

CHAPTER 8 BUSINESS REGULATIONS

Article 8-1 PEDDLERS AND SOLICITORS (Created by Ord #362, Adopted by Res 1475 on 8/12/14. Effective 9/12/14)

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Section 8-1-1 Purpose

The town council desires to regulate peddling and solicitation within the town in a manner so as to ensure the residents the maximum amount of privacy and security in their own homes that is permissible in light of court decisions mandating certain types and amounts of access to residential areas by peddlers and solicitors. It is, therefore, the intent of the town council in enacting this chapter to recognize the extensive single-family residential nature of the town and the town's unique geography and topography, resulting in narrow unlit streets, while providing opportunity for peddlers and solicitors as mandated by law.

Section 8-1-2 Definitions

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Canvasser” means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of:

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1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause; or
2. Distributing a handbill or flyer advertising a noncommercial event or service.

“Commercial” means and includes the sale of services, goods, wares and merchandise for monetary compensation, consideration or profit, whether or not a profit is made, and not for any charitable purpose.

“Contribution” means and includes, food (except seasonal handouts of candy or other snack-type food items), clothing, money, property, subscriptions, pledges or donations given or solicited, either directly or indirectly, or under the guise of loans of money or property.

“Identification card” means a solicitor identification card in accordance with section 8-1-7.

“Peddler” means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a solicitor.

“Solicitor” means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of:

1. Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service; or
2. Distributing a handbill or flyer advertising a commercial event or service.

“Supervision” means the following:

1. An adult supervisor within one-quarter mile of each individual solicitor under the age of 16;
2. No more than five individual solicitors under the age of 16 assigned to each adult supervisor; and
3. Contact by such supervisor with each solicitor under the age of 16 at least once every two-hour period that the child is soliciting.

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“Writing” includes printing, typewriting, mimeographing, multi-graphing or photocopying.

“Written” includes printed, typewritten, mimeographed, multi-graphed or photocopied.

Section 8-1-3 Permit Requirements

- A. No person shall act as a peddler or as a solicitor within the town limits without first obtaining a permit and identification card in accordance with this chapter. A canvasser is not required to have a permit or identification card but any canvasser wanting an identification card for the purpose of reassuring town residents of the canvasser’s good faith shall be issued one upon request.
- B. No person shall peddle for commercial purposes within the town without first acquiring the necessary transaction privilege and use tax identification number, if applicable, and the Town of Clarkdale business license in accordance with Article 8-3, Section 8-3-7, Applicability to Business Located Outside Town.

Section 8-1-4 Exemptions

- A. On-Premises Solicitations. The provisions of this chapter shall not apply to solicitations made upon premises owned or occupied by the organization or person on whose behalf such solicitation is made.
- B. Additional Exemptions. The provisions of this chapter shall not apply to:
 - 1. Payments required by law to be collected or paid; or
 - 2. Payments to or from governmental agencies; or
 - 3. A public utility employee in the performance of his or her duty for his or her employer; or
 - 4. Solicitations made by an association or its authorized agents and employees to its own members and employees.
 - 5. Solicitations or door-to-door sales made by schools funding extracurricular activities and non-profit youth groups such as Boy Scouts, Girl Scouts and youth sports.

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Section 8-1-5 Application Procedure

- A. Filing an Application. A Peddler-Solicitor Permit Application shall be filed with the Clarkdale Police Dept., along with the required permit fee as listed in the Clarkdale Fee Schedule approved by Resolution, and the Chief of Police, or his/her designee, shall, in conformance with the standards set forth in this chapter, either grant or deny the requested permit within seven business days of the date the application is made. In the event the Chief of Police, or his/her designee, fails to act upon an application within the time prescribed herein, the permit shall be deemed granted.
- B. Contents of Application. An application for a permit shall include but not be limited to the following information:
1. The applicant's legal business, organization or personal name, tax identification number as issued by the state of Arizona (if applicable), address of its principal office and Web site address;
 2. The name, address and telephone number of the person or persons who will be in direct charge of conducting the permitted activity;
 3. A valid driver's license, state identification card, passport, or other government-issued identification card (issued by a government of the United States), and the physical description of each person for whom a peddler-solicitation permit ID card is requested, that will include the agent's height, weight, hair color and eye color;
 4. Date and place of birth for each person for whom a permit is requested and the Social Security number of such person;
 5. A list of all infractions, offenses, misdemeanor and felony convictions of each person for whom a permit is requested for the seven years immediately prior to the application;
 6. The motor vehicle make, model, year, color and state license plate number of any vehicle which will be used by each person for whom a permit is requested;
 7. A description of the method or methods to be used in conducting the solicitation;
 8. The location where books and records are kept of sales which occur within the town and which are available for town inspection to determine that all town sales taxes have been paid;

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9. If soliciting donations, the name and permanent address of the organization, person, or group for whom donations (or proceeds) are accepted;
 10. Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, and the like;
 11. The time when such solicitation will be made, giving the intended dates and the hours of day for the commencement and termination of the solicitation;
 12. A statement to the effect that, if a permit is granted, it will not be used or represented in any manner as an endorsement by the town or by any department or officer thereof;
 13. The signature of the applicant.
- C. Change in Information. If, while any application is pending, or during the term of any permit granted hereunder, there is any change in fact, policy or method that would alter the information set forth in the application, the applicant shall notify the Chief of Police, or his/her designee, in writing thereof within 24 hours after such change.

Section 8-1-6 Permitting Procedure

- A. Issuance of Permit. The Chief of Police, or his/her designee, shall issue a peddler-solicitation permit unless any of the following have been demonstrated:
1. That the applicant has failed to provide information required pursuant to this chapter;
 2. That any statement made in the application is false;
 3. That the applicant or any individual agent or solicitor has been convicted of a felony or a misdemeanor involving moral turpitude, disorderly conduct or a violation of this chapter within the past seven years;
 4. That the applicant has not provided a tax identification number, if applicable.
- B. Authority of the Chief of Police, or his/her designee. Nothing in this chapter shall be construed as granting to the Chief of Police, or to any other person, the authority to grant, deny, revoke, renew or suspend any permit by reason of either approval or disapproval of the philosophy, opinions or beliefs of the applicant, the

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permittee, or the person such applicant or permittee represents, or for any other reasons not specifically set forth in this chapter.

