

ORDINANCE NO. 125

AN ORDINANCE PROVIDING FOR THE REGULATION OF SOLICITATION WITHIN THE CITY OF BETHEL.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BETHEL THAT THE FOLLOWING BE ENACTED:

Chapter 6.12 SOLICITATION

6.12.010 LICENSE REQUIRED

(1) It shall be unlawful for any person, corporation, association, or organization of any kind, or their agents, representatives, or employees to solicit funds or secure subscriptions for future payment of funds for religious, charitable or educational purposes without first securing a non-commercial solicitor's license from the City Clerk.

The above paragraph shall not apply to solicitations made on behalf of any religious, charitable or educational corporation, association or organization among its members or officers, or in the form of collections or contributions made during regular assemblies or services.

(2) It shall be unlawful for a transient or itinerant merchant, as herein defined, to solicit or engage in busi-

ness within the City of Bethel without first obtaining a license therefor from the City Clerk.

#### 6.12.020 APPLICATIONS

(1) Applications for a non-commercial solicitor's license shall be made to the Clerk in the name of the organization, corporation or association on whose behalf solicitations will be made and shall contain the following information:

- (a) The purpose of the association, organization or corporation;
- (b) The dates upon which solicitations will be made;
- (c) The method of solicitation;
- (d) How funds solicited or pledged will be used; and
- (e) The names and addresses of the person within the organization or association who will decide how funds received through solicitations are to be spent.

(2) Applications for itinerant or transient merchant license, whether by a person, firm or corporation, shall be made upon an application signed by the applicant, if an individual, by all partners, if a partnership and by the president, if a corporation, filed with the City Clerk showing:

- (a) The name or names of the person or persons having the management or supervision of the applicant's business during the time it is proposed that it will be carried on within the City of Bethel; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons, the capacity in which such person or persons will act (that is, whether as proprietor, agent or otherwise), the name and address of the

person, firm or corporation for whose account the business will be carried on, if any, and if a corporation, under the laws of what state the same is incorporated;

(b) The place or places within the City where it is proposed to carry on applicant's business, and the length of time during which it is proposed that such business will be conducted;

(c) The place or places, other than the permanent place of business of the applicant within the six months next preceeding the date of the application where applicant conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(d) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the City, the invoice value and quantity of such goods, wares, and merchandise, whether the same are proposed to be sold from stock in the possession or from stock in possession and by sample, at auction, by direct sale or by taking orders for future delivery; whether the goods or property possessed are to be sold, manufactured or produced and where such goods or products are located at the time such application is filed;

(e) A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers, and copies of all such advertising, whether by handbills, circulars, newspaper advertising or otherwise;

(f) Whether or not the person or persons having the management or supervision of the applicant's business has or have been convicted of a crime, misdemeanor or other violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor, excluding minor traffic offenses;

(g) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative. This section does not apply to self-employed applicants.

#### 6.12.030 BONDING

Itinerant or transient merchants who conduct commercial solicitation shall, together with the application, file with

the Clerk a surety bond in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) running to the City of Bethel, or a cash bond in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) conditioned upon the applicant's:

(1) Delivering the goods, wares, merchandise or performing services as may have been paid for, either in whole or upon partial deposit, to the purchaser thereof, or alternatively to refund the purchase price or deposit within thirty (30) days from demand of delivery; and

(2) Honoring all warranties, express or implied, that may accompany the goods, wares, merchandise or service performed; and

(3) If such goods, wares, merchandise or services are to be provided without warranty, then such fact shall be made known to the public in the advertisements used by the applicant or if not, then by providing written notice to the purchaser upon the sale or order of such goods, wares, merchandise or service; and

(4) Complying with Chapter 3.04 of the Code of the City of Bethel providing for the payment of sales tax for goods sold and the filing with the City Clerk of all forms required thereunder.

#### 6.12.040 CLAIMS

(1) A person having a claim against an itinerant or transient merchant for any of the items referred to in Section 6.12.030 may bring suit upon the bond in the District Court of the Fourth Judicial District at Bethel or within any judicial district in which jurisdiction of the licensee may be obtained.

(2) A copy of the complaint shall be served upon the City Clerk at the time the suit is filed and the Clerk shall maintain a record, available for public inspection, of all suits commenced. This service shall constitute service on the surety and the Clerk shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received at the address supplied upon the application. The surety on the bond is not liable in an aggregate amount in excess of that named in the bond but in case claims pending at any one time exceed the amount of the bond, priority of payment to the claimant for the surety or security pledged shall be determined by date of filing of the claim with the Clerk. If a judgment is entered against the cash deposit, the Clerk, upon receipt of a certified copy of the final judgment, shall pay the judgment from the amount of the deposit according to priorities established in this section.

