

What Everyone Needs to Know about the City's Solicitation Ordinance



The City Council of the City of Vestavia Hills, Alabama, at its regular meeting of October 22, 2012 adopted and approved Ordinance Number 2418 – An Ordinance Regulating Soliciting, Peddling and Panhandling. This article is to inform you of the requirements set forth in this Ordinance and what you, as a resident, need to know in order to deal with unwanted solicitation.

A business license is issued to companies who apply under the NAICS code of solicitation. These licenses are renewed automatically. Beginning in January 2013, each solicitors license will bear the words *“Door to Door Solicitation requires registration with the City Clerk PRIOR to beginning any solicitation in residential areas pursuant to Ordinance Number 2418.”*

Solicitation permits are issued to solicitors following proper registration with the City. This would require the solicitor to appear in person in the Office of the City Clerk and provide required information which would include identification, photographs, and a statement as to whether or not the applicant has ever been convicted of a misdemeanor or a felony.

Following successful registration with the City Clerk, the solicitor will be authorized to begin door to door solicitation. He/she will be required to wear a City issued identification badge which will appear as a placard to be worn around the neck. The registration will be good for a month and will be color coded as follows:

January – orange	July – orange
February – green	August – green
March – yellow	September – yellow
April – purple	October – purple
May – pink	November – pink
June – blue	December – blue

**Note: depending on the day of issuance, colors might overlap into adjacent months.*

The registrations will bear an original signature, an embossed City Seal, a recent picture of the solicitor, information on the solicitor, etc. The solicitor will be required to abide by all the terms and provisions in the Ordinance. Failure to do so could result in a revocation of the permit.

Residents who do not wish to have any solicitation at their home may display a sign at a visible entrance to their property of not less than 16 square inches and not more than 94 square inches stating “No Soliciting”. Subdivision wishing to disallow any solicitation in their subdivisions may also post a sign not less than 16 square inches nor more than 94 square inches at the main entrance to their subdivision. These signs shall not be located on the City rights-of-way, but should be visible enough to allow the solicitor to view the sign prior to entrance onto the property or into the subdivision. (Subdivisions are encouraged to notify the City Clerk if signs are posted for the entire subdivision.

Short Facts about the Ordinance:

- Solicitors may not solicit prior to 9:00 AM or after 7:00 PM Monday through Saturday;
- Solicitors may not solicit anytime on Sundays or Federal Holidays;
- Panhandling is prohibited in the City;
- Solicitors must examine the premises for “No Soliciting” signage and must desist in any efforts to solicit or leave literature if a sign exists on the property;
- Any solicitor who is asked to leave any residence by an occupant shall immediately and peacefully depart;
- Every solicitor shall at all times, while exercising the privilege in the City, carry upon his person his permit and same shall be exhibited by such person at all times while soliciting;
- Persons making solicitations for a church, religious organization or charitable organization are exempt from the provisions of this ordinance;
- Students soliciting contributions to finance extracurricular academic, social, athletic, artistic, scientific or cultural programs, provided that the solicitation and its purpose have been approved by the principal, president or chief administrator of the school that the students attend and said approval has been filed in writing with the City are exempt from the provisions of this ordinance;
- Persons canvassing for the purpose of distributing political literature or material on behalf of a political party, candidate or public use introducing themselves or supporters of a candidate political party cause or issue are exempt from the provisions of this ordinance;
- Person making solicitations solely for a nationally recognized youth organization such as YMCA, YWC, scouting or boy’s’ and girls’ club are exempt from the provisions of this ordinance;
- **Issuance of a license and/or permit does not represent directly or indirectly that the City or any governmental entity endorses the solicitation or implies any endorsement of the solicitor’s product or service.**

Residents who encounter solicitors in violation of any of the provisions of the Ordinance should immediately contact the Vestavia Hills Police Department, 823-1153 and report the incident.

ORDINANCE NUMBER 2418

AN ORDINANCE REGULATING SOLICITING, PEDDLING, AND PANHANDLING

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, WHILE IN A REGULAR SESSION ON THE 8th DAY OF October, 2012, AT 5:00 P.M. AS FOLLOWS:

SECTION 1. Definitions.

