

ORDINANCE NO. 2007-20

AN ORDINANCE REGULATING SOLICITING, PEDDLING, AND PANHANDLING

BE IT ORDAINED by the City Council of the City of Gardendale, Alabama, while in a regular session on the 17th day of December, 2007, at 6:00 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 Gardendale, 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 Gardendale, 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 produce 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 whenever he is requested to do so by any police officer or by any person who is solicited.

SECTION 11. Time of 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 sunset, unless the solicitor has express permission from the resident to do so.

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 Gardendale Municipal Court. Upon conviction, any such person shall be fined in the amount of one hundred dollars (\$100.00) and shall be subject to any other applicable court costs and/or fines which may be assessed by the Gardendale Municipal Court.

SECTION 14. Effective date.

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

ADOPTED AND APPROVED on this 17th day of December, 2007.

**APPROVED: _____
Kenneth A. Clemons, Mayor**

**ATTESTED: _____
Keith A. Mosley, City Clerk**