

**ORDINANCE NO. 1738**

**BUSINESS LICENSE CODE OF THE CITY OF MOUNTAIN BROOK, ALABAMA  
FOR THE CALENDAR YEAR 2008 AND EACH SUBSEQUENT YEAR**

**SCHEDULE OF BUSINESS LICENSES AND FEES**

**BE IT ORDAINED** by the City of Council of the City of Mountain Brook, Alabama, as follows:

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## **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, 2008, 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 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] **CITY.** The City of Mountain Brook, Alabama.

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

[6] **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.

[7] **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.

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

[9] 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.

[10] LICENSE YEAR. The calendar year.

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

[12] 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.

[13] 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.

[14] 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.

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

[16] 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 Alabama Code, 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. Similarly, every person who ceases business on or after 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.

Where the amount of license tax is based upon gross receipts, gross receipts shall be measured as set out in Section 11-51-90.2(c) of the Alabama Code.

- (b) Half Year. Every person who commences business on or after July 1st, shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year. The basis upon which the business license fee shall be calculated shall be determined in the manner prescribed in Section 3. (a) above. Every person who ceases business before July 1st, shall pay a prorated license for such business for that calendar year. The basis upon which the business license shall be calculated shall be the actual gross receipts (or other measure) realized or incurred during the partial year of operation. Such persons shall be entitled to a

refund of the recalculated license and the amount actually paid for such license.

- (c) Issue Fee. For each license issued there shall be an issue fee collected of ten dollars (\$10.00) 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.

In addition, each insurance agent and/or broker must furnish to the City Clerk, by January 1 of each year, a complete list of all insurance companies (including names, addresses, and telephone numbers) for which such agent and/or broker is licensed or registered for purposes of soliciting and/or selling insurance policies. When an insurance agent or broker applies for a license for the first time with the City, such list of insurance companies must accompany his or her application. Insurance companies, agents and/or brokers who fail to comply with Code of Alabama 1975, §11-51-122 by participating in solicitation and sales of policies offered by an insurance company not licensed in the City subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in the City 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. A failure to receive said renewal reminder notification, for any reason, shall not relieve the taxpayer from its obligation to renew its business license by the deadline specified herein above.

( 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 City 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 municipality 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 or 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.

#### **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) 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.
- (d) 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.
- (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 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 the taxpayer disagrees with the license officer's findings of fact and law, the taxpayer may appeal to the municipal governing body, by filing a notice of appeal with the municipal clerk within 30 days after the findings have been issued. The appeal shall be in writing and shall set forth in reasonable detail the grounds on which the taxpayer disagrees with the license officer's findings of fact and law.
  - (3) If a petition for review: (a) is not timely filed, or (b) is timely filed, and upon further review the license officer, or the administrative hearings officer or governing body of the municipality, as the case may be, determines that the preliminary assessment is due to be upheld in whole or in part, the taxing jurisdiction shall make the assessment final in the

amount of business license tax due as computed by the taxing jurisdiction, with applicable penalty and interest.

- (4) 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.

#### **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, 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, the municipal 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 City Council upon their 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 judgement 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 Alabama Code, 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 Alabama Code, 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, or fraction thereof, and shall be increased 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 increased 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 herein above 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.**

- (a) In lieu of any other type of license, a taxpayer may at its option purchase for \$100.00 plus the issuance fee, a delivery license for the privilege of delivering its merchandise in the municipality if the taxpayer meets all of the following criteria:
  - (1) Other than deliveries, the taxpayer has no other physical presence within the municipality or its police jurisdiction;
  - (2) The taxpayer conducts no other business in the municipality other than delivering merchandise and performing the requisite set-up and installation of said merchandise;
  - (3) Such delivery and set-up and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in that municipality, and is done by means of delivery vehicles owned, leased, or contracted by the taxpayer;
  - (4) The gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered shall not exceed seventy-five thousand dollars (\$75,000) during the license year;

- (5) Any set-up or installation shall relate only to (i) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and (ii) the merchandise so delivered;
  - (6) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within 10 days after any of said criteria have been violated or exceeded, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the municipality to assess a business 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 (\$75,000) limitation described in the preceding section 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.
  - (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license.
  - (d) 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 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 of the Code of Alabama or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the municipality.