- C. Investigation. During the period of time following submission of the application for one or more identification cards and its issuance, the Chief of Police, or his/her designee, shall investigate as to the truth and accuracy of the information contained in the application. If the Chief of Police, or his/her designee, has not completed the investigation within the prescribed time, the identification card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation.
- D. Form of Permit. Permits issued under this chapter shall bear the name and address of the person to whom the permit is issued, the number of the permit, dates within which the permittee may solicit, a statement that the permit does not constitute an endorsement by the town or any of its departments, officers or employees of the purpose, or of the person conducting the solicitation. All permits must be signed by the Chief of Police, or his/her designee.
- E. Term of Permits. All permits issued under this chapter shall be valid for six months from the date approved unless revoked or suspended pursuant to the provisions of this chapter.
- F. Permit Nontransferable. No permit issued under this chapter is transferable or assignable.

Section 8-1-7 Identification Card

- A. Contents of Identification Card. The Chief of Police, or his/her designee, shall provide to all individual agents and solicitors for each permit holder identification cards which shall include the permit number; the individual agent or solicitor's name, signature, photograph and physical description; the name of the individual, organization or business directing the solicitation and name of the permit holder, if different; the time period during which the solicitation is authorized; and a statement providing that the identification card is not an endorsement of the solicitation by the town or any of its departments, officers or employees. Upon request by the permit holder, the Chief of Police, or his/her designee, may omit the name of any individual solicitor under the age of 18 from the identification card only.

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- B. Card to Be Carried and Displayed. No person shall solicit unless the required identification card is exhibited and presented for review by the person solicited, before accepting any contribution or making any commercial transaction.

Section 8-1-8 Solicitation Procedures

- A. General Requirements.
1. No person shall act as a peddler or solicitor except pursuant to a permit issued under this chapter, or without having in his possession an identification card as provided in section 8-1-7.
 2. No person shall act as a peddler or solicitor within the town after the permit issued by the town has expired.
 3. No person shall act as a peddler, solicitor or canvasser at any residence where there is a sign indicating “No Solicitations,” “Do Not Disturb,” or “No Trespassing,” or otherwise indicating that the residents do not wish to be solicited or have their privacy disturbed.
 4. No person shall touch, come into physical contact with or affix any object to another person without first receiving express permission therefor from such person.
 5. While soliciting, no person shall intentionally or deliberately obstruct the free movement of any person on any street, sidewalk or other place.
 6. No person shall threaten any injury or damage to any person who declines to be solicited.
 7. No person shall directly or indirectly solicit contributions from any person by misrepresentation of his or her name, occupation, physical or mental condition, financial condition, residence or principal place of business. No person shall make or cause to be made any misstatement of fact or misrepresentation in connection with any solicitation, or any application or report filed under this code.
 8. No charitable organization or professional fund raiser permitted to solicit for a charitable organization shall use statements or materials indicating such contributions are being raised for any individual or organization which has not given its written consent for the solicitation of such contribution.

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9. No person shall solicit in the town for any purpose other than the purposes specified in the application upon which the permit was issued.
 10. No person under the age of 16 shall solicit within the town unless supervised, as defined in 8-1-2, by an adult holding a permit.
- B. Hours of Solicitation. Unless an individual has been requested or invited by the owner or occupant, it shall be unlawful for any permit holder or registered individual solicitor to enter upon any residential premises for the purpose of solicitation earlier than 9:00 a.m. of any day or after 6:00 p.m., in the case of a solicitor over the age of 16, or after 5:00 p.m., in the case of a solicitor under the age of 16. This section shall not be interpreted to grant any person permission to enter upon private property.
- C. Written Receipts Required. Any solicitor receiving money or anything having a value of \$10.00 or more from any person under a solicitation made pursuant to a permit issued hereunder shall give to such person a written receipt, signed by the solicitor, showing plainly the name and permit number of the person under whose permit the solicitation is conducted, and the date and the amount received; provided, however, that this requirement shall not apply to any contributions collected by means of a closed box or receptacle used for solicitation with the written approval of the Chief of Police, or his/her designee, where it is impractical to determine the amount of each such contribution.

Section 8-1-9 Denial of Permit

In the event that the Chief of Police, or his/her designee, denies a permit, the Chief of Police, or his/her designee, shall notify the applicant by certified mail within the seven-day processing period, stating with specificity the reasons for such denial.

Section 8-1-10 Revocation of Permit

- A. Grounds for Revocation. A permit shall be revoked if the permit holder or any individual soliciting on behalf of the permit holder:
1. Violates any of the provisions of this code or any town ordinance, or commits any other criminal act while engaging in the permitted activity or misrepresents to a person being solicited the purpose of the solicitation;

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2. Commits any fraud, misrepresentation or incorrect statement in the course of carrying on the activity;
 3. Is later found to have been convicted of any felony or misdemeanor involving moral turpitude within the last seven years;
 4. Conducts the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare or public.
- B. Notice of Suspension. Whenever it shall be shown that grounds for revocation exist, the Chief of Police, or his/her designee, shall suspend the permit by issuing to the permit holder a notice of suspension, stating with specificity the reasons for the suspension. Such notice shall be provided by certified mail or by personal service of the notice upon the permittee. The suspension shall become effective on the third calendar day after service by mail of the suspension notice, or immediately upon personal service of the notice. The revocation shall be final unless an appeal is successfully taken.

