

(3) A person selling new manufactured buildings who has provided the subcontractor with a written declaration that he is liable for the tax for the site preparation and set-up; and provided the subcontractor his City privilege license number. Subcontractor also includes a construction contractor performing work for another subcontractor as defined above. (Ord. 894 §2, 2008; Ord. 864 §4, 2006; Ord. 797 §2, 1999; Ord. 737 §1(§8), 1995: Ord. 695 §1 (part), 1990)

Article 4-416 - Construction Contracting: Speculative Builders

(a) The tax shall be equal to three and one half percent (3.5%) 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 escrow or transfer of title.

(2) "Improved real property" means 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 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 Article, 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.

(b) Exclusions.

(1) In cases involving reconstruction contracting, the speculative builder may exclude from gross income the prior value allowed for reconstruction contracting in determining his taxable gross income, as provided by Regulation.

(2) Neither the cost nor the fair market value of the land which constitutes part of the improved real property sold may be excluded or deducted from gross income subject to the tax imposed by this Article.

(3) (Reserved)

(4) A speculative builder may exclude gross income from the sale of partially improved residential real property as defined in (a)(4) above to another speculative builder only if all of the following conditions are satisfied:

(A) The speculative builder purchasing the partially improved residential real property has both a valid City and valid State Privilege License for construction contracting as a speculative builder; and

(B) At the time of the transaction, the purchaser provides the seller with a properly completed declaration that the purchaser assumes liability for and will pay all privilege taxes which would otherwise be due the City and the State at the time of sale of the partially improved residential real property; and

(C) The seller also:

(i) Maintains proper records of such transactions in a manner similar to the requirements provided in this Title relating to sales for resale; and

(ii) Retains a copy of the written declaration provided by the buyer for the transaction; and

(iii) Is properly licensed with the City as a speculative builder and provides the City with the written declaration attached to the City Privilege Tax Return where he claims the exclusion.

(5) 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.

(c) Tax liability for speculative builders occurs at close of escrow or transfer of title, whichever occurs earlier, and is subject to the following provisions relating to exemptions, deductions and tax credits.

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:
(i) section 4-465, subsections (g) and (p)
(ii) (reserved)

shall be exempt or deductible, respectively, from the tax imposed by this section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 4-465, subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this section.

(E) Development or impact fees included in a construction or development contract for payment to the state or local government to offset governmental costs of providing public infrastructure, public safety and other public services to a development.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in section 4-110, that does not become a permanent

attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be deducted from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city, as applicable, for examination.

(3) Tax Credits. The following tax credits are available to owner-builders or speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

(A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of privilege taxes paid to this town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported. (Ord. 894 §3, 2008; Ord. 864 §5, 2006; Ord. 797 §3, 1999; Ord. 695 §1 (part), 1990)

<u>Article 4-417 - Construction Contracting: Owner-Builders</u>

(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 three and one half percent (3.5%) 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 4-415 (c) (2); and

(2) The purchase of tangible personal property for incorporation into any improvement to real property, computed on the sales price.

(b) 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.

(c) The tax liability of this Article is subject to the following provisions relating to exemptions, deductions and tax credits.

(1) Exemptions.

(A) The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from privilege or use tax under:

(i) Section 4-465, Subsections (g) and (p)

(ii) (Reserved)

Shall be exempt or deductible, respectively, from the tax imposed by this section.

(B) The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, or cooling and packaging of eggs shall be exempt from the tax imposed under this section.

(C) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to Section 4-465, Subsection (g) shall be exempt from the tax imposed under this section.

(D) The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the construction, alteration, repair, improvement, movement, wrecking or demolition or addition to or subtraction from any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent,

monitor, control or reduce air, water or land pollution shall be exempt from the tax imposed under this section.

(E) Development or impact fees included in a construction or development contract for payment to the state or local government to offset governmental costs of providing public infrastructure, public safety and other public services to a development.

(2) Deductions.

(A) All amounts subject to the tax shall be allowed a deduction in the amount of thirty-five percent (35%).