**SECTION 22. License classification codes.**

<b>CODE</b>	<b>2002 NAICS TITLES / BUSINESS LICENSE CODES</b>	<b>SCHEDULE</b>
221122	Utilities - electric power or light company - state regulated	AE
221210	Utilities - natural gas company - state regulated	AE
221310	Utilities - water, sewage treatment, steam, and other	AE
236220	Contractors - general contractors, comm bldg, residential, subdivisions	E
236221	Contractors - general contractors - itinerant not local	E
237990	Contractors - heavy construction, highway, bridge, street, water, sewer	D
237991	Contractors - heavy construction- itinerant not local	D
238320	Contractors - specialty trade - plumbing, heating & air conditioning	C
238320	Contractors - specialty trade - painting and wall covering	B
238210	Contractors - specialty trade - electrical contractors	C
238140	Contractors - specialty trade - masonry and stone contractors	B
238310	Contractors - specialty trade - drywall, acoustical & insulation	B
238430	Contractors - specialty trade - tile, marble, terrazzo & mosaic	B
238340	Contractors - specialty trade - carpentry contractors	B
238330	Contractors - specialty trade - floor coverings/all types	B
238160	Contractors - specialty trade - roofing, siding & sheet metal	B
238110	Contractors - specialty trade - concrete contractors	B
237110	Contractors - specialty trade - water well drilling & irrigation	B
238120	Contractors - specialty trade - structural steel erection	E
238150	Contractors - specialty trade - glass and glazing contractors	B
238910	Contractors - specialty trade - excavation and site development	D
238910	Contractors - specialty trade - wrecking and demolition	D
237990	Contractors - specialty trade - building equipment & mechanical install	C
238130	Contractors - specialty trades contractors- non-general & non-heavy	B
236221	Contractors - specialty trades contractors - itinerant not local	B
312121	Alcohol, beer- off premise - state regulated through ABC	A
312122	Alcohol, beer- on premise - state regulated through ABC	A
312131	Alcohol, wine - state regulated through ABC	A
312132	Alcohol, beer & wine - wholesale distributor	A
312141	Alcohol - state regulated through ABC	A
323110	Printing - screen, quick, digital, books, lithographic, handbills, comm.	I
423990	Retail/wholesale trade - durable, vehicle, machinery, equipment, furniture	G
424720	Retail/wholesale trade - wholesale gasoline distributor	F
424990	Retail/wholesale trade -non-durable, paper, apparel, grocery, beverages, dairy	I
441310	Retail/wholesale, motor vehicle & parts - auto, motorcycles, boats, parts, accessories	G
441110	Retail/wholesale, motor vehicles - new and/or used - dealerships and lots	G
442110	Retail/wholesale, furniture - furniture, home furnishings, stores, floor coverings, window	G

443112	Retail/wholesale, electronic & appliance store - household, radio, television, computers	G
444130	Retail/wholesale, building materials - hardware, paint, home center, wallpaper, nursery	G
445120	Retail/wholesale, food & beverage stores - grocery, convenience store, markets	I
445310	Retail/wholesale, package stores - selling beer, wine and liquor plus general mdse	I
446110	Retail/wholesale, health care stores - drug, pharmacy, cosmetic, optical, health food	G
447110	Retail/wholesale, gasoline retail - selling gasoline with or without convenience stores	F
448130	Retail/wholesale, clothing & accessories - men, women, children, infant, shoe, jewelry	F
451110	Retail/wholesale, sporting goods & hobbies - toy, fish, gun, books, games	F
452990	Retail/wholesale, general merchandise stores - department, warehouse clubs, superstores	F
451212	Retail/wholesale, used Merchandise Stores - books, miscellaneous, consignment, flea mkt	F
453220	Retail/wholesale, miscellaneous retailers - florist, gift, novelty, pet, art, tobacco, used mdse	F
453920	Art dealers	Z
454210	Retail/wholesale, non-store retailers - vending machine operators	AA
454390	Retail/wholesale, non-store retailers - in home sales of merchandise, trunk sales, temporary stands, street vendors (except food), Christmas trees (cut)	AH
454391	Retail/wholesale, non-store retailer - peddlers license / local peddler	AC
454392	Retail/wholesale, non-store retailer- peddlers license / itinerant peddler	AC
485320	Transportation, passenger - taxi cabs, limousine service, buggy, charters	Y
485999	All Other Transit and Ground Passenger Transportation	Y
492110	Couriers - couriers and local messengers, services, local delivery services	I
493110	Warehousing and storage - distribution, household, refrigerated, special	I
511110	Publishing industries - newspaper, book, periodical, databases, software	I
515210	Utilities, cable and other subscription programming	AF
517110	Utilities, wired telecommunications carriers	AD
517211	Utilities, paging	AD
517212	Utilities, cellular and other wireless telecommunications	AD
517310	Utilities, telecommunications - resellers of service	AD
521110	Bank Main Office - not branch location or ATM	U
521111	Bank Branch or ATM - not main office of bank	U
522120	Savings and loan - not branch location or ATM	U
522121	Savings and loan branch or ATM - not main office of S&L	U
522320	Mortgage and nonmortgage loan brokers	P
522298	Retail/wholesale, pawn Shop - whether title pawn or merchandise	G

522390	Credit services - companies and activities related to credit and mediation	O
523999	Securities, commodity - brokerage, portfolio, investment, other	O
524113	Insurance - direct life insurance carriers (11-51-120/123)	V
524114	Insurance - direct health & medical insurance carriers (11-51-120/123)	V
524126	Insurance - direct property & casualty insurance carriers (11-51-120/123)	W
524127	Insurance - direct title insurance carriers (11-51-120/123)	V
524128	Insurance - other direct insurance (except life, health, and medical) carriers (11-51-120/123)	V
524130	Insurance - reinsurance carries (11-51-120/123)	V
524210	Insurance - agencies and brokerages	X
525990	Funds, trusts, other financial agencies - agents, agencies, investments	O
531110	Real estate - lessors of residential dwellings and buildings	R
531120	Real estate - lessors of nonresidential buildings (except miniwarehouses)	Q
531130	Real estate - lessors of miniwarehouses	Q
531190	Real estate - lessors of other real estate property	Q
531210	Real estate - offices, agents, brokers, management, appraisers	C, N
531311	Real estate - residential property managers	R
531312	Real estate - nonresidential property managers	Q
531390	Real estate - other related activities	J
532310	Rental and leasing - auto, truck, trailer, RV, all tangible property	G
532230	Rental and leasing - movie and video rental	G
541110	Attorney/Lawyers - individual and/or firm professional license	<del>G</del> K
541211	Accountant/CPAs - individual and/or firm professional license	K
541310	Architect - individual and/or firm professional license	K
541330	Engineer - individual and/or firm professional license	K
541360	Surveyor - individual and/or firm professional license	K
541511	Computer Programmer- individual and/or professional firm license	K
541810	Advertising Agencies	L
541820	Public Relations Agencies	L
541921	Photographer- studios, portrait, commercial, services	K
541940	Veterinarian- individual and/or firm professional license	K
541990	Professional services not elsewhere classified- scientific, technical	K
541990	Management companies - offices, enterprises, regional, corporate	I
561499	Administrative services - answering, employment, office, sec., travel	T
561710	Exterminating services - exterminating company and its services	I
561720	Janitorial firm - janitorial cleaning services - individual or firm	I
562998	Waste management - companies, trucks, septic tanks, landfill, services	H
611699	Educational services - technical, computer, sports, services, business	I
621111	Physician- individual and/or firm professional license	K
621210	Dentist - individual and/or firm professional license	K
621310	Chiropractor - individual and/or firm professional license	K
621320	Optometrist - individual and/or firm professional license	K
621491	HMO - medical centers and services	I
621498	Outpatient care centers - all other types of services	I

