

## Conditional Use Permit

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**Section 5-1** Purpose and Intent

Pursuant to Arizona Revised Statutes (A.R.S.) Article 6.1, Section 9-462.01, within individual zones, there may be uses permitted on a conditional basis under which additional requirements for development must be met. The purpose of the Conditional Use Permit is to allow integration of uses into the community which may only be suitable in specific locations, or because of unusual operational or physical characteristics that require special consideration, or only if such uses are designed or developed to assure maximum compatibility with adjoining issues.

Conditions may be applied to the issuance of the permit such that the proposed land use would not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general. Under no circumstances shall any of the conditions of development be reduced below the minimum standards that are imposed upon any permitted land use within a given zoning district. A Conditional Use Permit may be granted only for those land uses expressly listed as such, and only after the Planning Commission has made a recommendation and the Common Council has authorized such use as evidenced by resolution.

**Section 5-2** Authority

The Clarkdale Town Council, as the Town’s governing body, retains final authority to approve, deny, approve with conditions or modified conditions, all applications for a conditional use permit.

**Section 5-3** Procedure

- A. Application: Prior to making a formal application for a Conditional Use Permit, the applicant or agent shall review the proposal with the Community Development Director. Application for a Conditional Use Permit shall be made by the property owner or the authorized agent, on a form available from the Town’s Community Development Department. Application shall include: a site plan, a list of the names and addresses of all property owners within two hundred (200) feet of the proposed conditional use and a non-refundable application fee. A deposit toward potential outside consultant fees incurred by the Town in the processing and review of an application shall be required per Section 3-5 of the Town Code. **(Revised by Ordinance #364. Approved 8/12/14; Effective 9/12/14)**
  
- 1. Public Hearing Required: The Town Planning Commission shall hold a public hearing on all Conditional Use Permit applications. Notice of the time and place of the hearing, including a general explanation and the

general location of the matter to be considered, shall be given at least fifteen (15) days before the hearing in the following manner:

- a. The notice shall be published at least once in a newspaper of local circulation. A notice shall be posted on the property at a strategic location. The notice shall include: the present zoning classification, the proposed use and the date and time of the hearing.
  - b. In proceedings involving Conditional Use Permit applications which abut other municipalities or unincorporated areas, or combinations thereof, copies of the notice of public hearing shall be transmitted to the planning agency of such governmental unit. Additionally, the Town shall notify by first class mail, those property owners of record within two (200) feet of any boundary on which the proposed conditional use might occur.
  - c. In the case of Conditional Use Permits that are not initiated by the property owner, notice by first class mail shall be sent to each property owner of record, within three hundred (300) feet of the proposed conditional use.
  - d. Notwithstanding the notice requirements set forth herein, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of a municipality for which notice was given.
2. Planning Commission Public Hearing and Action: After the hearing, the Planning Commission shall present a written recommendation to the Town Council. The Commission’s written recommendation shall contain the reasons or finding upon which its decision is based.
  3. Council Public Hearing and Action: If the Planning Commission has held a public hearing, the Town Council may adopt, deny or modify the decision of the commission without holding a second public hearing. However, if a protest to the decision is submitted in writing within fifteen (15) days after Commission action, the Town Council shall hold a second public hearing. Notice of the time and place of the hearing shall be given in the same manner specified above.
  4. Protest Provision: If the owners of twenty percent (20%) or more of the lots within two hundred (200) feet of the proposed Conditional Use Permit, file a written protest against a Conditional Use Permit application, it shall not become effective except by the favorable vote of three-fourths of all

members of the Town Council able to vote.

**Section 5-4** Denial by the Commission

If the permit request is denied by the commission, and the property owner and/or applicant desires a review before the Town Council, the property owner and/or applicant must file a written request for a review with the Town Community Development Director within fifteen (15) days after the Commission action.

When the request for the review is filed with the Community Development Director, the notice of the time and place of the hearing including a general explanation and the general location of the matter to be reconsidered, shall be given in the same manner noted in the aforementioned Section 5-3, A1. a-d. Council shall evaluate the request at the next possible meeting (after public notice requirements are satisfied), and may affirm, reverse, or modify in whole or in part, the decision of the Commission. Notice shall be given to the Planning Commission of the request for a review, and the Commission shall submit a report to the Town Council setting forth the reasons for its action taken. The Commission may be represented at the hearing by the Chairperson of the Planning Commission or their designee.

If the Town Council makes a decision to grant a previously denied permit request, the Town Council may designate such conditions in connection with the permit as it deems necessary to secure the intent and purpose of this ordinance and conformity to the Town General Plan by requiring such guarantees and evidence that such conditions are being, or will be complied with.

The Town Council's decision shall be final and shall become effective immediately. Notice of the decision shall be mailed to the property owner and/or applicant at the address shown on the application.

**Section 5-5** Required Findings

- A. In order to make recommendations on a Conditional Use Permit, the Planning Commission should make findings based on the following elements (as applies to that particular case):
  - 1. Applicable Regulations: Those conditions necessary to assure compatibility of the development of the land in question will be consistent with the purpose of the Zoning Ordinance, Town of Clarkdale General Plan, other statutes, and any ordinance or policies that may be applicable.
  - 2. Bulk Regulations: The site is adequate in size and topography to accommodate proposed use, population density, building height, lot coverage, setbacks, spaces, landscaping, fences, and parking. That these

elements are compatible with the general character of development in the vicinity of the proposed conditional use and are adequate to properly relate the proposed use with the existing land uses in the vicinity.