Section 8-1-11 Permission Required for Selling on Streets or Sidewalks

It is unlawful for any person to erect or maintain any booth, stand or counter on any sidewalk in the Town for the purpose of barter, sale or trade, or keep or maintain upon the streets or alleys any wagon, cart, wheel, vehicle, movable booth or stand for the purpose of barter or trade without obtaining permission of the Council.

Section 8-1-12 Appeal

If an applicant or permittee is aggrieved by any action to deny, suspend or revoke a permit by the Chief of Police, or his/her designee, such applicant or permittee shall have the right to appeal such decision to the town manager. The notice of appeal shall specifically set forth the grounds for the appeal and shall be filed within seven calendar days after mailing or personal delivery of a notice of denial or revocation. The town manager shall hear the applicant/permittee or a designated representative, receive relevant information and documents, and act on the appeal within five calendar days of receiving the appeal. The town manager's decision shall be final.

Section 8-1-13 Penalties (Revised 10/25/16; Resolution 1529; Ordinance 376: Effective 10/26/16)

A violation of this Chapter shall be punishable under Article 1-8 of the Town Code.

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**Article 8-2 Tax Code
Insert Here**

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Article 8-3 BUSINESS LICENSE TAX

- 8-3-1 License Required
- 8-3-2 Issuance
- 8-3-3 Exemptions
- 8-3-4 Separate Licenses Required
- 8-3-5 Licenses to be displayed
- 8-3-6 Non transferability of License
- 8-3-7 Applicability to Business Located Outside Town
- 8-3-8 Time and Place of Payment
- 8-3-9 Amount of Tax (~~Deleted by Ordinance #361 Adopted 4/8/14; Effective 5/8/14~~)
- 8-3-10 Inspection
- 8-3-11 Records
- 8-3-12 Revocation
- 8-3-13 When Taxes Delinquent
- 8-3-14 Violations

Section 8-3-1 License Required

It is unlawful for any person whether as principal or agent, Clerk or employee, either for himself or any other person or for any body corporate, or an officer of any corporation, or as a member of any firm or partnership, or otherwise, to commence, practice, transact or carry on any trade, calling, profession, occupation or business, without first having procured a license from the Town to do so.

Section 8-3-2 Issuance

It shall be the duty of the Town Clerk, or such other person to whom may be assigned the duty, to prepare and issue a license under this article for every person required to pay a license hereunder and to state in each license the amount thereof, the period of time covered thereby and the name of the person for whom issued, the trade, calling, profession, occupation or business

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and the location of same.

Section 8-3-3 Exemptions

No license shall be required for federal, state or local governments or agencies, or infrequent yard sales not occurring more often than once a month at a given location.

Section 8-3-4 Separate Licenses Required

A separate license must be obtained for each branch establishment or separate place of business and for each trade, calling, profession, occupation or business carried on at the same place, and each license issued shall authorize the person obtaining it to carry on only that trade, calling, profession, occupation or business described in such license, and only at the location or place of business therein described.

Section 8-3-5 Licenses to be Displayed

Every person having a license under the provisions of this article shall keep such license in some conspicuous part of such place of business. Every person having such a license and not having a fixed place of business shall carry such license with him at all times while carrying on the trade, calling profession, occupation or business for which the license was granted. Every person having a license under the provisions of this article shall produce and exhibit such license when applying for a renewal thereof, and whenever requested to do so by any Police Officer or by any officer authorized to issue, inspect or collect licenses.

Section 8-3-6 Non Transferability of License

All licenses issued hereunder are nontransferable.

Section 8-3-7 Applicability to Business Located Outside Town

Every person who shall conduct an established business, profession, trade or calling outside the Town and who solicits, canvasses, delivers his products or performs a service within the Town shall pay a license tax.

Section 8-3-8 Time and Place of Payment

All taxes required by this article shall be paid in advance to the Town Clerk at the Town Hall. The license tax herein provided for shall be due and payable on the first day of July of each year.

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Section 8-3-9 Amount to Tax (Deleted by Ordinance #361 Adopted 4/8/14; Effective 5/8/14)

Section 8-3-10 Inspection

The Town Clerk, license inspectors and police officers shall have and exercise the power to enter free of charge, at any time, any place of business for which a license is required by this article, and to request the exhibition of the license for the current term from any person engaged or employed in the transaction of such business.

Section 8-3-11 Records

The Town Clerk shall keep such records and account as shall be necessary to adequately show separately the taxes collected hereunder.

Section 8-3-12 Revocation

Any license issued under the provisions of this article may, for a good cause, be revoked. Good cause includes, but is not limited to, violation of the Town's Ordinances, regarding business licenses, compliance with applicable fire, building and zoning codes, and circumstances which endanger the public health, safety and welfare.

Section 8-3-13 When Taxes Delinquent

When any license tax provided for herein shall become due and unpaid for thirty days, the same shall become delinquent, and the Town Clerk shall add thereto ten percent as a penalty.

Section 8-3-14 Violations (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

A failure to secure, exhibit, or allow inspection of a business license as required by this Chapter shall be a violation punishable under Article 1-8 of the Town Code.

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Article 8-4 PARK AND SWAP OPERATIONS

- 8-4-1 Definitions
- 8-4-2 License Required
- 8-4-3 License Display, Duration, Renewal and Transfer
- 8-4-4 Fee Schedule
- 8-4-5 Application; Refusal to Issue
- 8-4-6 Revocation or Suspension of License
- 8-4-7 Police Reports Required
- 8-4-8 Privilege License Reports and Collection of Taxes
- 8-4-9 Trading Area; Visibility of Merchandise
- 8-4-10 Sanitary Facilities
- 8-4-11 Hours of Operation
- 8-4-12 Exemption
- 8-4-13 Violations

Section 8-4-1 Definitions

In this article, unless the context otherwise requires:

- A. **“Owner” or “operator”** means any person who rents, sells, donates or otherwise makes available to park and swap meet participants any space within premises owned or controlled by the proprietor for the purpose of a swap meet sale or who controls admission, directly or through agents, of persons and merchandise into the park and swap lot.
- B. **“Park and Swap Lot”** means a building, structure, enclosure, lot or other area into which persons are admitted to display, exchange, barter, buy, sell or bargain for new and used merchandise, excluding those places normally engaged in the business of making sales at retail.
- C. **“Park and Swap Meet”** means the activity carried on at the park and swap lot and consists of the admitting of persons into a park and swap lot for the purpose of displaying, exchanging, bartering, buying, selling or bargaining for new and used merchandise.
- D. **“Park and Swap Meet Participant”** means any person other than an owner or operator who brings goods, wares and merchandise, both new and secondhand, to a park and swap meet for the purpose of displaying, exchanging,

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bartering, buying
selling or bargaining these goods, wares and merchandise.

