

## **Article 8-7 Commercial Outfitters**

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### Article 8-7 Commercial Outfitters

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### 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.

(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.

(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.

- 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.
  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 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.