

**THE PLANNING & ZONING ADVISORY COMMISSION
FOR THE TOWN OF DEWEY-HUMBOLDT
REGULAR MEETING NOTICE
Thursday, November 7, 2013 6:00 P.M.**

**P&Z MEETING
2735 S. HWY 69**

**COUNCIL CHAMBERS, TOWN HALL
DEWEY-HUMBOLDT, ARIZONA**

AGENDA

The issues that come before the Planning & Zoning Advisory Commission are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Commission believes that the meeting be a safe place for people to speak. With this in mind, the Commission asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Agenda items may be taken out of order. Please turn off all cell phones. The Commission meeting may be broadcast via live streaming video on the internet in both audio and visual formats. A quorum of Council may be present. One or more members of the Commission may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

- 1. Call To Order.**
- 2. Opening Ceremonies.**
 - 2.1. Pledge of Allegiance.**
- 3. Roll Call.** Commissioners Tammy DeWitt, Dee Parker, Jeff Siereveld, Barry Smylie and Chair Claire Clark.
- 4. Disclosure of Ex Parte Contacts.**
- 5. Informational Reports.** Individual members of the Commission and public may provide brief summaries of current events and activities. These summaries are strictly for the purpose of informing the Commission and public of such events, actions or activities. The Commission will take no discussion, consideration, or action on any such item except that an individual member of the Commission may request an item be placed on a future agenda.
- 6. Consent Agenda.** All matters listed under the Consent Agenda are considered to be routine by the Commission and will be enacted by one motion. Any item may be removed from the Consent Agenda for separate consideration at a Commissioner's request. If a citizen desires separate consideration of an item, he or she should approach a Commissioner prior to the meeting and ask that the Commissioner request that the item be removed.
 - 6.1. Minutes.** Minutes from the October 3, 2013 Planning & Zoning Regular Meeting.
- 7. Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.
 - 7.1 Accessory Dwelling Units.** Discussion and Possible Action on accessory dwelling units, secondary medical dwelling units and guest homes.
- 8. Discussion Agenda – New Business.** Discussion and Possible Action on matters not previously presented to the Commission.
 - 8.1 Transient Merchants.** Discussion and Possible Action on Transient Merchants/Peddlers information.

9. Public Hearing Agenda.

THIS CONCLUDES THE LEGAL ACTION PORTION OF THE AGENDA.

10. Comments from the Public. The Commission wishes to hear from Citizens at each meeting. Those wishing to address the Commission need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Commission. Individuals may address the Commission on any issue within its jurisdiction. At the conclusion of Comments from the Public, Commissioners may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Commissioners are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Comments from the Public is **20** minutes. A 3-minute time limit may be imposed on individuals within this total. The audience is asked to please be courteous and silent while others are speaking.

11. Adjourn.

For Your Information:

Next Town Council Work Session: Tuesday, November 12, 2013 at 2:00 p.m.

Next Town Council Meeting: Tuesday, November 19, 2013 at 6:30 p.m.

Next Planning & Zoning Commission Meeting: Thursday, December 5, 2013.

If you would like to receive Town Council agendas via email, please sign up at AgendaList@dhaz.gov and type Subscribe in the subject line, or call 928-632-7362 and speak with Judy Morgan, Town Clerk.

Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the ____ day of _____, 2013, at ____ p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: _____, Town Clerk's Office.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at 632-7362 at least 24 hours in advance of the meeting.

**TOWN OF DEWEY-HUMBOLDT
PLANNING & ZONING ADVISORY COMMISSION
REGULAR MEETING MINUTES
OCTOBER 3, 2013, 6:00PM**

A REGULAR MEETING OF THE DEWEY-HUMBOLDT PLANNING AND ZONING COMMISSION WAS HELD ON THURSDAY, OCTOBER 3, 2013, AT TOWN HALL AT 2735 S. HIGHWAY 69, DEWEY-HUMBOLDT, ARIZONA. CHAIR CLAIRE CLARK PRESIDED.

1. **Call To Order.** The meeting was called to order at 6:09PM.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Made.
3. **Roll Call.** Commissioners Tammy DeWitt, Jeff Siereveld, Barry Smylie and Chair Claire Clark were present; Commissioner Dee Parker was absent.
4. **Disclosure of Ex Parte Contacts.** None.
5. **Informational Reports.** Warren Colvin, Community Development Coordinator, stated he has applications for those Commissioners that expressed interest in applying for the GRAC Committee; they will go before Town Council to be appointed. He noted GRAC is a committee of five executive members and if Commissioners have any questions to contact the Town Clerk.
6. **Consent Agenda.**

6.1. Minutes. Minutes from the September 5, 2013 Planning & Zoning Regular Meeting.

Commissioner DeWitt made a motion to approve the minutes from the September 5, 2013 Planning & Zoning Regular Meeting as presented, seconded by Commissioner Smylie. The motion passed unanimously.

Mr. Colvin stated the Planning & Zoning minutes are correct from September 5, 2013, but he misspoke on one item on the Priority List in regards to Transient Merchants. In the minutes, Mr. Colvin stated Council did not want to include food trucks, but upon further review of the Council meeting, Council did want to include food trucks when considering transient merchants. Mr. Colvin stated the Planning & Zoning Commission can discuss this item further when Transient Merchants is agendaized.

7. **Discussion Agenda – Unfinished Business.** None.
8. **Discussion Agenda – New Business.** Discussion and Possible Action on matters not previously presented to the Commission.

8.1 Naming of Private Roads/Driveways. Discussion and possible action on proposed code text addition for naming of private roads/driveways or ingress/egress easements for addressing and emergency responder purposes.

Mr. Colvin presented this idea to Town Council at the August 13, 2013 workshop session. Council decided to add this to a new priority list and ask P&Z Commission and staff to come up with a viable option to further address the issue. He stated the issue is that private driveways or ingress/egress easements are becoming so long that addressing is becoming difficult and emergency responders are having greater difficulty in locating the proper parcel during a very crucial time. After reviewing Town Code Section 153.112 (Street Naming and Addressing) staff feels that this situation is not clearly addressed with the Town's adoption of the Yavapai County Planning and Zoning Ordinance, Section 604.

Section 604 states: Cul-de sacs shorter than two hundred feet (200') and providing access to five (5) or fewer lots should not be named and should assume the name of the intersecting through street. However, where there is a series of land and short cul-de-sacs, all should have separate names.

Mr. Colvin recommended installing code text in the addressing section (153.112) as follows, **“any private road, driveway or ingress/egress easement that is over three hundred feet (300’) in length or serves three (3) or more parcels shall be named”** and following the established procedure by the Town of Dewey-Humboldt. Mr. Colvin stated that by naming it, the road goes into GIS with proper coordinates and shows up as a named road. Mr. Colvin pointed out the application to assign an address, instructions and sign criteria in the packet.

Chair Clark stated the process and the way it is written seems clearly defined, so the question is whether 300 feet is appropriate and whether serving three or more parcels is appropriate.

