

RULES AND REGULATIONS GOVERNING SOLICITING IN THE H-1 HISTORIC OLD TOWN ZONE, pursuant to Ordinance §13-3-2-18

These Rules & Regulations are adopted pursuant to the Old Town Solicitations Ordinance (the “Ordinance”), being Ordinance No. 20-1991, as amended, which is compiled as Part 2 of Article 3 of Chapter 13, Revised Ordinances of Albuquerque, New Mexico, 1994 governing all soliciting within the H-1 Historic Old Town Zone, §§ 13-3-2-1 et seq. ROA 1994.

In the event that these Rules & Regulations herein are in conflict with the provisions of the Old Town Solicitations Ordinance, the provisions of the Ordinance shall prevail.

Terms and words, which are used but not defined in these Rules & Regulations, shall have the same meaning as defined in the Old Town Solicitations Ordinance. The term MAYOR in these Rules & Regulations, for example, means “The Mayor or the Mayor's designated representative,” as defined in Ord. §§ 13-3-2-1 et seq. All hourly times stated within the Rules & Regulations and Ordinance shall be applied reasonably by the Old Town Portal Staff (“Community Events Staff”), depending on specific circumstances.

I. GENERAL REQUIREMENTS

A. The terms solicit, soliciting, and solicitation as used in these Rules & Regulations, unless the context otherwise requires, mean selling, offering for sale, bartering, exchanging, peddling or hawking any goods, wares, merchandise, property either real or personal, tangible or intangible, or services, or the making of personal appointments, attempting to procure or the procuring of interviews, or arranging for demonstrations or explanations preliminary to selling, offering for sale, selling and delivering, bartering, exchanging, peddling, or hawking of any of the same.

B. Only those persons holding a valid Old Town Solicitations Permit (“Permit”) issued by the City of Albuquerque may solicit in the H-1 Old Town Historic Zone and then only in the designated area, which is on the porch on the sidewalk along the east side of San Felipe Street, N.W., from the line perpendicular to San Felipe Street taken from the midpoint of South Plaza Street, NW, to 16 feet south of the north end of the porch. The spaces shall have provision for access and shall be divided in such a way to ensure movement and safety. Community Events Staff shall administratively determine and delineate the exact location of the spaces to insure that soliciting does not obstruct the view from the two large windows of the La Placita Restaurant or its successors and to insure movement and safety between the vendors. The designated area is divided into fifteen (15) spaces approximately equal in area. All spaces are numbered in sequence beginning with space number one (1) at the south end of the designated area. Spaces numbered one (1) through fourteen (14) are each five (5) feet in width and six (6) feet in depth measured from the building wall. Space fifteen (15) is slightly smaller, to allow for the functioning of the fire door on the western facade of La Placita Restaurant or its successors, and so as not to interfere with the business to the north of the vending area. The spaces are marked as shown on Exhibit ‘A’ which is attached hereto.

C. Vendors (including all Craft Unit members) must have a New Mexico Gross Receipts Tax Identification number and a current City of Albuquerque Business Registration License. Vendors including all Craft Unit members shall provide evidence of having paid his/her most recently due New Mexico Gross Receipts Taxes to Community Events Staff by May 15 of each year. Such proof may include but is not limited to showing a New Mexico Taxation and Revenue Department issued CRS Tax Account Status Form (available online) or a letter of good standing.

All forms of proof must be dated in the current calendar year. Failure to meet this deadline will result in a suspension of the Craft Unit's Permit and render any application by the offending Craft Unit members for the following Permit cycle as incomplete until evidence is provided, at which time the application may be placed on the waiting list.

D. Vendors (including all Craft Unit members) shall allow site visits to their place(s) of production of hand-crafted items. Such site visits will be conducted by Community Events Staff or a person designated by Community Events Staff to verify the ability of the Vendors to produce the items they sell pursuant to the Old Town Solicitations Permit. Such visits shall occur on an annual basis or as often as deemed necessary by the Mayor. Site visits will occur between 8:00 a.m. and 5:00 p.m. and every attempt to give reasonable notice to the Vendor will be made, unless Community Events Staff or designee deems it is necessary to make a visit without notice and certifies in writing the need for the visit and why no notice should be given.

