

**TITLE 7 – BUSINESS AND COMMERCIAL CODE
CHAPTER 3- BUSINESS LICENSES**

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**TITLE 7 – BUSINESS AND COMMERCIAL CODE
CHAPTER 3-1 – BUSINESS LICENSES**

Legislative History: Enacted and codified on September 11, 2019 by Resolution No. C09-184-19 and Ordinance No. 33-19.

“SUBCHAPTER A GENERAL PROVISIONS

Section 10 Purpose (7 PYTC § 3-10)

The purpose of this Chapter is to establish a business license program for the Pascua Yaqui Tribe.

Section 20 Short Title; Codification (7 PYTC § 3-20)

This ordinance shall be known as the “Pascua Yaqui Business License Ordinance of 2019.”

Section 30 Definitions (7 PYTC § 3-30)

- (A) “Business” means all activities or action, personal, corporate or otherwise, engaged in with the object of profit, gain, benefit or advantage, either directly or indirectly, wholly or in part, within lands subject to the jurisdiction of the Pascua Yaqui Tribe or engaged in business directly with the Pascua Yaqui Tribe.
- (B) “Gaming Enterprise Division” (“GED”) means that Division established by 2 PYTC § 3-1.
- (C) “Tribal Enterprise Division” (“TED”) means that Division established by 2 PYTC § 3-2.
- (D) “Peddler” means any person with no fixed place of business who goes from place to place within the exterior boundaries of the Pascua Yaqui Tribe Reservation for the purpose of offering for sale, selling or attempting to sell, and delivering immediately upon sale, or attempting to obtain order for, the goods, wares, products, merchandise, food, or other property that the person is carrying or otherwise transporting. Peddler shall include a transient merchant, meaning any person with no fixed place of business who temporarily engaged in business out of a vehicle, cart, stand, wagon, trailer, boxcar, tent, other portable shelter, empty store front, or from one’s person, within the exterior boundaries of the Pascua Yaqui Reservation for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering good, wares, products, merchandise, food, or other property, and who does not remain or intend to remain in any one location or within 100 yards of that location for more than four (4) consecutive days.
- (E) “Person” means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business, trust, institution, agency, government corporation, municipal corporation, political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties.
- (F) “TERO” means the Tribal Employment Rights Office of the Pascua Yaqui Tribe.
- (G) “TERO Manager” means the Tribal Employment Rights Office Manager of the Pascua Yaqui Tribe.

Section 40 Administration of this Title (7 PYTC § 3-40)

Because of the close interrelationship between the Tribe’s inherent sovereign powers to regulate the conduct of business within the exterior boundaries of the Tribe and the Tribe’s inherent sovereign powers to collect taxes from persons engaged in business within the exterior boundaries of the Tribe, the TERO, is hereby delegated the responsibility to administer the provisions of this Title. The TERO Manager is hereby delegated all powers which are specifically provided for in this Title, or impliedly necessary to implement its provisions, including the development of rules and policies.

Section 50 Severability (7 PYTC § 3-50)

If any provision of this Title, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Title which can be given effect without the invalid provision or application, and to this end the provisions of this Title are severable.

Section 60 Judicial Review and Jurisdiction (7 PYTC § 3-60)

- (A) Any person or entity aggrieved by a decision of the TERO Manager may file an appeal with the Pascua Yaqui Tribal Court. An appeal must be filed within 20 calendar days after receipt of notice of the TERO Manager's decision. The TERO Manager shall represent the interests of the Pascua Yaqui Tribe during appeal. A copy of the appeal shall be sent to the Office of Attorney General.
- (B) Upon filing of the appeal, the Tribal Court shall have exclusive jurisdiction to affirm, modify, or set aside the decision of the TERO Manager, in whole or in part. Findings of fact by the Tribal Court, when supported by substantial evidence, shall be conclusive.

Section 70 Enforcement (7 PYTC § 3-70)

- (A) The TERO is responsible for the enforcement of this Chapter.
- (B) The Pascua Yaqui Tribal Court is vested with jurisdiction over every person and entity engaging or continuing in business activity on or near the lands within the jurisdiction of the Pascua Yaqui Tribe.

Section 80 Effective Date (7 PYTC § 3-80)

This Title shall take effect upon enactment by the Tribal Council.

Section 90 Repeals (7 PYTC § 3-90)

All laws or parts of laws (or attachments thereto) which are inconsistent with the provisions of this Title are hereby repealed.

