

ORDINANCE 2018 - 005 - ADM

AN ORDINANCE REPEALING ARTICLE I, ARTICLE II, AND ARTICLE III OF CHAPTER 66 OF THE CITY OF TRUSSVILLE CODE OF ORDINANCES AND ADOPTING NEW ARTICLES REGULATING PEDDLERS AND SOLICITORS.

WHEREAS, Ala. Code § 11-45-1 (1975) authorizes municipalities to adopt ordinances that provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of its inhabitants; and

WHEREAS, Chapter 25 in Title 34 of the Code of Alabama (1975) sets forth certain requirements, including a registration requirement, for transient merchants and peddlers throughout unincorporated areas of this state; and

WHEREAS, Ala. Code § 40-12-139 (1975); Ala. Code § 40-12-174 (1975); and Ala. Code § 40-23-24 (1975) each address itinerant vendors, peddlers, or solicitors engaging in business throughout the state; and

WHEREAS, the Trussville Police Department (hereinafter referred to as “TPD”) has received reports of increased incidents of burglary, theft, and other property related crimes, and

WHEREAS, the City of Trussville, Alabama, (hereinafter referred to as the “City”) seeks to provide for the safety and improve the order, comfort, and convenience of its citizens; and

WHEREAS, often time peddlers and solicitors who enter the corporate limits of the City have no place of business, residence, or are otherwise connected with the City; and

WHEREAS, the City first enacted the present ordinance regulating peddlers and solicitors in 1982; and

WHEREAS, the City maintains authority to regulate peddlers and solicitors within its corporate limits; and

WHEREAS, Ala. Code § 11-45-1 (1975) further authorizes the municipality to “enforce obedience to such ordinances;” and

WHEREAS, now, over thirty-five (35) years later the City desires to clarify and update the ordinance regulating peddlers and solicitors so as to address present concerns and safety of its citizens.

NOW THEREFORE, in accordance with the authority cited above granted to the City of Trussville, Alabama, the following sections are repealed in their entirety, and new articles and sections are created.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA, AS FOLLOWS:

Article I, Article II, and Article III in Chapter 66 of the Code of Ordinances of the City of Trussville, Alabama, are hereby repealed in their entirety.

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA, AS FOLLOWS:

The following articles, which shall be appropriately codified, are hereby created in Chapter 66 that state the following:

ARTICLE I. GENERALLY.

Section A. Statement of findings and purpose.

- (1) The City Council finds an influx of groups and individuals going door-to-door peddling and soliciting throughout the corporate limits.
- (2) Further, the City Council finds many of these individuals do not reside within the corporate limits nor do the entities represented have any affiliation or place of business within the corporate limits.
- (3) Further, the City Council, after consultation with the Trussville Police Department, finds an increase in the reports of burglary, theft, breaking and entering motor vehicles, and reports of suspicious activities throughout the corporate limits.
- (4) To preserve the safety and welfare of its residences, the City Council declares the purpose of enacting these regulations is to require persons or organizations to register and obtain a permit, in advance, to sell or solicit within the corporate limits and by requiring such persons or organizations to supply information relating to their identities and purposes in connection therewith.
- (5) The City is authorized to regulate peddlers, solicitors, and itinerant vendors within the its corporate limits.
- (6) The provisions within this Ordinance shall be interpreted to effectuate the purposes herein in the broadest sense permissible under law.

Section B. Definitions.

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

(1) Charity or non-profit organization means any enterprise whose primary purpose is to pursue social, charitable, or other benevolent activities and classified as a tax-exempt organization under applicable provisions of the United States Internal Revenue Code.

(2) City refers to the City of Trussville, Alabama, a municipal corporation formed under the laws of the state of Alabama.

(3) Entity means any business, corporation, limited liability companies, sole proprietorship, or any other body, regardless if those are for profit or otherwise, that is not a natural person.

(4) Panhandling means 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.

(5) Person means a natural person.

(6) Registrant or registered solicitor means any person or entity who is subject to this article and who has obtained a valid certificate of registration from the City of Trussville, Alabama.

(7) 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 Trussville, Alabama.

(8) 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 anything 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; and
- (f) Distributing handbills, written advertisements, or publications.

(9) Solicitor means a person or entity engaged in the activities defined in this article as soliciting.

(10) Police Department and Chief of Police means the City of Trussville, Alabama, Police Department and the individual who occupies the position of City of Trussville Chief of Police.

Section C. Penalties.

(a) Any person violating any provision of this article may be issued a citation by any law enforcement officer having jurisdiction within the corporate limits. If an individual is cited, he or she shall be required to appear before the Municipal Court of the City of Trussville.

(b) Upon conviction of any violation of this Ordinance, the person shall be punished as provided in section 1-5 of this Code of Ordinances. Such punishment provides for a fine not to exceed \$500.00 or six (6) months imprisonment in the city jail or any combination thereof.

ARTICLE 2. REQUIREMENT TO REGISTER.

Section A. Registration requirements for door-to-door solicitation.

- (1) Registration. All persons desiring to engage in soliciting at residences within the corporate limits shall apply to the Chief of Police for a certificate of registration. Each certificate of registration shall be valid for one (1) thirty (30) day period. Following the expiration of the certificate of registration, any entity or person may reapply to the Chief of Police for a certificate of registration. There shall be no limits in the number of applications an entity or person may obtain so long as all conditions are satisfied as discussed within this Ordinance. The certificate, executed by the Chief of Police or his designee, shall be maintained by the Police Department 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.

