



GILA RIVER INDIAN COMMUNITY

SACATON, AZ 85247

ORDINANCE GR-06-05

AN ORDINANCE ENACTED AS TITLE 13, TO BE CODIFIED AT TITLE 13 OF THE GILA RIVER INDIAN COMMUNITY LAW AND ORDER CODE

WHEREAS, the Gila River Indian Community ("Community"), pursuant to its sovereign powers, is committed to protecting the lives, health, safety, property, welfare, and environment of its residents and the welfare and environment of the Reservation in general; and

WHEREAS, the Community, pursuant to its inherent sovereign powers, may tax members and non-members residing within the Community and who do business upon Community land; and

WHEREAS, the Gila River Indian Community Council ("Community Council"), pursuant to Article XV, Section 1(a)(16) of the Gila River Indian Community Constitution and Bylaws (March 17, 1960) may levy dues, fees and taxes; and

WHEREAS, the Community wishes to maximize its revenues for the benefit of the Community and its members; and

WHEREAS, the Community Council wishes to rescind the current Title 13 of the Gila River Indian Community Law and Order Code ("Code") and replace it with the revised Title 13, attached to this document.

NOW, THEREFORE BE IT ENACTED, that the Community Council now rescinds the existing Title 13 and codifies a new Title 13 to the Gila River Indian Community Law and Order Code.

CERTIFICATION

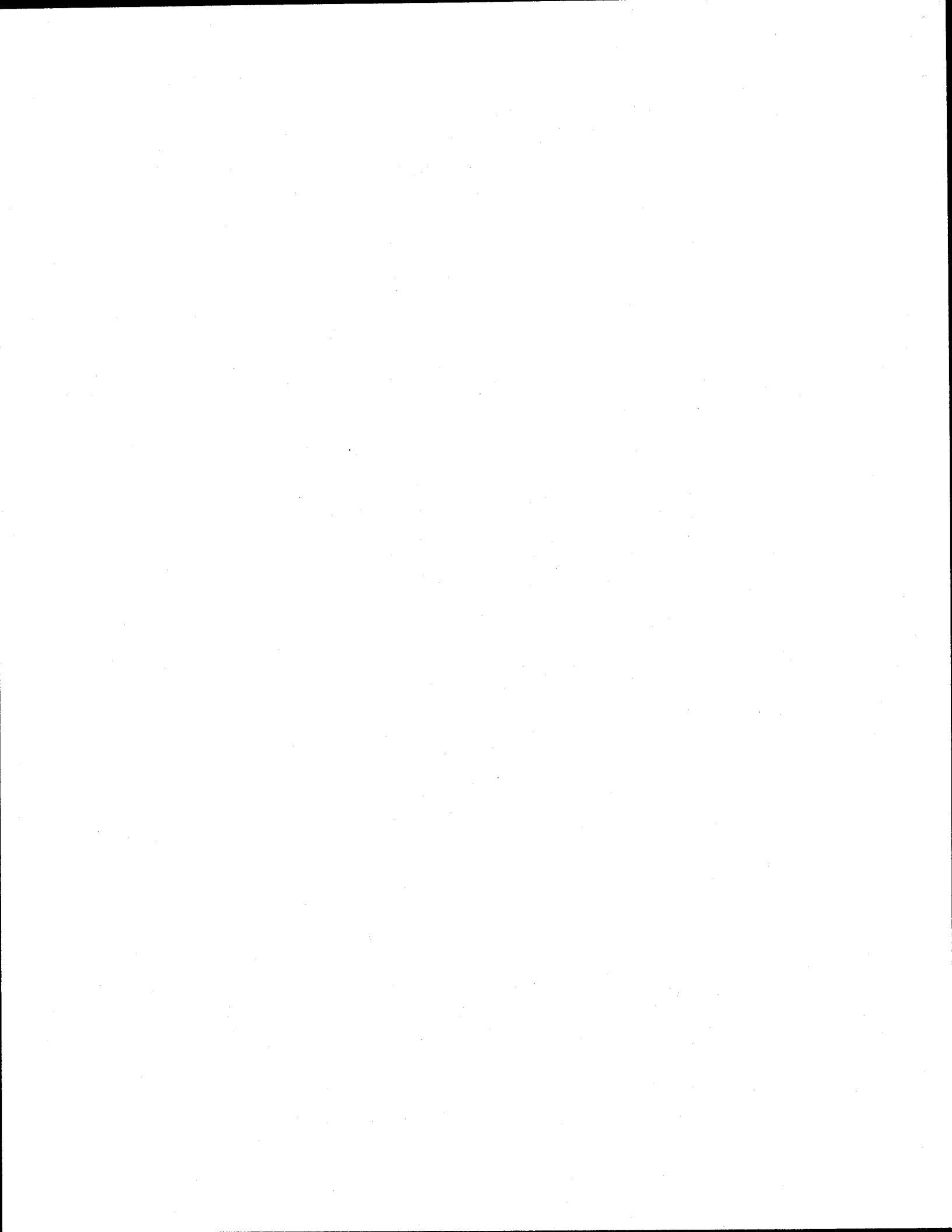
Pursuant to authority contained in Article XV, Section 1, (a), (7), (9), (16), and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the Tribe January 22, 1960 and approved by the Secretary of the Interior on March 17, 1960, the foregoing Resolution was adopted this 15th day of June, 2005, at a Regular Community Council Meeting held in District 3, Sacaton, AZ, at which a quorum of 11 Members were present by a vote of: 11 FOR; 0 OPPOSE; 0 ABSTAIN; 6 ABSENT; 0 VACANCY.