621910	Ambulance - ambulance company and/or services	I
622110	Hospitals - surgical, substance abuse, psychiatric, general care, special	I
623110	Nursing care - residential care facility, day care, assisted living	I
623312	Nursing Home - care for elderly and continuing care facilities	I
624110	Social assistance - shelters, vocational, child care, abuse, emergency	I
711310	Arts and sports - dance, musical, teams, tracks, promoters, agents	I
711310	Special Events - promoter or activity - see schedule for rates	I
711510	Independent Artists, Writers, and Performers	Z
712110	Museums - museums and historical sites, zoos, botanical gardens, parks	I
713940	Fitness and recreational sports centers	F
721110	Accommodations - hotels, motels and similar facilities	S
721191	Accommodations - bed and breakfast inns and services	S
722212	Retail/wholesale, restaurant - full service restaurant facility	H
722211	Retail/wholesale, restaurant - limited facility or service	H
722410	Retail/wholesale, caterers - and/or mobile food services	H
722410	Retail/wholesale, drinking establishment - club, lounge, bar or other	H
811118	Repairs and maintenance - auto, paint/body, carwash, other vehicular	I
811219	Repairs and maintenance - all electronic equipment	I
811412	Repairs and maintenance - all appliances, home & garden equipment	I
812111	Personal care services - barber shops	M
812112	Personal care services - beauty salons	M
812113	Personal care services - nail salons	M
812191	Personal care services - diet and weight reducing centers	M
812199	Personal care services - other	M
812990	All other personal services - escort services, social/dating services	AG
910001	Vending machines for all types vending, category for number of	AA

**SECTION 23. License Fee Schedules.**

**Schedule "A" - Beer, Wine & Liquor.**

<u>State of Alabama Code</u>	<u>Classification</u>	<u>Amount</u>	<u>Licensing Notes</u>
040 (Beer On/Off Premise)	312121	\$75.00	
050 (Beer Off Premise Only)	312122	50.00	
060 (Table Wine On/Off Premise)	312131	75.00	
070 (Table Wine Off Premise Only)	312131	75.00	
010 (Lounge Retail Liquor Class I)	312XXX <del>312141</del> <del>312131</del>	150.00 <del>650.00</del> 75.00	All three codes are part of the package plus the business license code.
011 (Package Store Liquor Class II)	312XXX <del>312141</del> <del>312131</del>	150.00 <del>650.00</del> 75.00	All three codes are part of the package plus the business license code.
020 (Restaurant Retail Liquor)	312XXX	300.00	plus four percent (4%) of the gross sales of all alcoholic beverage excluding wine (unless the alcohol content of such wine exceeds fourteen and nine-tenths (14.9) percent by volume) and beer. The tax shall be payable monthly, and the payments for each month shall be due and payable on the twentieth day of the month following each such month.
032 (Club Liquor Class II)	312XXX <del>312141</del> <del>312131</del>	75.00 <del>650.00</del> 75.00	All three codes are part of the package plus the business license code.
110 (Wholesale Table Wine & Beer)	312132	375.00	Distributors License
160 (Special Retail)	312XXX	150.00	plus four percent (4%) of the gross sales of all alcoholic beverage excluding wine (unless the alcohol content of such wine exceeds fourteen and nine-tenths (14.9) percent by volume) and beer if such special retail license is issued for period of thirty (30) or fewer days and shall pay a license fee in the amount of one hundred twenty-five dollars (\$125.00) plus four percent (4%) of the gross sales of all alcoholic beverage excluding wine (unless the alcohol content of such wine exceeds fourteen and nine-tenths (14.9) percent by volume) and beer if such special retail license is issued for a period of thirty-one (31) days to one (1) year. The tax shall be payable monthly, and the payments for each month shall be due and payable on the twentieth day of the month following each such month.

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**Schedule "B" - \$150.**

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**Schedule "C" - \$200.**

[For real estate agents only, this fee applies only to agents whose office is located in the City].

