

TOWN OF PINETOP-LAKESIDE

RESOLUTION NO. 19-1494

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, DECLARING AS PUBLIC RECORD A CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "TOWN CODE AMENDMENTS TO TITLE 5, CHAPTER 5.08 – TEMPORARY USE PERMITS."

WHEREAS, that certain document entitled "**Town Code Amendments to Title 5, Chapter 5.08 – Temporary Use Permits**," attached hereto as Exhibit A, three (3) copies of which shall be filed in the Office of the Town Clerk pursuant to this Resolution, shall remain on file with the Town Clerk.

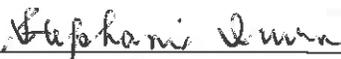
WHEREAS, A.R.S. § 9-802 permits the enactment and publication by reference of a code or public record, including statute, rule or regulation of the municipality, in the interest of economy, and

WHEREAS, the document entitled "**Town Code Amendments to Title 5, Chapter 5.08 – Temporary Use Permits**," is a lengthy ordinance to be adopted by Ordinance No. 19-417, and which would qualify for enactment by reference.

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Town Council of the Town of Pinetop-Lakeside hereby declare that the document entitled "**Town Code Amendments to Title 5, Chapter 5.08 – Temporary Use Permits**," is hereby declared a Public Record for the purpose of adoption by reference pursuant to Ordinance No. 19-417, and order that three (3) copies of the document entitled "**Town Code Amendments to Title 5, Chapter 5.08 – Temporary Use Permits**," be permanently filed in the Office of the Town Clerk and available for public inspection.

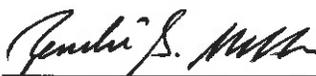
PASSED AND ADOPTED at a regular meeting by the Mayor and Town Council of the Town of Pinetop-Lakeside this 7th day of March, 2019.

TOWN OF PINETOP-LAKESIDE



Stephanie Irwin
Mayor

ATTEST:



Remilie S. Miller, MMC
Town Clerk



APPROVED AS TO FORM:



William J. Sims, III
Town Attorney

EXHIBIT "A"

Chapter 5.08

TEMPORARY USE PERMITS

Sections:

[5.08.010 Permit required.](#)

[5.08.020 Exemptions.](#)

[5.08.030 Definitions.](#)

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[5.08.050 Mobile Merchants.](#)

[5.08.060 Peddler's and Solicitor's.](#)

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[5.08.080 Unlawful noise.](#)

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[5.08.100 Appeal of denial of temporary use permit or revocation of permit.](#)

5.08.010 Permit required.

It is unlawful for any person to conduct any business which includes sales of goods or services to the general public without first obtaining and maintaining in effect a temporary use permit. A permit card issued by the Community Development Department shall be kept at all times by any person conducting business and shall be surrendered upon request of the Administrator or any police officer of the Town. When sales are conducted from a fixed location the permit and a copy of the state transaction privilege tax license shall be prominently displayed. (Ord. 09-325 § 2 (part))

5.08.020 Exemptions.

A person conducting sales required by statute, sales by order of any court or bona fide auction sales pursuant to Arizona law; and distributors and wholesalers shall be exempt from this chapter. Any nonprofit 501(c)(3) organization conducting sales shall also be exempt from this chapter. Outdoor sales or activities being conducted on a property directly related to the primary sales of a business located on the same property may be exempt from this chapter. (Ord. 09-325 § 2 (part))

5.08.030 Definitions.

- A. **“Mobile merchant”** means any person who sells any type of tangible personal property, including, but not limited to, food and drink or fire wood, at or adjacent to the person's mobile sales unit in which such tangible personal property is carried.
- B. **“Solicitor”** or **“peddler”** means any person who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any goods or services in the Town by going from house to house or from place to place or by indiscriminately approaching individuals.

5.08.040 Temporary use permit.

The purpose of this section is to allow for short-term activities that are compatible with adjacent and surrounding uses when conducted in compliance with the Zoning Code. Temporary uses are not intended to be permanent uses but are transient in nature, generally allowing for the cultivation and establishment of small, low-overhead businesses.

A. Time Limits.

1. A temporary use permit shall be valid for up to 10 days in any given month.

B. Allowed Temporary Uses. A temporary use permit shall be required for the following temporary activities: Mobile merchants, Peddler's and Solicitor's. Other temporary or short-term activities that do not fall within the categories defined shall comply with the Special Event permit requirements in Chapter 5.12:

5.08.050 Mobile merchants.

A. Application Requirements; Procedure. Any mobile merchant desiring to obtain a new or renewal permit must apply to the Town by presenting a complete application, and applicable fee, to the Community Development Department.

1. Applications must be received a minimum of 5 business days before the commencement of sales.

B. All mobile merchants shall provide written authorization from the private property owner(s) or property management company(s) representing the property owner(s) to utilize the property on which they intend to locate.

C. A mobile food unit(s) shall be inspected by the Governing Fire Department, or the mobile food vendor shall provide evidence that the mobile food unit passed a fire inspection by another city or town fire department in this state within the preceding twelve (12) months.

D. The use shall be limited to the approved dates, days and hours of operation as listed on the application. The mobile merchants operation shall be occupied by the applicant or an employee working for the applicant during the approved hours of operation.

E. The location of the mobile merchant's equipment, structures and display(s) shall be a minimum of 10 feet inside the property line and shall conform to an approved site drawing.

F. There shall be no disruption of vehicle access, traffic flow, pedestrian access ways, or sidewalks or use of landscaped areas.