GILA RIVER INDIAN COMMUNITY

Mary V. Thomas
GOVERNOR 2-15-05

ATTEST:

Janice J. Stewart
COMMUNITY COUNCIL SECRETARY



TITLE 13

BUSINESS LICENSES AND TAXATION

CHAPTER 1 DEFINITIONS

- 13.101 "Business" includes all activities or acts engaged in or caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales. A casual activity or sale occurs when a person engages in an isolated transaction that is not conducted with such frequency or is not one of a series of activities as to be sufficient to consider the person as regularly conducting the activity. "Business" shall include, but not be limited to:
- a. A manufacturing or industrial concern.
 - b. Wholesale merchants.
 - c. Retail merchants.
 - d. Automobile service stations or garages.
 - e. A cotton gin or dairy enterprise.
 - f. A farming or agricultural operation making use of more than two hundred acres of land within the Gila River Indian Community.
 - g. A concern providing crop dusting, harvesting, planting or similar services to farming or agricultural operations.
 - h. Retailers, wholesalers, manufacturers or any other business not located or having a place of business on the Reservation, but making sales and deliveries on the Reservation.
 - i. Any enterprise or amusement park, sports arena or center which is open to the public.
 - j. A motel, hotel, rooming house, trailer court or park, or mobile home park.
 - k. A bar, cocktail lounge, restaurant, cafeteria, dining room, lunch counter, lunchroom, snack bar, soda fountain, catering service or similar establishment where articles of food or drink are sold for consumption on or off the premises.
 - l. Traveling merchants, food sellers, peddlers, itinerant vendors or any retail business not having an established place of business.

- m. Construction companies, contractors, repair services, or installation services.
 - n. Livestock operations.
 - o. An airport.
- 13.102 "Community" means the Gila River Indian Community, a federally recognized Indian tribe organized under the Indian Reorganization Act, 48 Stat. 984, 25 U.S.C. § 461 et seq.
- 13.103 "Construction contracting" means engaging in business as a construction contractor.
- 13.104 "Construction contractor" means any person who undertakes to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, irrigation system, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structure or works in connection therewith, and includes subcontractors, specialty contractors and developers. For all purposes of taxation or deductions, this definition shall govern without regard to whether or not the contractor is acting in fulfillment of a contract.
- 13.105 "Council" means the Gila River Indian Community Council.
- 13.106 "Engaging" when used with reference to engaging or continuing in business includes the exercise of corporate or franchise powers.
- 13.107 "Gross income" means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses.
- 13.108 "Gross proceeds of sale" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind, or losses, but cash discounts allowed and taken on sale shall not be included as gross income.
- 13.109 "Gross income" or "gross proceeds of sale" shall not be construed to include goods, wares or merchandise, or value thereof, returned by customers when the sale price is refunded either in cash or by credit, nor the sale of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in "gross income" or the "gross proceeds of sale."