- (2) 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:
 - (a) Applicant's true, correct, and legal name and the name of the organization for which he/she will be soliciting;
 - (b) Address and phone number of applicant's home and applicant's place of business;
 - (c) 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.
 - (d) The purpose for which soliciting will be done;
 - (e) A brief description of the method of presentation that will be made;
 - (f) Whether a permit, license, or certificate of registration from any city in connection with soliciting has ever been revoked, explaining the circumstances;
 - (g) A statement as to whether or not the applicant has ever been convicted of a misdemeanor or a felony;
 - (h) Documentation that the person is authorized to solicit for the organization; and
 - (i) Two passport-sized photos taken within sixty (60) days of application.
- (3) 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.
- (4) Proof of identification required. No certificate of registration shall be issued except upon proof of identification, including a photograph of the applicant, in one 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.
- (5) Registration complete with issuance. Registration shall be complete when the Police Chief issues the certificate of registration, which shall not be unreasonably withheld or delayed.
- (6) 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 Police Chief or his designee.
- (7) Maintenance of registry. The Police Department 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.

- (8) 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.
- (9) 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 B. Registration- Exemptions.

(1) The registration provisions of this article 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.

(2) All other provisions of this article apply to those who qualify for an exemption.

Section C. Revocation of Certificate.

Any certificate of registration issued hereunder shall be revoked by the Police Department if the registrant is convicted of a violation of this article, 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 Chief of Police.

Section D. 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 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.

ARTICLE III. PROHIBITED ACTS.

Section A. Deceptive Soliciting Practices Prohibited.

- (1) No solicitor or canvasser shall intentionally or recklessly make any materially false or fraudulent statement in the course of soliciting.
- (2) No solicitor shall use a fictitious name, an alias, or any name other than his or her true, correct, and legal name.
- (3) 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.

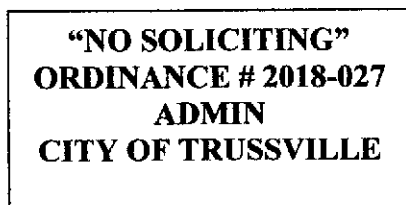
Section B. Registrations of Felons Prohibited.

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

Section C. Residential Notices for "No Solicitation."

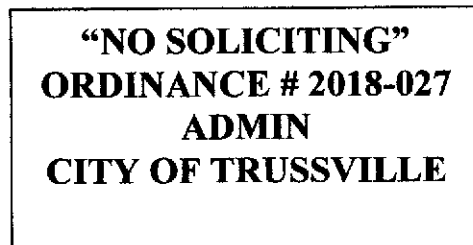
- (1) Any occupant of a residence or occupants of a multi-family dwelling who desire(s) not to have solicitors call on said residence(s) shall give notice of the desire to refuse solicitors by displaying a clearly visible weatherproof placard with an approved design by the ordinance as shown by picture with dimensions of 12" X 12 "totaling 144 square inches stating:

"No Soliciting" Ordinance # 2018-027 Admin (as example) which shall be posted on or near the main entrance of the private property and not within the public right-of-way. The Sign shall have a black decorative background with white lettering and mounted on a mono pole no higher than 4 ½ feet above ground to top of the sign.



- (2) Residents of a residential subdivision may indicate their desire not to have solicitors call on any residences in that subdivision by giving notice to the Police Department by Petition from the majority residents of their subdivision or homeowners' association of the desire to refuse solicitors by displaying a clearly visible weatherproof placard with an approved design by the ordinance as shown by picture with dimensions of 18" X 18" totaling 324 square inches stating:

“NO SOLICITING” Ordinance # 2018- 027 Admin (as example) which shall be posted on or near the main entrance of the subdivision on private property and not within the public right-of-way unless written permission is granted by the city engineer. The Sign shall have a black decorative background with white lettering and mounted on mono pole no higher than 4 ½ feet above ground to top of sign.



- (3) 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 D. Panhandling prohibited.

- (1) It shall be unlawful for any person to engage in panhandling.
- (2) A person is not considered to be panhandling if:
 - (a) The person or entity complies with the registration requirements as stated in this Ordinance;
 - (b) Is exempt from the registration requirements of this Ordinance; or
 - (c) Receives written permission from a business or land owner to solicit donations while on that businesses' or land owner's property.

Section E. Retailing merchandise from vehicles; solicitation within rights-of-way.

- (1) 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. This section, however, 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.
- (2) 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.

ARTICLE IV. SOLICITORS- DUTIES AND RESTRICTIONS.

Section A. Duties of solicitors.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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 B. Time and day restrictions on soliciting.

- (1) It is a violation of this article 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.
- (2) It is also a violation of this article for any person, whether registered or not, to solicit any person at his or her residence on Sunday.

ARTICLE V. ENACTMENT AND OTHER PROVISIONS

Section 1. Severability. In the event any article, section, part, or clause of this Ordinance is declared unconstitutional or unlawful by a court of competent jurisdiction, only that clause shall be deemed to be unconstitutional. The remainder of this Ordinance shall not be effected.

Section 2. Conflict. In the event of any article, section, part, or clause of this Ordinance shall conflict with any federal or state law that is presently enacted or comes to be enacted following the enactment of this Ordinance, the applicable federal or state law provision shall govern.

Section 3. Enactment. BE IT FURTHER ORDAINED, this Ordinance shall be in full force and effect following, passage, adoption, and publication as required by law.

ADOPTED this the 27th day of February, 2018.

APPROVED:



ALAN TAYLOR
PRESIDENT CITY COUNCIL



BUDDY CHOAT
MAYOR

ATTEST:



LYNN PORTER
CITY CLERK