G. All signs associated with these events shall be placed in compliance with the provisions of Section 17.108.120, Temporary Signs.

- H. The use of any outdoor lighting shall be fully shielded in compliance with the provisions of section 17.104.140, Outdoor Light Control, and shall be extinguished outside of the approved hours of operation.
- I. The mobile merchant shall adhere to all Arizona State sales tax requirements and all applicable Navajo County Health codes for food preparation, handling and sales.
- J. Refuse, Trash and Litter Maintenance. A mobile merchant shall:
 - 1. Provide a minimum of one fifteen (15) gallon trash receptacle within fifteen (15) feet of each individual mobile food unit for customers and employees;
 - 2. Maintain an area around the mobile unit clear of litter, garbage, rubble and debris; and
 - 3. Transport the trash from the area of operation to an authorized waste disposal location.
- K. Mobile Merchant vendors shall be limited to C-1 Light Commercial zoning.
- L. No more than two (2) temporary use permits will be issued at any time for any property. Three (3) or more temporary use permits on a property requires a special event permit per Chapter 5.12. (Ord. 09-325 § 2 (part))
- M. A new or renewal permit shall be issued to an applicant pursuant to this article unless:
 - 1. The applicant fails to provide a completed application or the required application fee;
 - 2. The applicant or a controlling person fails to pay transaction privilege taxes or violates the zoning code;
 - 3. The applicant or controlling person failed to comply with any federal and state laws, regulations promulgated by the Arizona Department of Health Services or Navajo County, or the Town Code.

5.08.060 Peddler's and Solicitor's

- A. Application Requirements; Procedure. Any peddler or solicitor desiring to obtain a new or renewal permit must apply to the Town by presenting a complete application, the applicable fee, and fingerprint records to the Community Development Department.
 - 1. Applications must be received a minimum of 45 days before the commencement of sales.
 - 2. Fingerprint records are required on all new applications, for all applicants and controlling persons; and on all renewal applications, for any new controlling persons, and for the licensee.

3. Fingerprints shall be submitted in a form approved by the Town of Pinetop-Lakeside. The fingerprints shall be submitted to the Arizona Department of Public Safety to be used to obtain a state and federal criminal records check in accordance with A.R.S. § 41-1750 and Public Law 92-544. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the United States Federal Bureau of Investigation.
- B. Following receipt of the required documents and fees, all applications shall be submitted to the Town Police Department for investigation and criminal record review on behalf of the Community Development Department. The Police Department shall receive and review the criminal history record information resulting from the criminal records check, including conviction and non-conviction data, of license applicants and controlling persons for the purpose of evaluating the fitness of licensees and controlling persons in connection with the issuance, renewal, suspension or revocation of a license. The Police Department evaluation and the criminal information obtained shall be used only for the purpose of supporting and defending a denial, non-renewal, suspension, or revocation of a license.
 - C. Complete applications shall be submitted to the Town no later than 45 calendar days prior to the commencement of sales; otherwise the license shall be deemed incomplete.
 - D. A new or renewal permit shall be issued to an applicant pursuant to this article unless:
 1. The applicant fails to provide a completed application, the required application fee, or the fingerprint records;
 2. The applicant or a controlling person fails to pay transaction privilege taxes or violates the zoning code;
 3. The application contains false or misleading information;
 4. The applicant or controlling person, within the 7 year period immediately preceding the submission of the application, was convicted of any of the following:
 - a. Felony involving trafficking in stolen property, fraud, forgery, theft, burglary, robbery, extortion, conspiracy to defraud, or any preparatory offenses of the aforementioned crimes;
 - b. Felony involving a fraudulent or dishonest act;
 - c. Felony involving the sale, manufacture or transportation of any dangerous drug as defined under A.R.S. § 13-3401, a “violent crime” under A.R.S. Title 13, Chapters 11, 12, 13 or a “sexual offense” under A.R.S. Title 13, Chapter 14, or for conduct in another jurisdiction which if carried out in Arizona would constitute an offense under one of the statutory provisions enumerated in this subsection; or
 - d. Misdemeanor involving moral turpitude.

5.08.070 Temporary use permit application fee.

- A. Any person applying for a temporary use permit as required by this chapter shall submit the application along with an application fee, as established from time to time by resolution of the Town Council. (Ord. 09-325 § 2 (part))

5.08.080 Unlawful noise.

No permit holder, nor any person in his/her behalf, shall shout, make loud noise, cry out, blow a horn, ring a bell or use any sound device, including any loudspeaker radio or sound amplifying system upon any of the streets, alleys, parks and other public places of the Town 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. (Ord. 09-325 § 2 (part))

5.08.090 Signs prohibiting peddling or soliciting.

It shall be a violation for a peddler or solicitor in the course of business to ring the doorbell or knock at any building whereon any of the following signs is exposed to public view: no peddlers, no solicitors or canvassers, no transient merchants, no soliciting or no trespassing or any other sign which has similar words or intent. (Ord. 09-325 § 2 (part))

5.08.100 Appeal of denial of temporary peddler's permit or revocation of permit.

Any person who wishes to dispute either the denial or revocation of a permit, or the determination that they are liable for any fees under this article, may do so by submitting a request for an administrative review hearing in writing no more than ten (10) days after the denial, revocation or fees charged. The Town and the person disputing the denial, revocation or fee shall be given notice of the hearing and an opportunity to be heard. The hearing officer shall establish rules of administration and procedure to ensure the fair and orderly conduct of hearings held pursuant to this section. (Ord. 09-325 § 2 (part))