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**Schedule "D" - \$250.**

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**Schedule "E" - \$400.**

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**Schedule "F" - If gross receipts are:**

More Than	but	Less Than	
\$0		\$20,001	One percent (1%) of gross receipts
20,000		50,001	Two hundred dollars (\$200.00)
50,000			\$200.00 plus one-sixteenth (1/16) of one (1) percent (or 0.000625) of gross receipts over fifty thousand dollars (\$50,000.00)

\_\_\_\_\_

**Schedule "G" - If gross receipts are:**

More Than	but	Less Than	
\$0		\$20,001	One percent (1%) of gross receipts
20,000		50,001	Two hundred dollars (\$200.00)
50,000			\$200.00 plus one-eighth (1/8) of one (1) percent (or 0.00125) of gross receipts over fifty thousand dollars (\$50,000.00)

\_\_\_\_\_

**Schedule "H" - If gross receipts are:**

More Than	but	Less Than	
\$0		\$20,001	One percent (1%) of gross receipts
20,000		50,001	Two hundred dollars (\$200.00)
50,000			\$200.00 plus one-fifth (1/5) of one (1) percent (or 0.002) of gross receipts over fifty thousand dollars (\$50,000.00)

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**Schedule "I"** - If gross receipts are:

More Than	but	Less Than	
\$0		\$20,001	One percent (1%) of gross receipts
20,000		50,001	Two hundred dollars (\$200.00)
50,000			\$200.00 plus one-fourth (1/4) of one (1) percent (or 0.0025) of gross receipts over fifty thousand dollars (\$50,000.00)

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**Schedule "J"** - Real estate (other related activities)/real estate relocation offices, if gross receipts as defined below are:

More Than	but	Less Than	
\$0		\$20,001	One percent (1%) of gross receipts
20,000		50,001	Two hundred dollars (\$200.00)
50,000			\$200 plus one-half (1/2) of one (1) percent (or 0.005) of the gross receipts in excess of fifty thousand dollars (\$50,000)

(1) Each person who maintains a real estate relocation office ("real estate relocation office" is hereby defined as an office from which prospective customers are referred to brokers or agents in other offices of such person, which offices may be located within or outside of the City) within the City shall pay a license tax determined by the gross receipts ("gross receipts" shall mean the total commission or fees received by such person less the portion of such commissions or fees paid to the person's sales agents) of such person for the preceding year derived from the sale or leasing of real estate to a person or persons who were referred by such real estate relocation office to a broker, an agent, or another office of such person who maintains the relocation office.

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**Schedule "K" - Professions, if gross receipts are:**

More Than	but	Less Than	
\$0		\$25,001	One percent (1%) of said gross receipts
25,000		50,001	Two hundred fifty dollars (\$250.00).
50,000			\$250 plus one-quarter (1/4) of one (1) percent (or 0.0025) of the gross receipts in excess of fifty thousand dollars (\$50,000)

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**Schedule "L"**

For gross receipts that are:

More Than	but	Less Than	
\$0		\$30,001	One percent (1%) of gross receipts
30,000		50,001	Three hundred dollars (\$300.00)
50,000			\$300.00 plus one-fifth (1/5) of one (1) percent (or 0.002) of gross receipts over fifty thousand dollars (\$50,000.00)

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**Schedule "M" - Personal care services.**

For gross receipts that are:

More Than	but	Less Than	
\$0		\$30,001	One percent (1%) of gross receipts
30,000		50,001	Three hundred dollars (\$300.00)
50,000			\$300.00 plus one-fourth (1/4) of one (1) percent (or 0.0025) of gross receipts over fifty thousand dollars (\$50,000.00)

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**Schedule "N" - if gross receipts are:**

More Than	but	Less Than	
\$0		\$30,001	One percent (1%) of said gross receipts
30,000		50,001	Three hundred dollars (\$300.00).
50,000			\$300 plus one-half (1/2) of one (1) percent (or 0.005) of the gross receipts in excess of fifty thousand dollars (\$50,000)

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**Schedule "O" - Other financial services, if gross receipts are:**

More Than	but	Less Than	
\$0		\$15,001	One percent (1%) of said gross receipts
15,000			One-fifth (1/5) of one (1) percent (or 0.002) of gross receipts, with a minimum license of \$150.00.

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**Schedule "P" - Mortgage and nonmortgage loan brokers, if gross receipts are:**

More Than	but	Less Than	
\$0		\$15,001	One percent (1%) of said gross receipts
15,000			One-half (1/2) of one (1) percent (or 0.005) of gross receipts, with a minimum license of \$150.00.

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**Schedule "Q" - Leasing of real property other than dwellings/nonresidential property managers, if gross receipts as defined below are:**

More Than	but	Less Than	
\$0		\$2,501	Twenty-five dollars (\$25.00)
2,500			One-fourth (1/4) of one (1) percent (or 0.0025) of the gross receipts from the leasing of such real property during the preceding calendar year

(1) As used in this subsection, the term "gross receipts" shall include total receipts (whether in cash or other consideration of monetary value received either directly from the lessees of such property located within the City of Mountain Brook or from the owner's designated rental property manager or leasing agent) less the costs incurred and paid by the owner for ancillary services attributable to the leased property limited to commissions or fees paid to the designated rental property manager or leasing agent, and electric, gas, water, and sewer utilities, janitorial services, and lawn maintenance contract fees. To qualify for the ancillary cost deduction, the person required to purchase such license must provide the City Clerk with proof of the amount of his gross receipts and ancillary costs paid for the preceding year by delivering to the City a copy of: (a) the federal income tax return which clearly shows such amounts for the preceding year; or (b) such other financial records which may be satisfactory to the City Clerk, including audited, reviewed or compiled financial statements. If a person uses a fiscal year instead of a calendar year and files his federal income tax return on a

fiscal-year basis, the gross receipts and ancillary cost deduction shall be determined as of the end of such person's most recently completed fiscal year.