Commissioner Siereveld spoke about those who live on a private road/driveway, not currently maintained by the Town, the driveway has access to at least other three parcels but it is someone’s private road, he asked how it would be treated. Mr. Colvin clarified that the purpose of this code amendment would not be for the Town to take over any kind of maintenance or ownership of roads; there are numerous private roads and the Town does not maintain those, this is strictly for addressing and emergency response purposes. Mr. Colvin stated that naming a road would not trigger the Town taking it over; there is a process already in place for someone to turn over a road to the Town but this code amendment is strictly for addressing. Commissioner Siereveld stated the houses already have addresses, and asked if this applies to anything that would happen in the future, such as a land split. Mr. Colvin confirmed that it would not be retroactive to driveways that already exist, only if something new came up such as a land split or subdivision, etc.

Commissioner Smylie asked if this is affected by GIS/GPS. Mr. Colvin explained that he sends maps that reference township, section and ranges to Yavapai County where they pull the coordinates, approve road names and complete their process before it is sent to a lengthy notification distribution list for access.

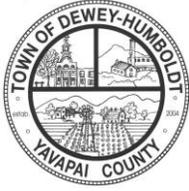
Commissioner Smylie made a motion to adopt the code language as written and presented by Mr. Colvin (any private road, driveway or ingress/egress easement that is over three hundred feet (300’) in length or serves three (3) or more parcels shall be named), seconded by Commissioner Siereveld. The motion passed unanimously.

- 9. **Public Hearing Agenda.** None.
- 10. **Comments from the Public.** None.
- 11. **Adjourn.** The meeting was adjourned at 6:29PM.

Claire Clark, Chairperson

ATTEST:

Mandi Garfield, Administrative Assistant



TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
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MEETING OF THE TOWN PLANNING & ZONING ADVISORY COMMISSION

November 7, 2013 6:00 p.m. Town Council Meeting Chambers

Agenda Item: Accessory Dwelling Unit

To: Planning & Zoning Advisory Commission

From: Warren Colvin, Community Development Coordinator

Date Submitted: October 30, 2013

Recommendation: Discussion and approval of proposed final draft of code text changes in regards to Accessory Dwelling Units; send to Town Council for approval prior to public hearings.

Summary: Staff has cross referenced all code sections that pertain to Accessory Dwelling Units and modified them to match the new requirements. Staff has also reviewed the RMM zoned district and has concluded that ADU should be allowed in this Zoned District (Town Code Section 153.037). Also staff has removed from R1 Zoning District Section 153.038 (3)(a) Roomers or boarders, not to exceed two for any one dwelling unit. Staff feels that this is not consistent with the ADU definition and could pose confusion as it relates to ADU requirements. In Zoning Districts RCU, RS, C1, C2, PAD and RCD staff has also clarified these sections by not allowing ADU's in these Zoned Districts.

Attachments: ADU Code Changes;

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Chapter 153: Zoning Regulations
General Provisions

§ 153.005 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given on the following pages. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "person" includes individuals, partnerships, corporations, clubs and associations. The following words or terms when applied to this chapter shall carry full force when used interchangeably: lot, plot, parcel or premises; used, arranged, occupied or maintained; sold or dispensed; construct, reconstruct, erect, place or alter (structurally or otherwise).

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DWELLING UNIT, ACCESSORY (ADU). ~~A second separate unit that is attached or detached to the primary dwelling that may be used for a separate additional living unit, for property managers, property caretakers or property security guards and may include separate kitchen, sleeping, and bathroom facilities, on a single family lot. ADUs are subordinate in size, location, and appearance to the primary unit.~~

A separate detached dwelling unit on the same single family lot as the primary dwelling unit that may be used as a separate additional living unit and shall include separate kitchen, sleeping, and bathroom facilities.

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GUEST HOME. ~~A secondary structure meeting the applicable zoning district requirements as to construction type not exceeding 750 square feet or 25% of the total square footage of building area under roof whichever is larger of the primary residential structure and meeting primary structure setbacks of the pertinent zoning district. Used to house a nonpaying or nonreimbursing relative or guest on an intermittent basis, with stay not to exceed a total of 120 days over a continuous 12-month period by the same guest or person(s).~~

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§ 153.036 R1L DISTRICT (RESIDENTIAL; SINGLE FAMILY LIMITED)

(7) Accessory uses and structures (concurrent with and located on the same lot with the principal uses and structures, and including the following):

(a) Farm animals (except swine) on lots of no less than 70,000 square feet for the convenience and pleasure of the lot owner or occupant, not to exceed the number allowed as per the Allowed

Animal Chart in § 153.066. Stables, barns or structures for sheltering or feeding animals must observe the same setbacks or yards as the dwelling unit;

(b) Swimming pools in other than the front yard primary use setback area in compliance with design guidelines in § 153.090;

(c) Quarters for servants and/or nonpaying guests attached to the dwelling (facilities for preparation of food are prohibited);

(d) Temporary construction offices and construction sheds and yards incidental to a recorded subdivision development or other on-site construction project for a period not exceeding 24 months from date of plat recordation or date of issuance of construction project permit with no permits (other than electrical permits) required to install same (prohibited closer to lot boundary than is allowed for a principal building in the district);

(e) Open land carnival and recreation facilities accessory to religious or educational institutions (confined to same lot);

(f) Temporary on-site sales (real estate) facility only as defined in § 153.005 in compliance with the regulations and performance standards outlined under § 153.088;

(g) Household pets;

(h) Fences and freestanding walls;

(i) Parking facilities to meet no less than the minimum requirements as provided under § 153.110;

(j) Educational institutions as defined in § 153.005 but privately funded, allowed as an accessory use to a religious institution; and

~~(k) Accessory dwelling unit.~~

(10) ~~guest homes Dwelling Unit, accessory (ADU)~~ as defined under § 153.005, subject to the performance standards set out in § 153.072, with a minimum parcel size of 70,000 square feet.

§ 153.037 RMM DISTRICT (RESIDENTIAL; MULTI-SECTIONAL MANUFACTURED HOMES).

Permitted uses for RMM (Residential; Single Family; site-built, factory built and Multi-Sectional Manufactured Homes, no single-wide manufactured homes or mobile homes) are as follows in this section.

(A) Where no zoning/density district has been combined, then all provisions of Density District 10 shall prevail (see § 153.069, most common ones shown in chart below).

(B) (1) All principal and accessory uses and structures permitted in the R1L Zoning District;

(2) Multi-sectional manufactured homes, as defined under § 153.005. To be permitted, multi-sectional manufactured homes must conform to all provisions set out in §§ 153.005 and 153.082;

(3) Factory built dwelling as defined under § 153.005;

(4) Dwelling Unit, accessory (ADU) as defined under § 153.005, subject to the performance standards set out in § 153.072, with a minimum parcel size of 87,120 square feet (2 acres).

(5) Steel storage containers to meet the minimum requirements as provided under § 153.086; and

(6) Educational institutions (publicly funded) as defined in § 153.005 (in any permitted buildings).

§ 153.038 R1 DISTRICT (RESIDENTIAL; SINGLE FAMILY).

Permitted uses for the R1 District (Residential; Single Family; site built, multi-sectional and manufactured) are as follows in this section.

(A) Where no zoning/density district has been combined, then all provisions of Density District 10 shall prevail (see § 153.069, most common ones shown in chart below).