- E. **“Police Chief”** means the Chief of the Clarkdale Police Department.

Section 8-4-2 License Required

It is unlawful for any owner or operator to operate within the limits of the Town a park and swap lot without first having obtained a license as provided in this article, together with a privilege license, pursuant to Article 8-2, for reporting and paying monthly to the Town all privilege license taxes due by reason of the operator’s operations, together with a separate privilege license which shall be used for reporting and paying to the Town the privilege license taxes collected by the operator from the participants, pursuant to the provisions of Section 8-4-8.

Section 8-4-3 License Display, Duration, Renewal and Transfer

- A. All licenses issued under the provisions of this article shall be displayed in a conspicuous place.
- B. All licenses, unless specifically excepted, shall be issued for a period of one year and shall run from January 1 in each calendar year to December 31 next following when they may be renewed, provided that no license shall be renewed unless the licensee conforms with the provisions of this article.
- C. Licences issued under this article shall not be transferable.

Section 8-4-4 Fee Schedule

Fees shall be charged to the operator in accordance with the provision for a business license tax in addition to section 8-4-8.

Section 8-4-5 Application; Refusal to Issue

- A. An application for a license under this article shall be made on forms furnished by the Clerk. Every application shall be accompanied by an application fee in the amount provided in Section 8-4-4. In the event a license is not issued, the application fee shall not be returned to the applicant but shall be applied to cover the cost of processing the application.
- B. The Clerk shall have the power to refuse to issue a license for any of the following causes:

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1. Fraud, misrepresentation or a false statement made in the course of applying for the license.
2. Conviction of any crime or misdemeanor involving moral turpitude within the last ten years.
3. Three violations of this article within any three year period.

Section 8-4-6 Revocation or Suspension of License

- A. Whenever the Town has knowledge or it is brought to the attention of the Town that any person licensed under this article has violated, or is violating, any of the provisions of this article, such person shall be cited to appear before a hearing officer designated by the Town Manager, on a day certain to show cause why his license should not be suspended or revoked. Such citation shall state the duty of the person cited to appear personally at the time and place and shall be served by an officer of the Police Department in the manner provided for personal service of civil summons. It shall be the duty of the person cited to appear personally at the time and place named in the citation.
- B. If, after such hearing, the hearing officer determines that there is good and sufficient reason for the suspension or revocation of the cited person's license, the hearing officer shall enter an order effectively immediately to such effect and so notify the cited person by registered mail. The decision of the hearing officer revoking or suspending any license shall be final.

Section 8-4-7 Police Reports Required

- A. On each day of operation of a park and swap lot, the owner or operator shall, on forms provided by the Town; obtain the following information on each park and swap meet participant:
 1. Name and address.
 2. Vehicle description and license plate number, if any.
 3. Driver's license number and the state where issued, if any.
- B. These forms and admission records shall be available for police inspection during

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normal business hours and may be filled out by the park and swap meet participant and turned over to the owner, operator or his designated employee. The owner or operator shall be responsible for forwarding these reports to the Police Chief at the close of each day's business.

Section 8-4-8 Reports and Collection of Taxes

- A. The operator of any park and swap meet shall be required to provide a weekly report to the Town Clerk which provides a complete list of all participants.
- B. The operator shall also remit \$1.00 per participant per day of operation to the Town Clerk. Such payment is accepted as the total fee to the participants who are engaged in activity defined as casual activity or sales according to the Clarkdale Tax Code.

Section 8-4-9 Trading Area, Visibility of Merchandise

The swap meet activities shall be conducted only in a building, structure or other area which is sufficiently defined to enable the owner or operator or his employees to control effectively all persons and merchandise, and only in an area zoned for this type of activity. All merchandise, both new and secondhand, for which the park and swap participant asks, or intends to ask, an initial price of twenty five dollars or more shall at all times be visible to the general public and officials of the Town.

Section 8-4-10 Sanitary Facilities

The owner or operator of any swap meet shall provide indoor or portable restroom facilities during the hours of operation of said swap meet for use by the public.

Section 8-4-11 Hours of Operation

A swap meet operated within the Town shall not operate before 7 a.m. or after 5 p.m.

Section 8-4-12 Exemption

The provisions of this article shall not be applied to any charitable organization having a valid solicitation permit for this activity from the Town. This article shall not apply to activities

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carried on by charitable organizations established and operated exclusively for a religious or charitable purpose if conducted solely among its members and guests by other members serving without remuneration or if such activities are conducted at the assemblies or services of the organization.

Section 8-4-13 Violations (Revised 10/25/16; Resolution 1529; Ordinance 376; Effective 10/26/16)

It is a violation of the Town Code punishable under Article 1-8 if any person, firm, company, or corporation violates or fails to comply with this Chapter.