(B) The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of income-producing capital equipment, as defined in section 4-110, that does not become a permanent attachment to a building, highway, road, railroad, excavation or manufactured building or other structure, project, development or improvement shall be deducted from the tax imposed by this section. If the ownership of the realty is separate from the ownership of the income-producing capital equipment, the determination as to permanent attachment shall be made as if the ownership was the same. The deduction provided in this paragraph does not include gross proceeds of sales or gross income from that portion of any contracting activity which consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of the income-producing capital equipment. For purposes of this paragraph, "permanent attachment" means at least one of the following:

(i) to be incorporated into real property.

(ii) to become so affixed to real property that it becomes part of the real property.

(iii) to be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

(C) For taxable periods beginning from and after July 1, 2008, and ending before January 1, 2011, the gross proceeds of sales or gross income derived from a contract to provide and install a solar energy device. The contractor shall register with the department of revenue as a solar energy contractor. By registering, the contractor acknowledges that it will make its books and records relating to sales of solar energy devices available to the department of revenue and the city. as applicable, for examination.

(3) Tax Credits.

The following tax credits are available to owner-builders and speculative builders, not to exceed the tax liability against which such credits apply, provided such credits are documented to the satisfaction of the tax collector:

(A) A tax credit equal to the amount of town privilege or use tax, or the equivalent excise tax, paid directly to a taxing jurisdiction or as a separately itemized charge paid directly to the vendor with respect to the tangible personal property incorporated into the said structure or

improvement to real property undertaken by the owner-builder or speculative builder.

(B) A tax credit equal to the amount of privilege taxes paid to this town, or charged separately to the speculative builder, by a construction contractor, on the gross income derived by said person from the construction of any improvement to the real property.

(C) No credits provided herein may be claimed until such time that the gross income against which said credits apply is reported.

(c) The limitation period for the assessment of taxes imposed by this Article is measured based upon when such liability is reportable, that is, in the reporting period that encompasses the twenty-fifth (25th) month after said unit or project was substantially complete. Interest and penalties as provided in Article 4-5.40 will be based on reportable date.

(d) (Reserved) (Ord. 894 §4, 2008; Ord. 864 §6, 2006; Ord. 797 §4, 1999; Ord. 695 §1 (part), 1990)

Article 4-418 - (Reserved) (Ord. 797 §5, 1999; Ord. 695 §1 (part), 1990)

Article 4-420 - (Reserved) (Ord. 695 §1 (part), 1990)

Article 4-425 - Job Printing

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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.

(b) The tax imposed by this Section shall not apply to:

(1) Job printing purchased for the purpose of resale by the purchaser in the form supplied by the job printer;

(2) Out-of-City sales;

(3) Out-of-State sales;

(4) (Reserved);

(5) Sales of job printing to a qualifying hospital, qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512;

(6) (Reserved). (Ord. 782 §4, 1998; Ord. 737 §1(§9), 1995: Ord. 695 §1 (part), 1990)

Article 4-427 - Manufactured Buildings

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) of the gross income, including site preparation, moving to the site, and/or set-up,

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.

(b) The sale of used manufactured buildings are not taxable.

(c) The sales price of furniture, furnishings, fixtures, appliances and attachments that are not incorporated as component parts of or attached to a manufactured building are exempt from the tax imposed by this Section. The sale of such items are subject to the tax under Section 4-460.

(d) Under this Section, a trade-in will not be allowed for the purpose of reducing the tax liability. (Ord. 737 §1(§10), 1995)

Article 4-430 - Timbering and Other Extraction

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product extracted, refined, produced or prepared for sale, profit or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.

(c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section.

(d) (Reserved). (Ord. 737 §1(§11), 1995: Ord. 695 §1 (part), 1990)

Article 4-432 - Mining

(a) The tax rate shall be at an amount equal to one-tenth of one percent (.1%), not to exceed one-tenth of one percent, of the gross income from the business activity upon every person engaging or continuing in the business of mining, smelting or producing for sale, profit or commercial use any copper, gold, silver or other mineral product, compound or combination of mineral products; but not including the extraction, removal or production of sand, gravel or rock from the ground for sale, profit or commercial use.

(b) The rate specified in subsection (a) above shall be applied to the value of the entire product mined, smelted or produced for sale, profit or commercial use, when such activity occurs within the City, regardless of the place of sale of the product or the fact that delivery may be made to a point without the City or without the State.

(c) If any person engaging in any business classified in this Section ships or transports products, or any part thereof, out of the State without making sale of such products, or ships his products outside of the State in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out-of-State and before they enter interstate commerce shall be the basis for assessment of the tax imposed by this Section. (Ord. 737 §1(§12), 1995)

Article 4-435 - Publishing and Periodicals Distribution

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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 Article 4-405. 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.