(B) (1) All principal and accessory uses and structures permitted in the R1L and RMM Districts, Manufactured Housing and Mobile Homes as set forth under § 153.082;

(2) Manufactured homes are permitted as a dwelling unit for a single family on an individual lot or parcel as set forth in § 153.005 and subject to § 153.082;

(3) Additional accessory uses and structures (concurrent with and located on the same lot with the principal uses and structures and including the following):

— ~~(a) Roomers or boarders, not to exceed two for any one dwelling unit;~~

— ~~(b) (a)~~ Farm animals (except swine) on lots of no less than 35,000 square feet for the convenience and pleasure of the lot occupants, not to exceed the number allowed as per the Allowed Animal Chart in § 153.066. Stables, barns or structures for sheltering or feeding animals must observe the same setbacks or yards as the dwelling unit; and

(4) Dwelling Unit, accessory (ADU) as defined under § 153.005, subject to the performance standards set out in § 153.072, with a minimum parcel size of 35,000 square feet.

§ 153.039 RCU DISTRICT (RESIDENTIAL; RURAL).

Permitted uses for the RCU District (Residential; Single Family; Rural) are as follows in this section.

(A) This RCU District is intended to provide a zoning classification for all areas of the town not presently characterized by urban uses. Notwithstanding any other provision of this chapter, including any density designation, no lot or parcel zoned RCU shall have a density less than two acres.

(B) (1) All uses allowed in the R1L, RMM and R1 Districts except accessory dwelling units; and

(2) Density table, as follows.

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§ 153.041 RS DISTRICT (RESIDENTIAL; AND SERVICES).

Permitted uses for the RS District (Residential and Services) are as follows in this section.

(A) Where no zoning/density district has been combined, then all provisions of Density District 3 shall prevail (see § 153.069, most common ones shown in chart below).

(B) (1) All principal and accessory uses and structures permitted in any more restrictive zoning district except accessory dwelling units. Where the lot is contiguous to a less restrictive zoning district, requirement for securing an administrative review is waived (unless otherwise provided for);

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§ 153.042 C1 DISTRICT (COMMERCIAL; NEIGHBOR SALES AND SERVICES).

Permitted uses for the C1 District (Commercial; Neighborhood Sales and Services) are as follows in this section.

(A) (1) Permitted uses and structures shall be compatible with the neighborhood development. Storage of materials and supplies, displays (other than signs) and other nonresidential uses are restricted to buildings closed on all sides (except as may otherwise be permitted). Intoxicating beverage sale restricted to that of off-site consumption only.

(2) Where no density district has been combined, then the provisions of Density District 2 shall prevail for dwelling units, hotels and motels (see § 153.069, most common ones shown in chart below).

(B) (1) All principal and accessory uses permitted in any more restrictive zoning district except accessory dwelling units, and providing further that, unless specifically provided to the contrary, the requirements for an administrative review (except for lots contiguous to residential districts) are waived;

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§ 153.043 C2 DISTRICT (COMMERCIAL; GENERAL SALES AND SERVICES).

Permitted uses for the C2 District (Commercial; General Sales and Services) are as follows in this section.

(A) (1) Storage of materials and supplies, displays (other than signs), and other nonresidential uses are restricted to buildings closed on sides facing lot perimeter (i.e., no service entries/bays facing street or readily visible from adjacent residential) (except as may otherwise be permitted).

(2) Where no density district has been combined, then the provisions of Density District 1 shall prevail for dwelling units, hotels and motels (see § 153.069, most common ones shown in chart below).

(B) (1) All principal and accessory uses permitted in any more restrictive zoning district except accessory dwelling units; and providing further that, unless specifically provided to the contrary, the following are waived:

(a) Requirements for use permits/administrative reviews (except for lots contiguous to residential districts);

(b) Area limitations for uses and buildings; and

(c) Limitations on hours of operation.

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§ 153.048 PAD DISTRICT (PLANNED AREA DEVELOPMENT).

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(D) *Uses permitted.*

(1) Single-family dwellings, two-family, multi-family; detached, semi-detached, and attached and accessory uses except accessory dwelling units.

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§ 153.049 RCD DISTRICT (RESIDENTIAL CAMPING DISTRICT).

Permitted uses in the RCD District (Residential Camping District) are as follows in this section.

(A) *Purpose.* This district is intended to cover the operation of resident camps that are either private, public, religious, organizational or agency camps. Resident camps are not restricted from operating trip camps, schools, travel, outpost, overnight or day camping programs.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RESIDENT CAMP SLEEPING UNITS. A building or group of buildings containing guestrooms or dwelling units. For density formula purposes, two such guestrooms, RVs or tents may be counted as one dwelling unit. Each four beds shall be counted as one guestroom.

RESIDENT CAMPING. A sustained experience which provides a creative, recreational, educational or religious opportunity in group living in the out-of-doors in which campers live at a site for one or more consecutive nights, not to exceed 90 days.

(C) *Uses.*

- (1) All principal and accessory uses and structures permitted in R1L except accessory dwelling units;
- (2) Up to 10% of all allowable units may be recreational vehicles spaces;
- (3) Meeting, dining and other structures and services required to provide for residents of the camping programs; and
- (4) Resident camp sleeping or dorm facilities.

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§ 153.048 PAD DISTRICT (PLANNED AREA DEVELOPMENT).

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(D) *Uses permitted.*

- (1) Single-family dwellings, two-family, multi-family; detached, semi-detached, and attached and accessory uses except accessory dwelling units.

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General Regulations

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§ 153.066 ACCESSORY USES AND STRUCTURES

(B) Accessory buildings may be attached to or detached from the principal building, except that no accessory building housing fowl or animals (other than domestic pets) may be attached to any dwelling unit.

(1) Except Dwelling Unit, accessory (ADU) must be detached as defined under § 153.005, subject to performance standards set out in § 153.072.

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§ 153.072 ~~GUEST HOME.~~

~~Guest homes, as defined under § 153.005, are subject to the following requirements:~~

~~(A) A guest home is only allowed on a minimum parcel size of 70,000 square feet in size in the R1L Zoning District and a minimum parcel size of 35,000 square feet in the R1 Zoning District.~~

~~(B) The parcel or lot must meet or exceed the noted required area in size and the primary structure set backs set out under the Density District are met.~~

- ~~(C) The guest home must be serviced and metered by the primary structure electric utility hookups. Individual guest home septic systems may be approved where necessary in order to reduce sewer line extensions as authorized by the County Environmental Unit.~~
- ~~(D) A common driveway or entrance must be shared by the primary and guest home structures.~~
- ~~(E) The guest home must not exceed 750 square feet or 25% of the total square footage of the primary structure living area under roof, whichever is greater.~~
- ~~(F) The guest home must be placed in order to meet separation requirements of the current adopted Building and Fire Code as well as the Planning and Zoning Ordinance.~~
- ~~(G) A kitchen facility is permitted in the guest home structure.~~
- ~~(H) Guest home shall conform to construction requirements of the applicable Zoning District. (Ord. 08-44 § 525, passed 10-21-2008)~~

§153.072 ACCESSORY DWELLING UNIT (ADU).

Accessory Dwelling Units are permitted only in the R1L, RMM and R1 Zoning Districts, subject to the following requirements:

(A) An Accessory Dwelling Unit is permitted only on a minimum lot size of 70,000 square feet in the R1L Zoning District, a minimum lot size of 2 acres in the RMM Zoned District and a minimum lot size of 35,000 square feet in the R1 Zoning District.

(B) The primary dwelling and the ADU shall be in compliance with the set-back regulations set forth in § 153.069 Density Districts of this code.