Article 8-5 **SPECIAL EVENTS** (Created by Resolution #1422/Ordinance #349 on 2/12/13; effective 3/12/13)

- 8-5-1 Purpose and Intent
- 8-5-2 Definitions
- 8-5-3 Permit Required
- 8-5-4 Exemptions
- 8-5-5 Restrictions and Limitations
- 8-5-6 Signage
- 8-5-7 Fees, Deposits and Insurance Requirements

Section 8-5-1 Purpose and Intent

The purpose of these regulations is to provide specific prohibitions, requirements, provisions, limitations, restrictions and conditions for approval for temporary events occurring in the Town to ensure the general health, safety, and welfare of the community and compatibility of the event with the location and facility.

Section 8-5-2 Definitions

Special Events may occur inside or outside of a permanent structure. Special Events are a short-term activity that may impact neighboring properties. Special Events may occur on public or private property and may be related to an established use on the property or for a new, temporary use that occurs for a specified short-term time period. Events qualified under Section 8-5-4 Exemptions are exempt from the requirement to obtain a Special Event Permit.

Any event with the following components qualifies as a Special Event and requires a permit:

- Occurs on public property such as a Town Park or street
- Uses outdoor, amplified sound
- Uses tents or canopies
- Uses air-supported and inflated devices (bounce house) available to the general public

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- Advertised for attendance by the public-at-large
- Any event that has an admission fee
- Any event that has sponsorship activities
- Any event that offers food, drink, goods or merchandise for sale or donation

Section 8-5-3 Permit Required

- A. All Special Events require a Special Event Permit. Permit applications shall be submitted to the Town for review and approval. A permit fee will be assessed. Special Event Permit applications must be submitted at least 45 days prior to the event.
- B. Special Events on Town property require an 'Application for Facility Use'. This application must be submitted along with the Special Event Permit.
- C. It shall be unlawful to conduct a Special Event without a properly issued Special Event Permit.
- D. Special Events occurring without a valid permit shall be subject to immediate cessation pursuant to notice from the Town Manager or designee. It shall be unlawful to continue event activities after notice of a violation has been issued.
- E. Failure to comply with the requirements of this section or any stipulations of the Special Event Permit is a Class 2 Misdemeanor offense and may be punishable by a fine in an amount up to \$750.00 plus applicable surcharges, imprisonment for a period up to four (4) months, and probation for a period up to two (2) years.

Section 8-5-4 Exemptions

The following categories are exempt from the requirement to obtain a Special Event permit, unless temporary structures are used or any portion of the event is on public right-of-way.

- A. Garage, Yard or Estate Sales.
- B. Private events on private property lasting less than twenty-four (24) hours.
- C. Funeral processions.

Section 8-5-5 Restrictions and Limitations

- A. Temporary Structures

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1. No temporary structure shall block the access of emergency vehicles or create a traffic hazard.
 2. No temporary structure shall reduce the amount of available parking at the site of the Special Event without prior approval of the Town Manager or designee.
 3. All temporary structures shall meet accessory structure setbacks and primary structure height limitations of the underlying zoning district.
 4. Temporary structures shall be removed from the site by the next business day after the expiration of the permit, or as otherwise provided for in the Special Event permit.
- B. The Community Development Director, or designee, may waive any setback or height requirement for a Special Event upon review of the Special Events Permit application.
- C. Special Events conducted within the Town shall be in compliance with applicable Town ordinances (unless modified by the approved terms of the Special Event permit) and all applicable State and County regulations.
- D. The Town reserves the right to conduct inspections of the site.
- E. The Town reserves the right to limit the hours of the Special Event to avoid unreasonable interference with adjacent properties.
- F. Electrical wiring shall be installed in compliance with the provisions of the adopted electrical code of the Town.
- G. Any supplemental lighting used during a Special Event shall be in conformance with Chapter 8 – Lighting Code of the Town of Clarkdale Zoning Code.
- H. The Special Event shall not interrupt traffic movement unless pre-approved through review of the Special Events Permit Application.
- I. No Special Event shall interfere with public health and safety.
- J. Amplified sound for a Special Event held within a completely enclosed building shall not be permitted after 12:00 a.m. or before 10:00 a.m. For outdoor Special Events, amplified sound after 9:00 p.m. or before 10:00 a.m. is not permitted.

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- K. Clean-up of the site, including removal of all waste and temporary structures, must be completed by 10:00 a.m. of the morning following the end of the Special Event or as otherwise provided for in the Special Event Permit.

Section 8-5-6 Signage

- A. All signage must comply with Chapter Seven of the Town of Clarkdale Zoning Code.
- B. A separate Sign Permit is not required for Special Event signs.

Section 8-5-7 Fees, Deposits and Insurance Requirements

- A. A fee will be charge for the required Special Event Permit based on the Town’s current adopted fee schedule.
- B. A refundable security deposit will be required for Special Events held in Town facilities and Town right-of-way.
- C. The applicant shall execute a hold harmless agreement indemnifying the Town from any liability related to personal injury, death or property damage as a result of the Special Event.
- D. The applicant shall provide a Certificate of Insurance in the amount of \$1 million worth of general liability coverage that names the Town of Clarkdale as an additional insured. The Certificate of Insurance must provide 30 days notice of cancellation and must reference the specific activity and date.
- E. A Special Event Liquor License from Arizona Department of Liquor Licenses and Control must be obtained when required by A.R.S. §4-203.02. Town approval of the Special Event Liquor License shall be processed through the Town Clerk’s Office.

ARTICLE 8-6 CIVIL UNIONS (Created by Resolution 1447; Ordinance #356 on 11/12/13 Effective 12/12/13)

- 8-6-1 Purpose and Intent
- 8-6-2 Definitions
- 8-6-3 Requirements for a Valid Civil Union
- 8-6-4 Fees
- 8-6-5 Responsibilities and Benefits of Parties to a Civil Union
- 8-6-6 Modification of Terms; Termination of Designation
- 8-6-7 Formalization; Right of Nonparticipation
- 8-6-8 Public Records

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Section 8-6-1 Purpose and Intent

The Town of Clarkdale supports the right of every person to enter into a lasting and meaningful personal relationship with the partner of his or her choice, regardless of the gender or sexual orientation of the parties to that relationship. For that purpose, the Town of Clarkdale seeks to respect, support, and facilitate the rights of all persons to enter into contractual relationships and to designate agents, to the full extent permitted by the law, to manage their property, to make important life decisions, and otherwise to provide and care for loved ones within a meaningful and lasting personal relationship.