(3) Any claim against the bond posted by an itinerant or transient merchant shall be made within 180 days of the date of delivery of goods, wares, merchandise or within thirty (30) days of demand of refund as provided in section 6.12.030 or within 180 days of completion of services contracted or paid for.

#### 6.12.050 REFUND OF CASH BOND

If an itinerant or transient merchant's bond is cash, the

City Clerk shall refund the same to the depositor upon the depositor's filing with the Clerk a sworn affidavit of the depositor that it has been 180 days or more since the date of delivery or refund of deposit or purchase price of all goods, wares, merchandise, or services sold by the licensee under this chapter.

#### 6.12.060 LICENSE FEE

The fee required to obtain a license to engage in commercial or non-commercial solicitation as herein defined, shall be TEN DOLLARS (\$10.00) per year, and such license shall be procured from the City Clerk prior to engaging in commercial or non-commercial solicitation within the City of Bethel. The City Clerk shall deliver to the purchaser of any license procured hereunder a license form which shall indicate the purchaser's name, the date purchased, the amount of the fee paid, the date of the expiration of the license and the signature of the City Clerk. Such license form shall be carried on the person or posted for public view in the site of the commercial or non-commercial solicitation at all times during its effective period.

#### 6.12.070 LICENSE TERM, NON-TRANSFERRABLE

No license under this Chapter shall be issued for a greater period than one (1) year, beginning on January 1 of any year

and expiring on December 31 of such calendar year. No license can be transferred by the licensee to any other person.

6.12.080 COMMERCIAL SOLICITATION, PROHIBITED ACTS

(1) No transient or itinerant merchant, as herein defined, after the procurement of a license as herein required, shall go in or upon private residences in the City for the purpose of the sale of or the soliciting orders for the sale of subscriptions, goods, wares or merchandise or for the purpose of disposing of or peddling or hawking the same, not having been requested or invited to do so by the owner or owners, occupant or occupants of said residence.

(2) No transient or itinerant merchant, as herein defined, shall conduct or engage in any activities regulated by this Chapter in public areas between the hours of 9:00 P.M. and 9:00 A.M. without the prior consent of the owner or lawful occupant of that public property.

6.12.090 NON-COMMERCIAL SOLICITATION, PROHIBITED ACTS

(1) No person, organization, association or corporation shall solicit funds or secure subscriptions for future payment of funds for religious, charitable or educational purposes between the hours of 9:00 P.M. and 9:00 A.M. in residential areas.

(2) No person, organization, association or corporation shall solicit funds or secure subscriptions for future payment of funds for religious, charitable or educational purposes on property posted with notice prohibiting solicitors, peddlars or similar activities or where solicitors know or have reason to know that the owners or lawful occupants of that property prohibit solicitation thereon.

(3) No person, organization, association or corporation, in the course of soliciting funds or securing subscriptions for future payment of funds for religious, charitable or educational purposes shall fail to disclose the following information to persons solicited:

- (a) His name;
- (b) The organization, corporation or association represented and its purpose;
- (c) How funds solicited will be spent.

(4) No person, organization, corporation or association, in the course of soliciting funds or securing subscriptions for future payment of funds for religious, charitable or educational purposes shall fraudulently misrepresent any material fact or fail to disclose any material fact or use any deceptive scheme or device in connection with such activities.

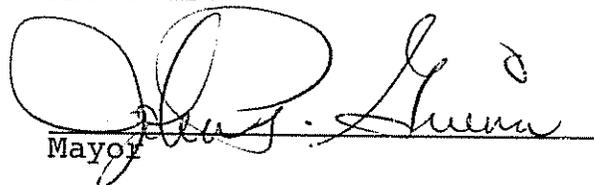
#### 6.12.110 DEFINITIONS

(1) A "transient or itinerant merchant" means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City of Bethel or not,

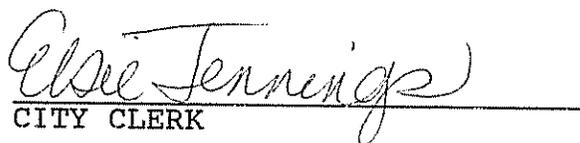
who engages in the temporary business of selling or delivering goods and/or services, wares and merchandise within the City, and who, in furtherance of such purpose, peddles from door to door or hires, leases, uses or occupies any building, structure, motor vehicle, tent, boat, any room in a hotel, lodging house, apartment building, shop, or any street, alley or other place within the City for the exhibition and sale of such goods, wares and merchandise. However, the occasional sale of native handicrafts and artifacts (as defined in A.S. 45.65) shall be excluded from the above definition.

Passed and approved this 12 day of January, 1988.

APPROVED:

  
Mayor

ATTEST:

  
CITY CLERK