

**STATE OF ALABAMA
DEKALB COUNTY
CITY OF HENAGAR**

**ORDINANCE 2017-0901
BUSINESS LICENSE CODE OF THE
CITY OF HENAGAR , ALABAMA**

**FOR THE YEAR 2018 AND EACH SUBSEQUENT YEAR
SCHEDULE OF LICENSES AND FEES**

BE IT ORDAINED BY THE CITY OF COUNCIL OF HENAGAR, ALABAMA, as follows:

SECTION 1.	Levy of tax.	Page 02
SECTION 2.	Definition of terms.	Page 02
SECTION 3.	License term; minimum license.	Page 04
SECTION 4.	License shall be location specific.	Page 05
SECTION 5.	License transfer restrictions.	Page 06
SECTION 6.	Unlawful to do business without a license.	Page 06
SECTION 7.	License must be posted.	Page 06
SECTION 8.	Duty to file report.	Page 07
SECTION 9.	Duty to permit records inspection.	Page 08
SECTION 10.	Unlawful to obstruct municipal designee.	Page 09
SECTION 11.	Privacy of information.	Page 09
SECTION 12.	Failure to file assessment.	Page 09
SECTION 13.	Lien for non-payment of license tax.	Page 10
SECTION 14.	Criminal penalties.	Page 10
SECTION 15.	Civil penalties.	Page 10
SECTION 16.	Penalties and interest.	Page 10
SECTION 17.	Prosecutions unaffected.	Page 11
SECTION 18.	Procedure for denial of new applications.	Page 11
SECTION 19.	Procedure for revocation/suspension of license.	Page 12
SECTION 20.	Refunds on overpayments.	Page 12
SECTION 21.	Delivery License.	Page 13
SECTION 22.	License classification codes.	Page 15
SECTION 23.	License Fee Schedules.	Page 25
SECTION 24.	Exchange of information.	Page 25
SECTION 25.	License fees in Police Jurisdiction.	Page 26
SECTION 26.	Effective date.	Page 26
SECTION 27.	Severability.	Page 26
SECTION 28.	Repealer.	Page 27

SECTION 1. Levy of Tax.

Pursuant to the *Code of Alabama*, the following is hereby declared to be and is adopted as the business license code and schedule of licenses for the municipality for the year beginning January 1, 2018, and for each subsequent year thereafter. There is hereby levied and assessed a business license fee for the privilege of doing any kind of business, trade, profession or other activity in the municipality, or the police jurisdiction, by whatever name called.

SECTION 2. Definitions.

Unless the context clearly requires otherwise, the following terms shall have the following meaning as set forth below:

[1] **BUSINESS.** Any commercial or industrial activity or any enterprise, trade, profession, occupation, or livelihood, including the lease or rental of residential or nonresidential real estate, whether or not carried on for gain or profit, and whether or not engaged in as a principal or as an independent contractor, which is engaged in, or caused to be engaged in, within a municipality.

[2] **BUSINESS LICENSE.** An annual license issued by the municipality for the privilege of doing any kind of business, trade, profession, or any other activity in the municipality, by whatever name called, which document is required to be conspicuously posted or displayed except to the extent the taxpayer's business license tax or other financial information is listed thereon.

[3] **BUSINESS LICENSE REMITTANCE FORM.** Any business license return, renewal reminder notice, or other writing on which the taxpayer calculates the business license tax liability for all or part of the license year and remits the amount so calculated with the form.

[4] **DEPARTMENT or DEPARTMENT OF REVENUE.** The Alabama Department of Revenue, as created under Section 40-2-1 et seq.

[5] **DESIGNEE.** An agent or employee of the municipality authorized to administer or collect, or both the municipality's business license taxes, which may include another taxing jurisdiction, the Department of Revenue, or a "private auditing or collecting firm" as defined in Section 40-2A-3 of the *Code of Alabama*.

[6] **GROSS RECEIPTS.** The measure of any and all receipts of a business from whatever source derived, to the maximum extent permitted by applicable laws and constitutional provisions, to be used in calculating the amount due for a business license. Provided, however, that:

- (a) Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Article 3,

Chapter 21, Title 40; license taxes levied pursuant to Article 2, Chapter 21, Title 40; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.

(b) A different basis for calculating the business license may be used by the municipality with respect to certain categories of taxpayers as prescribed in Section 11-51-90B.

(c) For a utility or other entity described in Section 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the municipality during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40, except that nothing herein shall affect any existing contract or agreement between a municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.

(d) Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowing, the sale of a capital asset, the repayment of the principal portion of a loan, the issuance of stock or other equity investments, or capital contributions, or the undistributed earnings of subsidiary entities.

[7] LICENSE FORM. Any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.

[8] LICENSE OFFICER or MUNICIPAL LICENSE OFFICER. The municipal employee charged by the municipality with the primary responsibility of administering the municipality's business license tax ordinance and related matters thereto.

[9] LICENSE YEAR. The calendar year.

[10] MUNICIPALITY. Any town or city in this state that levies a business license tax from time to time. The term shall also include the town's or city's police jurisdiction, where the business license tax is levied in the police jurisdiction.