Section 8-6-2 Definitions.

In this Chapter, unless the context otherwise requires:

- A. “Town of Clarkdale Certificate of Civil Union” means a document that certifies that the persons named on the certificate have registered a contractual relationship in the Town of Clarkdale, Arizona pursuant to this Article.
- B. “Civil Union” is a contractual relationship established by two eligible persons and which has been registered pursuant to this Article.
- C. “Party to a Civil Union” means a person who has registered a Civil Union with the Town of Clarkdale.
- D. “Registered Civil Union Partners” means a person who has registered a Civil Union with any city or town in the State of Arizona or other legal governmental body, and is not party to any existing civil union, domestic partnership, marriage, or other legally recognized domestic relationship with any third party.
- E. “Health Care Facility” means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. 36-151 and hospice service agencies.

Section 8-6-3 Requirements for a Valid Civil Union.

- A. Two persons who meet all of the following requirements may enter into a Civil Union:
 - 1. Are at least eighteen years of age.
 - 2. Are not related by blood in a way that would disqualify them from marriage pursuant to A.R.S. §25-101.A.

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3. Are not presently married pursuant to Arizona law.
4. Are competent to enter into a contract.
5. Are not party to any existing civil union, domestic partnership, marriage, or other legally recognized domestic relationship with any third party.

B. A Civil Union is established by the following process:

1. Two eligible individuals seeking to register a Civil Union with the Town of Clarkdale must complete and file a notarized affidavit, in a form to be prescribed by the Town Clerk, declaring their intention to register a Civil Union. This form shall include the name, age, and address of each applicant; a statement that both parties are eligible to register this Civil Union; and a statement that it is the intent of each party to register this Civil Union.
2. In addition to the notarized affidavit, civil union partners may submit to the Town, and the Town shall maintain, a statement or list describing any additional documents, such as contracts and agreements, that document the rights, responsibilities and obligations that the civil union partners have established. Such a statement or list shall not be required in order to register a Civil Union. In order to prevent public access to private, personal information, civil union partners may not submit, and the Town will not maintain, the contracts and agreements themselves.

Certain of these agreements may require additional documentation and other formalities in execution in order to effectuate their intent, pursuant to the laws of the State of Arizona. The Town of Clarkdale makes no warranty or guarantee regarding the legality or enforceability of any agreements or nominations of the parties.

3. The Town Clerk shall file the affidavit and any accompanying statement of contractual terms in the records of the Town and shall issue a Civil Union Certificate, upon the payment of the required fee.

Section 8-6-4 Fees.

- A. The fee for filing a civil union statement and any attachments shall be fifty dollars (\$50).
- B. The fee for additional, original Civil Union Certificates is twenty five dollars (\$25).
- C. The fee for obtaining additional copies of the paperwork in the file relating to a given Civil Union shall be ten dollars (\$10).

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- D. The fee for filing an amendment to the statement or list describing additional documents shall be ten dollars (\$10).
- E. The fee for filing a termination of civil union statement shall be ten dollars (\$10).

Section 8-6-5 Rights of Registered Civil Union Partners.

- A. Health Care Visitation. All health care facilities operating within the Town shall allow the civil union partner of a patient to visit such patient unless no visitors are allowed or the patient expresses a desire that visitation by the civil union partner be restricted.
- B. Town employee benefits. Any Town employee who is registered as a civil union partner may designate his or her partner as a beneficiary of any of the benefits provided by the Town in the same manner as a spouse of an employee. If any benefits are administered by a third party, then those benefits are subject to satisfying any third party requirements.

Section 8-6-6 Modification of Terms; Termination of Designation.

- A. The Parties to a Civil Union may amend the terms of their particular agreements, designations, and nominations, in whole or in part, in the same manner as such agreements, designations, and nominations may be modified under applicable law. Should they desire, the parties to a Civil Union may file an amendment to the statement or list describing additional and/or amended documents by paying the fee outlined in Section 8-6-4 (D).
- B. A Civil Union shall terminate upon the occurrence of any one (1) of the following:
 - (1) The death of one (1) of the partners;
 - (2) A request by one or both parties for the Town Clerk to terminate the registration of the Civil Union. In such a case, the party(ies) must submit a signed and notarized statement to the Town Clerk. The statement must declare that the civil union is terminated and, if the termination statement has not been signed by both parties to the civil union, that the other person has been notified in writing of such termination at the last known address of such person. Upon the receipt of such a signed and notarized request, the Town Clerk will terminate the registration of such Civil Union. Any such termination of registration shall not alter any remaining contractual obligations or legal designations that have been made by the respective

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parties or the ability of either party to enforce any contractual rights that may continue to be enforceable under applicable law.

- (3) The marriage, expressly recognized by the State of Arizona, of either one of the civil union partners.
- C. A registered Clarkdale Civil Union shall not prevent the parties to that status from entering into any other type of legal status between those two parties in another jurisdiction, including a marriage where the laws of such other jurisdiction permits them to enter that status. For any two parties who are married or in a civil union or domestic partnership under the laws of another jurisdiction, a Clarkdale Civil Union may provide a means of effectuating portions of that relationship under the laws applicable within the Town of Clarkdale to the extent set forth herein.

Section 8-6-7 Formalization; Right of Nonparticipation.

- A. The Town of Clarkdale does not require any religious organization or judicial officer to participate in formalizing a Civil Union.

Section 8-6-8 Limitation of Liabilities.