(C) The ADU must be serviced and metered by the primary structure electric utility hookups. Individual ADU septic systems may be approved where necessary in order to reduce sewer line extensions as authorized by the County Environmental Unit.

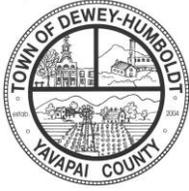
(D) The primary and ADU structures shall share a common driveway or entrance.

(E) An ADU shall not exceed 750 square feet in size or 25% of the total square footage of the primary structure living area under roof, whichever is greater.

(F) The ADU shall comply with the separation requirements set forth in the Town Building, Fire and Municipal Codes.

(G) A kitchen facility is required in the ADU structure.

(H) An Accessory Dwelling Unit shall only be used to house a non-paying or non-reimbursing relative or guest of the owner and shall not be used as either a short-term or long-term rental property.



TOWN OF DEWEY-HUMBOLDT
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MEETING OF THE TOWN PLANNING & ZONING ADVISORY COMMISSION

November 7, 2013 6:00 p.m. Town Council Meeting Chambers

Agenda Item: Transient Merchants

To: Planning & Zoning Advisory Commission

From: Warren Colvin, Community Development Coordinator

Date Submitted: October 30, 2013

Recommendation: Discussion and review of Transient Merchant/Peddler information.

Summary: Staff has researched the following topic that was part of the Council's priority list in regards to the Transient Merchant/Peddler topic. Staff has also been in contact with the Town Attorney and is in the process of drafting a sample ordinance for P&Z to review and possible further discussion. Staff would like to have P&Z discuss the provided information so they are better informed of the surrounding jurisdiction requirements.

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PEDDLERS, SOLICITORS & TRANSIENT MERCHANTS

WHAT IS A PEDDLER?

You are a peddler if you go uninvited from house to house, place to place, or street to street to sell goods, wares or merchandise you are carrying with you.

WHAT IS A TRANSIENT MERCHANT?

You are a transient merchant if you are temporarily in Prescott to sell goods, wares or merchandise from a fixed location. That fixed location must be a structure that is approved for your specific use by the Planning & Zoning Department.

HOW IS A SOLICITOR DIFFERENT FROM A PEDDLER OR TRANSIENT MERCHANT?

As a solicitor, you might go uninvited from house to house, place to place, or street to street just as a peddler does. The difference is that you will be taking orders of merchandise for future delivery or orders for services to be performed in the future.

DO I NEED ANY SPECIAL LICENSES TO ACT AS A PEDDLER, SOLICITOR OR TRANSIENT MERCHANT IN PRESCOTT?

Yes, you must obtain a Peddler/Solicitor/Transient Merchant license and in most cases, a Transaction Privilege Tax license also. You can apply for both

licenses at the City Tax & Licensing Department.

WHAT DOES IT COST TO APPLY FOR A LICENSE?

Transaction Privilege Tax License ~ \$25.00
Peddlers, solicitors and transient merchants must obtain a privilege tax license. If however, you are a solicitor and your primary business location is in another incorporated Arizona city, you will pay the privilege tax associated with your sales to that city and are, consequently, not required to obtain a privilege tax license from us.

Peddler/Solicitor/Transient Merchant License ~ \$50.00
Peddlers, solicitors, and transient merchants are required to obtain this annual license.

Identification Card Fee ~ \$10.00 each
All individuals receiving a Peddler/Solicitor/Transient Merchant license must obtain an identification card.

If you authorize other individuals to operate under your Peddler/Solicitor/Transient Merchant license, each of these individuals will have to complete an application and obtain a \$10.00 identification card also. (Note: you must obtain approval from the Chief of Police to have more than twenty employees, agents or independent dealers working in Prescott at one time). In addition, each individual must submit two (2) 2"x2" pictures of themselves and a copy of their drivers license or other acceptable proof of identity.

Cash Bond ~ \$200.00 for the first individual, \$100.00 each additional individual
The Peddler/Solicitor/Transient Merchant ordinance also requires you to post a \$200.00 cash bond, plus \$100.00 bond for each additional

employee, agent or independent dealer you authorize. The maximum bond that will be required is \$1,000. This bond will be returned to you when the following conditions have been met:

- 1) All licenses and identification cards have been returned to the Finance Department within sixty (60) days of their expiration date.
- 2) You have paid all of the applicable privilege tax for your business.
- 3) You have not violated any provisions of the City code.

HOW LONG DOES IT TAKE TO GET A LICENSE?

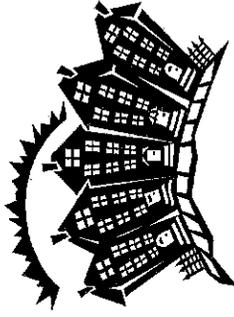
If the Chief of Police determines that no fingerprint check is necessary, the license will be issued within seventy-two hours. If a fingerprint check is deemed necessary, the license will be approved or disapproved within fourteen days.

ARE THERE ANY EXEMPTIONS FROM THESE LICENSING REQUIREMENTS?

You will not be required to obtain a Peddler/Solicitor/Transient Merchant license if:

- 1) You sell only at wholesale to dealers in the articles you are selling.
- 2) You are a newspaper carrier.
- 3) You are a permanent business delivering goods in the regular course of your business.
- 4) You are conducting a bona-fide auction sale pursuant to a Court Order.

**PEDDLERS,
SOLICITORS
AND
TRANSIENT
MERCHANTS**



This publication is for general information regarding the Peddler/Solicitor/Transient Merchant ordinance and the associated licenses required. For complete details, refer to the City of Prescott Privilege & Use Tax Code and related regulations. In the case of an inconsistency or omission in this publication, the language of the Tax Code will prevail. The transaction privilege tax is commonly referred to as a sales tax, however, under the State of Arizona law, the tax is on the privilege of doing business in Prescott and is not a true sales tax.

April 2002

PRESCOTT PRIVILEGE TAX

Yes. Your identification card must be visible at all times.

**City of Prescott
Finance Department
Tax & Licensing Division
P O Box 2077
Prescott, AZ 86302**



For more information contact:

928 777-1268 Taxpayer Assistance Rep
928 777-1210 Privilege Tax Auditor
928 777-1231 Tax & Licensing Supervisor

- 5) You have had prior contact with the owners or occupants of a private residence and have been invited to that residence for the purpose of making sales, soliciting orders or delivering goods.

WHAT RULES MUST I FOLLOW AS A PEDDLER, SOLICITOR OR TRANSIENT MERCHANT?

- 1) You cannot make exclusive use of any location on any street, alley, sidewalk or right-of-way; that is, if you are making sales on any street, alley, etc., you must be constantly moving.
- 2) You cannot operate in a congested area where your operation may impede or inconvenience the public use of any street, sidewalk or right-of-way. This restriction includes operating on private property, (in an alcove, for example) where your customers will "spill out" into the public right-of-way and cause congestion.

- 3) You cannot display any signs on the exterior of any structure.

- 4) You cannot occupy any structure for the purpose of selling or delivering goods, wares or merchandise unless the structure conforms with the City Zoning Code. Your approved location must be listed on your license. You may be cited for operating anywhere other than your approved location.

- 5) You cannot make loud noises or use speaking devices to attract attention to your merchandise.

DOES MY LICENSE HAVE TO BE DISPLAYED?