[11] PERSON. Any individual, association, estate, trust, partnership, limited liability company, corporation, or other entity of any kind, except for any nonprofit corporation formed under the laws of Alabama which is operated to enable municipalities that become members of such nonprofit corporation to finance or refinance capital projects and related undertakings, on a cooperative basis, and whose board of directors or other governing body consists primarily of elected officials of the municipality.

[12] TAXING JURISDICTION. Any municipality that levies a business license tax, whether or not a business license tax is levied within its police jurisdiction, or the Department of Revenue acting as agent on behalf of a municipality pursuant to Section 11-51-180 et seq., as the context requires.

[13] TAXPAYER. Any person subject to or liable under this chapter for any business license tax; any person required to file a return with respect to, or pay or remit the business license tax levied under this chapter or to report any information or value to the taxing jurisdiction; or any person required to obtain, or who holds any interest in, any business license issued by the taxing jurisdiction; or any person that may be affected by any act or refusal to act by the taxing jurisdiction under this chapter, or to keep any required by this chapter

[14] U.S.C. The applicable title and section of the United States Code, as amended from time to time.

[15] OTHER TERMS. Other capitalized or specialized terms used in this ordinance, and not defined above, shall have the same meanings ascribed to them in Section 40-2A-3, of the *Code of Alabama*, unless the context therein otherwise specifies.

SECTION 3. License term; minimums.

The license term and the minimum amount for a business license are as follows:

(a) *Full Year*. Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full. Unless otherwise specified in the enclosed schedules, the minimum annual license shall be \$ 100.00.

(b) *Half Year*. Every person who commences business on or after July 1st and whose annual license is based on a flat rate, shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year.

(c) *Issue Fee*. For each license issued there shall be an issue fee collected of twelve dollars (\$12.00) and said issue fee shall be collected in the same manner as the license tax.

(d) *Annual Renewal*. Except as provided in subsections (i) or (ii), the business license shall be renewed annually on or before the 31st day of January each year.

(i) If the due date for payment of any business license falls on a weekend or a holiday recognized by the municipality from time to time, the due date shall automatically be extended until the next business day.

(ii) Insurance company annual license renewals shall be renewed in accordance with Section 11-51-122 of the *Code of Alabama* which states that each year, each insurance company shall furnish the municipality a statement in writing duly certified showing the full and true amount of gross premiums received during the preceding year and shall accompany such statement with the amount of license tax due according to the licensing schedule. Failure to furnish such

statement or to pay such sum shall subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in the municipal code.

- (iii) On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1st in order for them to receive their notice.
- (iv) Business license renewal payments received by the municipality shall be applied to the current renewal only when any and other debts the licensee owes to the municipality are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license provided for in the municipal code.

SECTION 4. License shall be location specific.

(a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.

(b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations or professions scheduled herein, shall take out and pay for a license for each line of business.

(c) A taxpayer subject to the license authorized by this ordinance that is engaged in business in other municipalities, may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business license imposed by this ordinance. To establish a bona fide branch office, the taxpayer must demonstrate proof of all following criteria:

- (i) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
- (ii) The taxpayer must maintain books and records, which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility of facilities.
- (iii) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.

(iv) Billing and/or collection activities relating to the business conducted at the branch office or offices are performed by an employee or other representative, of the taxpayer who has such responsibility for the branch office.

(v) All business claimed by a branch office or offices must be conducted by and through said office or offices.

(vi) The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.

(d) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.

SECTION 5. Restriction on transfer of license.

No license shall be transferred except with the consent of the council or other governing body of the municipality or of the director of finance or other chief revenue officer or his or her designee, and no license shall be transferred to reflect a physical change of address of the taxpayer within the municipality more than once during a license year and never from one taxpayer to another. Provided that a mere change in the name or ownership of a taxpayer that is a corporation, partnership, limited liability company or other form of legal entity now or hereafter recognized by the laws of Alabama shall not constitute a transfer for purposes of this chapter, unless (1) the change requires the taxpayer to obtain a new federal employer identification number or Department of Revenue taxpayer identification number or (2), in the discretion of the municipality, the subject license is one for the sale of alcoholic beverages. Nothing in this section shall prohibit a municipality from requiring a new business license application and approval for an alcoholic beverage license.

SECTION 6. Unlawful to do business without a license.

It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in businesses or vocations in the municipality for which a license is required without first having procured a license. A violation of this division of the ordinance passed hereunder fixing a license shall be punishable by a fine not to exceed the sum of five hundred (\$500) for each offense, and if a willful violation, by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.

SECTION 7. License must be posted.

Every license shall be posted in a conspicuous place, where said business, trade or occupation is carried on, and the holder of the license shall immediately show same to the designee of the municipality upon being requested so to do.

SECTION 8. Duty to file report.

(a) It shall be the duty of every person subject to such license tax to render to the municipality on such forms as may be required, a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of license tax to which he is subject.

(b) If the municipality determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of business license tax due, the municipality shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.

(c) The municipality shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.

(d) If the amount of business license tax remitted by the taxpayer is undisputed by the Municipality, or if the taxpayer consents to the amount of any deficiency or preliminary Assessment in writing, the municipality shall enter a final assessment for the amount of the Tax due, plus any applicable penalty and interest.