- 13.110 "Member of the Gila River Indian Community" means an enrolled member of the Community.
- 13.111 "Owner-builder" means a person who acts as a contractor in constructing any improvement upon real property, such property being held by such person for his own use or for rental purposes.
- 13.112 "Person" includes an individual, officer, agent, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust or any other entity, group or combination acting as a unit, including any government entity, and the plural as well as the singular number.
- 13.113 "Prime contractor" is a contractor which the owner or lessee of the property being improved treats as being responsible for administration, construction and completion of the improvement. For purposes of this definition, a person who, for either a fixed sum, price, fee, percentage bonus or other compensation other than actual wages, undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, supervise the construction of the improvement, or coordinate the construction of the improvement, or both, is a "prime contractor," unless such supervisor or coordinator demonstrates, to the Community's satisfaction, that another contractor is, in fact, the "prime contractor" for the improvement.
- 13.114 "Reservation" means any land within the exterior boundaries of the Gila River Indian Reservation, any land outside such boundaries held in trust for the Community or any of its members by the United States, and any other land constituting "Indian country" within the meaning of 18 U.S.C. § 1151 or any successor provision.
- 13.115 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever, of tangible personal property, for consideration, and includes:
- a. Any transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.
 - b. The fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work, and the furnishing, preparing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property.
- 13.116 "Sale at retail" or "retail sale" means a sale for any purpose other than resale in the form of tangible personal property.

- 13.117 "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched or is in any other manner perceptible to the senses. Stocks, bonds and other securities are intangible property, not tangible property.
- 13.118 "Taxpayer" means any person liable for any tax imposed by this title.
- 13.119 "Treasurer" means the Treasurer of the Gila River Indian Community or such person as the Council designates to carry out the duties of the Treasurer, and may include such subordinate official(s) as the Treasurer designates to carry out any provisions of this title.

CHAPTER 2 BUSINESS LICENSES

13.201 BUSINESS LICENSES

- A. Any person conducting or engaged in any business or trade on the Reservation must obtain a license from the Gila River Indian Community and pay the license fee provided in Section 13.207. In addition, any person conducting or engaged in any business or trade from a location outside the Reservation with the Gila River Indian Community, any department, agency, entity or enterprise wholly-owned by the Community, any of the seven Districts of the Community, or any members of the Community must obtain a license from the Gila River Indian Community and pay the license fee provided in Section 13.207. The following examples illustrate some situations in which a license must be obtained even if the licensee does not maintain a business location on the Reservation:
1. A door-to-door salesman.
 2. Any contractor doing business with the Gila River Indian Community, any department, agency, entity or enterprise wholly-owned by the Community, any of the seven Districts of the Community, or any members of the Community whether or not the contractor has visited the Reservation during the course of performance of the contract.
 3. Any lawyer or other consultant without a contract who visits the Reservation during the course of performing services for the Gila River Indian Community, any department, agency, entity or enterprise wholly-owned by the Community, any of the seven Districts of the Community, or any members of the Community.
- B. The license shall authorize the licensee to transact the business or trade described in the license in the locality designated by the applicant for the license. If the licensee engages in business or trade at more than one location on the Reservation, separate licenses shall be obtained for each location at which business or trade is conducted. Licenses shall not be transferable.

13.202 APPLICATION AND ISSUANCE

- A. An application for a business license shall be submitted in writing to the Treasurer on a form approved by the Treasurer. The application shall include:
1. A description of the business or trade.
 2. The name and address of the owner or owners of the business or trade.
 3. The trade name if any to be used by the business or trade.
 4. The physical location of the business or trade.
 5. Acknowledgment of receipt of a copy of this Title 13 and consent to liability for and payment of all applicable taxes imposed under such Title 13, as it may be amended by the Council from time to time.
- B. A check, money order or cash, payable to the Gila River Indian Community, shall accompany each application in full payment of the business license fee provided for under Section 13.207.
- C. Upon approval of the application by the Treasurer and payment of the fee, a business license shall be issued to the applicant on a form approved by the Treasurer. The business license shall bear the signature of the Treasurer or his authorized representative. The license shall specifically describe the business or trade to be conducted, the name of the owner or owners of the business or trade, and the location at which the business or trade will be conducted.
- D. Upon receipt of each application the Treasurer shall conduct such investigation of the applicant's or its owner or owners' business and moral character as he deems necessary for the protection of the public good. If as a result of such investigation, the applicant's (or owner's or owners') character or business responsibility is found to be unsatisfactory, the Treasurer shall notify the applicant that his application is disapproved, that no license will be issued, and that a refund of the license fee will be made. If the character and business responsibility of the applicant (or owner or owners) are found to be satisfactory, the Treasurer shall endorse and deliver to the applicant his license.

13.203 ESTIMATE OF BUSINESS RECEIPTS AS BASIS FOR TAX

All applicants for a business license or renewal of a business license shall submit an estimate of the probable amount of taxable business which he or the person whom he represents will transact during each of the next succeeding three months, and during the term of the license. The statement shall be based on the amount of business transacted by such person in the preceding months, if any.