SUBCHAPTER B LICENSE

Section 100 License Required of all Businesses; No Effect on Other Laws (7 PYTC § 3-100)

- (A) All persons conducting or engaged in business upon any land subject to the jurisdiction of the Pascua Yaqui Tribe or engaged in business directly with the Pascua Yaqui Tribe must fill out an application and provided all required documentation, obtain a tribal business license, and pay the license fee, as provided in this Section, prior to engaging in such business. For any business license, said license shall remain in effect until the natural expiration of its term, at which time the person shall be required to obtain a new tribal business license as provided in this Section.
- (B) The tribal business license provided for in this Chapter is required of every business upon any land subject to the jurisdiction of the Pascua Yaqui Tribe or engaged in business directly with the Pascua Yaqui Tribe, whether temporary or permanent, regardless of whether such business is required to obtain a federal trader's license or permit, or any other license or permit required under the laws of the Pascua Yaqui Tribe, the State of Arizona, or the United States of America, and shall include all entities required to obtain a federal tax identification number. Separate licenses shall be obtained for each branch establishment or each separate location of a business.
- (C) Nothing in this Chapter affects, limits, alters, modifies, or waives the need for a business to obtain all licenses and permits required by applicable law. The issuance of a business license shall not be deemed or construed as a certification of a business's compliance with other applicable regulations or laws. Additional permits and licenses may be necessary before a person may lawfully conduct business.

Section 110 Exemptions (7 PYTC § 3-110)

- (A) The following shall not be required to obtain a license under this Chapter:
- (1) Federal, state, and local governmental entities.
 - (2) Tribal enterprises and Gaming Enterprises.
 - (3) Persons employed by a business subject to the license requirements of this Chapter.
 - (4) Persons engaged in the type of sales commonly known as garage sales, rummage sales, or estate sales.
 - (5) Persons who are agents of artists or performers appearing at the Tribal Enterprise Division.
- (B) The following shall not be required to pay a fee for the issuance of a license for this Chapter:
- (1) Any church engaged in raising funds for religious or charitable purposes.
 - (2) Any accredited school, where no part of the income accrues to the personal benefit of any individual.
 - (3) Any other business, the entire proceeds of which, are distributed to any charitable, religious, or educational group or organization.

Section 120 Application for Business License (7 PYTC § 3-120)

- (A) An applicant intending to conduct business within lands subject to the jurisdiction of the Tribe shall complete and file with the TERO an application for business license prior to commencing business on lands under the jurisdiction of the Pascua Yaqui Tribe with the exception of persons conducting business with the GED or TED who shall complete and file such application with the finance department of the GED. Persons engaged in such business on the effective date of this Chapter shall complete and file an application for business license within thirty (30) days of the effective date of this Chapter. Failure to renew an annual license by January 1 of a given year shall result in the imposition of a late fee. The late fee shall be \$20.00 if paid after the due date but within thirty (30) days of its due date. Thereafter, the late fee shall increase by \$10.00 for each subsequent month that the fee is not paid. Late fees shall be added to and included with the total license fee.
- (B) All applications shall include:
- (1) A description of the business.
 - (2) The name and address of the owners of the business.
 - (3) The trade name, if any, to be used by the business.
 - (4) The locations on the lands of the Pascua Yaqui Tribe at which the business will be conducted.
 - (5) A sworn statement that the applicant will comply with all tribal laws applicable to the applicant's business.
 - (6) A statement that the applicant consents to the jurisdiction of the Pascua Yaqui Tribal Court and service of process in matters arising from the conduct of business.
 - (7) The name, address, and signature of the agent who will accept service of process on behalf of the business.
- (C) TERO or GED whichever is applicable pursuant to (A) of this section shall notify the applicant by regular mail within fourteen (14) days after receipt of the application whether a license shall be issued. The license shall include a Tribal Taxpayer Identification Number.

Section 130 Classes of License (7 PYTC § 3-130)

- (A) Short-Term Temporary Business License: All persons engaged in business on lands under the jurisdiction of the Pascua Yaqui Tribe for a period of two (2) days or less shall have a Short-Term Temporary Business License. The application fee for a Short-Term Temporary Business License shall be \$50.00.
- (B) Temporary Business License: All persons engaged in business on lands under the jurisdiction of the Pascua Yaqui Tribe for a period of three (3) to seven (7) days shall have a Temporary Business License. The application fee for a Temporary Business License shall be \$75.00.
- (C) Seasonal Business License: All persons engaged in business on lands under the jurisdiction of the Pascua Yaqui Tribe of more than seven (7) days but less than three (3) months shall have a Seasonal Business License. The application fee for a Seasonal Business License shall be \$100.00.
- (D) Annual Business License: All persons engaged in business on lands under the jurisdiction of the Pascua Yaqui Tribe for a period of three (3) months or more shall have an Annual Business License. The application fee for an Annual Business License shall be \$150.00.
- (E) Peddler License: The fee for a Peddler License shall be \$50.00.
- (F) For any license in this Section, the fee for a qualified Indian-owned firm or entity as defined in the Pascua Yaqui Business Code, 8 PYTC § 3-1-60(G), shall be one-half the amount set out herein.

Section 140 Term of License (7 PYTC § 3-140)

All Annual and Peddler Licenses shall expire at 11:59 p.m. on December 31 of the year of issuance of the license.