(e) (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within 30 days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the license officer of the municipality shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the municipality to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to the

assessment. The license officer shall issue findings of fact and law within 60 days following the conference, which shall promptly upon issuance be mailed or delivered to the taxpayer, consistent with the procedures set forth in subsection (d) above.

(2) If a petition for review is not timely filed, or is timely filed, and upon further review the license officer determines that the preliminary assessment is due to be upheld in whole or in part, the municipality may make the assessment final in the amount of business license tax due as computed by the license officer, with applicable interest and penalty computed to the date of entry of the final assessment. The license officer shall, whenever practicable, complete his or her review of the taxpayer's petition for review and applicable law within 90 days following the later of the date of filing of the petition or the conference, if any.

(3) A copy of the final assessment shall promptly be mailed to the taxpayer's last known address (i) by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of assessments of business license tax of five hundred dollars (\$500.00) or less, or (ii) by certified U.S. mail with return receipt requested in the case of assessments of business license tax of more than five hundred (\$500.00). In either case, at the option of the taxing jurisdiction a copy of the final assessment may be delivered to the taxpayer by personal delivery. The final assessment shall include a statement informing the taxpayer of his or her right to appeal the final assessment to circuit court within 30 days from the date of the entry of the final assessment.

SECTION 9. Duty to permit inspection and produce records.

Upon demand by the designee of the municipality, it shall be the duty of all licensees to:

(a) Permit the designee of the municipality to enter the business and to inspect all portions of his place or places of business for the purposes of enabling said municipal designee to gain such information as may be necessary or convenient for determining the proper license classification, and determining the correct amount of license tax;

(b) To furnish information during reasonable business hours, at the licensee's place of business, in the municipality or the police jurisdiction, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information from which the correct license tax classification of such person may be ascertained and the correct amount of license tax to which he is subject may be determined, including exhibition of bank deposit books, bank statements, copies of sales tax returns to the State of Alabama, copies of Alabama income tax returns and federal income tax returns.

SECTION 10. Unlawful to obstruct.

It shall be unlawful for any person, or for any agent, servant or employee of such person, to fail or refuse to perform any duty imposed by this ordinance; nor shall any person, agent, servant or employee of such person obstruct or interfere with the designee of the municipality in carrying out the purposes of this ordinance.

SECTION 11. Privacy.

(a) It shall be unlawful for any person connected with the administration of this ordinance to divulge any information obtained by him/her in the course of inspection and examination of the books, papers, reports and memoranda of the taxpayer made pursuant to the provisions of this ordinance, except to the mayor, city attorney or others authorized by law to receive such information described herein.

(b) It shall be unlawful for any person to print, publish, or divulge, without the written permission or approval of the taxpayer, the license form of any taxpayer or any part of the license form, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the taxing jurisdiction, or upon order of any court, or as otherwise allowed in this ordinance.

(c) Nothing herein shall prohibit the disclosure of the fact that a taxpayer has or has not purchased a business license. Statistical information pertaining to taxes may be disclosed to the municipality council upon their written request through the Mayor's office. It shall be unlawful for any person to violate the provisions of this section.

SECTION 12. Failure to file assessment.

(a) In any case where a person subject to paying a license tax as provided herein fails to do so, the municipal designee shall be authorized to assess and determine the amount of license taxes due using the best information available either by return filed or by other means.

(b) The taxpayer shall be notified by registered or certified mail, or by personal service, of the amount of any such assessment, and of his right to appear before the municipal governing body on a day named not less than twenty (20) days from the date of notice and to show cause why such assessment shall not be made final. Such appearance may be made by agent or attorney.

(c) If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the municipality, such assessment shall be made final in the amount originally fixed, or in such other amount as is determined by the municipality to be correct. If upon such hearing the municipal designee finds a different amount due than that originally assessed, he/she shall

make the assessment final in the correct amount, and in all cases shall notify the taxpayer of the assessment as finally fixed.

(d) A notice by the United States mail, addressed to the taxpayer's last known place of business, shall be sufficient. Any assessment made by the designee of the municipality shall be prima facie correct upon any appeal.

SECTION 13. Lien for non-payment of license tax.

On all property, both real and personal, used in the business, the municipality shall have a lien for such license, which lien shall attach as of the date when the license is due, as allowed by *Code of Alabama*, Section 11-51-44 (1975).

SECTION 14. Criminal penalties.

Any person found guilty of violating any of the provisions of this ordinance shall be fined in an amount not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), and may also be sentenced to imprisonment for a period of not exceeding six (6) months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

SECTION 15. Civil penalties.

In addition to the remedies provided by *Code of Alabama*, Section 11-51-150 (1975) et seq., the continued or recurrent performance of any act or acts within the corporate limits or within its police jurisdiction for which a license may be revoked or suspended under this ordinance is hereby declared to be detrimental to the health, safety, comfort and convenience of the public and is a nuisance. The municipality, as an additional or alternative remedy, may institute injunctive proceedings in a court of competent jurisdiction to abate the same.

SECTION 16. Penalties and interest.