(2) Each person who manages, or serves as the leasing agent for, real property (other than dwellings) which is located within the City and is owned or leased by another person, including but not limited to, commercial buildings, industrial buildings, warehouses, office buildings and vacant land, shall pay a license tax in the amount equal as outlined in Schedule P where gross receipts shall be defined as the gross commissions or other payments received by such person during the preceding calendar year as compensation for managing or serving as the leasing agent. As used in this subsection, the term "gross commission or other payments received" shall include total receipts (whether in cash or other consideration of monetary value less amounts distributed either directly or indirectly to the property owner) less the costs incurred and paid directly by the licensee for ancillary services attributable to the leased property limited to electric, gas, water and sewer utilities, janitorial services, and lawn maintenance contract fees. To qualify for the ancillary cost deduction, the person required to purchase such license must provide the City Clerk with proof of the amount of his gross commissions and ancillary costs paid for the preceding year by delivering to the City a copy of: (a) the federal income tax return which clearly shows such amounts for the preceding year; or (b) such other financial records which may be satisfactory to the City Clerk, including audited, reviewed or compiled financial statements. If a person uses a fiscal year instead of a calendar year and files his federal income tax return on a fiscal-year basis, the gross commissions and ancillary cost deduction shall be determined as of the end of such person's most recently completed fiscal year. This subsection 3.6.F.(2) shall not apply to any person who: (1) has been issued a real estate license by the State of Alabama; and (2) does not have an office within the City.

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**Schedule "R"** - Leasing of dwellings/residential property managers, if gross receipts, as defined in subsections (1) and (3) below, are:

More Than	but	Less Than	
\$0		\$2,501	Twenty-five dollars (\$25.00)
2,500			One percent (1%) of the gross receipts from the leasing of such dwelling or dwellings during the preceding calendar year. For the purposes of this ordinance, "dwelling" shall have the meaning given to that word in Section 19-1-2 of the Mountain Brook City Code.

(1) As used in this subsection, the term "gross receipts" shall include total receipts (whether in cash or other consideration of monetary value received either directly from the lessees of such property located within the City of Mountain Brook or from the owner's designated rental property manager or leasing agent) less the costs incurred and paid by the owner for ancillary services attributable to the leased property limited to commissions or fees

paid to the designated rental property manager or leasing agent, and electric, gas, water, and sewer utilities, janitorial services, and lawn maintenance contract fees. To qualify for the ancillary cost deduction, the person required to purchase such license must provide the City Clerk with proof of the amount of his gross receipts and ancillary costs paid for the preceding year by delivering to the City a copy of: (a) the federal income tax return which clearly shows such amounts for the preceding year; or (b) such other financial records which may be satisfactory to the City Clerk, including audited, reviewed or compiled financial statements. If a person uses a fiscal year instead of a calendar year and files his federal income tax return on a fiscal-year basis, the gross receipts and ancillary cost deduction shall be determined as of the end of such person's most recently completed fiscal year.

(2) For the purpose of this ordinance, a person who does not otherwise lease real property, but who leases to another person a dwelling which he owns and which he formerly occupied as his primary residence, shall not be required to purchase a license pursuant this ordinance herein above unless he leases such dwelling, under one or more leases or other written or oral agreements for occupancy, for an aggregate period in excess of one year.

(3) Each person who manages, or serves as the leasing agent for, one or more dwellings which are located within the City and are owned or leased by another person, shall pay a license tax in the amount equal as outlined in Schedule N where gross receipts shall be defined as the gross commissions or other payments received by such person during the preceding calendar year as compensation for managing or serving as the leasing agent for, such dwelling or dwellings. As used in this subsection, the term "gross commission or other payments received" shall include total receipts (whether in cash or other consideration of monetary value less amounts distributed either directly or indirectly to the property owner) less the costs incurred and paid directly by the licensee for ancillary services attributable to the leased property limited to electric, gas, water and sewer utilities, janitorial services, and lawn maintenance contract fees. To qualify for the ancillary cost deduction, the person required to purchase such license must provide the City Clerk with proof of the amount of his gross commissions and ancillary costs paid for the preceding year by delivering to the City a copy of: (a) the federal income tax return which clearly shows such amounts for the preceding year; or (b) such other financial records which may be satisfactory to the City Clerk, including audited, reviewed or compiled financial statements. If a person uses a fiscal year instead of a calendar year and files his federal income tax return on a fiscal-year basis, the gross commissions and ancillary cost deduction shall be determined as of the end of such person's most recently completed fiscal year. This subsection (Schedule N (3)) shall not apply to any person who: (1) has been issued a real estate license by the State of Alabama; and (2) does not have an office within the City.

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#### **Schedule "S" - Accommodations.**

Three (3) percent (3%) of the room lodging gross receipts to be paid monthly, not later than the last day of the month following the month for which the tax is payable.

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**Schedule "T" - Support services (561499)**

For gross annual payroll for the preceding year was:

More Than	but	Less Than	
\$0		\$20,001	One percent (1%) of gross annual payroll
20,000			One-fifth (1/5) of one (1) percent (or 0.002) of gross payroll with a minimum license fee of \$200.00.

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**Schedule "U" - Banks / Savings & Loan.**

Bank ATM location	\$10.00
Bank branch location	10.00
Bank main office facility	125.00
Savings & loan ATM location	10.00
Savings & loan branch location	10.00
Savings & loan main office facility	125.00

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**Schedule "V" - Insurance company - health, allied and all other.**

Twenty dollars (\$20.00) plus one dollar (\$1.00) on each one hundred dollars (\$100.00) or major fraction thereof of gross premiums, less return premiums received during the preceding year on policies issued within the City during that year.

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**Schedule "W" - Insurance company - casualty, fire, and/or marine.**

Four dollars (\$4.00) on each one hundred dollars (\$100.00) or major fraction thereof of gross premiums, less return premiums received during the preceding year on policies issued within the City during that year; provided that new companies shall pay a minimum license tax of fifty dollars (\$50.00) with respect to which there shall be an adjustment on the above basis at the expiration of the license year.