E. Vendors that will be participating in the upcoming permit cycle are required to attend one of two orientation meetings to be held in June leading up to the new permit cycle. The Old Town Solicitations Ordinance and Rules & Regulations Governing Soliciting in the H-1 Historic Old Town Zone will be reviewed. Vendors that have not participated in one of these mandatory meetings will have their permits suspended until such time that they schedule and complete a review of the Old Town Solicitations Ordinance and Rules & Regulations Governing Soliciting in the H-1 Historic Old Town Zone with Community Events Staff.

F. In all matters relating to Vendor participation in the Portal Market program deference shall be given to vendors with special conditions as identified by a Doctor's note or comparable notice.

G. Vendors shall provide to Community Events Staff written notice of change in Vendor name and or address within ten (10) days of such a change.

II. APPLICATION FOR PERMIT

A. As provided in the Old Town Solicitations Ordinance, no more than fifty (50) Craft Units shall be issued Vendor Permits which allow soliciting within the H-1 Historic Old Town Zone. Each Craft Unit may consist of one to three Vendors. Individuals who are seeking a permit as a Craft Unit may submit an application only in connection with one Craft Unit at any given time. Each Vendor Permit issued shall be for a Term of one (1) year commencing on the first day of July of each year and expiring the last day of June the following year; Permits issued after July 1st shall also expire on the same last day of the current Term. Applicants that are not currently participating in the Portal Market program shall complete a studio visit prior to being granted a permit. Applications with applicants that are required to but have not yet successfully completed a studio visit by the application deadline shall be placed on the waiting list. All members of a Craft Unit shall be capable of handcrafting a handcrafted item produced by the Craft Unit for sale pursuant to this ordinance.

B. Any person or Craft Unit desiring a permit pursuant to §§ 13-3-2-1 et seq. shall file an application with the Mayor upon a form to be provided by the Mayor. If a permit is issued, members of the Craft Unit may be deleted during the permit period by giving the Mayor prior written notice of the changes, provided at no time shall the Craft Unit exceed the maximum of three individuals. Fees as set forth in §§ 13-3-2-1 et seq. shall accompany the application. The application shall include, but not be limited to, the following information:

1) The name, mailing address, telephone number and social security number of the applicant and any members of the applicant's Craft Unit who request authorization by the permit to make and sell items under the terms of §§ 13-3-2-1 et seq.

2) A description of the types of handcrafted items that the applicant intends to offer for sale.

3) The location at which the applicant makes such items.

4) A document indicating the maker's mark of each individual member of a Craft Unit or of the individual vendor. There is no requirement that the maker's mark be registered with any other agency.

5) A declaration, under penalty of perjury, that the applicant is 18 years of age or older.

6) A declaration that the applicant agrees to grant to Community Events Staff, or the designee, the right to enter the studio, place of business or place of manufacture of the vendor and the vendor's Craft Unit to insure compliance with the provisions of §§ 13-3-2-1 et seq. Any visitation pursuant to this grant of authority will be done between the hours of 8:00 a.m. and 5:00 p.m. Every attempt to give reasonable notice to the vendor will be made. In the event Community Events Staff or designee deem that it is necessary to make a visit without notice, they shall certify in writing the need for such visit and reasons why no notice should be given.

7) A declaration that the applicant, if and when the applicant becomes a vendor, agrees to indemnify and hold harmless the city, its officers and employees from any and all damages or injury to persons or property proximately caused by the act or neglect of the vendor or by hazardous or negligent conditions maintained at the solicitations location.

8) Each applicant shall sign a declaration stating that if the Vendor should become subject by notice from the City of a suspension or revocation of vending privileges due to acts by any member within the Craft Unit of a violent, threatening, menacing or peace disturbing nature, that each member of the Craft Unit agrees to immediately honor any City notice of ban (prohibited presence) from the vicinity (within 100 feet) of Portal Market operations in Old Town until such time that the resulting suspension or revocation is no longer in effect, or if appealed until the Hearing Officer makes a final determination in the case and any subsequent suspension or revocation is no longer in effect.