13.204 TERM OF LICENSE

- A. Annual Business License: An annual business license or renewal thereof shall be valid for a period of one year from the date of approval; or
- B. Special Event Business License: A special event business license shall be valid for a period of five (5) days from the date of approval. A person may apply for a special event business license only once per twelve (12) month period.

13.205 TRANACTING BUSINESS WITHOUT LICENSE

- A. A person conducting or engaging in any business on the Reservation without a valid business license shall be notified of their liability for the business license fee and all applicable taxes and shall be sent a notice of assessment for the amount due. The notice shall inform the party that no further business may be conducted on the Reservation unless the party obtains a business license.
- B. In addition to A, if the person continues to conduct or engage in a business or trade without a business license, a penalty of \$500 will be assessed.
 - (1) In addition to the monetary penalty, the person conducting or engaging in any business or trade without a valid business license will be prohibited from obtaining a business license for a period of one (1) year from the date of notification.
- C. If a person conducting business without a license is on land leased to a business required to have a license pursuant to this ordinance, a penalty of \$500.00 will be imposed on the leasee, for each person conducting or engaging in a business or trade without a business license, for each occurrence.

13.206 COMPLYING WITH LAWS AND REGULATIONS

Any person conducting or engaging in any business on the Reservation shall comply with all laws and regulations of the Gila River Indian Community.

13.207 LICENSE FEES

Every person or business issued or reissued a business license shall pay a license fee as follows:

1. Annual Business License:..... \$150.00 annually.

- a. The annual business license fee for Enrolled Members of the Gila River Indian Community and for businesses owned and operated by Enrolled Members of the Gila River Indian Community shall be \$5.00 annually.

2. Special Event Business License: \$30.00

13.208 REGULATORY LICENSE

If any other ordinance or law of the Gila River Indian Community requires a business licensed under this chapter to obtain a license or permit for regulatory purposes, no license under this chapter shall be issued until the business has obtained the required license or permit.

13.209 REVOCATION OF LICENSE

- A. Licenses issued under the provisions of this chapter may be revoked by the Treasurer after notice and hearing, for any of the following causes:
 1. Fraud, misrepresentation or incorrect statement contained in the application for license.
 2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business.
 3. Any violation of this ordinance or any other law or ordinance of the Gila River Indian Community.
 4. Conviction of any crime.
 5. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
 6. Unconscionable and other unfair business practices.
 7. Abandonment of the business for which the license was issued.
- B. Notice of the hearing for revocation of a license shall be given by the Treasurer in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such Notice shall be mailed to the licensee at his last known address at least forty-eight hours prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least forty-eight hours prior to the date set for hearing.

CHAPTER 3 IMPOSITION OF PRIVILEGE TAXES

There is levied and there shall be collected a privilege tax measured by the amount or volume of business transacted by persons on account of their activities on the Reservation, and to be measured by the gross proceeds of sales, gross income, or gross receipts of persons on such account, and all of said gross proceeds of sale, gross income, or gross receipts shall be used to measure the tax in accordance with the provisions in this Chapter 3. For purposes of this Chapter, the total amount of gross proceeds of sale, gross income, or gross receipts shall be deemed to be the amount received, exclusive of the taxes imposed by this Chapter. A person who imposes an added charge to cover the tax being levied by this Chapter or which is identified as being imposed to cover the privilege tax shall not remit less than the amount so collected to the Treasurer.

13.301 GENERAL RETAIL SALES

- A. The tax rate shall be an amount equal to six percent (6%) of the gross proceeds of sale or gross income of the business of selling, leasing, renting or licensing any tangible personal property whatever at retail.
- B. The following sales are exempt from this general retail sales levy:
 - 1. Sales of food for human consumption at home and from the sales of tobacco; provided, however, that this exemption does not include sales of prepared food, which are taxable.
 - 2. Gross proceeds or gross income of activities specifically subject to tax under other sections in this Chapter unless otherwise stated.
 - 3. Sales of tangible personal property to a person holding a valid business license for engaging in or continuing in the business of contracting when the property so sold is incorporated or fabricated by the contractor into any structure, project, development or improvement.
 - 4. Sales of tangible personal property made directly to the United States Government, its departments or agencies.
 - 5. Sales of tangible personal property for resale and not at retail or not to an ultimate consumer.
 - 6. Sales of tangible personal property to manufacturers, modifiers or assemblers where such property directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.