(b) "Location of publication" is determined by:

(1) Location of the editorial offices of the publisher, when the physical printing is not performed by the publisher; or

(2) Location of either the editorial offices or the printing facilities, if the publisher performs his own physical printing.

(c) "Subscription income" shall include all circulation revenue of the publisher except amounts retained by or credited to carriers or other vendors as compensation for delivery within the State by such carriers or vendor, and further except sales of published items, directly or through distributors, for the purpose of resale, to retailers subject to the privilege tax on such resale.

(d) "Circulation" for the purpose of measurement of gross income subject to the tax shall be considered to occur at the place of delivery of the published items to the subscriber or intended reader irrespective of the location of the physical facilities or personnel of the publisher. However, delivery by the United States Mail shall be considered to have occurred at the location of publication.

(e) Allocation of Taxes Between Cities and Towns. In cases where publication or distribution occurs in more than one City or Town, the measurement of gross income subject to tax by the City shall include:

(1) That portion of the gross income from publication which reflects the ratio of circulation within this City to circulation in all incorporated cities and towns in this State having substantially similar provisions; plus

(2) Only when publication occurs within the City, that portion of the remaining gross income from publication which reflects the ratio of circulation within this City to the total circulation of all incorporated cities or towns in this State within which cities the taxpayer maintains a location of publication.

(f) The tax imposed by this Article shall not apply to sales of newspapers, magazines or other periodicals to a qualifying hospital, a qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512. (Ord. 782 §5), 1998; Ord. 695 §l (part), 1990)

Article 4-440 - (Reserved) (Ord. 695 §1 (part), 1990)

Article 4-444 - Hotels, Motels and Campgrounds

(a) In lieu of any other privilege and transaction tax imposed by the City of Williams, the tax rate shall be in an amount equal to four and one-half percent (4.50%) of the gross income from the business activity upon every person engaging or continuing in the business of operation of a hotel, motel charging for lodging and/or other facility charging for lodging space and/or tent space and recreational vehicle space furnished to any 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, jailor 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 4-410 or Section 4-475 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 4-445 or Section 4-450 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 4-470 as telecommunication services. (Ord. 864 §7, 2006; Ord. 841 §1, 2004; Ord. 797 §6, 1999; Ord. 779 §1, 1998)

Article 4-445 - Rental, Leasing and Licensing for Use of Real Property

(a) The tax rate shall be at an amount equal to three percent (3%) 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 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 4-470.

(b) If individual utility meters have been installed for each tenant and the lessor separately charges each single tenant for the exact billing from the utility company, such charges are exempt.

(c) Charges by qualifying hospital, qualifying community health center or a qualifying health care organization to patients such facilities for use of rooms or other real property during the course of their treatment by such facilities are exempt.

(d) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services are exempt from the tax imposed by this Section.

(e) (Reserved)

(f) A person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces rented, leased or licensed or available for rent, lease, or license within the State and no units of commercial property for rent, lease, or license within the State, is not deemed to be in the rental business, and is therefore exempt from the tax imposed by this Section on such income. However, a person who has one (1) or more units of commercial property is subject to the tax imposed by this Section on rental, lease and license income from all such lodging spaces and commercial units of real estate even though said person may have fewer than three (3) lodging spaces.

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) Exempt from the tax imposed by this Section is gross income derived from the activities taxable under Section 4-444 of this Code.

(k) (Reserved)

(1) (Reserved)

(m) (Reserved)

(n) Notwithstanding the provisions of Section 4-200(b), the fair market value of one (1) apartment, in an apartment complex provided rent free to an employee of the apartment complex is not subject to the tax imposed by this Section. For an apartment complex with more than fifty (50) units, an additional apartment provided rent free to an employee for every additional fifty (50) units is not subject to the tax imposed by this Section.

(o) 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 is exempt from the tax imposed by this Section.

(p) Charges by any hospital, any licensed nursing care institution, or any kidney dialysis facility to patients of such facilities for the use of rooms or other real property during the course of their treatment by such facilities are exempt.