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**Schedule "X" - Insurance agencies and brokerages.**

Each insurance agent and/or broker must furnish to the City Clerk, by January 1 of each

year, a complete list of all insurance companies (including names, addresses, and telephone numbers) for which such agent and/or broker is licensed or registered for purposes of soliciting and/or selling insurance policies. When an insurance agent or broker applies for a license for the first time with the City, such list of insurance companies must accompany his or her application. Insurance agents and/or brokers who fail to comply with Code of Alabama 1975, §11-51-121 by participating in solicitation and sales of policies offered by an insurance company not licensed in the City will be subject to civil penalties.

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**Schedule "Y" - Motor vehicle carriers and express companies.**

Each person engaged in the business as defined in the Code of Alabama as a motor vehicle carrier shall pay a license tax as provided for in Code of Alabama, 1975, § 37-3-33. Each person engaged in the business as defined in the Code of Alabama as an express company shall pay a license tax as provided for in Code of Alabama, 1975, § 11-51-126. A copy of the Motor Carrier certificate issued to such person by the Public Service Commission of Alabama must be presented at the time of application for a business license.

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**Schedule "Z" - Artists and craftsmen.**

Artists and craftsmen who sell in the City, indirectly through a dealer, agent or other representative, either on consignment, or otherwise, one or more of the following items: paintings, drawings, prints, lithographs, engravings, sculptures, pottery, jewelry, metal work, glassware or any other crafts or works of art, shall not be required to obtain a business license, provided that such dealer, agent or other representative has a business license and includes in the gross receipts upon which his business license is based the portion of the sale price of the items which is received by the artist or craftsman, as well as the portion of the sale price of the item which is received by such dealer, agent or other representative.

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**Schedule "AA" - Vending machines.**

The license tax for each vending machine operated for:

More	Less	
Than	but	Than
\$0	\$1	Fifty dollars (\$50.00)
1		One hundred dollars (\$100.00)

This license tax shall apply to all vending machines, whether operated for public or private use. The license tax shall not apply to vending machines which are used for the sale or free distribution of newspapers or similar publications.

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**Schedule "AB" - Going-out-of-business sales.**

Any person who conducts a going-out-of-business sale or a distress merchandise sale may obtain a license for a period of not more than thirty (30) days and must pay a license tax in accordance with the following schedule:

(1)	If the value of the inventory at the beginning of the effective date of the license is \$10,000 or less	\$50.00
(2)	If the value of such inventory is more than \$10,000.00, but not more than \$25,000.00	100.00
(3)	If the value of such inventory is more than \$25,000.00, but not more than \$50,000.00	200.00
(4)	If the value of such inventory is more than \$50,000.00, but not more than \$100,000	300.00
(5)	If the value of such inventory is more than \$100,000.00, but not more than \$200,000.00	400.00
(6)	If the value of such inventory is more than \$200,000.00	500.00

The applicant may have his license renewed for a period of thirty (30) days, upon the payment of an additional license tax of one hundred dollars (\$100.00).

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**Schedule "AC" - Transient, itinerant dealers, vendors and other salespeople who make door-to-door calls.**

Each person, firm, corporation, company, association, partnership, agency, or business, who engages or conducts in the City either in one locality or by traveling from place to place (including door-to-door sales and solicitations), a temporary or transient business of selling or soliciting orders for the sale of goods or merchandise or personal services with the intention of continuing in said business in the City for a period of not more than 180 days, each person who advertises by carrying signs or any other form of advertising, and each person who distributes handbills or other forms of advertising materials, and who have no regular place of business in the City shall be required to post a bond, or to deposit cash, in an amount as specified in Section 6-38 of the Mountain Brook City Code and to obtain a business license before commencing such business or solicitation. Such license may be obtained for a day, a week or a month and the amounts payable for such licenses shall be as follows:

per day	\$20.00
per week	40.00
per month	80.00

(1) Application: At least ten (10) days prior to the holding of any sale or solicitation, every transient, itinerant dealer, vendor, and other sales person, shall furnish a completed license application in such form and containing such information as may be prescribed by the City Clerk.

(2) Permission: All transient, itinerant dealers, vendors, and other sales people must have written permission from the appropriate property owners or lessees to sell or solicit sales from private property or from the front of such property and shall provide a copy of such written permission to the City at the time of making application.

(3) With respect to door-to-door salespersons, such salespersons must comply immediately when asked or instructed by the property owner or resident thereof to leave such private property. Complaints submitted to the City by residents may result in the cancellation of the business license by the Finance Director and forfeiture of the bond and serve as sufficient basis for the City to refuse future license renewals.

(4) Hours of operation: All transient, itinerant dealers, vendors, and other sales people shall be permitted to sale or solicit sales Monday through Saturday between the hours of 9 a.m. and 8 p.m. and Sundays between the hours of 12 p.m. and 6 p.m. except in the case of door-to-door salespersons who may only solicit sales Monday through Friday between the hours of 9 a.m. and 4:30 p.m.

(5) Reporting and remitting sales taxes: All transient, itinerant dealers, vendors, and other sales people shall file with the City a verified report of sales and remit all sales taxes to the City within seven (7) days from the close of business or the termination of their solicitation or otherwise forfeit their bond.

(6) Right to deny or revoke business license: Failure on the part of transient, itinerant dealers, vendors, and other sales people to comply with the provisions of this or other applicable municipal ordinances, State laws, or promulgated rules and regulations shall be considered sufficient cause for the Finance Director of the City to refuse or withhold the granting of any license or to revoke same, if granted.