For the purposes of this Ordinance, the following words shall have the following meanings:

Solicitation means any of the following activities:

- (a) Seeking to obtain orders for the sale or exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- (b) Seeking to obtain prospective customers to apply for or to purchase insurance, publications or subscriptions to publications;
- (c) Seeking to obtain contributions or donations of any thing of value for the benefit of any individual, association, organization, corporation, or program;
- (d) Seeking to obtain orders or prospective customers for goods or services;
- (e) Requesting monies or contributions of other goods or services for any charity or non-profit organization or for-profit organization or any other type or form of entity.
- (f) Distributing handbills, written advertisements, or publications.

Solicitor means a person engaged in the activities defined in this Ordinance as soliciting.

Residence means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the definition of "residence" as defined in the Zoning Ordinance of the City of Vestavia Hills, Alabama.

Registrant or registered solicitor means any person who is subject to this Ordinance and who has obtained a valid certificate of registration from the City of Vestavia Hills, Alabama.

Charity or non-profit organization means any enterprise entered into with the primary purpose to pursue social, charitable, or other benevolent activities and that is classified as a tax-

exempt organization under applicable provisions of the United States Internal Revenue Code and the regulations thereunder.

Person means a natural person.

SECTION 2. Retailing merchandise from vehicles; solicitation within rights-of-way.

- (a) It shall be unlawful for any person to park any motor vehicle or other vehicle for the purpose of making retail sales of merchandise from such vehicle while so parked within rights-of-way. However, this Section shall not be construed to limit the right to park motor vehicles on the portions of the streets for the purpose of unloading merchandise sold at wholesale for delivery to duly licensed retail stores, nor to limit the right to park motor vehicles and other vehicles on the portions of the streets for any other purpose except the purpose of making retail sales of merchandise from such vehicles while so parked.
- (b) It shall be unlawful to solicit or otherwise make retail sales of any merchandise upon the sidewalks and in or upon the parkways running along or abutting upon any street except as allowed by the zoning ordinance of the City and after being duly licensed.

SECTION 3. Registration requirements for door-to-door solicitation.

- (a) *Registration.* All persons desiring to engage in soliciting at residences in the city shall apply to the City at a cost of twenty-five dollars (\$25.00), paid in cash or cash equivalent, for a monthly certificate of registration. The certificate, executed by the city clerk or his designee, shall be maintained by the city clerk and a legible copy shall be carried by the registrant at all times while soliciting. Upon request for inspection by an occupant of a residence or a police officer or a city license and tax examiner while the registered solicitor is transacting his business or seeking to transact his business at any residence, the registrant shall show his or her copy of the registration certificate. In addition to the registration fee, all other city ordinances levying business license fees and other license fees and taxes are applicable, including the business license ordinance requiring transient vendors to obtain a business license.
- (b) *Application for certificate.* The city shall provide a standard form for use for registration of solicitors. The applicant for the registration certificate shall state in writing upon his or her oath or affirmation that the information is truthfully provided to the best of his or her knowledge and belief. The applicant shall supply with or upon the registration form the following information:
 - 1. Applicant's true, correct, and legal name and the name of the organization for which he/she will be soliciting.

2. Address and phone number of applicant's home and applicant's place of business.
3. Names and addresses of the corporate officers or the partners and the managers, if any, of the entity for which the applicant will be soliciting.
4. The purpose for which soliciting will be done.
5. A brief description of the method of presentation that will be made.
6. Whether a permit, license, or certificate of registration from any city in connection with soliciting has ever been revoked, explaining the circumstances.
7. A statement as to whether or not the applicant has ever been convicted of a misdemeanor or a felony.
8. Documentation that the person is authorized to solicit for the organization.
9. Two (2) passport-sized photos taken within sixty (60) days of application.

(c) *Non-endorsement.* In addition, the applicant shall certify on the application form that if his or her registration is granted, he or she will not state, imply, or represent to any person that the issuance of the certificate is an endorsement by the City of the product, service, solicitor, or the organization represented by the solicitor.