C. Craft Unit applications shall be filed with the City of Albuquerque as prescribed by the application. If any of the requirements, as stated in §§ 13-3-2-1 et seq. have not been met by any of the prospective members within the Craft Unit, then those prospective members shall be removed from the application and the remainder of the Craft Unit may move forward with the application process. The Mayor shall notify each member of the prospective Craft Unit in writing stating the finding of facts that led to the removal of the individual applicant from the application. Any prospective member of a Craft Unit thus affected by such an action shall have all of the rights of appeal as stated in §§ 13-3-2-1 et seq. Such appeal shall be filed directly with the Independent Office of Administrative Hearings. Only natural persons may be issued a Permit. Craft Unit members may cooperate in making and selling hand-crafted items. No person may hold more than one active Permit at any given time. Vendors may surrender his or her

Permit at any time during the Permit period. Persons that do not hold a current Permit and are not restricted by the previous suspension or revocation of a Permit are eligible to apply for a Permit. A Vendor may be issued a duplicate Permit to replace a valid Permit, which has been lost or destroyed. A fee of five dollars (\$5.00) will be charged for duplicate Permits. No more than 50 (fifty) Craft Units at any given time shall be issued Old Town Solicitations Permits, which allow soliciting in the H-1 Old Town Historic Zone. In the event that more than 50 (fifty) Craft Units apply, by a cut-off date to be announced by the Mayor, a drawing will be held by the City Clerk to determine the 50 (fifty) Craft Units that shall be granted Permits. Each prospective Craft Unit will be placed into a container and the first 50 (fifty) Craft Units that are drawn will receive Permits upon meeting all other Permit requirements. All other Craft Units drawn will be placed on a waiting list in the order in which they are drawn. In the event that there are fewer than 50 (fifty) Craft Unit applications submitted for Old Town Permits, applicants will be awarded a Permit upon meeting all other Permit requirements. Permits will be awarded on a first-come, first-served basis during the permit period, until 50 (fifty) permits are awarded. After 50 (fifty) permits have been awarded, applicants will be placed on a waiting list in the order in which the applications are received by the City.

D. If a Craft Unit permit is revoked or is surrendered prior to June 30 of any year, the first Craft Unit application in numbered order on the waiting list will be notified in writing that the application for a permit has been granted.

E. Prospective Craft Units that have been accepted into the program shall receive a written notice of acceptance; each such notification shall contain a statement to be signed by the primary member of the Craft Unit. The statement shall contain a declaration that the Craft Unit still desires to participate in the Portal Market program and understands that each of the prospective members within the Craft Unit if issued a Permit will be subject to the provisions of the Old Town Solicitations Ordinance and the Rules & Regulations Governing Soliciting in the H-1 Historic Old Town Zone. Each Craft Unit shall designate upon the application for permit a primary member for that Craft Unit, if a member of a Craft Unit drops out of the Craft Unit during the Permit period, the primary member of the Craft Unit shall give written notification to Community Events Staff of the change in the Craft Unit prior to such change. Community Events Staff shall delete the names of the members of the Craft Unit who have left the Craft Unit. The Primary member of a Craft Unit may dissolve the craft unit at any point in the Permit cycle by notifying Community Events Staff in writing that the permit is abandoned as of the signed date of such notice. No substitutions or additions may be made to a Craft Unit during the Permit period. If the primary member of a Craft Unit leaves the Craft Unit, the remaining members of the Craft Unit shall choose a primary member between themselves and shall provide the name and current address of the new primary member to Community Events Staff.

F. Prospective Craft Units that receive a Letter of Acceptance to be a Permit Holder shall file with the City within six (6) days the following:

- 1) the signed declaration, accompanied by a nonrefundable payment in the amount of one hundred dollars (\$100) for the Craft Unit Permit fee;
- 2) one (1) photograph of each Vendor in the Craft Unit, that meet the general guidelines of passport photographs: taken within the last six months, 2x2 inches in size, the photographs must be in color, be clear, with a full front view of the face, without a hat, head covering, or dark glasses. Photographs which do not meet this standard will not be accepted.; and
- 3) a copy of his/her valid city business registration for each Vendor in the Craft Unit.

If any of these requirements have not been met by any of the prospective members within the Craft Unit, then those prospective members may be removed from the application and the remainder of the Craft Unit may move forward with the remainder of the application process.

The Mayor, or his designee, shall notify each member of the prospective Craft Unit in writing stating the findings of fact that led to the removal of the individual Vendor from the application. Any applicant thus affected by such an action shall have all of the rights of appeal as stated in §§ 13-3-2-1 et seq.

G. If the signed declaration, accompanied by the Permit fee, the photograph(s), and valid city business registration(s) are not received by the City within six (6) days of the Craft Unit having received such notification, the Craft Unit will be deemed to have abandoned the Craft Unit's application for a permit.