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**Schedule "AD"- Telephone Company**

For the privilege of conduction intrastate business within the City, each person engaged in the business of providing telephone service within the City shall pay a license tax to the City in the following amounts for the following licenses:

Exchange license	\$1,110.00
Long distance license	278.00

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**Schedule "AE"**- Electric Company, Gas Company, Water Works Company.

For selling or distributing electrical current, natural gas, or distributing water for domestic or commercial use, an amount equal to three (3) percent of the gross receipts of the business transacted in the municipality for the previous year for the sale or distribution of electrical current, natural gas or distributing water for domestic or commercial use from any point in or into the municipality. For selling or distributing electrical current, natural gas, or water for domestic or commercial use, an amount equal to one and one-half (1-1/2) percent of the gross receipts of the business transacted for the previous year for the sale or distribution of electrical current, natural gas or water for domestic or commercial use from any point outside of the municipality but within the police jurisdiction of the city.

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**Schedule "AF"** - Television cable company.

Any person providing cable television service or community antenna service, whether by means of equipment owned or leased from others, shall pay a franchise fee established in accordance with such person's franchise agreement with the City.

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**Schedule "AG"** - Escort service.

For gross receipts that are:

More Than	but	Less Than	
\$0		\$30,001	One percent (1%) of gross receipts
30,000			\$300.00 plus three (3) percent of gross receipts over thirty thousand dollars (\$30,000).

In addition, each individual escort, employee or agent of the escort service and each independent contractor who provides services for, or on behalf of, or in the name of, the escort service, shall be required to have a license, the cost of which shall be \$200.00 for each year, or any part thereof, during which such person serves as such employee, agent or independent contractor. No license shall be issued to any escort service or to any such employee, agent or independent contractor until the applicant for the license has been approved by the Chief of Police of the City.

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**Schedule "AH"** - Retail/wholesale, non-store retailers - in home sales of merchandise, trunk sales, temporary stands, street vendors (except food), Christmas trees (cut).

For gross receipts that are:

More Than \$0 10,000	but	Less Than \$10,001	One percent (1%) of gross receipts One hundred dollars (\$100) plus one-fifth (1/5 of one (1) percent of all gross receipts in excess of \$10,000.
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Notwithstanding the foregoing, a person who conducts trunk sales in his home shall not be required to have a business license if each person, firm or corporation which manufactures, distributes or otherwise deals with the items or goods which such person deals with at such trunk shows obtains an appropriate retail/wholesale Mountain Brook business license. If, in connection with trunk shows held at a person's dwelling, he deals with goods of more than one manufacturer or distributor and fewer than all of such manufacturers or distributors obtains an appropriate retail/wholesale Mountain Brook business license, such person shall be required to obtain a business license with respect to the goods of the manufacturer or distributor which did not obtain such business license. Trunk sales hereunder are defined as the sale of new clothes, clothing accessories and other consumer goods by means of the purchaser ordering finished goods from samples and/or catalogs which are available for inspection at a dwelling located within the corporate limits of the City. Gross receipts hereunder are defined as the entire receipts of all sales arising out of, or in connection with, any such trunk sale, regardless of the place where the sale was consummated or the place of delivery of the article sold, and shall include the amount of any federal excise tax, Alabama sales tax and Jefferson county sales tax and there shall not be made any deductions for commissions or payments to agents or for any purpose not herein specifically provided for.

**Schedule "AI"** - Not-for-profit ("Section 501(c)(3)") organizations.

(1) No license shall be required for any entity which is recognized by the United States Internal Revenue Service as a tax-exempt, non-profit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Section 501(c)(3)").

(2) When any entity claims to be exempt from obtaining a license under subsection (1) above, such entity shall execute and file with the City Clerk an affidavit on a form provided by the City Clerk, stating the name and address of the entity, whether the entity is a corporation or other form of organization, a statement affirming that the entity is tax-exempt under Section 501(c)(3), the designation or classification of its tax-exempt status ("Exempt Status"), the date it was granted such Exempt Status and such other related and pertinent information as may be required by the City Clerk. A copy of the Internal Revenue Service determination letter with respect to the entity's Exempt Status must be attached to such affidavit. The affidavit required by

this subsection shall be signed by an authorized representative of the entity and sworn to before a notary public.

(3) When the City Clerk shall have received the affidavit and the other information required in subsection (2) above and is satisfied that the entity has complied with the requirements of this subsection for obtaining such exemption, the City Clerk shall furnish the entity a written statement that it is exempt from obtaining a license from the City under this ordinance. Such exemption shall remain in effect for only so long as: 1) the entity maintains its Exempt Status, in accordance with the Internal Revenue Code of 1986, as amended; and 2) this ordinance provides for such exemption. If the Exempt Status of the entity is revoked or the entity, for any reason no longer claims such Exempt Status, within thirty (30) days of the loss of such Exempt Status, the entity shall notify the City Clerk in writing and obtain the appropriate license otherwise specified in this ordinance for the then current license year and for any previous license year, or portion of a license year, in which the entity did not have an exemption under Section 501(c)(3). The entity shall also be required to pay any interest, penalties or fees relating to the license for the then current license year or for any previous license year or partial license year.

(4) Provided however, that if any entity which is exempt from having to obtain a license as provided for hereinbefore, has unrelated business income for any year as reported on Internal Revenue Service Form 990-T (or any other form which may now or hereafter be used for reporting unrelated business income), the entity shall be required to purchase a license hereunder, based on its unrelated business income for any such year. The entity shall furnish the City Clerk a copy of its Form 990-T or such other form. The license required under this subsection (4) shall be required for each calendar year following a year when Form 990-T, or such other form is required to be filed with the Internal Revenue Service.