(a) All licenses not paid within thirty (30) days from the date they fall due shall be increased by fifteen (15) percent for the first thirty (30) days they shall be delinquent and shall be measured by an additional fifteen (15) percent for a delinquency of sixty (60) or more days, but this provision shall not be deemed to authorize the delay of thirty (30) days in the payment of the license due, which may be enforced at once.

(b) In the case of persons who began business on or after the first day of the calendar year, the license for such “new business” shall be increased by fifteen (15) percent for the first fifteen (15) days they shall be delinquent, and shall be measured by an additional fifteen (15) percent for a delinquency of forty-five (45) days or more.

(c) All delinquent accounts (both license taxes and penalties) shall also be charged simple interest at the rate of one (1) percent per month.

SECTION 17. Prosecutions unaffected.

The adoption of this ordinance shall not in any manner affect any prosecution of any act illegally done contrary to the provisions of any ordinance now or heretofore in existence, and every such prosecution, whether begun before or after the enactment of this article shall be governed by the law under which the offense was committed; nor shall a prosecution, or the right to prosecute, for the recovery of any penalty or the enforcement of any forfeiture be in any manner affected by the adoption of this ordinance; nor shall any civil action or cause of action existing prior to or at the time of the adoption of this ordinance be affected in any manner by its adoption.

SECTION 18. Procedure for denial of new applications.

(a) The municipal designee shall have the authority to investigate all applications and may refer any application to the municipal governing body for a determination of whether such license should or should not be issued.

(b) If the municipal governing body denies the issuance of any license referred to it, the municipal clerk shall promptly notify the applicant of the municipal governing body’s decision.

(c) If said applicant desires to appear before the municipal governing body to show cause why said license should be issued, he shall file a written notice with the municipal clerk, said notice to be filed within two (2) weeks from the date of mailing by the municipal clerk of the notice of the denial of such license by the municipal governing body.

(d) Upon receipt of said notice the municipal clerk shall promptly schedule a hearing, to be held within fifteen (15) days from the date of receipt of such notice, before the municipal governing body and shall give the notice of the date, time and place of said hearing to the applicant.

(e) The applicant shall be given the opportunity to appear personally, or through his counsel, or both, and the municipal governing body shall proceed to hear any evidence which may be presented both for and against the issuance of said license.

(f) If the municipal governing body determines from the evidence presented that in order to either provide for the safety, preserve the health, promote the prosperity, or improve the morals, order, comfort and convenience of the inhabitants of the municipality said license should not be granted, it shall enter an order to that effect; otherwise, said license shall be ordered issued upon payment of any required license fees.

SECTION 19. Procedure for revocation or suspension of license.

(a) Any lawful license issued to any person to conduct any business shall be subject to revocation by the municipal governing body for the violation by the licensee, his agent, servant, or employee of any provision of this ordinance or of any ordinance of the municipality, or any statute of the State of Alabama relating to the business for which such license is issued; and shall also be subject to revocation by the municipal governing body if the licensee, his agent, servant, or employee under color of such license violates or aids or abets in violating or knowingly permits or suffers to be violated any penal ordinance of the municipality or any criminal law of the State of Alabama; and shall also be subject to revocation by the municipal governing body if, in connection with the issuance or renewal of any license, the licensee or his agent filed or caused to be filed any application, affidavit, statement, certificate, book, or any other data containing any false, deceptive or other misleading information or omission of material fact.

(b) The conditions hereinabove set forth as grounds for the revocation of a license shall also constitute grounds for refusing to renew a license.

(c) The municipal governing body shall set a time for hearing on the matter of revoking or refusing to renew a license; and a notice of such hearing shall be given to the licensee, or the applicant for renewal, as the case may be, at least ten (10) days before the day set for said hearing. At the hearing the municipal governing body shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation or the refusal of renewal, as the case may be.

SECTION 20. Refunds On Overpayments

(a) Any taxpayer may file a petition for refund with the municipality for any overpayment of business license tax erroneously paid to the municipality. If a final assessment for the tax has been entered by the municipality, a petition for refund of all or a portion of the tax may be filed only if the final assessment has been paid in full prior to or simultaneously with the filing of the petition for refund.

(b) A petition for refund shall be filed with the municipality within two years from the date of payment of the business license tax, which is the subject of the petition.

(c) The municipality shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the municipality. The taxpayer shall be notified of the municipality's decision concerning the petition for refund by first class U.S. mail or by certified U.S. mail, return receipt requested, sent to the taxpayer's last known address. If the municipality fails to grant a full refund within the time provided herein, the refund petition shall be deemed to be denied.

(d) If the petition is granted or the municipality or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the municipality, together with interest to the extent provided for in Section 11-51-92. If the municipality determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited by the municipality against any outstanding tax liabilities due and owing by the taxpayer to the municipality, and the balance of any overpayment shall be promptly refunded to the taxpayer. If any refund or part thereof is credited to any other tax by the municipality, the taxpayer shall be provided with a written detailed statement showing the amount of overpayment, the amount credited for payment to other taxes, and the resulting amount of the refund.

(e) A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the clerk of the circuit court of the county in which the municipality denying the petition for refund is located. Said notice of appeal must be filed within two years from the date the petition was denied. The circuit court shall hear the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any. If an appeal is not filed with the appropriate circuit court within two years of the date the petition was denied, then the appeal shall be dismissed for lack of jurisdiction.