- A. Nothing in this article shall be interpreted to modify, alter or effect any rights, privileges or responsibilities under any federal or applicable state law.
- B. Nothing in this article shall be construed to create additional legal liabilities greater than those already existing under law or to create new private causes of action.
- C. By maintaining records provided by civil union partners pursuant to this Article, including the statement or list of documents as described in Section 8-6-3 (B)(2), the Town does not make any representation or warranty that such documents, records or stated intentions are legally enforceable or valid.

Section 8-6-9 Public Records.

- A. The statement of civil union, the Civil Union Certificate and all documents provided to the Town by civil union partners pursuant to this Article shall be treated as a public record pursuant to the laws of the State of Arizona and shall be subject to disclosure upon request.

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Article 8-7

COMMERCIAL OUTFITTERS

(Created by Resolution #1491; Ordinance #365 on 1/27/15; Effective 1/28/15)

- 8-7-1 Purpose and Intent
- 8-7-2 Definitions
- 8-7-3 Establishment of Rules; License and Permits Required
- 8-7-4 Fees and Terms
- 8-7-5 Exemptions
- 8-7-6 Minimum Qualifications and Conditions for Issuance of a Commercial Outfitter Permits
- 8-7-7 Skill Instructors, Guides, Trip Leaders, and Guide Instructors
- 8-7-8 Prohibited Operations
- 8-7-9 Enforcement
- 8-7-10 Denial, Suspension or Revocation of Permit – Disciplinary Actions

Section 8-7-1 **Purpose and Intent**

The Town Council declares that it is the policy of the Town to promote and encourage residents and nonresidents alike to participate in outdoor recreation in this community. The purpose of these regulations is to provide specific prohibitions, requirements, provisions, limitations, restrictions and conditions for approval for commercial outfitters; to safeguard the health, safety, and welfare of participating residents and nonresidents; and, to ensure appropriate compensation for commercial use of our public lands. It is the Town's policy to license and regulate those persons who operate as Commercial Outfitters, providing commercial outdoor recreation services in the Town of Clarkdale and on lands operated by the Town of Clarkdale.

Section 8-7-2 **Definitions**

As used in this article, unless the context otherwise requires:

- (1) "Advertise" or "advertisement" means any message in any printed materials or electronic media used in the marketing and messaging of outfitter operations.
- (2) "Commercial Outfitter" or "Outfitter" means any person advertising to provide or providing outdoor recreation services in the nature of facilities, guide services, instruction in outdoor recreation skills, or transportation for the purpose of outdoor recreation; except that "commercial outfitter" or "outfitter" does not include any person whose only service is providing motor vehicles, vessels, and other equipment for rent, or any person who is providing outdoor recreation services exclusively for family or friends outside of a regulated trip.

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(3) "Commercial Outfitter Permit" means a permit issued by the Town of Clarkdale to any person advertising to provide or providing outdoor recreation services in the nature of facilities, guide services, providing instruction in outdoor recreation skills, or providing transportation for the purpose of outdoor recreation on public lands owned or operated by the Town of Clarkdale.

(4) "Guide" means any individual, including but not limited to subcontractors, employed for compensation by any outfitter for the purpose of providing assistance on regulated trips.

(5) "Guide instructor" means any qualified guide whose job responsibilities include the training of guides.

(6) "Peace officer" means any town, city, county and state law enforcement officer certified by the Arizona Peace Officers Standards and Training Board.

(7) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity either located within or outside of this state.

(8) "Regulated Activity" means any activity for which outdoor recreation services are provided which has been the subject of an advertisement or for which a fee has been charged regardless of whether such fee is:

- a. Charged exclusively for the activity or as part of a packaged activity, trip, recreational excursion, or camp; or,
- b. Calculated to monetarily profit the outfitter or is calculated merely to offset some or all of the actual costs of the activity.

"Regulated Activity" does not include a trip in which a person is providing outdoor recreation services exclusively for family or friends as part of a social gathering of such family or friends.

(9) "Trip leader" means any guide whose job responsibilities include being placed in charge of a Regulated Trip.

(10) "Skill Instructor" means any person who is providing instruction in outdoor recreation skills.

(11) "Vessel" means every description of watercraft used or capable of being used as a means of transportation of persons and property on the water, other than single-chambered air-inflated devices or seaplanes.

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(12) “Watercraft” means any boat designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on water, or as may be defined by rule of the Arizona Game and Fish Commission, in compliance with A.R.S. 5-301.21

Section 8-7-3 **Establishment of Rules; Licenses and Permits Required**

- A. The Town Manager, or designee, shall promulgate rules to govern the permitting of commercial outfitters, to regulate commercial outfitters, skill instructors, guides, trip leaders, and guide instructors, and to ensure the safety of associated outdoor recreation activities.
- B. The Town Manager may grant variances from adopted rules to any outfitter, on a case-by-case basis, if the Town Manager determines that the health, safety, and welfare of the general public will not be endangered by the issuance of such variance. Any such variance must be issued in writing, with reasons for said variance listed, and be signed and dated by the Town Manager.
- C. No person shall act in the capacity of a paid Commercial Outfitter or advertise or represent himself or herself as an outfitter in this Town without first obtaining a license as required in Section 8-3-1 of the Clarkdale Town Code and a valid Arizona Transaction Privilege Tax License.
- D. For purposes of appropriately filing Arizona Transaction Privilege Taxes, the outfitter shall ensure that Regulated Activities under any Commercial Outfitter Permit issued by the Town of Clarkdale either begin in the Town of Clarkdale or take place entirely in the Town of Clarkdale.
- E. Commercial outfitters desiring to operate on public lands owned or operated by the Town of Clarkdale must first obtain a Commercial Outfitter Permit in accordance with rules prescribed by the Town Manager, or designee.
- F. As approved by the Town Manager, Commercial Outfitters who have been contracted by the Town of Clarkdale to provide a program, event or activity on behalf of the Town of Clarkdale may be exempt from the need to secure an Outfitter Permit if they are regulated under a separate contract with the Town of Clarkdale.
- G. An applicant for a Commercial Outfitter Permit shall meet the minimum qualifications established by the Town of Clarkdale and shall apply on a form prescribed by the Town.
- H. Every Commercial Outfitter Permit shall, at all times, be conspicuously displayed as set forth in the permit.

