

Ordinance No. 888

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, ADOPTING BY REFERENCE A DOCUMENT ENTITLED "ARTICLE 8-08 – MOBILE FOOD VENDORS" (DECLARED BY RESOLUTION NO. 2178 TO BE A PUBLIC RECORD), WHICH ENACTS A NEW ARTICLE 8-08 "MOBILE FOOD VENDORS" IN CHAPTER 8 "BUSINESS" IN THE TOWN CODE PROVIDING FOR THE LICENSURE AND REGULATION OF MOBILE FOOD VENDORS OPERATING IN THE TOWN OF PRESCOTT VALLEY; PROVIDING THAT ALL OTHER ARTICLES, SECTIONS, AND SUBSECTIONS IN CHAPTER 8 NOT HEREIN AMENDED SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on May 14, 2018, the Governor signed H.B. 2371, which established statewide licensure for mobile food vendors and authorized cities and towns to enact specified regulations; and

WHEREAS, the Town Council is authorized to enact and enforce regulations on mobile food units and mobile food vendors operating in the Town pursuant to applicable law, including ARS §§ 9-485, 9-485.01, 9-485.02, and 36-1761; and

WHEREAS, the Town Council recognizes that mobile food vendors may create economic development opportunities and provide affordable food at various locations and events within the Town; and

WHEREAS, Town Council now finds that the proposed enactment of a new Article 8-08 "Mobile Food Vendors" is in the best interests of the community and meets the health, safety and welfare needs thereof; and

WHEREAS, ARS §9-801 et seq. provides for adoption by reference of particularly lengthy or complex ordinances when they are declared to be "public records"; and

WHEREAS, the document enacting a new Article 8-08 "Mobile Food Vendors" has been declared by Resolution No. 2178 to be a "public record"; and

WHEREAS, ARS §9-803 requires penalty clauses in such public records to be set forth in full in the adopting ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That that certain document known as "Article 8-08 – Mobile Food Vendors", declared to be a public record by Resolution No. 2178 (and available for public inspection in the Office of the Town Clerk, 7501 East Skoog Blvd., Prescott Valley, Arizona, 86314), be hereby referred to, adopted and made a part hereof as if fully set forth herein.

SECTION TWO. That the following penalty clause in Section 8-08-080 “Violations; Revocation” in Chapter 8 “Business” of the Town Code be hereby enacted as follows:

8-08-080 Violations; Revocation.

A. Violations. The Town may revoke a license issued pursuant to this Article if the Town determines that licensee is guilty of one or more of the following violations:

1. An applicant or licensee provided false information on any new or renewal license application;
2. A mobile food unit identified in a license fails to meet all the requirements in this Article;
3. A licensee fails to display the license or other required documents, including proof of insurance or fire inspection, to a peace officer or Town inspector upon request;
4. A licensee or designated agent or controlling person, following the issuance of a license, is convicted of any offense listed in Section 8-08-030 (as amended);
5. The licensee or designated agent operated or attempted to operate a mobile food unit without a license;
6. The Town previously issued three (3) or more notices of violation within a six (6) month period;
7. The licensee or controlling person has not complied with a provision of this Article or has failed to provide information required by this Article;
8. The license fee required by this Article, the General Business License fee required by Section 8-02-070(as amended), or any transaction privilege tax has not been paid; or
9. The licensee fails to pay outstanding fines or resolve any violations.

B. Notice of Violation. The Town will give written notice of a violation to the licensee or designated agent that may result in the revocation of the license. The notice shall include a description of the violation, the statutory or code reference, how the licensee can comply with the requirements, a description of the process whereby a hearing may be requested, the time limit for requesting a hearing, and a warning that failure to timely request a hearing may result in suspension or revocation of the license. The notice shall be served on the licensee or designated agent by either personal service or registered/certified mail. Service of the notice shall be deemed complete upon mailing to, or personal service on, the licensee or designated agent.

C. Revocation. If a licensee fails to comply with the requirements of this Article by the date provided in the notice, the Town may revoke the license as provided in this Section. If a license is revoked, the licensee and its controlling person(s) may not apply for a license under this Article for a period of one(1) year from the date of revocation.

(Ord. No. , Enacted,)

SECTION THREE. That the following penalty clause in Section 8-08-100 "Penalties" in Chapter 8 "Business" of the Town Code be hereby enacted as follows:

8-08-100 Penalties.

A. Criminal Penalties. Any person found guilty of violating any provision of this Article shall be guilty of a class 1 misdemeanor and, upon conviction thereof, may be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500), or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Such surcharges as may be required by law may also be added. Each day a violation continues shall be a separate offense punishable as described in this Section.

B. Civil Penalties. Any violation of the provisions of this Article shall also constitute a civil offense, and any person who is served with a citation charging such violation and who admits or is found responsible for such offense shall be liable to pay to the Town a civil sanction not to exceed two thousand five hundred dollars (\$2,500). Each day that a violation continues shall be a separate offense.

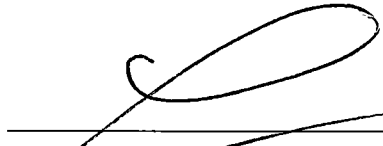
(Ord. No. , Enacted,)

SECTION FOUR. That all other Articles, Sections and Subsections of Chapter 8 "BUSINESS" of the Town Code, not herein amended, shall remain in full force and effect.

SECTION FIVE. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION SIX. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 25th day of February, 2021.



Kell Palguta, Mayor



ATTEST:

Fatima Fernandez

Fatima Fernandez, Town Clerk

APPROVED AS TO FORM:

Ivan Legler

Ivan Legler, Town Attorney