SECTION 21. Delivery License.

Delivery License per §11-51-194 Modified by 2017-415 (SB316)

- (a) (1) Each municipality shall allow the purchase of a delivery license by any business that has no other physical presence within the municipality or its police jurisdiction for the privilege of delivering its merchandise therein. The amount of the delivery license shall not exceed one hundred dollars (\$100). Nothing herein shall prohibit a municipality from requiring by ordinance the purchase of a decal by the taxpayer for each delivery vehicle making deliveries within the municipality or its police jurisdiction. The charge for such decal shall not exceed the municipality's actual cost of the decal.
- (2) Notwithstanding any other provision of law, a municipality may charge a taxpayer an issuance fee for a business delivery license not to exceed ten dollars (\$10).

(b) As used in this section, a delivery license shall mean a fixed rate business license issued by a municipality for the limited privilege of delivering and requisite set-up and installation, by the taxpayer's employees or agents, of the taxpayer's own merchandise in that municipality, by means of delivery vehicles owned, leased, or contracted by the taxpayer; provided that the gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered into the municipality shall not exceed seventy-five thousand dollars (\$75,000) during the license year, and any set-up or installation shall relate only to

(1) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and the merchandise so delivered.

(2) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the taxing jurisdiction to assess a business license tax or a delivery license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand dollar (\$75,000) limitation described in the preceding sentence if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle other than a common carrier. Provided that the dollar limitation prescribed above shall be increased, but not decreased, every five years under the standards prescribed by Section 11-51-90 with respect to the uniform license issuance fee and may be increased by a municipality at any time, up to one hundred fifty thousand dollars (\$150,000), by adoption of an ordinance. A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license hereunder.

(c) A taxpayer that otherwise meets the criteria for the purchase of a delivery license pursuant to subsections (a) and (b) is not required to purchase a delivery license or a regular business license if the following criteria apply:

(1) The taxpayer's gross receipts that are derived from within the municipality or its police jurisdiction do not exceed ten thousand dollars (\$10,000) during the year; and

(2) the taxpayer has no other physical presence within the municipality or its police jurisdiction during the year.

Any other taxpayer that meets the criteria for the purchase of a delivery license, as provided in subsections (a) and (b), and meets those criteria during the current license year as well, shall purchase either a delivery or a regular business license otherwise applicable to the taxpayer, at its option.

(d) Notwithstanding Section 11-51-90.2, the delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.

(e) The purchase of a delivery license or the exemption from the purchase of a delivery license pursuant to subsection (c) shall not, in and of itself, establish nexus between the taxpayer and the municipality for purposes of the taxes levied by or under the authority of Title 40 or other provisions of

this title, nor does the purchase of a delivery license, in and of itself, establish that nexus does not exist between the taxpayer and the municipality.

(f) If at any time during the current license year the taxpayer fails to meet the criteria specified in subsections (a) and (b), then within 45 days after any of the criteria have been violated or exceeded, the taxpayer shall purchase a business delivery license or other appropriate license from the municipality and may be subject to a penalty not to exceed ten dollars (\$10).

SECTION 22. License classifications.

<u>CODE</u>	<u>2002 NAICS TITLES / BUSINESS LICENSE CODES</u>	<u>SCHEDULE</u>
111000	Farming and Crop Production – agriculture, crop production, nursery, fruit, growers	G
112000	Animal Production – dairy, cattle, ranching, sheep, chickens, poultry	\$225.00
113000	Forestry – logging, forestry, timber track operations, timber mgt	\$60.00
114000	Fishing & hunting – hunting and trapping, finfish, shellfish, supplies	\$60.00
115000	Agriculture support – cotton gins, farm mgt, post-harvest activities	\$60.00
<u>Utilities</u>		
221122	Electric power or light company (3%)	state regulated
221210	Natural gas company (3%)	state regulated
221310	Water, sewage treatment, steam, and other (3%)	state regulated
<u>Contractors</u>		
236000	Commercial building, residential, subdivisions	\$125.00
237110	Heavy Construction, hwy, street, water, sewer and related construction	\$125.00
238000	General contracting, all other	\$100.00
238110	Concrete contractor	\$100.00
238120	Structural steel erection contractor	\$100.00
238130	Carpentry / Framing contractor	\$100.00
238140	Masonry and stone contractor	\$100.00
238150	Glass installer, glazing contractor	\$100.00

238160	Roofing contractor	\$100.00
238170	Siding/guttering contractor	\$100.00
238190	On-site building exterior contractors	\$100.00
238210	Alarm System Installers	\$100.00
238211	Computer System Installers	\$100.00
238212	Telephone equipment installation	\$100.00
238213	Lawn sprinkler installer	\$100.00
238220	Multi-trade - Electrical & plumbing	\$100.00
238221	Plumbing & gas fitters	\$100.00
238222	Fire protection installer	\$100.00
238223	HVAC contractors	\$100.00
238225	Refrigeration contractors	\$100.00
238227	Mechanical contractors	\$100.00
238290	Other building contractors	\$100.00
238310	Drywall, acoustical & insulation	\$100.00
238320	Painters & wall covering	\$100.00
238330	Floor Coverings / all types	\$100.00
238350	Carpentry	\$100.00
238351	Cabinet installer	\$100.00
238910	Excavation, demolition, blasting & site development	\$100.00
238991	Pavers, sealers	\$100.00
238992	Sign installer	\$100.00
238993	House movers & wrecker services	\$100.00
238994	Swimming pool contractor	\$100.00