(5) Any person who shall make any false statement of fact in any affidavit provided for in subsection B. above, and to which an exemption from having to obtain a license shall have been issued, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00, and may also, as additional punishment, be sentenced to jail or to hard labor for the City for not more than 180 days, and any exemption as a non-profit organization shall be canceled and revoked.

**Schedule "AJ" - Personal use.**

No license shall be required for any person that maintains office or other commercial space exclusively for personal use. Such persons shall be required to submit annually a renewal statement (in the form of a license renewal) reaffirming that such space continues to be used exclusively for personal use.

**SECTION 24. Comparative index.**

<b>Former Business License Schedule (2007 and Prior)</b>	<b>2008 License Code (Schedule)</b>
<b>(1) Alcoholic beverages.</b>	
a. Beer wholesaler.	A
b. Wine wholesaler.	A
c. Restaurant retail liquor.	A
d. Retail table wine, off-premises consumption.	A
e. Retail table wine, off-premises consumption.	A
f. Retail table wine, on-premises and off-premises consumption.	A
g. Retail beer, on-premises and off-premises consumption.	A
h. Retail beer, off-premises consumption.	A
i. Special events retail.	A
j. Special retail.	A
k. Retail liquor.	A
<b>(2) Contractors.</b>	
a. Building.	E
b. Plumbing.	C
c. Gasfitting.	C
d. Furnace, refrigeration, air conditioning.	C
e. Electrical.	C
f. Paving, street repair, excavation, sewer construction, delivery of concrete, sand, slag, or other paving materials, and bull dozing.	D
g. Others not listed above including but not limited to: flooring, masonry, carpentry, septic tanks, tile, fencing, painting, roofing, and installing security alarm systems.	B

(3) Financial services

- a. Bank, savings, and loan association and savings bank U
- b. Mortgage company P
- c. Securities or commodities broker or dealer O
- d. Other financial services O

(4) Insurance.

- a. Other than fire, marine and fraternal. V
- b. Fire and marine. W
- c. Insurance agents/brokers. X

(5) Professions. K

(6) Real estate.

- a. Agents. C
- b. Brokers. N
- c. Appraisers. N
- d. Leasing of dwellings. R
- e. Real estate relocation offices. J
- f. Leasing of real property other than dwellings. Q

(7) Retail and wholesale merchants and other businesses

- a. Apparel, furniture, hardware, building materials, appliances, jewelry, toys, household furnishings, stationery, gift items, automobiles, drugs, flowers, business machines or other merchandise of any character not covered by another section of this chapter. G
- b. Grocery store, bakery and/or delicatessen. I
- c. Gasoline service station. F
- d. Restaurant or café. H

- e. Hotel or motel. S
- f. Other businesses including but not limited to: beauty parlors, barber shops, interior decorators, interior designers, photographers, printers and the sale of Christmas trees and/or Christmas decorations. I, M, AH
- g. Vending machines. AA
- h. Wholesale gasoline and oil. D
- i. Going-out-of-business sales. AB
- j. Transient, itinerant dealers, vendors and other sales people who make door-to-door calls. AC
- k. Support services. T
- l. Trunk sales. AH
- m Artists and craftsmen. Z
- .
- n: Tobacco product wholesalers

(8) Service businesses.

- a. Including but not limited to: alteration shops, ambulance services, appliance repairs, bail bondsmen, business machine and equipment services, business music (recorded), collection agencies, consultants, dressmakers, exterminators and pest control services, landscape gardeners, laundries and/or dry cleaners, lawn maintenance services, maid services, manicurists, motor vehicle wrecker services, shoe repair shops, skin care services, travel agencies, tree surgeons, valet parking services, and yard work. I, M
- b. Health clubs, gyms. H
- c. Collection of garbage, trash, refuse and recyclable items. I

- d. Detective agency, securities or guard service, monitored alarm service. I
- e. School, day nursery, day-care center, dance studio. I
- f. Advertising agency, public relations agency. L
- g. Employment agencies and personnel agencies. H
- h. Escort service. AG
- i. Manufacturers' representative, merchandise broker. H
- j. Motor vehicle carriers and express companies. Y

(9) Utilities.

- a. Telephone company. AD
- b. Gas company. AE
- c. Electric company. AE
- d. Water works company. AE
- e. Television cable company. AF

- (11) a. Not-for-profit [Sec. 501(c)(3)] AI
- b. Personal use AJ

**SECTION 25. 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 26. Effective date.**

This ordinance shall become effective on and after January 1, 2008.

**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.

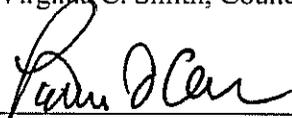
**SECTION 28. Repealer.**

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

**ADOPTED:** This 13th day of August, 2007.

  
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Virginia C. Smith, Council President

**APPROVED:** This 14<sup>th</sup> day of August, 2007.

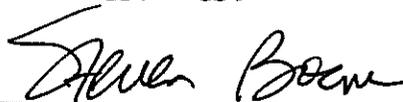
  
\_\_\_\_\_  
Lawrence T. Oden, Mayor

## CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on August 13, 2007, as same appears in the minutes of record of said meeting, and published by posting copies thereof on August 14, 2007, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road  
The Invitation Place, 3150 Overton Road

Joe Muggs Newsstand, 2037 Cahaba Road  
Piggly Wiggly Food Store 4, 93 Euclid Avenue



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Steven Boone, City Clerk