Article 8-01 PEDDLERS

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- 8-01-130 Penalty.
- 8-01-140 Severance Clause.
- 8-01-150 Religious and Charitable Organizations, Exemption.

8-01-010 Definitions.

In this Chapter, unless the context otherwise requires:

- A. "Peddler" means any person, whether a resident of the Town or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.
- B. "Portable sign" means any sign not permanently affixed to the ground or the structure on the site it occupies.
- C. "Sign" means any device for visual communication which is used to or intended to attract the attention of the public for business or professional purposes, when the display of this device is visible beyond the boundaries of the property upon which the display is located. The term "sign" shall not include any flag or badge or insignia of any government or governmental agency. The term "sign" shall not include the displays or advertising devices in a merchant's window or within the interior of a building.
- D. "Solicitor" means any person, whether a resident of the Town or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition includes any person who, for himself, or for another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat,

hotel or motel room, lodging house, apartment, shop or other place within the Town for the primary purpose of exhibiting samples and taking orders for future delivery.

- E. "Structure" means any object constructed or installed by a person, having a permanent location on the ground.
- F. "Temporary sign" means any sign not intended for permanent display.
- G. "Transient merchant" means any person, whether as owner, agent, consignee or employee, whether a resident of the Town or not, who engages in business of selling and delivery of goods, wares and merchandise within said Town; and who, in furtherance of such business, hires, leases, uses or occupies any approved structures within the Town for the exhibition and sale of such goods, wares and merchandise.

(Ord. No. 178, Enacted, 05/26/88)

8-01-020 License Required.

- A. Requirement: It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the Town without first obtaining a license therefor in compliance with the provisions of this Article.
- B. Prohibited practices:
 - 1. It is unlawful for any peddler, solicitor or transient merchant to make exclusive use of any location on any street, alley, sidewalk or right-of-way for the purpose of selling, delivering or exhibiting goods or merchandise.
 - 2. It is unlawful for any peddler, solicitor or transient merchant to operate in a congested area where such operation may impede or inconvenience the public use of such street, alley, sidewalk or right-of-way. For the purpose of this Article, the judgment of a police officer, exercised in good faith, is conclusive as to whether the area is congested and the public impeded or inconvenienced.
 - 3. It is unlawful for any person to exhibit any copy or facsimile of the original license issued under this Article.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-010, 050, &060; Ord. No. 375, Amended, 12/28/95)

8-01-030 Exemptions.

The terms of this Article do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor to the acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this Article prohibits any sale required by statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-080; Ord. No. 375, Amended, 12/28/95)

8-01-040 Application.

Applicants for a license under this Article shall file with the Town Clerk a sworn application in writing on a form to be furnished by the Town Clerk which shall give the following information:

- A. Name and physical description of applicant;
- B. Complete permanent home and local address of the applicant and, in the case of a transient merchant, the local address from which proposed sales will be made;
- C. A brief description of the nature of the business and the goods to be sold.
- D. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship (no post office box will be accepted);
- E. The length of time for which the right to do business is desired;
- F. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- G. A recent photograph of the applicant which picture shall be approximately two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishing manner (including any and all helpers);
- H. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor;
- I. The most recent cities or towns, not to exceed three (3), where applicant carried on business immediately preceding the date of application and the address from which such business was conducted in those municipalities; and
- J. At the time of filing the application, a fee of twenty dollars (\$20.00) shall be paid by the applicant and five dollars (\$5.00) for each additional helper to the Town Clerk to cover the cost of processing; and
- K. Description of vehicles, including license numbers to be used in business.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-020)

8-01-050 Investigation and Issuance.

- A. Upon receipt of each application, it shall be referred to the Chief of Police who shall immediately institute such investigation of the applicant's business and moral

character as he deems necessary for the protection of the public good. If a fingerprint check is not considered necessary by the Chief of Police, the applicant shall be endorsed or rejected within seventy-two (72) hours. If the Chief of Police deems a fingerprint check necessary, the applicant shall be endorsed or rejected within fourteen (14) days.

- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval and return the application to the Town Clerk who shall, upon payment of the prescribed license fee, deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, solicitor or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The Town Clerk shall keep a permanent record of all licenses issued.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-030)

8-01-060 Fees.

Every applicant for a license under this Article shall pay the following annual fees:

\$20.00 - for peddlers; solicitors
\$ 5.00 - for each helper.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-030)

8-01-070 Exhibition of License.

Licenses are required to exhibit their original certificate of license at the request of any citizen. Exhibition of any copy or facsimile of the original shall not be considered compliance with this Section.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Rep&ReEn, 05/26/88)

8-01-080 Duty of Police to Enforce.

It shall be the duty of the police of the Town to require any person peddling, soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this Article against any person found to be violating the same.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 375, Amended, 12/28/95)

8-01-090 Records.

The Chief of Police shall report to the Town Clerk all convictions for violations of this Article, and the Town Clerk shall maintain a record for each license issued and record the reports of violations therein.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 375, Amended, 12/28/95)

8-01-100 Revocation of License.

- A. Licenses issued under the provisions of this Article may be revoked by the Town Manager by issuing a summary order which shall be mailed by certified mail or personally delivered forthwith, for any of the following causes:
1. Fraud, misrepresentation or incorrect statement contained in the application for license;
 2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;
 3. Any violation of this Article;
 4. Conviction of any crime or misdemeanor;
 5. Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of the hearing for permanent revocation of a license shall be given by the Town Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least forty-eight (48) hours prior to the date set for hearing, which shall be set no later than seven (7) days following summary revocation. It shall be delivered by a police officer in the same manner as a summons at least forty-eight (48) hours prior to the date set for hearing.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 178, Ren&Amd, 05/26/88, 8-01-040)

8-01-110 Appeal.

Any person aggrieved, by the action of the Chief of Police or the Town Clerk, may appeal to the Town Manager. Such notice of the said complaint shall contain a written statement setting forth fully the grounds for the appeal. The Town Manager shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 8-01-100 herein for notice of hearing on revocation.

(Ord. No. 178, Enacted, 05/26/88)

8-01-120 Reapplication.

No licensee or company whose license has been revoked or refused shall make further application until at least one (1) year has elapsed since the last previous revocation.

(Ord. No. 178, Enacted, 05/26/88)

8-01-130 Penalty.

Any person who violates any provision of this Article shall be guilty of a class 3 misdemeanor and upon conviction thereof shall be punished as provided in Section 8-02-110.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 496, Amended, 02/22/01; Ord. No. 600, Amended, 07/22/04)

8-01-140 Severance Clause.

The provisions of this Article are declared to be severable and if any Section, sentence, clause or phrase of this Article shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining Sections, sentences, clauses and phrases of this Article, but they shall remain in effect, it being the legislative intent that this Article shall stand notwithstanding the validity of any part.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 375, Amended, 12/28/95)

8-01-150 Religious and Charitable Organizations, Exemption.

- A. Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property, or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose shall be exempt from the provisions of Sections 8-01-040, 8-01-070 and 8-01-

080 herein and shall not be subject to the provisions of Subsection 8-01-010(C) provided there is filed with the Town Clerk a sworn affidavit, on a form to be furnished by the Town Clerk, which shall give the following information:

1. Tax exempt number for the organization;
2. Name and purpose of the cause for which permit is sought;
3. Names and addresses of the officers and directors of the organization;
4. Information regarding the location, date and hours of operation of the activity; and
5. Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

Any affiant providing false or misleading information in the affidavit shall be subject to the penalties set forth in Section 8-01-130 and any other penalty provided by law.