H. Prospective applicants shall provide to Community Events Staff written notice of any change in name or address as shown on the application within ten (10) days of such change.

I. The Mayor shall, within forty-five (45) calendar days of receipt of the application for permit, grant or deny the permit. If the Mayor affirmatively determines, upon inquiry and examination, that the requirements have been met, he shall grant the permit. If the Mayor determines, upon inquiry and examination, that any of the requirements have not been met, the Mayor shall notify the applicant that the application for the permit has been denied and shall state the findings of fact upon which the denial is based. The denial of a permit may be appealed to the Independent Office of Administrative Hearings by filing a written notice of appeal within fourteen (14) days of the denial's issuance; the Hearing Officer shall, within fourteen (14) days of the filing of the notice of appeal, hold a hearing and recommend findings and action to the Mayor; the Mayor's final action shall be within five (5) days of the receipt of the recommended findings and action. A nonrefundable hearing fee of fifty dollars (\$50.00) shall accompany each request for hearing by the City Hearing Officer that is filed pursuant to this Section.

III. DAILY VENDING SPACE SELECTION

A. A lottery will be conducted on the first and third Wednesday of each month unless the Vendors are notified otherwise by the Mayor. Lotteries will be witnessed and certified by a neutral party. Whenever possible, the lottery will be conducted at least seven (7) days prior to the vending period being called.

1) For each day covered by the lottery, the Community Events Staff shall, using a random number generating device of the Mayor's choosing, enter the numbers of the Craft Units that are seeking solicitation spaces for that day.

2) The Craft Unit number that matches the first number selected shall be assigned to solicitation space number one (1). The Craft Unit number that matches the second number selected shall be assigned to solicitation space number two (2), and so on until fifteen (15) numbers are selected and fifteen (15) spaces are filled. The process shall continue in order to create a reassignment list. The Craft Unit number that is the sixteenth number selected shall be placed first on the reassignment list, and so on, until all of the Craft Units that wish to vend on that day have received a solicitation space or placement on the reassignment list. Community Events Staff shall repeat this procedure for each day covered by the lottery.

3) Lottery results will be emailed to vendors on the first and third Wednesday of the month. In order to participate in a Lottery, vendors will need to contact Community Events Staff by noon on the first and third Wednesday of each month.

B. Soliciting is to take place only on the designated spaces within the designated area, between the hours of 9:00 a.m. and 9:00 p.m. A Craft Unit shall conduct solicitations only at the space assigned by Community Events Staff to that Craft Unit and only the Craft Unit to which Community Events Staff has assigned the space may conduct solicitations at that space. No Craft Unit shall occupy more than one space nor shall any person save spaces for others. All items involved in solicitations shall be removed from the designated area promptly upon the cessation of soliciting.

1) Each Vendor who has been assigned a solicitations space by Community Events Staff shall pay a non-refundable daily user fee of twelve dollars (\$12.00) to Community Events Staff for the use of the space. Payment shall be made daily to Community Events Staff or his or her designee prior to 9:30 a.m. on the day the Vendor has been assigned a space, or if a Vendor accepts an assigned space due to reassignment, the daily vending fee of twelve dollars (\$12.00) must be paid before any space is taken over by the Vendor.

2) Upon receipt of their space assignments, Vendors may begin to place their wares on their assigned spaces at 8:00 a.m., but may not begin soliciting until 9:00 a.m.

3) Community Events Staff shall determine each day at 9:30 a.m. if any solicitation spaces are available for reassignment. If any spaces are available, they shall be assigned to vendors present for the reassignment in the order that the Craft Unit is listed on the reassignment list for that day. Reassignments shall be made only to an empty space, and if more than one space is empty, reassignments shall be made to the spaces in their numerical order beginning with the lowest numbered space. To be considered an empty space, all items from the previous Vendor must be removed from the space prior to the designated time for reassignment.

4) To be assigned to a spot at the 9:30 a.m. reassignment times, the Vendor must be listed on the reassignment list. Placement on the reassignment list after the lottery has taken place may occur by the Vendor wishing to be placed on the list finding Community Events Staff during the day and requesting such placement.

5) Afternoon reassignment at 1 p.m., shall follow the same conventions as the 9:30 a.m. reassignment, and may be called at the discretion of Community Events Staff.

