

What is the ordinance on door to door soliciting?

Sec. 14-7. - Door-to-door soliciting.

(a)

Definitions. For purposes of this section, the following words and phrases shall have the following meanings:

(1)

Soliciting 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 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 money or contributions of other goods or services for any charity, nonprofit organization, for-profit organization, or any other type or form of entity.

(2)

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

(3)

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 Madison.

(4)

Registrant or registered solicitor means any person who is subject to this section and who has obtained a valid certificate of registration from the City of Madison.

(5)

Charitable 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 or the regulations thereunder.

(6)

Person means a natural person.

(b)
Registration requirements.

(1)
Registration. All persons desiring to engage in soliciting at residences in the City of Madison shall apply to the City of Madison at a cost of \$75.00, paid in cash or cash equivalent, for an annual certificate of registration. The certificate shall be maintained by the City of Madison 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, police officer or revenue department employee 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, partners and/or 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.

(3)

Nonendorsement. 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 Madison of the product, service, solicitor or organization represented by the solicitor.

(4)

Proof of identification required. No certificate of registration shall be issued except upon proof of identification by the applicant providing one of the following, bearing a photograph of said applicant:

a.

A valid driver's license of any state in the United States.

b.

A valid United States Uniform Service Identification.

c.

A valid passport.

d.

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 city 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 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 of Madison Revenue Department.

(7)

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.

(8)

Renewal. Certificates shall be valid for the calendar year in which they were issued and shall expire at midnight on December 31st of such year. Any certificate that has not been revoked may be renewed upon request of the registrant and upon payment of \$75.00 in cash or cash equivalent. The applicant shall be required to fill out a renewal application providing the information required in the initial registration.

(9)

Nontransferability. 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.

(c)

Exemptions from registration. The registration provisions of this section do not apply to the following:

(1)

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, charitable organization or religious organization, if the church or organization is tax exempt under the provisions of the United States Internal Revenue Code.

(2)

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.

(3)

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.

(4)

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 section shall apply to those who qualify for an exemption.

(d)

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 of Madison or

any other governmental entity endorses the solicitation, or that the granting of a certificate of registration implies any endorsement of the individual solicitor, the solicitor's product or service.

(e)

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

(f)

Revocation of certificate. Any certificate of registration issued hereunder shall be revoked by the City of Madison if the registrant is convicted of a violation of this section, if the registrant has falsified the application, or otherwise becomes disqualified for the issuance of a certificate of registration. Notice of revocation shall be immediately 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 of Madison.

(g)

Appeal. An applicant whose registration was denied or registrant whose certificate was revoked shall have the right to appeal to the revenue office of the City of Madison. An applicant shall also have the right to appeal any adverse decision of the revenue office to the city council. Any appeal must be demanded in writing sent by certified mail to the revenue office within seven calendar days of the decision that is being appealed. The written appeal shall sufficiently describe in detail the appealed action and the grounds of appeal. The right of appeal to the city council is not in derogation of any other rights in law or equity the applicant might have.

(h)

Residential "no soliciting" notices.

(1)

Any occupant of a residence or occupants of a multifamily 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 16 square inches and no larger than 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.

(2)

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 eight inches by ten inches and no larger than 18 inches by 24 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.

(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.

(i)

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, canvass or solicit at any private residence whereon a placard bearing the words "No Soliciting" is posted for public view indicating that solicitors are not wanted at such residence with the purpose of circumventing subsection (i)(1) of this section through ruse, deception or concealment of a purpose to solicit or to take action calculated to secure an audience with the occupant of a residence that has a posted "No Soliciting" notice. 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 of Madison 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.

(j)

Time-of-day restrictions on soliciting. It is a violation of this section for any person, whether registered or not, to solicit any person at his or her residence before 8:00 a.m. or after 6:00 p.m. Central Standard Time, unless the solicitor has express permission from the resident to do so.

(k)

Penalty for nonregistration or violation. Any person violating any provision of this section shall upon conviction be punished under the provisions of section 14-1 of the Code of Ordinances of the City of Madison, Alabama.

(Ord. No. 2007-71, §§ 1–11, 5-29-07)

Editor's note—

Ord. No. 2007-71, adopted May 29, 2007, has been treated as superceding Ord. No. 92-64, adopted June 9, 1992, which pertained to solicitation of merchandise upon private residences and from which former § 14-7 derived.