- B. In the event it is discovered that the organization, society, association or corporation is soliciting or causing the solicitation of funds for any purpose other than a charitable, religious, patriotic or philanthropic purpose, said organization, society, association or corporation shall immediately desist from soliciting or causing the solicitation of funds until such time as it has obtained a license to do so pursuant to Section 8-01-040.

(Ord. No. 178, Enacted, 05/26/88; Ord. No. 553, Amended, 05/22/03)

PEDDLER LICENSE INFORMATION Contact 928.759.3135
clerk@pvaz.net

Town Code Article 8-01 Peddler states that it is unlawful for any peddler, solicitor or transient merchant to engage in business within the Town of Prescott Valley without first obtaining a license. A Town of Prescott Valley Peddler License is required by Town Code Article 8-01-010 for any person who goes from house to house, from place to place or from street to street, conveying or transporting goods, wares or merchandise or offering the same for sale, or making sales and delivering articles to purchasers.

Peddler license application forms are available at the Town Clerk's office and at www.pvaz.net. The Town Clerk's office is located at 7501 East Civic Circle, Room 216, Prescott Valley AZ 86314. The license fee is \$20.00 and \$5.00 more for each additional person in the same company group. Peddler licenses expire one year after issue date and are not renewable. A new application and fee shall be submitted for consideration each year.

Each person in a group needs to complete the Application for Peddler License with a Business License Eligibility Form attached. Every applicant needs to present a valid form of government issued picture identification. We will take a digital picture of each applicant to place on the license.

Completed peddler applications are forwarded to the Prescott Valley Police Department to conduct a background investigation. Per Section 8-01-050B if a fingerprint check is not considered necessary by the Chief of Police, the applicant shall be endorsed or rejected within 72 hours. If the Chief of Police deems a fingerprint check necessary, the applicant shall be endorsed or rejected within 14 days.

Peddler licenses are to be carried with the person to whom it is issued and have it available to be shown upon request to police officers and to potential customers. A copy of Article 8-01 Peddler Code will be given to each applicant for a Peddler License.

Exemption for Religious and Charitable Organizations

Section 8-01-150A 1 through 5 states the information to be provided to the Town Clerk's office to be exempt from the provisions of Sections 8-01-040, 8-01-070 and 8-01-080. A sworn affidavit shall be filed with the Town Clerk on the form to be furnished by the Town Clerk with the following information. Tax exempt number for the organization, name and purpose of the cause for which permit is sought, names and address of the officers of the organization, information regarding the location, date and hours of operation of the activity, and whether or not any commission, fees, etc. are to be extended in connection with such solicitation and the amount thereof.

The form is available from the Town Clerk and at www.pvaz.net

**TOWN OF PRESCOTT VALLEY
APPLICATION FOR PEDDLER'S LICENSE**

7501 E Civic Circle

PRESCOTT VALLEY AZ 86314
928 759 3135 928 759 5536 FAX



**INCOMPLETE APPLICATIONS
WILL NOT BE PROCESSED**

FOR OFFICE USE ONLY		Application Fee:	<input type="checkbox"/> Photo Taken	Peddler's License #
Date/Initials:	Check #			
	Cash	Helper Fee:	<input type="checkbox"/> Copy of Driver's License	
Date Approved:	By Police Department:	Eligibility Form		
Date(s) of doing business in Prescott Valley _____		LICENSE FEES: Peddler's License = \$20		
Nature of Business _____		Helper Fee = \$5 per applicant		
Name and Address of Supplier of Source of Goods _____		Please allow a minimum of 72 hours approval time for background check.		

SECTION I. Business Name & Location

Business Name		Applicant's Name		
Street # (N,S,E,W)	Street Name (address cannot be a PO Box)	Suite #	Business phone # ()	
City/Town	State	Zip Code	Emergency phone # ()	

MAILING ADDRESS Street Number & Name or PO Box _____ City _____ State _____ Zip _____
(If different from physical address)

Local Address of Applicant	Permanent Address of Applicant
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Description of Vehicle Make _____ Model _____ Year _____ Color _____ License Plate # _____ State _____	ADOR Transaction Privilege Tax Number
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SECTION II. Physical Characteristics of Applicant

Date of Birth	Sex	Hair Color	Drivers License #	State Issued	Expiration
Weight	Height	Eye Color	Social Security #		

Have you ever been convicted of any charges or offense, other than a traffic violation for which you were fined \$50 or more? Yes / No
 Misdemeanor _____ Felony _____ If Yes, explain _____

Disclosure of Social Security Account Numbers is **mandatory**. The authority for soliciting these numbers is found in 42 USC 405(c) (2)(c)(1). Social Security Account Numbers are used to conduct background check to approve a Peddler's License and will be communicated to Prescott Valley Law Enforcement personnel.

Employment History:			
Business Name	Address	Phone Number	Length of Employment
1			
2			
3			

I hereby certify that the statements made herein have been examined by me are to the best of my knowledge, true and complete.

Print Name	Signature	Date

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CHAPTER 112: TRANSIENT MERCHANTS; PEDDLERS AND SOLICITORS [Main Menu](#) [Section](#)

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TRANSIENT MERCHANTS § 112.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. *SPECIAL EVENTS LICENSE*. A license issued to a transient merchant to allow for the business to set up a booth or display to sell a product or service during a special event or festival, as regulated under Chapter 113 of this code.

TRANSIENT MERCHANT. Any person, either for personal gain or the gain of another, who is engaged in any business activity not conducted from a permanent place of business but is capable of moving the articles for sale from 1 location to another and who does not intend to do business at the same location for more than a few days. A *TRANSIENT MERCHANT* is distinguished from a peddler who solicits door to door. (2001 Code, § 8-3-1)

§ 112.02 LICENSE REQUIREMENTS.

(A) It is unlawful for any transient merchant to engage in any business activity within the town without first obtaining a transient merchant license as provided hereafter. (B) All provisions of Chapter 110 of this code shall apply unless otherwise stated hereafter.

(1) Any transient merchant intending to conduct a business activity for no more than 3 days in any consecutive 30 day period shall be issued a transient merchant license by the Town Clerk upon compliance with all applicable provisions of Chapter 110 of this code, upon a showing of permission from the landowner, if applicable, and upon proper payment of daily fees for transient merchants as provided in § 110.07 of this code. (2) Any transient merchant intending to conduct a business activity for more than 3 days during any consecutive 30 day period shall be issued a transient merchant license by the Town Clerk upon approval by Council, upon compliance with all applicable provisions of Chapter 110 of this code, upon a showing of permission from the landowner, if applicable, and upon proper payment of the fee for transient merchant as provided in § 110.07 of this code. Prior to renewal of a transient merchant license for an additional period, the merchant shall obtain council approval and shall otherwise comply with all other requirements. (3) No transient merchant license shall be transferable or assignable. (4) A vendor wishing to set up a booth or display to sell a product or service during a special event or festival shall first obtain a license as per Chapter 113 of this code.

(2001 Code, § 8-3-2) Penalty, see § 10.99

§ 112.03 PROHIBITED PRACTICES.