6) A third reassignment may be called at 4:30 p.m. at the discretion of Community Events Staff.

7) Assignments and reassignments on City Holidays as well as extreme weather condition days shall be administered at the discretion of Community Events Staff.

8) In the interest of security, after the 9:30 a.m. reassignment if there are any empty spaces from space one (1) to space fourteen (14), the Craft Unit assigned to space fifteen (15) may choose to move to the lowest number available space that is empty. Subsequently, the Craft Units in space 14 and then 13 shall be offered the alternative to move to the lowest number available space that

is empty and lower in number than their current space.

9) The Shade Shift rule may be applied from April 1 through September 30. If after the 9:30 a.m. reassignment there are any available spaces, the vendor in space one (1) will be offered the opportunity to move to the lowest numbered available space, starting at space five (5). This same offer will then be extended to the vendors in spaces two (2), three (3), and four (4). Vendors coming for afternoon reassignment may then take either the lowest numbered available space, starting at space five (5), or if they choose, starting at space one (1). The Shade Shift Rule will continue to be applied prior to the Security Shift rule, when relevant.

IV. DAILY SOLICITING RULES & REGULATIONS

A. In conducting solicitations, Vendors shall comply with the Old Town Solicitations Ordinance and these Rules & Regulations and all other applicable laws, ordinances and Rules & Regulations. If the Mayor has a reasonable suspicion that a Vendor is not following the provisions as laid out in this section (IV) of the Rules & Regulations, and determines that the Vendor is either unwilling or unable to comply, then the Mayor may require the vendor to cease soliciting for that day and leave the Old Town Portal Market.

1) Craft Units that claim a space prior to or as part of the 9:30 a.m. reassignment shall be in the process of setting up in the assigned space by 9:45 a.m.;

2) Craft Units absent from the Portal for up to fifteen (15) minutes shall display a 5" X 11" or larger sign indicating "Closed" along with a "Will Return" time, for periods of absence in excess of 15 minutes all merchandise shall be covered completely and said sign shall be displayed.

3) Vendors must have their Permits fully visible to the public at all times that solicitations are being conducted.

4) Vendors shall set up and pack up their wares by themselves. However, if a Vendor has a disability and needs special assistance to meet the requirements of the Old Town Solicitations Ordinance or these Rules & Regulations, the Vendor should contact Community Events Staff, who will review and may authorize requested accommodations.

5) Vendors shall give each customer a numbered receipt from either a preprinted numbered sales receipt book, or a sequentially numbered credit card receipt. Each receipt shall contain his/her Permit number, the date, a brief description of the items sold, and the total dollar amount of the sale.

6) Vendors shall maintain their solicitations locations in a clean and hazard-free condition.

7) Vendors shall not obstruct or restrict the free use of the sidewalk along the designated area by pedestrians.

8) Vendors shall not obstruct or otherwise restrict the view from the two large windows of La Placita Restaurant or its successors.

9) No signs shall be posted on the building along the designated area, nor shall items be leaned against or affixed to the adjacent building, including any of its windows

10) Vendors shall not bring alcoholic beverages, or controlled dangerous substances, drink or use the same at any time, nor shall any person be under the influence of intoxicating liquor or a controlled dangerous substance;

11) Vendors shall not engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace;

12) Vendors shall not maliciously disturb, or threaten, or in an insolent manner, intentionally touch or apply force to any person;

13) Vendors shall not use electronic audio or other media capable devices in such a manner as to be noticeable by anyone in the direct vicinity. The use of devices with speakers or the use of remote speakers in combination with any device is not allowed. The use of headphones that are audible to anyone other than the user is not allowed. The use of headphones or earbud style headphones that are not audible to anyone other than the user is permissible.

14) Items to be sold which exceed twelve (12) inches in height shall be placed at the rear of solicitations spaces and in such a manner so as not to restrict the view by the public of traditional hand-crafted items in adjoining solicitations spaces.

15) Display stands, cases, racks, or similar items shall not project more than twelve (12) inches or so, above the sidewalk nor shall they be fastened in any manner to the sidewalk; provided, however, that a work surface not to exceed thirty-six (36) inches high by twenty-four (24) inches wide by eighteen (18) inches deep, and one folding chair or other chair of equivalent size, may be placed on a space for use by the Vendor (such items shall be placed at the rear of solicitations spaces and in such a manner so as not to restrict the view by the public of traditional hand-crafted items in adjoining solicitations spaces). If blankets or similar items are used, they shall not be glued to the sidewalk nor shall they be fastened to the sidewalk in any other permanent manner.