(d) *Proof of identification required.* No certificate of registration shall be issued except upon proof of identification, including a photograph of the applicant, in one (1) of the following forms:

1. A valid driver's license of any state in the United States.
2. A valid United States Uniform Service Identification.
3. A valid passport.
4. A valid identification issued by any agency of a state for the purpose of identification of the holder.

(e) *Registration complete with issuance.* Registration shall be complete when the city issues the certificate of registration, which shall not be unreasonably withheld or delayed.

(f) *Form of certificate.* Each certificate shall be numbered, shall list the name of the individual solicitor and of all organizations on whose behalf he or she is authorized to solicit, the date on which the certificate will expire, and shall be dated and signed by the city clerk or his designee.

(g) *Maintenance of registry.* The city shall maintain, available for public inspection during normal business hours, a record of every application received and acted upon, together with any information pertaining thereto, all certificates of registration issued, and all denials of applications. Each application shall be numbered in consecutive order as filed, and each certificate issued shall be assigned a number exclusive to the registrant.

(h) *Expiration.* Certificates shall be valid for one month and shall expire at 11:59 p.m. on the date one month from the date of issuance.

(i) *Non-transferability.* Certificates of registration shall be issued only in the name of the applicant and the firms, corporations or associations on whose behalf he or she is authorized to solicit. Each natural person soliciting must obtain a certificate of registration. Certificates shall be nontransferable. It shall be a violation for a solicitor whose certificate authorizes soliciting on behalf of a firm named in the certificate to solicit on behalf of any other firm, organization, or association or for any purpose other than that specified on the application.

SECTION 4. Exemptions from registration.

The registration provisions of this Ordinance do not apply to the following:

- (a) Persons making solicitations solely for a church, religious organization or charitable organization, including any unincorporated association or corporation under the supervision and control of any church, a charitable organization or religious organization, if the church or organization is tax exempt under the provisions of the United States Internal Revenue Code.
- (b) Students soliciting contributions to finance extracurricular academic, social, athletic, artistic, scientific, or cultural programs, provided that the solicitation and its purpose have been approved by the principal, president, or chief administrator of the school that the students attend and said approval has been filed in writing with the City.
- (c) Persons canvassing for the purpose of distributing political literature or materials on behalf of a political party, candidate, or public issue or introducing themselves as supporters of a candidate, political party, cause, or issue.
- (d) Persons making solicitations solely for a nationally recognized youth organization such as the YMCA, YWCA, scouting, or boys' and girls' clubs.

All other provisions of this Ordinance apply to those who qualify for an exemption.

SECTION 5. Deceptive soliciting practices prohibited.

- (a) No solicitor or canvasser shall intentionally or recklessly make any materially false or fraudulent statement in the course of soliciting.
- (b) No solicitor shall use a fictitious name, an alias, or any name other than his or her true, correct, and legal name.
- (c) No solicitor shall represent, directly or by implication, that the City or any other governmental entity endorses the solicitation or that the granting of a certificate of registration implies any endorsement of the solicitor's product or service or of the individual solicitor.

SECTION 6. No registration of felons.

No certificate of registration shall be issued to any person who has been convicted of a federal or state felony.

SECTION 7. Revocation of certificate.

Any certificate of registration issued hereunder shall be revoked by the City if the registrant is convicted of a violation of this Ordinance, if the registrant has falsified the application, or otherwise becomes disqualified for the issuance of a certificate of registration. Notice of revocation shall be given to the registrant by personal service or by certified mail to the address listed on the application. Immediately upon the giving of such notice, the certificate of registration shall become null and void and shall remain so unless the revocation is ordered rescinded by the City Clerk.

SECTION 8. Appeal.

An applicant whose registration was denied or registrant whose certificate was revoked shall have the right to appeal to the City Clerk. An applicant shall also have the right to appeal any adverse decision of the City Clerk to the City Council. Any appeal must be demanded in writing sent by certified mail to the City Clerk within seven (7) calendar days of the decision that is being appealed. The right of appeal to the City Council is not in derogation of any other rights in law or equity the applicant might have.

SECTION 9. Residential “no soliciting” notices.