3. Performance: That the location, design and operation characteristics of the proposed use are such that it will have minimal adverse impact on the livability, public health, safety, welfare, or convenience on persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.
4. Traffic Impacts: The provisions for ingress and egress, public streets and traffic circulation are adequate, or can be upgraded through street improvements as a condition of approval.
5. Landscaping: Landscaping, and/or fencing of the proposed development, assures that the site development will be compatible with adjoining areas and with the intent of Town policies.
6. Nuisance: That the proposed use will not create a hazard to persons and property from possible explosion, contamination, fire or flood. That the use will not create a nuisance arising from, but not limited to noise, smoke, odors, dust, vibration, signage or illumination.

**Section 5-6** Required Conditions for a Use Permitted by Conditional Use Permit

- A. All Conditional Use Permits, including those that require that the applicant and/or developer obtain a building permit, shall meet minimum requirements of all Town ordinances, restrictions, regulations, and policies of the Town of Clarkdale which are in effect at the time of issuance of the Conditional Use Permit. Compliance with same is a condition of the use permit, including but are not limited to:
  1. Consistency with the General Plan.
  2. Sanitary waste improvements.
  3. Street and/or sidewalk improvements.
  4. Fire protection measures.
  5. Utility service improvements.
  6. Amount, type and location of outdoor lighting and signage.
  7. Off-street parking area, aisles and access drives shall be designed and constructed so as to provide a durable, dustless surface.
  8. Storm drainage improvements, based on a drainage report prepared by a licensed engineer, and approved by the Town Engineer.
  9. Water service improvements.
  10. Hours of operation.

11. Access.
12. Landscaping standards.
13. Compliance with applicable Federal, State and Local regulations.

**Section 5-7** Term of a Conditional Use Permit

- A. It is the intent of this section that a Conditional Use Permit, once it is granted and meets all of the conditions and restrictions imposed as a condition of approval, shall constitute restrictions running with the land and shall be adhered to by the owner of the land, and all successors or assigns. The use permit can be considered automatically void without Town Council action unless one or more of the following actions have occurred:
1. If a building permit is necessary to implement the use permit, a building permit shall have been issued within one (1) year of the effective date of the use permit, and substantial construction occurred.
  2. If a building permit is not necessary to implement the use permit, then the actual use shall commence within six (6) months of the effective date of the use permit.
  3. Any use permit issued by the Town Council shall be considered null and void if construction does not conform to the originally approved site plan. (See Modification of a Conditional Use Permit.)

**Section 5-8** Revocation of a Conditional Use Permit

Use permits granted in accordance with the provision of this ordinance may be revoked if the conditions of operation imposed in the approval and issuance of the use permit have not, or are not being complied with. The Community Development Director/Zoning Administrator or designee shall notify the permittee to correct the violation within fifteen (15) days after notification. The permit shall be considered for revocation at a public hearing by the Planning Commission at their next regularly scheduled meeting.

If the Town Planning Commission finds, following the public hearing, that the original conditions of operation imposed in the approval and issuance of the permit are not being complied with, the permit can be revoked and further operation of the use for which the Conditional Use Permit was approved shall constitute a violation of this code.

In the event that the Town Planning Commission recommends that the Conditional Use Permit be revoked, the applicant may file an appeal of the Common Council within fifteen (15) days from the date of the Town Planning Commission’s public hearing on the matter. The Town Council shall hold at least one (1) public hearing on the matter. At the public

hearing before the Town Council, the Town Council may either affirm the decision of the Commission upon a finding that the revocation was arbitrary and without just cause reverse the decision of the Commission.

**Section 5-9** Renewal of a Conditional Use Permit

- A. In the event that the use for which a Conditional Use Permit was sought is not achieved within the aforementioned time frames, the permit may be renewed for an additional one (1) year period, in the case of a Conditional Use Permit that does not require a building permit, the permit may be renewed for an additional six (6) months. Application for renewal of any Conditional Use Permit will be contingent upon the following action occurring:
  - 1. Before the expiration date, a letter from the property owner, or designee, requesting a renewal of the Conditional Use Permit is submitted to the Community Development Director for consideration by the Planning Commission and Common Council in accordance with the procedures outlined within Section 5-3, A1. a-d. of this section.
  - 2. A new application fee has been paid.
  - 3. One (1) extension for no more than one (1) year (365 days) may be granted by the Common Council. In the case of a Conditional Use Permit that does not require a building permit, one (1) extension for no more than six (6) months may be granted by the Common Council.

**Section 5-10** Abandonment of a Conditional Use Permit

The occurrence of certain events, including but not limited to a 180-day period of vacancy of the property, cessation of activity for which the Conditional Use Permit was sought, or action that the Town of Clarkdale determines as a voluntary discontinuance of the Conditional Use Permit. The Conditional Use Permit shall be considered null and void without Town Council action.

**Section 5-11** Modification or Expansion of a Conditional Use Permit

- A. Minor deviations of the site plan may be approved by the Community Development Director or designee. Major deviations, from the originally approved site plan, shall be subject to re-application for a Conditional Use Permit.
- B. Minor changes in the site plan may be approved by the Planning Director as long as such changes will not cause any of the following circumstances to occur:
  - 1. A change in the character of the development.
  - 2. An increase in the number of dwelling units.
  - 3. A change that creates an increase in vehicular traffic.
  - 4. A change of the vehicular ingress or egress patterns.
  - 5. Proposed reduction to any of the required setbacks.
  - 6. Proposed increase in % ground coverage as authorized by the zoning district.
  - 7. Any proposed increase or reduction of the required off-street parking and

loading spaces.

8. Proposed change necessitates public dedication of rights-of-way either as streets, alleys, public ways, drainage or utility easements.