16) Vendors shall not park their motor vehicles in front of residential properties in the H-I Historic Old Town Zone during the times they are conducting solicitations or are making application for solicitation spaces.

17) Children under the age of eighteen (18) years shall not be allowed to accompany Vendors when they are vending under the portal.

18) The Portal Market closes at 9:00 p.m. and vending spaces must be clear of all Craft Unit items by 10:00 p.m.

V. ITEMS WHICH MAY BE SOLD IN THE H-1 HISTORIC ZONE

A. As applicable, Vendors shall comply with the provisions of the New Mexico Indian Arts and Craft Sales Act, NMSA 1978, §§ 13-3-2-1 et seq., as amended.

B. Solicitations shall involve only items that are hand-crafted by the Craft Unit, such hand-crafted items are defined in the Old Town Solicitations Ordinance to mean those objects which are produced through the use of hand and hand tools, displaying a degree of manual skill or dexterity, and include but are not limited to beadwork, basketry, pottery, silver, turquoise and

shell jewelry, handwoven cloth and blankets and objects made therefrom, leather goods and wood carving. Such items may be comprised of new materials or machine-made parts or elements, provided that no object which is primarily mass produced or machine-made shall be considered to be hand-crafted. Bread shall not be considered a hand-crafted item, nor shall any other food item be considered hand-crafted. Refer to the current Handcrafted Jewelry Guidelines sheet for more detailed information on handcrafted criteria.

C. Items such as jewelry shall be labeled for content of all substances if a significant part of the value of the item relates to its content; for example, silver should be labeled as sterling silver, nickel silver, silver plate, surgical steel etc., as appropriate, turquoise should be labeled as natural turquoise, stabilized turquoise, dyed turquoise or reconstituted turquoise etc., as appropriate, and material that has been manufactured to look like more valuable material should be labeled as dyed (identify the material), synthetic, glass, plastic, and so forth as appropriate. Vendors shall comply with the provisions of all laws of the state and of the United States applicable to the sales of the items they are vending. Refer to the current Material Quality Guidelines for Labeling sheet for more detailed information on labeling.

D. All items to be sold shall be labeled with a maker's mark, the individual Vendor's mark or Craft Unit's mark, to indicate and verify creation of the item by that person or unit. The maker's mark should be stamped on the item whenever possible, or when using a label, attached in such a manner that the label can be removed but not reattached, whenever possible. The maker's mark shall accompany the Permit application and shall be on file with the City.

VI. MINIMUM SOLICITATIONS

A. Since only a very limited number of solicitation spaces are available, it is reasonable that only those persons having a serious interest in exercising solicitation privileges in the Old Town area be authorized to hold a Permit. Therefore, each Craft Unit will be expected to demonstrate a serious interest in soliciting in Old Town by entering at least one weekly lottery in each four-week period. In addition each Craft Unit shall vend on the Portal Market at least once in each six-week period. Craft Units that are not participating within these guidelines may have their Permits revoked.

VII. OLD TOWN PORTAL STAFF

The Old Town Portal Staff is designated by the City's Chief Administrative Officer to daily monitor the solicitations area, insure compliance with the Old Town Solicitations Ordinance, these Rules & Regulations, and other applicable Rules & Regulations and laws. Old Town Portal Staff may give warnings and initiate complaints, as appropriate, for violations of the Old Town Solicitations Ordinance, these Rules & Regulations, or other laws, and suspend or revoke Permits.

VIII. OLD TOWN PORTAL MARKET ADVISORY BOARD

A. At an appropriate time more than thirty (30) days prior to the expiration of the term of a member of the Old Town Advisory Board representing the interests of the Vendors, Community Events Staff shall schedule a meeting of Vendors for the purpose of recommending to the Mayor a person or persons to serve on the Old Town Portal Market Advisory Board. A majority of the Vendors present at that meeting shall determine the method by which a person, who is to be recommended to the Mayor, shall be chosen.