- (a) Any occupant of a residence or occupants of a multi-family dwelling who desire(s) not to have solicitors call on said residence(s) shall give notice of the desire to refuse solicitors by displaying a clearly visible weatherproof placard no smaller than sixteen (16) square inches and no larger than ninety-four (94) square inches stating “No Soliciting” which shall be posted on or near the main entrance of the private property and not within the public right-of-way.
- (b) Residents of a residential subdivision may indicate their desire not to have solicitors call on any residences in that subdivision by giving notice of the desire to refuse solicitors by displaying a clearly visible weatherproof placard no smaller than sixteen (16) square inches and no larger than ninety-four (94) square inches stating “No Soliciting” which shall be posted on or near the main entrance of the subdivision on private property and not within the public right-of-way.
- (c) The display of said placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to invite solicitors.

SECTION 10. Duties of solicitors.

- (a) Every solicitor shall, upon entering premises on which a residence is located, examine the main entrance to the premises for any "No Soliciting" placard, and if one is posted, desist in any efforts to solicit or to leave any literature concerning the solicitation at that residence. Possession of a certificate of registration does not relieve any solicitor of this duty.
- (b) It is unlawful for any person to appear at any private residence and canvass or solicit whereon a placard bearing the words "No Soliciting" or words of similar import is posted for public view. Possession of a certificate of registration does not relieve any solicitor of this duty.
- (c) Any solicitor who is asked to leave any residence by the occupant shall immediately and peacefully depart. Possession of a certificate of registration does not relieve any solicitor of this duty.
- (d) Every solicitor shall at all times, while exercising the privilege in the city incident to the permit, carry upon his person his permit and the same shall be exhibited by such person at all times while soliciting and whenever he is requested to do so by any police officer or by any person who is solicited.

SECTION 11. Time and day restrictions on soliciting.

It is a violation of this Ordinance for any person, whether registered or not, to solicit any person at his or her residence before 9:00 a.m. or after 7:00 p.m. local time, unless the solicitor has express permission from the resident to do so.

It is also a violation of this Ordinance for any person, whether registered or not, to solicit any person at his or her residence on Sunday or any Federal holiday.

SECTION 12. Panhandling prohibited.

It shall be unlawful for any person to engage in panhandling, which is defined as any solicitation made in person upon any street, sidewalk, public way, or public place, or upon the premises of any business establishment or other private property that is routinely or customarily frequented by the general public, requesting an immediate donation of money or other thing of value for oneself or another person or entity.

SECTION 13. Penalties.

Any person violating any provision of this Ordinance shall be issued a citation and shall be required to appear in the Vestavia Hills Municipal Court. Upon conviction, any such person

shall be subject to any fines and other applicable court costs which may be assessed by the Vestavia Hills Municipal Court.

SECTION 14. Severability.

If any word, provision, clause, sentence, paragraph, or subsection of this Ordinance or the application thereof to any person or circumstances shall be held invalid by a court of competent jurisdiction then the remaining provisions of this Ordinance shall be in full force and effect.


SECTION 15. Effective date.

This Ordinance shall become effective immediately upon its adoption and publication or by its otherwise becoming a law.

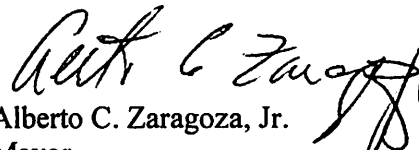
DONE, ORDERED, ADOPTED AND APPROVED on this 8th day of October, 2012.


Steve Ammons
Council President

ATTESTED BY:


Rebecca Leavings
City Clerk

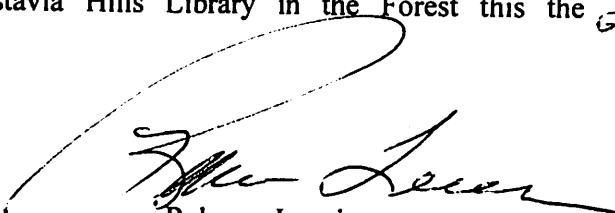
APPROVED BY:


Alberto C. Zaragoza, Jr.
Mayor

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2418 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 23rd day of October, 2012 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the 25th day of Oct, 2012.


Rebecca Leavings
City Clerk