Section 150 Consolidated License (7 PYTC § 3-150)

For businesses with multiple branches or locations, the Director may issue a consolidated license covering all of the person's businesses, provided that the same type of business is conducted at each location. The fee for a consolidated license shall be determined based on the class of license issued pursuant to this Chapter multiplied by the number of separate branches or locations of the business located on lands within the jurisdiction of the Pascua Yaqui Tribe.

Section 160 Denial of License or Renewal (7 PYTC § 3-160)

- (A) A business license shall be issued to applicants whose presence on the Pascua Yaqui Tribe's lands will, be beneficial to the Pascua Yaqui Tribe and will not endanger the public health, safety, or welfare of tribal members, and who have met all of the requirements set forth under Pascua Yaqui Tribal law.
- (B) A business license application shall be denied any if it is determined that the applicant has materially misrepresented facts contained in the application or that the business will threaten the peace, safety, morals, or general welfare of the Pascua Yaqui Tribe, or if the applicant is, at the time of the application or renewal application, delinquent in the payment of any license fees, transaction privilege tax, including interest or penalties, or if the applicant is in any other respect in violation of Pascua Yaqui Tribal law.

Section 170 Conditions of License (7 PYTC § 3-170)

- (A) Each licensee shall comply with all Pascua Yaqui Tribal laws, including but not limited to: tax laws, Indian employment and contracting preference laws, and applicable federal law. The licensee is required to comply with any additional Pascua Yaqui Tribal laws that may be enacted by the Pascua Yaqui Tribe.
- (B) Each licensee consents to the jurisdiction of the Pascua Yaqui Tribal Court as to any cause of action arising in connection with the transaction of any business within the lands of the Pascua Yaqui Tribe, or any tortious acts committed in connection with the transaction of any business within the lands of the Pascua Yaqui Tribe.
- (C) Each licensee shall respond in a timely manner to requests for information about the licensee's business for the purpose of establishing whether the licensee is in compliance with the terms of this Chapter.

Section 180 Revocation of License (7 PYTC § 3-180)

If any business is more than sixty (60) days delinquent in the payment of any license fees, interest, or penalties imposed by this Chapter, or is otherwise not in compliance with the Pascua Yaqui Tribe laws, that business may, after notice, be subject to revocation of the tribal business license of such business.

Section 190 Reinstatement of License (7 PYTC § 3-190)

, Upon application, the Pascua Yaqui Tribe may reinstate a business license that has been revoked upon the payment of all license fees, penalties, and interest owed by the business pursuant to this Chapter, provided that the business is otherwise in compliance with Pascua Yaqui Tribal law, and provided further that as a condition of reinstatement that the applicant may be required to furnish a bond to the Pascua Yaqui Tribe, or other adequate security. An applicant shall pay a reinstatement fee of \$50.00, in addition to any other fees and penalties due.

Section 200 License Not Transferable (7 PYTC § 3-200)

The license provided for in this Chapter is not transferable, and is valid only for the person in whose name it is issued and for the transaction of business of the same type and at the place or places designated therein.

Section 210 Posting of License (7 PYTC § 3-210)

Each business shall post its tribal business license in a conspicuous location at its place of business.

SUBCHAPTER C VIOLATIONS

Section 220 Penalties (7 PYTC § 3-220)

- (A) Conducting business within lands subject to the jurisdiction of the Pascua Yaqui Tribe without a properly issued business license or the failure by any licensee to comply with the requirements of this Chapter or Title 7, Chapter 4-1 Transaction Privilege Tax shall subject the person to any of the following:
 - (1) Forfeiture of license;
 - (2) Forfeiture to the Pascua Yaqui Tribe of all improvements constructed on, or any personal real property found upon, tribally owned lands;
 - (3) Expulsion from the lands of the Pascua Yaqui Tribe; and
 - (4) Civil fines as set out in this Section.
- (B) Civil Fines. Any person who violates, omits, neglects, or refuses to comply with any of the provisions of this Chapter may be assessed a penalty of not less than \$100.00 nor more than \$1,000.00 for the first violation, and not less than \$250.00 nor more than \$1,500.00 for the second violation, and not less than \$500.00 nor more than \$2,000.00 for the third violation, and not less than \$1,000.00 nor more than \$5,000.00 for the fourth and each subsequent violation.

Section 230 Interest; Collection Costs (7 PYTC § 3-230)

Failure to pay the license fee on or before the due date of any amount payable hereunder whether as license fee or otherwise shall bear interest at a rate of eight percent (8%) compounded annually from the date from which the fee became due and payable. In addition to other penalties and interest imposed under this Chapter, a person in violation of this Chapter may be required to pay the costs of collection, including but not limited to attorney's fees, incident to any administrative or judicial proceeding brought to enforce the provisions of this Chapter.

Section 240 Sovereign Immunity (7 PYTC § 3-240)

Nothing herein shall be construed as a waiver of the Pascua Yaqui Tribe's sovereign immunity from suit."