(A) It is unlawful for any transient merchant to make exclusive use of any location on any street, alley, sidewalk or right-of-way for the purpose of selling, delivering or exhibiting goods or merchandise. (B) It is unlawful for any transient merchant to operate in a congested area where the operation may impede or inconvenience the public use of the street, alley, sidewalk or right-of-way. (2001 Code, § 8-3-3) Penalty, see § 10.99

§ 112.04 LOUD NOISES AND SPEAKING DEVICES.

No licensee, nor any person in his or her behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(2001 Code, § 8-3-4) Penalty, see § 10.99

§ 112.05 SUSPENSION OR REVOCATION OF LICENSE.

(A) The Town Clerk shall refuse to issue a license to an applicant or shall promptly revoke an existing license upon notice that the applicant or licensee is in violation of the provisions of this subchapter. (B) The Town Clerk or designee shall deliver to the applicant or licensee, by certified mail, written notice of the denial of an application or the revocation of an existing license. The notice shall state the reason for denial or revocation. Notice shall be delivered to the address listed on the application or license. Notice shall be deemed served as of the date of mailing. (2001 Code, § 8-3-5)

§ 112.06 APPEAL.

Any person aggrieved by an action of the Town Clerk pursuant to this subchapter may appeal the decision of the Town Clerk by filing a written complaint with the Town Manager within 15 days of the decision of the Town Clerk. The complaint shall contain a written statement setting forth fully the grounds for the appeal of the Town Clerk's decision. The Town Manager shall set a time and place for a hearing on the appeal. Notice of the hearing shall be given to the appellant within 5 working days of the filing of the complaint by certified mail sent to the last known address or by personal service. The town manager shall hold the hearing within 15 working days of receiving the complaint. The Town Manager shall make a final determination within 10 working days of the hearing. The determination by the Town Manager shall be final. (2001 Code, § 8-3-6)

§ 112.07 REAPPLICATION.

No licensee whose license has been revoked or refused shall make further application until at least 1 year has elapsed since the last previous revocation. (2001 Code, § 8-3-7)

PEDDLERS AND SOLICITORS § 112.20 SCOPE; DEFINITIONS.

(A) This subchapter is intended to apply to any person whether a resident of the town or not, who goes from house to house, place to place or street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals for future delivery or for services to be performed in the future. All provisions of Chapter 110 of this code shall apply unless otherwise stated. (B) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. *PEDDLER*. Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale or making sales and delivering articles to purchasers.

SOLICITOR. Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery or for services to be performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of such order or whether or not he or she is collecting advance payments on the orders. The definition includes any person who, for himself or herself or for another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel or motel room, lodging house, apartment, shop or other place within the town for the primary purpose of exhibiting samples and taking orders for future delivery. (2001 Code, § 8-4-1)

§ 112.21 LICENSE REQUIRED.

(A) It is unlawful for any peddler or solicitor to engage in any business activity within the town without first obtaining a license therefor in compliance with the provisions of this subchapter. (B)

(1) It is unlawful for any peddler or solicitor to make exclusive use of any location on any street, alley, sidewalk or right-of-way for the purpose of selling, delivering or exhibiting goods or merchandise. (2) It is unlawful for any peddler or solicitor to operate in a congested area where such operation may impede or inconvenience the public use of the street, alley, sidewalk or right-of-way. (3) No licensee nor any person in the licensee's behalf shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which the licensee proposes to sell. (4) It is unlawful for any person to exhibit any copy or facsimile of the original license issued under this subchapter. (5) It is unlawful for any licensee or agent of licensee to conduct any business activity except during the daylight hours.

(2001 Code, § 8-4-2) Penalty, see § 10.99

§ 112.22 EXEMPTIONS.

(A) The terms of this subchapter do not include the acts of merchants or their employees in delivering goods in the regular course of business, nor to any salesperson who has obtained prior permission to enter upon an individual's property for the purpose of making a sale. Nothing contained in this chapter prohibits any sale required by statute or by order of any court or to prevent any person conducting a bona fide auction sale pursuant to the law. (B) The exemptions to the license requirements of this subchapter also include:

(1) Nonprofit educational institutions, fraternal and service clubs and religious organizations; (2) Nonprofit private clubs whose basic membership fees cover the cost of the use of facilities; (3) A permanent resident wishing to sell any form of agricultural products including livestock produced or raised by himself or herself; (4) Fund raising projects of nonprofit and religious organizations, not conducted on a regular basis; (5) Persons under the age of 18 years engaged in part time or seasonal employment while still attending school full

time; and (6) All exemptions granted pursuant to the Arizona Revised Statutes and all future amendments, if any. (2001 Code, § 8-4-3)

§ 112.23 APPLICATION.

Applicants for a license under this subchapter shall file with the Town Clerk a sworn application in writing on a form to be furnished by the Town Clerk which shall give the following information:

(A) Name, physical description and social security number of applicant and each helper; (B) Complete permanent home and local address of the applicant and the local address from which proposed sales will be made; (C) A brief description of the nature of the business and the goods to be sold or services to be preformed; (D) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship (no post office box will be accepted), the amount of time business has been in operation and the town and phone number the business is located in for verification; (E) The length of time for which the right to do business is desired; (F) The source of supply of the goods or products proposed to be sold or orders taken for the sale thereof, where the goods or products are located at the time the application is filed and the proposed method of delivery; (G) Two copies of a recent photograph of each applicant and each agent of the applicant, which picture shall be approximately 1-1/2" x 1-1/2" and shall clearly show the head of the individual; (One photograph shall be attached to the applicant's application form and the other shall be attached to the person's identification badge.) (H) A statement as to whether or not the applicant or any of applicant's agents has been convicted of any violation of any federal, state, county, municipal law or regulation, other than traffic violations, the nature of the offense and the punishment or penalty assessed; (I) The most recent cities or towns, not to exceed 3, where applicant carried on business immediately preceding the date of application and the address from which the business was conducted in those municipalities; (J) At the time of filing the application, a fee as adopted by resolution per day shall be paid to the Town Clerk by the applicant and an additional fee as adopted by resolution per day for each agent to cover the cost of processing the application; (The applicant shall also pay a deposit fee as adopted by resolution which deposit shall be refunded to the applicant once all identification badges are returned to the Town Clerk.) (K) Description of vehicles, including license plate numbers to be used in business; and (L) The Town Clerk shall take a thumb print of each applicant and agent of the applicant. (2001 Code, § 8-4-4)

§ 112.24 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of each application, the Town Clerk shall immediately forward the application to the Police Department for investigation of the applicant as is deemed necessary for the protection of the public and as set forth in § 110.05 of this code. (B) If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory

to go from house to house, the Town Clerk shall reject the application and shall state the reasons for the rejection. The Town Clerk shall notify the applicant that the application has been rejected. (C) If, as a result of the investigation, the character and business responsibility of the applicant is found to be satisfactory, the Town Clerk shall approve the application and issue the license. The license shall contain the signature of the issuing authority and shall show the name, address and photograph of the licensee, the class of the license issued and the kind of goods to be sold or services to be rendered thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in the licensed business. A separate license shall be issued for each agent of the applicant authorized by the Town Clerk and shall contain the information described for the licensee. (D) Each peddler or solicitor and each agent of the peddler or solicitor shall be issued an individual identification badge once the applicant is approved for a license. No identification badge shall be used at any time by any person other than the one to whom it is issued. Each identification badge shall state the name of the peddler or solicitor or the agent of the licensee, the person's physical characteristics and address, the goods to be sold, a description of the vehicle used by the person, the issue and expiration date of the permitted activity and a photograph of the person as submitted pursuant to § 112.23(G) of this chapter. The Town Clerk shall keep a record of all identification badges issued. (2001 Code, § 8-4-5)

§ 112.25 FEES.