(q) Charges to patients receiving “personal care” or “directed care”, by any licensed assisted living facility, licensed assisted living center or licensed assisted living home as defined and licensed pursuant to Chapter 4 Title 36 Arizona Revised Statutes and Title 9 of the Arizona Administrative Code are exempt.

(r) Income received from the rental of any “low-income unit” as established under Section 42 of the Internal Revenue Code, including the low-income housing credit provided by IRC Section 42, to the extent that the collection of tax on rental income causes the “gross rent” defined by IRC Section 42 to exceed the income limitation for the low-income unit is exempt. This exemption also applies to

income received from the rental of individual rental units subject to statutory or regulatory "low-income unit" rent restrictions similar to IRC Section 42 to the extent that the collection of tax from the tenant causes the rental receipts to exceed a rent restriction for the low-income unit. This subsection also applies to rent received by a person other than the owner or lessor of the low-income unit, including a broker. This subsection does not apply unless a taxpayer maintains the documentation to support the qualification of a unit as a low-income unit, the "gross rent" limitation for the unit and the rent received from that unit. (Ord. 856 §1, 2006: Ord. 797 §7, 1999; Ord. 782 §6), 1998; Ord. 737 §1 (§13), 1995: Ord. 722 §1, 1994: Ord. 695 §1 (part), 1990)

Article 4-446 - Reserved (Ord. 695 §1 (part), 1990)

Article 4-447 - Reserved (Ord. 695 §1 (part), 1990)

Article 4-450 - Rental, Leasing and Licensing for Use of Tangible Personal Property

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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.

(b) Special Provisions Relating to Long-Term Motor Vehicle Leases. A lease transaction involving a motor vehicle for a minimum period of twenty-four (24) months shall be considered to have occurred at the location of the motor vehicle dealership, rather than the location of the place of business of the lessor, even if the lessor's interest in the lease and its proceeds are sold, transferred or otherwise assigned to a lease financing institution; provided further, that the city or town where such motor vehicle dealership is located levies a privilege tax or an equivalent excise tax upon the transaction.

(c) Gross income derived from the following transactions shall be exempt from privilege taxes imposed by this Section:

(1) Rental, leasing or licensing for use of tangible personal property to persons engaged or continuing in the business of leasing, licensing for use, or rental of such property;

(2) Rental, leasing or licensing for use of tangible personal property that is semi-permanently or permanently installed within another city or town that levies an equivalent excise tax on the transaction;

(3) Rental, leasing or licensing for use of film, tape or slides to a theater or other person taxed under Section 4-410, or to a radio station, television station, or subscription television system;

(4) Rental, leasing or licensing for use of the following:

(A) Prosthetics,

(B) Income-producing capital equipment,

(C) Mining and metallurgical supplies.

These exemptions include the rental, leasing or licensing for use of tangible personal property which, if it had been purchased instead of leased, rented or licensed by the lessee or licensee, would qualify as income-producing capital equipment or mining and metallurgical supplies;

(5) Rental, leasing or licensing for use of tangible personal property to a qualifying hospital, a qualifying community health center or a qualifying health care organization, except when the property so rented, leased or licensed is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or rental, leasing, or licensing for use of tangible personal property in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.;

(6) Separately billed charges for delivery, installation, repair and/or maintenance as provided by Regulation;

(7) Charges for joint pole usage by a person engaged in the business of providing or furnishing utility or telecommunication services to another person engaged in the business of providing or furnishing utility or telecommunication services;

(8) The gross income from coin-operated washing, drying and dry cleaning machines, or from coin-operated car washing machines. This exemption shall not apply to suppliers or distributors renting, leasing or licensing for use of such equipment to persons engaged in the operation of coin-operated washing, drying, dry cleaning or car washing establishments;

(9) Rental, leasing or licensing of aircraft that would qualify as aircraft acquired for use outside the State, as prescribed by regulation, if such rental, leasing or licensing had been a sale.

(10) Rental, leasing and licensing for use of motor vehicles that use alternative fuel on or after May 5, 1999. (Ord. 864 §8, 2006; Ord. 797 §8, 1999; Ord. 782 §7, 1998; Ord. 737 §1(§14), 1955: Ord. 695 §1 (part), 1990)

<u>Article 4-455 - Restaurants and Bars</u>

(a) In lieu of any other privilege or transaction tax imposed by the City, the tax rate shall be in an amount equal to four and one-half percent (4.50%) 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.