Manufacturing

311000	Food mfg – meat, seafood, grain, fruit, dairy, animal, poultry processing,	\$100.00
--------	---	----------

312000	Beverage mfg – all types of soft drinks, bottled water, breweries, ice	\$100.00
313000	Textile mfg – fabric, yarn, carpet, canvas, rope, twine, fabric mills	\$100.00
314000	Other mfg – mill operations not covered in 313, rugs, linen, curtains	\$100.00
315000	Apparel mfg – all clothing mfg	\$100.00
315119	Hosiery knitting, seaming or finishing mills	\$100.00
316000	Leather and allied products mfg – shoes, luggage, handbag, related products, all footwear, etc	\$100.00
321000	Wood mfg – sawmills, wood preservation, lumber yards, trusses, millwork,	\$100.00
322000	Paper mfg – pulp, paper, converted products, stationary, tubes, cores, etc.	\$100.00
323000	Printing – screen, quick, digital, books, lithographic, handbills, all other	\$100.00
324000	Petroleum and coal mfg – asphalt, grease, roofing, paving products, etc	\$100.00
324121	Asphalt plants (manufacturing)	\$100.00
325000	Chemical mfg – of fertilizer, wood, pesticide, paint, soap, and resin	\$100.00
326000	Plastic & rubber mfg – tires, pipe, hoses, belts, bottles, sheet, wrap, film	\$225.00
326212	Automobile tire retreading	\$225.00
327000	Nonmetallic mfg – clay, glass, cement, lime, pottery, ceramic, brick, tile	\$100.00
327320	Concrete plant (manufacturing)	\$100.00
331000	Primary metal mfg – iron, steel, aluminum, wire, copper, foundries	\$100.00
332000	Metal fabrication – cutlery, structural, ornamental, machine shops	\$100.00
332710	Machine shop	\$100.00
333000	Machinery mfg – office machinery, industrial, engines, farm, HVAC, etc	\$100.00
334000	Computer & electronic mfg – audio, video, circuit boards, peripherals	\$100.00
335000	Appliance mfg – small appliance, lighting, electrical, battery, freezer	\$100.00
336000	Transportation mfg –auto, truck, trailer, motor home, boat, motorcycle	\$100.00
337000	Furniture mfg – cabinets, office, household, beds, kitchen, etc	\$125.00
339000	Miscellaneous mfg – Misc. Manufacturing, medical, dental, jewelry,	

sporting goods, toys, signs, all other. \$100.00

Wholesalers

421000 **Wholesale trade – durable, vehicle, machinery, equipment, furniture, etc** \$125.00

422200 **Wholesale trade – non-durable, wholesale gasoline distributor** \$125.00

422300 **Wholesale trade –all other non-durable, paper, apparel, grocery, beer,
wine, etc.** \$125.00

424940 **Tobacco & tobacco products wholesaler** \$125.00

Retailers

441100 **Motor vehicles - new or used automobiles, motorcycles, boats, etc ...**
– dealerships and lots G

441300 **Motor vehicle parts and accessories** G

442110 **Furniture – furniture, furnishings, floor coverings, window, etc** G

443110 **Electronic & appliance store – household, radio, television, computers** G

443130 **Camera & photography** G

444000 **Building materials & gardening equipment – hardware, paint,
home center, wallpaper, electrical supplies, hardware stores** G

444220 **Nursery, Garden & farm supplies** G

445000 **Food & beverage stores – grocery, convenience store, specialty foods** G

445310 **Package Stores – selling beer, wine and liquor plus general mdse** \$650.00

446000 **Health and personal care stores –pharmacy, cosmetic, optical,
health food** G

447100 **Gasoline Retail - selling gasoline with or without convenience stores** \$175 plus \$10
per grade

448100 **Clothing & accessories – men, women, children, infant, etc** G

448210 **Shoe Store** G

448300 **Jewelry, luggage or leather store** G

451110	Sporting goods & hobbies – toy, fish, gun, books, games	G
451130	Sewing , needlework and piece good stores	G
451140	Musical instrument and supply store	G
451200	Books, music , cds, and record & other media stores	G
451212	Newspaper dealers and news stands	G
452000	General merchandise stores – department, warehouse clubs, superstores	G
453000	Used Merchandise Stores – books, consignment, flea market	G
453100	Miscellaneous retailers –gift, novelty, pet, art, stationary	\$100.00
453101	Tobacco & tobacco products	\$100.00
453110	Florists , flower shops, real, artificial or dried flowers	G
453930	Manufactured/Mobile Home dealers	G
453994	Trophy shops	G
453995	Swimming Pool & hot tub supplies	G
453997	Fireworks - store or stands	G
453998	Monument dealers, cemetery (burial marker, headstones, vaults, etc)	G
453999	Miscellaneous retail , all other	G
454000	Non-store retailers – vending machine operators, direct sales, mail order (Vending: add additional license 910100)	G
454001	Non-Store Retailer – peddlers license / local peddler	G
454300	Gas dealers, propane, natural gas, butane	G
<u>Transportation</u>		
481000	Air transportation – airline tickets, shipping, freight, charter svc, etc	G
482000	Rail transportation – transportation, ticket offices, state regulated	11-51-124
484000	Truck transportation - terminal	state regulated
484100	Local, long-distance , freight, moving, & storage	\$100.00
484001	Truck transportation – terminal – state regulated	37-3-33

