

CHAPTER 111: SALES AND ADVERTISING

Section

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PEDDLERS AND SOLICITORS

§ 111.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle or any place within the city.

PEDDLER. Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city. This does not apply to Farmers Markets or public events including but not limited to the community Fourth of July celebration or other events approved by the City Council.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

(Ord. 2017-5, passed 4-19-17)

§ 111.02 PERMIT REQUIRED.

(A) Any person who is an itinerant merchant, peddler or solicitor shall obtain a permit before engaging in such activity within the city.

(B) The fee for the permit required by this subchapter shall be as set from time to time by the city.

(C) No permit issued under this subchapter shall be transferable.

(D) It shall be unlawful for any itinerant merchant, solicitor, or peddler, directly or indirectly to sell, attempt to sell, solicit, or make solicitations on the streets, in any office or business building, by house to house or in any other private or public place by personal solicitation, or any other way in the City of Alma unless such person, organization, society, association, or corporation shall have obtained a permit as provided hereafter.

(Ord. 2017-5, passed 4-19-17)

§ 111.03 APPLICATION PROCEDURE.

(A) All applicants for permits required by this subchapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

- (1) The name and address of the applicant;
- (2) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;
- (3) The local address of such individual;
- (4) The permanent address of such individual;
- (5) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
- (6) The time period or periods during which it is proposed to carry on applicant's business;
- (7) The nature, character and quality of the goods or services to be offered for sale or delivered;
- (8) Whether or not the applicant or the individual identified in division (A)(2)(a) above or the person identified in division (A)(3). above has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor permits may be required to provide further information concerning the following items, in addition to that requested under division A. above:

- (1) A description of the applicant;
- (2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) If a peddler or solicitor permit is approved, applicant will not use or represent in any way to any potential customer that the granting of said permit is an endorsement by the City of Alma of the products or services being sold.

(Ord. 2017-5, passed 4-19-17) Penalty, see § 10.99

§ 111.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character may be made.

(B) The application may be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude;
- (2) Has made willful misstatements in the application;
- (3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;
- (4) Has committed prior fraudulent acts; or
- (5) Has a record of continual breaches of solicited contracts

will constitute valid reasons for disapproval of an application.

(Ord. 2017-5, passed 4-19-17)

§ 111.05 REVOCATION PROCEDURE.

Any permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

(Ord. 2017-5, passed 4-19-17)

§ 111.06 STANDARDS FOR REVOCATION.

A permit granted under this subchapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the permit application;
- (B) Any fraud, misrepresentation or false statement made in connection with the business being conducted under the permit;
- (C) Any violation of this subchapter;

(D) Conviction of the applicant of any felony, or conviction of the applicant of any misdemeanor involving moral turpitude; or

(E) Conducting the business permitted in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

(Ord. 2017-5, passed 4-19-17)

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

(B) The order of the City Council after the hearing shall be final.
(Ord. 2017-5, passed 4-19-17)

§ 111.08 EXHIBITION OF IDENTIFICATION.

(A) Any permit issued to an itinerant merchant under this subchapter may be posted conspicuously in or at the place(s) named therein.

(B) The City Clerk may issue a permit to each peddler or solicitor approved pursuant to the provisions of this subchapter. The permit shall contain the expiration date of the permit and the number of the permit. The permit shall be kept with the applicant during such time as he or she is engaged in the business permitted.
(Ord. 2017-5, passed 4-19-17) Penalty, see § 10.99

§ 111.09 POLICY ON SOLICITING.

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.
(Ord. 2017-5, passed 4-19-17)

§ 111.10 TIME WHEN PEDDLERS AND SOLICITORS MAY DO BUSINESS.

It is hereby declared that it is unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of sunset and 9am unless they have a previous appointment with the resident of the premises solicited.
(Ord. 2017-5, passed 4-19-17)

§ 111.11 PEDDLER AND SOLICITOR EXCEPTIONS.

(A) This Article shall not apply to any established society, school, church, association, or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, charitable, or educational purposes, not operated for pecuniary profit, when no part of the net earnings of which inures to the benefit of any person, private, shareholder, or individual, and where such solicitation may

be in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order, or fraternity or similar organization, or any branch thereof.

(B) No permit will be required for qualified representatives of any church, having an established congregation and conducting regular services, in the City. It shall be the duty of the City Clerk to verify that the congregation is actually established in the City.

(C) Nothing herein shall be construed to apply to any person, or persons selling products at a Farmers Market or public event approved by the City Council, or to wholesale sales representatives.
(Ord. 2017-5, passed 4-19-17)

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