(b) Caterers and other taxpayers subject to the tax who deliver food and/or serve such food off-premises shall also be allowed to exclude separately charged delivery, set-up, and clean-up charges provided that the charges are also maintained separately in the books and records. When a taxpayer delivers food and/or serves such food off-premises, his regular business location shall still be deemed the location of the transaction for the purpose of the tax imposed by this Article.

(c) The tax imposed by this Article shall not apply to sales to a qualifying hospital, a qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(d) The tax imposed by this Article shall not apply to sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline, as defined in A.R.S. §42-5061(A)49, that serves the food and beverages to its passengers, without additional charge, for consumption in flight.

(e) The tax imposed by this section shall not apply to sales of prepared food, beverages, condiments or accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours.

(f) For the purposes of this section, "Accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food. (Ord. 864 §9, 2006; Ord. 841 §2, 2004; Ord. 782 §8, 1998; Ord. 779 §2, 1998; Ord. 702 §1, 1991; Ord. 695 §1 (part), 1990)

Article 4-460 – Retail Sales: Measure of Tax: Burden of proof-Exclusions

(a) The tax rate shall be at an amount equal to three and one-half percent (3.5%) of the gross income from the business activity upon every person engaging or continuing in the business of selling tangible personal property at retail, with the exception of retail sales of food as defined in section 4-100 as to which sales tax rate shall be zero percent (~~2~~0%).

(b) The burden of proving that a sale of tangible personal property is not a taxable retail sale shall be upon the person who made the sale.

(c) Exclusions: For the purposes of this chapter, sales of tangible personal property shall not include:
(1) Sales of stocks, bonds, options, or other similar materials.
(2) Sales of lottery tickets or shares pursuant to Article I, Chapter 5, Title 5, Arizona Revised Statutes.
(3) Sales of platinum, bullion, or monetized bullion, except minted or manufactured coins transferred or acquired primarily for their numismatic value as prescribed by Regulation.

(4) Gross income derived from the transfer of personal property which is specifically included as the gross income of a business activity upon which another Section of this Article imposes a tax, shall be considered gross income of that business activity, and are not includable as gross income subject to the tax imposed by this section.
(5) Sales by professional or personal service occupations where such sales are inconsequential elements of the service provided.

(d) (Reserved)

(e) When this City and another Arizona city or town with an equivalent excise tax could claim nexus for taxing a retail sale, the city or town where the permanent business location of the seller at which the order was received shall be deemed to have precedence, and for the purposes of this Chapter such city or town has sole and exclusive right to such tax.

(f) The appropriate tax liability for any retail sale where the order is received at a permanent business location of the seller located in this City or in an Arizona city or town that levies an equivalent excise tax shall be at the tax rate of the city or town of such seller's location.

(g) Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this Section.

Article 4-465 - Retail Sales: Exemptions Income derived from the following sources is exempt from the tax imposed by Section 4-460:

(a) Sales of tangible personal property to a person regularly engaged in the business of selling such property;

(b) Out-of-City sales or out - of-State sales;

(c) Charges for delivery, installation or other direct customer services as prescribed by Regulation;

(d) Charges for repair services as prescribed by Regulation, when separately charged and separately maintained in the books and records of the taxpayer;

(e) Sales of warranty, maintenance and service contracts, when separately charged and separately maintained in the books and records of the taxpayer;

(f) Sales of prosthetics;

(g) Sales of income-producing capital equipment;

(h) Sales of rental equipment and rental supplies;

(i) Sales of mining and metallurgical supplies;

(j) Sales of motor vehicle fuel and use fuel which are subject to a tax imposed under the provisions of Article I or II, Chapter 16, Title 28, Arizona Revised Statutes; or sales of use fuel to a holder of a valid single trip use fuel tax permit issued under A.R.S. Section 28-1559;

(k) Sales of tangible personal property to a construction contractor who holds a valid privilege tax license for engaging or continuing in the business of construction contracting where the tangible personal property sold is incorporated into any structure or improvement to real property as part of construction contracting activity;

(1) (Reserved);

(m) Sales of tangible personal property which directly enters into and becomes an ingredient or component part of a product sold in the regular course of the business of job printing, manufacturing or publication of newspapers, magazines or other periodicals. Tangible personal property which is consumed or used up in a manufacturing, job printing, publishing or production process is not an ingredient nor component part of a product;

(n) (Reserved).