484110	General freight trucking - local	\$100.00
484120	General freight trucking - long distance	\$100.00
484220	Specialized freight trucking - heavy hauling	\$100.00
485000	Passenger transportation - buses, taxi or limousine service, charters	\$100.00 + \$25 ea add'l
488410	Wrecker and Towing services	\$100.00
492000	Couriers – couriers and local messengers, services, local delivery services	\$100.00
493000	Warehousing and storage – all	\$100.00

Publications, Media, Telecommunication

511000	Publishing industries except internet – newspaper, book, periodical, databases, software	G
512000	Motion pictures – Theatres, videos, recording, Drive-ins, sound studios, etc	\$115.00
515000	Broadcasting – radio and television stations	\$115.00
517000	Telecommunications – telephone local & long distance	11-51-128
517212	Telecommunications – cellular and other wireless	G
517217	Telecommunications Tower	\$500.00
517410	Satellite TV	\$200.00
517510	Cable TV	3%, franchise fee
519000	Information Services - Internet Service Provider, data process, storage	\$100.00

Banking & Credit related activities

522110	Bank Branch or ATM – not main office of bank	\$10.00
522111	Bank Main Office – not branch location or ATM	\$100.00
522120	Savings and Loans, finance company, consumer lending, mortgage co.	\$100.00
522298	Pawn Shop – whether title pawn or merchandise	\$100.00
522390	Check cashing services	\$100.00
523000	Securities, commodity, broker, portfolio, investment, other financial svcs	\$100.00

Insurance

524001	Insurance Company and/or its agents – casualty, fire, or marine	11-51-120/123
524002	Insurance Company and/or its agents – all other premiums	11-51-120/123
524298	Agent Office – administration of 3rd parties, pension, annuities, claims etc	\$100.00

Rental and Leasing

531110	Rental real estate – residential building unit rentals	\$12 ea, over 2 units
531120	Rental real estate – commercial building unit rentals	\$15 ea
531130	Rental real estate – warehouse mini-self storage	\$10 ea
531190	Rental Trailer Parks	\$100/2, \$20 ea addl
532120	Rental and leasing – auto, truck, trailer, RV, all other tangible property	G
532220	Rental and leasing – formal & costume wear	G
532230	Rental and leasing – movie and video rental	G
532310	Rental - party equip, health equip, and all other rentals	G

Professional Services

541110	Attorney/Lawyers – individual and/or firm professional license	\$150.00
541191	Abstractor & Title Company	\$100.00
541211	Accountant/CPAs – individual and/or firm professional license	\$150.00
541310	Architect – individual and/or firm professional license	\$150.00
541330	Engineer & Surveyor	\$150.00
541340	Blueprint makers & draftsman	\$150.00
541350	Home Inspectors	\$100.00
541380	Soil Classifier	\$100.00
541410	Interior Designer/decorator	\$100.00
541430	Graphic Design , computer programming, other related services	G
541810	Advertising agencies	G
541890	Sign painting	G

541921	Photographer or portrait studio	G
541930	Translation services	G
541940	Veterinarian – individual and/or firm professional license	G
541990	Appraiser	G
541999	Professional services not else classified	\$150.00
561410	Document preparation - tax services	G
561510	Travel Agency – answering, employment, office, travel	G
561611	Security service , Detective agency, investigative service, patrol	G
561621	Alarm systems	G
561622	Locksmiths - all	\$100.00
561710	Exterminating services – exterminating company and its services	G
561720	Janitorial – janitorial cleaning services – individual or firm	\$100.00
561730	Landscaping Services - lawn maintenance, landscaping, etc	\$100.00

Waste Management

562219	Waste management – companies, trucks, septic tanks, landfill, recycling	\$500.00
562991	Septic tank and related services	G
611000	Educational services – technical, computer, sports, services, business, all other	G

Healthcare Professionals/Services

621111	Physician – individual and/or firm professional license	\$150.00
621210	Dentist / Orthodontist	\$150.00
621310	Chiropractor	\$150.00
621320	Optometrist	\$150.00
621340	Therapy providers - Physical, Occupational, Speech, audiologists	G
621399	Massage Therapists	G
621420	Outpatient mental health & substance abuse centers	G
621491	HMO – medical centers, clinics and services	G

621511	Medical Lab , diagnostic imaging	G
621610	Home Healthcare services	G
621910	Ambulance – ambulance company and/or services	G
622110	Hospitals – surgical, substance abuse, psychiatric, general/specialty care	\$450.00
623110	Nursing care – residential care facility, day care, assisted living	\$400.00
623220	Mental health & substance abuse residential facilities	\$200.00
624110	Child and youth services	G
624120	Elderly and persons with disabilities assistance	G
624190	Counseling services	G
624221	Social assistance – shelters, vocational, rehab, relief, abuse, emergency	G
624410	Child/Day Care services	O