B. At an appropriate time more than thirty (30) days prior to the expiration of the term of a member of the Old Town Advisory Board representing the interests of the merchants or property owners in the H-1 Historic Zone, Community Events Staff shall schedule a meeting of merchants and property owners for the purpose of recommending to the Mayor a person or persons to serve on the Old Town Portal Market Advisory Board. A majority of the merchants and property owners present at that meeting shall determine the method by which a person, who is to be recommended to the Mayor, shall be chosen.

C. Evidence of owning property in the H-1 Zone shall be determined by reference to the list of property owners at the County Assessor's Office. Evidence of being a merchant shall be a current City business registration license for premises in the H-1 Historic Zone. Evidence of being a Vendor shall be a license issued under the ordinance regulating solicitations in Old Town.

IX. VIOLATIONS OF THE ORDINANCE OR RULES & REGULATIONS

A. Persons who have had a Permit revoked for violating any provision of the Ordinance §§ 13-3-2-1 et seq. or these Rules & Regulation, including but not limited to 1) selling items that have not been handcrafted by the Craft Unit or misrepresenting the content and therefore the value of an item in a significant way, or 2) violent, abusive, or indecent conduct on or about the Portal which tends to disturb the peace or has maliciously disturbed, threatened any person, 3) conduct in an insolent manner, intentionally touching or applying force to any person, or 4) criminal or other violations of the law adversely impacting the Portal Market or the health, safety and welfare of individuals within the H-1 Old Town Historic District shall not be issued another Permit for a period of up to ten (10) years from the date of such revocation. Vendors who are in the process of having a Permit suspended or revoked shall not be issued another Permit until the suspension or revocation process has been resolved and or the term of the suspension or revocation of the Permit is no longer in affect. During an existing suspension period or appeal pendency, the City may file a subsequent notice of an extension of the suspension period or a notice of revocation due to ongoing or additional violations described in this Paragraph, which if appealed may be consolidated into a single appeal proceeding at the discretion of the Hearing Officer.

B. Violations of these Rules & Regulations will be treated in the same manner as violations of the Ordinances regulating Soliciting in Old Town. Disciplinary actions may be carried out against the Permit Holding Craft Unit and all of the members therein or individual Vendors within the Craft Unit at the discretion of the City, taking into account the nature and severity of the violation. Vendors may request a hearing by a City Hearing Officer regarding appeals of any suspension, revocation, denial of a Permit, or any other City action noticed pursuant to the Ordinance Regulating Soliciting in Old Town or Rules & Regulations, such requests shall be filed with the office of the City Clerk and shall be accompanied by a nonrefundable hearing fee of fifty dollars (\$50.00) no later than fourteen (14) calendars days from the date that the Vendor receives notice. Any Craft Unit and its Vendors shall be deemed to have received notice no later than three (3) days after a notice is sent certified U.S. mail to the Vendor craft group or individual Vendor mailing address listed in the Vendor declaration (or changed mailing address if provided to the City in writing by the Craft Unit or individual). The expiration of the current Permit Term shall not end or render moot any pending appeal of a revocation or denial of a Permit, unless the City withdraws its revocation or denial by written notice to the Craft Unit and Hearing Office.

X. PENALTY PROVISIONS

1. The first time a violation is recorded regarding of the Ordinance or these Rules & Regulations the Craft Unit and all of the members therein will receive a warning, suspension or revocation of their Permit depending of the severity of the offense.

2. Subsequent violations shall be met with disciplinary actions of increasing severity up to and including suspension, revocation and enforcement of up to a ten (10) year denial in response to a Permit application.

3. A Vendor or the Community Events Staff, may request mediation between Craft Units and or Vendors individually in lieu of or as an augmentation to other disciplinary actions. Any of the aforementioned parties or any related, affected party may request Community Mediation by contacting the City of Albuquerque Alternative Dispute Resolution (ADR) Office @ 505-768-4660. Additional information on Community Mediation Services may be found at <http://www.cabq.gov/legal/adr>

XI. REPEAL

The Rules & Regulations Governing Soliciting in the H-1 Historic Old Town Zone, which were adopted and became effective on November 14, 1988, and which were amended July 16, 1992, September 23, 1993, April 20, 1995, March 15, 2011, November 22, 2017, and July 1, 2020 are hereby repealed and replaced by these Rules & Regulations stated herein.

XII. EFFECTIVE DATE AND FILING

These Rules & Regulations shall become effective on *August 15, 2024* and these Rules & Regulations shall be filed in the Office of the City Clerk.