(1) (Reserved),

(2) (Reserved);

(o) Sales to hotels, bars, restaurants, dining cars, lunchrooms, boarding houses or similar establishments of articles consumed as food, drink or condiment, whether simple, mixed or compounded, where such articles are customarily prepared or served to patrons for consumption on or off the premises, where the purchaser is properly licensed and paying a tax under Section 4-455 or the equivalent excise tax upon such income;

(p) Sales of tangible personal property to a qualifying hospital, a qualifying community health center or a qualifying health care organization, except when the property sold is for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512 or sales of tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under Section 501(C)(3) of the United States Internal Revenue Code and that engages in and uses such property exclusively for training, job placement or rehabilitation programs or testing for mentally or physically handicapped persons.;

(q) Food purchased with food stamps provided through the Food Stamps Program established by the Food Stamp Act of 1977 (P.L. 95-113; 91 Stat. 958.7 U.S.C. Section 2011 et seq.) or purchased with food instruments issued under Section 17 of the Child Nutrition Act (P.L. 95-627; 92 Stat. 3603; and P.L. 99-669; Section 4302), but only to the extent that food stamps or food instruments were actually used to purchase such food;

(r) (Reserved).

(1) (Reserved),

(2) (Reserved),

(3) (Reserved),

(4) (Reserved);

(s) Sales of groundwater measuring devices required by A.R.S. Section 45-604;

(t) (Reserved);

(u) Sales of aircraft acquired for use outside the State, as prescribed by Regulation;

(v) (Reserved);

(w) (Reserved);

(x) (Reserved);

(y) (Reserved);

(z) (Reserved).

(aa) The sale of tangible personal property used in remediation contracting as defined in Article 4-100 and Regulation 4-100.5

(bb) Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(1) Printed or photographic materials.

(2) Electronic or digital media materials.

(cc) Sales of food, beverages, condiments and accessories used for serving food and beverages to a commercial airline as defined in A.R.S. §42-1310.01(A)(48), that serves the food and beverages to its passengers, without additional charge, for consumption in flight. For the purposes of this subsection, "Accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(dd) In computing the tax base in the case of the sale or transfer of wireless telecommunication equipment as an inducement to a customer to enter into or continue a contract for telecommunication services that are taxable under Article 4-470, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

(ee) For the purposes of this Article, a sale of wireless telecommunication equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunication services that are taxable under Article 4-470 is considered to be a sale for resale in the regular course of business.

(ff) Sales of alternative fuel as defined in A.R.S. §1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or use oil fuel under A.R.S. §49-426 or §49-480.

(gg) Sales of food, beverages, condiments and accessories to a public educational entity, pursuant to any of the provisions of Title 15, Arizona Revised Statutes, to the extent such items are to be prepared or served to individuals for consumption on the premises of a public educational entity during school hours. For the purposes of this subsection, "Accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(hh) Sales of personal hygiene items to a person engaged in the business of and subject to tax under Article 4-444 of this Code if the tangible personal property is furnished without additional charge to and intended to be consume by the person during his occupancy.

(ii) For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

(jj) Sales of food, beverages, condiments and accessories to a nonprofit charitable organization that has qualified as an exempt organization under 26 U.S.C. Section 501(c)(3) and regularly serves meals to the needy and indigent on a continuing basis at no cost. For the purposes of this subsection, "accessories" means paper plates, plastic eating utensils, napkins, paper cups, drinking straws, paper sacks or other disposable containers, or other items which facilitate the consumption of the food.

(kk) Sales of motor vehicles that use alternative fuel on or after May 5, 1999 if such vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and sales of equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in A.R.S. §1-215.

(ll) Sales of solar energy devices, for taxable periods beginning from and after July 1, 2008. The retailer shall register with the department of revenue as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and

records relating to sales of solar energy devices available to the department of revenue and city, as applicable, for examination. (Ord. 894 §5, 2008; Ord. 864 §10, 2006; Ord. 797 §10, 1999; Ord. 782 §9, 1998; Ord. 737 §1(§15), 1995: Ord. 695 §1 (part), 1990)

Article 4-470 - Telecommunication Services

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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 telecommunication 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 4-444.