(A) Every applicant for a license under this chapter shall pay fees as adopted by resolution. (B) In addition, each applicant shall pay a deposit fee as adopted by resolution to ensure return by licensee and licensee's agents of all identification cards at the conclusion of the permitted sales period. Upon submittal of all identification cards issued to licensee and licensee's agents, the Town Clerk shall refund the deposit. (2001 Code, § 8-4-6)

§ 112.26 BOND.

Every applicant for a license under this chapter shall obtain a 1 year peddler's permit bond. The Town Clerk shall request a copy of the bond before a business license is issued. (2001 Code, § 8-4-7)

§ 112.27 EXHIBITION OF LICENSE.

(A) Each licensee shall be required to exhibit the original certificate of license at the request of a police officer or town official. (B) Exhibition of a copy or facsimile of the original shall not be considered compliance with this section. (C) Each licensee and each licensee's agent shall wear at all times during any sales activity the identification badge issued by the Town Clerk in the individual's name. (2001 Code, § 8-4-8)

§ 112.28 SIGNS TO BE OBSERVED

It is unlawful for any person to go on the premises of another for the purpose of soliciting, peddling, hawking or canvassing, selling or vending of goods, wares, merchandise, newspapers, magazines or services where such premises are posted with a sign or other notice stating "No Peddlers", "No Solicitors" or otherwise giving notice to the public that peddlers, solicitors or salespersons are not desired. (2001 Code, § 8-4-9) Penalty, see § 10.99

§ 112.29 ENFORCEMENT

(A) The Chief of Police and the Code Enforcement Officer shall have and shall exercise the power to file complaints against any person violating the provisions of this subchapter. (B) The Chief of Police shall have and shall exercise the power to cite and release or arrest all persons violating the provisions of this subchapter. (2001 Code, § 8-4-10)

§ 112.30 RECORDS.

The Chief of Police shall report to the Town Clerk all complaints, citations and convictions for violations of this subchapter, and the Town Clerk shall maintain a record for each license issued and shall keep a record of all complaints, citations and convictions of violations. (2001 Code, § 8-4-11)

§ 112.31 SUSPENSION OR REVOCATION OF LICENSE.

(A) The Town Clerk shall refuse to issue a license to an applicant or shall promptly revoke an existing license upon notice that the applicant or licensee is in violation of the provisions of this subchapter. (B) The Town Clerk or designee shall deliver to the applicant or licensee, by certified mail, written notice of the denial of an application or the revocation of an existing license. The notice shall state the reason for denial or revocation. Notice shall be delivered to the address listed on the application or license. Notice shall be deemed served as of the date of mailing. (C) Within 24 hours of receipt of notice of revocation, the licensee shall turn in to the Town Clerk all identification badges issued to the licensee and to any agent of the licensee. Upon compliance by the licensee with the above requirement, the Town Clerk shall refund the deposit fee to the licensee. (D) The provisions of division (B) above shall not apply to transactions solely between merchants licensed under this subchapter or between merchants who would be required by this subchapter to secure licenses if their establishments were located within the town. (2001 Code, § 8-4-12)

§ 112.32 APPEAL.

Any person aggrieved by an action of the Town Clerk pursuant to this subchapter may appeal the decision of the Town Clerk by filing a written complaint with the Town Manager within 15 days of the decision of the Town Clerk. The complaint shall contain a written statement setting forth fully the grounds for the appeal of the Town Clerk's decision. The Town Manager shall set a time and place for a hearing on the appeal. Notice of the hearing shall be given to the appellant within 5 working days of the filing of the complaint by certified mail sent to the last known address or by personal service. The Town Manager shall hold the hearing within 15 working days of receiving the complaint. The Town Manager shall make a final determination within 10 working days of the hearing. The determination by the Town Manager shall be final. (2001 Code, § 8-4-13)

§ 112.33 REAPPLICATION.

No licensee whose license has been revoked or refused shall make further application until at least 1 year has elapsed since the last previous revocation. (2001 Code, § 8-4-14)

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Arizona ban on panhandling found unconstitutional in Flagstaff case

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A federal judge has ruled unconstitutional an Arizona law that bans panhandling. Above, a young woman begging in Santa Monica. (Luis Sinco / Los Angeles Times)

• 'Begging is not a crime,' ACLU says in suit against Flagstaff



Flagstaff, Arizona, to halt its crackdown on panhandling



Homeless Boston man turns in backpack with \$42,000; charity rolls in

An Arizona law that makes it a crime to beg for money or food in public is unconstitutional, a federal judge has ruled.

The decision comes in response to a lawsuit filed by the American Civil Liberties Union of Arizona against the city of Flagstaff, which has drawn national attention for its aggressive stance on panhandling by jailing some violators.

Last month, the city changed course after the ACLU sued on behalf of a 77-year-old woman who had been arrested when she asked an undercover police officer for bus fare. ACLU attorneys argued that the state law, which makes it a crime to beg in public spaces, and Flagstaff's enforcement of it were unconstitutional.

The council agreed and voted unanimously to stop enforcing the statute, promising that city officials would no longer interfere with a person peacefully begging in public spaces. But the council left the door open to imposing other restrictions.

Peaceful begging is generally characterized as holding a sign or asking passersby for money or food.

Following the suit, Atty. Gen. Tom Horne also weighed in, saying he would not contest the ACLU's effort to have a federal judge declare the state law unconstitutional.

The ACLU lawsuit challenged a policy Flagstaff adopted six years ago to remove people from downtown areas by jailing them early in the day on suspicion of loitering to beg.

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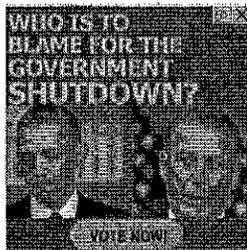
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Flagstaff police had arrested an estimated 135 people on suspicion of loitering to beg during one year. In some cases, those people were jailed, said Mik Jordahl, a Flagstaff attorney who served as ACLU co-counsel in the lawsuit.

"Many of the people arrested under the begging law simply needed a little assistance — not a jail cell," Jordahl said in a statement released by the ACLU after Friday's court ruling. "Law enforcement must stand up for the constitutional rights of peaceful beggars and not just respond to complaints from powerful downtown business interests who would take those rights away and sweep homelessness and poverty out of sight."

Flagstaff's aggressive stance reflected a national trend of states and localities using the law to try to prevent panhandling and control the movements of the homeless, said Heather Maria Johnson, civil rights director at the National Law Center on Homelessness & Poverty, based in Washington.

Some states have passed similar laws against begging, while others have relied on old laws, but Flagstaff's efforts were a case of extreme enforcement, Johnson said.

Courts nationwide have ruled that laws against aggressive panhandling and harassment are constitutional but have found that peaceful begging is protected by the Constitution.

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