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- I. A Commercial Outfitter found guilty of violating or failing to comply with the requirements of this section or any stipulations of the Commercial Outfitter Permit, shall be guilty of a Class 2 Misdemeanor offense, plus applicable surcharges. Said violation may result in revocation of the permit, as outlined in Section 8-7-10.

Section 8-7-4 Fees, Terms and Capacities

- A. All applicants for Commercial Outfitter Permits shall pay permit fees in an amount determined by resolution of the Clarkdale Town Council, and on the schedule as outlined in the Commercial Outfitter Permit.
- B. Permit terms shall not exceed one year. The Town Manager may offer licenses that differ in the length of their terms, may stagger the length of license terms, and may offer reissuance of licenses for additional terms based on successful performance under the permit.
- C. All Commercial Outfitter Permits are subject to annual and/or seasonal capacity or volume limitations which may be set from time to time by the Clarkdale Town Council. The Town Manager may approve Commercial Outfitter Permits and Special Event Permits that differ in capacity and volume, up to the amounts identified in any annual and/or seasonal capacity or volume limitations as set by the Clarkdale Town Council.

Section 8-7-5 Exemptions

Any person whose only service is providing motor vehicles, vessels, and other equipment for rent, any person whose only service is providing instruction in outdoor recreation skills on lands not owned or operated by the Town of Clarkdale, or any person who is providing outdoor recreation services exclusively for family or friends is exempt from the requirement to secure a Commercial Outfitter License from the Town of Clarkdale.

Section 8-7-6 Minimum Qualifications and Conditions for Issuance of a Commercial Outfitter Permit

- A. A Commercial Outfitter's Permit may be granted to any outfitter, either within or without this state, meeting the following minimum qualifications and conditions:
 1. The outfitter, if a Corporation or if a Limited Liability Corporation, shall be incorporated or organized pursuant to the laws of this state, or is duly qualified to do business in this state, and must be properly licensed to do business in the Town of Clarkdale.

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2. The outfitter shall submit the required evidence of indemnification and insurance in the minimum amount prescribed in the Commercial Outfitter Permit.
3. The outfitter shall meet the safety standards and other permit conditions as established by the Town.
4. Outfitters operating on rivers must ensure that all vessels used for Regulated Activities meet the Arizona Game and Fish Department's definition of a watercraft.

Section 8-7-7 **Skill Instructors, Guides, Trip Leaders, and Guide Instructors**

- A. Individuals providing the services of skill instructors, guides, trip leaders, or guide instructors shall meet the minimum qualifications for such positions as outlined in the Commercial Outfitter Permit.
- B. All Commercial Outfitters who employ or contract with skill instructors, guides, trip leaders, or guide instructors for regulated activities shall employ or contract only with such individuals who meet the minimum qualifications as detailed in the Commercial Outfitter License.

Section 8-7-8 **Prohibited Operations**

- A. It is unlawful for any outfitter, skill instructor, guide, trip leader, or guide instructor to:
 1. Violate the safety, safety equipment, and prohibited acts provisions outlined in the Commercial Outfitter Permit.
 2. Operate in a careless or imprudent manner without due regard for existing conditions or other attending circumstances, or in such a manner as to endanger any person, property, or wildlife.
 3. Operate with wanton or willful disregard for the safety of persons or property.
 4. Operate or maintain physical control of, or allow any other person to operate or maintain physical control of, a vessel on a regulated trip if such outfitter, guide, or person is under the influence of alcohol or any controlled substance or any combination thereof.
 5. Violate any provisions as outlined in the Commercial Outfitter Permit.
 6. Be under eighteen (18) years of age.

Section 8-7-9 **Enforcement**

- A. Any Peace Officer, Code Enforcement Officer or other duly authorized agent of the Town of Clarkdale who observes a violation of this article is empowered to enforce the

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provisions of this article and, in the exercise of such authority, is authorized to stop and board any vehicle or vessel.

- B. Prior to issuing a citation, the officer, official or agent may, in his discretion, issue a written notice of violation allowing the violator ten (10) days to remedy the violation. If the violation is not remedied in ten (10) days, a citation may be issued.
- C. Nothing in this Section shall require the issuance of a notice of violation prior to the commencement of civil or criminal violation proceedings.

Section 8-7-10 Denial, Suspension or Revocation of Permit – Disciplinary Actions

- A. The Town Manager may deny, suspend, or revoke an Outfitter Permit, place a permitted outfitter on probation, or issue a letter of admonition to a permitted outfitter if the applicant or holder:
 - 1. Uses fraud, misrepresentation, or deceit in applying for or attempting to apply for licensure;
 - 2. Unlawfully acts as an outfitter if such violation results in a conviction;
 - 3. Violates any provision of law regulating the practice of outfitting in another jurisdiction if such violation resulted in disciplinary action against the applicant or holder. Evidence of such disciplinary action shall be prima facie evidence for the possible denial of a permit or other disciplinary action if the violation resulting in the disciplinary action in such other jurisdiction would be grounds for disciplinary action in the Town of Clarkdale.
 - 4. Violates any order of the Town of Clarkdale, any other provision of this article, or any rules promulgated under this article.
 - 5. Does not meet the requirements specified in this Article or the rules promulgated to govern the permitting of commercial outfitters, regulate commercial outfitters, guides, trip leaders, and guide instructors, and to ensure the safety of associated outdoor recreation activities.
- B. A Commercial Outfitter whose permit has been denied, suspended, or revoked, or who has been placed on probation or issued a letter of admonition by the Town Manager may appeal that decision to the Common Council of the Town of Clarkdale.