Entertainment

711000	Arts and sports – dance, musical, sports, events, promoters	\$150/1st day, \$75 ea addl
711120	Dance Companies	G
711190	Amusement , circuses, carnivals, street fairs	\$150/day, \$300 max
711310	Rodeos	\$150/day, \$300 max
712000	Museums , historical sites, zoos, gardens, theme parks	G
713120	Amusement – arcades, golf clubs, marinas, fitness, bowling centers, skating rink, putt-putt, shooting/archery range, riding club, billiard, go-cart, race track, etc (billiard, arcades: additional license 910300)	\$125.00
713991	Dance Hall	\$150.00

Accommodations

721110	Hotels , motels and similar facilities	\$200.00
721211	Trailer/RV parks , and campgrounds	\$100/2 spaces, \$20 ea addl
721310	Rooming houses and boarding houses	G

Food Services

722110	Restaurant – full service restaurant facility	G
722211	Restaurant – limited facility or service	G
722320	Caterers – and/or mobile food services	G
722410	Drinking Establishment – club, lounge, bar or other	\$650.00

Repairs and maintenance

811000	Repairs & Maintenance - all other, not listed elsewhere	\$100.00
811111	Repairs and maintenance – auto, paint/body, carwash, other vehicular	\$100.00
811191	Oil change shops	\$100.00
811192	Car wash, detailing, etc	\$100.00
811212	All electronic equipment, including computers & office mach	\$100.00
811412	Repairs and maintenance – all appliances, home & garden equipment	\$100.00

Personal Services

812110	Barber and beauty shops	\$75 1st chair, \$25 ea addl
812113	Nail Salons	\$100.00
812119	Tattoo & body piercing	\$100.00
812191	Weight loss centers	\$110.00
812192	Electrolysis	\$110.00
812199	Tanning Beds	\$30 + \$10 ea addl
812210	Funeral Homes	\$150.00
812220	Cemeteries & Crematories	\$100.00
812310	Laundry & dry-cleaning service (including coin operated & linens)	\$100.00
812311	Car wash, detailing, etc	\$100.00 per station
812332	Industrial Launderers - uniform rental	G
812910	Kennels, grooming & other pet services	\$100.00
812911	Bail Bonding, collection services, etc	\$150.00
812991	Fortune telling, Psychic, palm reading, etc.	\$750.00

812993	Wedding planning services	G
812994	Personal fitness trainer	G
812999	Personal services - all other	\$150.00
910100	Category for number of – vending machines for all types (in addition to 454000)	\$25
910300	Category for # of - Pool tables, Video/Arcade Games/Machines (in addition to 713120)	\$35
999001	Unclassified misc <u>personal</u> or business services not elsewhere classified	G
999999	Special Delivery license (see Section 21)	\$100.00

SECTION 23. License Fee Schedules.

Schedule "G" - Gross Receipts

<u>If Gross receipts are:</u>	<u>License fee =</u>
\$0.00 - \$75,000	\$100.00
\$75,001 - \$100,000	\$125.00
\$100,000 - \$200,000	\$150.00
\$200,001 - \$300,000	\$200.00
\$300,001 - \$500,000	\$300.00
\$500,001 - \$800,000	\$400.00
\$800,001 - \$1,000,000	\$500.00
\$1,000,001 - \$1,250,000	\$600.00
\$1,250,001 - \$1,500,000	\$700.00
\$1,500,001 - \$1,750,000	\$800.00
\$1,750,001 - \$2,000,000	\$900.00
\$2,000,001 & up	\$1,000.00

Schedule "O" - Gross Receipts

<u>If number of children:</u>	<u>License Fee=</u>
1-6	\$57.50
7-12	\$140.00
13-18	\$190.00
19-24	\$240.00
Over 25	\$290.00

SECTION 24. Exchange of information.

(a) The license officer may exchange tax returns, information, records, and other documents secured by the municipality, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The license officer may charge a reasonable fee for providing such information or documents. Any tax returns, information, records, or other documents so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure as provided under state or municipal law.

(b) Any such exchange shall be for one or more of the following purposes:

(1) Collecting taxes due.

(2) Ascertaining the amount of taxes due from any person.

(3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a state, county, or municipal agency.

(c) Nothing herein shall prohibit the use of tax returns or tax information by the municipality in the proper administration of any matter administered by the license officer. The license officer may also divulge to a purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor may be liable pursuant to the Code of Alabama section 40-23-25, 40-23-82, or 40-12-224.

SECTION 25. License fees in Police jurisdiction.

Any person, firm, association, or corporation engaged in any business outside the municipality but within the police jurisdiction hereof shall pay one-half of the amount of the license imposed for like business within the municipality.

SECTION 26. Effective date.

This ordinance shall become effective on and after January 1, _____.

SECTION 27. Severability.

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraphs and sections, since

the same would have been enacted by the municipality council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 28. Repealer.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted: _____ / _____ / _____

Mayor

City Clerk