(b) Resale Telecommunication Services. Gross income from sales of telecommunication services to another provider of telecommunication services for the purpose of providing the purchaser's customers with such service shall be exempt from the tax imposed by this Article; provided, however, that such purchaser is properly licensed by the City to engage in such business.

(c) Interstate Transmissions. Charges by a provider of telecommunication services for transmissions originating in the City and terminating outside the State are exempt from the tax imposed by this Article.

(d) (Reserved)

(e) (Reserved)

(f) Prepaid Calling Cards. Telecommunications services purchased with a prepaid calling card that are taxable under Section 4-460 are exempt from the tax imposed under this section.

(g) Internet Access Services - the gross income subject to tax under this section shall not include sales of internet access services to the person's subscribers and customers. For the purposes of this subsection:

(1) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(2) "Internet Access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier. (Ord. 864 §11, 2006; Ord. 797 §11, 1999; Ord. 695 §1 (part), 1990)

Article 4-475 - Transporting for Hire The tax rate shall be at an amount equal to three and one half percent (3.5%) 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 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 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) Transporting of persons or property by motor vehicle, including towing and the operation of private car lines, as such are defined in Article III, Chapter 4, Title 42, Arizona Revised Statutes; provided, however, that the tax imposed by this subsection shall not apply to:

(1) Gross income subject to the tax imposed by Article VI, Chapter 9, Revised Statutes; Title 28, Arizona

(2) Gross income derived from the operation of a governmentally adopted and controlled program to provide urban mass transportation.

(3) (Reserved)

(4) (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. (Ord. 864 §12, 2006; Ord. 797 §12, 1999; Ord. 695 §1 (part), 1990)

Article 4-480 - Utility Services

(a) The tax rate shall be at an amount equal to three and one half percent (3.5%) 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 in the City.

(2) (Reserved)

(b) Exclusion of Certain Sales of Natural Gas to a Public Utility. Notwithstanding the provisions of subsection (a) above, the gross income derived from the sale of natural gas to a public utility for the purpose of generation of power to be transferred by the utility to its ratepayers shall be considered a retail sale of

tangible personal property subject to Articles 4-460 and 4-465, and not considered gross income taxable under this Article.

(c) Resale Utility Services. Sales of utility services to another provider of the same utility services for the purpose of providing such utility services either to another properly licensed utility or directly to such purchaser's customers or ratepayers shall be exempt and deductible from the gross income subject to the tax imposed by this Article, provided that the purchaser is properly licensed by all applicable taxing jurisdictions to engage or continue in the business of providing utility services, and further provided that the seller maintains proper documentation, in a manner similar to that for sales for resale, of such transactions.

(d) (Reserved)

(e) The tax imposed by this Article shall not apply to sales of utility services to a qualifying hospital, a qualifying community health center or a qualifying health care organization, except when sold for use in activities resulting in gross income from unrelated business income as that term is defined in 26 U.S.C. Section 512.

(f) The tax imposed by this Article shall not apply to sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

(g) The tax imposed by this Article shall not apply to:

(1) revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

(2) revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This exclusion shall not exceed the value of such property and equipment.

(h) The tax imposed by this Article shall not apply to sales of alternative fuel as defined in A.R.S. §1-215, to a used oil fuel burner who has received a Department of Environmental Quality permit to burn used oil or used oil fuel under A.R.S. §49-426 or §49-480 (Ord. 782 §10, 1998; Ord. 695 §1 (part), 199

Section 2: Any person found guilty of violating any provision of this ordinance shall be guilty of a class one misdemeanor. Each day that a violation continues shall be a separate offense punishable as herein above described.

Section 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, effective as of the _____ day of _____, 2012.

Section 4: If any section, subsection, sentence, clause, phrase or portion of this ordinances 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: The change in taxation rates imposed pursuant to Section 1 of this ordinance shall not apply to contracts entered into prior to the effective date of this ordinance.

Section 6: This ordinance shall be effective 60 days following its adoption by Council, or on the _____ day of _____, 2012, whichever is later.

PASSED AND ADOPTED by the City Council of Williams this ____day of _____ 201___, by a vote of ____ in favor and _____ opposed.

CITY OF WILLIAMS, an Arizona Municipal Corporation

ATTEST:

_____ _____

City Clerk Mayor

APPROVED AS TO FORM:

_____

Mangum, Wall, Stoops and Warden P.L.L.C
City Attorneys